Dispute Settlement in Turkey:
A Case of Dispute Resolution Process in Istanbul

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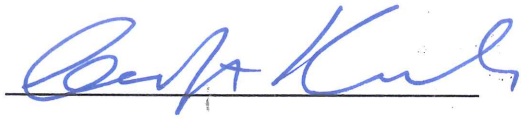

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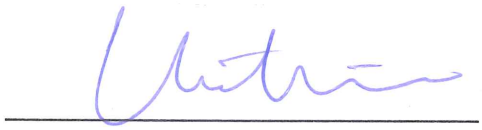

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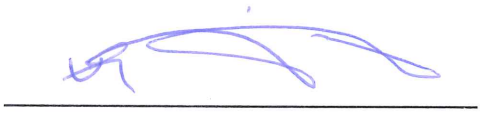

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Abstract

"Dispute Settlement in Turkey: A case of Dispute Resolution Process in Istanbul"

Yeter Tan, Master's Candidate at the Atatürk Institute
for Modern Turkish History at Boğaziçi University, 2019

Professor Cengiz Kırlı, Thesis Advisor

This thesis examines traditional and informal dispute resolution practices used by Kurds in Istanbul, who were internally displaced in the 1990s and migrated to Istanbul, for handling their daily disputes. It discusses that individuals and communities try to use the best options or easiest methods for handling their daily disputes as well as they try to use informal legal mechanisms through which they can maintain their customary law or traditional legal practices.

More specifically, this thesis focuses on how displaced Kurds in Istanbul handle their disputes and how they maintain their customary law and traditional practices through using an informal dispute resolution process. When Kurds confronted with disputes, it is common to use their own traditional methods, customary ways, and informal practices, which they also carried to urban areas. This thesis demonstrates that customary and traditional legal practices used by Kurds can be implemented in a well-organized manner in urban area.

39,000 words

Özet

"Türkiye'de Uyuşmazlık Çözümü: İstanbul'da Uyuşmazlıkların Çözümü Süreci Örneği"

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Bu tez, 1990'lı yıllarda ülke içinde yerinden edilmiş ve Istanbul'a göç eden Kürtlerin, sorunlarını çözmek için kullandıkları geleneksel ve enformel sorun çözme pratiklerini inceler. Bireyler ve topluluklar, günlük hayatta karşılaştıkları sorunları çözerken kendileri için en iyi seçenekleri ve en kolay metotları kullanmaya çalışırken enformel hukuk mekanizmaları aracılığıyla örfi hukuk ya da geleneksel hukuk pratiklerini sürdürmeye çalışırlar.

Daha spesifik olarak, bu tez İstanbul'da yaşayan Kütlerin, karşılaştıkları sorunları nasıl çözdüklerini ve enformel çözüm mekanizmalarını kullanarak örfi hukuklarını ve geleneksel pratiklerini nasıl devam ettirdiklerine odaklanır. Kürtler sorunlarla karşılaştıkları zaman göçle beraber kentsel alanlara taşıdıkları geleneksel yöntemlerini, örfi hukuklarını ve enformel pratiklerini sıklıkla kullanırlar. Bu tez, Kürtlerin kullandığı örfi hukuk ve geleneksel pratiklerin kentsel alanda iyi organize edilmiş bir şekilde uygulanabildiğini gösterir.

39.000 kelime

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1

Introduction

This thesis concentrates on informal legal practices and dispute resolution process used by the Kurdish population in Turkey for handling their disputes. When Kurds are confronted with disputes, it is common practice to use their own customary ways or legal practices for handling them. Especially with the establishment of various pro-Kurdish political parties since 1990s, it has been a common approach for Kurds to take their disputes to pro-Kurdish political parties for handling. This thesis specifically examines a dispute resolution process that is carried out by Public Relations Committee (PRC) provided by the Peace Party[1] (PP) that is one of pro-Kurdish political parties in Turkey. I only look in detail at its dispute resolution process in Istanbul.

1 To protect anonymity of my informants and the party I have chosen to conceal all of the names of the party, individuals, and districts referred to in the thesis.

I have to conceal the real name of the political party that provides this mechanism for handling disputes due to security concerns. The Peace Party, as I am going to call in this thesis, is a pro-minority as well as a pro-Kurdish political party in Turkey. It is a left-wing party that supports minority rights, participatory democracy and feminism. It has run in elections since it was founded as an opposition party.

§ 1.1 Methodolgy

I conducted an ethnographic research that included interviews, observations as well as participant observations. Being a native speaker of Kurdish helped me not only in being accepted as a participant observer in the practice but also in relating to and trying to make better sense of the Kurdish mediators' and disputants' life worlds.

I could not use an audio recorder during my interviews because some of the interviewees refused to talk to me while some of them did not feel comfortable when I asked their permission to use an audio recorder. At the beginning of my field research, I recorded an interview with the consent of an interviewee; however, I realized that she did not feel safe and was censoring herself during the interview. I experienced a similar situation when I interviewed a PRC member who gave me permission to use an audio recorder during the interview; however, he repeatedly asked me whether there could be any risk for him. I realized that people had security concerns and did not feel safe when I have an audio recorder during interviews so I decided to take notes during my fieldwork. I usually wrote detaled notes after the end of interviews or hearings that I attended.

My field research consisted of two distinct parts that I started in the end of 2015. I visited several PRC in various districts to meet PRC members and mention to them my interest in this topic as well as to build networks for conducting research. After having contacted several PRC members as well as party administrators, I started conducting my field research in January 2016, ending it approximately in May 2016. However, I visited PRC in Payeli, the main location of my fieldwork, several times after May 2016 in order to follow up on ongoing disputes resolution cases and interviewed some of the PRC members again.

First of all, to sketch an analytic profile of PRC, I visited four PRCs in various districts of Istanbul. In these PRCs, I interviewed in-depth seven PRC members who actively work for the committees, interviewing twice two of them during my field research. I also interviewed two people who had worked for PRC in the past. Apart from PRC members, I interviewed seven Peace

Party administrators who work in local branches and the central branch because PRC is provided by the party and some of its administrators had served for the committee in the past.

In addition to these interviews, I carried out the second part of my field research at PRC located in Payeli[2] district of Istanbul. During my occasional visits of PRC in Payeli, I interviewed in depth six PRC members and five party administrators who work in the local branch of the party in Payeli. In addition to this, I attended many hearings as participant observer to understand and analyze dispute resolution process at PRC in Payeli and had shorter interviews with disputants who brought there their disputes for handling.

I also had brief interviews with several women from a feminist organization[3] that has a close relationship with the party [4], whom I met at the party during my field research, and with three members of the Women Association of the party. The reason for doing this is that some of these women had been invited by PRC to the hearings in the past.

Thus, in this thesis, I will use the data, observations and interviews that I obtained from four PRCs in different districts of Istanbul as well as from the PRC in Payeli district.

§ 1.2 Structure of Chapters

Chapter I provides an overview of discussion regarding pluralism in legal arena as well as experiences of law outside state law in order to contribute to understanding of the existence of informal legal practices and institutions. It presents some arguments, which are proposed by legal pluralists, against the legal positivist approach claiming that the state is the only source of law. Legal

2 As I stated above, this mechanism has been targeted by the state several times. To protect anonymity of my informants and the mechanism I have chosen to conceal all of the names of individuals, districts, and the party referred to in the thesis.

3 I concealed the name of the organization that was closed by a decree law.

4 I met with several women in the central branch of the party during my field research. They had been invited by PRC to some hearings, meaning they had experiences in handling disputes related to women.

pluralism is critically discussed and various concepts related to legal pluralism are presented in order to contextualize PRC from a legal point of view.

Chapter 2 starts with the examination of several manifestations of legal pluralism in different countries such as Chile, Cuba, Brazil and India. I evaluate and examine informal dispute resolution processes in urban settings as well as in rural areas in order to construct a broad framework for informal legal practices. In the next section of this chapter, I concentrate on informal legal practices and mechanisms in Turkey. My aim is to evaluate the practices of informal dispute resolution process in Turkey while I show that different ethno-religious groups also have had informal legal practices or institutions similar to those of Kurds.

The next chapter deals with informal dispute resolution process that PRC has. I provide an analytical and comprehensive description for PRC by using the findings of my field research. In that chapter, I shed light on its structure, procedures, socio-economic position of disputants and PRC members, hearings, sanctions, kinds of dispute brought to it, and dispute resolution process. In particular, I look in detail at how dispute resolution process is carried out and how Kurds use as well as maintain their customary ways at PRC. One of the crucial parts of this chapter is an analysis of internal pluralism that PRC offers for each category of disputes. I critically discuss why PRC needs to create such internal pluralism in dispute resolution process.

The last chapter includes the second part of my field research that examines PRC in Payeli district of Istanbul. I try to demonstrate how PRC carries out dispute resolution process in a local branch by looking in detail at implementation of the procedures and the process in practice. My target is to demonstrate how the common rules and procedures for handling disputes are applied in practice, while analyzing internal legal pluralism within a local PRC.

2

Legal Pluralism

This chapter presents some arguments and discussions that focus on the different legal practices and informal dispute resolution processes related to legal pluralism. It is the theoretical background for my ethnographic research focusing on the pluralistic legal choices of Kurdish people who live in Istanbul as well as on informal ways of handling disputes that occur in daily life. The theoretical discussion in this chapter will make contributions to the understanding of existing legal practices and dispute resolution process of handling disputes as well as to the illustration of legal pluralism within the Kurdish community in Istanbul. When Kurdish people are confronted with disputes, it is common to use customary legal practices for resolving their disputes. This means that customary way of resolving disputes has the first priority for Kurds, while state legal institutions are used as a secondary remedy or under compulsory circumstances.

My field research shows that the previous legal experiences, choices, needs, and demands of individuals and community as well as the relationship between community and individuals play crucial roles in the existence of informal dispute resolution mechanisms. These needs and demands play crucial

role for fluidity and continuity of informal practices.[1] On the one hand, individuals and communities try to use the best options, alternative ways or easiest methods for handling their disputes; on the other hand, they try to use informal legal mechanisms through which they can maintain their customary ways or traditional legal practices. I think the main questions that should be asked here are related to what legal pluralism is and what kind of pluralism in legal arena exists. To seek answers to these questions is also crucial for the argument of my thesis project since it aims to examine what kind of informal legal practices and dispute resolution process are used by Kurds.

§ 2.1 Pluralism in Legal Arena

As pluralism can be found in all aspects of life, the legal arena is not exempt from this. "Every society is legally plural"[2] and every society could contain to some extent instances of plurality in the legal arena. In other words, people may experience law in various fields and through various forms or practices, and thus, rather than experiencing the law only in the form of state law, they have various options for handling their disputes. Hence, there exist various manifestations of legal pluralism. Berman states, "Law can be found in 'day to day' human encounters such as interacting with strangers on a public street, waiting in lines, and communicating with subordinates or superiors."[3]

In addition, the experiences of law outside state law and state institutions have not been a new phenomenon. Throughout the history, people have had multiple legal choices, ways, informal legal mechanisms, and legal practices for handling their disputes alongside state law. Eugean Ehrlich, one of the researchers of legal pluralism, emphasizes that people experience law outside state law and draws attention to the pluralistic legal choices of people outside formal state courts. He states,

1 Latif Tas, *Legal Pluralism in Action Dispute Resolution and the Kurdish Peace Committee* (Taylor and Francis, 2016), 9.

2 Merry, Sally Engle. "Legal Pluralism." *Law & Society Review* 22, no. 5 (1988): 869-96, 871.

3 Paul Schiff Berman, "The Globalization of Jurisdiction," *SSRN Electronic Journal*, (2003), 505.

> Human life does not occur before the courts. It is evident at first side that every man is enmeshed in innumerable legal relationships and that, with very few exceptions, he does not entirely voluntarily what he is obligated to do in such relationships; he fulfills his duties as a father and son, as a husband or wife, he does not disturb his neighbors in the enjoyment of their property.[4]

Apart from this, he critically looks at an assumption that the institutions of law only depend on legal norms. In criticizing this assumption, he says,

> "Ethics, religion, custom, morality, tact, even good style and fashion do not only order extra-legal relationships, they also intrude with every step into the legal arena. Not a single legal order could exclusively exist simply though legal norms, they require at all times the support of extra-legal norms which would double and supplement their strength.[5]"

In a similar vein, Von Benda-Beckman claims that law may exist in different forms as he draws attention to the 'variation in the existence of law' in different forms. He states:

> Law may be embodied in written and spoken texts … Secondly, law can exist in the knowledge of people … Thirdly, law may be inscribed into the statuses of persons, resources and organization as well as into social relationships and institutions, giving them a legal status, usually with wide-ranging legal consequences … Fourthly, and most importantly, law may be involved in social processes/social interaction.[6]

For the existence of various legal choices apart from state law and state institutions, Galanter draws attention to plural legal orders that compete with state

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4 Ehrlich, Eugean, "Fundamental Principal of the Sociology of law", Cambridge, MA: Harvard University Press, 1936,15

5 Ibid, 44.

6 Franz Von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," ,*The Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): pp. 37-82, 64-65.

law. According to him, courts must be examined in the context of their companions and rivals. He states that courts are not the only source of normative message; neither they are the only arenas in which control is directly applied.[7] To claim that people experience law in various areas apart from state law, he states:

> Just as health is not found primarily in hospitals or knowledge in schools, so justice is not primarily to be found in official justice-dispensing institutions. People experience justice (and injustice) not only (or usually) in forums sponsored by the state but at the primary institutional locations of their activity—home, neighborhood, workplace, business deal and so on (including a variety of specialized remedial settings embedded in these locations).[8]

We can see that pluralism exists in legal arena and people may have many legal choices for handling their disputes. Moreover, when people are confronted with disputes, they may have access to alternative mechanisms, such as customary law, indigenous law, informal law, folk law, non-state form of order for handling their disputes alongside state law, which is thus not their only choice.

§ 2.2 What is Legal Pluralism

In the field of legal anthropology, there is a lack of a widely accepted definition of legal pluralism. In the absence of a common definition, many scholars who are interested in this field suggest and develop their own definitions of legal pluralism. This leads to the existence of multiple definitions of legal pluralism in the field, which has been criticized by some scholars. According to Chiba, "Many of the discussants appear manifestly or latently to have their own definitions of legal pluralism. However, a clear and distinction definition is still

7 Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law," *The Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981): pp. 1-47, 17.

8 Ibid, 17.

lacking"[9] On the other hand, Tamanaha explains this uncertainty by claiming that contributors of the concept of legal pluralism come from different disciplines, thus bringing different concepts and orientations to the subject as well as having different purposes and motivations in using the concept.[10]

Early legal pluralist scholars made crucial contributions to the development of the term. Hooker, one of the lawyers who contributed to the study of comparative law with his book *Legal Pluralism*, surveys plural legal systems in Africa, Asia, and the Middle East. He defines legal pluralism as: "The term 'legal pluralism' refers to the situation in which two or more laws interact."[11]

Another contribution to the field of legal pluralism was made by Pospisil who argues that in society, there is a multiplicity of legal systems and of legal levels. Pospisil proposes the concept of "legal levels" that supports the existence of various subgroups in society and can be used to oppose the idea of legal centralism. He believes that legal pluralism manifests itself in society in the form of "legal levels". He claims that no society has "a single consistent legal system, but as many such systems as there are functioning subgroups"[12] He states:

> Society, be it a tribe or a 'modern nation', is not an undifferentiated amalgam of people. It is rather a patterned mosaic of subgroups that belongs to certain, usually well-defined (or definable) types with different memberships, composition, and degree of inclusiveness. Every such group owes its existence in a large degree to a legal system that its own and that regulates the behaviors of its members…[13]

Moore proposes "semi-autonomous social field," one of the most widely used conceptions in the field of legal pluralism. According to her definition, the

9 Masaji Chiba, "Other Phases of Legal Pluralism in the Contemporary World," ,*Ratio Juris* 11, no. 3 (1998): pp. 228-245, 228-229.

10 Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global†," *Legal Theory and the Social Sciences*, 2017, pp. 447-483, 390-391.

11 Michael Barry. Hooker, "*Legal Pluralism"* (Oxford: Clarendon Pr., 1975), 6.

12 Pospíšil Leopold, *Anthropology of Law: a Comparative Theory* (New Haven: HRAF Press, 1971), 107,125.

13 Ibid, 125.

semi-autonomous social field "has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can, and does, affect and invade sometimes at the invitation of persons inside it, sometimes at its own instance."[14] The concept provided by Moore makes a crucial contribution to the development of legal pluralism by emphasizing the reciprocal relationships and interactions between different legal orders as well as by examining how each legal order penetrates into other fields. Moreover, the concept analyzes how each legal order influences other fields, generates its rules, and reacts to external influences while maintaining its autonomy through these interactions.

According to Merry, legal pluralism is as "a situation in which two or more legal systems coexist in the same social field."[15] She examines reciprocal relationship and interactions between different legal orders mentioned by Moore in the discussion of her concept. Merry states,

> Research in the 1980s emphasizes the way state law penetrates and restructures other normative orders through symbols and through direct coercion and, at the same time, the way non-state normative orders resist and circumvent penetration or even capture and use the symbolic capital of state law.

In addition to this, according to Merry, the concept proposed by Moore provides some advantages in that the field is not attached to a single group and no claims are made about the nature of the orders themselves or their origin.[16] Yet, she criticizes that the concept does not make accurate conclusions about the nature and direction of influence between normative orders. One of the main features of this concept is that it maintains its autonomy while the outside legal system cannot capture semi-autonomous social field although they have relation with it. Merry also argues that although the outside legal system penetrates the semi-autonomous social field, it does not dominate the field,

14 Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): p. 719-746, 720.

15 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): p. 869-96, 870.

16 Ibid, 877-878.

leaving the room for autonomy as well as resistance.[17] Galanter also discusses the Moore's concept regarding the fact that normative orders maintain their autonomy in their relations with external influences. According to him, Moore's concept defines "the lesser normative orderings, not as isolated and independent units, but as parts of a larger, complex legal order, with which they interact."[18]

Griffiths, one of the prominent developers of legal pluralism, aims to "establish a descriptive conception of legal pluralism."[19] According to him, there must be more than one law for the existence of legal pluralism. He believes that a social order contains legal pluralism to some extent when more than one source of law and more than one legal order are observed.[20] In addition, he recognizes non-state law as law attacking the legal centralism approach and its denial to recognize normative orders as law. He believes that law consists of self–regulation of semiautonomous social field, proposed by Moore.[21] According to Griffiths, legal pluralism refers to "that state of affairs, for any social field, in which behavior pursuant to more than one legal order occurs."[22] He defines legal pluralism as:

> One in which law and legal institutions are not all subsumable within one 'system' but have their sources in the self-regulatory activities of all the multifarious social fields present, activities which may support, complement, ignore or frustrate one another, so that the 'law' which is actually effective on the 'ground floor' of society is the result of enormously complex and usually in practice unpredictable patterns of competition, interaction, negotiation, isolationism and the like.[23]

17 Ibid, 878.

18 Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law", *The Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981): pp. 1-47, 20.

19 John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): pp. 1-55, 1.

20 Ibid, 38

21 Ibid, 37-38.

22 Ibid, 2.

23 Ibid, 38.

For Chiba, legal pluralism refers to "the coexisting structure of different legal systems under the identity postulate of a legal culture in which three combinations of official law and unofficial law, indigenous law and transplanted law, and legal rules and legal postulates are conglomerated into a whole by the choice of a socio-legal entity."[24]

§ 2.3 Debate on Recognition of non-state law as law

There is a debate on the recognition of non-state law as law in the field of legal pluralism. Some scholars argue that normative orders should be recognized as law and that, rather than being secondary, supplementary or less important, they are themselves law. Hooker, an early legal pluralist, recognizes non-state law as law. Chiba also emphasizes the existence of extra-legal norms as law, claiming that they, including religion and customs, are not just a supplement to law. He states, "The state law is… only one among many official laws of a country, however dominant it may appear over others."[25] In a similar vein, Merry states that "recent work defines "legal system" broadly to include the system of courts and judges supported by the state as well as non-legal forms of normative ordering."[26]

Claiming the existence of various normative orders in "any given field" and the recognition of non-state law as law, some legal pluralists attack legal centralism. According to this view, state law is usually considered the only body of law and the most developed system, while other normative orders are ignored or considered secondary, supplementary or less important. Some legal anthropologists oppose this legal positivist idea and consider state law to be one of political organization among other religious, tribal, territorial, local and

24 Masaji Chiba, "Other Phases of Legal Pluralism in the Contemporary World," *Ratio Juris* 11, no. 3 (1998): pp. 228-245, 242.

25 Masaji Chiba, "Asian Indigenous Law in Interaction with Received Law". [London: KPI. 1986], 1986, 5-6.

26 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): p. 869

political organizations that have their own laws.[27] To challenge this legal centralist approach, Woodman states that legal pluralists have demonstrated the existence of and characteristics of non-state laws.[28] In a similar vein, Galanter believes that "law in modern society is plural rather than monolithic, that is private as well as public in character and that the national (public, official) legal system is often a secondary rather than a primary locus of regulation."[29] F. and K. von Benda Beckman also criticize the view claiming the recognition of state law as the most enhanced legal system. According to them, there are various legal orders, informal mechanisms, and sets of rules in legal area which coexist as parallel to state legal system, but only a body of law, which is state law, is recognized as a fully enhanced legal system in many societies.[30]

Moore is another scholar who criticizes the idea that state is the only source of legal rules. She discusses absolute autonomy from a legal point of view, emphasizing the limitation of exact domination in legal field. She puts an emphasis on the rarity of complete domination and autonomy, particularly at a community level. She considers semi-autonomy of several kinds and degrees as an ordinary circumstance. Moore claims that "the law (in the sense of state enforceable law) is only one of a number of factors that affect the decisions people make, the actions they take and the relationships they have."[31]

One of prominent opponents to legal centralist approach is Griffiths who criticizes the domination of legal positivism within legal theory. According to him, legal centralism is an obstacle to the development of a descriptive theory

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27 Franz von Benda-Beckmann, Keebet von Benda-Beckmann, and Anne M. O. Griffiths, *Mobile People, Mobile Law: Expanding Legal Relations in a Contracting World* (London, NY: Routledge, 2016), 6.

