Researching livelihoods and services affected by conflict

The role of local institutions in conflict-affected Khyber Pakhtunkhwa, Pakistan

Working Paper 60
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September 2017

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Cover photo: A Jirga in Swat, Khyber Pakhtunkhwa,
Pakistan. Credit: Urs Geiser

About us

The **Secure Livelihoods Research Consortium (SLRC)** aims to generate a stronger evidence base on how people make a living, educate their children, deal with illness and access other basic services in conflict-affected situations (CAS). Providing better access to basic services, social protection and support to livelihoods matters for the welfare of people affected by conflict, the achievement of development targets such as the Sustainable Development Goals (SDGs) and international efforts at peace- and state-building. At the centre of SLRC's research are three core themes, developed over the course of an intensive one-year inception phase:

- State legitimacy: experiences, perceptions and expectations of the state and local governance in conflict-affected situations
- State capacity: building effective states that deliver services and social protection in conflict-affected situations
- Livelihood trajectories and economic activity under conflict

The Overseas Development Institute (ODI) is the lead organisation. SLRC partners include the Feinstein International Center (FIC, Tufts University), Center for Poverty Analysis (CEPA) in Sri Lanka, the Afghanistan Research and Evaluation Unit (AREU), the Sustainable Development Policy Institute (SDPI) in Pakistan, Disaster Studies of Wageningen University (WUR) in the Netherlands, the Nepal Center for Contemporary Research (NCCR), and the Food and Agriculture Organization (FAO).

Acknowledgements

Acronyms and glossary
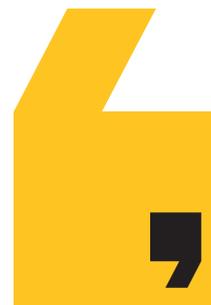
Acronymns

ADR	Alternate dispute resolution
BISP	Benazir Income Support Programme
CBO	Community-based organisation
DFID	United Kingdom Department for International Development
DNA	Damage needs assessment
FGD	Focus group discussion
GoP	Government of Pakistan
IDP	Internally displaced person
KII	Key informant interview
KP	Khyber Pakhtunkhwa
NGO	Non-governmental organisation
NOC	No objection certificate
PATA	Provincially administrated tribal areas
PCNA	Post-crisis needs assessment
PPPP	Pakistan People's Party Parliamentarians
PTI	Pakistan Tehrik-e-Insaf (Pakistan Justice Movement)
Rs.	Rupees
SLRC	Secure Livelihoods Research Consortium
SRSP	Sarhad Rural Support Program
UC	Union Council
UN	United Nations
USAID	United States Agency for International Development
VDC	Village Development Committee

Glossary

Aman Jirga	Peace assembly
Azaan	Call for prayers
Dera	Room within a household to entertain male guests
Hujra	Traditional community centres
Imam	Head of a mosque
Jammat Islami	Union of Muslims
Jirga	Traditional assembly of nobels
Khan	Tribal elder
Malik	Tribal elder
Mashran	Local elder
Masjid	Mosque
Moazzan	The one who call for prayers (Azzan) in the mosque
Mohalla	Neighbourhood
Nazim	Mayor
Nikah	Islamic marriage
Panchayat	Village council
Purdah	Veil
Qazi	Judge
Rawaj	Custom, tradition
Sharia	Religious law
Tal	Committee
Tanzeem	Local volunteer organisation
Tehsil	Sub unit of Administrative district
Usher	Tax payable by Muslim landlords on their crop production
Wali	Ruler
Zakat	Religious tax payable by Muslims above a certain wealth level, which is spent on the welfare of the poor

Contents

Abstract

Earlier studies (Shah and Shahbaz, 2015) have analysed how post-conflict relief and rehabilitation efforts by development partners in conflict-affected areas of Pakistan did not completely align with local realities, culture and traditions. Using this body of work on livelihoods after conflict as an entry point, this working paper seeks to examine the role of local institutions during and after the conflict, in order to inform and ensure the success of future relief and rehabilitation efforts.

Through focus group discussions and key informant interviews in Swat and Lower Dir districts of Khyber Pakhtunkhwa (KP), we collected the views of different sections of the community to gain an understanding of the power dynamics, social norms and influence of traditional local institutions, and how these have changed as a result of the violent conflict suffered in the region.

We find that locally evolved institutions and their social and cultural norms are central to people's identities and local governance in KP. Furthermore, the function of formal systems of government has been moderated and sometimes replaced by Pakhtun community and religious traditions.

While some local institutions became dysfunctional during the conflict, many regained their strength post-conflict, and had a role to play when the displaced returned to their communities. However, because aid agencies generally needed – or perceived that they needed – to work through traditional institutions in their relief and rehabilitation efforts, this resulted in a widespread view amongst communities of elite capture.

Through indepth panel studies such as those conducted by the Secure Livelihoods Research Consortium, humanitarian and development actors can better understand the local context, power dynamics and governance systems at play so that they can draw on the strengths of traditional institutions whilst respecting calls for inclusion, gender equity and accountability.

1   Introduction

Between 2007 and 2009, Swat and Lower Dir districts in the Khyber Pakhtunkhwa (KP) province of Pakistan experienced violent conflict[1] at the hands of Taliban militants, followed by military intervention by the Pakistan army. Both the Taliban occupation of Swat and the subsequent military operation are collectively referred to in this paper as a period of conflict. The military operation mainly concentrated on regaining control of Swat from the Taliban, as well as eliminating them from the adjoining districts of Buner, Shangla and Lower Dir. To avoid collateral damage, civilians were asked to leave their homes before a full-scale military operation began; thus, around 3 million local residents became internally displaced and took refuge in comparatively peaceful areas such as Mardan and Peshawar. After the military withdrew, people returned to their homes and the region shifted from social and humanitarian crises to a post-conflict situation (Nyborg *et al.*, 2012) due to the destruction of public and private infrastructure (Shahbaz *et al.*, 2012). And the situation became even worse in July 2010, when KP experienced one of the worst floods in its history, which resulted in further destruction of infrastructure and population displacement (Kurosaki and Khan (2011).

Aid agencies responded to the post-conflict situation rather rapidly, with a relief and rehabilitation operation started by national and international, multilateral and humanitarian agencies. A preliminary 'damage needs assessment' (DNA) was conducted in 2009 followed by a 'post-crisis needs assessment' (PCNA) in 2010 (Shahbaz *et al.*, 2012). As most of the development partners were external, they required the support of local institutions for their interventions to be successful. And yet Shah and Shahbaz (2015) indicate in a previous Secure Livelihoods Research Consortium (SLRC) working paper that these agencies did not attempt to fully understand the significance of informal (local) institutions in the context of relief and rehabilitation operation – despite the fact that many of them had to rely on local institutions (such as *Jirga*, traditional assemblies of nobels) and local leaders due to security concerns. The authors concludes that 'Keeping in view that elite capture is at times inevitable and will remain a challenge in these contexts,

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[1]   There is increasing discussion regarding the term 'violent conflict' to describe warfare, because 'conflict' can be non-violent too. According to this argument, the conflict in Swat and Dir was 'violent conflict'. For instance Bartlett and Miller (2012) attempted to distinguish violent and nonviolent radiclisation and argued that some types of radicalization develop into violence and others do not. In the context of KP many studies (Geiser, 2000a; Shahbaz et. al., 2013) have discussed conflicts between between local communiteies and government oficials over natural resource use (esp. forests) but such conflicts hardly turned into violence.

donor agencies need to invest more in a thorough understanding and analysis of local context and power relations, particularly the institutional landscape (informal and formal institutions)' (ibid.: 31).

Understanding the values, beliefs and institutions that are linked with war-torn societies is essential for rehabilitation interventions to be effective (Fischer, 2004). In this paper we use the term 'institutions' to describe 'a set of rules or humanly defined constraints that guide and shape human interaction' (North, 1990); in other words, the 'rules of the game' (DFID, 2001). These 'rules' can be formal (such as laws, regulations and contracts) or informal (such as social norms and conventions that emerge over time).

Further to this, Uphoff (1986; 1988) identifies institutions as a composite of behaviours and norms that persist over time, and groups them into ten levels from 'local' to 'global'. This paper focuses on local-level institutions, which – using Uphoff's terminology – are localities (i.e. sets of communities that have kinship or other connections), community (i.e. towns or villages), and groups (i.e. caste, *panchayat*/village council, local assembly and/or community associations). Usually people feel more connected and have a stronger sense of communal responsibility at these local levels than at higher district or sub-district levels, for instance, as there are greater opportunities for collective action and social mobilisation at the local level. It should be noted, however, that this requires effective, legitimate and trusted enabling institutions and/or a legitimate authority in people's lives.

