
Local Conflict Mediation in Nangarhar



Commission on Conflict Mediation Members meeting in January, 2012

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The Liaison Office



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Executive Summary

Between August, 2011 and the end of January, 2012, The Liaison Office (TLO), with funding from the Swiss Agency for Development and Cooperation (SDC) set up and ran two Commissions on Conflict Mediation (CCMs) in Nahiya (Precint) Five of Jalalabad, and Mohmand Dara district, both in Afghanistan's Nangarhar province. Upon successful inception of the CCMs TLO then arranged for CCM elders to receive trainings in Sharia, Afghan statutory and constitutional law, and gender issues. As planned, CCM elders also met to discuss issues surrounding how to make the CCMs, and similar institutions, more sustainable, whether they should link to the state, and what role women can play in CCM programming.

Overall, the CCM projects proved highly successful, especially in mediating a large number of sensitive cases, the elders engaging with trainings received, and making practical suggestions for the inclusion of women on CCMs or similar institutions.

Mediations in the CCMs

The Nahiya Five CCM, in its first six months, heard **23 disputes overall**:

- **11 family disputes:** in one such dispute, the younger brother of a local shopkeeper ran off with another man's wife to Pakistan. Even though they eventually returned, the woman's family vowed to take violent revenge on the shopkeeper, who fled Jalalabad (his brother being perceived as too young to be accountable). He then contacted the Nahiya Five CCM, who brokered a compromise wherein the shopkeeper would pay a fine, but the woman's family would renounce its right of revenge.
- **4 injury disputes:** including a case in which a nephew and cousin of a retired police Brigadier had an argument, resulting in the cousin ultimately stabbing the nephew. The police arrested them both. The aforementioned retired Brigadier called the CCM, which arranged for the release of both parties. The CCM arranged to meet with both conflict parties, and negotiated an agreement to settle the dispute with the cousin slaughtering a sheep for the nephew in apology.
- **2 property disputes:** in one of these cases, a party built a structure incorporating the wall he shared with his neighbor, but without that neighbor's permission. An argument began, and the parties fought. One party then called the CCM, which then forged a compromise where the building party would compensate the opposing party in an amount equivalent to half the cost of construction of the wall; and
- **6 commercial disputes.**

The Mohmand Dara CCM, in its first six months, heard **35 disputes overall**:

- **19 land disputes (plus 2 that also involved violence):** these mediations included a case between three relatives from a prominent local family. The three could not agree on the division of inherited land, and eventually violence broke out, leading to the arrest of all parties. One of the parties then contacted the Mohmand Dara CCM, which secured their release, successfully mediated the underlying dispute, and delineated the property at issue with marking stones.
- **4 commercial disputes:** including one case where the PRT had contracted a commercial party for repairs to the Mohmand Dara police station. A dispute over the disbursement of funds between the original contractor and a subcontractor prevented the completion of repairs, and the Mohmand Dara Huquq Department referred the case to the CCM, which then arranged that the contractor would disburse the remaining funds if the subcontractor promised to complete his work within budget.
- **6 injury disputes:** among which a serious road accident that resulted in grave injury to a motorcycle rider. The Afghan Border Police, upon arrival on the scene, immediately called the CCM to prevent the parties taking revenge on one another. CCM members in turn arranged for the party at fault to pay for his victim's medical bills; and
- **4 family disputes.**

CCM Trainings and Discussions

Elders sitting on the CCMs received training on Sharia law, Afghan statutory and constitutional law, and gender issues. These trainings appeared to have a particularly significant impact on the treatment of women's cases, and have increased CCMs' issuing land documentation to substantiate and authenticate their decision/outcome.

- Based upon training reports and follow-up interviews over a period of months, elders reported, and could offer examples of, extending women greater rights in various sorts of cases. For example, in one case a group of brothers tried to sell an inherited property without their sisters' consent. The CCM rejected the attempted sale, unless and until they obtained the consent of their sisters. Elders also reported that they now recognized domestic abuse as valid grounds for divorce as a direct result of their statutory law trainings.
- In terms of land cases, the elders received instruction on what constitutes adequate documentation with regards to land ownership, and how changes in ownership should be registered. Elders are now issuing land documentation with the following information: date of issuance, names and signatures (or fingerprints) of parties and witnesses, and a physical description of land boundaries tied to permanent landmarks.

Finally, in a discussion among all CCM members on January 2-5, and in smaller discussions before and after, CCM elders offered their thoughts on how to make CCMs, and similar programming, more sustainable; how to liaise with the government; how to incorporate women on the CCMs; and suggestions for future training.

- Overall, CCM elders seemed to view continued donor funding as the most promising model for supporting CCMs, and similar initiatives, at least in the short term. That being said, nearly all CCM elders agreed that CCMs, or similar bodies, can, and should, work with the state, particularly in reporting CCM activities to state officials, and enlisting their support when appropriate. The elders also were open to receiving direct support from the state, so long as they could preserve their autonomy.
 - By contrast, elders across the board rejected a “fee for service” model for CCM services. They believed that CCM clients paying fees would inevitably lead to corruption, or at least the appearance of corruption. Similarly, they rejected the idea of support via an Islamic trust (*waqf*).
- Elders from both Nahiya Five and Mohmand Dara identified strategies for working with women on the CCMs, centered on securing the cooperation of women who already play some public role. The Nahiya Five elders stated that it would not be problematic to find women with whom to work, and particularly recommended working with female teachers, as they would possess the requisite education and ability to work outside the home. For their part, the Mohmand Dara elders stated it would be much harder to work with women in their district, as very few women possess such education and freedom of movement. They did, however, suggest trying to engage with female nurses in district clinics.
- Finally, throughout the project period CCM elders periodically requested more training, something which time constrictions and budget unfortunately prevented. In particular, they asked for more in-depth instruction regarding Islamic family law, and particularly the law of inheritance.

Lessons Learned and Plans for the Future

- The record of the CCMs, both with SDC and in their previous incarnation, indicates that they are highly popular with disputants (particularly in Mohmand Dara, where they have proven likely more popular than any other district-level dispute resolution institution).
- In some circumstances, CCMs will develop valuable specializations, such as the specialization of the Nahiya Five CCM in family disputes. In other cases, as in Mohmand Dara, their caseload will resemble, in its makeup, that of the district as a whole.

- TLO has previously suggested that dispute resolution shuras will tend to take on specialized roles when other viable dispute resolution institutions are present, resulting in a “division of labor.” It appears, for instance, that the presence of a fairly strong state system in Jalalabad led to the Nahiya Five CCM developing a specialization in family cases that the state is not well-equipped to handle.
- Traditional elders, across a variety of levels of education, are highly receptive to trainings in law and related issues, to the extent that these trainings lead to beneficial changes in their practices.
 - These trainings can also be useful in expanding the legal rights of women, particularly when such expansion has a clear Sharia basis.
- The elders are not against engagement with the state – though they are very eager to maintain their independence, and resist being required by third parties to engage. They are not anti-government but want to set the terms.
 - In particular, all elders were willing to liaise with the state, but would have resisted any requirement to register their case resolutions with the state; a process they view as burdensome and rife with corruption – suggesting that state reform will be necessary before registration becomes a proper program goal.
- CCM members were also not against the inclusion of women on the CCMs, but such inclusion will prove easier in urban areas than in rural ones.
 - Including women on the CCMs in an investigative and advisory capacity would seem the most practical course at this time, although Nahiya Five CCM members did not reject women sitting alongside men on the CCMs.
- Overall, then, the CCMs provided a valuable service to numerous clients in a wide variety of cases. CCM members also articulated clear ideas on how the program can be developed and improved, emphasizing the need for expanded trainings and increased engagement with women. Extended funding will allow TLO to implement these improvements, while continuing to provide a valuable service to communities throughout Nangarhar.