28 Gordon R. Woodman, "Ideological Combat and Social Observation," *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42 (1998): pp. 21-59, 51.

29 Marc Galanter, "Justice in Many Rooms: Courts, Private Ordering, and Indigenous Law," ,*The Journal of Legal Pluralism and Unofficial Law* 13, no. 19 (1981): pp. 1-47, 20.

30 Franz Von Benda-Beckmannn and Keebet Von Benda-Beckmannn, "The Dynamics of Change and Continuity in Plural Legal Orders," *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): pp. 1-44, 18.

31 Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): p. 719, 722.

of law. He explains legal centralism as based on the idea that "law is and should be the law of the state, uniform for all persons, exclusive of all other law, and administered by a single set of institutions."[32] He believes that there are various manifestations of legal pluralism in any given field, and thus he considers state law as only one of legal orders among them.

Another criticism to this approach comes from Santos who believes in the existence of different legal orders within the society, while rejecting the idea that the state is the only source of law. Santos criticizes the narrow assumption of the modern state that considers law only on the scale of the state.[33] According to him, recent studies on legal pluralism show that constellations of legal pluralism emerge within different spheres. He states,

> In recent times the research on legal pluralism has drawn our attention to forms of local legality in rural areas, in marginalized urban sectors, in churches, in sports, in the profession. These are forms of infra-states laws, most of them are informal, unofficial, more or less customary.[34]

Moreover, some legal pluralists argue that the centralist approach puts an emphasis on the superiority and uniformity of state law, while asserting that non-state forms of legal orders are not consistent, do not have a uniform body and are not recognized as law. This approach distinguishes state law from non-state legal orders, while placing them in a lesser position than state law. However, some legal pluralists criticize this view, particularly by claiming the possibility of inconsistence and incoherence of state law. Griffiths asserts that this is dependent on the ideological and political assertions of state's legal expertise and authority. Griffiths attacks this approach by arguing that state law is not as well organized and consistent as the legal centralist approach proposes. To explain this, he says:

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32 John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): pp. 1-55, 2.

33 Boaventura De Sousa Santos, "Law: A Map of Misreading. Toward a Postmodern Conception of Law," *Journal of Law and Society* 14, no. 3 (1987): p. 287.

34 Ibid, 287.

> Lawyers, but also social scientists, have suffered from a chronic instability to see that legal reality of the modern state is not at all that of the tidy, consistent, organized ideal so nicely captured in the common identification of 'law' and 'legal systems', but that legal reality is rather an unsystematic collage of inconsistent and overlapping parts, lending itself to no easy legal interpretation, morally and aesthetically offensive to the eye of the liberal idealist, and almost incomprehensible in its complexity to the would-be empirical student.[35]

In a similar vein, Woodman agrees with Griffiths in opposing this view and believes that state law is not as coherent as it is supposed to be. According to him, "There is strong evidence that state laws are (a) not internally self-consistent, logical systems, and (b) not clearly bounded and distinct from other social normative orders."[36] He emphasizes Merry's claim that the ways in which state law is shaped by normative orders are understudied.

§ 2.4 Some Concepts Related to Legal Pluralism

2.4.1 *Classic Legal Pluralism or New Legal Pluralism*

Legal pluralism usually deals with the relation between indigenous and European law, in colonial and post-colonial societies. This version of legal pluralism, which refers to intersection of indigenous and European law, is usually called classic or traditional version. Von Benda-Beckman considers the idea of legal pluralism as an extension from the analysis of pluralism in colonial societies where unequal power relationship exists between the indigenous majority and white minority.[37] Griffiths also emphasizes on the relations between

35 John Griffiths, "What Is Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): pp. 1-55, 4.

36 Gordon R. Woodman, "Ideological Combat and Social Observation," *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42 (1998): pp. 21-59, 51.

37 Franz Von Benda-Beckmannn and Keebet Von Benda-Beckmannn, "The Dynamics of Change and Continuity in Plural Legal Orders," *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): pp. 1-44, 60.

the emergence of legal pluralism and European colonization. Merry, who makes distinction between 'classic' and 'new' legal pluralism, also states that 'classic legal pluralism' focuses on the analysis of the intersections of indigenous and European laws.[38] She writes:

> Research on legal pluralism began in the study of colonial societies in which an imperialist nation, equipped with a centralized and codified legal system, imposed this system on societies with far different legal systems, often unwritten and lacking formal structures for judging and punishing.[39]

According to the classic view of legal pluralism, European states aimed to take colonial societies under control by imposing their western law. Chanock explains this as a situation in which the imposed 'law was cutting edge of colonialism' and that the Europeans states aim to govern and control their colonial societies, while transforming and reshaping them.[40] However, the imposed law was not able to achieve its aim and there was room for the existence of other normative orders. According to Merry, such law, which embodied very different principles and procedures, could work for industrial capitalism but not for an agrarian or pastoral way of life.[41] In addition, although European law was imposed on colonial subjects, it was accepted that the imposed law was inappropriate in some cases, such as family life, and that such cases could be left to the indigenous, customary, or local law of colonial subjects.[42]

On the other hand, in the late 1970s, the field of legal anthropology turned its attention to legal pluralism in industrial societies and western laws such as Europe or the United States. In other words, there was a shift from 'classic' view of legal pluralism, which focuses on the relationship between indigenous

38 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): p. 869, 872.

39 Ibid, 874.

40 Martin Chanock, *Law, Custom and Social Order: the Colonial Experience in Malawi and Zambia* (Cambridge University Press, 1985), 4.

41 Sally Engle Merry, "Legal Pluralism,",*Law & Society Review* 22, no. 5 (1988): p. 869, 869.

42 Anne Griffiths, "Legal Pluralism," Ch. 15, in *An Introduction to Law and Social Theory* (Oxford: Hart publ., 2002), 290-291.

law and European law as well as intersection between imposed law and indigenous law in colonized or post-colonized societies as separate form of orders, to a new perspective that examines the existence of legal pluralism in all societies. In the 1980s, debates on legal pluralism focus on the possibility of the existence of multiple forms of legal pluralism in industrialized societies and Western law systems. Some legal pluralists argue that Western legal systems are also pluralistic in some extent and that various informal legal constellations can be found in those societies. Merry calls this version 'new legal pluralism.' She claims that this perspective conceptualizes a more interactive and complex relationship between the unofficial and official forms of ordering rather than classic view that focused on the questions about reciprocal effects of society and law.[43] In other words, the new version aims to move away from classic understanding of legal pluralism based on theoretical dualities of official and unofficial orderings, law and non-law, public and private, and state and society towards more multifaceted terrains.[44]

2.4.2 *State Law Pluralism (Weak Pluralism) and Deep Legal Pluralism*

One of the central discussions in the field of legal pluralism concerns the existence of deep legal pluralism and state law pluralism in virtually every society. Legal pluralists argue the existence of 'state law pluralism' or 'weak' legal pluralism and 'deep' or 'strong' legal pluralism. I will present different arguments proposed by the pluralists for both types of legal pluralism as well as different definitions for each type in legal anthropology.

Proponents of weak legal pluralism, also called as state law pluralism, argue that there can be more than one body of norms within a state legal order.[45] In other words, it means that forms of normative orderings can exist within the state while various legal orders are incorporated into and recognized by the state legal system. This type of pluralism is usually criticized as related to

43 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): p. 869, 872.

44 Robert Hughes, "Legal Pluralism and the Problem of Identity," essay, in *Passage of Change: Law, Society, and Governance in the Pacific* bu Anita Jowitt and Tess Newton. Cain, (ANU Press, 2010), 333.

45 Gordon R. Woodman, "Ideological Combat and Social Observation," *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42 (1998): pp. 21-59, 34.

the idea of legal centralism arguing that state law is the only source of law. Some legal pluralists discuss whether state law pluralism should be considered legal pluralism or whether pluralism is possible within state law. Griffiths denies the existence of legal pluralism within state law. By proposing a "descriptive conception" of legal pluralism, Griffiths proposes "legal pluralism in the strong sense." According to him, legal pluralism only occurs where different and distinct legal orders within any given field coexist and where a relationship emerges between them. He supports the idea that state law can be only one legal order among the instances of legal pluralism, and thus legal pluralism can exist where state law and non-state law exist side by side in accordance with his definition of legal pluralism. In another point to refute state law pluralism, he considers the instances of state law pluralism as the lack of uniformity of law or legal diversity within a single order rather than as pluralism within state law. He explains this by asserting "the obvious fact that every legal system, no matter how unitary its law, provides different rules for different situations."[46] Furthermore, Griffiths makes a precise distinction between state law and non-state legal orders. He considers state law pluralism as a sole legal doctrine, while conceiving of deep legal pluralism that he proposes for other non-state legal orders as social fact. Griffiths is one of the supporters of deep legal pluralism, which will be discussed later in the chapter.

On the contrary, Woodman claims that state law pluralism should be recognized and studied as a type of legal pluralism in the field of legal anthropology. He believes that plurality and diversity of state law exist within legal spheres. According to him, pluralism within a legal order can be recognized as legal pluralism, as there might be two or more legal mechanisms that 'regulate the same' within a legal order. He believes that every legal order (whether it is state or other legal order) may be classified as internally pluralist, however the types and degree of pluralism might vary.[47] In his explanation of both

46 John Griffiths, "What Is Legal Pluralism?" *The Journal of Legal Pluralism and Unofficial Law* 18, no. 24 (1986): pp. 1-55, 11.

47 Gordon R. Woodman, "Ideological Combat and Social Observation," *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42 (1998): pp. 21-59, 38.

types, he discusses that customary law is a constitutive element of deep pluralism, which will be discussed later, and state law pluralism, thus providing two versions of customary law, namely "lawyers' customary law" and "popular customary law."[48] His aim is to show how customary law may differ in its application, content and effect when both professionals and local people act as lawyers. According to him, local people use and consider "popular customary law" as a part of their daily life while lawyers consider and recognize customary law within state law and courts. Apart from these, Woodman himself, however, puts an emphasis on the power and salience of state law as a social fact. At the same time, he believes that strong existence of state law in social world, which it inhabits, should be also categorized as doctrine. Briefly, he asserts that rules in state law should be considered as social fact as well as doctrine. By emphasizing this aspect, which accepts state law as a social fact, Woodman blurs boundaries between non-state law and state law and makes them closer to each other. In so doing, he contributes to the undermining of ideological power of legal centralist approach that makes a clear distinction between state law and non-state legal orders. From this point of view, Woodman differs with Griffiths, who ignores this aspect of state law and in blurring boundaries between state law and non-state legal orders.

Apart from these scholars, von Benda-Beckman also supports the view that the existence of pluralism within a legal order should be considered as legal pluralism and assumes the presence of duplicatory mechanisms or institutions for 'the same' within one legal order. He offers as an example the case of marriage, which can exist in different forms such as civil or religious, in order to demonstrate alternative forms of a single situation and possibility of legal pluralism within a legal system. In considering the case of marriage, he states that "there may be a 'common law' marriage and/or publicly acknowledged and registered forms of co-habitation different from the formal so-called legal marriage."[49]

With respect to the other version of legal pluralism, deep legal pluralism refers to the existence of different kinds of legal orders with different sources

48 Ibid, 29.

49 Franz Von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," *The Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): pp. 37-82, 62.

of authority. According to deep legal pluralism, while different manifestations of legal pluralism have different sources of authority, they also do not need recognition of state. Also, constellations of this version can maintain their existence without need of state and state law. Hughes supports this view by emphasizing the existence of different legal orders that do not depend on state's authority. According to him, deep legal pluralism draws attention to the diversity or plurality of distinct legal orders that exist independently from the state, claiming that law can exist without need for a state at all.[50] Furthermore, Anne Griffiths argues that this interpretation of the concept of legal pluralism recognizes that legal pluralism exists in all societies, there are various forms of ordering to which members of society belong, do not need recognition of the state and its authority in order to exists.[51]

Griffiths is one of the prominent supporters of this version. He claims that the study of legal pluralism should merely examine "legal pluralism in the strong sense", asserting the idea that there is a clear distinction between state law and non-state form of orderings.

According to Woodman, deep legal pluralism claims the existence of "types of law other than state law"[52] Woodman states that "since customary laws are to be found everywhere, and state laws cover the world, deep legal pluralism exists wherever one looks."[53]

Pospisil, who proposes 'legal levels', and Smith, who examines 'corporations', could be used as the examples of contributions to the development of this type of legal pluralism Another essential work referring to this type is that of Moore who develops the terms of 'semi-autonomous social field'. As discussed earlier, this term claims the existence of a semiautonomous social unit

50 Robert Hughes, "Legal Pluralism and the Problem of Identity," essay, in *Passage of Change: Law, Society, and Governance in the Pacific* bu Anita Jowitt and Tess Newton. Cain, (ANU Press, 2010), 334.

51 Anne Griffiths, "Ch. 15: Legal Pluralism," essay, in *An Introduction to Law and Social Theory* (Oxford: Hart publ., 2002), 302-303.

52 Gordon R. Woodman, "Ideological Combat and Social Observation," *The Journal of Legal Pluralism and Unofficial Law* 30, no. 42 (1998): pp. 21-59, 41.

53 Gordon R. Woodman, "Legal Pluralism and the Search for Justice," ,*Journal of African Law* 40, no. 2 (1996): pp. 152-167, 157.

which has power to generate and pursue its own rules internally, as well as to affect its outside world. According to her, "The semiautonomous social field has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix that can, and does, affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance."[54] By proposing this concept, Moore initially shows that legal pluralism, as a social fact, does not belong to a particular type of a society or social field. While having capacity to generate its own rules, it is also "vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded."[55] Hence, the field is not absolutely isolated from the outside, although it is to some extent autonomous. The concept provides a strong example of forms of non-state normative orderings that maintain their autonomy and do not need state recognition. In addition, Moore's concept is widely-used by legal pluralists to oppose the idea of legal centralism (Griffiths, 1986; Woodman, 2002) as it provides a social field that undermines hegemony and dominance of state law, particularly at community level, while enhancing its authority and autonomy.

2.4.3 *The Relationship Between Different Legal Orders*

Another focus of legal pluralism studies is the analysis of the relation between co-existing legal orders that influence, support and enrich each other or that may compete and have tension with each other. It is worth noting that how different legal orders relate to each other and what are the effects of their intersections and interrelations on each other in the field of legal pluralism.

The previous studies related to legal pluralism mostly focus on the relations between state law or official legal system and other forms of normative orderings, while paying less attention to the relations between coexisting different normative orderings. Due to considering state law and other normative orderings as separate field and making a precise distinction between them, as stated earlier, they usually focused on the relations between two separate legal

54 Sally Falk Moore, "Law and Social Change: The Semi-Autonomous Social Field as an Appropriate Subject of Study," *Law & Society Review* 7, no. 4 (1973): pp. 719-746, 720.

55 Ibid, 720.

orders. This relation emphasizes how state and its law affect and interact with non-state normative orders and how normative orders react to this. According to Merry, research in the 1980s drew attention to the mutually constitutive, dialectic relations between other normative orders and state law.[56] She discusses that those studies, on the one hand, stress how state law reconstitutes and penetrates other forms of normative orderings by direct coercion and by symbols, on the other hand, how non-state normative orders avoid and resist penetration of state law as well as takeover or use state law's symbolic capital.[57] In a similar vein, Tamanaha states that in many studies the concept of legal pluralism signals the interaction between formal legal system and other normative systems, apart from presenting them as conflicting and competing formal legal systems.[58]

In a case of a tension or conflict between state law and non-state forms of orders, state law can utilize some strategies to combat non-state legal orders while those orders also enhance their methods to struggle against state law. According to the work of F. and K. von Benda-Beckman and Eckert, state representatives have to compete with other actors and legal constellations in local areas, each of them with different interests and values, while also having to regulate other forms of local orders and organizations.[59] To start with state law, it may adopt a moderate approach or take a tougher line in combating non-state forms of ordering. In adopting a moderate approach, state law penetrates those normative orderings for the purpose of taking them under its control or using them as a way of controlling local arenas in order to increase its access to them. In so doing, the state may even incorporate normative orderings into state law as a part of state law, particularly at the bottom level of the official legal system. The upshot is that state law can reshape and reregulate other

56 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): pp. 869-896, 880-81.

57 Ibid, 881.

58 Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global†," *Legal Theory and the Social Sciences*, 2017, pp. 447-483, 399.

59 Franz Von Benda-Beckmannn and Keebet Von Benda-Beckmannn, "The Dynamics of Change and Continuity in Plural Legal Orders," ,*The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): pp. 1-44, 10.

forms of normative orderings.[60] According to Abel, informal institutions are used as one of tools by the state to expand its control and authority on the local level.[61] In a similar vein, Merry claims that state colonizes non-state forms of ordering if it considers them useful.[62] In addition, Merry focuses on the research that shows how state law shapes and regulates other forms of normative orderings. According to her, the study of Auerbach is one of the examples of the state's incorporation of non-state forms of ordering and is an important study to examine the expansion of state law into normative orders. The study of Auerbach analyzes how state law gradually rearranges and penetrates into the local and how community justice examples gradually become legalized through state penetration in the United States.

According to Tamanaha, in case of tensions, state law may explicitly recognize and give support (coercive or financial) to existing non-state systems or explicitly incorporate them in order to absorb. On the other hand, he also argues that rather than being in conflict, both state law and non-state orders may support and benefit from each other. He assumes that customary laws and state law may co-exist without having conflicts despite the fact that they have many differences in orientation and norms. He explains that customary laws may receive support by being recognized by official systems, while state legal systems enhance their authority in local area by showing their supremacy through their authority to recognize customary law.[63]

On the other hand, state may take a tougher line in combating non-state forms of orders by abolishing, destroying or suppressing coexisting normative orders that compete with state law. Abel claims that state may actively suppress existing autonomous informal institutions because it may feel threatened by

60 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): pp. 869-896, 881.

61 Richard L. Abel, "The Politics of Informal Justice," introduction, in *The Politics of Informal Justice* (New York: Academic Press, 1982), pp. 1-338.

62 Sally Engle Merry and Neal A. Milner, *The Possibility of Popular Justice: a Case Study of Community Mediation in the United States* (Ann Arbor: The University of Michigan Press, 2004), 7.

63 Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global," *Legal Theory and the Social Sciences*, 2007, pp. 375-411, 406.

those institutions.[64] It may consider alternative forms of normative ordering as a strong rival to state law, and thus it aims to destroy them by using state coercive power. According to Merry, state destroys non-state forms of ordering in case it has no further use for them.[65] This view is also supported by Tamanaha who states that state legal system may declare non-state normative systems illegal and eliminate these opposing systems by taking actions to suppress.[66]

To look from the other perspective, it is worth examining how non-state forms of legal orders react to penetration of state law and how they continue their existence in relations with state and state law. One of the ways for non-state legal orders to survive, as suggested by Merry, is 'symbolic appropriation' meaning that subordinate groups may use the meanings and symbols of state legal system for their own purposes.[67] In other words, non-state forms of legal orders may borrow some symbols, rituals, or language from official legal system in order to exist. A common example of this is the study of Santos who examines the case of squatters in Brazil who had developed an illegal form of law called "law of the asphalt."[68] In analyzing the creation of this illegal form of law by the residents in the squatter settlement, Santos also examines how this form of law borrows symbols and to some extent language of state law in its dispute resolution process, while remaining independent and autonomous.[69] His study demonstrates how the alternative legal order uses some of-

64 Richard L. Abel, "The Politics of Informal Justice," introduction, in ,*The Politics of Informal Justice* (New York: Academic Press, 1982), pp. 1-338, 5.

65 Sally Engle Merry and Neal A. Milner,*The Possibility of Popular Justice: a Case Study of Community Mediation in the United States* (Ann Arbor: The University of Michigan Press, 2004), 7.

66 Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global†," *Legal Theory and the Social Sciences*, 2007, pp. 375-411, 404-05.

67 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): pp. 869-896, 881.

68 Boaventura De Sousa Santos, "Law: A Map of Misreading. Toward a Postmodern Conception of Law," *Journal of Law and Society* 14, no. 3 (1987)

69 Boaventura de Sousa Snatos, The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada (Law and Society, Volume 12, 1977), 48-51.

ficial norms, particularly in handling economic disputes, while assigning a different meaning to those norms. It is worth stating that institutions that resist the state's authority or have an ideology of self-government may also borrow ritual, language, or symbols of state law.[70]

Moreover, the study of Westermark, which examines an alternative form of informal justice to state law in the villages of Papua New Guine, shows that the alternative courts created in the village borrow many symbols and rituals from the state law.[71] The study demonstrates that the village courts have similar architectural style and furniture as official courts and use the national flag in their buildings.

On the other hand, state law may also be influenced by and imitate to some extent normative orders through its interrelations with those legal orders. Although this area has been studied less, there are some studies that claim that normative orders may shape state law[72]. Fitzpatrick believes that both state law and other legal orders are shaped and impacted by each other because of their close interrelations. F. and K. von Benda-Beckman examine the existence of interactions between local forms of ordering and external influences, in particular the response of legal orders to external influences. They claim that external influences change local legal orders, particularly regarding economic and power relationship, while local forms of legal orders also shape their external influences.[73] Nyaya Panchayat in India is one example to demonstrate that state law benefits from an informal and traditional legal mechanism for its purpose. This informal legal mechanism was incorporated into state law, particularly for increasing access to justice in Indian villages.