The significant role of local institutions and their interaction in post-disaster and post-conflict situations has been underlined by the United Nations (2010) and many others (Berke *et al.,* 1993; Messer, 2003; Davidson *et al.*, 2006; Dahal and Bhatta, 2008). But there is much less consensus as to how such institutions can be shaped or influenced to become more effective or legitimate. The United Kingdom's Department for International Development (DFID, 2016) argues that effective and legitimate institutions support both state and non-state

institutions that provide security, justice, taxation and macro-economic stability, and maximise how equitable and accountable service delivery can contribute to legitimacy and state-building.

Little work has been done to study the role of local institutions in the conflict and post-conflict context of KP province in Pakistan, therefore this working paper addresses the following questions in an attempt to fill this gap:

- Which formal and informal institutions existed before and during the conflict in Swat and Lower Dir?

- What were the roles of local institutions before and during the conflict? How have these roles changed after the conflict?

- To what extent have donors – or, more importantly, aid agencies[2] – made use of these institutions during post-conflict relief and rehabilitation efforts?

- What role and access do women have within these local institutions?

Section 2 sets out our methodology, while section 3 provides further contextual information about the region under study, including descriptions of the two study districts (Swat and Lower Dir), the political structure in Pakistan and the Pashtunwali culture that is so important in KP. Section 4 presents the main research findings on important local institutions, describing the relevant functions and norms of these institutions, as well as changes following the period of conflict. Section 5 examines the marginalised groups that are excluded from participating in traditional institutions and section 6 discusses the approaches used by aid agencies in working (or not) with such local organisations and systems. We conclude in section 7 with a summary of the ways in which local institutions have changed or been restored in KP, and the implications for aid actors and initiatives.

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2   Donors and aid agencies are not necessarily the same organisation: donors are the source of financial resources for programmes, while aid agencies are more likely to be the implementing body. Sometimes they are the same, but frequently donors are bilateral and multilateral organisations (i.e. DFID, the United States Agency for International Development (USAID), the World Bank), and aid agencies are a government organisation (i.e. relief or health department) or a civil society organisation (i.e a formal non-governmental organisation (NGO), local community-based organisation (CBO), community volunteer organisation).

2 Methodology

Qualitative research was conducted in the conflict-affected Swat and Lower Dir districts of KP, using focus group discussions (FGDs) and key informant interviews (KIIs) as the main tools for data collection. Two Union Councils (UCs)[3] were selected from Swat (Charbagh and Khwazakhela), and a further two were selected form Lower Dir (Haya Sarai and Lal Qila). These UCs were also part of the first and second round of SLRC's panel survey conducted in 2012 and 2015, and were severely affected by the war between the Taliban and the Pakistan army (Shahbaz *et al.*, 2014 and 2017).

FGDs were conducted with both male and female respondents from the two districts (see Table 1). The number of participants varied in each FGD due to the size of the hamlets in each UC, however we ensured that each group adequately reflected the ethnic composition and economic tiers (land owners, community nobels, labourers, farmers, non-farm workers) of each hamlet. It was not possible to hold female FGDs in each of the UCs as local norms and cultural values dictate that women are not allowed to leave the house alone and are not permitted to talk to strangers alone either. Despite these restrictions, the information that we were able to collect from just seven female FDGs was valuable towards our gendered understanding of local institutions.

All FGDs included questions relating to important institutions, decision-making mechanisms, changes in institutions and the emergence of new ones after the conflict, and the inclusion/exclusion of women and other marginal groups within local institutions.

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3 The basic tier of political and administrative set-up in Pakistan, usually comprising three to six villages depending on the population size.

Table 1: Focus group discussions

	Number of participants	
	Males	Females
UC Charbagh (Swat)	11	8
	12	-
	9	-
	12	-
	8	-
	20	-
UC Khwazakhela (Swat)[a]	11	11
	10	8
	13	9
	14	-
	8	-
UC Haya Sarai (Lower Dir)	12	10
	8	-
	10	-
	11	
	14	-
UC Lal Qila (Lower Dir)	8	8
	8	8
	8	-
	8	-
	12	-

Notes: a) A female legislator from Swat helped to organise three FGDs in UC Khwazakhela.

KIIs were conducted with both male (n=19) and female (n=18) informants. These included local leaders, academics, NGO workers and government officials, with most of them falling into more than two of these categories. All key informants had adequate knowledge of the area.

The guiding questions for the KIIs related to livelihood activities, social and economic issues, influence of formal and traditional institutions, women's access to local institutions, and changes in the role of institutions after the conflict.

3 Context

3.1 The study districts

Swat

It is important to understand the geo-political and cultural contexts of the study districts. Both Swat and Lower Dir are mountainous districts of KP – but Swat has traditionally been a preferred tourist destination due to its mountainous landscape, lush green agricultural fields and lakes, and has been called the 'Switzerland of the region' (Government of KP, 2014). Its identity and culture has been shaped over several millennia under different regimes and through various forms of local and external rule.

The first ruler of the 'Princely State of Swat' was Miangul Abdul Wadood (reigning from 1918 to 1949), who introduced a modern development paradigm to the region by instituting the authority of the state to bring law and order in the Pakhtun tribal society (Sultan-i-Rome, 2008). Wadood developed a good infrastructure of roads, education and health facilities, and also introduced a system of judicial institutions based on a traditional code of conduct called *Rawaj* (customs) (Fleishner, 2011). His eldest son, Miangul Jahanzeb, became the ruler of Swat in 1949 and continued development-focused activities like his father (Sultan-i-Rome, 2010; Fleishner, 2011).

Swat became part of Pakistan in 1947, but maintained its sovereignty as a princely state until 1969 when it was merged within the North West Frontier Province of Pakistan, which was later renamed Khyber Pakhtunkhwa (KP). Today, Swat is 5,340 square kilometres in size, with an estimated population of 2.14 million.[4] The major ethnic groups in the district are, Pashtuns (Yousafzai clan), Kohistani and Gujjar tribes (PPAF, 2015a).

The economy of Swat is largely reliant on the agricultural sector, which is the main source of livelihood for its rural people. Land holdings are generally very small, and the main cultivated areas are in the south in Mingora, Barikot and Khwazakhela. Wheat, rice, maize, fruits and vegetables are the major agricultural commodities (GoP, 2014), with brown trout being the main aquacultural commodity (Yaqoob, 2002).

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4   http://ppr.org.pk/PDF/District%20Profile%20Swat.pdf

Lower Dir

Dir was also an independent state (under the rule of Nawab Shah Jehan Khan) at the time of Pakistan's independence in 1947, and, like Swat, maintained its sovereign status until 1969 when it was declared a district of North West Frontier Province in Pakistan (now within KP). It was divided into Upper Dir and Lower Dir districts in 1996. Lower Dir is also a mountainous district, but is smaller than Swat at 1,582 square kilometres and has an estimated population of around 1.3 million.[5]

The majority of people in Lower Dir are poor, and are highly dependent on remittances sent by other family members living abroad or in the big cities of Pakistan. Agriculture is also one of the main sources of livelihood in rural areas of Lower Dir (PPAF, 2015), with wheat, rice and maize forming the main crops.

The biggest ethnic group in Lower Dir is Pathan (also called Pukhtun or Pashtun), but with a large variety of sub-tribes and clans (PPAF, 2015a)). Aside from these Pakhtuns, there is also a significant population of ethnic Punjabis who settled in the area centuries ago as tradespeople. Most identify as Muslim, while many follow Sikhism, Hinduism and Christianity. Dir is considered a sensitive area in terms of extremism, with many religious groups (Muslim sects) and religious parties having taken root here (Akram, 2010).

3.2   The political structure

Pakistan's political history is tainted by martial law and military-backed governments. In the 70 years since the country gained independence in 1947, Pakistan has been under a dictatorship for more than 33 of those years. The government is divided across three tiers – federal, provincial and local – with local government representing the lowest tier. Martial law and the local government system have a unique relationship in Pakistan.

