

RLS -I Interview Transcript

Name and Position	Age	Gender	Ethnicity	Tribe/sub tribe
Meskina	40	Female	Pushtoon	Pachayan
Interview Team	Village		District	Date
Wahida Kakar, Humaira Jamalzada	Shalotai		Sawkai	05 November, 2012

Initial Observations:

Meskina is a 40 year old house wife who has lived almost all her life in Sawkai district¹. Her husband is a carpenter who owns a shop in the district bazaar. We found Meskina very active, smart and open. In addition, she had much background knowledge of the TDR System, that's why we selected her to be interviewed. After, getting her agreement for the interview we first introduced ourselves and then Wahida Kakar did the project introduction during the project introduction Wahida told her the key objectives and aims of the project and made it clear that the organization doesn't promise for any financial support. Finally, Wahida Kakar let her know what the interview is about. She was so frank and friendly woman and had lots of useful information about Shalotai village and its TDR system. After, getting her permission for note taking we began the interview as follow:

Question: Can you please introduce yourself?

Answer: Of course, my name is Meskina my husband is a carpenter, I have seven children. We belong to Shalotai village of Sawkai District. I am a house wife, beside the house works I sew the villagers clothes I mean I am a tailor too.

Question: Can you please provide us with some information on the disputes that are

¹ Kunar province, ten oosten van Kabul, grenst aan Pakistan.

common in your village?

Answer: Many kinds of disputes take place in Shalotai village. However, some common ones are the disputes over water and irrigation, Pets, Land, disputes between neighbors, disputes between family members and most of the time disputes over children. We have witness many disputes over children which got serious and the disputing parties due to injuries have been referred to hospital for treatment.

Question: Can you please tell us about a particular dispute that the mediators have resolved and you remember it?

Answer: Sure, I will tell you a story of my own family. A few years ago my husband got a clash with his brothers. The clash took place over a street which has been used by us and them since long ago. My husband's brothers are very arrogant and they were always beating and disturbing my children and were stopping them from using the street. One day my husband Mangal got fed up of his brothers this action. He went to talk with them. My husband made it with them that we will give a room and some part of our house to them and they will let us use the street, because the street was their property. For sometime everything was ok, but later they once again started to disturb my children. Due to their arrogance and disobedience of the deal my husband got angry and fought his brothers both my husband and his brothers got injured and were about to kill each other, but thanks to the villagers who stopped them. My husband's brothers were trying to harm or even kill my husband; therefore, we went to the Village Malik² and asked him for conducting a Jirga/TDR for the resolution of this dispute. Thus the Malik along with some mediators and village elders conducted a Jirga first they took *Waak*³ from both of us and later they announced their decision. In the decision they said that Mangal give a room and some part of his house to his brothers, so has the right to use the street and no one can disturb him, his family and even his animals and if one does so the Jirga (Mediators) will charge him 50,000 rupees⁴ as fine.

Question: Who do the villagers refer their disputes to, the TDR actors or to the state actors?

Answer: Most of the people refer their disputes to TDR actors in case if one refers his or her dispute to state actors too. The state actors refer their dispute back to the TDR actors.

² Heeft vaak de leider (burgemeester) functie in een dorp/gehucht. Het is een soort middeleeuws system waarbij de Khan vroeger de functie van edelheer bekleedde. (alhoewel veel Khans van hun rijkdom gestript zijn tijdens de Sovjet bezetting) en de Mali geen sort onderheer is.

³ Geschreven verslag van verhoor/getuigenverklaring.

⁴ 400 Euros

So that's why all the people now primarily see the mediators for their dispute resolution then the state actors if the mediators couldn't resolve it. Here I would like to tell you a story which will make my answer clearer.

The other day two men fought over their joint street. From one side there were three men and from other side there was only one. After being beaten this man ran to his home and took out a gun when he was about to fire the other disputant party seized the gun from him and beat him more. Later this man complained to the district office, but they refer his case to mediators. The mediators conducted a Jirga. The Mediators told those people to give him back his gun and a sheep as *BAAD*⁵ thus the mediators resolved a dispute which was referred to them by the state actors.

