

Corruption in Pakistani Courts in the Light of Local Cultural Context: The Case Study of the Pakistani Punjab

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Abstract:

This paper analysis corruption in Pakistani courts especially in the criminal justice. The data comes mainly from my fieldwork in Misalpur a village in central Punjab and its responsible police station and district courts. Following hermeneutic strategy corruption has been analyzed as a cultural system. In other words corruption has been explained in the light of cultural values of the Punjabi society.

My assumption is that corruption is the result of difference between the local cultural values and the philosophy of the state. Theoretically Pakistan is a legal state. The basic values of the state law of Pakistan enshrined in the basic rights which are part of the Pakistani Constitution are equality and justice. The basic values of the Punjabi society are its kinship base and hierarchy of the social status. In other words this means that the society is dominantly organized on kinship lines i.e. absolute and unquestioned loyalty and commitment to relatives. Similarly according to the local culture people are not equal in their social status. Owing to the first characteristics relatives help each and as a result of the second justice is not absolute it is according to the status of the disputants. Summarized it can be said that corruption is the price that is paid for making the official system of justice function according to the values of the society. The real problem therefore is not bribery but safarish (nepotism, patronism especially intervention on behalf of a relative). This draws from the fact that the primary responsibility of person is towards her/his relatives and not the state and its laws.

Achieving corruption free Pakistan (Punjab) is not possible merely by making and implementing strictly laws. It has to accompany uniform and universal state socialization i.e. school education. In the long run values of the society have to be replaced by the values of the state.

Almost everybody in Pakistan says that corruption is its biggest problem. It is considered the root cause of all its problems. Poverty, illiteracy, terrorism, shortage of electricity, food, lack of governance, etc. have their origin here. To make matters worse, corruption in Pakistan has been continuously on the rise. For example, according to Transparency International's Corruption Perception Index, in 2010

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Pakistan was ranked 34th compared to 2007 when it was ranked 42nd. Corruption is

found in almost all the departments and institutions of the government. According to the National Corruption Survey conducted by Transparency International in 2002 and in 2006, the three most corrupt government agencies were the police, the political sector, and the judiciary. The same survey noted that “100 percent of the respondents who had any type of contact with the police over the previous year were confronted with corruption”. In spite of the gravity of problems it causes, almost no serious attempt has been undertaken to understand corruption. This paper is an attempt to explore the ways and reasons of corruption in Pakistan. The criminal justice system, i.e. the police and the courts, is especially focused upon in this paper.

The Geertzian interpretative paradigm is used as a theoretical framework for this paper. Ethnography for Geertz is “an elaborate venture in (...) thick description”, which is about “thinking and reflecting” and “the thinking of thoughts” (Geertz 1973: 6). He elaborates further that “doing ethnography is like trying to read (in the sense of ‘construct a reading of’) a manuscript (...)” (Geertz 1973: 10). This attempted reading according to Geertz’s view is “intrinsically incomplete” (Geertz 1973: 29). Following this approach he defined law as “local knowledge”, i.e. “(...) vernacular characterizations of what happens connected to vernacular imaginings, stories about events cast in imagery about principles (...) and not placeless principles” (Geertz 1983:215). In other words, for Geertz law has to be embedded in the local cultural context for “giving particular sense to particular things at particular places” (Geertz 1983: 232). This he has also called “law as culture system” Lawrence Rosen, a lawyer turned anthropologist from USA and a student of Geertz, applied this approach to the study of law courts in Morocco. He noted that courts reflect the cultural characteristics of the broader society comparable to the way a monastery, a market centre, or a men’s club does.

“When, therefore, a case actually comes up for a hearing, the mode of fact-finding and the form of judicial reasoning employed by the *qadi* reveal that they are closely related to the patterns of thought and action found in culture at large” (Rosen 1989: 309).

Hence corruption in Pakistani criminal justice, following this approach, can be seen as the functioning of the Pakistani state law embedded in the Pakistani culture. Since the data mainly comes from the Punjab we will analyze it as a case study of the Punjab. Let me start by concentrating on two main values of Punjabi culture:

- I its kinship base: The single most dominant and determining social relationship in the Punjab is kinship, so much so that one can call it a kinship-dominated society.
- II the hierarchical nature of social relationships: in other words, the structure of human relationships in the Punjab is hierarchical.