1. Introduction

The efficient resolution of disputes is necessary for the smooth functioning of any society and economy. If left unaddressed, even seemingly simple conflicts will fester, and can lead, over time, to larger and larger problems. These problems, in turn, can both turn neighbor against neighbor and prevent even the most efficient economic transactions, impairing both security and development. Many ordinary Afghans, however, face a less than ideal set of options for dispute resolution. On the one hand, Afghan courts can be too expensive for average litigants, and take years to resolve even the most common sorts of cases. On the other hand, elders, in both urban and rural areas, can have trouble coordinating their actions, and finding the best mediator for the job can pose difficulties for those not personally acquainted with a large number of elders. Moreover, even highly skilled elders are often unfamiliar with Sharia, Afghan statutory and constitutional law, and modern notions of gender equity and human rights.

With these problems in mind, The Liaison Office (TLO) in August of 2011 facilitated the creation (or revivification) of two Commissions on Conflict Mediation (CCMs), in Nahiya (Precinct) Five of Jalalabad city, and Mohmand Dara district, both in Afghanistan's Nangarhar province. These CCMs met regularly, liaised with the state, and helped area elders overcome coordination problems, thus providing a desirable dispute resolution forum for many disputants. After the inception of the CCMs, TLO arranged for them to receive trainings on Sharia topics, the Afghan constitution and statutory law, and gender issues – to which CCM elders responded with vigorous involvement. CCM members from both project sites also met to discuss issues such as how to make CCMs, or similar bodies, sustainable, how to incorporate women onto CCMs, and the proper relationship between CCMs, and similar bodies, and the Afghan government.

This project represents the continuation and logical extension of past TLO programming. Although TLO has been undertaking relevant programming for many years, the organization began its first dispute resolution projects in 2007, with the formation, at the request of the provincial governor, of a CCM in Khost, followed in 2009 by the formation of a CCM in Paktia. In its first year of operation, the Khost CCM alone settled more than 40 persistent land conflicts. Subsequently, TLO, in 2010-2011, facilitated the creation of district-level conflict mediation bodies, known as Justice Shuras and spread throughout six districts in Paktia and Nangarhar, including Mohmand Dara and Nahiya Five. TLO then aided in the set-up of Justice Shuras Helmand, Uruzgan, and Nimruz provinces (one district each). Altogether, these nine bodies found solutions to more than 300 conflicts of all sorts, from the relatively minor to the highly destabilizing. The United States Institute of Peace (USIP) funded these projects in whole or in part.

The projects in Paktia, Nangarhar, and Nimruz were particularly successful, but had ceased operation in mid-2011, and so TLO approached the Swiss Agency for Development and Cooperation to continue funding, eventually settling on continued funding for Nahiya Five and Mohmand Dara as the most practical course of action in the short term (but with, hopefully, additional funding for additional districts later). In these districts, TLO also, as above, expanded programming to encompass trainings and the discussion of issues and policies important to Afghanistan's traditional justice providers and ongoing

social development. The present report represents a summary and evaluation of the first six months' of these bodies' operations. During this time the CCMs in Nahiya Five and Mohmand Dara solved 58 conflicts between them, representing an uptick in activity from these bodies' previous incarnations.

This report, then, will move on to discuss the set-up and composition of the CCMs (Chapter 2); the cases and controversies they addressed (Chapter 3); their members' engagement with, and reaction to, the trainings and discussions of sustainability, gender and related issues (Chapter 4); and, finally, the lessons learned from the operation of these CCMs, and implications of these findings for future dispute resolution programming (Chapter 5).

In conducting this study, TLO field staff collected and translated case records of all CCM cases, and compiled detailed notes on CCM trainings and discussion forums. Research staff from Kabul also travelled to Jalalabad in December, 2011, to conduct further in-depth interviews and group discussions (roughly 30 people interviewed in total), regarding such topics as taking detailed case histories and rationales for decisions, and best practices which the CCMs are, or should be, using with both CCM members and clients who had used the CCMs. These discussions then continued, as CCM members travelled to Kabul to meet with research staff on January, 17, 2012.

2. Set-Up and Membership of the CCMs

As already mentioned, TLO previously set up dispute resolution institutions similar to the Nahiya Five and Mohmand Dara CCMs under the auspices of the United States Institute of Peace in 2010-2011. In selecting CCM elders, TLO thus had a firm base on which to build, and the projects share a large overlap in membership. In particular, at the inception of the USIP projects, TLO worked with a long-term contact in Nahiya Five, subsequently employed as a Community Liaison Officer for the USIP projects, to compose a high-level shura made up of three types of people: *guzar wakeels*, i.e. semi-official community representatives to the government, each typically representing two residential streets; other prominent community elders from Nahiya Five; and prominent religious leaders.

Building upon the connections made in this process, TLO identified a focal point for Mohmand Dara. Over a period of two weeks, TLO staff in Jalalabad then conducted research to identify a cross-section of prominent elders and religious leaders in the district. Many of those identified are sitting on other Mohmand Dara shuras such as the District Community Council or District Development Assembly. However, as TLO has previously documented both in reports (2011a, 2011b) and in interviews for this report¹, these other shuras do not appear to be well known or active in solving district disputes. When SDC agreed to assume funding, TLO thus contacted its focal points for these previous projects to revive the shuras, and replace members as needed. Given the short amount of time between the cessation of funding from USIP, and the beginning of SDC funding, the composition of CCMs differs very little from their predecessors.

Appendix I outlines the background and tribal affiliation of all CCM members from Nahiya Five and Mohmand Dara. Several differences between the Mohmand Dara and Nahiya Five groups stand out and are worth noting here, regarding CCM members' government connections, ethnic and tribal backgrounds, and levels of education. These differences reflect the different communities in which the CCMs sit, and, as Chapter 3 will make clear, such differences in membership appear to have had little, or any, impact on the CCMs' operations.

To begin, a plurality of people on the Nahiya Five CCM have, or had before retirement, some kind of government affiliation, while none of the Mohmand Dara CCM members do. For the Nahiya five group, their most frequent affiliation is serving as *guzar wakeels*, as above. TLO preferred to work with such elders for a variety of reasons. On the one hand, *guzar wakeels* maintain frequent and close contact with the powerful Jalalabad government, helping to ensure the acceptability of the CCM and its activities to the city authorities. On the other hand, *guzar wakeels* often become neighborhood representatives because they are experienced mediators holding the status of tribal elders in their own right – in turn improving the CCM's legitimacy and effectiveness.

Conversely, TLO did not take into account the government affiliation, or lack thereof, of Mohmand Dara CCM members. Mohmand Dara is a stable and generally pro-government district, but the state there is

¹ Interviews with Mohmand Dara CCM Members and Clients, December 7, 2011.

much smaller, and with much less community presence, than in Nahiya Five (see TLO 2011a, 2011f), reducing both the number of elders with government connections, and the need to work with such elders. Thus TLO recruited CCM members based only on their own status as prominent and respected tribal elders or religious leaders.

The ethnic composition of the two CCMs also varies considerably. Nahiya Five, like Jalalabad in general, hosts a broad mix of Pashtun tribes, as well as other groups. CCM members in Nahiya Five hail from the Safi, Mohmand, Khogyani, Salarzai and Ludin tribes (as well as having Kuchi representation); as well as the Akhundzadgan², and Pashai³ ethnic groups. By contrast, all members of the Mohmand Dara CCM – in line with that district’s population (see TLO 2011f) – hail from the Mohmand tribe, with three also having connections to the Kuchi.⁴

These CCMs in turn differ in the typical levels of education and personal histories of their members. In Nahiya Five, almost all CCM members graduated from high school, and many obtained university degrees or other post-secondary qualifications (such as graduation from the Police Academy). However, in Mohmand Dara, most CCM members ceased formal education far earlier (a greater number also participated actively in the Jihad against the Soviets), and only one has a university degree. With that said, TLO detected no difference in performance between the two groups, with the less-educated Mohmand Dara group actually addressing more cases than their Nahiya Five counterparts (see below at Chapter 3).

Finally, one should note that a small number of CCM members are not tribal elders, but religious authorities. Compared with tribal elders, religious authorities in Nangarhar only solve a small number of disputes (TLO 2011b). However, TLO’s previous studies of the area (Ibid.) and interviews with elders and CCM clients⁵ all show that the advice and council of religious figures is highly valued in dispute resolution. Thus, in addition to elders, each CCM also included a prominent area Imam.

As above, short biographies of all CCM members in Nahiya Five and Mohmand Dara may be found in Appendix I.

