SUMMARY AND CONCLUSIONS

As is the case in most of the third-world societies, Indian society is also multi-legal. Thus, on the one hand it has the state legal system consisting of the constitutional law and various sub-sets of official laws required or ordained by it, and on the other, many non-official, informal and non-standard legal systems including customary laws, religious laws and community traditions operate simultaneously. The dichotomy of the state versus the non-state legal systems has been variously articulated as "state and people's law"; "national and local law"; "formal and informal law"; and "lawyers and local law ways" - in the writings of sociologists and legal experts. But these scholars have not been able to come to a decision about the real relationship between the two. In the present study, therefore, interaction between the two sets of legal systems at the theoretical level as well as at the empirical level was examined. One specific area we found fit for this kind of investigation, was dispute-settlement including the redressal of grievances which individuals and groups undertake in different legal cultural contexts. Thus it was found worthwhile to explore how the different legal systems (state/non-state) are (i) perceived, (ii) practised and (iii) evaluated in terms of their efficacy to resolve disputes by the people. Specific questions formulated were: (a) How do people perceive and characterize a dispute and what is a disputable matter for them? (b) What kind of disputes occur between what categories of persons in what kind of social relations? (c) What is the range and variation of
the ways of dispute settlement among the villagers? (d) What factors lead disputants to choose one method of settlement over another?

Two large sized villages, Kotla and Takhatgarh, of district Ropar of Punjab were selected for this purpose. While Kotla is situated close to the formal legal system, Takhatgarh is a remote village far removed from city agglomerations. A total of 393 instances of disputes - 200 from Village Kotla and 193 from Village Takhatgarh, were selected from a total number of 647 households which had witnessed disputes. Random sampling technique was adopted for this purpose. The oldest male member who also happened to be the head of the household was interviewed for purpose of collecting the data. Besides, such systematic interviews many other members of the village community were also interviewed to find out their views about the state and non-state legal systems. Many illustrative interviews were also included in the thesis to assimilate the intricacies of the problem.

The physical setting of the two villages like the ecological features of the village communities and the facilities available to the residents have also been described. These have been seen to have a particular explanatory value because mostly the disputes in the rural areas are determined by the specific environmental features of the community. The respondents have been categorised on the basis of social background variables such as religion, caste and class. Later on, data has been analysed in relation to these variables. Pursuant to the adopted thesis, that the culture of communities is shaped by their own past and global factors, a detailed account of the development of legal pluralism provides the historical background. India was subjected to various cultural influences and various
cultures developed in the land over time which affected its legal history to a considerable extent. No wonder then that the present Indian society is marked by legal plurality and diversity.

Analysis of data from the survey of villages shows that inhabitants of both the communities were aware of their disputes and named them as such. Most of them consider dispute as a very unhealthy situation which may disturb the exiting social order. Naturally, there is a strong moral expectation that a dispute should not and will not arise among them. However, conflicts do emerge for various reasons such as over right to fields, houses and public utilities; over unpaid debts; theft as defined by the group; unfulfilled expectations in paired relationships, tresspass by animals into fields and insult to honour and pride. By and large the same or similar issues were involved in disputes in both the villages. Whatever, small differences occurred in the nature of issues which culminated into disputes were rather due to the structural differences in the two village communities. For instance, village Kotla has over the years acquired the character of a "service town" whereas village Takhatgarh still retains many characteristics of a traditional village community. It was found that maximum disputes in Kotla occurred over economic, social and service matters while in Takhatgarh maximum number of disputes were over rights to common property resources or over economic matters. An association also seemed to exist between the types of social relations among the disputing parties and the issues involved in their disputes. Whereas maximum disputes among kinsmen were related to the division and inheritance of ancestral property, disputes among neighbours in residential localities were mostly over rights to common property resources. Disputes among owners of adjacent agricultural
holdings were obviously related to land and irrigation problems. Most of the inter-caste, inter-faction disputes and also disputes involving members from other village communities occurred over the distribution of scarce resources in the villages especially land or over the use of common property. Disputes between individuals and the various administrative authorities arose mainly over service conditions or over the use of common property resources. It was also noted that most disputes among people of the higher castes and classes emerge over economic and related issues, while among lower castes and classes they emerge over issues breach of social norms and rights to common property resources.

In villages, Kotla and Takhatgarh, various modes of dispute settlement were also distinguished. These procedures varied according to the degree of their formalization. The state legal system (court or adjudication) represents relatively more formalized procedures. In this procedure, the third party (a judge) can impose a decision which often coincides with the relatively small influence exerted by the disputing parties and a relatively greater influence of rules on the outcome of the disputes. At the opposite end, one finds dispute settlement through elders of the family as the most informal procedure. Parties in such disputes reach an agreement by bargaining amongst themselves. Here the influence of formal rules is of least importance while the influence of the dispute processing parties is relatively more. Negotiation, arbitration and adjudication of disputes may also occur through an intervening variable such as the ecclesiastical authority, the Panchayat, the executive or police officers. In actual practice, though, these different procedures overlap and inter-mesh with each other. Disputants often combine more than one mode within the parameters of formal or informal
systems. But sometimes they also combine the most formal with the most informal to achieve the desired ends. After studying the two villages it became quite evident that rural-folk usually make a selective use of both informal and formal legal systems. The two important considerations which appear to be relevant in the selection of a particular method are: the nature of the issue involved in the dispute and the relationship between the disputants.