The two most basic values of the state law of Pakistan enshrined in the fundamental rights which are part of the Pakistani Constitution are equality and justice. The Pakistani State is supposed to be a legal state, i.e. based on the rule of law. In the following I want to argue that Punjabi society and the Pakistani State are based on two different sets of values and philosophies. In a society organized purely along kinship lines the central value is absolute and unquestioned loyalty and

commitment to relatives, to the agnates for example – the central principle being the nearer a relative the more cohesion, solidarity and claims of favor, something based on the principle known in anthropological literature as fission and fusion. In a purely ‘legal state’, on the other hand, it is the rule of law. These rules are supposed to be logical, i.e. they have a scientific base and are above all the same for all. The state is run by bureaucrats who are selected to their posts by fair rules, and it is their duty to implement laws impartially. They are accountable for whatever they do and above all can be removed from their position in accordance with prescribed rules. The primary commitment and loyalty of the bureaucrats is to the state.

These may be called the two ideal models. Most of the societies of the world are mixed societies. There are some societies that are predominantly kinship based, and there are others that are nearer the rule of law model. Pakistani Punjabi society is a kinship-dominated society. Nobody can imagine refusing the request of close relatives like one’s father, mother, or brother for example. There is social pressure on relatives to help each other. It is on relatives that people depend or can fall back on in case of any emergency, and problems including the quarrels, fights, crimes, and the like. Bureaucrats in general work more as protectors of their families and kinships and not as the implementers of the rules of the state. The police, judges, lawyers, or others serving in the court have as their first priority the commitment to their families. Villagers go to the police and courts in the form of groups mainly consisting of relatives. The first questions asked after reaching the police station, the court, etc. are the names of the *biradari* (patrilineage), relatives, families and villages of the people in question. A whole net-work of who’s who of the concerned officials is traced. This is done to find common relatives and friends who can support the claimants.

The English expression corruption can be translated by two Urdu/Punjabi words combined: *rishwat* and *safarish*. *Rishwat* (bribery) means the paying/receiving of a sum of money or something of valuable for doing or getting something done illegally or dishonestly. In *safarish* payment of money or valuables is replaced by the use of social relationships to achieve something illegal. It is important to mention here that *safarish* and *rishwat* in Pakistan is not required for doing only something illegal or dishonest; almost nothing functions without it, and it is also required for doing and getting rightful and legal services. The basic problem in my view is not *rishwat* but *safarish*. *Safarish* seems to be the most ‘normal’ and ‘natural’ way of doing things in Pakistan. People do not even realize that they are doing anything wrong. It is actually the other way round; a person who does not entertain the *safarish* of his relative or does not do *safarish* for her/her relatives is generally considered an arrogant and an asocial type and hence is in the wrong. You can find any number of examples of this in everyday behavior. In cases of a conflict the close relatives, particularly, and other relatives, generally, are on the same side by default irrespective of the question of right or wrong. Commitment to relatives, especially close ones, is unquestioned. Members of a *biradari* will support each other against the members of other *biradari* even when there are minor disputes within the member’s *biradari*. A Punjabi saying goes: “the thinnest blood is thicker than

water”²¹. If a choice has to be made between a relative and a friend, it is almost exclusively the relative chosen. That the kinship is the most fundamental of all the social relationships in the Punjab is also evident from the fact that kinship terms are used to express all other relationships. In the village all people older than the speaker are addressed by kinship terms like uncle, grandfather, mother’s sister, father’s sister, etc. for example. If a person wants to express a special bond with an unrelated person he will be called a brother/sister. Fast friends are declared sisters by women and brothers by men.

The underlying principle behind social status and hierarchy, which I have named as the second basic value of rural Punjab life, is that human beings are not considered equal in the eyes of the society. This aspect has been well documented in the relevant ethnographic literature on the Punjab (Chaudhary 1999 and 2006, Saghir Ahmad 1977, S. M. Lyon 2004, Hamza Alavi 1972, Huma Haq 2000). The population of the Punjab in general and the village population in particular are divided into a number of *biradaris* that have different positions on the hierarchy scale. *Biradari*, literally translated means brotherhood, could be defined as a group consisting of people who trace a common ancestor; in short it is a patrilineage. *Biradari*, as has already been stated above, is perhaps the single most important determinant of all the types of social relationships (marriage, death, gift exchange, etc.) in the rural areas. The most important characteristics of these *biradaris* are said to be equality and fraternity within the same *biradari* but hierarchy and inequality between them.