² This “special tribe” is defined as having at least three generations of religious scholars in the family line.

³ Many Pashai consider themselves to be a sub-group of the Pashtuns. However, many Pashtuns contest this claim, as the Pashto and Pashai languages are mutually unintelligible.

⁴ Interview with Mohmand Dara CCM Members, January 17, 2012.

⁵ Interviews with CCM Members and Clients, December 6-7, 2011.

3. Mediations in the CCMs

In their first six months of operation the Mohmand Dara and Nahiya Five CCMs issued decision letters in 58 cases, representing an uptick in CCM activity from the project's first year of operation. In that year, the Nahiya Five Justice Shura (as it was then known) heard about 35 cases, and the Mohmand Dara Justice Shura about 50 (TLO 2011a). In the past six months, by contrast, the Nahiya Five CCM has heard 23 cases, and the Mohmand Dara CCM 35, meaning each body is around fifty percent busier now than during its initial period of operation. These cases included a significant number of complex and destabilizing disputes, as detailed below. Both bodies also liaised regularly (at least once a month) with local government, although both CCMs chose not to formally register most of their case resolutions with government bodies.

The case profiles of the Nahiya Five and Mohmand Dara bodies nevertheless do differ somewhat: the Mohmand Dara CCM heard a plurality of land cases (but very few family disputes), while the Nahiya Five body heard a plurality of family disputes (but very few land cases). While it is certainly true that Mohmand Dara sees more land disputes than Nahiya Five, and Nahiya Five more family disputes than Mohmand Dara (TLO 2011b), the predominance of a single type of case in each CCM does point to the bodies developing complementary, and highly valuable, niches for local dispute resolution. The below sub-sections discuss the Nahiya Five and Mohmand Dara CCMs' operations in turn, including both numerical data and case examples

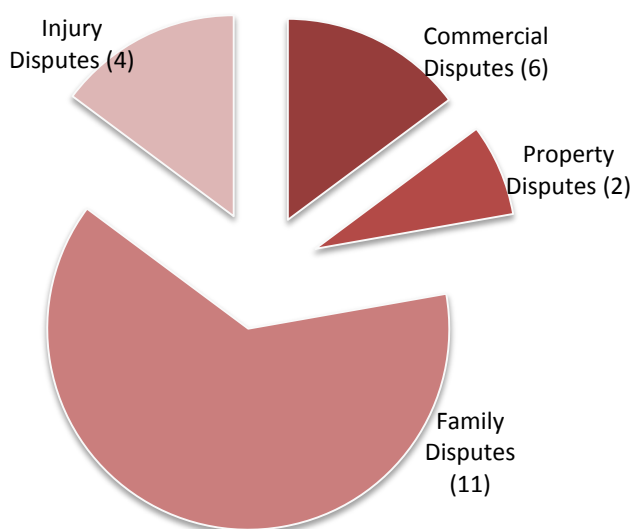
3.1. Conflict Mediations in the Nahiya Five CCM

As above, the Nahiya Five CCM heard 23 cases during its six-month run. These included about eleven family cases, six commercial cases, four small injury (or tort) disputes, and two property disputes,

including several cases brought by women. TLO's previous report on Nahiya Five's justice system (2011b) indicated that about 40% of cases involve family issues, 40% property issues, and 20% criminal (or tort) issues.⁶ Thus the CCM appears to have developed something of a specialization, hearing a disproportionately large number of family conflicts, and a disproportionately small number of injury and, especially, property disputes.

These family mediations included a number of very serious disputes, with high

Figure 1: Mediations in Nahiya Five



⁶ As a general proposition, a fact pattern that gives rise to a criminal case can equally give rise to a civil law tort. For example, the crime of murder can also be the tort of wrongful death.

potential for violence, as well as three cases brought by women. In one of the more serious disputes, a young man, around 15 years of age, was working in his older brother's shop. A married, older woman frequented the shop and, eventually, she and the aforementioned young man fell for one another, and fled to Pakistan together. The young man's older brother, the shop owner, then went to Pakistan to convince them to return to Jalalabad. They did so, and he sent the woman back to her family. Despite the couple's return, the woman's family announced their intention to take violent revenge on the shop owner. A traditional jirga attempted to settle the case, but was rebuffed. After that, the shop owner surreptitiously contacted a CCM member whom he knew. The CCM then contacted the woman's family, and brokered a deal whereby they would renounce their right of revenge on the shop owner, if he would pay a fine. The shop owner agreed, and paid a fine of 3 lakh Afghanis (300,000 Afghanis, or about 6,000 USD). In turn, if any party opposed this settlement in the future, that person would need to pay 20 lakh Afghanis (two million Afghanis, or 40,000 USD) as a fine to the government. Unusually for a family dispute (TLO 2011a, 2011b), the parties in this case received a written record of the dispute and its resolution. The shop owner, when interviewed, stated that he requested this written decision because, if the woman's family sought to reopen the dispute, he might need to prove both that he paid the fine, and that they were liable for the 20 lakh Afghani penalty mentioned previously.⁷ In this case, then, the imperatives of economics (or at least self-preservation) appear to have overcome imperatives of privacy.

As above, these family cases also included at least a few cases brought by women. In one such case, a woman was living with her three sons. Two were married, and their wives were also living in the house. The two men, however, were "denying the rights" of their third brother: he was unmarried, but his brothers refused to pay for his wedding, while also refusing to vacate their mother's house. Their mother stipulated that they could remain in the house, so long as they paid their brother's wedding expenses, but they were unmoved. This woman then took her problem to the CCM, which she had heard about by word of mouth. The CCM heard her dispute with her sons, and decided to affirm her prior decision: her sons could remain in her house, if they paid their younger brother's wedding expenses. They agreed to do so, and the parties received a written decision, again because of the decision's financial implications. The decision was not, however, taken to the government.⁸

The CCM amassed a similar record in other sorts of disputes, although it heard these less frequently. One of the CCM's two property disputes involved a shared wall between the compounds of two different families, which TLO has previously documented to be a particularly common sort of conflict in urban settings, or at least in Jalalabad (2011b). According to the CCM members interviewed about the case, there is an informal rule in Jalalabad that, if one party has constructed a shared wall, the other party may not build anything along that shared wall without the permission of the original builder. Here, however, the party who had not built the wall nevertheless used it, without permission, as an outer wall of additional rooms he was constructing in his compound. A conflict thus ensued and, around November 24, the parties fought, although neither sustained injuries. One of the parties then called the CCM,

⁷ Interviews with Nahiya Five CCM Clients, December 6, 2011; Interviews with CCM Members, December 6, 2011.

⁸ Interviews with Nahiya Five CCM Members, December 7, 2011.

which mediated a compromise wherein the party building the additional rooms could construct them so long as he gave to the other party one half of the cost of building the shared wall. Both parties accepted this outcome, and the shura issued them a written decision.⁹

Of course, this case would have been more serious if the parties' fighting had resulted in death or injury, in that the injured party or family of the dead man would then have a right of revenge on the perpetrator and his family. The CCM also proved adept at solving these highly destabilizing disputes. In one injury case, a motorcycle accident occurred in Nahiya Five, resulting in one party breaking his leg. The injury was particularly worrisome because the parties to the case were of different tribes, and both the case parties and CCM members judged the case to have a high likelihood of leading to further violence. The father of the uninjured party thus immediately called a member of the CCM, who then alerted other CCM members, to make sure that the elders hearing the conflict were tribally "balanced." As word spread, the injured man was carried to an area hospital. During this time the CCM stipulated that the party at fault had to pay 30,000 Afghanis (about 600 USD) to the injured man and his family to defray medical expenses. However, the local hospital could not treat the man adequately, so he was transported for treatment to Peshawar. Treatment in Peshawar further increased medical expenses, and the CCM arranged for the party at fault to pay an additional 30,000 Afghanis (600 USD). After the latter payment, all parties to the dispute pronounced themselves satisfied. At the time of the interview, this dispute had just been settled, but CCM members stated that they would soon release a decision letter for the case.¹⁰

Finally, a number of the Shura's injury cases actually involved government personnel, or at least former government personnel. In one example the nephew and cousin of a retired police Brigadier got in an argument, after the nephew had invited some of his friends over to the family compound. This invitation restricted the movement of the women in the family compound (they had to hide themselves from the guests), and particularly disallowed them from using the hand pump in the compound courtyard, so the cousin objected that the nephew should not have brought guests over. An argument began, and the Brigadier's nephew stabbed his cousin. Someone in the compound called the police (it is not clear who), and the police then arrested both the cousin and the nephew. After their arrest, the retired Brigadier approached the police to secure his relatives' release, but was rebuffed. He then approached the CCM, who in turn spoke to the police and secured the young men's release, on the promise that, if the CCM could not solve the case, they would return it to the government. The police accepted, and all parties to the case agreed to the CCM's intervention. The CCM then convinced the cousin to forgive his nephew, who slaughtered a sheep for his cousin as a sign of apology. The Nahiya Five police later approved this case resolution.¹¹

⁹ Interview with Nahiya Five CCM Members, December 7, 2011.