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70 Sally Engle Merry, "Sorting out Popular Justice" in *The Possibility of Popular Justice: a Case Study of Community Mediation in the United States, by* Sally Engle Merry and Neal A. Milner, (Ann Arbor: The University of Michigan Press, 2004), 34.

71 Westermark, George D. "Court Is an Arrow: Legal Pluralism in Papua New Guinea." *Ethnology* 25, no. 2 (1986): 131–49

72 Sally Engle Merry, "Legal Pluralism," *Law & Society Review* 22, no. 5 (1988): pp. 869-896, 884.

73 Franz Von Benda-Beckmannn and Keebet Von Benda-Beckmannn, "The Dynamics of Change and Continuity in Plural Legal Orders," *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): pp. 1-44, 10.

However, recent studies in legal pluralism have discussed the relation between different coexisting legal orders, apart from only focusing on the relation between state law and non-state normative orderings that was mentioned above. Legal anthropologists have looked at a relationship, which includes mutual influences, overlapping forms or complementary coexistence, between coexisting legal orders. According to Santos, rather than existing in isolation, in real socio-legal life different legal scales interact in different ways. Recent studies in the field of legal pluralism draw attention to the influence, transformations, and interactions between different co-existing legal orders as well as their influence on each other. According to K. and F. von Benda-Beckman, "under conditions of legal pluralism elements of one legal order may change under the influence of another legal order, and new, hybrid or syncretic legal forms may become institutionalized, replacing or modifying earlier legal forms or co-existing with them."[74] In addition, they consider 'such transformation processes' as an 'integral part of the dynamics of legal pluralism.'

In addition to these, von Benda-Beckman claims that different decision-makers and participants may use different legal constellations against each other such as religious law against state law or folk law against state law.[75] To him, the upshot is that they may create hybrids forms by compounding elements of different systems or accumulating them.

Tamanaha also discusses the idea that different legal systems can overlap, clash and coincide because they have inconsistent norms and processes. For such a situation, he assumes that different normative orders may overlap, different lines may be drawn, there may be borderline cases, and different categories might come into existence.[76] According to him, coexisting normative orders have claims to authority, and each normative system has capacity in

74 Franz Von Benda-Beckmannn and Keebet Von Benda-Beckmannn, "The Dynamics of Change and Continuity in Plural Legal Orders," *The Journal of Legal Pluralism and Unofficial Law* 38, no. 53-54 (2006): pp. 1-44, 10.

75 Franz Von Benda-Beckmann, "Who's Afraid of Legal Pluralism?," ,*The Journal of Legal Pluralism and Unofficial Law* 34, no. 47 (2002): pp. 37-82, 64-65.

76 Brian Z Tamanaha, "Understanding Legal Pluralism: Past to Present, Local to Global†," *Legal Theory and the Social Sciences*, 2017, pp. 447-483, 400.

some extent to exert power in a social arena.[77] Thus, he discusses that clashes may emerge between different coexisting normative systems such as customary, community, economic, functional, or religious systems, which may have more than one constellation in a given social field. Tamanaha believes that despite the fact that different normative systems have potential inconsistent processes and norms, they might also exist side to side without having overt conflicts, even supporting one another.[78] As a result, "there may be a complementary co-existence, both from the standpoint of the coexisting systems and from the standpoint of strategic actors within situations of legal pluralism."[79]

To examine this, Santos proposes the concept of 'interlegality' that refers to the intersection of different legal orders constituting society's legal life. He claims that different legal orders are more susceptible and open to mutual influences as well as to conflicts and tensions because of a denser relationship between them.[80] According to him, in such a situation, "the boundaries between the different legal orders become more porous and each one loses its "pure", "autonomous" identity and can only be defined in relations to the legal constellation of which it is a part.[81] In such situations, new hybrid forms emerge as a result of interactions between different legal orders.

In this chapter, I tried to present some current debates related to legal pluralism in order to analyze my own research on informal legal practices utilized by Kurds in the field of legal pluralism in Turkey. These debates are relevant to my own research. My aim was to demonstrate the existence of pluralism in legal field as well as the existence of informal legal practices and mechanisms alongside state law in legal arena. I argue that people may experience law in various forms in any field and have plural legal options when they have disputes. Furthermore, I discussed several concepts related to legal pluralism,

77 Ibid, 400-401.

78 Ibid, 404.

79 Ibid, 405.

80 Santos, Boaventura Sousa. "The Heterogeneous State and Legal Pluralism in Mozambique." *Law Society Review* 40, no. 1 (2006): 39–76.

81 Santos, Boaventura Sousa. "The Heterogeneous State and Legal Pluralism in Mozambique." *Law Society Review* 40, no. 1 (2006): 39–76, 45

namely deep legal pluralism versus weak legal pluralism and classic legal pluralism versus new legal pluralism. More specifically, I tried to examine and expand the concepts of *deep and weak legal pluralism* in order to utilize them in analyzing my own field research on informal legal practices of Kurds.

Furthermore, I also examined and presented some arguments regarding the relationships between non-state legal orders and state law as well as between different legal orders more generally to make a connection between my case on informal legal practices of Kurdish people and different normative forms of orderings.

3

Literature Survey

When I began working on this thesis, I realized that a substantial part of my study should be an examination of counterpart studies to outline a comprehensive agenda for legal pluralism research. To present a broad framework, I will analyze some constellations of legal pluralism in several countries. While various informal legal mechanisms have existed throughout the world, their manifestations in Latin American countries are amongst the most prominent examples in the literature on this topic. Latin American countries offer a wide range of dispute settlement mechanisms in urban setting, with different historical, political, and ideological backgrounds. I chose for a detailed examination three different informal legal mechanisms from Cuba, Chile, and Brazil, all of which present examples of distinctive dispute resolution mechanisms in urban settlements. After discussing these dispute resolution mechanisms in urban setting, I will turn my attention to India that has strong traditional legal institutions and mechanisms of adjudication, particularly in rural areas. In each instance, I aim to present both a general overview of the implementation of informal legal mechanisms and their general structure. After looking at informal legal mechanisms in these countries, I will discuss the literature specifically on Turkey in the second part of the chapter to contextualize the alternative legal mechanisms practiced the Kurdish population.

§ 3.1 Dispute Resolution Mechanisms in Cuba, Chile, Brazil and India

In Cuba, a dispute resolution mechanism called Popular Tribunals emerged during the post-revolutionary period. The tribunals, rather than the existing conventional Western courts, are responsible for resolving disputes between people. They were first proposed by Fidel Castro in 1962 and introduced in 1966 in order to be used as a way of educating people and integrating people in rural areas, who had been ignored by the traditional legal system, into the revolutionary society. After being in operation in rural areas, the Popular Tribunals spread throughout the country, particularly to urban neighborhoods that had also been ignored by the previous governments and the legal system. According to Berman, the aim of the introduction of the popular tribunals was the introduction of revolutionary mentality into the solution of personal quarrels and encouraging people's voluntary compliance to the new laws of a new society.[1]

Salas also explains several pragmatic reasons for introducing those courts, namely: 1) the distrust of the post-revolutionary regime towards the existing judicial institutions that were inherited from the preceding government; 2) introducing judicial mechanisms to the rural areas and urban slums that had been ignored by the prerevolutionary governments; 3) lack of professional staff such as lawyers, trained personnel in judicial system as a result of the dislocation due to revolutionary politics and exiling of a substantial part of Cuba's bar association; 4) distrust towards the members of the legal profession who were seen as supporters of the old class structure; 5) the increase in the caseload because of the lack of trained personnel in judicial system.[2]

To examine the popular tribunals in detail, I shall discuss the procedure and the powers of the tribunals. First of all, every popular tribunal has juris-

1 Jesse Berman, "The Cuban Popular Tribunals," *Columbia Law Review* 69, no. 8 (1969): pp. 1317-1354, 1318-1319.

2 Luis Salas, "The Emergence and Decline of the Cuban Popular Tribunals," ,*Law & Society Review* 17, no. 4 (1983): pp. 587-612, 597-99.

diction over a particular zone whose population ranges from two to six thousand inhabitants and is responsible for handling disputes that occur in that zone.[3] The tribunals mostly functioned in rural areas and urban slums that had been ignored by the government and legal system. Since the type of disputes brought to the tribunals depended on territorial boundaries, popular tribunals in rural areas mostly handled agricultural problems and redistribution of land while domestic problems, disputes among neighbors and fights were brought to the tribunals in urban areas.[4]

With respect to people who worked in the tribunals, judges holding hearings were laymen from the same community as the people who brought their disputes to the tribunals, while, those lay judges are selected from zones over which their tribunals have.[5] Moreover, the lay judges have regular jobs during the day and thus they serve part time in the tribunals without a pay, with the hearings being held in the evenings and in places open to public. The reasons for this are that, on the one hand, it was aimed to increase public participation in the Popular Tribunals; on the other hand, the goal was to educate and rehabilitate the disputants by holding hearings in places open to public.[6] In addition to these, the lay judges take a short three-week training course; however, they gain experiences primarily through serving and holding hearings in the Popular Tribunals. Although a section of law introduced for the tribunals,[7] it had no written rules or legal procedures. In the absence of determined rules,

3 Jesse Berman, "The Cuban Popular Tribunals," *Columbia Law Review* 69, no. 8 (1969): pp. 1317-1354, 1320-21.

4 Luis Salas, "The Emergence and Decline of the Cuban Popular Tribunals," *Law & Society Review* 17, no. 4 (1983): pp. 587-612, 597-99.

5 Jesse Berman, "The Cuban Popular Tribunals," *Columbia Law Review* 69, no. 8 (1969): pp. 1317-1354, 1335.

6 Luis Salas, "The Emergence and Decline of the Cuban Popular Tribunals," *Law & Society Review* 17, no. 4 (1983): pp. 587-612, 597-99, 592.

7 For detail, see Jesse Berman: The Cuban Popular Tribunals (Columbia Law Review, Volume 28, 1969), 1321. In 1966, a draft, which had only two chapters related to the tribunals, was published; however there was no any rule that clarified the procedure of the tribunals.

the lay judges took spontaneous decisions in accordance with shared needs and common sense instead of procedural requirements.[8]

Both Salas and Berman emphasize the main objective of the tribunals which was to rehabilitate disputants and reconcile opposing parties rather than to determine whether a person was guilty or innocent. To achieve this objective, the tribunals imposed a wide range of sanctions rehabilitative in nature. The most common kind of sanctions was the public admonition, educational improvement, peer pressure, deprivation of rights, banishment from a specific place, confinement to a specific place for a period, relocation of one of the disputants, deprivation of liberty. While imprisonment and capital punishment were not used as a sanction, tribunals could impose quota for fines which depended on the parties' socioeconomic background rather than a certain amount of money.

After a decade of introducing of the tribunals, attempts for institutionalizing them were started and their deficiencies were emphasized. The main reason for this was that the Popular Tribunals were taken under the control of and formalized by the post-revolutionary government. The most common criticisms to the Popular Tribunals were the decline of the legal profession, the lack of an institution checking and controlling the tribunals as a kind of legal supervision, and the lack of tribunals' procedural uniformity.[9] As a result, a set of regulations regarding court organization was introduced in 1973-74 and 1977-78 in order to establish a single system of courts. To sum up, the popular tribunals had become more professionalized, bureaucratized, and formalized courts, supervised by the legal system as a part of the formal legal institution. However, the tribunals also influenced official courts because lay judges served as co-judges with professional judges on trial courts.[10] According to

8 Jesse Berman, "The Cuban Popular Tribunals," *Columbia Law Review* 69, no. 8 (1969): pp. 1317-1354, 1321

9 Ibid, 609.

10 Sally Engle Merry, "Sorting out Popular Justice," in The Possibility of Popular Justice, ed. Sally Engle Merry and Neal Milner, (The University of Michigan Press,1993), 44

Salas, apart from having lay judges, the traditional courts still aspire to a lot of targets of the tribunals such as legal education of public.[11]

In Chile, decentralization of judiciary in urban areas was achieved through the introduction of informal dispute resolution mechanisms. Spence describes two attempts that aimed to increase access to justice and contribute to social justice during the Allende government. Apart from a common belief of discrimination against the poor and working class in the existing legal system in Chile, the objective of the attempt were to achieve a greater sense of community and eliminate anomic social relations in urban environment by encouraging face to face resolution, to constitute local governance through attempts of judicial decentralization and to prevent retribution.[12] In addition to these, there were some criticisms of the existing legal system. Modern courts in urban areas had some problems because of being in commercial-industrial centers, having excessively specialized procedure, requiring professional lawyers, and having caseloads dominated by disputes that involved significant material interests or violations of public order.[13]

To solve those problems, two urban decentralization attempts in judicial system were introduced during the Allende government in Chile. One attempt introduced by the judiciary was based on the belief that the increase in access to justice was the main solution to end problems in of the judiciary system. Therefore, this attempt intended to increase access to justice by holding courts without lawyers by professional judges in poor and working class neighborhoods. Judges were assigned to hold courts, which were called Popular Audience, to handle disputes in those areas. The main aim of this attempt was to make the professional judges more accessible and eliminate the need to have a lawyer for the urban poor and working class.[14] In addition, the hearings held

11 Luis Salas, "The Emergence and Decline of the Cuban Popular Tribunals," *Law & Society Review* 17, no. 4 (1983): pp. 587-612, 610.

12 Jack Spence, "Institutionalizing Neighborhood Courts: Two Chilean Experiences," *Law & Society Review* 13, no. 1 (1978): pp. 139-182, 139-140.

13 Ibid, 139

14 Sally Engle Merry, "Sorting out Popular Justice", The Possibility of Popular Justice, ed. Sally Engle Merry and Neal Milner, (The University of Michigan Press,1993), 43

by professional judges usually handled family, neighbors' and property disputes; each hearing held lasted usually about ten minutes. However, lack of participation of judges in the courts, insufficient performance of the judges, socio-economic differences between the judges and people, who were from poor and working class areas, led to the failure of this attempt.[15]

The other attempt was introduced by Allende's elected party (Unidad Party) in 1971. Allende's party constituted neighborhood courts throughout the country. According to proponents of those courts, on the one hand, the poor and working class were discriminated in the prior legal system and had many difficulties in accessing the legal system. On the other hand, they claimed that an increasing number of professional judges would be an insufficient attempt since those judges were the part of the legal system that had already discriminated against the poor and working class.[16] Therefore, neighborhood courts proposed by Allende's elected party targeted to end the discrimination against poor people and the domination of bourgeois class within the legal system. First of all, the neighborhood courts had an informal dispute resolution process. Lay judges who lived in the same neighborhood with disputants, served in these mechanisms. Another feature of those courts was that the courts allocated more time for handling disputes. With respect to type of disputes, interfamilial disputes, neighborhood disputes, and property conflicts were brought to these mechanisms for handling. With regard to sanctions, confinement and fine were common in the initial phase of neighborhood courts; however, admonishment and some kind of helpful activities to the community were used rather than fines, which were seen as impractical.[17]

When we compare both attempts, they have many distinctions as well as similarities. Both efforts emerged as a result of problems in judiciary and both of them mostly targeted the urban poor and working-class. However, those courts differed in procedures, socio-economic situation of judges and methods for handling disputes. The courts held by professional judges, had shorter

15 Jack Spence, "Institutionalizing Neighborhood Courts: Two Chilean Experiences," ,*Law & Society Review* 13, no. 1 (1978): pp. 139-182.

16 Ibid, 144.

17 Ibid, 163-165.

hearings, used more arbitration, and depended on formal law enforcement which meant that those courts relied on the state law while neighborhood courts proposed by Allende's government had more informal and longer hearings, used mediation, depended more on the community and less on formal law which caused these courts to have more closer ties with the community.[18]

In Brazil, another kind of dispute resolution mechanism emerged for handling disputes in an urban squatter settlement of Rio de Jeneiro. Santos describes and examines this dispute resolution mechanism, which he calls "Pasargada Law". Santos considers this unofficial law as the response of the dominated class to the state legal system that was viewed as one of the instruments of class domination.[19] According to Santos, since the legal system is one of the instruments of class domination, the dominated class searches for alternative ways to deal with their legal problems.[20] Therefore, the Resident Association (RA) is constituted to handle daily conflicts in this urban squatter settlement. That is to say, the Residents Association in Pasargada is one of the alternative dispute resolution mechanisms that the oppressed class found as a solution to handle their legal disputes rather than applying the official legal system. Santos states that structural inaccessibility of the state legal system as well as the illegal character of those communities in urban settlements forced the dominated class to establish adaptable strategies that aimed to secure minimal social ordering of community relations.[21]

In the early years of 1960s, the populist state in Brazil was prone to follow a policy that encouraged more or less autonomous community development in urban squatter settlements[22] and thus the Resident Association in Pasargada was created within the framework of this policy. The Resident Association was established through the support and protection of the state in order to organ-

18 Ibid, 176.

19 Boaventura De Sousa Santos, "The Law of the Oppressed: The Construction and Reproduction of Legality in Pasargada," ,*Law & Society Review* 12, no. 1 (1977): pp. 5-126, 6-7.

20 Ibid, 7.

21 Ibid, 6-7.

22 Ibid, 44-45.

ize the autonomous and collective participation of people who lived in Pasargada in 1966[23]. Although the Residents Association was one of the initiatives of state, after a while it became a popular mechanism where people brought their daily disputes as they considered it to be a place to handle their disputes related to their house, shack, or land. The dispute resolution process of RA was free for every resident of Pasargada who was a member of the RA and paid membership fee. Also, the Office of Resident Association was situated in the central part of Pasargada which make easier accessing to the RA for the residents. The hearings were held by the presidente who was responsible for coordination and representation the Association. The presidente managed the hearings, asked questions to the disputants and scheduled hearings. The way used for handling disputes in RA was mixed adjudication and mixed mediation which was considered as more profitable work rather than pure adjudication and pure mediation.[24] In addition to these, Santos emphasizes on the role of RA in dispute prevention as well as dispute settlement. According to him, one of the target of RA prevent emergence of conflicts between the RA residents.[25] Lastly, broad public participation contributed to enhancing the autonomy of the RA over the Pasargada; as a result, the RA decided to abstain from receiving funding from the state to reduce state's intervention and sanction.[26] However, the fate of the RA was closely affected by the political atmosphere in Brazil as the state gave up its policy of supporting community organizations.

India provides a wide range of traditional legal institutions that settle disputes brought to them by people. Moreover, tradition of adjudication is very strong at the village level in India.[27] Meschievitz and Galanter examine Nyaya Panchayat (village courts), one of the oldest and most prominent forms of informal dispute resolution mechanism in the Indian villages. Nyaya Panchayat

23 Ibid, 38.

24 Ibid, 34.

25 Ibid, 44.

26 Ibid, 45.

27 Catherine S. Meschievitz and Marc Galanter, " In Search of Nyaya Panchayats: The Politics of a Moribund Institution," essay, in *The Politics of Informal Justice*, Richard L. Abel, vol. 2 (New York: Academic Press, 1982), pp. 1-338.

(NP) is an institution that has been a substantial mechanism to resolve disputes through informal tribunals since ancient times.[28] During the British Colonial period, their effectiveness and role in village life had decreased; some of local panchayats lost their authority as the British rule did not permit them to function autonomously as self-sufficient bodies[29]. However, after the independence of India in 1947, they were revived and functioned in all states in India as a part of self-government policy.

In India, the discussion of the need for well-rounded reform of the legal system was opened in the early years of independence.[30] The first reason was to bring a solution to the problems in access to justice, particularly for its rural population because the Indian courts were characterized with long delay, high cost and ineffectiveness. Moreover, the Gandhians and socialists accused British system of wreaking havoc in India by replacing the cheap, quick, and efficient panchayat justice system with slow and expensive courts that fostered dishonesty and degradation of public morality.[31] They also emphasized that the present legal system inherited from the British was unsuitable to reconstruct India and included faction and conflict, bred by colonial oppression; hence, it had to be replaced by conciliation and harmony.[32] In addition, the post-independence government urged to increase public participation in the new democratic institutions and educate people in rural area about the new democratic order in an independent India through reviving NP. To sum up, through reviving NP, the post-independence government aimed to blend the new and old values and norms.[33]

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28 Ibid, 48-49.

30 Marc Galanter, "The Aborted Restoration of 'Indigenous' Law in India," *Comparative Studies in Society and History* 14, no. 01 (1972), pp. 53-70, 55.

31 Ibid, 55.

32 Ibid, 55.

33 Catherine S. Meschievitz and Marc Galanter, "In Search of Nyaya Panchayats: The Politics of a Moribund Institution," essay, in *The Politics of Informal Justice*, Richard L. Abel, vol. 2 (New York: Academic Press, 1982), pp. 1-338.

After the independence of India, NP was introduced as a part of Panchayat Raj, a community development program aimed to reconstruct the India's village after the independence of India. The states in India were directed to found local self-government and to divide executive and judicial functions at village level through introducing Panchayat Raj.[34] According to this community development program, Panchayats were responsible for administering self-government institutions in the villages, such as development work, social welfare activities, civic amenities and judicial functions in the villages, while Nyaya Panchayats, which consisted of five respectable members from the village community, were responsible for judicial branch and handled petty civil, criminal and revenue cases through a process of conciliation and mediation. Members to NPs from the village were selected based on their knowledge of local people and general problems occurring in daily life.

The panchas, who served as judges for NP, usually have a low level of education. Their decisions were usually honored and accepted by the village community. They usually used the method of mediation and conciliation at the village level.[35] Disputants could lodge their complaints orally or in writing to NP and could invite their witnesses to hearings. With respect to procedure, it was simple and understandable to make it easier for people living in rural areas to use the institution. Although those institutions had to apply statutory rule rather than indigenous law, in practice they were not encumbered by the requirement to follow elaborate rules of criminal and civil procedure or law of evidence[36] while there was no strict control over them. Hence, the rules applied in these institutions were usually a mixture of local custom and official law. Instead of reaching a consensus, NP made decision by majority rule. [37]

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34 Ibid, 50.

