



## DISPUTE RESOLUTION COUNCILS IN PAKISTAN: ASSESSING THE EFFECTIVENESS OF AN ALTERNATIVE MECHANISM FOR RESOLVING LOCAL DISPUTES

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### Abstract:

Dispute resolution councils (DRCs) in Pakistan have emerged as a popular and effective mechanism for resolving disputes at the community level. DRCs are composed of local representatives and community leaders who provide a quick and accessible means of dispute resolution for people who may not have access to the formal justice system. This article aims to assess the effectiveness of the DRCs as an alternative mechanism for resolving local disputes in Pakistan. The article will examine the strengths and weaknesses of the DRCs, their impact on access to justice, and the challenges they face. However, despite their popularity, DRCs confront a variety of difficulties and flaws that must be fixed to increase their efficacy and sustainability. These challenges include the lack of trained personnel, inadequate resources, limited public awareness and trust, limited expertise in dealing with complex legal issues, and a need for better coordination with the formal justice system. To address these challenges, it is recommended that DRCs receive regular training and capacity-building, greater resource allocation, improved public awareness and trust, better integration with the formal justice system, and better monitoring and evaluation mechanisms. By implementing these recommendations, it is possible to improve the effectiveness and sustainability of DRCs in Pakistan and to ensure that they provide accessible, affordable, and reliable justice to the people of Pakistan.

### Keywords:

Dispute Resolution Councils (DRCs), Formal Justice System, Community level, Dispute Resolution, Awareness

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## Introduction

Pakistan has a rich tradition of local dispute resolution mechanisms, including Jirgas, Panchayats, and Councils. These local mechanisms are often preferred by people in rural and remote areas over the formal judicial system due to their accessibility, affordability, and familiarity. In recognition of the importance of these mechanisms, the government of Pakistan has established Dispute Resolution Councils (DRCs) at the district level as an alternative mechanism for resolving local disputes.

The DRCs were established in 2002 under the Local Government Ordinance (LGO) as part of the devolution of power to local governments. The objective of the DRCs is to provide a forum for resolving disputes at the local level, particularly in rural areas where formal justice systems are not easily accessible. The DRCs comprise three members, including a Nazim (elected district official), a representative of the local Bar Association, and a respected member of the community. The DRCs are responsible for resolving disputes through mediation, negotiation, and other conciliatory measures.

However, there have been concerns regarding the effectiveness of the DRCs in resolving disputes. This article aims to assess the effectiveness of the DRCs as an alternative mechanism for resolving local disputes in Pakistan. The article will examine the strengths and weaknesses of the DRCs, their impact on access to justice, and the challenges they face.

## Center for Conflict Resolution

A public service project called the Dispute Resolution Council was started by the KPK cops in 2014 to settle issues without going to the courtroom. The DRC system uses the Pakhtunwali ideals to facilitate reconciliation. The primary goal of the DRC's founding was to give the populace swift justice at a reasonable cost. Although the DRC lacked formal legality at first, the law was eventually passed to address this issue.

Since there is an absence of legal protection, the Peshawar High Court has already prohibited DRC from operating. A Peshawar man named Qaiser Khan filed a writ petition with the Peshawar High Court protesting the formation and operation of the DRC. The petitioner informed the court that he had received multiple notices from the West Cantonment Police Station's DRC office requesting his attendance in the money dispute. The petitioner questioned the legitimacy of DRC's founding and urged the judge to halt the organization's operations. A two-person bench presided over by Chief Justice Mazhar Alam MianKhel heard the case. Due to a lack of statutory protection, the court determined the matter and barred DRC from continuing to operate. Afterwards in 2015, the PTI administration revised the Police Order 2002, which provides DRC with legal shelter. The Peshawar High Court revoked its ruling after this law was passed.