The clearest manifestation of the hierarchical division of Punjabi *biradaris* is between *zamindar* (farmers) and *kami* (artisan). There are no opposing opinions about the lower social status of the *kamis*. There is for instance no commensality between the farmers and artisan groups in the village. *Kami* will prepare the smoking pipe of the farmer but cannot smoke it in the company of the farmers. The village household servants who are as a general principle *kami* have their own separate eating utensils. There is no marriage between *zamindar* and *kamis*, especially between *zamindar* females and *kami* males (hyper-gamy being the rule in the Punjab). There may, similarly, be differences of opinion about which of the village’s farmer *biradari* stands on the top of the social ladder, but the general consensus seems to be that even the different farmer *biradaris* are not equal in status. Similarly there is hierarchy among the different *kami biradaris*. The very first question a Punjabi asks a person he’s just met is: *Tusi kaun hunde ho* (literally translated: who are you? In actuality it is an enquiry about the family and *biradari* of the addressed person). This question is neither meant nor taken as an insult. The speaker wants to fix the status and position of the new contact so as to behave accordingly. Misunderstandings could be embarrassing for both sides. It is significant to mention that money and resources are not the sole indicator of the social status of *biradaris*.

This comes perhaps from the Hindu past of Punjabi society. One of the basic characteristics of Hindu culture and religion is its caste system. These castes are

21 The original Punjabi sayings: “*Khoon patla bhie howay tee pani naloon ghehra honda aee*”. The second similar proverb is: “*Apna mar ke bhie shan which sit da aee*”.

hierarchically ordered, and people born into them inherit their status. Cohn, a British legal Anthropologist who did fieldwork in India, wrote: “(...), men are not born equal, and they have widely differing inherent worth. (...) The Chamar (cobbler) knows he is not equal to the Thakar (landlord)” (Cohn 1967: 155). This hierarchical character of the Punjabi society is directly related to the law. Geertz wrote, for instance, about the Hindu caste system being equally relevant for the Punjab:

“What distinguishes the Indic legal sensibility from others is that right and obligation are seen as relative to position in the social order, and position in the social order is transcendently defined” (Geertz 1983: 198).

If we consider law as a reflection of the culture in which it is implemented, the customary law practices in Punjabi rural areas are clear evidence of the hierarchical nature of relationship in the Punjab. I have, therefore, called customary law of the Punjab as a ‘relative justice’ (i.e. justice according the status and position of the disputants) in my previous publications. There were a number of very clear demonstrations of this in the village in which I conducted my fieldwork. In one case the daughter of a farmer eloped with the son of a tailor. According to Punjabi marriage rules (hypergamy), a woman cannot be given in marriage to someone of a lower social category. There was a full-village gathering, called *kath*, outside of the village. The family of the tailor had already fled the village. Their house was burned down, and it was decided to give the family when found, especially the boy, an exemplary punishment. In official law, if a woman and man want to marry they can do so irrespective of their *biradari*. According to the local customs it is the responsibility, on the one hand, and the privilege, on the other hand, of the parents/family to arrange the marriages of their children, especially of their daughters. A woman deciding to run away with a man (called *nikal jana* in Punjabi), or a man taking away a woman (known as *kad ke le jana* in Punjabi), are ideally both to be killed, with the minor difference that in the first case both the man and the woman are punished and in the second case only the man. It also depends upon the *biradari* of the woman and the man. In case of an elopement of a *kami* woman with a man of the farmer *biradari*, even her abduction may not lead to any punishment. There were countless examples of sexual relations of the farmers with *kami* women, but no one bothered about them. In another case, the house of a village smith cum carpenter was broken into by youth of the zamindar. They intended to teach a lesson to their smith, who in their view had become arrogant and had stopped taking an interest in his customary work of repairing the agricultural tools of the farmers based on the *sepi* system (payment at the end of cropping season). Everybody in the village, including the smith himself, knew who broke into the smith’s house, but nothing happened as a result. The smith did not even go to the police.

