



Project Report

Capacitating Local Jirga (Alternate Dispute Resolution) Members for Speedy Justice and Rule of Law: A Case of District Dir Lower



Experts in Management & Social Sciences

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Background: Justice for all should be a universal slogan and there needs to be a global approach to actualize the sentence from “justice must not only be done but should also be seen to be done”. For a prosperous society rule of law is the sine qua non as it encourages fair play and is viewed as a fundamental principle for economic and human development. It is considered that the rule of law determines the direction and pace of economic and human development as the safety of subjects in law, protection of fundamental rights, and property rights, have a key role therein. Suffice it to say that this is increasingly becoming one of the most disregarded concepts more so in our continent, especially in Pakistan. At the moment Pakistan in the World Justice Project Rule of Law Index-2021 is 130 in the list of 139 countries which is a matter of serious concern. Adherence to the rule of law must be the most prominent aspect of our collective life that helps us in combating poverty, addressing the menace of corruption, and promotes fair play all around.

After seven decades of achieving independence from British Raj, Pakistan is still considered one of those countries where Rule of law is but a far cry. This is evident from the pendency of cases in Pakistan. There are 2.16 million pending cases (as per the available data of 2021) of which 51,138 case are alone in Supreme Court of Pakistan. At present there are only 17 judges in the Supreme Court. It means, if one case is disposed off in just one day by each justice, then even the existing backlog will not be cleared in next 15 years. This huge pendency has badly affected the timely justice to the litigants.

Main reasons of this pendency are procedural and substantive technicalities. Moreover, it is also worth-noting that Pakistan is one of the most expensive countries in terms of getting one’s legal suit get resolved. Poor dispensation of justice needs serious attention. There is a consensus that the country’s costly justice system is at the brink of collapse calling for an urgent need to reform the entire judicial system.

Looking for alternatives, one can easily find a less time consuming, less expensive, and speedy mechanism in the form of Alternate Dispute Resolution (ADR)—Local Jirga—is available that can play a potential role to supplement the judiciary and make it more effective. Jirga system has long tradition in the country, though it has weakened over a period of time due to lack of attention of the government.

ADR (Jirga) is not a “Res integra” means an entirely new concept in the extra judicial domain of Pakistan. It is as primitive as the State itself and can be commonly found in the rural areas of the country. People in Pakistan, for years, have been forwarding their cases to Jirgas and the decisions of the Jirgas are honored. Majority of the civil disputes and family cases are resolved by these Jirgas and has taken the shape of a de-facto law. Though technical aspects of Jirgas and ADR does converge, however, it would be inaccurate, since Jirga do not possess the concept of due process, e.g., there is only oral hearing and oral verdict, no rules on admissibility and collating of evidence, etc. are taken care of.

Jirga system is almost well-established and is commonly employed as a speedy dispute resolution approach. Jirga has established itself because it is less time consuming, less expensive, and easily available mode of dispute resolution. Parties always enjoy win-win situations as decisions are made on mutual agreement rather than dragged into a court of law for justice. The parties avail prompt benefits of the decisions as it is implemented at once. Notwithstanding, the fact of the matter is that in many instances, it happens that members of the Jirga, due to lack of basic legal knowledge in cases where technicalities are involved, happen to decide disputes and give their verdict against the fundamental human rights. When such decisions are challenged in courts, the courts strike them down by declaring that due process of law has not been followed. Besides, violation of basic human rights in some cases is also observed. These cases bring bad name for the Jirga members and tarnish their image which make them less valuable for dispute resolution in future.

Keeping the importance of Jirga as ADR and lack of knowledge on the part of the Jirga members regarding due process of law, there is a need of capacitating these members in terms of fundamental rights and legal process.

As capacitating of Jirga members all over the country will not be too ambitious, it will be more feasible to select a single district as a pilot project. The selection of this pilot project needs to be based on a number of reasons (e.g., Jirga has strong roots, people have trust in its decisions, Jirga members are commonly known persons, community is well-cohesive, and a greater number of cases are being presented to Jirga, etc.). Keeping these reasons in mind, District Dir Lower has been selected as a pilot project. Furthermore, the pending cases (5,235 cases in courts) in the target district is also a good point to address the problem here. Recent incidents in the area have been found to be the product of these unresolved disputes in which more than 50 persons have lost their lives in the last six months. In the cultural milieu of the area, this has strong potential of spiral effects in the future. One of the main reasons of these disputes have been found to have roots in land disputes. Unfortunately, there is no land settlement and hardly exists any official land record here. In all these circumstances, it is critically important to work here with more concerted efforts.

The objectives of this pilot project are:

1. To capacitate the existing Jirga members in dispute resolution; and
2. To improve the efficiency and effectiveness of the Jirga members.

Project Output/Outcome and Implementation Strategy

Output: Selected Jirga members sensitized/capacitated in fundamental rights and legal process (82 Jirga members (2 from each union council-total 41 union councils) has been be sensitized and capacitated. Output has to be measured by the following indicators/activities:

Indicators	Target
Number of Jirga members meeting minimum criteria identified	123
Number of Jirga members whose capacity have be assessed (on fundamental rights and legal process conducted).	82
Number of capacity building trainings on fundamental rights conducted.	7

Number of capacity building training on legal process conducted.	7
Number of Jirga members trained in fundamental rights and legal process.	82

Outcome: Improving the efficiency of existing Jirga in the target area. In order to measure the outcomes, the following indicators have been used.

Indicators	Target
Number of cases/disputes attended by the trained Jirga members during 2022.	600
Number of cases/disputes totally resolved by the trained Jirga members during 2022.	400
Number of cases/disputes partially resolved by the trained Jirga members during 2022.	100
Number of cases/disputes unresolved during 2022.	100
Increase in the success rate of disputes resolved by Jirgas	90%

Note: At present the success rate of Jirgas is less than 30%.

Strategy: A multi-pronged strategy has to be developed comprising of the following:

- The services of an expert have been hired for designing and conducting trainings for the local Jirga members;
- The services of local notables and teachers have been utilized for identification of minimum three potential Jirga members from each union council of the 07 administration units (as per annexure A);
- Two Jirga members have to be identified through rigorous assessment process, based on their knowledge/under-standing in the following areas:
 - Fundamental rights;
 - Legal process; and
 - Rule of law and justice.
- Trainings have been designed in line with the findings of the assessment mentioned above;
- In order to enhance the capacity of the selected Jirga members intensive training has been provided in local language (Pashto);
- The trainers were from the legal fraternity; and
- Each training has evaluated through a semi structured approach.

Project Duration: 06 Months

Annexure A (Administrative Units/Sub Units with their Respective Names)

#	Tehsil Name	Sub-Administrative Unit
1	Adenzai	Asbanr Khanpur Tazagram Ouch Kotigram Chakdara Badwan Khadakzai
2	Balambat	Koto Balambat Munjai Odigram Khazana Lajbok Malakabad
3	Khal	Khal Rabat Toormang Sherpalam
4	Lal Qila	Hayaseria Zaimdara, Lal Qila Gal Maidan Kotkey (Maidan) Bishigram
5	Munda	Mian Kaley Munda Gosam Shalkandi
6	Sarmar Bagh	Mayar Maskini Sadbarkali Samarbagh Kambat Darngal
7	Timergara	Timergara Ziarat Talash Norakhel Baghdoshkel Saddo Khungi Bandagai