## Jirga's Function in Resolving Disputes

Jirga is a customary conflict resolution process in Pashtun society, where elders gather to discuss and decide on disputes in accordance with Pakhtoonwali beliefs. It is also called Jirga-Marakah in Pashto and is not limited to Pashtun society, as similar systems exist in other regions such as the Panchayat system in Punjab. Jirga has both judicial and executive powers and can handle a range of disputes including property, business, murder, and women-related cases. The Jirga's goal is to treat both sides fairly while protecting none of them. However, decisions made in criminal cases by Jirga are not accepted by higher courts in Pakistan as they are often seen as violating constitutional rights. In the former FATA region and other rural areas, administrative Jirgas are permitted to resolve minor disputes under the control of the local administration. The Pakhtun Jirga's democratic and participatory nature sets it apart from other Jirga systems.

The Jirga system in Pakistan lacks legal legitimacy because it does not operate under any statutory law and violates fundamental rights

guaranteed under the Constitution, While Jirgas arranged with court permission may be acceptable and binding on parties, and they are always under the court's supervision. Additionally, the Arbitration Act 1940 and section 89-A of the CPC provide avenues for alternate dispute resolution, but Jirgas operating outside of these frameworks has no legality or constitutionality. Before the merger of tribal areas, Jirgas were protected under the FCR Frontier Crimes Regulation but with its repeal, Jirgas no longer have legal protection. Thus, Jirga is considered a parallel judicial system without legal legitimacy.

### Laws for DRCs in Pakistan

Alternate dispute resolution (ADR) is a legal mechanism for resolving disputes outside the court system, which has been granted statutory coverage by several Pakistani legislation. *"ADR-related laws have also just been passed in Pakistan, which is including the Punjab ADR Act of 2019 The Punjab ADR Act of 2019 refers to the Alternative Dispute Resolution Act passed by the Punjab state government in India in 2019. It likely aims to provide a framework for resolving disputes outside of traditional court processes, utilizing methods such as mediation and arbitration. And the KPK ADR Act of 2020". The KPK ADR Act of 2020 is the Alternative Dispute Resolution Act enacted by the government of Khyber Pakhtunkhwa province in Pakistan in 2020. It likely aims to provide a legal framework for resolving disputes through alternative means such as mediation, arbitration, and conciliation, outside of traditional court proceedings.* Law of Civil Procedure Order 10 Rule 1 and Section 89-A (CPC) are examples of laws that provide Principles and rules for ADR. "The Arbitration Act of 1940, Sections 10 and 12 of the Family Court Act of 1964, and Plea Bargaining ([section 25 of NAB ordinance, 1999](#))", are additional laws that permit ADR under specific circumstances.

The Khyber Pakhtunkhwa Legislative House passed the [KP Police Order \(Amendment\) Act in 2015](#) to give the Dispute Resolution Council

(DRC), which had already functioning throughout the region since the beginning of 2014 lacking any legislative authorization, or statutory safeguards. With this change, provincial police officials are now permitted to create Dispute Resolution Councils at the district, subdivision, or police station levels to handle minor disputes. These councils are made up of at minimum one female belonging to the community.

To settle local problems, the DRC has been included in the Khyber Pakhtunkhwa (KPK) police force. In every district of KPK, DRC panels, and centres have been set up, wherein they operate to find solutions before going to the courtroom. Under the direction of local police, these bodies operate according to the ideals of peace.

The DRC's mission and commitment are grounded in Surah Al Hujrat, Verse 10 of the same Surah further states, All the Muslims are brothers among themselves so settle disputes among your brothers." The DRC's mission is to assist the average person in amicably resolving their problems using ADR.

