



USAID
FROM THE AMERICAN PEOPLE

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

RLS-I Program Perception Study Rodat/Kama Nangarhar May 2011



Contract Number: DFD-I-00-04-00170-00
Task Order Number: 4

May 2011

This publication was produced for review by the United States Agency for International Development. It was prepared by Checchi and Company Consulting, Inc.

Program Perception Analysis

Introduction

In April 2011 RLS-I conducted eight directed focus groups (DFG) to determine the impact of proposed RLS-I programs in Rodat (4 DFG) and Kama (4 DFG) Districts in Nangarhar Province. This study explores the public perception of ADR in their districts as well as access to ADR and the most effective activities to further promote ADR.

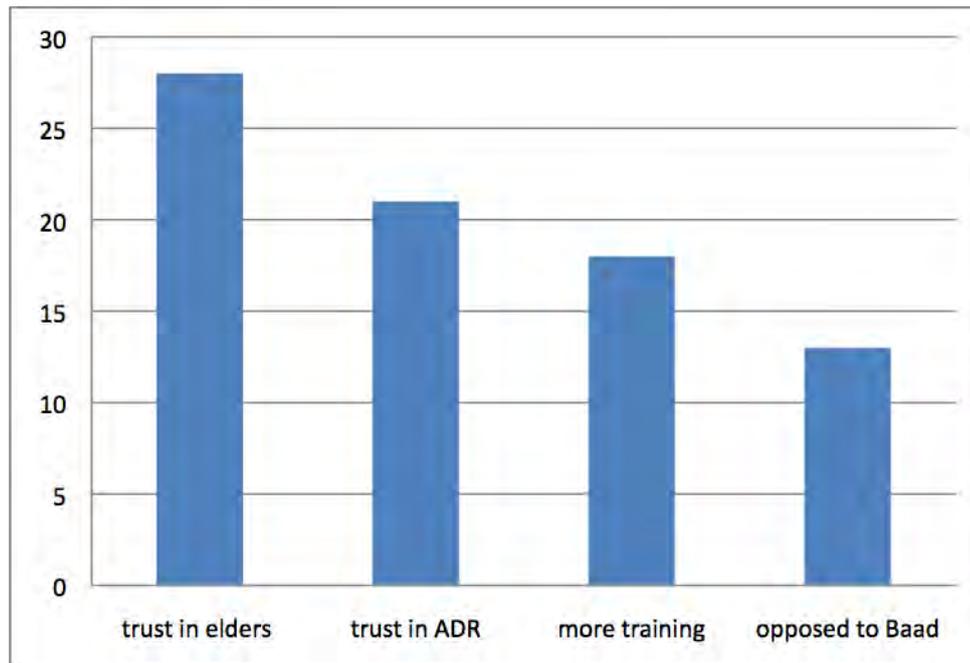
Overall Top-line Findings

- The role of ADR in Afghan society was a repeated theme in both district studies. Respondents stated that ADR was a system that has been present in Afghan life for generations.
- Many respondents stated that training in inheritance and family law would be helpful for jirga members.
- Most respondents either stated or agreed with the idea that there is little trust in the formal justice process and cited corruption as the main reason for their distrust. Meanwhile, most respondents stated that although ADR is not free of corruption, it is more trusted.
- All respondents claimed that Taliban justice was not present in their districts and was no longer an issue.

“Jirga is more preferred all over society as it brings peace and considers both disputants while making the decision.”

Focus group participant from Rodat

Key Theme Frequencies



(Fig. 1)

Methodology

A total of eight (8) focus groups were conducted. A total of fifty-three (53) people participated in this two district study. The top three key groupings of thematic phrases were coded and are displayed numerically in figure 1 above. The *y axis* reflects the number of times a theme is repeated and the *x axis* indicates the theme itself. The three groupings represented in Figure 1 do not constitute 100% of all themes mentioned by respondents, but rather represent 100% of the four most common themes raised by respondents; that is, the themes repeated more than twice by respondents.

The overwhelming theme, stated twenty-eight (28) times, had to do with trust in the local elders and their ability to make impartial decisions while being relatively free of corruption. The second most common theme, stated twenty-one (21) times, related to trusting the ADR or informal justice process. Eighteen (18) times respondents expressed a desire that more training in Afghan and Islamic law be provided to jirga members. In ten (10) instances, participants stated that *Baad* was no longer considered an option for resolving disputes, and jirga members understood that it was un-Islamic and often caused more problems than it solved.

The three thematic groupings above are linked. The belief in trust of elders to solve disputes was usually followed by a positive statement about ADR, which was then followed by a desire for more training for the elders; however, an expressed wish for more training was not linked with the other two themes and usually came in an unrelated segment of the interview. There were other frequent themes but, for the sake of graphic display, only the top three have been charted.

RLS-I staff who conduct the focus groups are trained in focus group methodology, and are experienced in this subject matter. They conducted previous focus groups in this district and the resulting information was utilized in the comprehensive district level assessments in 2010. The RLS-I focus group teams consisted of one moderator and one note taker per focus group.

Below are the questions which were asked of all eight (8) groups. The questions were asked in the same order for each group and each group was interviewed separately.

