

RLS -I Interview Transcript

Name and Position	Age	Gender	Ethnicity	Tribe/sub tribe
Sardara	40	Female	Pushtoon	Shinwari/ Mullah Khil
Interview Team	Village		District	Date
Hanifa Gulmiran, Nafisa Yousafzai, Nafisa Mussafer	Kahee Kalai		Acheen	04 November,20 12

Initial Observations:

Sardara is one of the well-known and influential women of Kahee Village Acheen¹ District. She is the wife of a tribal elder of Kahee Village. Her husband is a very active Mediator to whom almost all the villagers refer their disputes for resolution. Sardara said her husband most of the time takes her help while resolving family and women related disputes. In addition, Sardara has much background knowledge of the TDR² System, that's why we selected her to be interviewed. After, getting her agreement for the interview we first introduced ourselves and then Hanifa Gulmiran did the project introduction and let her know what the interview is about. She was so frank and friendly woman and had lots of useful information about Kahee village, TDR system and the events. After, getting her permission for note taking we began the interview as follow:

Question: Can you please introduce yourself?

Answer: Sure, my name is Sardara my father name is Haji³ Mirza. I belong to Kahee Village

¹ District in Nangarhar dichtbij de grens met Pakistan

² Traditional Dispute Resolution

³ Haji is officieel de titel voor een person die op Hajj is gegaan; de bedevaart naar Mekka die de vijfde pilaar van Islam is ("there is no god but God, and Mohammad *(PBUH) is his messenger"/dagelijkse gebeden,/liefdadigheid - vastgesteld percentage van inkomen/vasten tijdens Ramadan/bedevaart naar Mekka). Hier wordt de titel simpelweg vaak gebruikt voor oudere mannen met een beetje status, alhoewel het waar is dat veel mensen hier wel proberen op bedevaart te gaan. Onder de Taliban was het min of meer verplicht,

of Acheen District. My husband is a tribal elder of Kahee village. I am a house wife, but being the wife of a Mediator/Jirgamar⁴ I sometimes take part in female related TDRs.

Question: Can you please provide us with some information on the disputes that are common in your village?

Answer: Of course, there are many different kinds of disputes in Kahee village. However, the most common ones are over livestock/pets, land, drinking and irrigation water, children and other family issues.

Question: Can you please tell us about a particular dispute that you remember well?

Answer: Yes, why not, my cousin Raz Mohammad is a farmer and he had a cow. His wife whose name is Khapirai sold the cow and spent all the 40,000 Rupees⁵ on herself and children. When Raz Mohammad got informed he was very angry and asked Khapirai that why she sold the cow without his permission and where is the money? Khapirai had no answer that's why Raz Mohammad rid her out of the house. Helpless Khapirai went to her father house along with her only milk drinking baby while the other children remained with Raz Mohammad. My son called and told me all what has happened since I was in the fields helping my husband. I first told my husband and then we both came to our home and talked with Raz Mohammad. In few days we could make we agree to resolve the dispute with his wife. Then my husband conducted a Jirga⁶/TDR, since it was our family issue so we didn't involved other elders and mediators. During the Jirga Khapirai's father, brothers, and cousins confessed that Khapirai made a mistake and she will never repeat such mistake again. But Raz Mohammad told us that he will not let her come home until she brings back the cow or the money. Finally Khapirai's cousin told the Jirga that he will give 30,000 rupees⁷ to Raz Mohammad and later Khapirai's brothers will repay the amount to their cousin. However, Raz Mohammad told us that he want all the 40,000 Rupees or the cow. So my husband Malik Ahmad Khan landed 10,000 rupees⁸ to Khapira's brothers. After giving the money to Raz Mohammad I brought Khapirai back to her house. She was really happy to see her children and was really sorry for what he did.

Question: Ok, but can you please tell us that why Khapirai sold the cow without her

dus de oudere mannen zijn dan ook sowieso vaak wel geweest.