Question: Ok, now can you please tell us that why most of the people refer their disputes to TDR actors rather than State actors?

Answer: According to my point of view Jirga System is much more reliable and purer than the government departments. The mediators always try to help the villagers and resolve their disputes as soon as possible without hoping for wages or any monetary gain. However, the state actors are usually extending the disputes in order to make ways for bribe. And the decisions of the state actors and other government departments are not fair there is always prejudice and discrimination in their decisions they always favor rich people that's why people mostly don't involve them in dispute resolution.

Question: Usually, who and how many people conduct a Jirga after a dispute takes place?

Answer: Normally, the village Malik conduct Jirgee/TDRs because the villagers refer their disputes first to him then Malik ask mediators, the village elders, and other influential and educated people. Usually the farmer, barbers and other people are not involved in decision making of a Jirga; however, they can sit in Jirga only to hear and see that what happens.

Question: Ok, could you please tell us about a particular number of the mediators for one TDR?

Answer: The number of the mediators for conducting Jirgee differs from Jirga to Jirga if the dispute is serious then 15 to 20 or more mediators take place and if it is not so serious then 3, 4 or 5 mediators take place. Sometimes tribal disputes arise than hundreds of elders and mediators sat in one Jirga and try their best to resolve it for the betterment of both tribes.

Question: What norms, customs, or law is used by the mediators during the dispute resolution?

⁵ Wij moedigen andere vormen van betaling/schuldaflissing aan dan ruilhandel in vrouwen. Schapen mag.

Answer: Nowadays, the mediators make their decisions in the light of Sharia law and you will for sure find one or two Mullah/Religious scholars in every TDR; however, in past most of the mediators were following the pashtoon culture and norms for dispute resolution⁶. At that time the people were not having much knowledge about Sharia law; however, nowadays everyone is having bit knowledge of Sharia, so that's why no one can forcefully implement a norm or custom and a decision which based on norms not sharia.

Question: Do mediators announce the Jirga decision in written form or vocally?

Answer: Before, almost all the TDR decision were announced out loud not in written form, but nowadays the mediators announce their decisions in written form because they don't want any of the disputants to repent from their decision in future.

Question: Are the people of you village, happy from mediator decisions or not?

Answer: Yes, we are all happy from our mediators and their decisions are acceptable to us because they do not discriminate among disputants and they always try to resolve the disputes sooner.

Question: Ok, Do the Mediators and State actors have good relation or not?

Answer: Yes, they have very good relations because the state actors are also our own peoples and these mediators are selected by the district governor, so they are all in relation with state actors and mostly they take the help of the state actors in some disputes.

Question: Do the Mediators discriminate the rich and poor disputants or they treat both the same?

Answer: Yet, I have witnessed so many DTRs and I haven't seen any discrimination. Because all the people here are related to each other in case if a Malik make an unfair decision then in TDR system we have a rule to conduct another Jirga for the reforming of the unfair decision.

Question: Can the women directly participate in DTRs?

Answer: No, women cannot directly participate in TDR; however, sometimes as witness or source of information the women are invited for a while to the TDR venue but they are not allowed to take part in decision making. But in past there were some aged women who were directly participating in TDR and were also having part in the decision making one those women was my mother-in-law she was an active mediator and she was participating in almost all the village level TDRs, but now I haven't seen any women to participate in TDR, because the people are changed and they consider it a shame and disrespect for a

⁶ stamrecht

woman to sit with other men⁷.

Question: In compare to past do see any betterment in TDR system or not?

Answer: Yes, there is a change. In past most of the Mediators were uneducated; however, now there are many educated mediators. Before the mediators were practicing traditional norms; however, nowadays they sharia law with our norms. Before the mediators were forcefully implementing their decision; however, now they don't force people.

Question: what should be done in order to strengthen the TDR system?

Answer: the district governor and the villagers should select honest and educated people as mediators and then the government or other organizations, like yours should help them and train them, aware them from the changes in the country law and the mullahs/ religious scholars should teach them some Sharia law and the Religious scholars should always observe their decision in the light of Sharia.

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

Answer: You are welcome. Thanks.

⁷ Taliban heeft effectief huisgehouden.