Focus Group Questions

- 1) *How do you see the jirgee system in your village and have you observed it at work?*
- 2) *What suggestions do you have for improving the jirgee system? What training do you see as useful?*
- 3) *How do you see/rate jirgee decisions? Do the mediators make impartial decisions?*
- 4) *To what extent do people have access to the jirgee process? Does everyone who seeks its help have the ability to utilize it?*
- 5) *In your opinion, has anyone you know utilized Taliban justice?*

Rodat District Top-line Findings

- The role of ADR in village society was the top finding in Rodat. Respondents stated that the *jirgee* system played a vital role in peace and stability in the area due to the trust placed in the elders and the ADR process. Additionally the elders' decisions were quickly given and were perceived as impartial vis-a-vis the state courts.
- The respondents stated that training of elders would be especially useful as their decisions would then be based on Afghan and Islamic law. Specifically, training in inheritance, property and family law were singled out as most important.

- Respondents (men & women) believed there should be greater cooperation with elders from other areas in order to strengthen the *jirgee* system through an exchange of ideas and sharing of case experiences.
- All participants stated that access to the *jirga* for dispute issues was unencumbered and open to all villagers.
- All respondents stated that Taliban justice is not a viable alternative to ADR nor did they know of anyone who utilized it in recent memory.

Data Analysis

The data from the Rodat focus groups unmistakably demonstrates an almost universal respect for the elders in their villages and the ADR process which they represented. Both male and female focus groups stated that in ADR decisions were more equitable, freer from corruption as opposed to state courts, and always expedited quickly. This being said, there was a belief that elders took their time and collected all the information necessary to make an informed decision.

The belief that elders should cooperate with elders in other areas was unexpected. On previous occasions, this idea was not expressed in neighbouring districts. This was a major theme in most focus groups, with participants stating that only positive results would come about by sharing ideas and experiences. Though RLS-I held a regional elders' meeting in November 2010, its participants were from RC-SOUTH. This opens the issue of creating a similar activity for RC-EAST sometime in the future.

Perhaps the most interesting theme was the opposition to *Baad* and the general opinion that it was no longer an option for resolution by *jirgee* in the villages represented in the focus groups. It was repeatedly stated that *jirgee* members do not employ *Baad* because it violates Islam and creates a new set of problems with its implementation.

Overall the respondents were convinced that ADR was the one method of resolving disputes that villagers could have confidence in not only for quick decisions, but also for impartial and fair decisions. There were several responses which stressed not only the importance of Afghan law but that Islamic law must also be drawn into the adjudication process. Several respondents linked the trust in elders with their practice of drawing upon the *Qu'ran* and *Hadith* in resolving disputes. Consequently, this was a common critique of state courts which, in the respondents' opinion, rarely relied in Islamic law in their decisions.

Kama District Top-line Findings

- Respondents stated elders were the most qualified to bring about dispute resolutions since they had been doing it for years and knew the local villagers the best. Additionally, it was stated that corruption was much less of a problem since the elders were so well known and could not keep corruption hidden from the people.
- All participants expressed a desire for further training for the elders in the areas of inheritance and property law. A majority felt the training led to a greater satisfaction with the elders and generated both trust in addition to an even greater respect for their work.
- Many respondents stated they did not trust the formal judicial process due to a perception of overt corruption and delay in decisions. It is interesting to note that this was a theme much more prevalent in the male focus groups than the female focus groups.
- All participants stated that access to the *jirga* for dispute issues was unencumbered and open to all villagers. Further, the respondents stated even if *jirga* members were not present they could be reached by mobile.
- All respondents stated that they knew of no Taliban justice in the district.

Data Analysis

The data from Kama mirrors that Rodat in its unwavering belief that ADR is the fairest and most efficient method in resolving disputes. Respondents were pleased with the expertise of the elders and the knowledge they displayed when resolving local disputes. Despite this, there remained a desire for RLS-I training opportunities for elders in the fields of inheritance, family and Islamic law.

Suspicion of the state courts was apparent in all focus groups. As one respondent boldly stated, “*jirgee* are part of Afghan customs and have existed for thousands of

*“The government
should have
obligations to accept
jirgee decisions”*

*-Focus Group participant
from Kama*

years.” This sentiment was echoed by other respondents when they stated their belief that corruption was widespread in the state judicial process and that the the ADR process was relatively free of corruption in comparison.

Finally, all participants believed that Taliban justice was not a factor in Kama and that there is no influence from the Taliban. Again the respondents stated that they trusted in the elders and their ability to make fair and just decisions when they resolved a dispute.

Conclusion

The focus groups in both Rodat and Kama demonstrated trust in their local elders and ADR as a fair and just process for resolving disputes. There was a general mistrust for the formal process and the respondents preferred what they regarded as traditional Afghan methods for resolving disputes, as well as preserving stability in their villages.

There also was a feeling among participants that *jirgee* decisions should be recognized by the government. In relation to this, many respondents felt that the government was negative regarding the work of *jirgee* and their status in society. Many respondents wished for greater recognition for the *jirgee* and their work.

All focus groups expressed a desire for RLS-I training in the fields of inheritance, family, marriage, divorce and Islamic law including women’s rights in Islam. This is consistent with other focus groups that were previously conducted in the region.