Though the focus of this paper is not the functioning of the traditional system of justice, giving it the focus I have demonstrated how local culture effects and reflects local practices of justice. Moore, an American legal anthropologist who did fieldwork in India, noted about an insight about the functioning of the so called traditional system: “In the village council, a dispute is seen as part of the environment from which it grew. The individuals, their families, the community and

the histories that led to the discord are on trial". (Moore 1985: 6). No *rishwat* is paid out, but what is paid homage is kinship; *biradari* and the social status of the disputants are taken into consideration at the time of making a decision.

It may be interesting to note that complaints of false oaths and cooked up stories by witnesses in the village are very rare. If someone does this s/he will become notorious for this. No one will trust such a person in the future. There is a general tendency to avoid taking an oath when making a statement such as swearing by the holy Quran, or swearing in the mosque, for example, even if one is telling the truth. I have reported in an earlier publication (2006) that a man named Aziz was blamed for stealing irrigation water. The *panchayat* decided that either Ali Ahmad, an uncle of Aziz, or his eldest brother living in Islamabad, should give a *nian* (swearing by entering the mosque or specified otherwise on somebody's behalf) for Aziz that he had not stolen the water. If the *nian* was not provided, Aziz would have to pay ten thousand Pakistani rupees (the equivalent of 140 dollars) as a fine. The matter was resolved when the eldest brother of Aziz came and straight away paid the ten thousands rupees (so opposed the family to providing a *nian*, but as he did so he called down the punishment of God on the accusers. He said in a loud and clear voice: "God be my witness if my brother had stolen the water this money should be good for them, and if my brother is innocent, which I have made sure he is, then this hard earned money should destroy the accusers". Having said this he left. The other family was so terrified that they immediately returned the money.

Cases of telling lies in the *panchayats* are rare, perhaps because in a village everybody knows everyone's business, almost everything that happens I would add that there is no need of false testimonies in local councils because their decisions are anyway compromises arrived at according to the local values of kinship and inequality. The situation is very different in the courts and with the police however. Moon, a colonial administrator, wrote in the beginning of the 20th century of his experiences with the courts: "(...) Indian magistrates daily spent hours in their courts solemnly recording word for word the evidence of illiterate peasants, knowing fully well that 90 percent of it was false. Even if the events described had actually occurred the alleged eye-witnesses had not seen them." (Moon 1930: 51).

This statement is as true today as it was at that time. As has been mentioned above this is such a contrast to the practices in the village where people seldom if ever tell a lie after invoking the Quran or other holy objects. Important to mention is that in the courts too witnesses have to swear not to tell a lie. Moon has reported at length of a murder in a village where an innocent person was hanged due to false eye-witness accounts. All this had happened in spite of the fact that the magistrate knew this as well as also all the people of the village. (1930: 44-51). The Law Reforms Commissions also made no secret of this problem in their reports. I have already written in detail how the magistrates, judges, lawyers, serving staff, police accept money.

The police may be called one of the most corrupt departments of the Pakistani State. The Law Reform Commissions formed by governments of Pakistan wrote:

“..., police station is the main centre of corrupt activities (...). A case is not registered or an F.I.R. is not accepted nor is sufficient interest shown in the investigation unless the complainant gives a handsome gratification to Officer-in-Charge of the police stations or Station House Officers. If the accused party is more generous, the scales are invariably tipped in its favour. Both the parties are often kept equally satisfied by a clever investigating officer who sends the cases up to the Court of Magistrate with such lacunae therein that the accused may make capital out of them.” (Law Reform Commission 1967-70: 414).

The first necessary step in the criminal justice is the registration of a so called FIR (First Investigation Report), which is not written without *safarish* and *rishwat* as has been noted in the quotation above. Though, theoretically, an FIR is just a verbatim report of the grieved party written by the police scribe, called a *muharer*. But in practice villagers who cannot pay the bribe or lack the backing of an influential relative or patron are denied this right. The police in general are very crude and use foul and abusive language. Among the villagers fear of the police is immense and so most simple and honest people avoid contact to them.