35 Marc Galanter, "The Aborted Restoration of 'Indigenous' Law in India*," ,*Comparative Studies in Society and History* 14, no. 01 (1972): pp. 53-70, 55-56

35 Ibid, 55.

36 Ibid, 58-61.

37 Ibid, 60-61.

However, the NP is not frequently used by the people and is considered as a moribund institution.[38] Although, Nyaya Panchayat was considered a useful and viable institution by the post independent government, its structure and source of authority were not sufficient to be successful. It had some deficiencies, namely: the increasing of factionalism in the elections of local panchayat; having limited jurisdiction authority which causes to decrease of its effectiveness; the having of low budget that leads to some problems such as having no permanent meeting places or servants; the low educational level of panchas that makes difficult to handle procedural technicalities of NP operations; having some uncertainties in the duties and roles that the members are supposed to fulfill.[39] According to Meschievitz and Galanter, one of the reasons that NP became unsuccessful is the lack in implementation of the mechanism rather than being a traditional and old mechanism.

As we can see that there are various manifestations of legal pluralism that have different objectives as well as some similarities in dispute resolution processes in different parts of the world. It is worth noting that the dispute resolution tribunals discussed above were mostly proposed for neglected populations living in both urban and rural settings in order to increase their access to justice or penetrate neglected areas. Furthermore, those mechanisms provide for an informal dispute resolution process through having lay judges, sanctions, methodology, and hearings, even though they are proposed by the official bodies of the countries in which they emerge. There is no doubt that the employment of informal process was a crucial reason for those tribunals to have been widely used by the ignored populations for handling their disputes in both urban and rural settings.

Also, those tribunals either had their autonomy or gained autonomy from the state over time, particularly at a local level. As can be seen in the case of Brazil, the squatter settlements captured the tribunal considering it as an alternative to state law.

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38 Catherine S. Meschievitz and Marc Galanter, " In Search of Nyaya Panchayats: The Politics of a Moribund Institution," essay, in *The Politics of Informal Justice*, Richard L. Abel, vol. 2 (New York: Academic Press, 1982), pp. 1-338, 71

39 Ibid, 59.

§ 3.2 Dispute Resolution Process in Turkey

The kind of dispute resolution mechanism provided by the Peace Party to the Kurdish population is common among several ethno-religious communities in Turkey. Different ethno-religious groups in Turkey have different kinds of dispute resolution mechanisms, each displaying certain characteristic forms of informal legal practices determined by these groups' specific historical circumstances. Yet, the field of dispute settlement in Turkey has so far produced a limited number of studies that explore dispute resolution process ethnographically.

Among the scarce studies that are specifically concerned with dispute resolution in Turkey, June Starr's work presents a significant contribution. Her work provides a broad analysis of informal legal practices in a Mediterranean Turkish village in the 1960s. Her book shows the limitations of the law reform,[40] which was introduced in 1926 into Turkish society in order to remove Islamic Ottoman law, in changing the normative orders of people living in villages. According to Starr, Turkey's rural population continued using their traditional legal practices and dispute settlement in handling their daily disputes, which were incompatible with the Swiss codes introduced through the law reform. Examining informal dispute settlement practices in rural areas, her work is an example that indicates the lack of the capacity of legal reforms in Turkey to transform the rural society.

Her book demonstrates how villagers resolve their daily disputes by using a set of informal practices and carrying out an informal dispute resolution process. She remarks that villagers have several informal legal choices to resolve their disputes before applying to state institutions. Specifically, Starr mentions that the villagers use two types of informal techniques to handle their disputes, namely "self-help", in which one of the parties makes direct contact with the other side and negotiates to reach a solution, and "intervention of third parties", in which one of disputants or villagers may ask help from

40 In 1926, Swiss code was introduced in Turkey instead of Islamic Ottoman Law.

an outsider such as government officials, gendarmes, bureaucrats, or elder villagers.[41] On the other hand, she discussed that the villagers use the formal mechanisms for handling their disputes when disputes cannot be managed by informal dispute process.[42] This means that the villagers give priority to informal legal practices in handling their disputes, while the formal mechanisms are used as the last resort.[43] Apart being willing to maintain their legal practices, villagers considered the informal methods of resolving disputes within the village as quicker, more decisive and satisfactory for both parties than opening a court case.[44] In addition, Starr also takes places an emphasis on the high cost of the formal courts that were too expensive for the poor villagers as well as small landholders.

Another study on informal dispute settlement examines Turkey's Alevi community. In his article, 'Religous Courts Alongside Secular State Courts: The Case of the Turkish Alevis,' Van Rossum provides a comprehensive study which focuses on legal anthropological aspects of the Alevis in Netherlands and Turkey in both rural and urban areas.[45] His study examines how Turkish Alevis in Turkey and Netherlands resolve their quarrels and petty disputes in their religious court, which is held at the Cemevi,[46] instead of taking them to the state court. Moreover, his study emphasizes that the distrust towards the state institutions characteristic of "the Alevi ideology" reinforces the tendency to use internal mechanisms in handling disputes within the community.[47] However, the situation in Netherlands is different from Turkey regarding handling disputes at the Cemevi. Turkish Alevis in the Netherlands have a general

41 June Starr, ,*Dispute and Settlement in Rural Turkey: an Ethnography of Law* (Leiden: Brill, 1978), 167-68.

42 Ibid, 198.

43 Ibid, 201.

44 Ibid,126.

45 Wibo M. van Rosum, Religous Courts Alongside Secular State Courts: The Case of the Turkish Alevis (Law, Social Justice and Global Development Journal, 2008)

46 Cemevi is a religious place where Alevis attend. Apart from being a religous place, it is also considered a cultural center and a place for socializing.

47 Wibo M. van Rosum, Religous Courts Alongside Secular State Courts: The Case of the Turkish Alevis (Law, Social Justice and Global Development Journal, 2008), 11.

confidence in the Dutch state and its legal institutions which means that they use more often the Dutch legal system than reconciliation process at the Cemevi, whereas Turkish Alevis in Turkey use less the state institutions for handling their disputes.[48]

With respect to the process of this religious dispute resolution mechanism, the Dede[49], who resolves disputes brought to the Cemevi, asks people attending the cem ceremony whether they have a dispute. A dispute or quarrel can also be directly brought by the third party or also by disputants themselves to be handled at the cem[50]. Then, if the people in the cemevi have disputes, they take them to the Dede to be handled in front of all people and to reach reconciliation. In case if the parties are not reconciled, they are banned from the community through social exclusion.[51]

The book of Latif Tas is one of the most comprehensive studies related to the Kurdish practices of informal dispute resolution. In his book, *Legal Pluralism in Action: Dispute Resolution and the Kurdish Peace Committee*, Tas explains why and how Kurds in London continue resolving their legal problems by using customary and traditional practices instead of using the official UK legal institutions.[52] Through the example of the Kurdish practices of informal dispute resolution, his book aims to present how the Kurdish migrant population that has general distrust towards state institutions develops and maintains its own informal legal mechanism in London.

Tas examines informal procedures and dispute resolution process in Kurdish Peace Committee (KPC) developed by the Kurds in London for handling disputes. With regard to dispute resolution process, KPC has an informal and simple dispute resolution process, while the decisions made by the KPC mostly rely on Kurdish traditions and customs.[53] Moreover, there are some

48 Ibid, 11.

49 The religous leader who is allowed to lead a cem.

50 Wibo M. van Rosum, Religous Courts Alongside Secular State Courts: The Case of the Turkish Alevis (Law, Social Justice and Global Development Journal, 2008),8.

51 Ibid, 12.

52 Latif Tas, *Legal Pluralism in Action Dispute Resolution and the Kurdish Peace Committee* (London: Taylor and Francis, 2016).

53 Ibid, 88.

kind of sanctions that are public pressure, threats and isolation used commonly by the committee for the cases that the agreement was broken. With regard to the range of disputes, the KPC attracts a wide range of disputes, in particular from the Kurds in London, such as family disputes, business and criminal disputes. Another striking feature of this mechanism is that the KPC attracts some transnational cases, particularly from Turkey, from people who have family or business disputes with Kurds in the UK or Turks.[54] In this type of cases, the committee makes contact with the disputants residing in Turkey via mobile phone to start dispute resolution process. Tas' book presents a case in which Kurds use their own customary ways of handling disputes and maintain their legal practices while developing their own informal mechanism in the country they live in.

Another inspiring study dealing with Kurdish informal dispute resolution mechanism is provided by Miriam Geerse (2010), *The everyday violence of forced displacement: Community, Memeory and identity politics among Kurdish internal forced migrants in Turkey.* In her study, Geerse examines the ways in which Kurds, who had abandoned their villages because of the village evacuations by the state in 1990s, perceive the violence in their past, how they deal with the problems they confront after having been forced to abandon their villages, and how they rebuild their lives between 2001 and 2004 in Istanbul.[55]

Chapter 8 of her study deals with the resolution of conflicts between internally displaced Kurds living in the Asian side of Istanbul. In this chapter, Geerse discusses the role of HADEP[56], a pro-Kurdish political party, in resolving the disputes on a local level between the Kurds who have ongoing relationships with or know each other. According to Geerse, interventions of pro-Kurdish political parties in handling disputes had a profound effect on the ways in which people related to each other in the city as well as provided an 'ethnic resource' that helped Kurds to stay on their feet in the city. In addition,

54 Ibid, 90.

55 Geerse, Miriam. *The Everyday Violence of Forced Displacement: Community, Memory and Identity Politics among Kurdish Internal Forced Migrants in Turkey*. Amsterdam: Rozenberg Publishers, 2011. 319-320

56 HADEP was a pro-Kurdish political party that was banned by the state.

by taking active roles in dispute resolution process, the Kurdish party becomes an alternative to the state and other civic networks in the urban settings.[57] On the other hand, Geerse discusses that internally displaced Kurds perceive the Kurdish political party as their representative as a result of having been forced to abandon their villages and being exposed to violence by the state and its representatives.

According to Geerse's description of the dispute resolution process and procedures, the chairperson creates a committee that consists of three to four people to negotiate and hold hearings with either or both sides in the conflict. Also, there is no permanent committee for resolving the disputes brought to the party so it creates a committee when a dispute is brought to it for handling. On the other hand, the mediators handling disputes are usually members of the party, while respected people within the community or religious people could also be invited the hearings. Disputes related to business, domestic violence, elopement are usually brought to the party for handling.

In her study belonging to the Kurdish women and construction of Kurdish women's identity in the Kurdish movement, Handan Çağlayan also discusses the role of HADEP[58] in dispute settlement, particularly disputes related to women.[59] Çağlayan describes a family dispute resulting from the violence towards a woman by her husband who was a member of and worked for the party. In this case, a Kurdish woman being exposed to violence from her husband, who is a member of and works in HADEP takes her dispute to HADEP for handling. Çağlayan explains reasons why the woman lodges her complaint to the party. Apart from the fact that her husband worked for the party, the woman appeals to the party because she views HADEP as a political party founded for "right and justice," which means for her that it has to protect the

57 Miriam Geerse, *The Everyday Violence of Forced Displacement: Community, Memory and Identity Politics among Kurdish Internal Forced Migrants in Turkey* (Amsterdam: Rozenberg Publishers, 2011), 343.

58 HADEP was a pro-Kurdish political party and it was established in 1994. However it was closed by the state in 2003.

59 Çağlayan Handan, Aksu Bora, and Yeğen Serap. *Analar, yoldaşlar, tanrıçalar: Kürt Hareketinde Kadınlar Ve Kadın kimliğinin oluşumu*. Istanbul: İletişim Yayınları, 2013.

rights of and provide justice for the people. It is essential to state that the state institutions are neither the first nor second choice for the woman for resolving her dispute.

Ihsan Yılmaz, in his article, discusses how both local and unofficial Islamic legal practices have been maintained by people in Turkey who are religious people.[60] He claims that after the adoption of Swiss Code in Turkey, people have mostly followed a new hybrid form that presented a combination of the new Turkish law based on the Swis law and the requirements of "Turkish Muslim law" in handling their disputes. He claims that most of people in Turkey have not given up from their Muslim identity, and thus have continued to use Muslim law in daily life as well as Turkish law.[61]

The article written by Talha Köse and Nimet Beriker is another remarkable study dealing with informal dispute resolution in Turkey. In their article, "Islamic Mediation in Turkey: The Role of Ulema," they examine the Islamic dispute resolution methods and process in contemporary Turkey.[62] They analyze how Ulema[63] resolves disputes, which tactics and techniques they use in dispute resolution procedure and what kind of disputes are brought to Ulema for handling. They emphasize the use of methods of informal dispute resolution such as arbitration, mediation, Islamic mediation or the other informal mechanisms, which are not permitted by the present legal system in Turkey[64] but are still used in practice by people for handling their problems. They state, "Nevertheless, in contemporary Turkish society, the practice of Islamic Law (fıqh), especially in relations within the family, between husband and wife, in matters of inheritance and in commercial partnership dispute cases, continues

60 Ihsan Yılmaz, "Secular Law and the Emergence of Unofficial Islamic Law," *Middle East Institute Journa*l 56, no.1 (2002), pp: 113-131

61 Ibid, 121.

62 Talha Köse and Nimet Beriker, "Islamic Mediation in Turkey: The Role of Ulema," *Negotiation and Conflict Management Research* 5, no. 2 (2012): pp. 136-161.

63 Islamic scholars who are experts in Islamic legal jursiprudence and they are considered knowledgeable and wise within community.

64 Talha Köse and Nimet Beriker, "Islamic Mediation in Turkey: The Role of Ulema," *Negotiation and Conflict Management Research* 5, no. 2 (2012): pp. 136-161 2.

to exist-along with informal secular dispute resolution practices. People informally consult or resort to the consensual intervention of ulema, who are now defined as scholars of Islamic legal jurisprudence and leading figures of religious brotherhoods." According to them, the legitimacy of Ulema relies on faith and knowledge rather than merely professional expertise, settings and procedure, and thus, instead of having a professional training, the ulema benefit from their personal experiences that they obtain from previous dispute resolution processes.[65]

Tuğal, in his book of *Passive Revolution* also emphasizes on the role of religious authorities in dispute settlement as referees in Sultanbeyli, a district mostly inhabited by conservative people. According to Tuğal, state authorities at the local level, such as gendarmes, give a room for negotiation to religious authorities when they cannot resolve disputes between people, while he claims that religious authorities are successful in refereeing disputes between people. [66] The practice of taking disputes to religious authorities for handling is also seen in urban areas, particularly in districts inhabited mostly by conservative people like Sultanbeyli that he has field research. Tuğal emphasizes that people living in conservative districts more often take their disputes to religious authorities. Tuğal mentions a mufti who had formal religious education and served in a rural place before moving to Sultanbeyli. The mufti was very popular in Sultanbeyli not only for being a Mayor, but also for taking an active role in dispute settlement as a religious referee.

To sum up, the studies on informal dispute settlement in Turkey discussed above that legal pluralism exist in the country's legal arena and can be observed in various manifestations. In this respect, there are multiple informal legal mechanisms that different groups have used and developed alongside state institutions and state law. Thus, these studies show that state law is not the only source of law as people may have multiple legal choices apart from state law and its institutions when they are confronted with disputes. On the other hand, it is worth noting that Kurds are not the only group in Turkey that uses informal legal practices for handling their disputes. That is to say, the

65 Ibid, 20.

66 Tuğal Cihan, *Pasif Devrim: Islami Muhalefetin düzenle bütünleşmesi* (Sarıyer, Istanbul: Koç Universitesi Yayınları, 2010).

studies demonstrate that different ethno-religious groups have developed internal legal mechanisms and have used customary legal practices or religious ways to handle their disputes, although different groups have their own motivations to pursue alternative legal choices, such as distrust towards state institutions, need to access justice or maintain their religious or customary practices.

Against the background of the existing literature, my own research on informal legal practices used by Kurds provides an additional illustration of legal pluralism, showing that Kurds have developed a permanent mechanism that maintains their customary legal practices in handling disputes. I examine informal legal practices have been widely used alongside state law as well as alternative normative orderings in Turkey and I demonstrate that these practices provide a comprehensive mechanism of dispute resolution for the Kurdish population, as well as other ethno-religious groups. Moreover, my research contributes to the existing literature by highlighting Kurdish women's experiences with informal legal practices and the specific procedures developed to deal with disputes related to women. In the next chapter, I will describe and examine this informal legal mechanism as it is practiced by the Kurdish population in Istanbul.

4

An Analytic Profile of Public Relations Committee (PRC)

In this chapter, I am going to sketch an analytic profile of the Public Relations Committee (PRC) which is a commission that works under the roof of Peace Party (PP)[1] in Turkey. I am going to examine PRC by using my own experiences and the data I collected through my field research. I shall analyze and describe the dispute settlement activity of Public Relations Committee in urban neighborhoods. To do this, I will describe the structure of PRC, characteristic features of the PRC members and disputants, kind of disputes it handles, procedures it has, and its dispute resolution process. This examination of PRC as a community-conflict resolution mechanism makes even a limited description and analysis of its potentially significant, while only concentrating on its activity in city of Istanbul. Moreover, this chapter presents one part of my field research that includes interviews with Public Relations Committee (PRC) members who worked for PRC in the past and who have currently

1 This mechanism and the party have been several times targeted by the state as creating alternative justice system to the state and state law. To protect anonymity of my informants and the party I have chosen to conceal all of the names of the party, individuals, and districts referred to in the thesis.

I have to conceal the real name of the political party that provides this mechanism for handling disputes due to security concerns. The Peace Party, as I am going to call in this thesis, is a pro-minority as well as a pro-Kurdish political party in Turkey. It is left-wing and it emphasizes the minority rights, radical democracy, participatory democracy and feminism. Also, it has run for election since it was found and it is an opposition party.

worked for PRC in various districts of Istanbul, while the other part will be presented in the next chapter. To sketch a profile of PRC, during the beginning of my field research, I realized that I must have visited various PRC in different districts of Istanbul in order to examine PRC and its dispute resolution process. That's why I visited several PRCs that serve in various districts of Istanbul and had interviews PRC members from different districts. I thought that I must have had as many as interviews PRC members in various districts of Istanbul to collect data on its procedures and dispute resolution process because it has not any written documents related to its procedure or structure. Due to being an informal dispute settlement mechanism, PRC has not any written rules, documents and records providing information about its procedures and process. Meanwhile, it does not officially exist in the party's guideline because it has been targeted by the state since it has worked actively. The probable reason for this is that the state sometimes considered PRC as an alternative mechanism to state law, and thus it several times attacked or suppressed it.[2] Also, some of members were even taken into custody or arrested in the past because they were accused of creating an alternative justice system to the state. Thus, PRC members do not prefer to have any written document or report that may cause to trouble with the state or that may be used as evidence by the state in such a case.

To sketch an analytic profile of PRC, I visited four Public Relations Committees in various districts of Istanbul. In these PRCs, I interviewed seven PRC members who actively work, while I interviewed twice or more with some of them during my field research. Also, I interviewed with two people who had worked for PRC in the past. Apart from those interviews, I had my second part of field research in PRC located in Payeli[3] ditrict of Istanbul. Therefore, I also interviewed six PRC members and I attended many hearings to observe dispute resolution process in my field research in Payeli. Thus, in this chapter,

2 Before I started my field research, several committee members were taken into custody, even one of them were prisoned for 3 months due to handle disputes. They were accused of creating alternative justice system.

3 As I stated above, this mechanism has been several times targeted by the state. To protect anonymity of my informants and the mechanism I have chosen to conceal all of the names of individuals, districts, even the city referred to in the thesis.

I am going to use the data and interviews that I obtained from four of PRCs in different districts of Istanbul as well as the data and interviews that I obtained from the PRC in Payeli district.

Apart from PRC members, I interviewed some Peace Party administrators who work in local branches and central branch because of the reasons that PRC is provided by the party and some of its administrators had served for the committee in the past. Hence, I interviewed seven administrators of Peace Party in the central branch and local branches. Moreover, I interviewed five party administrators in local branch of the party in Payeli. Also, I shortly interviewed several women from a feminist organization[4] that has a close relationship with the party [5], three members from Women Association of the party. The reason for this is that some of these women were invited by PRC to the hearings for handling disputes in the past and know PRC.

Finally, I interviewed several disputants who I met in various PRC as well as some disputants who I met in PRC located in Payeli.

§ 4.1 An Overview of Public Relatıons Committee

Public Relations Committee (PRC) is a commission that works under the roof of Peace Party (PP) to enhance public relations. The party provides one PRC in every district of Istanbul where it has a local branch. In other words, as PP has local branch in each district, there is a PRC for handling disputes in every district in Turkey. However, the analytic profile of PRC that is going to be presented in this chapter and thesis is mostly for PRC in Istanbul that I had field research. In other words, the data I obtained through my field research is mostly limited to PRC in city of Istanbul. Due to being an informal institution, which has no written rules and documents guiding PRC, some procedures, process, and codes of this mechanism might vary to some extent in accordance to social, political and economic structures of every city or region. There is no doubt that PRC's structure, procedures, process, type of disputes brought

4 I concealed the name of the organization that was closed by a degree law.

5 I met up with several women in the central branch of the party during my field research. They had been invited by PRC to some hearings so they had experiences on handling disputes related to women.

to it, and disputants as well as application of each PRC in practice may differ in urban and rural settings. Thus, in this chapter, I am trying to sketch a profile of PRC Istanbul.

