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RULE OF LAW STABILIZATION PROGRAM - INFORMAL COMPONENT (RLS-I)

RLS-I Program Perception Study Arghandab & Dand Districts Kandahar February 2011



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Program Perception Analysis

Introduction

During January 2011 RLS-I field teams conducted a series of directed focus group discussions in the districts of Arghandab and Dand. The purpose of these focus groups was to determine the impact of RSL-I programs in these areas and the perceptions of the residents of RLS-I activities. This study examines what the state of informal justice was prior to RSL-I engagement and what state is today of informal justice practices as perceived by the residents of these districts.

Overall Top-line Findings

- Elders are better trained today than they were six months ago. It was expressed that through RLS-I workshops, elders today have a better understanding of the law and go about their duties with a greater sense of responsibility for their decisions.
- Most respondents said there are closer ties between the formal and informal systems today than there were six months ago. These were credited to the elders' understanding of the law and were now more willing to send civil cases back to relevant state actors; more dispute cases were now being sent to the elders.
- The trust in ADR and the elders who resolve the cases was remarkable. There is an unqualified conviction that the elders should be hearing dispute cases and that their judgments should be carried out to the letter. Though there was scepticism regarding the formal process, many respondents seemed to approve that the elders were cooperating more with state actors.
- No respondent believed that Taliban justice was a viable alternative. They either took cases to them or knew of cases during the Taliban reign and none expressed satisfaction with the outcome. All stated they were pleased that the elders now hear cases and ultimately resolve their cases.

“A few months back the situation in Arghandab was bad and people had to refer their cases to the Taliban for resolving. But today many areas are controlled by the government and people resolve their disputes through tribal elders.”

Focus group member from Arghandab

Key Theme Frequencies



Discussion

The top three key grouping of thematic words were coded and displayed numerically which has led to the above graphic depiction. The overwhelming majority of key thematic phrases had to do with the usefulness of the RLS-I workshops (50%); trusting ADR or the informal process (28.2%) and finally seeing closer ties with the formal process (21.8%).

These three thematic groupings above appeared closely linked in the respondents answers where they saw RLS-I workshops having a direct bearing on the quality of the elders' work impacting the trust the people have in it and how that has led to a closer cooperation with the formal system. There were other singular theme frequencies recorded but for the sake of graphic display only the top three have been displayed.

Arghandab District Top-line Findings

- Training and workshops on inheritance and divorce provided by RLS-I greatly increased the capacity of elders in resolving disputes. There was a consensus that elders who attended RLS-I were making better informed decisions and knew more about inheritance law than those who did not attend.
- Through RLS-I workshops, elders are much more likely to understand which cases are best resolved by them and which cases have to be resolved through the formal justice system. Many stated that there are closer ties now between the elders and the local courts because the elders have a better sense of the law.
- There is the perception that there is little to no corruption with the elders and their decisions are trusted by the disputants
- Taliban justice is not used and the use of elders are preferred and seen as more just
- Workshops should be repeated so more elders can take part in them

Data Analysis

The findings in Arghandab point to a greater level of trust in the informal system with the elders than with state justice institutions with most claiming 90% of disputes are resolved by elders. Yet there are a significant number of respondents which stated that the ties with the formal justice state actors and the elders are now closer than they have been in recent memory.

The training and workshops provided by RLS-I has not only increased the knowledge of the law in inheritance and divorce with the elders but has established a link between the two systems. There is a strong belief that corruption is a problem with the courts and not the elders, holding up the number of people who go to the elders as the test of trust.

Many respondents repeated the belief that elders come from the people, and if people believed they were corrupt, villagers wouldn't go to them to resolve their disputes. Several respondents stated that elders at times even would use their own money to prepare a meal for disputants just to have them sit down at the same table, perhaps the first time in years.

None of the respondents expressed preference of Taliban justice over the village elders. It was repeated by most respondents that the situation today is preferable to last year when the Taliban were in power and the only avenue to dispute resolution were the Taliban courts.

The majority saw the present state of informal justice better off than it was six months ago by citing a better informed set of elders through training and workshops that have been provided.

“Prior to the training and seminars by Checchi, the knowledge of elders and Jirgamaran was limited and that is why their work was a bit unorganized and weaker.

After ADR training, knowledge has increased especially regarding women rights. They were taught not to give women in Baad and have good behavior with them.”

Focus group member from Dand

Dand District Top-line Findings

- The most frequently repeated comment among respondents was their elders are better trained today primarily due to RLS-I workshops. Workshops in inheritance law as well as marriage and divorce law were frequently cited as helpful in educating the elders who are resolving disputes. It was stated this brings an even greater level of trust with the informal process and the resolutions that are arrived at by the elders.
- There was unanimous agreement that disputes were resolved exclusively by the elders. There was a general opinion that the resolutions that are arrived at by the elders are both trusted and followed by the disputants.
- Many respondents asked that more RLS-I workshops be conducted in Dand on the topics of inheritance, marriage and divorce. All expressed satisfaction with the workshops attended but desired follow on opportunities.
- Women respondents stated it is no easier for them to take their disputes to the elders and have their disputes resolved in a timely manner.

- There were no respondents who knew of anyone taking disputes to the Taliban with all reaffirming their trust in the elders to solve disputes.

Data Analysis

The respondents in Dand had overwhelming approval for RLS-I workshops which the respondents attended both in Dand and neighbouring Arghandab. The topics which resonated with them were on inheritance, marriage, divorce and family rights. Though the respondents already attended many workshops they were asking for follow-up opportunities which would expand on what they learned.

All respondents stated that elders that resolved disputes were better trained today than they were six months ago. They further stated they believe the legal workshops gave the elders a better understanding of the law and increased the contact they have with the formal system as they were more willing to send cases back to the courts if they thought that forum would be more appropriate.

The trust in the informal system can be seen throughout the transcripts as this is a system that the respondents said they knew and they trust completely. There were comments regarding what they saw as corruption in the formal system and reiterated that the informal process comes “from the people” and that the elders “don’t represent one person but every person in the village.”

Finally, no respondent said that they thought Taliban justice was a viable alternative and stated that though they were forced to use Taliban courts when they were in power they strongly prefer using elders to resolve their disputes.

Conclusion

Arghandab and Dand were the RLS-I pilot districts and provided several key points of information. The initial assessments of these districts pointed to their desire for workshops in inheritance law, marriage and divorce law. These activities were designed and implemented and very well attended. The focus groups in both districts stated that not only were these programs well received but they desired more workshops in follow-on training. All participants agreed that the elders that received training were carrying out their duties in resolving disputes in a more professional manner and taking their duties more seriously.

An interesting fact that came out of these focus groups was respondents believed that there is now a closer relationship between the formal and informal systems as a result of the elders’ attendance at RLS-I training. The process of transferring cases between the two systems and an elementary tracking system as a result of a greater understanding of the law by the elders is the nascent beginnings of a case management/tracking system. The linkage between the formal and informal, in interpreting the focus group data, could begin with RLS-I training and not necessarily an office or institution.

Finally, the data suggests there is overall trust in ADR and the decisions of the elders. In Dand this is not surprising since this is a relatively new district which has presently little to no formal justice presence. Despite this fact it was stated that the elders were gaining a greater understanding of the law through RLS-I workshops and cooperating with the provincial courts.