The military dictators, starting from General Ayub Khan (1958-1971) to General Pervez Musharraf (1999-2008), curbed political parties and activities at federal and provincial level and introduced their own political base at local level. This created a gulf between democratically elected governments and the local government system, which was run and supported by the serving General. While there were some new entrants to politics through

this system, almost all (bar those nominated on reserved seats for labourers and non-Muslims) belonged to influential families or tribes, and played an active role in informal local institutions such as *Hujra* (community centres) and *Tanzeems* (volunteer organisation).

After the general elections of 2008, the Pakistan People's Party Parliamentarians (PPPP) government took over from General Musharraf. At that time, district governments were in place with elected *Nazims* (mayors) in charge of district affairs (although defunct in most cases due to the threat from militants). The tenure of local governments finished in 2010 in KP, following which there were no local government elections until 2015 due to an order from the Supreme Court.

During this five-year period there was no local government, and the powers of district mayors were given to district coordination officers. Thus, the local government – which is responsible for service delivery at local level – was run by district government officials rather than local elected representatives. These years were crucial for rehabilitation and relief efforts following the conflict, and therefore the absence of local government created a missing link between development/humanitarian workers and representatives of the local community. Furthermore, it increased the exclusion of marginalised groups who could have been represented at the local level through reserved seats for youth, women, labourers and non-Muslims. In the absence of an elected local government, aid agencies had to work instead with the military and civil bureaucracy at the local level during the post-conflict recovery period.

Since the local elections in 2015, KP has had functioning local governments that encompass district, *Tehsil* (sub unbit of administrative district), town and village neighbourhood councils, with reserved seats for women, peasants and other minorities. It should be noted that independent election observers highlighted a major issue in the lack of qualifying criteria for such reserved seats, however. As a result, a number of candidates were nominated for peasant, labourer and other minority seats, even though they did not belong to these communities (FAFEN, 2015).

3.3   The Pashtunwali culture

'Pashtunwali represents a standard course of action for a Pashtun which has been historically constructed,

shared, and agreed upon to be collectively followed by the society' (Junaid, 2007: 5). A good Pashtun (or Pukhtun – the largest ethno-linguistic group in KP) is commonly perceived as one who lives and acts according to the standards of a traditional code of life. This concept forms the central values of an individual and directs his/her behaviour in Pukhtun society, and represents the epitome of Pukhtun moral and juridical standards. The code obligates Pukhtuns to display certain characteristics such as hospitality, and to provide protection when needed.

When asked about the main characteristics of local people, most respondents replied that hospitality, self-honor/dignity, cooperation with each other, revenge and religion are the general features of Pashtunwali. Women's modesty is a symbol of honour for the family, and women should not take any steps that will undermine this. Women are expected to cover their body and face with a *Purdha* (veil), and are not supposed to leave the house without being accompanied by a male family member. They are excluded from public decision-making forums such as *Jirga* (assembly of nobel) and other committees.

'Hospitality and love are the strengths of our people, we cooperate with each other. We help each other during the burial of the dead and rituals of mourning. We get together during festivals, and when any other issue arises they get together for the resolution of the issue. Three eminent and most important elements of people (local culture) of this area are: unity, interconnectedness and helping each other. We are also obliged to provide sanctuary if someone demands it, even if he is our enemy.' (male respondent, Swat FGD)

Most of respondents from our KIIs and FGDs considered the main characteristics of Pukhtun culture as being that of interconnectedness, mutual cooperation, hospitality, offering shelter, dignity, self-respect, respect for elders, modesty of women, religion and revenge.

Central to these cultural elements are specific local institutions that form the foundation for Pukhtun community life and identity, which are described in section 4.

4 Important local institutions

The Pashtunwali culture informally defines the mandate and working norms of different local institutions present in Pukhtun society. Some of these institutions, like *Jirga*, became weakened or dysfunctional during the violent conflict. However, the relevance of such institutions to the lives of local communities can be gauged from the fact that many were revived in one form or another after the conflict. Reconstruction efforts also provided an opportunity for different aid agencies to seek to 'reform' some of the local institutions, sometimes with an emphasis on including previously excluded groups, such as women.

This section gives a brief account of selected local institutions (in order of their importance according to community members), and describes how they were affected during and after conflict.

4.1 *Masjid* (Mosque)

Masjid (mosque) is one of the most powerful community-level institutions in Pukhtun society. The local role and authority of a mosque depends upon which Islamic sect the local population follows – i.e. Sunnis and Shias, with Sunni mosques addtionally subdivided into Wahabis, Deobandis and Bralevis. Similar to the *Jirga* and *Hujra* (traditional community centre), mosques are 'men only' institutions. Muslim men are required to offer collective prayers in mosque five times a day, while women offer their prayers individually in their houses (with the exception of the Holy Mosques of Makkah and Madina in Saudi Arabia where women offer collective prayers besides men).

In addition to daily prayers, men also gather in mosques to resolve conflicts and other social or economic issues. An *Imam* (head) of a mosque enjoys a well-respected status in Pakhtun societies, and is usually qualified from the seminary of his sect as a local religious leader. A *Moazzan* (person calls for prayers) recites a call for prayers (*Azaan*) at prescribed times of the day and the *Imam* leads the prayers. Besides teaching the *Quran* to the community children, the *Imam* also performs *Nikah* (Islamic marriages) and leads funeral prayers. In larger mosques, weekly Friday-afternoon prayer is offered, where the *Imam* gives a public sermon to a large gathering of male community members. The *Imam*'s decree about anything being 'Islamic' or 'Un-Islamic' and 'blasphimic' carries weight with community members. As all his time is devoted to performing religious rituals, an *Imam*'s living expenses are usually taken care of by community members, and the community often gives land to the Imam's family also.

During a FGD in Swat, a respondent described the importance of the *Imam* as a mediator of social issues: '*Masjid has an important role in our society. On being called by the Imam, people gather here and discuss and resolve their social issues*'. Respondents revealed that minor conflicts arising between people within a family or *Mohalla* (neighbourhood) are usually discussed here, and both parties are involved in discussion and decision-making along with the *Imam*. However, major disputes are usually not addressed in a mosque. Rather, people prefer the *Jirga* and/or formal courts. '*Sometimes a dispute becomes serious and then people prefer to go to Jirga, police stations and courts for the resolution of issues and problems.*' Whenever there is an issue, an announcement from the *Imam* is enough to gather people in the mosque, where *Jirgas* are sometimes held.

According to a female key informant in Swat, '*We believe that no Muslim can tell a lie in the mosque. This is place where everyone has to speak the truth. Those who tell a lie in the mosque invite Allah's wrath. ... whenever there is an issue, the local elders decide it in the mosque. If any organisation or government agencies want to implement any project or decision, they take the local elders into confidence and then request the Imam to call for gathering in a particular place (mosque, hujra or dera)*.'

Post-conflict changes

In the post-conflict setting of Swat and Lower Dir, we found that some mosques lost their traditional influence on the lives of local people, as certain *Imams* were perceived to be close to the Taliban leadership. Some respondents reasoned that, during Taliban rule, '*Some Imams had openly supported them and helped the militants in identifying their opponents. During the military operation, many of such imams were interrogated and many went in hiding.*' Some *Imams* openly or tacitly supported militant groups, which created tensions within the community. Furthermore, while mosques (and *Imams*) make for an effective way for aid agencies to reach communities, there is a risk of supporting *Imams* who are pro-Taliban and where funds are likely to be misused.

For the most part, mosques and seminaries support specific social goals, and subsequently there is the potential for productive cooperation with aid agencies. One such example is the polio vaccination campaign

in KP, which has faced violent opposition from Taliban groups, with dozens of vaccinators having been assassinated by militants during the last two years. There are also instances where parents refuse to get their children vaccinated, which makes it extremely difficult for Pakistan to be a polio-free country.[6]

In an attempt to resolve this, law enforcement agencies have tried to protect vaccinators, and political actors have tried to secure support from the *Imams* at local mosques. In June 2016, the Pakistan Tehrik-e-Insaf (PTI, Pakistan Justice Movement) government in KP allocated 300 million rupees (Rs.) (approximately US$3 million) to a religious seminary, Darululoom Haqqania, which caused concern as there have been claims that this seminary is linked to the Haqqani Taliban network. Defending this move, the head of PTI, Imran Khan, elaborated that when the Taliban opposed the anti-polio campaign and were killing polio workers in the province, Maulana Samiul Haq (the head of Darul Uloom Haqqania) supported him and launched a polio-immunisation campaign.[7]

The polio campaign is one example of how mosques can endorse social development initiatives, and so it is feasible that this support can also be sought for other programmes. *Imams* can also play an important role in local/provincial politics, exerting their influence during elections and canvassing for candidates from religious political parties. Indeed, KP is the only province where a religious political *Jammat Islami* (Union of Muslims) had enough elected legislators to join the provincial government as a coalition partner with the PTI.

