Chapter 3 has set the economic and social parameters for late nineteenth-century and early twentieth-century society, in which inequalities resulting from unequal access to resources created a highly stratified structure characteristic of pre-industrial peasant societies. This was strengthened by the colonial framework, which also engendered ethnic hierarchies. Conflict was not limited to strife between ruling and subject populations, or between ethnic, linguistic or religiously defined groups. It could potentially challenge the communal cohesion of any interest group, including the household, kin group, neighbourhood or mosque community, but conflict could also threaten dyadic relationships of all sorts, including that between husband and wife. This chapter looks at mechanisms of conflict resolution at all these levels, as well as the ideologies in which these were embedded; particular attention will be paid to discourses on gender and the concepts of insider—outsider. Aspects of social control will be considered from the perspective of legal pluralism, privileging the role of informal mechanisms. It will be shown that conflicts and the mechanisms mobilized to control and regulate them necessarily draw attention to community boundaries and to efforts to challenge, dislocate and reconstitute them.

Historians of Xinjiang present pre-socialist dispute management as essentially governed and informed by two normative systems: state law (imperial and, later, republican) and Islamic law. Authors commenting on this duality note that civil cases involving Muslims were dealt with in Islamic courts, which were only abolished in the 1950s, and only criminal cases such as murder and treason or lawsuits involving Muslims and non-Muslims were taken to the Chinese magistrates. There is some evidence that the number of the latter was not small; however, to date we know very little about the functioning of these courts in Xinjiang.

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1 For an overview see Roberts 1994.
3 Laura Newby, oral communication.
Similarly, the functioning of Islamic courts in the region has not been studied. Sporadic evidence suggests that the opening of local archives could shed light on these issues, since court proceedings were recorded, but given the limitations on archival research in the region, such a study is not yet feasible. This chapter offers an introduction to some aspects of social control and argues that the historians’ binary model is insufficient. Codified normative systems representing the state and Islamic law undoubtedly played an important role in managing social life, but alternative mechanisms were also at work; conflicts were often settled by mosque community elders, and informal conflict management was governed by a number of unwritten rules.

Following the definition proposed by legal anthropologists, I suggest that this set of social rules should be called ‘customary law’, or ‘local law’. Although definitions vary in detail, they agree on the point that legal systems are essentially ‘bodies of norms’, and they recognize the existence of normative orders outside state law in many societies. Legal anthropologists depart from the narrow, étatist definition of law, which acknowledges only those systems directly bound to, created by and appropriated by the state. Instead, they propose a much broader definition, which goes beyond state legal systems to include ‘non-state normative orders’. This approach assumes that most societies display a degree of legal pluralism and conceives of law as a contested field in which state-based and non-state-based normative systems co-exist, often in competition with each other. The framework of legal pluralism is particularly useful when discussing aspects of social life among the Turki population, because indigenous discourse on social organization invariably interpreted concepts of rights and obligations as religious and moral categories, rather than legal ones. Isolating customary or local law from mere custom remains a problem. Josselin de Jong, after pointing out the confusion in the definition of legal pluralism, went so far as to suggest that the term should be altogether abolished. However, dispensing with the term does not eliminate the idea behind it.

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4 I have recently learnt about the accidental discovery of hundreds of legal documents by the Japanese historian Jun Sugawara in Kashgar. The documents are still awaiting detailed study.
7 Woodman 1999: 8, 11.