¹⁰ Interviews with Nahiya five CCM Members, December 6, 2011.

¹¹ Interviews with Nahiya five CCM Clients, December 6, 2011.

3.1.1. Government-CCM Relations in Nahiya Five

As these case examples have indicated, the Nahiya Five CCM seems to have made some progress in improving the coordination of resources for dispute resolution. In particular, the Nahiya authorities did refer a number of cases to the CCM. In turn, the CCM provided a convenient entry-point for local parties with matters before the city government.

Overall, the CCM met with the government once or twice a month, to discuss cases; or when new staff joined the government, to explain the CCM and its works. Overall, the government itself referred at least three cases to the CCM. In one such case, a woman left her husband, and her father took the matter to a local police station. Later all parties decided that they would rather settle the matter via local elders, in order to prevent word of the problems from getting out. The police thus referred the case to the CCM, which in turn forged an agreement that the woman would return to her husband if he would no longer beat her. After reaching this solution, the CCM reported it to the police, who approved the decision, and the matter has remained resolved.¹²

With that example in mind, although the Nahiya Five government never interfered or hindered CCM operations, CCM members also reported occasional problems with the registration and stamping of cases. In particular, TLO encouraged, but did not require, CCM elders to get government stamps on as many cases as possible. However, CCM members elected to only take cases for government approval when the government was already seized of the case.¹³ They said that they did so because, even if the government had referred the case to the CCM originally, it would ask for a bribe before giving approval to the CCM's solution. Depending on the gravity of the case, CCM members reported of the government requesting bribes of between ten thousand and a hundred thousand Afghanis.¹⁴ As a result, the CCM only took cases for government approval when it felt government notification and approval absolutely necessary.¹⁵

CCM members developed a work-around for this problem, but it is difficult to assess its durability. More specifically, as above, CCM members in Nahiya Five are largely *guzar wakeels* and many some work for the government, in such departments as the Cadastre, or on the Jalalabad Municipal Shura, which has responsibilities for assisting city administration and sanitation (but does not usually perform dispute resolution functions).¹⁶ As such, they have access to a variety of government stamps.¹⁷ For example, the Nahiya Five member who works for the Cadastre has applied his stamp to a number of CCM cases, whether or not they have anything to do with the Cadastre's official functions. When interviewed, he indicated that his stamp on the case would function more or less as personal testimony that he had witnessed and approved the decision in question. Because he is a government employee, the

¹² Interview with Nahiya Five CCM Members, December 6, 2011.

¹³ Ibid.

¹⁴ Interview with Nahiya Five CCM Members, December 7, 2011.

¹⁵ Ibid.

¹⁶ Interview with Nahiya Five CCM Members, December 6, 2011.

¹⁷ Which is to say, most of the stamps clearly carry some official import, but are being used for purposes not originally intended.

implication seemed to be that this “testimony” would carry some weight, in that it would make it less likely that the government would in the future agree to re-opening of the mediation.¹⁸

On the one hand, the Jalalabad government is clearly not observing legal niceties in how it accepts cases for evaluation or registers them – so it is possible that the stamp of any government department would carry the same weight. Indeed, TLO’s suggested method – that the local police stamp CCM cases – was not guaranteed to prevent re-litigation, in that the status of any shura decisions is fundamentally unclear under Afghan law, and no law or common method exists for the government approving them. On the other hand, the entirely ad hoc method the CCM employed plausibly increases the chances that CCM cases will be open to re-litigation in the future, in that, as the Afghan government gains legal capacity, it could very well look on these ad hoc arrangements less favorably. As a general proposition, it would be harder to grandfather ad hoc decisions into a future dispute resolution system than it would be to bring in decisions approved in an orderly way by a government institution such as the police who are fundamentally involved in dispute resolution activities.

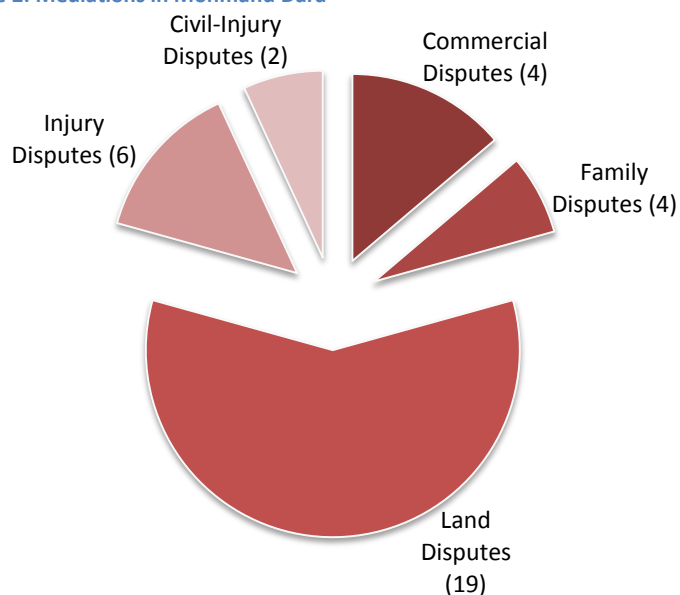
3.2. Conflict Mediations in the Mohmand Dara CCM

During its first six months of operation, the Mohmand Dara CCM mediated 35 disputes. These disputes had a distinctly different makeup than the mediations performed in Nahiya Five: four commercial disputes; four family disputes; two civil-injury disputes¹⁹; 19 land disputes; and six injury disputes. As such, family disputes were proportionally far less in the Mohmand Dara CCM than in the Nahiya Five one (less than ten percent in the

former, compared to half in the latter), while property disputes were far more (more than half in Mohmand Dara; versus at most twenty percent in Nahiya Five). 58% of the Mohmand Dara CCM cases were property disputes, in line with dispute resolution institutions in that district as a whole (TLO 2011a, TLO 2011e).

As in Nahiya Five, Mohmand Dara property disputes also contained a number of serious and potentially destabilizing cases. In one case, an older family member

Figure 2: Mediations in Mohmand Dara



¹⁸ Interview with Nahiya Five CCM Members, December 6, 2011.