It was found that generally disputes arising over simple familial problems such as division and inheritance to property, divergent claims of disputants over village streets or paths, new constructions, scarcity of drinking water, use of abusive language, unwritten transactions, over-strained conjugal relations and eve-teasing, were taken to informal modes. In contrast, disputes involving complex issues like rights to scarce resources such as land and irrigation, or the rights to common property resources, or service matters such as disputes arising from employer-employee conflicts and those arising out of factional rivalries and also because of non-adherence to state regulations, were in most circumstances, taken to the formal mechanisms for their resolution. Disputes in which the disputants made use of more than one method were over economic issues mainly over rights to landed property. Besides, it was found that some relationship exists between the type of social relations among the disputing parties and the mechanisms of dispute resolution adopted by them. Most of the disputes among close intimate relations, that is, among kinsmen and neighbours, were settled through informal mechanisms. On the other hand, most disputes among inter-caste and inter-faction members; or members residing in one village with those of another; and between individuals with executive authority were settled through the formal mechanisms.
of dispute resolution. It may, thus, be pointed out that villagers prefer to settle their disputes among continuing and intimate relations by resorting to informal mechanisms. In intimate relations, resort to formal mechanisms was made under those circumstances when the relationships among disputants became violence prone or the issues in dispute were contradiction-ridden. Also, when inter-personal relations among the disputants were not so close, preference was given to the formal mechanisms of dispute settlement. Socio-economic standing of the disputants also seems to determine the selection of different modes of dispute settlement. Respondents from higher caste and class background prefer to take their disputes to formal agencies of law-enforcement as compared to respondents from lower caste and income groups.

It was found that, on the whole, villagers view the informal system as easily accessible, not expensive, non time-consuming and in correspondence with their cultural milieu; but particularistic and less powerful. For these very reasons, the disputants take only simple disputes to the informal mechanisms of law-enforcement. Understandably, formal legal system is considered expensive, time-consuming, not easily accessible, cumbersome and based on esoteric procedures but because of the authority vested in it by the state has greater power and appears more impartial and universal. It is for these reasons that disputes that cannot be resolved through informal mechanisms were often resolved with the help of formal mechanisms.

**Conclusion**

From the above, it can be concluded that villagers make a selective use of informal and formal methods of dispute resolution. Preference
generally lies for the informal methods while the formal methods are approached only under certain compelling circumstances. Simplicity of procedure, shared cultural patterns and inexpensiveness of informal mechanisms induces disputants to resolve their grievances through the indigenous informal mechanisms. On the other hand, when the issues in disputes are complex or lie within the ambit of the criminal procedure code, then the disputants have to approach the formal mechanisms.

As pointed out earlier, little empirical research is available in India on the subject of legal pluralism and dispute settlement. The few available studies do not throw up any significant set of generalizations to which we could relate the findings of this study. Nor indeed are these studies comparable among themselves. They have different objectives and follow different methodologies. Perhaps it will be best to return to Durkheim (1960) and Baxi (1986) to put our findings in a proper perspective. Durkheim (1960) has pointed out "as societies become more complex, shared norms and common purposes decline as the primary basis for law. Societies with a highly complex division of labour cannot base their unity solely on similar experiences and common interests. As people perform specialized functions in society, they differ from one another in what they want. Thus, legal functionaries are called upon to describe and enforce a new behaviour pattern".

A situation like this prevails in the present day Indian society. A vast majority remains in a dilemma. On the one hand, they accept to some extent, the authority of the formal laws framed by the nation-state, and on the other, they firmly believe in the necessity of maintaining cultural identities. The complexity of the issues involved in the dispute requires the intervention of formal legal mechanisms backed by state authority but
without any disassociation with norms based on shared sentiments. Therefore, one might as well agree with Baxi (1986) that the legal scenario in India today is characterized by great complexity, overlapping and uncertainty. However, the existence of diverse and alternative legal mechanisms has not posed a serious challenge to the state legal system; they co-exist and coalesce with one another. Thus, the diverse legal systems will continue to exist in India. The question then arises: how can a compatible relationship be developed among the diverse legal practices to ensure social justice and fairness to all people? In a plural society like India, it is really a difficult task. Still some ways have been suggested: (a) Assessment of the problem of the national legal system and identification of its weakness and the sources that tend to weaken it. Studies of shared values and cultural practices, social stereotypes and prejudices of different social groups could be a starting point. (b) Recognising alternative forms of legal systems and assigning due place to them within national life and preserving and promoting them. (c) No programme of social change can be successful unless it is tied up with the entire educational system. Comparative in-depth studies of different groups need to be done. An attempt also needs to be made to find out the factors facilitating change through the use of informal mechanisms of social control. (d) Development of general and commonly acceptable principles and criteria to locate developmental projects and provision of requisite funds for the same in different regions or states. (e) Also greater attention needs to be paid to the rural-folk, tribals and minorities so that they do not engender a feeling of neglect. An unsympathetic
handling of their problems by the courts and members of judiciary could alienate ethnic, rural and poor people from the mainstream society. No society can afford to land up in such a situation. Indians have to be more cautious in this respect because of reasons which are quite obvious.