The main objective of PRC is to establish good and close relationships with the public on behalf of the party. To fulfill this, it has some duties, which are determined by the party, such as being responsible for handling dispute, attending funerals, expressing condolences, attending weddings, visiting of patients who are respected in the community and attending important public ceremonies in the district it serves. According to the PRC members and party administrators I interviewed, PRC should attend important events and ceremonies of public to have good relations with public; however handling dispute is one of the most prominent responsibilities due to the high amount of caseloads. In addition, most of PRC members I had interviewed complained that handling disputes is on the top agenda of PRC because of unmet demand of disputes that are brought to the commission, while they emphasized their inability to fulfill the other responsibilities. Besides, I observed in one of the local PRC that there was made a distribution of tasks between the PRC members. In this PRC, some of its PRC members are charged with handling disputes while a few other members are charged with fulfilling other responsibilities. During my field research, I observed that most of the PRC members usually concentrated on handling disputes so they could not sometimes fulfill other duties. Also, I observed that every committee that i visited gives priority to the duty of dispute resolution rather than the other responsibilities. It is worth noting that the other responsibilities of PRC are usually on the second ranking for the committees.

With regard to methods in handling disputes, PRC usually uses a hybrid model that includes the methods of conciliation, mediation and arbitration. During my field research, I observed that the method used in handling disputes may change in accordance to type of disputes. For instance, it would be used a mix of mediation and arbitration (med-arb) in a case, while a combination of three of them may be used in another case.

The location of the forums of informal dispute resolution is an important factor in giving much better service to disputants. Having less logistical prob-

lems for disputants makes dispute resolution forums more successful in processing, increasing access to justice, and thus many dispute resolution forums are usually located at the center of a district that is close to people's homes thus providing ordinary people with an easy access them.[6] In the example of Public Relations Committees, these commissions carry out dispute resolution process in the party-buildings located at the center of districts so that ordinary people can easily access them. Furthermore, one of PRC members 'Salih'[7] told me that, while some PRCs sometimes have a separate room for handling disputes in the party-building, other party buildings may be very small that they cannot reserve a separate room for PRC. In such cases, the PRC may sometimes hold hearings in the conference room or any empty room of the party-building.

One of striking features of this mechanism is that each PRC is responsible for handling conflicts only in the district that it is located in. In other words, no member of PRC from one district could intervene or handle conflicts that occur in another district. I observed that, in practice, some people may not know this rule or they may take their disputes to PRC members that they knew before or with whom they are friends. During my field research, I observed that a few disputants took their conflicts to a PRC that is not responsible for their districts. In such cases, PRC members explain their rule in this regard to disputants and must address them to the PRC in their district where the disputants live and where the disputes occurred. I attended a hearing regarding a man who took a financial dispute with his friend to PRC in Payeli whereas both of them lived in another district where their disputes occurred. Therefore, the PRC spokesperson 'Kemal[8]' explained the rule for this kind of cases and directed him to PRC in his own district.

6 Sally Engle Merry, "Sorting out Popular Justice," in The Possibility of Popular Justice, ed. Sally Engle Merry and Neal Milner, (The University of Michigan Press,1993), 33

7 Salih is around 60 years old and works as a PRC member in the central branch of the party. I interviewed him several times.

8 Kemal is around 60 years old and works as a spokesperson for the PRC in Payeli. A retired teacher who has lived in Payeli for more than 30 years, he was one of the most experienced PRC members in that district.

On the other hand, in practice, disputes may move across borders of a district or a city. Although each PRC is only responsible for disputes occurred in its district, there may occur some disputes that challenge this rule. There are two examples of such situation. Firstly, PRC may be faced with a kind of disputes in which disputants live in different districts and the dispute occurs in a district where only one of the disputants lives. I label this kind of disputes as *inter-district disputes*. I observed that those situations are common in the cases of elopement, blood feud or traffic conflicts. In those cases, the PRC where one of the disputants lodges a complaint contacts the other disputant as well as the PRC in the district where the other side lives and then starts dispute resolution process. Then, a common hearing is organized in one of the PRC buildings. Both of the committees and disputants hold hearings together and they determine how and where the dispute resolution process should be handled. Secondly, PRC may be faced with a kind of disputes in which one of disputants may leave from the province where dispute occurs or may move in another province after dispute occurred. I named that kind of dispute as *inter-provincial disputes*. Those conflicts are common in the cases of blood feud, divorce, or elopement. In these cases, the PRC that disputant lodges a complaint contacts via mobile phone the other disputant and the PRC that in his or her district in order to start dispute resolution process. Alternatively, it may demand from the other PRC to contact the disputant. In this case, both committees start the dispute resolution process in different cities at the same time. Briefly, the Committees conduct common work with each other to handle such disputes. Each PRC is responsible for persuading disputants who live in its province and to reach a solution and they inform each other about the dispute resolution process until they have a common hearing. During my field research, I observed a few disputes in which disputants lived in different provinces when one party applied to a PRC. The dispute was brought to the PRC in Payeli Payeli by a 35-years-old man. His wife had left him 6 months before and moved to her parents' house in Mus[9]. However, he did not want to divorce so he asked help from the PRC in Payeli to reconcile with his wife. He claimed that his wife's parents had forced her to divorce him and had not let him talk

9 Mus is a province located in the Eastern Anatolia Region of Turkey.

her. Hence, he wanted the committee to contact his wife and her family. When I attended the hearing, the PRC in Payeli had contact with the PRC in Mus sent a committee where the parents of his wife lived. The PRC members in Mus had sent a committee to her wife's home to handle the dispute but she refused to reconcile. The committee in Mus also informed and gave details about the hearing to the PRC in Payeli.

§ 4.2 Structure of PRC

Each PRC has two permanent spokespersons- one female and one male. Spokesman and spokeswoman usually stay at the party building in order to have the first meeting with disputants. The spokesman and spokeswoman do not usually have in a regular job; they either may have flexible working hours or be retired. They are supposed to have the first hearing together. However, in practice, I observed that both spokesman and spokeswoman could not always stay at the party building and have the first hearing together with disputants. In such a situation, the spokesperson in the party may have the hearing with other PRC members or may call the co-workers via mobile phone to ask them to come the party. In addition to this, spokespersons have more responsibilities than other PRC members. They are responsible for having the first hearing, making contacts with other disputants, starting the process of dispute resolution, organizing schedule of hearings and inviting other members of the committee to the hearings. Lastly, they are usually responsible for managing each hearing.

With respect to number of members for each PRC, there is no a certain number of members. The number of members for each committee of PRC depends on the intensity in number of disputes that are brought to the committee and population density of each district. I was told by the PRC members that the number of members in each committee varied from district to district depending on the rate of population and the number of disputes that were brought to each PRC. Therefore the number of members for each PRC is not equal in every district. However, according to the administrators of PP and the members of PRC I interviewed, each committee usually consists of three to seven permanent members. In my visiting of different Public Relation

Committees from different district, I also observed that each PRC has at least three constant members, while some have more. On the other hand, PRC members I interviewed mentioned that the number of members in each hearing could also vary in accordance with kind of disputes. In other word, PRC may invite some people who are not members of PRC but who have knowledge about technical information or legal procedures, if these are needed to handle a dispute. During my field work, I sometimes observed that some members of PRC asked for help regarding legal procedures from lawyers, regarding about economic disputes from accountants or contractors and regarding issues related to family disputes from feminist groups and lawyers. Apart from this, a party administrator "Murat[10]" told me that women who work in the party as administrators or members can also attend to the hearings that are related to *kadın sorunları*[11]. Many PRC members from various districts also stated that women who are administrators of the party can also attend the hearings related to *kadın sorunları.*

On the other hand, the other members of PRC usually have flexible working hours; some members may even have regular jobs. That is to say, those members do not have to stay permanently at the party building which means that they work part time for the committee. Spokesperson of PRC in Payeli, "Kemal", I interviewed told me that spokespersons usually invite other PRC members and inform them about disputes after organizing hearings because those members are busy and they have regular work. I also observed that some members of the committee usually work in the evenings or on weekends to handle disputes.

As to the age of PRC members, according to the party administrators and PRC members I interviewed, there is no criterion of age limitation for people who wants to work in PRC. However, I observed, in various committees, that people who work for the committee are usually in middle age or elderly. The age of PRC members I interviewed was usually 27 and 70 years old. At the same time, I observed at four PRC in different districts that at least one of their

10 Murat is around 35 years old and works as a party administrator in its central branch. Also, he had worked for PRC for a while so he had information regarding the committee. Some of PRC members sometimes invite him to hearings.

11 By "kadın sorunları" they usually mean to disputes related to women.

spokespersons was an elderly. Murat stated that each committee must include knowledgeable and respected people who have knowledge about traditions, customs, and values of their community. He added that, therefore, the committee had usually included at least one older person who had lived in the district for a long time, know local people, had knowledge about the district and had been in good relations with the local people. In addition, during my fieldwork, I observed that most of the spokespersons I interviewed by me were older than 40 years old while most of other members of PRC were older than 35 year old. Moreover, according to the administrators of PP I interviewed, there is no any criterion for the formal level of education to become a PRC member. I interviewed PRC members from various districts who did not have any formal level of education and some were even illiterate, while other members had a university degree.

Another striking feature of PRC is the provision of a multi-language dispute resolution process to disputants. Most of PRC members know both Kurdish and Turkish, although there is no criterion that all members have to know both languages. The possible reason for this is that PRC mostly consists of Kurdish people who have lived in an urban setting for a long time and as a result can speak both Turkish and Kurdish. However, during my field research, I observed that there is no consensus on this subject. According to some PP administrators, most of disputants can speak the country' official language, which is Turkish, yet at least one member in the committee must know Kurdish. Whereas, most of PRC members I talked to emphasized that speaking Kurdish is very important in dispute resolution process because PRC receives many cases from Kurdish people. In practice, I observed that although most of PRC members could speak or understand Turkish, I interviewed with a few PRC members who knew only Kurdish, while some of them know only Turkish. In such cases, the preference of disputants as to having a dispute resolution process in Kurdish or Turkish determines the language of hearings. I attended a lot of hearings that were held in Kurdish or Turkish, while some hearings were held in both languages.

In addition, PRC members take some handwritten notes about the disputants and disputes during the hearings rather than filing application forms or

using any electronic devices. The information about disputants usually includes disputants' names and surnames, their address and mobile phone, and some details about the dispute. That kind of information is usually noted by spokespersons during the hearings. I observed that almost all of PRC members used only a small notebook for taking notes during the hearings. On the other hand, one of the women who was responsible for handling disputes of women in Payeli told me that she did not prefer to take notes during the hearings because women often shared their private information and secrets. She stated that women could feel distrust when their private information was written down during the hearings. I observed that she usually preferred to take contact information of female disputants at the end of hearings. In the beginning of my field research, I tried to take as much notes as during the hearings related to disputes of women, however, I realized that disputants felt uncomfortable and usually interrupted their talking looking at me. After a while, I decided to take less notes during the hearings.

With respect to training, PRC does not provide a training program for its members. PRC members gain experience through attending the hearings and handling disputes. According to the spokespersons and party administrators I interviewed, instead of having a training program, new PRC members are invited to hearings held by spokespersons, who are usually the most experienced people within the committee and serve for a long time, in order to observe dispute resolution process. In doing so, the new members gain experiences in handling dispute and carrying out the process. Moreover, the role of spokespersons is crucial in training of new PRC members because they are usually responsible to train inexperienced members and share their experiences in this field. Salih told me that, at the beginning, they just observe the hearings and benefited from the experiences of spokespersons while, in time, they can state their ideas or assist the spokespersons. He added that after a period, the new members regularly attend the hearings or are more often invited by spokespersons

Final decisions that are taken by a local PRC can be appealed. There is a central committee, also named Public Relations Committee (PRC) which is located in the party's central office in Istanbul. All rules and procedures applied to local Public Relations Committees are also valid for the central PRC.

The committee consists of one spokeswoman and one spokesman who may have hearings together or separately. They stay at the party building every day or at least one of the members of PRC has to be at the party building in order to handle disputes brought to them by local PRC. I have visited several times the central branch of the party to interview with the PRC spokespersons and at least one of them was in the building.

Furthermore, the number of members present at a hearing changes in accordance with the type of disputes at the central PRC. The committee may have a wider hearing in complicated and difficult disputes, particularly in disputes of long standing blood feuds. The spokesman of the central PRC "Salih" stated that in disputes of blood feud, extensive hearings were usually organized, which could include respected people, religious authorities of the region, deputies from PP or different political parties[12] as well as PP presidents and administrators and PRC members from the locals and center. Furthermore, the spokesman of the central PRC "Nuran[13]" told me that the number of members in a hearing changes from dispute to dispute, while number of members in a hearing may increase according to the type of disputes. She added that she invited several women from a few feminist organizations, which have close relationship with the party, to the hearings related to disputes of women.

In addition to these, according to the spokespersons of the central PRC, disputants usually appeal the final decisions of the local PRC for three reasons. Firstly, disputants may not appreciate the final decisions of the local PRC so they have an option to take their disputes to the central PRC. Secondly, disputants may accuse of PRC members for not acting fairly. The last reason is the claims of disputants about deficiencies of dispute resolution process. The disputants have the right to appeal their disputes if they complain for one of those reasons.

With respect to local PRCs, disputes may come to the central PRC for an appeal from the members of local PRC as well. That is to say, if local PRC

12 In such cases, deputies from PP are usually invited to hearings. However, deputes from different political parties may be also invited to hearings if at least one party of a dispute is a sympathizer of a different political party.

13 Nuran is a spokesperson of the central branch of PRC. She is about 65 years old.

cannot handle a dispute due to its difficulty or complications, it may contact the central PRC and inform it about the dispute. Then, the local PRC sends the disputants to the central PRC for handling the dispute to begin a new process. According to the PRC members in the locals and center that I interviewed, local PRC usually sent the cases of long standing blood feuds and of having more than two disputants to the center because they are more difficult to handle in the local committee.

However, for disputants to have the right of appeal, dispute resolution process must be started in a local PRC before appealing to the central PRC. Yet, the spokesman of the central PRC "Salih" stated that some of disputants directly took their disputes to the central PRC rather than to a local one. According to both spokespersons of the central PRC, the reason for applying to the central PRC rather than a local one is that the disputants believe that the central PRC is more severe in terms of binding its decision and influential than the locals. Another reason they emphasized was that some disputants may not know about this rule of PRC or they may not know the local PRC in their districts. In such situations, the spokespersons of the central PRC have to direct disputants to the local PRC where they live. In doing so, the committee tries to have a different level of judgment or two steps of judgments for the disputants, while the central PRC aims to reduce its responsibilities. Moreover, it also cannot intervene into dispute resolution process in a local PRC until local committees complete their process.

I witnessed a dispute of two disputants who lodged a complaint to the central PRC without taking it first to the local PRC because they did not know where the local PRC was and were not aware of the jurisdiction rule of the PRC. The disputants were Kurds from Syria who migrated from the north of Syria to Turkey a few years before because of the war in Syria. They obtained the address of the central PP party building from one of their relatives. They had a fight with their Kurdish neighbors who were from Turkey in a district of Yenibosna. Although the police had intervened in the fight and both parties had been taken to the police center, they were not able to resolve the dispute between them. The disputants even claimed that they had bigger problems after the intervention of the police. One of the disputants stated that since the other parties were also Kurds, they should not express anger and hostility

against each other. In that case, the spokesman of the central PRC explained them the PRC rule that disputants have to take their disputes to the local PRC before applying to the central one. He then gave them the address of the local PRC in the district where they lived and sent them there. He also called a person from the local PRC in the disputants' district in order to inform the committee about the dispute and share the details.

Durability or stability of agreement between disputants after the end of dispute resolution process is a significant issue in informal mechanisms, even though it is difficult to evaluate the durability of agreements. There are some ways of measuring durability of agreements made by the committee after the completion of dispute resolution process. PRC usually evaluates the durability of agreements in two ways, namely, based on further complaints from disputants and through the monitoring process. It is worth noting that the role of PRC after the end of dispute resolution process is one of the guarantors of agreement. Firstly, the durability of agreements is evaluated based on the reception of further complaints from one of the disputants who claims that the other side breaks the agreement that had been reached through the committee. In other words, one of the disputants may complain about the other disputant to PRC because the latter does not fulfill the requirements of the agreement made through the committee. Secondly, PRC members sometimes contact the disputants to monitor the stability of agreement after the end of dispute resolution process. For this purpose, PRC members may even invite disputants to the party after the end of the process in order to monitor the post-agreement period or check how the agreement is followed.

According to the most of the members from various PRCs and PP administrators whom I interviewed, most disputants have a great sense of responsibility towards agreements that are made through PRC and disputants usually fulfill their responsibilities. However, many PRC members told me that they have some experiences of disputants breaking agreements. In such a situation, disputant who violates the agreement is warned by PRC to obey the agreement they had reached; otherwise, PRC could restart the dispute resolution process.

With respect to funding, the PRC members I interviewed strongly emphasized that this service is free for everybody so disputants do not have to pay any fee in order to resolve their disputes in PRC. The party administrators

from various districts also told me that this work is free for every one as the other activities of the party. However, some PRC members and party administrators from the different districts mentioned that they had had experiences in the past when some disputants offered an amount of money to the committee after resolving their disputes, but the committees rejected such offers. During my field research, I attended many hearings for resolving disputes but I never witnessed the committee asking for a donation or payments from the disputants for handling their disputes or a fee for the service. Murat told me that a few disputants offered bribe to him or they offer buying financially valuable gifts during dispute resolution processes when he worked for PRC.

On the other hand, PRC members do not receive any wage from the party or any private organizations. They do this service voluntarily. The PRC members whom I interviewed told me that they did not demand any wage from the party because they were willing to do this work voluntarily.

Due to being an informal dispute resolution mechanism, PRC does not have a wide range of sanctions to impose while having limited authority. According to most of PRC members and the party administrators I interviewed, social exclusion is the most common sanction that the committee imposes in the cases of the disputants do not reconcile.

Social exclusion is applied to disputants who violate agreements made in PRC, do not fulfill the obligations determined by it, do not agree to handling dispute in PRC, or withdraw from an ongoing dispute resolution process. Most of the PRC members and party administrators told me that in cases when disputants break the agreement, those people are ostracized by PRC and the party members and banned from the community in general. Salih stated that PRC members may even contact family members or relatives of the people who do not obey the agreement made in PRC in order to inform them about the disputant's behavior. He added that by doing so, they aimed to make public the disputant's faults within their families. Moreover, most of the PRC members I interviewed told me that the party and PRC members do not invite those people to the party's events, ceremonies, organizations, weddings, and even funerals while nobody from PRC or the party attends any event organized by those people. Kemal told me that the party administrators and PRC members do not greet them on the street or at meetings they attend. Another

party administrator told me that they usually tried to disclose such cases to the broader public.

Apart from social exclusion, disputants who violate PRC's decisions may be subjected to isolation in economic activities. Salih told me that PRC and party members stop contacting with those people in every field, including economic, ending economic activities with them through stopping purchasing from or selling anything to them. I observed that PRC members in districts branches tried to stop any relationship, including economic activities, with such people. Kadir told me that they also inform their relatives, neighbors or local businessmen encouraging them to stop economic activities with these disputants.

§ 4.3 PRC Members, Disputants and Type of Disputes brought to PRC

Moreover, there are some criteria in selection of PRC members that are mostly determined by the PP administrators and PRC members who have been part of and have experiences on dispute resolution process at PRC for a long time. First of all, PRC members are usually selected from local people in a given district in order to give a better service to the community. Having knowledge about history, general problems of the districts, and social life as well as good relations with local people are important factors to be considered in selection for PRC. According to my interviews with PRC members in various districts and party administrators, a person who wants to be part of the committee must have knowledge about local life and general problems of district, while being in good communication with community. Nuran told me that PRC members are usually selected from the local people who know socio- economic structure of the district that they live in. Another female PRC member "Selda14" emphasized that members of PRC must know the main problems of the districts they live in in order to effectively handle disputes brought to

14 Selda works as a spokesperson in PRC in Payeli. A retired teacher, she is over 60 years old. She has lived for more than 30 years in Payeli and knows it very well.

them. She claimed that family disputes are often brought to the PRC, which she works in, so the members must be used to this kind of problems.

Moreover, as I mentioned above, PRC members are expected to be knowledgeable and respected individuals within the community in order to be selected. When this factor is evaluated during the selection of PRC members, candidate's business life, criminal records, even private life play a crucial role. As one of PRC spokespersons "Nuran" stated, members must have an exemplary social and economic life as well as their behaviors. In addition, a party administrators "Yusuf" told me that that the evaluation of being knowledgeable and respected individual [for this criterion] also took into consideration the absence of criminal records such as fraud or cheating, serious family problems such as a long standing blood feud. Soner, who worked for PRC in the past, told me that individuals who were respected, knowledgeable and influential within the community could be selected as PRC members. Another member of PRC stated that potential members's family life and business life must have been uncontroversial within the community to join PRC.

In other respects, having knowledge of traditions and customs is another significant criterion for being a member of PRC. For example, the members are expected to know the traditional practices of marriage, rituals or divorce because some problems related to those practices and traditions are brought to PRC. Many PRC members I interviewed strongly mentioned about the importance of having knowledge about traditional practices in handling disputes.

In addition to these, PRC members are expected to have knowledge about the ideology of party and its political position. Most of administrators of the party and members of PRC interviewed by me told me that the members of the committee must adopt the party ideology and apply it in the dispute resolution process such as emphasizing democratic participation, feminism and minority rights. According to one of the PP administrators "Yusuf[15]", violence or threats against women, rape, child marriage, bride price or polygamy are common issues that the party and the committee cannot tolerate. According

15 Yusuf is an administrator of the party. He is about 45 years old.

to one PRC spokesman "Kadir[16]", the candidates to become a PRC member must adopt democratic norms and carry out a dispute resolution process in democratic ways, particularly those related to women. Also, a party administrators "Meltem[17]" added that the party had positive discrimination towards women in all commissions of the party. She added that for example, an individual who uses violence against woman or against his/her family members could not be a member of the party or the committee. Also, Safiye[18] told me that women usually take their disputes to the committee because they are aware of the fact that the positive approach of the committee and party towards women.