¹⁹ This category of dispute refers to conflicts that began as civil (typically land) disputes, and then “became” injury disputes, after one party assaults the other.

passed away and three parties, all cousins, put claims upon that person's land. In particular, one cousin claimed fully half of the land at issue; he even placed marking stones on the property at night and then claimed that the stones proved his rightful ownership to half the property.²⁰ This party also beat the son of another party to the dispute, who then called the police. In turn, the police came and arrested the three dispute parties.²¹ One of the arrested persons then placed a call to a member of the District Community Council (DCC), a government-affiliated shura under the Afghan Social Outreach Program administered by the Independent Directorate of Local Governance, but they were unable to secure the parties' release. In turn, these DCC members called members of the Mohmand Dara CCM who then secured the release of the parties from jail, in return for a promise to solve the dispute. The CCM then brokered a compromise between the three cousins, wherein each would receive one-third of the contested land. The CCM also placed stones on the land to indicate its proper demarcation, and issued the parties a decision letter which also described the position of these stones in writing (see below at 4.1 for more information on practices regarding land documentation). The Mohmand Dara police in turn approved the CCM's decision.²²

Another land dispute handled by the CCM dated from Mujahideen times (c. 1989-1995). During those years two neighbors returned from Pakistan, and divided equally between them access rights to a common stream. Shortly thereafter, one neighbor acquired more land than the other, so that one owned 3.5 jeribs (0.7 ha), and the other owned 2.5 jeribs (0.5 ha), although they maintained equal stream access, leading to a dispute. This conflict simmered on, and recently came to a head when the son of the party with more land threatened the other party with violence, unless he would share the water more equitably. Hearing a vociferous argument, neighbors of the parties called the Mohmand Dara CCM, which then assembled a jirga of fully 17 people (five CCM members, and 12 local elders familiar with the situation), as the CCM assessed that the dispute had a high likelihood of becoming violent. This combined jirga then decided that, daily, the conflict party with 3.5 jeribs would have five hours of stream access, and the conflict party with 2.5 jeribs would have four hours. CCM members then issued both parties a written decision.²³

The Mohmand Dara CCM, in addition to such land cases, also solved a number of injury and commercial cases, often in collaboration with state authorities. In one such case, a tractor trailer hit a passenger car in the Dakka area of Mohmand Dara, with the occupant of the passenger car being severely injured. The Afghan Border Police (ABP) were originally called to the accident, and they subsequently called the CCM to help settle the dispute. The CCM then brokered a compromise whereby the car passenger and his family would forego their right of revenge, in return for the tractor trailer driver paying both for a new car and for the passenger's medical bills. The CCM then reported its case resolution to the ABP.

²⁰ Interview with Mohmand Dara CCM Members, December 7, 2011.

²¹ Interview with Mohmand Dara CCM Clients, December 7, 2011.

²² Ibid.

²³ Ibid.

Similarly, in one of the CCM's commercial disputes, the Nangarhar Provincial Reconstruction Team (PRT) contracted with a businessman in Mohmand Dara to perform some repairs to the district police station. This businessman in turn subcontracted the work, and would periodically disburse funds to the subcontractor in furtherance of the renovation's completion. The original contractor had budgeted for the expenditure of 180,000 PKR (about 2,000 USD). However, after some time he felt that work was not proceeding satisfactorily; he had already disbursed 140,000 PKR, but withheld the last 40,000 PKR pending completion of the repair work. Conversely, the subcontractor objected that, until he received these funds, he would not have the money to complete the repairs. The parties, finding themselves at loggerheads, took their dispute to Mohmand Dara's Huquq Department. The Huquq Department subsequently forwarded the case to the Mohmand Dara CCM, which in turn conducted a mediation between the parties and reached agreement that the original contractor would disburse the remaining 40,000 PKR if the subcontractor would guarantee finishing his work on this budget. The CCM then reported this result to local government authorities.

3.2.1. Government-CCM Relations in Mohmand Dara

Government-CCM relations in Mohmand Dara proceeded in a way strongly reminiscent of relations in Nahiya Five. In particular, the CCM met with government authorities typically once or twice a month. It also received some cases from government authorities, as demonstrated above. However, once again, CCM members in Mohmand Dara overall preferred not to take their case resolutions for government approval, unless the district government already had a stake in the case, and so would be watching the CCM's actions, or be expected to react negatively if not informed of the case's resolution. CCM members in Mohmand Dara also alleged that the local government had asked them for bribes in return for the approval and registration of CCM mediations. Typically, they said, the requested bribes were between 50,000 and 70,000 PKR (about 450-650 USD) per mediation. As is further discussed in this report's next chapter (at 4.2.1), the perceived necessity of paying these bribes significantly limited the desire of CCM members to interact closely with the state.²⁴

²⁴ Interviews with Mohmand Dara CCM Members on December 7 and January 17, 2012.

4. CCM Trainings and Discussions

As already mentioned, TLO has been undertaking justice projects along the lines of the CCMs for some time. Moreover, in March of 2011, TLO brought together nearly 100 elders from throughout Afghanistan to discuss how the country's informal dispute resolution systems could be improved, how they could sustain themselves, how they should interact with the state, and similar questions. One of the consistent answers to these questions was that elders involved in dispute resolution should receive trainings in Sharia and Afghan statutory and constitutional law, while elders also proved themselves quite willing to engage on sensitive topics such as gender issues. Similarly, as part of the evaluation of its previous Paktia and Nangarhar dispute resolution projects, TLO asked both Justice Shura members and their users how such programs could be improved going forward. They again answered that elders should receive legal trainings (TLO 2011a; *see also* TLO 2011c).

With the fruitfulness of these discussions and ideas for improvement in mind, TLO, when undertaking the present program for SDC, decided to provide elders sitting on CCMs with trainings on Sharia, Afghan statutory and constitutional law, and gender issues. TLO also engaged these elders for further discussions, in particular on how institutions like the CCMs could be sustainable, and on how they could incorporate women into their undertakings. Overall, TLO found that elders sitting on CCMs engaged eagerly with trainings on even difficult topics, and these trainings appear to have had a positive impact on elders' practices, particularly regarding women's rights and the development of land documentation. In turn, elders' ideas on sustainability and engagement are fascinating: even as they might take much longer to work out fully, they can at least provide a jumping-off point for further explorations and the locally-led construction of, gradually, better and better dispute resolution institutions.

4.1. Trainings of Nahiya Five and Mohmand Dara CCM Members

TLO provided three rounds of training for CCM members, on Sharia law, Afghan statutory and constitutional law, and gender issues. CCM elders evaluated the trainings positively, and readily provided case examples of how the Sharia and Afghan statutory and constitutional law trainings had improved their decision-making (gender training took place at the end of the CCMs first six months, and so it was difficult to evaluate its impact). Moreover, the Sharia and statutory law trainings appear to have reinforced one another, leading to improvements in both family dispute and land documentation practices.

TLO staff (who hold advanced degrees in Sharia) and Nangarhar University faculty conducted the Sharia training in September of 2011. The training covered a variety of topics including Islamic land law (first day of training), Islamic family law (second day of training), and Islamic criminal law (third day of training).

Although CCM members responded enthusiastically to each of the days of training, they appear to have rated the training on family law as most useful. Participants interviewed after the training in particular noted that, as elders, they mediate a large number of family disputes. The case data from Nahiya Five certainly bear this out. By the same token one should note that, in Mohmand Dara, elders sitting on that



Picture 2: CCM Members at Training in December of 2012

CCM strongly preferred to solve family disputes verbally (hence no letter of decision)²⁵ and that, in Mohmand Dara as in all parts of rural Nangarhar TLO has surveyed, family disputes are brought to elders less than other disputes, but are brought to elders preferentially over any other forum (TLO 2011b).

At the end of the training, CCM members even specifically requested additional training on more complex family law issues, such as those dealing with inheritance. This request came after trainers had made clear that some aspects of proper Sharia practice can be at odds with Pashtunwali. For example, in one exchange a training participant asked if an adult woman could be given in marriage without her consent. The trainer replied that she could not, and could reject any such marriage. Similarly, another trainee asked if women retained any marital property after divorce. The trainer replied that women must receive *mahr* (dowry) before marriage, and must be allowed to keep this property if the marriage dissolves: neither her former husband nor her father has any claim on the property.

As these questions might imply, more typical practice, especially in rural areas, has been that a woman's consent is not sought before marriage, and she retains no marital property in the event of divorce. That training participants then asked for additional information on family law issues indicates at least a willingness to engage on material that challenges elders' traditional ways of resolving disputes. This

²⁵ Interview with Mohmand Dara CCM Members, December 7, 2012.

finding, in turn, accords with a previous TLO observation that at least some parties to conflict mediations, when given the option of more favorable Pashtunwali rules or less favorable Sharia ones, will occasionally choose Sharia despite its putting them at a relative disadvantage (2011b).