4.2 *Jirga* (Assembly of elders)

Jirga is a major traditional institution, and is unique in the social life of Pukhtuns. An assembly of elders (called 'White bearded elders') for dispute settlement and decision-making for public and sometimes personal affairs, *Jirgas* play an important role in conflict resolution in Pakistan (Fakhr-ul-Islam *et al*., 2013). They can range from four to five people to a large assembly depending on the nature of the issue under discussion. Members of the *Jirgas* are normally tribal chieftains, nobles and notables of society, scholars and elders of good repute in the locality.[8] Generally, *Jirgas* are perceived to be politically neutral, and are convened whenever a dispute or public issue arises.

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6   Polio was reported to be completely eradicated in Pakistan and then reemerged in a few locations in recent years.

7   See http://www.dawn.com/news/1266524.

8   *News on Sunday* 24/05/2015, available at http://tns.thenews.com.pk/the-new-jirgas-dispute-resolution-councils-in-kp/#.V-EIofI97IU

Historically, the central role of the *Jirga* in local governance was decided by the first *Wali* (ruler) of Swat, to allow *Jirgas* within Swat to formulate their own laws or codes of conduct. However, the different local codes resulted in inconsistent justice provision across Swat (Sultan-i-Rome, 2006). The varying Pashtunwali codes of conduct also existed alongside *Qazi* courts (Islamic courts headed by a *Qazi* or judge), which applied *Sharia* (religious) legal interpretations. In cases requiring the judgement of the *Wali*, the rulers of Swat would use the Pashtunwali to resolve disputes (Fleischner, 2011). In practice, this meant that *Sharia* law was subservient to Pashtunwali, which was then subservient to the political requirements of the *Wali*. The *Qazi* courts were therefore replaced by a four-man *Jirga* system at the *tehsil* level (administrative division) by the 1975 Provincially Administrated Tribal Areas (PATA) Regulation, but these met infrequently (ibid.). In 1992 *Jirgas* lost their official recognition to resolve disputes, but as is frequently the case with traditional institutions, they maintained their *de facto* importance amongst local communities, albeit without written rules and regulations (Yousafzai and Gohar, 2005).

Since 2014, the provincial government (civil administration) has tried to give *Jirgas* quasi-legal status through the formation of Dispute Resolution Councils (DRCs). In May 2015, there were at least 30 lawyers, 65 retired civil/army officers (including a retired major general, brigadiers, colonels, secretaries, special secretaries, deputy secretaries), a police general, 39 education professionals (retired vice chancellors, principals, head teachers and teachers), 21 businessmen, 13 doctors, 64 social workers, 72 local elders, and many more from civil society contributing to the work of the DRCs.[9] A more recent development is the approval of the Alternate Dispute Resolution (ADR) Bill by the National Assembly of Pakistan,[10] under which 'neutral' mediators are appointed by the government to settle disputes (Warsi, 2017). According to news reports, the purpose of this bill is to give legal cover to *Jirgas*,[11] however provincial governments still have to approve the bill as civil laws fall under their jurisdiction.[12]

The decisions of *Jirgas* – especially on property/land distribution issues – has a direct bearing on access to livelihood resources within a community. While Pashtunwali requires that individuals and households accept the decision made by the *Jirga*, the parties to a dispute may object to one or more members of the assembly, in which case they are usually replaced with neutral individuals. In order to reach a fair decision, it is essential for there to be an odd number of neutral members participating in the *Jirga*, and the disputed parties must agree on the assembly's composition.

'Jirga resolves issues and disputes between two people and/or groups and the decision of a Jirga is the final and ultimate in our community. The Jirga gets the authority from both parties. If the Jirga is aware of the context of the dispute and knows who is right and who is wrong, then it make 100% correct decisions but if it is not sure (of the facts) then it negotiates with both the parties to reach a compromise.' (Male respondent, Lower Dir FGD).

Most of the participants of the FGDs acknowledged the authority and role of a *Jirga* in decision-making and dispute settlement. As one male respondent in Lower Dir stated:

'The Jirga has an important role in the lives of people and its members are sincere with people, resolving their problems through collective wisdom. The Jirga is the ultimate institute here for decision making'.

Similarly, a male respondent in Swat commented, '*We resolve our issues regarding land, property and sometimes those regarding business through Jirga system*'.

Others expressed that the *Jirga* system is a cheap and easy way for dispute settlement. 'Jirga is a system of dispute resolution and within the access of each member of the society. It's a traditional institution to solve the problems of the people. We are positive about it.'

Another respondent commented, '*We have resolved many cases through the Jirga system; about 300 cases and therefore we want to keep our old system of Jirga. This is the strength of our community*'.

Jirgas versus formal courts

Another factor regarding the acceptance of *Jirgas* by the local people is the long and expensive bureaucracy

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[9]   *News on Sunday*, 24/05/2015 available at http://tns.thenews.com.pk/the-new-jirgas-dispute-resolution-councils-in-kp/#.V-EPTvl97IU

[10] https://www.dawn.com/news/1312498/na-passes-bill-giving-constitutional-cover-to-jirga-panchayat-systems

[11] https://www.dawn.com/news/1312968/legal-cover-for-jirgas; and
      http://www.pakistantoday.com.pk/2017/02/04/national-assembly-approves-landmark-jirga-bill/

[12] https://www.dawn.com/news/1312498/na-passes-bill-giving-constitutional-cover-to-jirga-panchayat-systems

of formal courts.[13] Formal courts are over-burdened with pending cases, and very often the counsels are not available and lower courts defer hearings. After a long and cumbersome process, a case may be decided in the lower court, but it can be immediately challenged in the middle courts, High Court (at provincial level), and at Supreme Court (at national level). As many people prefer to resolve their issues through the *Jirga* and avoid formal courts, further problems can arise in implementing any formal decisions.

'The Jirga system is important for people because it has an important role in the life of people and most of their issues are resolved by this institution. The people are satisfied with jirga because they understand that the (formal) courts are a wastage of time and money. Informal institutions (Jirga) which may provide speedy justice are good for them.'

Gender and inclusivity

Many men in the study area (especially in Lower Dir) considered women's participation in decision-making as unnecessary. They expressed that there is no room for women in *Jirga,* but, at the same time, most were also of the view that women should have their rights protected and enforced through the *Jirga.*

'Women are not participating in these systems because there is no need for them (as) they are receiving their rights from their men.' (Male key informant, Lower Dir)

'Women have no need to bring and resolve their problems outdoors (as) the Jirga system of the males takes care of decision making.' (Male respondent, Lower Dir FGD)

'Women are neither included in decision-making, nor they have their own Jirga system. They have no problems because they stay at home and don't need such (forums).' (Male respondent, Swat FGD)

It is interesting to note that the perceptions of female respondents from our FGDs and KIIs are somewhat different to male respondents:

'The Jirga members are powerful and rich people of the community. Some are selected on the basis of their political affiliations.'

'Women are not the members of Jirgas and they are not allowed to go there.'

'Women are not included in decision-making; they do not have their own Jirga system.'

'The members of a Jirga belong to three different households and they are well established socially and economically. They are from notable families.'

'Jirga members are strong and powerful people of the community, so other people tend to be scared of them.'

'Women can play a vital role in the decision-making process. Mostly the decisions (about women's affairs) are made by the men (within a household or through Jirga). However, women can understand women better, hence they should be in the Jirga.'