Apart from these, PRC members are expected to have good skills of communication and negotiation skills in order to persuade disputants to reach an agreement. Most of PRC members stated that in order to work in this committee, PRC members must have good communication and conciliatory skills when dealing with people in order to handle disputes and carry out a good process.

Disputants who represent a wide range within the society take their disputes to PRC to handle them. Especially, the range of the disputants' socio-economic backgrounds is one of the striking features of PRC.

First of all, low-income populations with relatively low levels of education are the category of disputants who bring their disputes to PRC most often. It is worth noting that the provision of a free and quick dispute resolution process plays an important role in the application of this mechanism to the cases of low-income populations. The PRC members from various districts that I interviewed emphasized that disputes came most often from the working class population with low income and low levels of formal education. On the other hand, some of the PRC members I interviewed stated that the middle income population or people with higher level of education sometimes could be part of a dispute such as those related to traffic incidents or business.

16 Kadir works as spokesman in a local PRC. He is about 40 years old.

17 Meltem is an administrators in the central branch of the party. She is about 30 years old.

18 Safiye works in a feminist organization that has a close relationship with the committee and party. She was invited to attend some hearings related to disputes of women as she provides financial and legal support for women who need it

There is no doubt that most of disputes come from the Kurdish migrants in Istanbul who are sympathizers of the party or know the committee, although disputes may also come from different ethno- religious groups such as Alevi people, Turkish people or Syrian refugees in Istanbul. Especially, Kurdish people who know the party or who heard about the committee previously often take their disputes to PRC for handling. Alternatively, some Kurdish people or their relatives and friends may have used this mechanism before so they take their dispute to the committee again. According to PRC members from the various districts of Istanbul and the party administrators I interviewed, disputants who lodge complaints to PRC are most often Kurds or at least one party of a dispute is often Kurdish.

On the other hand, disputes may arise between Kurdish people and people who are from other ethno- religious groups. In such cases, Kurdish people are often the first party who brings the dispute to the PRC in their district. Yet, I had some non-Kurdish people who were the first party to bring their conflicts with Kurdish people. However, those groups usually do not know this mechanism, so they go to the party in their districts where they are directed to the committee. The PP administrators I interviewed claimed that that some non-Kurdish people viewed the party as the representative of the Kurds and for this reason they came to the party in order to reach Kurdish persons whom who they had disputes with. Murat told me that he witnessed some cases that the committee also received disputes from non-Kurdish people who complained Kurdish people they have disputes to the committee. Also, Nuran told me that non-Kurdish people sometimes make complaints against the Kurds whom they have conflicts with to the party, thus bringing their conflicts to PRC. Meanwhile, most of the PP administrators and the PRC members I interviewed emphasized that the claimants from other ethno-religious groups believed that Kurdish people would obey the decisions of the party as well as the committee, that is why when they had disputes with Kurds, they preferred appealing to the party to handle these disputes. In addition, the PRC members I interviewed also stated that Kurdish people suggested the way they handle their disputes to their friends, relatives, neighbors, and co-workers from other ethno- religious groups, who then sometimes took their disputes to the com-

mittee. Nuran and also Murat told me that this situation is common in financial and cases of elopement that disputants could be from different ethno-religious background.

PRC also receives disputes from Alevi people. Most PRC members told me that since many Alevi people know the party and the committee, they sometimes bring their disputes to PRC, particularly when they have disputes with Kurdish people. During my field research, I observed that several Alevis people brought their disputes with Kurdish people to PRC. Moreover, Turkish people also bring their disputes to this mechanism. The PRC members in Payeli and in the other districts emphasized that when Turkish people have conflicts with Kurds, they may accept to handle their disputes in PRC. In such a situation, Turkish people are not usually the first party who lodge a complaint to the committee. However, one of the administrators of PP told me that he had witnessed to a few cases when Turkish people were the first party to bring their disputes with Kurdish people to the PRC. As it is mentioned above, other groups in Turkey sometimes view the party and the committee as the representative of Kurds or an authority that Kurds have to obey, and thus they may choose to bring their disputes with Kurds to these institutions.

Apart from these groups, PRC is one of the new mechanisms used by refugees in handling their disputes. Nowadays, Syrian refugees who have escaped the war in Syria a few years ago often take their disputes to the committee, in particular Kurdish people from Syria. Salih told me that Syrians were one of the most disadvantaged groups in conflicts because they did not know language or any official institution. Most PRC members told me that people from Syria usually bring financial disputes and housing problems to PRC for handling. Kemal, the spokesman in Payeli, told me that Syrians usually asked help from the because they are often not able to obtain their wages and are exploited by their employers as a result of working unofficially. When I asked Salih how the Syrians learn about the party to resolve their disputes or how they heard about PRC, the member stated that Kurds from Syria also had some kind of those mechanisms in Syria, so they were used to taking their disputes to these kind of mechanisms. He added that Kurds in northern Syria had been

using a mechanism called "mala gel"[19] in the northern Syria for a long time, while they were also taking there their disputes for handling. In addition to those, the PRC members from various districts told me that Kurdish people from Syria suggested the way of resolving their disputes to the Arabs who had also escaped from Syria to Turkey. This means that Arab people from Syria also take their disputes to PRC. One party administrator in Payeli, "Kerem[20]" told me that Kurds from Syria sometimes brought Arabs with whom they are friend for handling their disputes because there is no other institution that they can apply to. During my fieldwork, I observed that several Kurds from Syria took their disputes to PRC, but I did not witness any Arabs doing the same. I witnessed two disputes brought to the two different PRCs by Kurds from Syria. The first dispute was about a fight that occurred between a Kurdish family from Turkey and a Kurdish family from Syria. The latter took the dispute to the committee to handle. Another dispute was brought by a Kurdish man from Syria who lodged a complaint to the committee because he was not able to obtain his wage from his employer.

With respect to gender, female complainants take their disputes to PRC as often as male complainants. Women complainants usually bring disputes related to violence and threats made against them by their family members or ex-husbands, harassment, cheating, abandonment of home, character defamation and divorce. According to the female PRC members and female party administrators I interviewed, women are one of groups that is systematically discriminated in the formal justice system for which reason they try to find alternative ways in order to resolve their disputes. They also emphasized that because the parties as well as PRC practice positive discrimination towards women, the disputes brought by women are on the top agenda of the party

19 "Mala Gel" means in Kurdish a "public house" and is sometimes also used by Kurds in Turkey.

20 Kerem works in the local branch of the party in Payeli. He usually stays at the party building and is also responsible for opening and closing it. Also, if no PRC members are present at the party building, he welcomes disputants and takes their contact information in order to pass it to the PRC spokespersons.

and other committees. According to female member of PRC "Delal[21]" that I interviewed, women who take their disputes there believe in the justice of the committee and positive approach of the party towards women and thus they often take their disputes to the party. Also, Nuran stated that PRC attracts many cases from women due to the party emphasizes on the positive discrimination towards women. That is to say, PRC is considered to be an alternative mechanism or a second option by women who want to resolve their disputes, unless they can resolve them through the state institutions. According to the members of PRC and some administrators of PP that I interviewed, women sometimes take their disputes to PRC after applying to the state institutions first if the latter, cannot either resolve their disputes or find new ways for resolving them. I witnessed several cases when women applied to court or took their disputes to police before coming to the PRC in Payeli. Furthermore, several female disputants who I interviewed in Payeli's PRC stayed many times at women shelters however they could not resolve their problems with their exhusbands or their family members. Therefore, they took their disputes for handling to PRC.

Disputes that are brought to PRC concern a wide range of issues generated in daily life. Disputes could be categorized under four headings. The first type is "kadın sorunları"[22] meaning disputes related to women. This type mostly includes disputes related to threat against women, character defamation, cheating, harassment, and divorce. The second type is financial disputes related to disputes occurred as a result of business and partnerships, informal business, or fraud. The next type of disputes is and criminal cases that include disputes of injuring, fighting, and blood feud as a result of murder or manslaughter. The last type of disputed brought to PRC for handling is family cases occurred as a result of conflicts between family members or relatives and elopement. Apart from these kinds of disputes, such cases as drug possession

21 Delal works for PRC in the district of Payeli and is usually responsible for handling disputes brought to it by women. 27 years old, she is the youngest person to work for PRC that I met in Istanbul.

22 PRC members refer to the disputes related to or brought to the committee by women as "Kadın sorunları". Thus I will be also using this phrase. Also, they make a distinction between family cases and disputes brought by women by naming them differently.

or drug use, theft of personal property, non-payment of loan, inheritance, and petty crime are seldom brought to PRC for handling. Furthermore, there are some cases that PRC and the party reject to handle. The PRC members and PP administrators I interviewed told me that the committee does not handle conflicts that occur as a result of drug traffic, money laundering and practicing usury. Also, they emphasized that any disputes by people who are engaged in this kind of activities are rejected by PRC. During my field in Payeli, I attended a hearing that a man brought his disputes related to business. After the end of the first hearing, the spokesman, Kemal, and other PRC members contact someone to have knowledge about dispute and disputants. Then, Kemal told me that the committee would not handle his disputes because he practices usury.

§ 4.4 Dispute Resolution Process carried out by PRC

Public Relations Committee has a distinctive dispute resolution process in several respects. First of all, PRC has a pair of spokespersons, which consists of a male and a female, to handle disputes. Secondly, there must be at least two members in the each hearing because taking hearings alone is forbidden. That is to say, PRC members cannot have or manage a hearing alone. Thirdly, only female members of PRC are responsible for handling conflicts related to disputes of women (kadın sorunları) such as divorce, cheating, threat or violence towards women. In other words, no man can attend any hearing that is related to disputes of women unless female PRC members invite them. Fourthly, PRC has "integral pluralism" for each kind of dispute. In other words, it has different dispute resolution process for criminal cases, disputes of women, family disputes and financial issues. Lastly, apart from PRC members, people from different socioeconomic backgrounds and professions could be invited to hearings, particularly, to provide experts.

The first hearing is almost the same for all kinds of disputes brought to PRC. When disputants take their disputes to the party, they are directed to the spokespersons of PRC by the staff of PP or disputants can directly meet spokespersons if they know them already. If both spokesman and spokeswoman are present in the party building, they have common hearings with

disputants. However, I observed that both spokespersons are not sometimes at the party building so only one of spokespersons has the first hearing with disputants. In such a situation, the spokesperson must invite the other spokesperson or one of PRC members to hold a hearing due to the rule that PRC prefers that one person does not have a hearing alone. During my field work I observed that some spokespersons conducted a few hearings alone, while I also witnessed that some spokespersons invited some party administers not to have the hearing alone because there was nobody in the party building to attend the hearing

With regard to bringing disputes, both disputants may bring together their dispute for handling to the committee. In such cases, the committee has a common hearing with disputants rather than having two separate hearings. However, lodging complaint to the committee by one of the disputants is more common. In such a case, spokespersons have the hearing with the disputant who lodges a complaint to the committee. One of PRC members stated that it is difficult to hold the first hearing that includes both disputants, particularly in financial disputes. Another member emphasized that in disputes related to business, it is common that one of disputants brings the dispute to the committee rather than both.

At the first hearing, disputant explains her/his conflict and gives specific information about it and the other party to the dispute. I observed that the PRC members mostly do not interrupt the disputant while she/he is talking or ask him/her any question during the hearing. They let disputant explain his/her dispute, while taking some notes about the dispute. After the explanation of the conflict by the disputant, one of spokespersons always asks what the disputant requests from the committee. Asking the disputant about her/his request from PRC is a significant step in dispute resolution process because it makes easier process and solutions that PRC will follow. In doing so, the committee aims to have a dispute resolution process and handle the dispute in accordance with disputant's request. Then, spokespersons and other PRC members ask the disputant some questions about the dispute and the other party such as family situation, job, age, place of birth, relatives. The next step is to take the phone number of the other disputant in order to invite him/her to the party building. At the end of the hearing, the committee asks the disputant to

give his/her "consent" to the committee for handling the dispute. If the disputant gives his/her consent for handling the dispute to the committee, the dispute resolution process is started. According to PRC members I interviewed, asking for "consent" from the disputants in the beginning of the process is one of the most important parts in handling a dispute because "giving consent" is a sign of the disputant's will to handle the dispute. That is to say, 'giving consent' to the committee is considered as the disputant declares that he/she will obey the procedure of PRC, accept final decision of the committee and fulfill the obligations that are determined by PRC without any provision. Also, the committee considers "giving consent" as a sign of will and effort of disputant to resolve dispute under the authority of PRC. According to PRC members I interviewed, giving consent is the most important part of resolving a dispute because neither the committee nor the party has sanctions over disputants during and after the dispute resolution process; thus, by "giving their consent" to the committee, people declare that it is their will to handle the dispute without any provisions. One spokeswoman stated that "giving consent" means that disputants voluntarily take their disputes to PRC. The spokesman of PRC in the center "Salih" stated that if both sides give their consents to PRC, it makes easier to handle the dispute. He also added that the committee may sometimes ask disputants to give their consent to the committee at the beginning and at the end of dispute resolution process when the final decision is declared. Another spokeswoman stated that when disputants give their consent at the beginning of dispute resolution process, they usually accept the final decision of the committee.

After taking consent from disputants, the PRC ends the first hearing and one of spokespersons calls the other party via mobile phone to arrange a hearing. Spokespersons hold hearings at times convenient to other disputants and the same procedure is applied to them. After the end of the first hearing, the PRC members decide the type of dispute and organize the next hearing at times convenient to the both disputants and the PRC members. Also both PRC and disputants may invite people who are connected to disputes in some way, such as disputants' witnesses, family members, friends or co-workers.

In addition, I observed that PRC members usually try to find a common friend, relative or co-worker between PRC members and disputants to invite

them to the next hearing. Thus, they aim to persuade disputants to resolve their dispute and comply with the decisions of PRC. As I mentioned above, the next step is determined in accordance with the type of dispute. While the first hearing of dispute resolution process is almost the same for every kind of dispute, the next hearing differs in the number of meetings and members, procedure, and dispute resolution process.

4.4.1 *Disputes of Women (Kadın Sorunları)*

PRC has a distinct dispute resolution process for disputes brought to it by women. The process is mostly under control of female members of PRC and female administrators of PP, while members of certain feminist organizations can also be invited to the committee.

As I mentioned earlier, men cannot attend the dispute resolution process related to women's issues, unless they are invited. Spokeswomen and female members of PRC I interviewed emphasized that only women can take decisions about disputes of women and be responsible for handling the disputes related to women. I observed that this is usually applied in practice. One of women from a feminist organization I interviewed stated that disputes of women are handled easier and quicker when men are excluded from the dispute resolution process. Another woman from the same organization I interviewed told me that excluding men from disputes of women contributes to limitation of male dominance.

Furthermore, all disputes brought by women are not considered within this category. For example, a financial dispute that is brought by a woman is usually considered within the category related to financial disputes rather than within disputes of women. "Kadın sorunları" usually include complaints that are related to threat or violence towards women, rape, divorce, incest relationship, harassment or cheating.

When a complaint related to one of these situations, is lodged to the committee, only female members of PRC are responsible for handling the dispute. One spokeswoman of PRC and at least one of the female members from PRC usually have the first hearing with the female disputant to start the process. In case that the spokeswoman is alone, she must invite one of female party ad-

ministrators or chairwoman of the party to the hearing. Also, if the spokeswoman is not in the party building, female administrators of the party may hold the first hearing and take some notes about the disputant's contact information and the dispute to inform the spokeswoman later. I observed during my field work that a spokeswoman of PRC and a female president of the party often work together on this category. They usually have hearings together for handling disputes of women. Especially, I observed that, this is usually common in local PRCs.

At the first hearing, the disputant explains her problem and usually asks for help from the committee. Then, the spokeswoman usually mentions positive approach of the committee towards women and declares its support for women. After that, the spokeswoman asks the disputant what her request is from PRC. Asking for disputants' request from PRC is essential because the committee tries to handle disputes in accordance with disputants' requests and expectations. I observed that although female disputants and the committee sometimes have different ideas as to the way of handling disputes, the committee usually aims to handle disputes in accordance with the requests of female disputants. According to one PRC member, the committee usually handles the disputes and carries out the process in accordance with women's requests.

The next step is "giving consent". Disputant's consent is received from the female disputant who lodges a complaint in order to begin dispute resolution process. When the consent is received from her, the members inform her about the procedures and the role of the committee in dispute resolution process, as they begin the process. After receiving consent, the committee puts the dispute on its agenda and dispute resolution process is started. The members take some information about the woman, the dispute and the other party to the dispute such as his/her phone number, address and family members in order to contact them. The spokeswoman contacts and invites the other party to hold a hearing. If the other side comes to the party building, the committee that consists only of female members has a hearing and explains the dispute. In disputes of women, PRC usually prefers to have separately hearing with each disputant, particularly for the first few hearings. In the first hearing, the aim of the committee is to declare its support for the woman disputant and

the role of the committee as a part of the conflict. If the other side gives his/her consent to the committee, the dispute resolution process is begun and the committee proceeds with other hearings that both sides attend.

4.4.2 *Financial Disputes*

In financial cases, the victim usually lodges a complaint to the committee and it is rare for both parties to take their dispute together to the committee. The committee has the first hearing during which the disputant explains the dispute and gives some information about the other party. Then, spokespersons ask about the disputants' requests for the party. After the disputants state their requests for the PRC, the members ask them to give their consent to the committee in order to resolve the dispute. If the disputant gives his/her consent to the committee, the members start dispute resolution process.

Then, spokespersons usually call the other side and invite him/her at times convenient to them. The committee tries to handle the conflict as quickly as possible so it usually invites the other disputant on the same day or during the same week. When the other disputant comes to the party building, the committee has a meeting with him/her, during which it declares its will to resolve the conflict and asks for his/her consent to the committee and the party. If the other side does not give his/her consent to the committee, the dispute resolution process cannot be initiated and the committee tries to find the ways to persuade him/her; otherwise, the dispute is not handled. If the other disputant also gives his/her consent for resolving the conflict to the PRC, the committee organizes another hearing at times convenient to both disputants and the committee. At the next hearing, there are at least two members of PRC, both disputants and their witnesses if they have any, while the committee may invite to the hearing some people of a similar occupation as the disputants, or their friends, relatives and co-workers. In addition, disputants can bring their documents.

At the first common hearings, one of spokespersons makes an opening speech which declares the aim of the hearing, the committee's and each disputant's will to handle the dispute, and informs disputants about the dispute resolution process while spokesperson states that each disputant gives their consent to the committee. At the hearing, the committee does not allow a

highly charged discussion among the disputants and does not let disputants interrupt each other. It also usually warns the disputants to be more respectful to each other. I witnessed some cases when the committee had to warn the disputants because of their disrespectful speech towards another disputant during the hearing. For example, I witnessed a financial dispute that was ended by the spokesman of PRC because of impudent talking and billingsgate of disputant. Although the spokesman warned the disputant to be more respectful, the disputant continued to swear the other side of the dispute. Therefore, the spokesman ended the hearing and declared that the committee would not handle this person's dispute.

After the spokespersons' speech, disputants explain the dispute one after another, after which they can show their documents if they have any. At the end of the meeting, the members of the committee express their opinions and advices and then determine some obligations that both disputants must fulfill. Finally, the committee ends the hearing and gives time to the disputants to fulfill their obligations until the next hearing while usually warning the disputants not to have any meeting without the committee or bargain regarding the conflict outside the party. After the end of the hearing, the members usually discuss the hearing among them and determine the date of the next hearing. The same procedure is applied for the following hearings until an agreement is reached. If the dispute is handled in the next hearings, the committee holds a final hearing in which it declares its final decision and the role of the committee as a guarantor of the agreement in the next period.

4.4.3 *Criminal Disputes*

Criminal cases mostly include disputes of injuring, fighting, and blood feud as a result of murder or manslaughter. With respect to criminal cases, the procedure differs from the financial cases and women's issues. Firstly, the PRC prefers not to handle criminal dispute as quickly as financial and women's disputes. By doing this, the PRC aims to have many hearings with disputants in order to reduce anger and hostility between the victims and offenders or their family members, thus trying to prevent retribution. Secondly, the hearings of criminal cases usually have a broad participation from different parts of soci-

ety. For example, deputies, lawyers, religious people, co-heads, the administrators of the party and relatives of the disputants are usually invited to some hearings to reduce anger and hostility between the parties. By doing this, the committee aims to prevent the family of the murdered person from taking revenge on the other party. In other words, committee tries to prevent a long-standing blood feud between the disputants.

On the other hand, criminal cases are mostly taken to the police or court before being brought to the committee. In other words, the legal process of criminal cases is usually ongoing when disputants bring their cases to the PRC. In this kind of cases, the PRC usually recommends disputants to withdraw their complaints from the court or the police. Although withdrawing the complaint does not have any impact on the legal process, it is considered as a sign of disputants' willingness for resolving dispute .

After one of the disputants takes dispute to the committee, the PRC members mostly start by visiting the family of the murdered or injured person; however, they do not mention to them "peace meetings" or procedure of the committee. The spokesman in Payeli stated that when the committee members and party visited a victim's family, offering condolences or attending the funeral, they do that in the name of the party rather than the committee and are not yet a party to the disputes at that time. After that, they make a peaceful speech that aims to calm the party who suffered an injury and prevent their revenge. After a short time, the committee contacts the victim's friends or relatives in order to prevent revenge, while the family members of the disputant who committed the crime are also invited to give their consent to the committee for handling. I observed that the committee usually prefers to contact the friends or relatives disputants in disputes resolution process in criminal cases. In other words, in the first few hearings, disputants are usually represented by their relatives or friends. Then, the committee invites the other party who suffered a murder or injury. The victim comes to the party and the committee again makes a peaceful speech and declares its willingness to handle the dispute. If the injured party accepts to handle the dispute in the committee, it gives its consent to the party and committee. In this way, the dispute resolution process starts.