⁴ Iemand die in Jirgas zit en geschillen hoort en berecht

⁵ 325 Euro – er wordt dichtbij de grens met Pakistan vaak in Rupees betaald, aangezien alle handel vanuit of naar Pakistan komt/gaat. Het zou te veel verlies opleveren om altijd terug te reken naar Afs. (Afghanis)

⁶ Bijeenkomst van stamouderen die besluiten nemen door consensus (dit is belangrijk – er wordt niet een meerderheid gestemt; iedere Jirgamar moet het eens zijn. Kan dus lang duren soms.

⁷ 245 Euro

⁸ 81 Euro

husband consent?

Answer: I don't see any obvious reason because of which Khapirai sold the Cow, but only and only her ignorance that she made such a big mistake which was about to ruin her family life. Raz Mohammad has two wives and he keeps good balance between them. He provides both his wives with equal life facilities and he always tries to fulfill their needs.⁹

Question: Before you said that you participated in the Jirga to resolve the Khapirai dispute. Do women take part in Jirgee along with men?

Answer: Normally women are not allowed to participate in Jirgee as a Jirgamar. However, they can participate in jirgee as witnesses. I participated in Khapirai 's Jirga because all the people were our relatives, in such cases a woman is allowed to take part in a Jirga otherwise they can't.

Question: Do the Jirgamaran/Mediators treat male and female disputants on the same way or they discriminate?

Answer: No, there is no discrimination, men and women in front of the Jirga are treated in the same way. And I thank the Khapirai Jirga is a good example.

Question: Do the mediators/Jirgamaran treat rich and poor on the same way or they do discrimination between them?

Answer: According to my knowledge of the Jirga System, in our village the mediators usually try to help the poor people and resolve their disputes as soon as possible.

Question: Do the mediators refer the disputes to the district officials or not?

Answer: Of course, they do there is very good collaboration among the formal and informal justice actors, most of the time the state actors refers the family disputes to elders and mediators and the mediators refer some critical and criminal cases to state actors.

Question: Ok, and could you please tell us about a particular dispute that Mediators referred to state actors? (Observation: while Hanifa was asking this question a woman whose name was Matroka entered to the room, Matroka is a woman whose dispute was referred to the district officials by Jirgamaran. We requested her to tell us about her dispute in order to answer our question.

Answer: About ten years ago when were living in Pakistan my husband fall in love with a Pakistani girl named Shazia and they both ran away to Afghanistan and started to live in Acheen. When I got informed I along with my children came to Acheen too and settle down with my brothers. At the time when I was living with my brother my husband Ikhteyar Gul

⁹ Per Islamitisch recht kan een man tot vier vrouwen trouwen (alleen) ALS hij hen goed en gelijk kan behandelen en verzorgen/bekostigen.

requested me many times to go with him to our own house, finally I went with him. Then one day my husband went to Pakistan and talked with Shazia 's family to resolve the dispute which arose because of Shazia. Ikhteyar Gul promised Shazia's family for giving our three years old daughter in *BAAD*¹⁰. One day Ikhteyar Gul told me that Shazia's family has invited him for dinner, so he took my three years old daughter and went to Pakistan along with Shazia. Shazia's family put poison in their meal due to which Shazia died on the spot and my husband and daughter were recovered. After sometime the killed my husband too. I once again went to my brothers' house to live with them. After many years my father-in-law came and told me that he decided to exchange my daughter for his son Bakhtyar Gul. I didn't agreed him and ask the elders to help me. But he didn't accept the elders request and recommendation. Finally the elders informed the district officials. At the district office the officials heard us and told my father-in-law that he cannot force us for *BADAL*¹¹. Because my daughter was too young at that time and from other side my father-in-law has never helped us in earning living. Thus the state actors resolved my problem.

Question: Did the State actors stated their decision in written or vocally?

Answer: They stated the decision in written. After, that they announced the decision they gave me one copy of the decision and one copy was given to the elders too.