When asked how women manage their disputes, a female key informant in Lower Dir stated: *'Given the fact that women (in Lower Dir) have restricted mobility, most of the disputes in which women are involved are domestic. The dispute between two women of a family is often resolved by the elderly women of the family (usually mother or wife of the head of household). Disputes between a woman and a man, on domestic issues, is resolved by the elders of the family. Disputes between a woman and a man on property ownership etc., are often decided by Jirga.'*

Commenting on the situation, another female key informant remarked that traditions and norms requiring women to be confined within their homes have to change. *'Women should be allowed to participate in decision-making. Under current conditions even the decision of choosing a husband is made by male family members. This rule and mindset should be changed. To strengthen women's roles in the community we should give the right of decision-making to women. We should provide education to them and let them represent the community.'*

A few male key informants also had reservations regarding the treatment of marginalised groups by the *Jirga*. One key informant stated: *'A Jirga has an important role in the lives of people but sometimes it does not provide justice when an issue arises between the wealthy and the marginalised; the marginalised are discouraged (and asked to*

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13   There are lengthy delays in Pakistani courts, which discourages their use, except when court proceedings are absolutely required. Often these delays serve more powerful interests, which benefit from 'non-decisions' that maintain the status quo. Not only are courts used to lengthen land and contract proceedings, but litigation itself is used as a tactic to undermine the provision of justice (USAID, 2008).

compromise) in this case'. According to respondents, marginalised persons cannot become members of a *Jirga* because they are not economically stable and cannot influence people to follow their decisions and advice. Such views are discussed further in section 5 of this paper.

Changes during the Taliban occupation

During the Taliban rule, the *Jirga* system and formal courts were abolished and replaced with so-called 'speedy justice' (*Sharia* courts or religious courts). They appointed a Taliban leader as *Qazi* in most localities, and mainly focused on larger public-level issues rather than micro (household or community) issues. One male respondent elaborated on the vacuum created due to the dysfunctional judicial system:

'*Some big issues and cases were resolved by the Taliban, but not more than that. People were accepting the decisions made by the Taliban. The courts were also not effective at that time, as the Taliban were in power therefore they forced their decisions through might and duress.*' (Male respondent, Lower Dir FGD)

Another commented:

'*During Taliban rule, the Jirga did not exist because the Taliban were making decisions for the people. They were making decisions and the people had to accept their decisions. The Jirga and other official (judicial) systems were not effective at that time so people had to go to Taliban for their dispute settlement.*' (Male respondent, Swat FGD)

Post-conflict changes

The *Jirgas* were generally revived after restoration of peace; however, where once *Khans* and *Maliks* (tribal elders) had a strong influence in composing the *Jirga*, the army also now has a say in their constitution. Furthermore, the army has set up *Aman* (Peace) *Jirgas* and *Grand Jirgas*, to ensure peace in the community and to counter militancy.

The setting up of a *Grand Jirga* (comprising elders of each tribe from the larger Union Council administrative unit rather than one village) is perceived by many respondents as an alternative to a formal court:

'*Another new system in the UC Charbagh is the Grand Jirga system and there are 5 members (elders of each*

tribe) in this Jirga system. They are resolving the conflict between the people and have a great role like the High court.' (Male respondent, Swat FGD)

Aman Jirgas or Peace Committees are also established at the UC level, and are seen as vital in maintaining law and order in the districts. Members are appointed by the military or police in order to deal with security issues and to bring peace in an area, with the government giving them authority for out-of-court arbitration. FGD and KII respondents typically commented:

'*After the conflict, we have a system of Aman committees and the members of these committees are nominated and selected by the army. They are responsible for decision-making and resolving the issues in our community. Their decisions are implemented because the have support of security forces. They resolve the problems regarding criminal and civil issues they are also resolving the problems regarding property and ownership.*' (Male informant, Lower Dir FGD)

Commending the role of the Peace Committee, another participant said: '*After the conflict we now have the new system ... and they are very quick in decision-making and resolving problems. They are resolving the main problems in our community. They are selected by the army and (backed by military) they have the authority to influence the people in decisions. The Jirga system also exists here but the Peace Committees have the authority and therefore people resolve their issues with their help*' (male respondent, Swat FGD).

Female key informants were also aware of Peace Committees, their mandate, and the fact that they are a modified form of *Jirga*: '*Peace committees emerged after the conflict. Mashran (Local elders) were called by the army and they suggested some of the names who became peace committee members*' (female respondent, Swat KII).

Although members of *Aman Jirgas* became Taliban soft targets after the conflict, they enjoyed the support of law enforcement agencies and often exerted their authority to settle disputes in the study districts. As one FGD respondent in Swat stated: '*Earlier we called the Taliban leaders "Ameer Sab" and now we call the head of peace committee "Sir"; this is the difference and I cannot see any other differences in them (as later also tend to impose their decisions like Talibans)*'.

4.3 *Hujra* (community centres)

Hujra is a public place where most *Jirgas* are held. The *Hujra* is a centuries-old institution in KP, and involves the mixing of public and private spaces within local culture. It is a type of community centre with guestrooms and some basic amenities, where the villagers (only men) meet almost every day to discuss their daily affairs. Social events such as marriages, funerals and engagements are also held at a *Hujra*.

The physical space and structure of a *Hujra* may belong to a tribe, a family or an individual, and there may be more than one *Hujra* in a village. Ownership is a symbol of influence and respect in Pakhtun society, with the tribe, family or individual owning the *Hujra* usually being well-connected politically, and having some say in day-to-day matters of the community. The presence of more than one *Hujra* in a community indicates the influence of more than one family, tribe or individual in a locality, which at times (not always) means competition between different owners.

Any well-informed aid agency representative coming to a village in KP would visit the *Hujra* belonging to the most powerful individual, family or tribe in the village and discuss possible interventions. The *Jirga* will identify the most deserving families in the community during relief and rehabilitation efforts, and the views of the *Hujra* owner matters significantly in such decisions.

Communities may also meet in a *Dera,* which is a men-only room in a private residence. *Deras* are similar to *Hujras*, but admission is through the permission of the owner of the residence only.

Highlighting the importance of *Hujra,* male respondents commented:

'The Jirga is held in a Hujra. Both of them play an important role in our life (through their influence on decisions made).'

'Hujra is one of our oldest institutions, which is still a must to keep our social fabric intact.'

'The Hujra and Dera are important because the people gather (t)here, discuss their problems with each other and resolve their issues instantly. This system is very important in our life.'

Post-conflict changes

Similarly to *Jirga,* the institution of *Hujra* was also affected during the conflict. One key informant from Swat explained:

'Before the conflict there were the Dera and Hujra systems but during the conflict they were affected and were made dysfunctional because of the threats of death (to the community notables) due to the security situation in our district (Swat). At that time the army did not give permission for the accumulation of people at one place.'

Another respondent held similar views:

'During the conflict (military operation) the Hujra and Jirga systems were not effective. The people were thinking of saving their lives and fleeing away.'

However, once the conflict was over and people started returning from camps, *Hujra* were not only revived quickly but also played an influential role in the selection of beneficiaries by aid agencies. For short-term relief operations, representatives of aid agencies had no choice but to work through local focal points, given their own lack of contacts in the area. And this meant that officials usually met with the local *Khans* or *Maliks* in their *Hujras*.

The process of aid agencies obtaining a 'no objection certificate' (NOC) from the government and army to work in an area was complex and lengthy. As a result, aid agencies tried to reach beneficiaries as quickly as possible once they were granted access, which was through local elites who could be identified through *Jirga* and *Hujras* (Shah and Shahbaz, 2015). Operating through these focal persons had its own limitations, of course, especially regarding issues of inequality and favouritism from excluded members of the community.

The (perceived) necessity for aid agencies to work through *Jirgas* and *Hujras* meant that there were dissonant views on the process. An earlier SLRC study (Shah and Shahbaz, 2015) on perceptions of aid interventions in Swat and Lower Dir indicates that the majority of people interviewed from both districts were critical of the strategy of selecting focal persons to identify aid beneficiaries. For example, one respondent stated: '*although they (focal persons) were entering the names of all affected persons the priority was given to those who were their relatives'* (ibid.: 19).

Other interviewees made a similar point: '*In fact many people benefited from these interventions and we don't deny it, but the basic issue was that they [aid workers] have not conducted a survey but usually khans and influential persons used their personal relation for access to aid'.* (ibid.:19)

A female respondent from Lower Dir, who was also a beneficiary of aid, said: 'They [the focal persons] selected their own relatives and not anyone else. The donor agencies never knew about it'. (ibid.:19)

Another female respondent from Swat commented on the lack of information regarding the process: '*I don't know about the criteria, because no one informed me at the time of the intervention and my children are very young and can't go outside of the house to get information about aid'. (ibid.:19)*

Such comments clearly indicate flaws in the implementation process for relief interventions. *Hujra* is a public space, but not all sections of community has equal access. Gender norms restrict women from entering *Hujra*, and similarly the poor (who have fewer or no contacts amongst village elders) remain excluded from decisions about the distribution of aid that are made within the *Hujras*.