### The Strengths of Dispute Resolution Councils

The DRCs have several strengths that make them an effective alternative mechanism for resolving local disputes. According to a study by [Afzal, Khan, and Zia \(2015\)](#), dispute resolution councils have been successful in resolving a significant number of cases, with an average resolution rate of 75% in the districts studied. First, the DRCs are accessible and affordable for the rural and marginalized populations who cannot afford to access formal justice systems. The DRCs provide a forum for resolving disputes in a timely and cost-effective manner. [Agha and Ashfaq \(2015\)](#) found that dispute resolution councils were effective in resolving conflicts related to property, marriage, and other personal matters. The research also emphasized the significance of community participation and support for the success of the councils. Second, the DRCs provide a familiar and culturally appropriate forum for resolving disputes. The DRCs are based on traditional local dispute

resolution mechanisms, which are well-established and accepted by the local population. Third, the DRCs are efficient in resolving disputes. The DRCs have a high success rate in resolving disputes and can provide solutions that are acceptable to all parties involved. [Ali \(2017\)](#) evaluated the performance of dispute resolution councils in the province of Khyber Pakhtunkhwa and found that the councils were able to resolve a significant number of cases, including criminal cases. The study also highlighted the need for better training and capacity-building of the council members.

[Mahmood and Hassan \(2018\)](#) emphasized the role of dispute resolution councils in enhancing access to justice in Pakistan, especially for marginalized communities. The study highlighted the importance of sensitizing the councils about the needs and rights of vulnerable groups, such as women and children. [Zaman \(2019\)](#) conducted a study on alternative dispute resolution mechanisms in Pakistan and found that while dispute resolution councils have the potential to provide quick and affordable justice, there are challenges such as a lack of awareness and trust among the public, as well as the need for better coordination between the formal and informal justice systems.

#### **The Weaknesses of Dispute Resolution Councils**

Despite their strengths, the DRCs have several weaknesses that limit their effectiveness as an alternative mechanism for resolving local disputes. First, the DRCs lack legal training and expertise. The members of the DRCs are not trained in the law and may lack the knowledge and skills required to resolve complex legal disputes. [Agha and Ashfaq \(2015\)](#) pointed out that while dispute resolution councils have been successful in resolving personal and community disputes, they are often unable to resolve disputes involving criminal offenses or cases that require legal expertise. [Mahmood and Hassan \(2018\)](#) noted that dispute resolution councils often lack the necessary expertise and resources to deal with complex legal issues and

may not be able to provide adequate protection to vulnerable groups, such as women and children.

Second, the DRCs lack enforcement powers. The DRCs are unable to enforce their decisions, which limits their effectiveness in resolving disputes. Third, the DRCs lack transparency and accountability. The DRCs do not have formal procedures for recording their decisions, which may lead to inconsistency and bias in their decision-making.

Furthermore, [Ali \(2017\)](#) highlighted the need for better training and capacity-building of dispute resolution council members, as well as the need for more effective monitoring and evaluation mechanisms.

After two years, [Zaman \(2019\)](#) emphasized the need for greater public awareness and trust in dispute resolution councils, as well as the need for better coordination and integration with the formal justice system.

#### **Impact on Access to Justice**

According to a study by [Afzal, Khan, and Zia \(2015\)](#), the impact of dispute resolution councils on access to justice in Pakistan has been significant, particularly for rural and marginalized populations. The study found that the DRCs have provided a forum for resolving disputes that is accessible and affordable for this population. [Mahmood and Hassan \(2018\)](#) emphasized the role of DRCs in enhancing access to justice in Pakistan, especially for marginalized communities. The study highlighted the importance of sensitizing the councils about the needs and rights of vulnerable groups, such as women and children. However, the impact of DRCs on access to justice is limited by their weaknesses. As noted by [Agha and Ashfaq \(2015\)](#), the lack of legal training and expertise among DRC members limits their effectiveness in resolving complex legal disputes. The lack of enforcement powers and transparency also limits their impact on access to justice.

In a more recent study, [Hussain and Arshad \(2020\)](#) evaluated the impact of dispute resolution councils on access to justice in

Pakistan and found that while the DRCs have been successful in resolving a significant number of cases, their impact on access to justice remains limited. The study highlighted the need for more effective monitoring and evaluation mechanisms to ensure transparency and accountability in the decision-making process of the DRCs.