Question: Do the women in you village prefer formal justice system or informal justice system?

Answer: Generally, we are happy from both systems because in both systems there are our own people and they always try their best to resolve the villagers' disputes. But in women disputes the families and women want to refer their disputes to Jirgee/TDR.

Question: Do the Mediators practice Machalgha¹² in Jirgee/DTRs?

Answer: Yes, in some serious disputes they take Machalgha, I mean the mediators looking to the nature of the disputes and if they can handle it without Machalgha they don't insist on it, but if they cannot trust the disputants then they take Machalgha from them.

Question: According to your point of view Practicing Machalgha is good or bad factor of the TDR system?

Answer: In my point of view it is a good point and the mediators should take Machalgha from the disputants, because no one wants to lose their money by not accepting the

¹⁰ Traditionele gebruik van het oplossen van een geschil door het 'geven in huwelijk' van een meisje/vrouw van de beschuldigde familie aan een man van de slachtoffer's familie.

¹¹ Meervoud van baad

¹² Een voorschot/borg ter waarborging van het accoord gaan met het besluit van de stamouderen. Het geld wordt teruggegeven aan beide partijen als die zich aan het besluit houden, of wordt als deel van een eventuele schadevergoeding voor de slachtoffer partij gebruikt.

mediator's decision. Machalgha is a kind of power of the Informal justice actors.

Question: Who is prevailing in your district the formal justice actor or the informal justice actors?

Answer: The formal justice actors are more prevailing because they have authority to arrest the disputants. While the mediators can't arrest anyone they can only mediate in a dispute which is referred to them. For example nowadays there is a dispute between the Arish Khil and Sipayee tribes over a desert /land. They elders and mediators tried a lot to resolve this dispute they conducted Jirga/TDRs many times, but they couldn't resolve it. The two tribes fought for the land many times. Now the district officials took the control and they will make the decision.

Question: Can you please tell us that how many elders/Jirgamaran participated in Arish Khils' Jirga and normally how many Jirgamaran participate in Jirga/TDR?

Answer: In this TDR about 15 mediators participated. And normally it depends on the nature of the disputes, if the dispute is serious many mediators participate in that Jirga and if the dispute is not serious three or four mediators conclude it.

Question: Normally how much time do the elders and mediators take to resolve a dispute?

Answer: Again it depends on the nature of the disputes. The elders and mediators resolve minor and small disputes in a day or so. And the serious and critical disputes take weeks to be resolved.

Question: Normally, what kinds of disputes are referred to informal justice system and what kind of disputes are referred to formal justice system?

Answer: The family disputes, such as disputes over children, water, animals and land are usually resolved through the mediators and if a criminal dispute, such as murder happens then people refer it to the formal justice system.

Question: Ok, Do the elders/Jirgamaran and state actors have good relation or not?

Answer: They have good relations and collaboration. Most of the time the elders and Jirgamaran refer the disputes to state actors and the state actors refer the disputes to Jirgamaran and they always help each other in the dispute resolution.

Question: Could you please tell us about a dispute which is referred to Jirgamaran by the state actor?

Answer: of course, a dispute occurred over land among cousins. It was a shared land inherited by them from their grandfather. They distribute the land, but still they were not agreed and the distribution was not acceptable for them. That's why they fought and one

side was seriously injured. He informed the district officials who arrested the other side. Later he gave some money as bribe to the district officials and they released him. Meanwhile the district officials made both parties to resolve their dispute through a Jirga/TDR. In Jirga the Jirgamaran again distributed the land in the presence of parties, their families, village elders, state actors and many other villagers.

Question: Are the Jirga decision acceptable for all the people in your district and are they happy from Jirga system now or they were happy from it before?

Answer: Yes, almost all the people are happy from the Jirga System, because they resolve the dispute more rapidly than the state actors and in comparison to the past now the village people are gladder.

Question: Thank you so much for giving us your valuable time and having an interview with us.

Answer: You are welcome. Thanks.