Following the end of the relief and rehabilitation phase in KP, *Hujra*s are gradually changing towards places for entertainment. According to one FGD respondent in Swat: *'Now our youngsters come and gather in Hujras for watching movies on TV. If there is no TV in a Hujra then people don't come here. They go where TV or other facilities are available'.*

4.4 *Tanzeem* (Local volunteer organisations or committees)

Other institutions emerged in KP alongside the traditional *Jirga*, *Hujra* and *Masjid*, that are more diverse in their origins and their functions in different communities. Because mutual cooperation and support is an important characteristic of Pashtunwali culture, village-level volunteer groups formed that function in largely informal settings. At times, these volunteers formally organised through their own initiative or specific funding agencies into *Tanzeem* (organisation), Village Development Committees (VDCs), or *Tal* (committees) (terms that are used interchangeably). These *Tanzeems* were fairly active before the conflict, became temporarily dysfunctional during the conflict, and were revived post-conflict.

The ability of these institutions to function during the conflict was severely circumscribed by the displacement of a large proportion of the local population, the threat of violence against anyone who opposed the militant groups, and an influx of the military and aid agencies into communities with their own agendas. What is notable about the deeply rooted nature of these institutions is how they were able to re-constitute themselves relatively soon after the return of most people to their communities.

Commenting on the state and role of these *Tanzeems* after the conflict, FGD and KII respondents stated:

'We have established a Tanzeem; the people of this village show solidarity with each other. Tanzeem plays its role especially in social gatherings, for instance, if someone dies in a family or if there is any marriage, the members of a Tanzeem collect money from the whole community and give it to the concerned family. All the arrangements are done collectively by the villagers. To sum up, they share each other's problems.' (Male respondent, Lower Dir FGD)

'We have established a committee for our community and there are 18 members in our committee. They make arrangements for the rites of burials (providing food to the mourning family for three days) and other ceremonies in our community.' (Male respondent, Swat FGD)

'Hospitality and cooperation are the strengths of our people, they cooperate with each other through "Tanzeem". They help each other for the burial of the departed and other ceremonies of mourning. They also get together in the time of festivals and when any other issue arises.' (Male respondent, Lower Dir KII)

Like other local institutions, *Tanzeems* are under the influence of local and political elites, however. Although membership is comparatively more inclusive, decision-making remains with those who belong to influential families and tribes.

Mosque committees

Mosque committees can be found in almost every village. These are voluntary organisations and more inclusive in nature, but are usually headed by the noble elder of the community with members who are regular attendees of the mosque. The mandate of mosque committees is limited to maintaining services and infrastructure at the mosques, financial management of mosque funds, and

important decisions (usually around religious matters) in consultation with the *Imam.*

Decisions regarding village committees are also made at the mosque: *'The NGO came here and established a committee for development work; the decisions were made by people in the masjid. The committee is responsible for the management of aid activities' (Male respondent, Lower Dir FGD).*

Gender and inclusivity

The majority of *Tanzeems* are for men only. The only departure from this general principle can be found in those *Tanzeems* that were established by various externally funded projects. For instance, the Sarhad Rural Support Program (SRSP) made it mandatory to have women-only VDCs for their micro-finance initiatives.

There are mixed views about women's empowerment through such committees, but the SRSP mandate on female inclusion made it necessary for community members to allow women to gather as volunteers and participate in the collective welfare of their community. However, as a sign of the deeply rooted institutional and social norms within Pashtunwali culture, in most cases the committees (including the above-mentioned female VDCs) rarely last long once a project is over.

Most participants in the female FGDs indicated that they were aware of the traditional committees established for burial rites, but were not aware of more formal committees established for relief/rehabilitation work. Female participants in KIIs (who were more educated and professional compared to the participants of FGDs) were quite aware of the changes in voluntary organisations after the conflict, however.

A participant of a female FGD in Swat had mixed views about committees: *'All the men (of her village) are involved in Tanzeem'*. Elaborating on the composition of *Tanzeem*, she said, *'There are 4 permanent members who belong to the caste Yousafzai (the largest sub-tribe of Pakhtuns in Swat) but people of other tribes are also its members'*. She further reported that during the construction of a new road, the walls of some houses had to be demolished and then were reconstructed by the *Tanzeem* fund. The village drainage and sanitation were also the responsibility of the *Tanzeem.*

Deliberately organised to build upon the spirit of solidarity in Pakhtunwali, the SRSP also established

some development committees at UC level. The active members in such project-driven committees were volunteers serving in existing local committees, so there was no clash between existing and newly formed committees. Rather, in many cases, the existing committees were changed slightly to look more inclusive, and then served as a development committee for a certain project. In the FGDs, people were generally positive about such committees:

'Islahi committee (welfare committee) is established by the SRSP at the UC level and it is responsible for development work. This committee is composed of different members from every village. When there is project or any other development work the committee members follow consultative processes both at UC as well as at village level and try to build a consensus (on nature of intervention).' (Male respondent, Swat FGD)

'(Through an initiative of SRSP) we formed an organization at Charbagh UC level and then the organization established small committees in each village. Now we have about 53 small committees in UC Charbagh and they are trying to follow a participatory development model.' (Male respondent, Swat FGD)

Some aid agencies tried to influence the composition of *Tanzeems* to make them more inclusive. They also used different nomenclatures such as 'village development committees', 'micro-credit committees' and 'community-based organisations', as per the requirements of their projects. The individuals behind such externally driven groups remained the same, however.

Post-conflict changes

The first steps for aid agencies following the conflict period was to seek clearance for their relief and rehabilitation interventions from military authorities. The second step was to contact local influential persons (usually the *Jirga* members) in the *Hujras* who would identify active members of local *Tanzeems* (Shah and Shahbaz, 2015). And the third step was to contact these active members and operationalise relief or rehabilitation work through local *Tanzeems.*

In some areas (particularly in Swat) the SRSP and some other aid agencies encouraged local volunteer groups to register as VDCs for carrying out developmental work. *'Before the conflict, the people did not have the concept about (formal/registered) committee system (VDCs) but after the conflict, the people understood that (community-*

based) registered committees are essential for us because most of the aid at that time was in the hands of authoritative and influential people who distributed it at their own will, benefiting some and leaving out others' (male respondent, Swat FGD).

The biggest incentive behind the success of project-driven committees was external funds to improve community welfare (which, as has mentioned previously, involved the rebranding/restructuring of existing local *Tanzeems*). People were also willing to contribute in-kind for such projects.

'The villagers contributed 25% of the cost of development work in the form of human resources whereas 75% of the cost was shared by aid agencies.' (Male respondent, Lower Dir FGD).

This approach (security clearance, patronage of local decision-maker, involvement of local *Tanzeem*) was adopted by almost all aid agencies that worked in the study area after the conflict. Although the idea of community organisation is not a new phenomenon in KP (largely due to the emphasis on mutual help and cooperation within the Pakhtunwali culture), formal organisation of these groups has not been sustainable for many, as they often become dysfunctional on the completion of a project.

Most FGD participants expressed that they were satisfied with the newly formed institutions (post-conflict) compared to the traditional ones. For instance, a participant of a FGD in Lower Dir said: *'The aid agencies are doing development work and they select people from different political parties and then make a monitoring team for the development work and for the decision and then start the project. The people are happy with them. People are giving support to them for development work in our area.'*

It was suggested by respondents that the practice of aid agencies including local representatives of different political parties in monitoring teams also helped to bring political consensus around developmental issues, and that the inclusion of opposition parties helped to balance the power and influence of dominant political groups. While most respondents seemed happy with this, two male participants criticised the engagement of the same people by multiple aid agencies:

'Aid agencies are doing their work but they did not meet with common people of our society. They met with political elite and therefore all their interventions got politicised.'

'We cannot see any development work here, everyone is trying to take political mileage from our miseries.'

5 Exclusion from traditional institutions

Beyond the exclusion of women that is described briefly in the previous section, there are also other marginalised groups that are not permitted as members of traditional institutions, including farm and non-farm labourers, artisans, housekeepers, and ethnic and religious minorities.