In one example along these lines, six brothers had inherited a house, but could not agree on how to divide the proceeds of sale, and referred the case to the Nahiya Five CCM. In examining the history of the case, the CCM asked, based upon the Sharia training they had received, if the brothers had any sisters. Upon learning that three sisters would have been cut out of the sale, the CCM stated that the brothers could not sell the house at all unless and until their sisters also gave consent. Specifically, the sisters, who are not living in Jalalabad, will need to present both a statement consenting to the sale of the house (with or without their receiving a portion of the sale), along with proof of identification. According to the CCM members, they previously had not recognized women's property rights, or taken their interests into account for the sale of real property.²⁶

Statutory law trainings, in turn, seem to have further improved the treatment of women before the CCMs. Elders from Nahiya Five related one particularly striking example. In this case, a woman requested a divorce from her husband because he was a drug addict and could not provide for her. Citing the Afghan Family Code – and particularly provisions that allow divorce where remaining married to the husband is harmful to the wife's interests – the CCM allowed the divorce to proceed.²⁷

Elders' also showed a willingness to modify their practices in resolving land disputes, in ways again influenced by both Sharia and statutory law. According to training reports they reacted eagerly to the trainers' information on what constitutes a proper land deed under Sharia: the document should contain a date of issue, information on the boundaries of the property, and the names and signatures of witnesses to the property transaction. Especially in Mohmand Dara, where the CCM heard mostly land disputes, but where elders were not previously in the habit of issuing written resolutions to cases²⁸, such a practice would mark a real improvement, and make easier eventual recognition of customary land deeds, in that the customary deeds would be nearer to meeting the standards of government land documentation. In turn, CCM members state that, before letting a sale proceed, they now make sure to consult with all neighbors to the land, to make sure there is no cloud on the title.²⁹

Elders' statutory law trainings also appear to have influenced how they decide other issues in land cases. For example, one case saw two brothers with joint ownership of land. One brother wanted to donate a portion of the land for building a mosque, but the other objected. Based upon their prior trainings, the Mohmand Dara CCM, first, elucidated the principle that the transfer of any part of jointly owned land required the consent of both parties, and, second, brokered a compromise where the brother wishing to transfer land would be allowed to do so, if he found another piece of land for his brother in

²⁶ Interview with Nahiya Five CCM Members, January 17, 2012.

²⁷ Ibid.

²⁸ Interview with Mohmand Dara CCM Members, December 7, 2011.

²⁹ Interview with Mohmand Dara CCM Members, January 17, 2012.

compensation.³⁰ In this case, then, the CCM both laid out a rule of decision – an unusual move for a traditional dispute resolution body, at least in this part of Nangarhar (see TLO 2011a, 2011b) – and then used that rule of decision to facilitate a more traditional compromise.

After having received these trainings in Sharia and statutory law in September and December of 2011, respectively, CCM members received their final training, in Gender Issues in January of 2012. As with the other CCM trainings, TLO and Nangarhar University staff worked together to develop a curriculum centered around such topics as the right of women to choose their own marriage partners and not be bought or sold into marriage; the repugnance, especially under Sharia, of violence against women; and the ability of women to work outside the home and take part in public life.

This training, of course, occurred shortly before the end of the present project, making it difficult to identify specific cases in which the CCM members had applied what they learned. Some, however, added that, after the training, they now consider domestic violence an appropriate grounds for dissolution of a marriage, and that they think it would be beneficial for women to become more involved in dispute resolution activities, at least in Jalalabad (a point discussed further in the next section). CCM members from Mohmand Dara also emphasized that, after the trainings, they now consider it appropriate, under Sharia, to allow their wives and daughters to pursue careers outside the

home.³¹ With that said, although these are undoubtedly positive responses, it remains to be seen what changes from the Gender trainings will result in practice. Especially if this project continues, and area women's involvement in it increases, TLO will have a much better idea of the full scope of ways in which gender attitudes have, or have not, changed.



Picture 3: CCM Members Meeting in 2012

meeting of all CCM members to discuss the future and proper funding of CCM-type projects: more specifically, how the CCM and similar institutions should fund themselves, or otherwise make

4.2. Discussions of CCM Members: Building a Better CCM

Toward the conclusion of the Local Conflict Mediation project, from January 2-5, TLO organized a

³⁰ Ibid.

³¹ Interviews with Nahiya Five and Mohmand Dara CCM Members, January 17, 2012.

themselves more sustainable, and how they should relate to the state. TLO then followed up this plenary session with additional interviews and discussions with CCM members later in January, to go over two closely related issues for program development: in what circumstances should the CCMs, or similar bodies, register cases with the state, and how CCM programs can, in the future, include women. Regarding state relations, CCM members showed themselves open to a wide variety of engagement, and willing to work with Afghan government authorities – but with a sense of when that engagement had gone too far. Similarly, elders from both Nahiya Five and Mohmand Dara stated a willingness to work with women on CCMs, but noted that, in Mohmand Dara especially, the incorporation of women on CCMs will need to proceed slowly and carefully.

4.2.1. Money and the State

Overall, CCM elders showed themselves willing to engage with the state, if wary of too much state control. Specifically the elders discussed these issues in the context of CCM funding. As is well known a variety of contractors and NGOs, TLO included, have facilitated institutions along the lines of CCMs for the past several years. Such funding is, inevitably, more or less temporary, leading to the question of how institutions like CCMs can sustain themselves, whether through outside funding or a fee-for-service model.

Without exception, CCM members rejected the fee-for-service model. In their estimation, having clients pay for shura services, even if allowance were made for poorer disputants, would delegitimize the institution, and lead inevitably to corruption, or at least the widespread perception of corruption. Although the views of CCM members may not be representative of the views of elders in other parts of the country (or even other parts of Nangarhar) their opinions would seem to preclude any sort of fee for service model for CCM services.

Regarding outside funding of CCMs or similar institutions, elders responded more positively. On the one hand, they did reject, again without exception, the idea of an Islamic trust (*waqf*) being set up to provide long-term CCM funding, thinking such a financial instrument inappropriate to fund dispute resolution activities, and rather to be used only for purely charitable purposes. On the other hand, elders did think the state could play a productive role in CCM funding. Although elders mostly said they saw state funding as a second-best option to NGO funding, they also mostly said they would accept government funding of dispute resolution activities. One group even suggested that elders should become government employees, in particular that they should form a department with a status and level of autonomy similar to that of the present Ministry of Justice.

This is obviously a great deal to ask from the Afghan government, and it is at present unlikely that the government would accept an arrangement of this type. Subsequent discussions also revealed elders' desire to interact with the state to be, for practical purposes, somewhat limited. Although not formally a requirement of the Local Conflict Mediation in Nangarhar project, similar TLO initiatives in the past have attempted to require CCM elders to bring their decisions for registration with state authorities. As already noted, CCM elders encountered some difficulties in registering cases with the government, and

generally preferred not to do so. Unsurprisingly, then, these subsequent discussions confirmed that CCM elders do not see requiring state registration of decisions as a beneficial program requirement, and they prefer to maintain their discretion in initiating this kind of contact.

4.2.2. The (Possible) Inclusion of Women

How to involve women in CCMs and related activities is, of course, one of the more pressing issues of the age. While women do play some role in dispute resolution in Pashtun society, they usually do so only for family disputes and then with very little “advertising”, to preserve both their confidentiality and the confidentiality of the parties they help. While certainly understandable, this confidentiality also creates a barrier to women’s institutional involvement in dispute resolution activities. Indeed, as TLO has documented, some “women’s shuras” in Afghanistan’s East consist, in reality, of women’s husbands who attend the shuras in place of their wives, when these bodies meet at all (TLO 2011d).

CCM elders did, however, identify possible entry-points for engaging women in future dispute resolution programming. They also agreed that involving women in the CCMs would prove beneficial, as they worried that they were not getting a complete picture when they investigated disputes, and particularly family disputes, involving women. Overall, it must be said, involving women in CCM-type programming in Nahiya Five will prove far easier than in Mohmand Dara. In the former district, CCM members particularly recommended engaging with female teachers in Jalalabad’s schools, as they possess both the independence and education necessary to work effectively with CCMs. In the latter district, elders developed a similar suggestion – to work with the female nurses in Mohmand Dara clinics – but emphasized that, in rural areas, women working outside the home or even receiving education is unusual, and so the number of women willing and able to engage the CCMs remains extremely limited.