### Challenges

The Dispute Resolution Councils (DRCs) in Pakistan have emerged as an alternative mechanism for resolving local disputes. However, they face several challenges that limit their effectiveness. One of the main challenges is the lack of legal expertise among the members of the DRCs. Due to this, they may not be able to resolve complex legal disputes which can lead to inconsistent and biased decision-making. Moreover, vulnerable groups such as women and minorities may not receive adequate protection as a result of the lack of legal expertise.

Another significant challenge faced by the DRCs is the lack of enforcement powers. Since the DRCs cannot enforce their decisions, their effectiveness in resolving disputes is limited. This lack of enforcement powers can also result in non-compliance with the decisions made by the DRCs, which can undermine their authority and legitimacy.

Transparency and accountability are also major challenges for the DRCs. They do not have formal procedures for recording their decisions, which can lead to inconsistency and bias in decision-making. Additionally, the lack of transparency can negatively impact public confidence in the DRCs and limit their ability to attract and retain qualified members.

Overall, while the DRCs have had a significant impact on access to justice in Pakistan, these challenges need to be addressed for them to be more effective. Capacity-building and training of DRC members, implementation of monitoring and evaluation mechanisms, and better coordination with the formal justice system can help to overcome these challenges.

### Conclusion

The Dispute Resolution Councils in Pakistan are an important alternative mechanism for resolving local disputes, particularly in rural and remote areas. While they have several strengths that make them effective, they also face several challenges that limit their effectiveness. By investing in training programs, providing enforcement powers, establishing formal procedures for recording decisions, and ensuring diversity in membership, the government can improve the effectiveness of the DRCs and enhance access to justice for all members of the community.

### Recommendations

To address these challenges and improve the effectiveness of the DRCs, several recommendations can be made:

1. First, One of the main weaknesses of dispute resolution councils is the lack of trained personnel. Therefore, there is a need to provide regular training and capacity-building programs for council members, including training on legal procedures, conflict resolution, communication, and mediation skills. This would help to improve the quality of dispute resolution services and build the capacity of council members to handle complex cases. The government should invest in training programs for DRC members to improve their legal knowledge and skills. This will enable them to better handle complex legal disputes and protect the rights of vulnerable individuals.
2. The government provides the DRCs with enforcement powers to ensure that their decisions are complied with. This will increase the authority and legitimacy of the DRCs and enhance their ability to resolve disputes.
3. The government establishes formal procedures for recording the decisions made by the DRCs. This will increase transparency and accountability and ensure that decisions are made consistently and impartially.

4. The government ensures that the membership of the DRCs is diverse and representative of the local population. This will increase public confidence in the DRCs and ensure that they can address the needs and concerns of all members of the community.
5. Resource allocation: Dispute resolution councils often suffer from inadequate resources, including funding and office space. Therefore, there is a need for greater resource allocation to these councils, including increased funding from the government and other stakeholders, as well as access to better infrastructure and equipment.
6. Dispute resolution councils need to build greater public awareness and trust in their services. This can be achieved through targeted public awareness campaigns, community engagement programs, and partnerships with local organizations and leaders. This would help to improve the public's understanding of the role and functions of dispute resolution councils and increase their trust in the councils as a reliable source of justice.
7. Dispute resolution councils need to be integrated more effectively with the formal justice system, including better coordination with courts and other legal institutions. This would help to ensure that the decisions and outcomes of dispute resolution councils are recognized and enforced by the formal justice system. It would also help to ensure that cases that require legal expertise or involve criminal offenses are referred to the appropriate legal authorities.
8. Finally, there is a need for better monitoring and evaluation of dispute resolution councils to ensure their effectiveness and accountability. This can be achieved through regular performance assessments, stakeholder consultations, and feedback mechanisms, which would help to identify

weaknesses and opportunities for improvement.

By implementing recommendations, it is possible to improve the effectiveness and sustainability of dispute resolution councils in Pakistan and to ensure that they provide accessible, affordable, and reliable justice to the people of Pakistan.

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