While women and ethnic/religious minorities are marginalised for socio-cultural reasons –i.e., irrespective of their economic status, labourers and artisans are excluded for mainly economic reasons. The commonality among all marginalised groups in KP is that they were not part of a *Jirga* or any other decision-making body prior to the conflict, and the same remains true post-conflict. While they may take disputes to a *Jirga* or *Imam* to seek a resolution, their exclusion from decision-making is well-known and accepted by the community.

5.1 Marginalised groups

A male key informant from Swat equated inclusion in a *Jirga* with the capacity to protect oneself against Taliban attacks. In his words, '*Members of Jirga, or Peace Committee turn vulnerable to the revenge of Talibans. It is important for them to have personal security guards for their protection. A marginalised person cannot afford to have personal security guards so even if given chance, he would not like to be member of a peace committee.*'

According to other FDG respondents:

'*The marginalised people cannot be part of a Jirga and therefore they have no interest in the Jirga system.*'

'*They (labourers) are not participating in the decision-making process as they are busy in their work and have no interest towards decision-making.*'

'*Since old times, the marginalised (labourers and members of religious minorities) provide services to the people (members of major tribes) who in turn take care of their basic needs. As the former has no stake in managing local resources so their exclusion from decision-making does not matter a lot.*'

'*Family background is necessary (for becoming a Jirga member) and the poor cannot become the member of a Jirga because they are not economically or socially strong.*'

It is interesting to note that most FGD participants belonging to higher social classes were of the opinion that poor people receive due justice from the *Jirga*, and were

also included in decision-making. However, labourers and landless farmers strongly disagreed with this claim, and argued that poor and landless people were never included in decision-making processes through local institutions. For example, during a male FGD in Lower Dir, one participant said that the *Jirga* seeks opinions from poor and landless people. A landless farmer refuted this point, and stated that local elders do not include the marginalised in decision-making because poor people do not have power and resources and thus are ignored. Another landless labourer stated, *'I am a poor man and cannot afford to annoy anyone, so it is better for me not to be part of Jirga'*.

Some FGD respondents held the view that the *Jirga* system was fair if marginalised members of the community could approach *Jirga* to resolve their issues: *'The Jirga system is fair with them (marginalised members of the community) and they get their issues and problems resolved there (in Jirga)'*.

Access to the *Jirga* does not automatically bring fairness, however, as our FGD respondents also revealed that poor people have little voice within local institutions.

'When issues arise between poor and wealthy, most of the time the Jirga stands with the wealthy because the wealthy have authority and power. In such circumstances the poor are asked either to plead guilty or to withdraw their complaint and compromise.' (Lower Dir FGD)

We probed this further in a one-on-one discussion with a labourer in Lower Dir, who was of the opinion that securing justice from *Jirga* is not difficult. However, there can be adverse consequences to getting any decision implemented against the powerful.

'If I have a valid complaint against any influential member of my community I can stick to my complaint and may get a decision in my favour. However, that influential would take revenge of his "humiliation" and I cannot afford to have such long-term rivalry. The best course of action for me would be to compromise, accept any monetary compensation (if that is offered) and withdraw my complaint.' (Male respondent, Lower Dir KII)

Unfortunately, aid agencies have been able to do little to mainstream excluded segments of society in decision-making, who are largely treated as project beneficiaries. Community members in Swat were of the opinion: *'The marginalised receive charity and support directly from the rich. The government also distribute (officially collected)* zakat (religious tax) but this distribution often ends up in political patronage leaving out many deserving people'.

'The marginalised are using the resources of the forest free of cost. They do not have their own lands so people (who own land and forests) give them charity. Some are receiving support from Benazir Income Support Programme (BISP) and also from other aid agencies.'

Yet a labourer in a Swat FGD commented, *'I am a labourer working in this (Swat) bazaar and I have never received any compensation for my destroyed house. I do not have a shelter and I am passing through a tough time. These people (other focus group participants) are all rich and they do not know our problems, we have not received anything from aid agencies; all were received by those who have contacts with authorities.'*

There are certain social safety nets for helping the poor and marginalised groups, including *Zakat, Usher* (tax payable by Muslim landlords on their crop production) and *Sadqa* (charity). However, according to Muslim *Sharia* (law), *Zakat* and *Usher* are for Muslims only and non-Muslim community members cannot benefit from these funds.

5.2   Gender norms and the exclusion of women

In order to understand the exclusion of women from local institutions, it is important to understand gender norms in Pakhtun society. Most households live under an extended-family system, where parents and the families of all brothers live together and share a common kitchen. Elderly males are widely respected, and have authority over household decisions. Elderly females also have a role in household decision-making in some households, however gender inequality is prevalent.

Purdah

Purdah (veiling) is strictly practised, as a sign of dignity and modesty in Pakhtun culture (Orakzai, 2011), but extends to also mean restriction on the mobility of women outside the household. Women are generally not allowed to leave their homes without being accompanied by a male family member; a norm that is strictly followed in rural areas and confines women to their houses (Elahi, 2015). Males consider it their responsibility to take care of women: *'Women are not allowed to go out of their houses and raise their voices because we (men) are responsible for them and to solve their problems'* (male respondent, Lower Dir FGD).

Purdah became more strictly enforced during the Taliban occupation, as evident from the comment of a female key informant: '*Men do not encourage women to go outside for shopping etc., without the company of a male due to our cultural restriction. During the conflict (occupation of Taliban), Taliban completely banned women's mobility in the market and we were not allowed in the market even in the company of our males. Now the things are back to normal and we are allowed to go to market, provided we observe purdah and are accompanied by a male member of the household.*'

Marriage and employment

Statements from male respondents reinforce the view that male household members feel dishonoured if women work outside the home. According to one male respondent: '*Women stay at home and our culture does not give permission to send women for work, out of the house*'.

Marriages are usually arranged by parents, with women having limited say except in some upper-class families. The norm is for the fathers of the bride and groom to agree marriage terms.

Our qualitative data reveal that men were not ready to allow their women to work in any (non-governmental) organisation, mainly because they think that the work environment does not correspond with Pakhtun culture. A male FGD participant in Swat said, '*Women employment is restricted by the traditional norms and customs prevalent in Pakhtun society*'.

Another male participant in Lower Dir commented: '*Some families allow their women to have a job in educational institutes (schools) and the medical field (hospitals), but working in NGOs or other offices is usually prohibited for them by elders and therefore most of such (educated) women are only opting for the education field. There is not much competition for women in education sector.*'

Some female respondents highlighted the importance of women becoming involved in village development committees, expressing the importance of gendered decisions on local development. They felt that new forms of local organisations were important for women, including both informal bodies and local government initiatives.

'*Women should also be allowed to join local Tanzeem. Only a female can understand the problems of females.*' (Female respondent, Swat FGD)

Education

Women are generally excluded from access to higher education, economic and political activities (Naz *et al.*, 2012). Most females do not continue their education after middle school because their elders do not allow them to go out of the village, which explains the low literacy rates among females in the study areas.

Even if girls are supported by their family to go to school, grade 10 is considered the highest educational level for most, partly because higher secondary institutions are only present in major towns, which would require girls more freedom than is permitted.

'*The major problem in female education is at post Matriculation level (after Grade 10). At that level, more than 90% of the women cannot continue their education because the college is away from our village.*' (Male respondent, Swat FGD)

Property rights

The lack of women's rights to inherit property is another reflection of inequality in Pakhtun culture. Though *Sharia* entitles women to receive their due share of their father's and husband's property, customarily they are not afforded property rights and property is distributed only among male family members.

'*Our elders never gave share in property to women. Although now as per government law we are bound to give their shares, yet many people are still not giving shares to them.*' (male respondent, Swat FGD)

It is encouraging to note that some respondents highlighted an emerging trend where some married women (mostly under pressure from their in-laws) are going to court to claim property rights from their brothers. But one key informant in Swat informed us that this trend is a result of a resistance within *Jirga* to take up women's complaints against their brothers on property issues.

'*One example is that of a woman who registered a complaint regarding a land dispute. She wanted to take her share of land from her brother. The Jirga resisted doing this. Issues like this are solved through courts and not through Jirgas.*' (Male respondent, Swat KII)

Another respondent from Swat said: '*Before the creation of Pakistan (and merger of Swat into Pakistan in 1969), at the time of Swat state, the right of inheritance for women*

was abolished in the riwaj (local custom) system but now the Pakistani law gives them the right to their share and now some are getting the shares from their fathers and brothers'.