When two goats of G. Mustafa, son of Hamid, a farmer from the village, were stolen one night he did not even consider going to the police. As soon as he discovered that his goats had been stolen he told his father, brothers, neighbors, and friends. The thieves had also broken into the house of a neighbor who lived a few houses away and stole some sacks of wheat from their adjacent shop. Two *khojees* (trackers) from the neighboring village were called in to track the thieves, and they tracked the footprints of one of the thieves to the house of Umar Draz who lived in the same village as Mustaf. Umar Draz was a *mussali* – in English known as Muslim sheikh: traditionally servants of the farmers who are at the bottom of the social hierarchy in the village. Umar Draz and his sons herd sheep and goats. Aziz the younger brother of Mustafa had beaten up a son of Umar Draz for damaging the crops by letting animals into the crops in spite of being repeatedly warned not to do so. Umar Draz had the backing of Gulzar, another fellow villager who belonged to a strong family and had old scores to settle with Hamid and his sons. In a village *panchayat* (council of village elders) Umar Draz, with the backing of Gulzar, refused to cooperate with *khojees*'s trial. The case shifted from the village to the police.

Mustafa knew that the cheapest, easiest and perhaps most pragmatic approach would be to forget about the two stolen goats and go back to routine life. He was aware of the fact that he was never going to see his stolen goats again. Asking for police assistance and starting a court case would mean wasting of a lot of time and money, much more than the stolen goats were worth. But then he pointed out that the thieves may take this as an easy ride and steal other animals or goods in future. Besides that he would lose his honour in the eyes of his fellow villagers, especially because Umar Draz, a *mussali*, had challenged him. For Gulzar, if Umar Draz loses it wouldn't be such a loss of honour because he was only indirectly involved. In a win Gulzar wins, but in case of a loss Umar Draz would. It would not be a big deal for Umar Draz himself because it wouldn't be such a loss of honour to lose to a farmer.

Two months had gone by since Mustaf's goats were stolen, and he had been running from pillar to the post, and an FIR had yet not been registered.

FIRs are generally denied, delayed, exaggerated and falsely constructed for money and *safarish* (nepotism). Every police station has a scribe called *muharer* whose is responsible for writing an FIR, but it is not written until ordered by the Station House Officer (SHO). Both parties try their level best to get an FIR registered or to obstruct it. The amount of bribery depends upon the nature of the case and the parties involved. There are touts in every village, and at the police station some of them are junior and retired police officers. Registration of an FIR itself is celebrated as a great success. In case of its denial it is a great achievement for the opponents. The police are happy with every case and with crime in their area generally because it brings them money. Not a single job, however small, is done by the police without a certain fee or *safarish* – even for attesting the character certificates necessary for a job or a passport. At the police station the policemen do not hesitate asking the complainants to bring cigarettes, tea, food, telephone cards, paper and pen for writing, etc. In case of arresting an accused person the complainant is asked to come very early in the morning with a car, arrange food and refreshments, and the like. It is not a wonder that a vast majority of villagers dream of their children becoming *thanidars* (generally meaning SHO). But again, all this is required if there is no *safarish*.

Gulzar is an influential farmer who is often in touch with the police. His brothers work in the nearby town. The present SHO is known to them. When Mustafa went to the police station he was accompanied by Asghar, an ex-policeman from the village and also a very distant relative. Mustafa was asked to pay ten thousands for an FIR, which he refused to do. Hamid contacted Murtaza, the son of his sister living in Islamabad. Murtaza is a rather well connected person. In his office he entertains and helps his friends, colleagues and juniors. One of his close friends is working in the Ministry of Interior at a senior position. He called the relevant District Police Officer (DPO) on behalf of Murtaza and asked him to help his friend. The situation changed completely. The case was shifted from the police station to the district headquarters, and an assistant superintendent of police (ASP) was given charge of the case. Mustafa nominated the important members of the other side, and they were asked to give a *nian* (declaring with one hand on the Quran) swearing that the accused is innocent. The nominated people refused, and Umar Draz seemed to be in trouble.

Arif bought a second hand Toyota Corolla 1986 model from Hameed and Yousaf khichy, an occasional customer at his brother's shop. About one week after the purchase it was discovered that it was a stolen car. Arif filed a court case against the police and the proclaimed car owner for a so called stay order. Arif and his brothers, through a far relative, approached the police officer in charge of the car lifting cell. This police officer found a very interesting legal solution. The police officially took away the car from Arif (as it was a stolen car), but then they gave it back to Arif through the process of the court pending the court's final decision. The police got five thousand Pakistani rupees for this. In the court Arif hired one of the best lawyers, who in a very clever way had the case linger in court for a very long time. The other party lost hope and gave up following the court case. The court

decided in favor of Arif and his family because the other party was absent. It was definitely a fake (stolen) car, as this was also proved by a laboratory test. The head of the car lifting cell said privately that there are gangs of thieves who operate with the help of the police. The end of the story is even more interesting. One evening when the car was parked at a public place, the officers of excise came and confiscated the car claiming that no taxes have been paid on it. Arif tried to pay the bribe, but the price was higher than the actual price of that car, and so he didn't pay the bribe.