One should also note that the elders, neither in Nahiya Five nor Mohmand Dara, recommended simply including women as CCM members. First, CCM members saw these women as serving in something of an investigative and advisory capacity: they would find out the full facts of the case, and perhaps offer suggestions on its resolution, but would not sit with the elders as they debated and resolved the case itself. When prompted, elders from Nahiya Five said they might be open to sitting with women in resolving a dispute, but elders from Mohmand Dara foreclosed the idea entirely, saying that men and women sitting together would be “against Islam.”³²

Nevertheless, both groups did agree that, if TLO sought to engage women in these capacities, it would probably need to do so as salaried employees (unlike present CCM members, who receive no salary from TLO). More specifically, women such as teachers and nurses would often need to investigate cases outside of working hours, unlike the CCM elders, who are either retired, or financially prosperous enough to have more freedom in arranging their schedules (see Appendix I of this report).

³² Interviews with Nahiya Five and Mohmand Dara CCM Members, January 17, 2012.

5. Conclusion: CCM Lessons Learned

As this report has already discussed, the CCMs in Mohmand Dara and Nahiya Five successfully resolved nearly 60 disputes in the past 6 months. They also appear to have improved coordination both between the government and elders, and among elders themselves. For these reasons, and additional grounds explained below, TLO believes these projects valuable, and that funding should continue.

CCM clients, for their part, expressed a strong approval of the bodies, highlighting several positive improvements in conflict mediation practice. They first noted that CCM membership was composed of already-prominent elders from a variety of tribes and geographic locations, giving the CCMs a broad and balanced reach. CCM clients likewise appreciated that the CCMs incorporated prominent local religious figures. Similarly, they further appreciated receiving written decisions (a practice that had been particularly rare in Mohmand Dara) as possessing such a document makes it less likely that the case will be reopened in the future.³³ Finally, although CCM clients expressed profoundly mixed opinions on how closely the CCMs should cooperate with the state³⁴, they nevertheless regularly used the CCMs as entry points for liaising with state institutions, as indicated by the case examples given above.

Elders themselves also appreciated CCM programming, though, of course, for different reasons. By all reports, CCM elders eagerly engaged with the trainings provided, indeed asking for additional trainings on specialized issues (though these unfortunately fell outside the budget and timeframe of the present project). Case examples, in which CCM elders articulated how and why they had used skills and concepts received during their trainings, further confirm the trainings' usefulness. Notably, the case examples provided by elders also point to the trainings as having somewhat increased enforcement of women's rights in the CCMs, as compared to previous informal dispute resolution practice.

As stated, the CCM elders also suggested several ways to improve CCM programming: notably to receive more in-depth training on family law issues, and working with women (teachers or nurses) who have already taken some public role in the local community. TLO would also suggest continuing discussions on how to fund CCMs and make them more sustainable – although this discussion has begun, it has not yet reached a satisfying resolution. Continuing this dialog represents another promising way forward in future conflict resolution programming.

Going forward, then, the CCMs themselves offer several lessons to be kept in mind:

- The CCMs have operated for 18 months (their first 12 months with funding from USIP, and now with SDC), and continue to prove highly popular with clients. In Mohmand Dara, the CCM is quite possibly the most popular district-level dispute resolution body (see TLO 2011b), while in Nahiya Five the CCM developed a notable specialization in family law.

³³ Interviews with CCM Clients, December 6-7, 2011.

³⁴ Ibid.

- TLO has suggested previously (2011g) that, in situations where multiple similar and viable dispute resolution bodies exist, these bodies will develop areas of specialization – a kind of division of labor. For instance, although no comparable dispute resolution shuras exist in Nahiya Five³⁵ (See TLO 2011a, 2011b), the presence of a relatively strong state sector (TLO 2011b) has gone along with the Nahiya Five CCM developing a specialization in family cases, an area which the state is not well-positioned to handle.
- The experience of the CCMs shows that traditional elders, far from being adverse to Afghanistan's existing laws, engage with them eagerly, and will apply them when given the chance. Trainings in family law once again proved notable in this regard, suggesting that the provision of voluntary trainings on law and related issues could yield real, if incremental, improvements in dispute resolution practice.
 - Voluntary trainings could also improve the treatment of women with regards to non-state dispute resolution. Particularly if they can articulate a Sharia basis for doing so, elders are open to giving more rights to women, including property rights and some divorce rights.
- CCM elders (many of whom, after all, are *guzar wakeels*) expressed a consistent willingness to work with state institutions, as evidenced by their liaising with the state on a regular basis, and reporting CCM activities to the state. With that said, the elders appeared apprehensive of losing control to, or being overwhelmed by, the state. They thus tended to want to engage with the state from a position of relative equality, which neither donors nor elders themselves are well-positioned to ensure.
 - Similarly, although CCM members did register some cases with state institutions, they did not, in general, like the practice, and thought it unwise for donors to require it, in that the government regularly asked for bribes to perform this service. Requiring state registration of cases in future formal-informal justice programming thus might be inadvisable until substantial state reform has taken place.
- CCM elders, at least, are willing to work with women, and take their advice in solving disputes. However, not all CCM members were willing to sit with women when actually mediating cases and debating solutions. These responses underline that the gradual integration on CCMs is possible, if pursued carefully. Because the ideas for the inclusion of women in this report come from the elders themselves, TLO feels assured that they will prove both achievable and useful.

The record of the CCMs, then, points to both these bodies' already-existing strong points, as well as a clear path for future improvement and development. The CCMs have been providing a valuable service to the people of Nangarhar, but that service will cease, or at least be scaled back, absent an extension of funding. By contrast, if funding does continue then not only will the CCMs continue to solve sensitive and complex community disputes, but the suggested improvements to them – more specialized trainings, the integration of women – will also bear fruit: so long as they can continue

³⁵ Interviews with Nahiya Five CCM Members and Clients, December 6, 2011.

operation, these CCMs thus stand as an evolving and powerful tool for the betterment of dispute resolution services throughout Nangarhar and beyond.

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Appendix I: Short Biographies of CCM Members

Table 1: Nahiya Five CCM Members

Name	Tribal Affiliation	Background
CCM Member 1³⁶	Safi (Hassankhail)	Age 65. Originally from Kunar Province (Manogi district, Pech Dara Gorbaz village), Member 1 currently lives in Jalalabad's Nahiya Five. He graduated from high school in 1966. After graduation, he worked in the Ministry of Education until 1979, after which he went to Pakistan. He returned to Afghanistan in 1997. Since 2011 he has served as a <i>guzar wakeel</i> in Nahiya Five, as well as a CCM member.
Member 2		Age 67. A graduate of an aeronautical university, he was employed at Bagram Airfield, first as a technician and then as a manager, from 1969 until recently, when he returned to Jalalabad, and now serves as an elder in his area.
Member 3		Age 65. After his graduation from high school in 1965, he served in the Statistics Department of Pacher Agam district, eventually becoming its director. Since then he has served as a government employee in Shinwar-Ghani Khail district in Nangarhar, and Asmar district in Kunar. He has worked for the government in Nangarhar since 1980, but has no affiliation with any political party.
Member 4	Pashai (Khail Nari)	Age 40. After graduation from high school, Member 4 went to Pakistan and joined the later stages of the Jihad under the Hezb-e Islami Gulbuddin faction. He is not presently affiliated with any political party.
Member 5	Kuchi	Age 65. Member 5 is an inherited tribal elder amongst the Kuchis. He went to Pakistan as a refugee in 1980, and later returned to Afghanistan.
Member 6	Akhundzadgan	Age 68. After graduating from the Police Academy in 1965, Member 6 served in a number of police posts in Nangarhar and Kandahar, eventually becoming Police Commander in Mazar-e Sharif before leaving for Pakistan in 1983. In Pakistan, he set up a money transfer business in the Jalwaz refugee camp. He returned to Afghanistan in 1997, and again worked with the police until his retirement in 2004.
Member 7	Mohmand	Age 45. After graduating from the Agricultural Faculty of Kabul University, he worked for various government departments until 1990, when he went to Pakistan. He then went to Pakistan, where he taught school before

³⁶ TLO has omitted the names of all CCM members in order to preserve their confidentiality.