PRC holds separate hearings in the first few hearings with disputants in order to reduce anger between the parties. In other words, the committee has hearings with the disputants separately in order to delay their encounter until the injured party calms down. According to PRC members, the committee sometimes holds separate hearings until the last few hearings because the injured party was not ready to encounter the other party. In this kind of disputes, the committee stands between the disputants. In the separate hearings, the committee asks disputants' requests and their suggestions for ending the hostility and revenge. One of the PRC members stated that the injured party sometimes asked the other party to move to another district or demanded compensation[23]. In this kind of cases, compensation is a very common result at the end of the hearings. He stated that the PRC usually determines an amount of money in accordance with socioeconomic situation of both the guilty and injured party. Salih stated that compensation is an economic help to the injured party in order to survive. According to Kemal, for example, if a wife of the murdered man does not work or her children are under the age of 18, the committee offers the guilty party to pay compensation. However, the compensation cannot be too much and it is only determined by the committee. If there is a payment, it is given at the one of the hearing sessions. On the other hand, the compensation may not be in cash: the guilty party may also buy a flat if the injured party does not have a place to live. If there a flat is purchased as compensation, the certificate of land registration is brought to the committee.

In criminal cases, the committee holds crowded meetings in order to declare its decision. Both disputants, some of their relatives and friends, at least four or five PRC members, a few deputies, religious people, and co-heads of the party often attend the final meeting. The spokesman or spokeswoman of the committee makes a speech, declares its decision and reconciles both parties. At the end of the meeting both parties state their promise to obey the decisions of the committee and not to revenge against the other party.

23 In such cases, "blood money" is still common; however, PRC members prefer to use "compensations" rather than "blood money" for such cases.

5

Dispute Resolution Process in Payeli

This chapter presents some disputes that were handled by PRC in the district of Payeli. The chapter includes the data that I obtained during the second part of my field research. During the first part, I realized that I should have regularly observed the resolution of some disputes in order to analyze dispute resolution process, hearings, and the methods used by PRC members for reaching resolution in practice. To do these, I should have chosen a PRC where to attend hearings and to do more observation of dispute resolution process. As a result, I decided to conduct the second part of my field research in the PRC located in the district of Payeli.

Payeli is one of the most crowded districts of Istanbul. It has received a substantial number of migrants from different parts of Turkey, particularly from northeastern and southeastern Anatolia. After being designated as district, it has rapidly developed its infrastructural services as well as industry. It has been an industrial center with many factories in various industrial sectors, which is a crucial reason for incoming migration.

With respect to the Kurdish community in Payeli, numerous internally displaced Kurds came here during the period of forced migration in the

1990s.[1] There is no doubt that, as already mentioned, Payeli's position as a developed industrial center was a major reason that attracted internally displaced Kurds. In spite of harsh economic and political conditions, particularly in the early years of settling in Payeli, the Kurds, who are the subject of this study, have established their own communities and localities in the district, while maintaining their own traditions as well as informal legal practices. They constructed new heterogeneous communities together with Kurds who had similar experiences, as well as with non-Kurdish communities who lived in Payeli.

There were several reasons why I wanted to carry out my field research in the PRC located in the district of Payeli. First of all, some of the PRC members I interviewed told me that Payeli's PRC attracted many different cases and had high caseloads. Thus, they often directed me to that PRC or asked me whether I had visited it already. Secondly, as I began visiting PRCs in various districts to interview PRC members, the PRC in Payeli was the second committee that I went to. During my visits, I observed that PRC members were often too busy to give me an interview because they had hearings with disputants. Moreover, during the first part of my field research, I visited the PRC in Payeli three times and observed that its members stayed at the party-building for longer time periods than members of other PRCs that I visited. After some time, I tried to go more often to the PRC in Payeli and, after a while, they let me observe their dispute resolution process.

Public Relations Committee in Payeli consisted of two women and four men during my field work. Three of these members actively worked in the PRC, usually staying in the party building, while other members worked there part time. As a general rule, it had a spokesman and spokeswoman. In addition, local party administrators in Payeli could also contribute to handling disputes when they were invited to hearings by the PRC members. I observed that the PRC sometimes asked help from administrators, particularly when

1 In the 1990s, the villages in eastern and southeastern region of Turkey were forcibly evacuated, while their villages were burnt by the state because of the civil war between the Turkish state and PKK (Kurdistan Workers' Party; Partiya Karkere Kurdistane). As a result, numerous Kurds were forced to abandon their villages and migrate to western parts of Turkey.

there was no PRC member in the party building. On the other hand, I observed that there was a distribution of task between the PRC members in Payeli. For instance, some of the members worked more actively in handling financial or criminal disputes, while others were responsible for family cases or disputes related to women. To be more exact, female members usually tried to handle disputes of women or family disputes, whereas male members often took active roles in handling financial or criminal disputes. I could interview with all PRC members and some party administrators in Payeli. During my field research, disputes of women, interfamilial disputes, criminal disputes, financial disputes, and disputes related to elopement were often brought to the PRC in Payeli for handling, while I witnessed several disputes related to theft, harassment, and incest relationship

§ 5.1 Disputes Brought by Women

The PRC in Payeli district has been taken many cases from the women who live in Payeli. I have attended many hearings related to disputes of women, while interviewing some of female disputants after the hearings or the end of dispute resolution process. I observed that women often brought their disputes to the PRC in Payeli for the reasons that they tried to use every mechanism to resolve their disputes; they knew that the committee and party have positive approach towards women; and they believed they can resolve their disputes easier and faster in such an informal dispute resolution mechanism. Two PRC members, who are Delal[2] and Selda[3], actively worked for handling disputes of women, while the chairwoman of the local branch in Payeli "Suna" often help them. Although, Selda was spokeswoman in the PRC, Delal usually organized hearings, contacted disputants and managed the dispute resolution process for disputes of women during my field work.

2 Delal works actively for PRC handling disputes in Payeli. She is 27 years old and is the youngest person whom I interviewed. However, she is only responsible for handling disputes brought by women.

3 Selda works as a spokeswoman for PRC in Payeli. She is about 60 years old and is a retired teacher. She has lived in Payeli for more than 30 years.

During my field research, I witnessed many disputes brought by women to the PRC and attend many hearings related to disputes of women. However, I am going to present five cases that I attended whole dispute resolution process and I interviewed disputants as well as the disputants let me use their disputes and dispute resolution process in my thesis.

CASE 1

Fesih came to the party and asked help in handling his dispute. His wife, Newroz, left him one year ago and moved to Istanbul to live with her family. Before leaving, Fesih and Newroz used to live in the same apartment with Fesih's family in Diyarbakir. They had two children. Over time, many problems occurred between his family and his wife so Newroz wanted to move to another district of Diyarbakir. However, Fesih did not want to leave his family and move to another district. Thus, they had many conflicts because of the problems that occurred between Fesih's wife and his family members. As a result, Newroz walked out on his husband and, together with her two children, went to Payeli district of Istanbul where her family lived. Besides, Newroz was two months pregnant when she abandons home. She gave birth to her third child in her family house. After she came to Payeli to live with her family, she went to PRC in Payeli in order to handle her dispute. Although the PRC members had contacted Fesih in regards to handling the dispute, he had refused to resolve the problems with his wife. One year later, Fesih came to the PRC in Payeli to ask for help in order to get in touch with his wife and resolve their problems. He stated that his wife did not want to talk with him and wanted to divorce.

Delal, responsible for handling disputes of women, Suna and I held a hearing with Fesih. During the hearing, Fesih said that he did not want to divorce and wanted to return Diyarbakir with his wife and children. He also mentioned his economic situation and job that prevented him from moving to another city when Newroz demanded it in the past. However, Delal and Suna emphasized that his wife would decide herself the place where she wanted to live and may also want to divorce him. Also, Suna became very angry with Fesih because she was present at the previous hearing that was held a year before. At that hearing, she called him by mobile phone to convince him to

reconcile with his wife but he refused to do so. He told that he had been very angry with his wife because she had abandoned him.

After a short conversation, Delal asked him for his consent to the committee to begin dispute resolution process. Fesih stated that he would accept any decision made by the committee, while emphasizing the impossibility of moving to another city due to his harsh economic circumstances and his job in Diyarbakir. Delal declared that Newroz should make the last decision because Fesih was the party at fault, as he had not cared for his children and wife for a long time. After the hearing with Fesih ended, Delal called Newroz by mobile phone to handle the dispute and inform her about Fesih's regrets. At the same time, Suna called Newroz's father to inform him that the PRC wanted to handle the dispute. Newroz's family accepted the intervention of the committee to handle dispute and invited the committee and Fesih to their home because Newroz was working and her family was taking care of her three children. Generally, disputes are only held in the party building but in cases like this the committee may go to disputants' houses.

The committee, Fesih, his uncle and I went to Newroz's home to hold a hearing in the evening. When we got there, Newroz was still working so her father and mother welcomed us. The spokeswoman made an opening speech that emphasized Fesih's mistakes, his false steps and his regrets, while stressing the situation of the children who lived without their father. The committee aimed to reconcile Newroz's family and Fesih, thus handling the dispute.

After this speech, a harsh discussion took place between Fesih and Newroz's father, accompanied with violence. During the hearing, Newroz's father smacked Fesih twice while the committee warned him to stop the violence. After a while, Newroz came and the committee had a short hearing with her in a separate room to learn her demands for handling the dispute. Initially, Newroz stated that she did not want to divorce and wanted to live in Istanbul because she did not get along well with Fesih's family members. Then, the committee suggested that she and her husband should have a separate hearing without her family; the committee, however, would be present at the hearing. She accepted the offer and the committee invited Fesih to the hearing. During some time, Fesih and Newroz discussed their problems, his family and her escape without notice, without the committee interrupting their discussion.

At the end of the hearing, they reconciled and then both of them tried to persuade each other to decide on the place where they would live. Fesih insisted that they moved to another district of Diyarbakir, while Newroz wanted to live in Istanbul. After an hour, the committee held a common hearing and declared that Fesih and Newroz did not want to divorce and would decide where they want to live. Meanwhile, the committee tried to convince Newroz's family to reconcile with Fesih since her family was very angry for not taking care of his children and wife for a whole year, particularly when their daughter gave birth her third child. Therefore, the committee also tried to reconcile Newroz's family with Fesih and convinced them that Newroz should give up divorce. After all discussions between Newroz, her husband and also her family, the committee decided to leave and let them alone decide where Fesih and Newroz would like to live. When we went out, Newroz's brothers and cousins were waiting outside in order to beat Fesih. When Fesih, Newroz and her father saw off the committee outside the house, the men attacked Fesih and started beating him. Delal and Suna tried to stop the fighting and warned the men, while Newroz's father promised to prevent any attack on Fesih and protect him. The next day, Delal called Fesih and Newroz to have another hearing for handling dispute, however, they declared that they solved their problems and they decided to move another district of Diyarbakir. Meanwhile, Newroz's family also accepted the decision, although her mother and father were opposed in the beginning.

When Delal talked with Newroz by mobile phone to find out her thoughts, Newroz stated that she decided to move to Diyarbakir with her husband. Emphasized that if Newroz experienced any conflict, she could apply to the committee again, the spokeswoman assured Newroz of the committee’s support for her. Fesih was invited to the party building as well, and the committee warned him to be more responsible for his wife and children, while declaring to him the committee’s support for Newroz. They told him that the committee would contact Newroz to control the process. Meanwhile, Newroz’s father also came to the party in order to apologize to the committee for the fight and his son's and nephew's behavior. Her father also thanked the committee for handling the dispute.

CASE 2

Muazzez divorced her husband a few years before because of incompatibility of their temperaments. She stayed twice in a women shelter with her five children because her ex-husband subjected her to violence. She told me that her ex-husband used violence against her and her children many times during their marriage, as well as after their divorce, which forced her to stay at women shelters. However, she had to leave a women shelter because her children's mental state deteriorated and she had to start working. During this time, she was living only with two of her children because the court had decided to give the other three children to their father. She told me that she wanted to take them from their father as well. When I met her, Muazzez and her two children were living with her youngest brother because her family did not want to live with her and her children. Although she had a good relationship with her brother, her brother also used violence against her; as a result, she came to the party to lodge a complaint against him. Delal gathered the committee for handling the dispute and held a hearing with Muazzez first. Muazzez explained that she had a discussion with her brother about him restricting her freedom. At the end of the discussion, he used violence against her and left home. She was disappointed because her brother was the only person in her family whom she trusted and who supported her after the divorce. In fact, she was very confused and did not know what to do. She also stated that one of her brother's friends intervened into their life and provoked her brother to use violence against her. Muazzez no longer wanted to live with her brother. After her explaination, the committee asked her to give consent to the committee, which meant that she would accept any decision taken by the committee. She gave her consent, expressing her trust that the committee would take the best decision for her. After the end of hearing, the committee had a talk with Muazzez about her economic, social and psychological situation. Living separately from her other daughters made her very upset. Delal told her that she should not take her other three children at that moment, because she still did not have a regular job and would not be able to take care of five children. Therefore, the committee convinced her to be patient until she was in better economic circumstances. Then, Delal took the name and number of Muazzez's brother to arrange the next hearing. After Muazzez left, Delal called her brother, Cem, to

invite him to the party building without giving any details about the purpose of the visit. A few hours later, Cem came there and the committee held a hearing with him. The committee told him about the dispute and emphasized that his behavior was intolerable and that the party and the committee strongly opposed the use of violence against anyone. The members also mentioned his previous support for his sister and expressed their appreciation of him being the only family member who was helping his sister and nieces. Cem said that his sister went out without any notice and that he was very angry with her for that reason. He was worried and contrite because of his behavior with his sister and the use of violence against her. He added that he knew the committee and would not act like this again. The committee put a special emphasis on the harsh circumstances in which his sister was as she was living separately from her three children, had problems with her family and had bad experiences with her ex-husband. Cem agreed with these and expressed his regret for his behavior, promising to apologize to his sister after the hearing. At the end of the meeting, the committee stated that it would follow the dispute and stay in contact with him and his sister. The committee believed that Cem regretted his action and decided to reconcile him with his sister. Then, Delal called Muazzez to inform her about the result of the hearing, her brother's regrets of his actions and his intention to apologize to her. Delal told me that Muazzez accepted [?] reconciliation with her brother and said that she would visit the party. During my field research, I met a few times with Muazzzez at the party building and talked about her problems. Whenever she had a conflict, she would come to the committee to get their advice or ask them for help.

CASE 3

Oya was a young woman, she had married Ferhat around five years before this incident and had two children with him. She had not seen her parents since she got married because she had eloped with Ferhat. However, she was not happy with Ferhat because he subjected her to violence many times. At the same time, she could not come to the party because of fear of her husband and it was her cousin brought her dispute to the committee. As a sympathizer of the party, he knew that disputes were handled in the committee. He informed the party about the dispute and gave them Oya's address and phone number.

He told them that Oya's husband used violence against her and did not allow her to go out. He also emphasized that her husband hated the party. As a result, Delal, one of female PRC members and I went to Oya's home to find out more about the dispute. Delal made an opening speech explaining her purpose of being there on behalf of the committee, as well as dispute resolution process. Then, Oya said that she had been exposed many times to violence by her husband. She even had to go to the hospital once because she fainted; however, she could not tell anything to doctors out of fear of her husband. She added that her family members were still angry with her and did not speak with her because she had eloped. When Delal asked her demand for handling the dispute, she said that she did not want to divorce but wanted to give a chance to her marriage because of their children. She asked the committee to talk with her husband and even frighten him to not to use violence again. Moreover, she said that her husband hated the party and asked not to mention to him her complaint to the committee. Delal said that the committee knew his political views and would not mention her complaint and the hearing. She took Ferhat's phone number to call him. The hearing ended and we came back to the party building where Delal told about the dispute to the administrators. They immediately organized a hearing that consisted of some administrators of the party, the president and Kemal who was the PRC spokesman[4]. Generally, no man could attend the hearing of women's issues but this case was different from others because of Ferhat's political views and the fact that he had probably never been at the party building. Then, Delal called Ferhat on behalf of the party to invite him to the party without mentioning the dispute. Ferhat came to the party about one hour later and introduced himself to the committee. Delal made an opening speech in which she talked about the dispute and the role of the committee in protecting and supporting women, particularly those exposed to violence. Initially, Ferhat refused that he had used violence against his wife and asked how they were informed about this. He particularly

4 Kemal is over 60 years old and works as a spokesman for the PRC in Payeli. He is usually responsible for handling financial, intrafamilial and criminal disputes; however, he is someone who could be invited to disputes of women. During my field research, he attended several hearings related to this type of disputes upon invitation by female PRC members.

wanted to know if Oya herself had informed the committee about their dispute. However, Delal said that they had not met with his wife and that they were informed about the violence by his neighbors, one of whom gave them his number and address. Additionally, each member of the committee talked about the dispute, Ferhat wrongful conduct and suggested solutions. Then, he admitted having used violence against his wife a few times but he justified his behavior saying that he was very angry, had a neurological disease, for which he had been receiving treatment. However, the committee strongly opposed this, and female members stated that they would not accept any excuse for using violence. Delal also added that if he uses violence again, they would encourage his wife to divorce him and would support her wife financially. The other members gave him advise him about the importance of marriage and his responsibilities to his children and wife. After this harsh discussion, Ferhat promised not to use violence again and expressed his regret for his previous behavior. At the end of the hearing, the committee they asked him for his wife's number as if they had never met her. The committee declared that it would be part of this dispute from that day on and that they would come visit Oya and him at their home. After that he left the party. The spokeswoman called Oya again and informed her about the hearing. She told her that Ferhat had promised not to use violence again and to be more responsible for his family. The spokeswoman also added that she would call her frequently regarding the process and asked Oya to call the committee again if she had any problem. During my field research in Payeli, Delal and other members called Ferhat and Oya several times to ask whether he used violence or not. The reason for this is to control Ferhat's behaviors and shows that the committee follows the case. I also talked to Oya to find out whether she was exposed to violence by her husband after the first hearing held by the committee with her husband. She said that her husband asked her to complain him to the party after the hearing; however, he did not use violence or threaten her. After a few weeks, when I asked Delal If Oya and Ferhat had any conflict again, she told me that they had had a conflict one week before; however, Oya had not called the committee or the party. In fact, Oya went to the police to make a complaint against her husband. Her husband called Delal regarding his and Oya's conflict and told Delal that he had not used violence against Oya. Delal called Oya

to ask whether she had been exposed to violence by her husband, but Oya responded that her husband had not used violence against her, even though they had disputes. According to Delal, the reason why Oya went to the police was probably to scare her husband by using every mechanism. Oya withdrew her complaint after a while.

CASE 4

Adalet is about 37 years old, she has six children and wants to divorce his husband. She came to the party through a woman who voluntarily worked part time for PRC. Delal organized the hearing for handling the dispute. Adalet had been married for sixteen years but she had been living separately from her husband for a while. She said that her husband did not care about their children and her and that they had had many conflicts and fights during their marriage. She also said that her husband had sold their common car and land that they had bought together, without asking her permission. Her husband abandoned them many times and came back every time. During the time of the incident, Adalet and her six children were living separately from her husband, but he had been threatening her as she wanted to get divorced. After completing her speech, the spokeswoman asked Adalet's demand from the committee. Adalet said that she was illiterate and she did not know the legal process of divorce and thus wanted legal help from the committee to get divorced. As the committee wanted to be sure about her determination to get divorced, they asked some questions about her marriage. Adalet declared that she could not stand her husband and definitely wanted a divorce. At the same time, she was afraid that the court would decide to give her children, who were under 18, to their father because she did not work. The committee members gave her some information about the legal process and reassured her that the court would not give her children to their husband because he also neither had a regular job nor fulfill his responsibilities, using violence against her and the children. Delal emphasized that the committee would support Adalet in every step of the legal process, saying that if her husband threatened her or used violence, she should inform the committee. Then, the spokeswoman called the lawyer of the party and explained the case. She took some information about the legal process of divorce from the lawyer and explained the

economic circumstances of the woman. In the end, they decided to apply for formal legal aid to open a case. Thus, Delal prepared documents required applying for legal aid, while charging the female PRC member who brought Adalet to the committee to help the latter in this process. Delal also gave Adalet the number of the party lawyer so that she could call or meet her. Moreover, she informed Adalet about a municipal program that provided financial aid, particularly to children under the age of eighteen. In the end, the woman thanked the committee for its help and support and left the party building.

CASE 5

Onur and Kader wanted to get married but their families do not let them do so because they had had quarrels between each other for a long time. Therefore, the couple decided to get married without their families' permission and eloped. Kader's family was very angry with both of them and threatened Onur to beat or kill him. Hence, Onur could not work in his barber shop that was close to the apartment building in which Kader's family lived, because of the threats. To end threats and reconcile with Kader's family, Onur and his famiily decided to apply to the committee. As the first step, the committee contacted and visited Kader's family in order to stop any fight between the families. Generally, the committee holds hearings and handles disputes only in the party building; however, I observed that the committee sometimes would have hearings outside the party building, particularly in cases of elopement. The probable reason for this is their attempt to to prevent a prospective fight between disputants as soon as possible. By doing so, the committee may also be able to prevent a dispute that could result in a long-standing blood feud between two families. Thus, the committee met with Kader's family in a local coffeehouse to mollify her family members and prevent an attack on Onur's family. The next day, the spokesman, the spokeswoman, two PRC members and I went to Onur and Kader's home to hold a hearing in the presence of Onur's family. The spokeswoman made a speech that emphasized the committee's support for women in every case and their intention to do best for the young couple. Then, she asked to have a separate hearing with Kader. During that hearing, the spokeswoman asked Kader whether she was forced to elope by Onur or eloped voluntarily. Kader told the spokeswoman that she loved Onur and she

had to elope because her family would never let her to marry Onur. After this meeting, the spokesman told Onur and his family that Kader's family promised the committee not to have any conflict with them, demanding that Onur and Kader marry as soon as possible. Kader's family members also told the committee that they would not attend the wedding ceremony. Moreover, the spokesman stated that Onur could return to work in his barber shop and continue working because Kader's family promised not to use violence or threats against him. At the end of the hearing, the spokespersons said that the committee would contact Kader if she had any problems, encouraging her to lodge a complaint to the committee if the need be. The next hearing was held at the party building after the committee returned there. Onur's uncle joined the hearing as the representative of his family and the committee hold the hearing with him in order to determine the next step as well as details of the wedding. Subsequently, the spokesman contacted via mobile phone or had meeting with Kader's family to inform them about the process.