In another case involving a man named Khuram, his new car, a Suzuki Khyber, was stolen from outside his house one evening. An FIR was written after hectic efforts to obtain one. In the first few days he visited the police station every day, then every second day, and finally he gave up the hope. In the meantime friends and acquaintances told him about people in the tribal areas who buy original papers of stolen cars or sell cars with tempered chassis numbers. The brother-in-law of Khuram had links to the commissioner of that district. The commissioner asked one of his juniors to help Khuram. This gentleman told him to get a car on "*spurd dari*" (custody) from the cars at the police stolen car lot. Instead of this Khuram paid fifty thousand Pakistani rupees (around six hundred dollars) and got a car from the stolen car lot which had some similarities to his own stolen car. The police had already destroyed most of the identity marks of car, like the chassis number, etc. The police off course justified the charging of money on the grounds that they spend money from their own pockets to chase criminals because of the lack of funds for such purposes.

About corruption in the courts Hoebel wrote:

"Below the level of the High Courts all is corruption. Neither the facts nor the law in the case have any real bearing on the outcome. It all depends on who you know, who has influence and where you put your money." (Hoebel 1965: 45)

One big problem at the courts is delay. All people who are related to criminal justice like the lawyers, the judges, the police, the legal process serving staff, etc. all are responsible for the delay. The Law Reform Commission noted:

"There is a wide-spread complaint that criminal cases are generally delayed inordinately by some magistrates with a view to extracting illegal gratification. ..., 'oiling of the wheels' is necessary make even the judicial machinery run smoothly and with speed at this level." (Law Reform Commission 1967-70: 414-15).

The same report records 54 adjournments in one case and 29 adjournments in another case (1967-70: 186). At another stage the Law Reform Commission wrote:

"(...) we were surprised to find that services of a senior lawyer practicing mainly in that court could not be effected for about a year on the plea that he was not available even though he was attending the

court almost every day and appearing in cases occasionally even before the judge-in-charge of the Nazarat.” (Law Reform Commission 1967-70: 415)

It is not only judges, lawyers and police that are corrupt; all those who are affiliated with courts and or have anything to do with the courts work either after charging money or having been approached by friends, relatives or influential people.

“..., corruption among the subordinate officials and process-serving staff as well as among the investigating staff is rampant with the result that no action is taken by them unless the parties involved approach them and tender some extra-legal consideration. ..., ‘papers move only on golden or silver wheels’.” (Law Reform Commission 1967-70: 414-15).

It is perhaps not out of place to mention that almost identical corrupt practices have been observed in India by anthropologists and jurists who have written on this issue (for comparison see Helmken 1976, Cohn 1967, Moore 1985, 1993). The similarity is so striking that if only the names of places and the country are switched it would be difficult to differentiate between the two countries. Another observation to mention in this regard is that corruption did not start after partition. It started almost the same day as the British-styled system of justice was introduced in the sub-continent. Moon’s small book is a very good record of corrupt practices in Indian courts during the British colonial rule. Moon wrote:

“It was amazing (...) that anything so unsuited (...) as the English law should even have been foisted upon India (...) a monstrous injustice that Indians should be subjected to laws designed for quite different social conditions (...) (Moon 1930: 52-4).

He wrote further:

“(...) people had become habituated to systematized perjury, had been corrupted by unscrupulous lawyers, had been taught to flock to the law courts and to revel in the tainted atmosphere of bribery and chicanery that surrounds them. Litigation had become a national pastime and the criminal law a recognized and well-tried means of harassing, imprisoning and even hanging one’s enemies” (Moon 1930: 52-4).