However, most women do not demand their share in property because they do not want to spoil their relationship with their brothers, and because they may face significant contempt from relatives and neighbours:

'If a woman demanded her land or property from her brothers they would not wilfully give her share. Thus women sometimes go to courts and file a legal suit to receive their property from their brothers.' (Female respondent, Swat KII)

While some female respondents revealed that *Jirgas* can resolve issues of property rights, it was commented that most women hesitate (and sometimes feel scared) to go to a *Jirga* due to the male dominance within this setting.

6 Aid interventions and local institutions
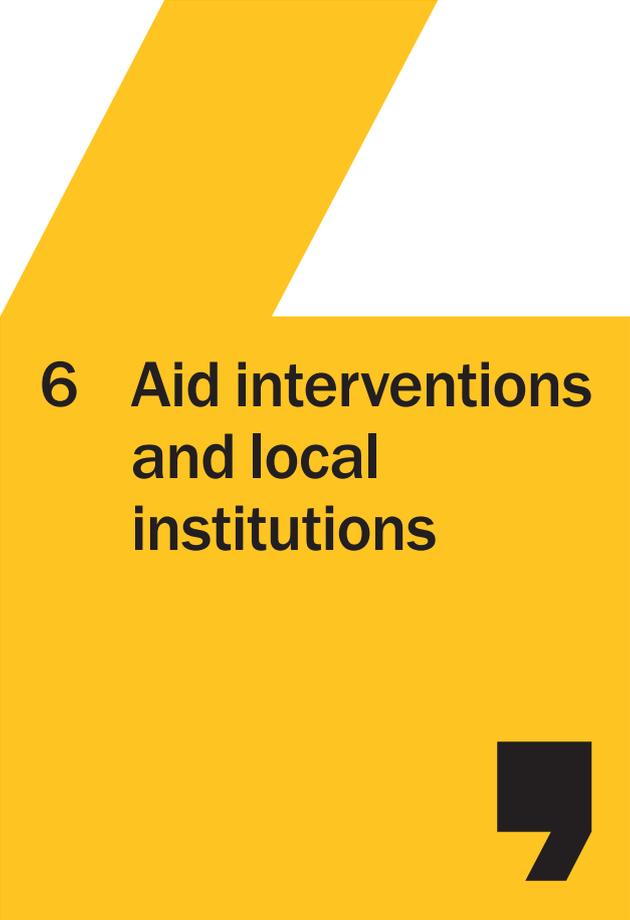
Past interventions by aid agencies working in the area of natural resource management in KP in general, and Swat in particular, indicate that the concept of VDCs introduced in the 1980s by the Swiss-funded Kalaam Integrated Development Project was based on careful analysis of local traditions and power structures. As such, projects were fairly successful in accomplishing their objectives.

In these cases, the VDCs were a rebranding of self-help community groups that already existed in the villages. They not only brought people together for a common cause (forest conservation in this case), but also harnessed the Pakhtunwali spirit of mutual cooperation (Geiser, 2000; Geiser and Steimann, 2004). However, mere formation of VDCs is not an end in itself. There are many examples – such as the Asian Development Bank-funded Forest Sector Reforms Project – where top-down approaches were used instead (even in the formation of VDCs) that led to failure (Suleri, 2002).

In an earlier SLRC study, Shah and Shahbaz (2015) observed that interventions of aid agencies in Swat and Dir fell into two broad categories: 1) short-term or immediate relief efforts; and 2) long-term rehabilitation interventions. Immediately after the conflict and floods, cash grants, food and non-food items were distributed to returnee internally displaced people (IDP). These interventions were mostly supported by international organisations and implemented at the local level, not through community members, but through government agencies such as the Provincial Disaster Management Authority (PDMA) and the Provincial Reconstruction, Rehabilitation and Settlement Authority (PaRRSA) that have a presence in big cities but not at UC/village level. Shah and Shahbaz (2015) also revealed that major trade-offs were made between the urgency of meeting the immediate needs of conflict-affected people, and ensuring inclusive and equitable community processes and avoiding social exclusion.

Most agencies relied on 'focal persons', with few agencies involving village committees for project implementation. Shah and Shahbaz (ibid.:30) argue that aid agencies (perhaps) selected focal persons with "'good intentions, assuming that they knew the people of the area and could help with identifying the most vulnerable". However, the results indicate that most of the focal persons were local influential individuals and, in most of the cases, they misused the power and promoted favouritism and corruption.

This earlier work further reveals that people's perceptions were more positive in the cases where

aid agencies worked through village committees and local organisations. People argued that the aid workers who met with VDC members and sought their recommendations for beneficiaries were able to reach the people who had genuine needs.

In the context of post-conflict rehabilitation efforts in Swat and Lower Dir, one can argue that interventions that promoted mutual cooperation and collective action, and respect local communities (such as peace committees, local support organisations and alternative dispute-settlement bodies) had more chance of success. Those interventions that did not make the best use of Pakhtun culture carried the risk of resource capture by elites, as well as reinforcing social exclusion and inequalities.

7 Conclusion

Locally evolved institutions and their core norms are central to people's lives because they are a source of identity and local governance in KP. Such informal institutions become even more relevant when government officials are either not fully capable of carrying out their expected functions, or when the government lacks credibility or legitimacy in resolving local disputes and problems. In Pakistan, and notably in KP, the function of formal institutions has been moderated by Pakhtun community and religious traditions. Here, the sense of belonging to local institutions within a community or region may replace or supplement the formal systems of government.

The various formal regulations, laws and institutions from the British colonial era and the Pakistan state have often had little impact in KP compared to underlying social norms and attitudes. However, the role and function of local institutions was disrupted to varying degrees following the violent displacement of communities, depending on whether a local institution was favourable/ neutral/opposed to the Taliban, the relative social capital and cohesion within an institution, and the hierarchy that existed prior to displacement.

Mediating institutions, such as *Jirgas* and *Tanzeems* experienced shocks just as communities and individual households did throughout the period of violent conflict, displacement and return. Power dynamics changed within these institutions, as did other cultural and gender norms that affected the role of these institutions, and thus how aid agencies could work effectively with returned communities.

After the conflict, the army frequently became the face of government, not only on security issues but also, for example, in the restoration and re-ordering of *Jirgas*. Where security provided both a rationale and an incentive for changing or reshaping local informal institutions, the military was better able to influence the future direction of such institutions than the provincial or district government.

Because aid agencies generally needed – or perceived that they needed – to work through *Jirgas* and *Hujras*, this resulted in a widespread view of residents that the aid agencies were, in effect, 'captured' by local notables who could direct assistance to favoured households. This points to a conundrum that cannot be easily resolved in crisis situations where rapid assistance is required: on the one hand, aid agencies need to work with local institutions where there is weak or ineffective local

government systems; but on the other hand, these local institutions have norms and internal power relations that may be quite different to those of the aid agencies. These difficulties are often compounded by the fact that insecurity restricts access to areas of violent conflict.

In this context, it is crucial for aid agencies and other development actors to find a balance between the necessity to work with local institutions and also avoiding elite capture. But attaining this balance requires an assessment and understanding of these institutions and the roles that they play within a culture or community. And also requires an adaptive approach that seeks to provide assistance effectively, while maintaining a critical distance from the local institutions and their norms.

The need for this deep understanding means that there is no substitute for research studies like SLRC panel surveys, and other tracer studies, that provide essential contextual knowledge and detailed political analysis.[14]

This knowledge and analysis enables policy-makers and practitioners to sensibly navigate trade-offs, and to be able to support positive change in issues such as inclusion of the poor in decision-making processes, gender equity, and combating corruption. By gaining trust and credibility among local communities through long-term organisational presence and preparedness, agencies give themselves a greater chance of successfully supporting post-conflict recovery in a given area.

In sum, aid agencies and other humanitarian and development actors need to possess the local contextual knowledge, capacity, skills and organisational flexibility to be politically smart, adaptive and able to draw on the strengths of the local institutional landscape whilst respecting calls for inclusion, gender equity and accountability. Organisations that are equipped with these skills can then effectively support communities to rebuild their livelihoods in post-conflict settings such as KP.

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14   SLRC has conducted research studeus and panel survey in conflict affected KP and publications are available at http://www.securelivelihoods.org/content/2255/Pakistan (Shah and Shahbaz, 2015, Suleri et al. 2016, Shahbaz et al. 2017)

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Cover photo: A Jirga in Swat, Khyber Pakhtunkhwa, Pakistan. Credit: Urs Geiser