As a result, through the intervention of PRC into the dispute, Kader's family stopped threatening Onur and his family and let Onur restart working in his barber shop, close to the building of Kader's family.

CASE 6

A woman between 55 or 60 years old lodged a complaint with the committee. Her daughter, who was 22 years old, had eloped with her boyfriend last night, so the woman came to the party in order to get in touch with her daughter and her daughter's boyfriend through the committee. The woman claimed that her daughter's boyfriend was a sympathizer of the party, for which reason she came to the party to resolve her conflict. The woman emphasized that she was not a sympathizer of the party herself and it was her first time to come to the party. The spokesman immediately organized a hearing that included two PRC members and the disputant, while also sending two PRC members to the other disputant to get information from them. Then the hearing began and the woman explained from her perspective how and why her daughter eloped. After end of her speech, the spokesman asked her demand from the committee. The woman said that her daughter was a student and she studied at a private university with her mother's financial support. She demanded help of the

committee to get in contact with her daughter's boyfriend and his family in order to take a bride price from them. The spokesman said that the committee was opposed to bride price and never helped anybody in this matter. At the point, a female PRC members strongly emphasized that the committee aimed at eliminating this tradition because bride price meant to sell a person as a good. However, the woman insisted on her demand to get a bride price as a revenge for elopement. The committee offered to contact the other side in order to ensure that that wedding procedures are followed and the woman's daughter pursues her education. However, the woman did not accept this proposition and said that she no longer cared about her daughter and her wedding; she did not even want to see her daughter again. The women claimed that she would disinherit her daughter.

As I have already mentioned, before the hearing, the spokesman sent one of PRC members and party administrators to talk with the woman's daughter and her boyfriend, while the spokesman talked with the former on the phone. The reason why the committee did this was to learn whether the young woman eloped voluntarily or was forced to elope by her boyfriend. The PRC members who went to talk with the young woman came back and told the spokesman that she had admitted having eloped voluntarily. The spokesman also stated that he had talked to the daughter and that she had confirmed the same. Then, the spokesman told the woman that he had spoken with her daughter before the hearing while also sending members from the committee to directly talk to her. The spokesman informed the mother of her daughter's admission of having eloped to marry her boyfriend. At the end of the hearing, the woman continued insisting on getting a bride price from the other side; however, the committee refused outright this proposition. Thus, the dispute resolution process was ended with no solution reached and the committee did not help the women with her demand. The woman left the party without resolving her conflict.

§ 5.2 Financial and Criminal Disputes

CASE 1 SEASONAL WORKERS

Two seasonal workers and an employer came to the party in order to resolve their financial dispute because they had had a fight before. They had taken their conflict to the police first but they were not able to resolve it at the police station. Thus, the workers forced the employer to take the disputes to the committee. Both parties were Kurds so they had known about the committee before.

Both spokespersons were not at the building so one of PRC members, "Azat"[5] and one administrator, "Naif" held the hearings. They tranquilized disputants and emphasized that their dispute would be resolved in the committee. Then, the construction workers began explaining their dispute in detail. The workers explained that they had worked in a construction firm as construction workers and had completed the work for their employer. After completing their task, they decided to return their hometown. They had been supposed to receive about forty thousand Turkish liras upon the completion of the work but their employer had given them only thirty-four thousand Turkish liras, that is, six thousand Turkish liras less. The workers were supposed to leave Istanbul the next day and requested the rest of the payment. After finished their explanation without an interruption, Azat let the other side to explain the dispute. Mahmut, their employer, said that he had paid a substantial amount of money to the workers but did not have six thousand Turkish liras at that moment. He proposed to transfer the rest of money through a bank. However, the seasonal workers did not accept the proposal because they had to leave Istanbul the next day and needed the rest of their money as soon as possible. They also stated that they did not trust Mahmut's promise to send the money since they would not be in Istanbul. Mahmut insisted that since he had given a substantial amount of money, he would definitely pay his remaining debt. After both side explained their dispute, the Azat

5 Azat works part time for the PRC in Payeli; however, he rarely comes to the party to work for the committee. He is about 45 years old and has had experiences with dispute settlement in Payeli. Since he has lived for a log time in the district and had his own business there, he is knowledgeable about the district, local disputants and problems common to the district.

asked Mahmut some questions such as his work address, family members and co-workers in order to find common friends with one of the committee members. As a result, one of friends of Naif and Mahmut had a common friend because they both lived and worked in Payeli. Then, Naif called via mobile phone the common friend with Mahmut to have more information about him[6]. After calling, he stated that their common friend stated positive ideas about him and stated his reliability in his work. Although the committee believed Mahmut's reliability in his job and in paying his debt it suggested that he pay his debt the next day because the workers were leaving and he owed them just a small amount of money. Moreover, Azat stated that since Mahmut could not pay his debt at the moment, the committee would hold another hearing in the morning of the next day before the workers' departure from Istanbul. The committee suggested that the employer bring his debt to that hearing. The members also emphasized that if the employer could not bring the sum he owed to the hearing, then the workers did not have to worry leaving Istanbul because the committee would be the guarantor of the agreement. The workers stated that they trusted the committee and its role as the guarantor in handling the dispute. Mahmut promised to find rest of money by the next day. All disputants left the party building to come back for the next meeting. The next day, the spokesman and Azat organized a common hearing that Mahmut and the workers attended. Mahmut paid his debt during the hearing and the dispute was solved. Both parties thanked to the committee for handling their disputes.

CASE 2 DISPUTES BROUGHT FOR ACCESS TO JUSTICE

Kenan lodged a complaint to the committee. Kemal, as being spokesman, and Mahir[7] organized a hearing with him to learn the details of the dispute. Kemal explained that he sold textile goods at a price of 40,000 Turkish liras to Bülent; however, he had not been able to take the money owed to him. He stated that Bulent gave him a cheque for the amount specified above, but it was a bogus

6 During the hearing, one of committee member called the common friend to learn reliability of Mahmut in business life.

7 Mahir is about 35 years old. He seldom comes to the party and attends hearings.

check. Hence, Kemal, the debtee, took the dispute to the committee for handling. After the end of hearing, Kemal took Bulent's contact information to invite him to the party building. The spokesman organized the first hearing that included both disputants, Mahir, and a businessman[8] who had experience in conducting business in Payeli and knew both disputants. At the hearing, the spokesman made an opening speech in which he summarized the dispute, explained the aim of the hearing, asked for the disputants' consents, and emphasized both disputants' willingness, as well as the committee's, to resolve the dispute. After this step was completed without any problems, each disputant explained the dispute from their own point of view. The debtee emphasized that he would obey every decision to resolve the dispute. However, Bülent, the debtor, was a bit annoyed and felt uncomfortable because the dispute had been brought the committee. He said that the party and the committee were very busy and had many problems more important than his dispute with Kenan and that he should not have brought the dispute to the committee. Moreover, he proposed Kenan to take the dispute to court or resolve it without applying to the committee. It is my understanding that the debtor considered the hearing as the creditor's complaint about him to the party, which probably wounded his pride. Thus, he was not eager to resolve the dispute through the committee. To put his concerns away, a PRC member told him that this committee was responsible for handling the disputes brought to it by public so he was not the only person to come to the committee for this purpose. In addition, Kemal stated that in the case if he took the dispute to court, everything would be more complicated and the debtor would suffer as a businessman, while the dispute would not be handled quickly. The spokesman also stated that they received many disputes from people who lived in Payeli, and stated that one of the main objectives of the committee is to handle disputes. Then they proceeded to resolve the dispute. Kemal stated that, a few months ago, he and Bulent had made an agreement that Bulent would pay 500 Turkish liras per month; however, he had not obeyed the agreement and had not paid the

8 PRC may invite some people to have technical knowledge related to a dispute. In this case, elderly and respected people were invited by the spokespersons to the hearing.

debt off. Bulent started talking and explaining his economic situation, stressing his problems. His little daughter had died two months before, and he and his wife had been very upset; his wife even had psychological problems after the loss of her child. He stated that he could not focus on his job and had experienced setbacks in his business.

At the end of the hearing, Kemal emphasized that the committee intended to resolve the dispute as soon as possible because both disputants were businessmen and the dispute should not hinder their economic activities. The businessman invited to the hearing also expressed his opinion, saying that the debtor could not pay the entire amount of money in a short span of time because of his difficult economic circumstances and other business activities. Therefore, he proposed that the debtor return unsold goods in stock that he had bought from Kenan. By doing so, he would merely pay off the debt for the goods that had been sold. This proposition was accepted by the PRC members and both disputants. The spokesman made a redemption plan according to which Bulent would pay off the remaining debt in monthly installments after returning the unsold goods to Kenan. Both of the disputants accepted the proposal and declared that they would fulfill their obligations. The spokesman stated that the committee would follow up on the agreement and hold another hearing if one of the disputants breaks the agreement or does not fulfill his obligations. The disputants thanked the committee and left the party building.

CASE 3 A DISPUTE BROUGHT FOR USING EVERY MECHANISM

Hüseyin brought his dispute to the party through his friends who knew the committee. The spokesman organized a hearing that consisted of one PRC member, the spokesman, the disputant and two of his friends. After the opening speech made by the spokesman, Huseyin explained his dispute from his viewpoint. He had been defrauded by a car dealer when he was trying to sell his car. The car dealer proposed to sell Huseyin's car in his auto gallery and Huseyin accepted the offer. After a while, the car dealer called Huseyin to inform that a client, called Muzaffer, wanted to buy Huseyin’s car and that the vehicle’s licence had to be given to Muzaffer. After finishing this step, the car dealer gave Hüseyin a note payable at a value of 49,000 TL, so that Huseyin withdrew the total amount of money that would be transferred to his account.

Huseyin said that the car dealer directed him to a bank in order to withdraw the money that the car dealer had claimed to pay to the bank. Huseyin said that he would bring back the fee he had to pay to the car dealer after withdrawing the money from the bank. When he went to the bank, Huseyin learned that nobody had transferred money to his account and he called the car dealer. However, he was not able to reach him, while his office that he had visited before was closed. When he checked his vehicle license in the system, he realized that Muzaffer transferred the vehicle license to his wife's name who lived outside Istanbul. This meant that Huseyin could not recover the car license and note payable. Then, he learned that there was no tax code belonging to the car dealer which meant that the car dealer had organized a fake auto gallery. Huseyin went to the police to make a complaint against the car dealer and to give them the car dealer's address and other information. However, he did not obtain any result. He said that the police had not registered the complaint and, even blamed him for not being more careful. Thus, he came to the committee for handling the dispute. The spokesman and the PRC members took the car dealer's phone number and other information about him and his office. Then, they called some swindlers and car dealers who worked in Payeli in order to ask them whether they knew this auto gallery or the car dealer. The spokesman also called other PRC members to get some information about the auto gallery, while informing them about the swindlers. However, nobody knew the car dealer and the committee was not able to get in contact with him. Although, the PRC was not able to resolve the disputant's problem, this case created awareness of this fake organization. The PRC members warned the car dealers in Payeli about this auto gallery and its owner, urging them to be more careful and try to prevent potential fraud in Payeli. At the end of the hearing, the spokesman told Huseyin that the committee was not able to handle the dispute although they had contacted many people relating in the auto gallery sector. Moreover, since Huseyin was very desperate, both spokesman and the PRC member tried to console him and encouraged him to continue with his job and other activities. They tried to motivate him to make new plans in his business life. Huseyin thanked the committee for its help at the end of the hearing.

After the hearing, I had a short conversation with him and I asked how and why he applied to this committee for handling his dispute, given that the police had already been informed about it. He told me that the police had not commenced any legal proceeding yet, although he submitted his documents a week before. He added that he was feeling guilty when he was at the police station because of the way the police treated him. He said that he felt better because the PRC members tried to handle dispute and motivated him to continue with his activities.

CASE 4 A CRIMINAL DISPUTE

A fight occurred between a Kurdish family and a Turkish family in Payeli, resulting in a murder. Zeynel was a businessman who had a shop in Payeli. He leased out his shop as a coffeehouse to Ahmet, a Kurdish man living in Payeli with his family. After a while, Ahmet went out of his business and closed down the coffee shop without paying the rent for the last few months. A few months later, Ahmet and Zeynel met to talk about the unpaid rent. However, the men got into a fight during the meeting, with both Ahmet's sons and Zeynel's brothers entered the fray. As a result, one of Zeynel's brothers shot Ahmet, murdering him. Ahmet's family went to Diyarbakir to hold funeral where Zeynel's brother was arrested. However, Ahmet's sons threatened Zeynel to kill him as a revenge of their father, calling him and sending their relatives and friends as their representatives to convey Zeynel their opinion. This was the reason for Zeynel and his relatives to apply to the committee in order to prevent retribution and revenge by Ahmet's sons. During the hearings, Zeynel was usually represented by his friends and relatives, himself rarely coming to the party building. With respect to the other side, the committee was in communication with Ahmet's sons by mobile phone because they were in Diyarbakir, while sometimes inviting Ahmet's relatives who lived in Istanbul. The spokesman organized many hearings with Zeynel and his representatives and had frequent calls with Ahmet's sons as well as hearings with their relatives in Istanbul. On the other hand, the committee organized another PRC commission in Diyarbakir in order to persuade Ahmet's sons to reconcile and make peace with the other side.

As usual in criminal cases, both parties did not attend common hearings and were usually represented by their relatives or friends, particularly in the beginning of the dispute resolution process. The spokesman told me that the committee had called Ahmet's sons and his wife to express their condolences and informed them of the committee's willingness to reduce anger and hostility between families. He added that Ahmet's family had accepted the committee's involvement in reconciling two families.

In the beginning of the dispute resolution process, Ahmet's sons demanded a million Turkish liras as a compensation, or blood price. I witnessed the committee members calling them many times to inform that the party and the committee did not accept blood price.

Meanwhile, as Ahmet's sons were continuing to threaten Zeynel with revenge, he and his representatives came to the party again. In that hearing they requested the committee to warn the other side to end the threats of revenge. One of the representatives told the committee that Zeynel wanted to make a financial contribution to Ahmet's family but he could not pay the amount that Ahmet's family was asking for. The committee members also emphasized that they would not accept such a high amount of money even if Zeynel accepted it. During the whole process, the spokesman often called the other side urging to end the threats. As time went by, the other side ended the threats to take revenge on Zeynel.

In criminal cases, PRC usually prefers to carry out dispute resolution process slowly in order to reduce anger among families. The spokesman told me that the committee would wait until Ahmet's sons calmed down and gave up the request for a high amount of compensation.

In one of the hearings, Zeynel's representatives proposed the spokesman that Zeynel pay compensation of a value of a flat because the other side lived in a rented flat. Since one of the PRC members was a contractor, he suggested that he could help the other side to buy a flat if they accepted this offer.

After a few months, both sides reached an agreement to reconcile. Both families made peace with the guidance of the committee and declared that they would not retaliate or injure each other from now on. PRC organized a commission, including several PRC members, spokespersons, several PDP administrators, Zeynel and his relatives and friends, to go Diyarbakir where

Ahmet's son lived. After they returned, the spokesman told me that they organized a peace meeting in Diyarbakir that also included some PRC members in Diyarbakir as well as Ahmet's sons, wife and relatives, with the participation of the commission from Payeli. They also organized a peace dinner with Ahmet's family and relatives, Zeynel and his family, PRC members, PDP administrators from Istanbul and Diyarbakir, some people from religious community of the region, leading figures from Diyarbakir, some deputies from different political parties in Diyarbakir and local mayors.. According to one PRC members, the committee aimed at ensuring permanent peace between the families by organizing the last hearing that included a wide range of members from different parts of society. When I asked about compensation, the spokesman told me that Ahmet's family had not accepted the purchase a flat in Istanbul because they decided to live in Diyarbakir. Thus, Zeynel had compensated them with the amount of money of a value of a flat in Istanbul.

6

Conclusion

This thesis examines informal legal practices and dispute resolution process used by the Kurdish population in Turkey. When Kurds are confronted with disputes, it is common practice to use their own customary ways or informal legal practices for handling them. More specifically, this thesis discusses that how displaced Kurds in Istanbul handle their daily disputes through using informal dispute resolution processes. For my case on informal legal practices of Kurds in Istanbul, there are two important situations that are forced migration and the establishment of pro-Kurdish political parties since the 1990s. With respect to forced migration, Kurdish people brought their informal legal practices and customary ways of handling disputes to urban settings as a result of forced migration that numerous Kurdish families were forced to migrate to western part of Turkey due to evacuation and burnt of their villages by the state in the 1990s. Also, with the establishment of pro-Kurdish political parties since the 1990s, the Kurds commonly take their disputes to one of pro-Kurdish political parties for handling their disputes, while considering those parties as their representative or a source for asking help in any subject.

This thesis specifically concentrates on an informal dispute resolution process that is carried out by Public Relations Committee (PRC) provided by the Peace Party (PP) that is one of pro-Kurdish political parties in Turkey. In this

thesis, I only look in detail at its dispute resolution process in Istanbul. It examines in detail how this dispute resolution mechanism works by looking at its dispute resolution process, procedures, and rules in practice. By so doing, I tried to analyze a strong constellation of legal pluralism used by Kurds as well as other ethno-religious groups in legal arena.

In Chapter I, to understand the existing legal practices and dispute resolution process of handling disputes within the Kurdish community in Istanbul, I discussed "legal pluralism" in this thesis. I discuss that individuals and communities try to use the best options, alternative ways or easiest methods for handling their disputes, while they try to use informal legal mechanisms through which they can maintain their customary ways or traditional legal practices. In the thesis, the main questions that I asked here are related to what legal pluralism is and what kind of pluralism in legal arena exists. To seek answers to these questions is also crucial for the arguments of my thesis project since it aims to examine what kind of informal legal practices and dispute resolution process are used by Kurdish population in Turkey.

I try to explain that as pluralism can be found in all aspects of life, the legal arena is not exempt from this and every society could contain to some extent instances of plurality in the legal arena. In addition, I discuss that people have plural legal choices and legal practices alongside state law, while emphasizing that state law may not be the only source of law as well as first choice of people when they have disputes. Then, I discussed some arguments and concepts related to legal pluralism such as new versus classic version of legal pluralism or deep versus weak legal pluralism. I claim that my case is an example of deep legal pluralism for the reasons that it does not need recognition of state to exist, maintain its autonomy as well as generate its own rules and procedures. Lastly, I discussed the relations between state law and other normative orders as well as the relations between different normative orders in the field of legal pluralism.

In Chapter 2, I present some manifestations of legal pluralism in different parts of the world, apart from Turkey, such as India, Cuba, Brazil, and Chile, in order to demonstrate how dispute resolution processes are carried out. I try to analyze different forms of informal dispute resolution mechanism that were established with different objectives, as there are some similarities with the

findings I have obtained in my field research, particularly regarding dispute resolution processes. Moreover, some ethnographic studies related to informal dispute settlement in Turkey are presented in order to show that different ethno-religious groups in Turkey use informal legal practices or develop their internal legal mechanisms for handling their disputes. Thus, I show that Kurds is not the only group in Turkey who has used and developed informal dispute resolution mechanism for handling dispute.

In chapter 3, I look in detail at the informal dispute resolution process provided by PRC. I provide an analytical profile of PRC that examines its structure, procedures, hearings, members, funding, appeal mechanism, kind of disputes brought to it for handling, disputants, and sanctions. In the second section of the chapter, I analyze dispute resolution process carried out by PRC. In particular, I discuss its dispute resolution process that contains multiple steps in handling disputes and specifically demonstrate that PRC provides different dispute resolution process for each type of disputes. I look in detail at each dispute resolution process. It is worth noting that women work for PRC and the party play active roles in handling disputes while develop a distinct dispute resolution process and procedures for handling disputes related to women.

In the last chapter, I examine the PRC in Payeli district of Istanbul. Payeli has had received a substantial number of migrants from different parts of Turkey, particularly from northeastern and eastern Anatolia. After being designated as district, it has rapidly developed its infrastructural services as well as industry. It has been an industrial center with many factories in various industrial sectors, which is a crucial reason for incoming migration. With respect to the Kurdish community in Payeli, numerous internally displaced Kurds came here during the period of forced migration in the 1990s. In spite of harsh economic and political conditions, particularly in the early years of settling in Payeli, the Kurds, who are the subject of this study, have established their own communities and localities in the district, while maintaining their own traditions as well as informal legal practices. In this chapter, I examine how general rules and procedures of PRC are applied in a local PRC, how hearings are managed, and how dispute resolution process is carried out by PRC in action. Also, in the next section of the chapter, I present some cases

related to financial disputes, criminal disputes and disputes related to women's issues. I aim to show that how each category has its own rules and dispute resolution process in practice.

More broadly, my research demonstrates that informal legal practices used by Kurds can be implemented in a well-organized manner when certain rules and procedures are established for the dispute resolution process. It discusses that on the one hand, Kurds maintain and re-produce some of their traditional and customary legal practices through PRC, particularly in situations related to criminal and business disputes as well as in cases of elopement. On the other hand, PRC adopts a female dominated gender approach in carrying out its dispute resolution process related to disputes of women. It is worth noting that the strong role of Kurdish women in PRC and the party has played a crucial role in the implementation of this approach in practice.

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