We do not see any difference between the pre-partition situation described by Moon and the post partition situation in India and Pakistan described by so many authors. Cohn and Moore explained corruption in the courts as follows: “The way a people settle disputes is part of its social structure and value system. In attempting to introduce British procedural law into their Indian courts, the British confronted the Indians with a situation in which there was a direct clash of the values of the two societies; ” (Cohn 1967: 154) Moore wrote likewise: “The British system, (...) examines one distinct dispute under ‘laboratory conditions’. (...) In theory, the

disputants lose their social status and are viewed equals before the law” (Moore 1986: 6). But the situation on ground is that “(...) men are not born equal, and they have widely differing inherent worth” (Cohn 1967:155). As a contrast, “In the village council, a dispute is seen as part of the environment from which it grew. The individuals, their families, the community and the histories that led to the discord are on trial.” (Moore 1986: 6).

Summary of my argument is that human beings have an inherent unequal worth in the Punjabi culture. While making decisions at local institutions this worth which may also be called status and position locally known as *izzat* (honour) is kept in mind. In other words, laws are not same or laws are applied by keeping in mind the position of people involved. There is no corruption in the sense of payment of money at this level. The official justice system theoretically follows the ideals of equality i.e. same laws for all and all are equal before law. The implementers of law (police and court officials) are part of the Punjabi society and culture. These officials believe in local culture rather than follow the laws. As a matter of fact money is received and above all paid which influences the implementation of law. The result is that the official justice system as it is practiced produces results which are similar if not same as the traditional system. Therefore, I say corruption is paid to achieve the ‘justice according to the status of the parties involved’ which is traditional system.

References

- Ahmad, Saghir (1977). *Class and Power in a Punjabi Village*. Lahore: Punjabi Adbi Markaz.
- Chaudhary, M. Azam (2006) The place of Customary law in Pakistani Legal Culture. In: *Journal of Asian Civilizations*, vol. XXIX, no. 2, 114-141, 2006.
- Chaudhary, M. Azam (1999) *Justice in Practice: Legal ethnography of a Pakistani Punjabi Village*. Karachi: Oxford University Press.
- Cohn, Bernard C. (1989) *Law and the Colonial State in India*. In: *History and Power in the Study of Law: New directions in Legal Anthropology*. June Starr and Jane F. Collier (Eds.). New York: Cornell University.
- Cohn, Bernard C. (1967) *Some Notes on Law and Change in North India*. In: *Law and Warfare: Studies in the Anthropology of Conflict*. Paul Bohannan (Ed.). New York: Natural History Press.
- Constitution of Pakistan. (1990) *Constitution of Pakistan*. Islamabad: Federal Shariat Academy.
- Eglar, Zekiye (1960) *A Punjabi Village in Pakistan*. New York: Columbia University Press.

- Geertz, Clifford (1973) *The Interpretation of Cultures*. New York: Basic Books.
- Geertz, Clifford (1983) *Local Knowledge: Facts and Law in Comparative Perspective*. In: *Local Knowledge: Further Essays in Interpretative Anthropology*. New York: Basic Books.
- Haq, Huma (2000). *Feminist Islam and Sexist Muslims: A case study of Rural Punjab*. In: *Pakistan Journal of Social Sciences* Vol. XXIII, 1997.
- Helmken, Dierk (1976) *Der Gleichheitssatz in der Praxis des Indischen Zivilverfahren*. Wiesbaden: Steiner.
- Hoebel, E. Adamson (1965) *Fundamental Cultural Postulates and Judicial Lawmaking in Pakistan*. In: *American Anthropologist*, Special Publication 67.6, 1965.
- Law Reform Commission. (1959). *The report of the Law Reform Commission 1958-59*. Karachi: Government of Pakistan Ministry of Law.
- 1970. *The report of the Law Reform Commission 1967-70*. Karachi: Government of Pakistan Ministry of Law and Parliamentary Affairs (Law Division) Karachi.
- Lyon, S. M. (2004). *An Anthropological Analysis of Local Politics and Patronage in a Pakistan Punjabi village*. Lapeter: Edwin Mellen Press.
- Moon, Penderel (1930) *Strangers in India*. London: Faber and Faber.
- Moore, Erin (1993) *Gender, Power, and Legal Pluralism: Rajasthan, India*. In: *American Anthropologist*, 20.3, 1993.
- Moore, Erin (1985) *Conflict and Compromise: Justice in an Indian Village*. New York: University Press of America.
- Rosen, Lawrence (1989) *Islamic "Case Law" and the Logic of Consequence*. In: *History and Power in the Study of Law: New directions in Legal Anthropology*. June Starr and Jane F. Collier (Eds.). New York: Cornell University.