Name	Tribal Affiliation	Background
		working for a number of international organizations (such as the World Food Program) and NGOs (such as the International Rescue Committee). At present he is a businessman importing vehicles from the United States.
Member 8	Pashai	Age 60. After graduation from high school, he worked for the government in Nangarhar's Goshta district. He went to Pakistan in 1980 as a refugee, and returned to Afghanistan in 1993, whereupon he resumed work for the government. He is currently a <i>guzar wakeel</i> in Nahiya Five.
Member 9	Salarzai	Age 42. A native of Asmar district of Kunar, he graduated from high school in 1988, and shortly thereafter was displaced to Pakistan. After his return to Afghanistan, he opened a pharmacy, which he is still running. An inherited tribal elder, he has also served as Head of the Kunar Shura in Nangarhar.
Member 10	Ludin	Age 66. After graduation from the Police Academy, he worked for the government in various capacities for thirty years until his retirement. He is presently a <i>guzar wakeel</i> in Nahiya Five.
Member 11	Mohmand	Age 41. He has worked since 1994 as a Technician with Nangarhar University's Faculty of Medicine. He is also a <i>guzar wakeel</i> in Nahiya Five.
Member 12	Khogyani	Age 71. He joined the military during the regime of Zahir Shah, and subsequently went to Pakistan as a refugee at the time of the Saur Revolution in 1979. In Pakistan he set up a business, which he continues to this day, after returning to Afghanistan during the Taliban regime. He is presently a <i>guzar wakeel</i> in Nahiya Five.
Member 13	Khogyani	Age 65. At the time of the Saur Revolution, Ajab Khan went to Pakistan, and lived in the Shamsatoo refugee camp, where he started a small business and became affiliated with the Hizb-e Islami Gulbuddin. At present he has no political affiliation and is a <i>guzar wakeel</i> in Nahiya Five.
Member 14	Khogyani	Age 65. At the time of the Saur Revolution, he went to Pakistan. While there he obtained a degree in Religious Science from Peshawar's Islamia University. He returned to Afghanistan during the Taliban regime and worked for a time as a high school teacher. Presently he is an Imam at a mosque in Nahiya Five.
Member 15	Khogyani	Age 45. He graduated from high school in 1978, and shortly thereafter travelled to Pakistan and joined Hizb-e Islami Gulbuddin. He is an inherited elder of the Khogyani

Name	Tribal Affiliation	Background
		tribe.

Table 2: Mohmand Dara CCM Members

Name	Tribe	Background
CCM Member 1	Mohmand (Haleza)	Age 53. Originally from Data village of Mohmand Dara, he graduated from the Social Science faculty of Nangarhar University. He then travelled to Pakistan, joining the Mehaz-e Milli Jihadi faction, eventually becoming a Commander. After returning to Afghanistan, he became the Principal of the primary school in Data village in 2009. He maintains links with his faction, and, in addition to sitting on the CCM, also sits on Mohmand Dara's District Development Assembly (DDA).
Member 2	Mohmand (Khwayzi)	Age 57. Originally from Basawal village of Mohmand Dara. Member 2 graduated from Emal Khan high school in 1975, and later went to Pakistan in 1988, returning to Afghanistan in 1993. Although not involved in politics, he is recognized as an elder of the 300 members of the Bazid Khail sub-branch of the Khwayzi Mohmand.
Member 3	Mohmand (Khwayzi)	Age 52. Originally from Basawal village of Mohmand Dara. He studied until Grade 4, and went to Pakistan in 1988, then joining the Hizb-e Islami Kholes Jihadi faction. He returned to Afghanistan in 1993, and is an elder of Musakhail village. Member 3 is also a member of Mohmand Dara's District Community Council (DCC).
Member 4	Mohmand (Kokozai-Pachakhail)	Age 53. Originally from Hazarnaw village of Mohmand Dara. After studying until Grade 4, Member 4 travelled to Pakistan in 1986, returning in 1993, in the interim fighting for the Hizb-e Islami Kholes faction. He is an elder from Musakhail village, and a member of Mohmand Dara's DCC.
Member 5	Mohmand (Ismail Khail)	Age 51. Originally from Upper Basawal village of Mohmand Dara. Mohammed Usman studied until ninth grade, before going to Pakistan in 1988, where he stayed in the Mahajer refugee camp. He returned to Afghanistan in 1993. Member 5 is an elder of the Ismail Khail sub-branch of the Khwayzi subtribe, and is also a member of Mohmand Dara's DCC and DDA.
Member 6	Mohmand (Khwayzi)	Age 55. Originally from Jaki Village, Gerdi Ghaws manteqa, of Mohmand Dara. Member 6 went to Pakistan in 1983, where he stayed in the Mahajer refugee camp. Although uneducated and politically unaffiliated, Member

Name	Tribe	Background
		6 is recognized as an elder of the 500 people in Shaker Khail village. He is also a member of Mohmand Dara's DCC and DDA.
Member 7	Muhmand (Terekzai)	Age 47. Originally from Daka village of Mohmand Dara. Member 7 travelled to Pakistan in 1981, and eventually became a Commander with the Jamiat-e Islami Jihadi faction. He is presently an elder of 250 people of the Atmanzai sub-branch of the Terekzai subtribe. He is also a member of Mohmand Dara's DCC.
Member 8	Mohmand (Khwayzi)	Age 66. After graduating from Mohmand Dara's Teacher Training Academy, Member 8 taught in various schools before travelling to Pakistan in 1998, returning during the Taliban regime. He is presently an elder of 500 people in Sarghani Village, and also sits on the local Community Development Council (CDC).
Member 9	Mohmand (Behzai-Khankhail)	Age 39. Originally from Hazarnaw village of Mohmand Dara. After graduating from high school, Member 9 went to Pakistan in 1991, returning in 1993. A Khankhail tribal elder, Member 9 also heads the Security Committee of Mohmand Dara's DCC, is Head of its DDA, and also sits on a CDC.
Member 10	Mohmand (Mayakhail)	Age 50. Originally from Gerdi Ghaws village of Mohmand Dara. Member 10 studied until Grade 12 before travelling to Pakistan in 1988, returning in 1993. He is presently an elder of 150 people of the Mayakhail subtribe, as well as a member of Mohmand Dara's DCC and DDA.
Member 11	Mohmand (Terekzai)	Age 60. Originally from Kolikahil village, Data manteqa, of Mohmand Dara. Member 11 is uneducated, and travelled to Pakistan during the reign of Najibullah (1980-1992), returning during the Mujahideen era (1993-1996). He is presently an elder of 150 people of the Terekzai subtribe, and is also a member of Mohmand Dara's DCC and DDA.
Member 12	Mohmand (Kokozai-Khwankhail)	Age 35. Originally from Hazarnaw village of Mohmand Dara. After studying for a time at the Darulaman high school in Kabul, he traveled to Pakistan in 1981, becoming a member of the Hizb-e Islami Kholes. After returning to Afghanistan, he became an elder of the Khwankhail sub-branch of the Kokozai subtribe. Member 12 is also a member of the Mohmand Dara DCC.
Member 13	Mohmand (Terekzai-Morchkhail)	Age 45. Originally from Daka village of Mohmand Dara. Travelling to Pakistan in 1980, Member 13 became a member of the Mehaz-e Milli Jihadi faction. After his return to Afghanistan he became an elder of 100 people in the Morchkhail sub-branch of the Terekzai subtribe. He is also a member of the Mohmand Dara DCC.

Name	Tribe	Background
Member 14	Mohmand (Terekzai-Atmanzai)	Age 85. Originally from Gerdi Ghaws village of Mohmand Dara. After travelling to Pakistan in 1982, Member 14 joined the Mehaz-e Milli Jihadi faction. Upon his return to Afghanistan he became elder of 200 people of the Atmanzai sub-branch of the Terekzai subtribe. He is also a member of the DCC.
Member 15	Mohmand (Mayakhail)	Age 56. Originally from Hazarnaw village of Mohmand Dara. Originally from a religious family, he travelled to Pakistan in 1982, where he joined the Mehaz-e Milli faction. He is presently recognized as an elder throughout Mohmand Dara, is the Imam-e Masjid of Hazarnaw village, and a member of Mohmand Dara's Ulema Shura.