

EXPLORING THE EFFICIENCY OF DISPUTE RESOLUTION COUNCIL (DRC) FOR PEACEFUL SETTLEMENT OF DISPUTES IN DISTRICT LOWER DIR

Zakir Khan¹, Imran Khan², Khurshed Alam³, Dr. Rizwan Ullah Khan⁴ (corresponding author),
Uzma Bibi⁵

Original Article

1. Lecturer, Department of Law University of Malakand, Khyber Pakhtunkhwa, Pakistan
2. Lecturer, Department of Law University of Malakand, Khyber Pakhtunkhwa, Pakistan
3. Lecturer, Department of Law University of Malakand, Khyber Pakhtunkhwa, Pakistan
4. Lecturer, Department of Commerce and Management Sciences University of Malakand, Khyber Pakhtunkhwa, Pakistan. Email: rizwanullah33@yahoo.com
5. Lecturer, Department of Law University of Malakand, Khyber Pakhtunkhwa, Pakistan

Abstract

The Government of Khyber Pakhtunkhwa introduced Dispute Resolution Councils for peaceful settlement of disputes in the existing justice system at several Police Stations of the province. The mission of this project is to facilitate the common person in getting his/her issues resolved through an alternate process of restorative justice by solving their disputes on urgent basis that would be time and cost effective. The study was designed to explore the Efficiency of DRC for peaceful settlement of disputes in District Dir Lower of KP. Objectives of the study were formulated as "to find out the Efficiency of DRC for peaceful settlement of disputes resolution in District Dir Lower of KP. Quantitative research model was applied in the current study. Secondary data was collected from Head Office of DRC. Findings of the study show that majority of the respondents were enough confident that DRC is playing a vital role while providing easy justice to the common public. Dominant portion of the respondents were agreed that DRC plays an efficient and effective role in decreasing the Disputes in the community.

Keywords: ADR, DRC, Formal Judicial System, Informal Judicial System, Peaceful Settlement

Introduction/Literature

A Justice System consists of Courts, Law Enforcement Agencies, Prosecutors, Probation, parole Department, and role of lawyers. This understanding is helpful to understand the basic judicial structure or framework, through which further set up can be analyzed to evaluate the flaws and weak areas of the judicial system in dealing with criminal disputes (Sarat & Grossman, 1975; Dispute Resolution Council Report KP, 2017).

The Alternative Dispute Resolution (ADR) mechanism has proved to be highly effective in dealing with legal cases on time efficiently (Hussain, 2019). The system has been developed as a mechanism of law, through which the people may bring their complaints, hire a mediator, counsellor, or lawyer to resolve their disputes (Chowdhury, 2018). In this way, the two parties meet and resolve their issues under the supervision of legislation team. This system is also highly beneficial for speedy disposal of disputes (Idris, 2018). Without such system, the provision of justice on time is very difficult as only

one justice system cannot cater hundreds of criminal and violence-related cases in one day or one month, resulting in a delay to the cases for months, or sometimes years (Kalanautri, 2018).

The law itself is a changing process, and that is why the government of Pakistan has introduced Alternative Dispute Resolution System in 2017 to reduce the burden of State Courts and to resolve the conflicts quickly (Karim, 2015). The roots of the current judicial system of Pakistan relates it to the justice system of the medieval period and even before. It has been covering the Hindu era, Mughal dynasty, British colonial period, and the present period, via which it has faced several changes and upgrading in order to meet the clients' requirements efficiently and to ensure the provision of justice to the right person (Khattak, 2014). Furthermore, the present judicial system of Pakistan is based on, mostly, foreign judicial frameworks, which may not fully meet the local conditions of Pakistan, and thus bringing several issues to the judicial system in resolving disputes of the common man (Hussain, 2019).

Iaria (2011) published a legal guide for the people regarding the justice system and its working in the State. The author referred Justice System as "Survival Guide" because most of the victims or the client hope for the successful outcome of their cases in order to survive. The Role of a Criminal Defense Lawyer defends the client with the right to the assistance of counsel (Iaria, 2011). Hussain (2019) discussed the current legal system of Pakistan. According to the study, the background of the existing justice system of Pakistan relates it to the justice system of the medieval period and even before. The present judicial system of Pakistan is based on, mostly, foreign judicial frameworks, which may not fully meet the local conditions of Pakistan, and thus bringing several issues to the judicial system in resolving disputes of the common man (Hussain, 2019). Röder (2019) highlighted the problematic judicial system and the adoption of the informal justice system by the citizens of Pakistan. The establishment of strong formal and informal court structure is crucial to ensure the provision of basic human and civil rights to every individual living in the State (Röder, 2019)

Pakistan government and the legislative authorities are concerned to develop a strong legislative structure of the formal justice system as well as informal justice system, through which the people won't face any issue while coming to the courts and will get justice on the basis of ethical and moral decision, where humanity will be kept at priority (Sani, Rehman & Rasool, 2017).

Madani (2013) said, access to a free and impartial justice system is the fundamental right of every inhabitants of the state, for the protection of their rights, escaping or way out of conflicts and to bring about the abuse of power through a crystal clear and knowledgeable processes. Majority of the citizens have no access to speedy and inexpensive justice and peoples are anxious of coming to courts owed to the problems of delay in justice, costs involved and the complication of the proceedings (Shinwari, 2019). Furthermore, delay in the disputes related cases affects the adverse impact on the judiciary and efficiency of the Justice System of the State. On the contrary, people may consult to the Dispute Resolution Councils which deals with the minor civil and criminal disputes under the supervision of government lawyer and help to reduce the crime and violence in the respective region (Shaukatullah, 2014). Alternative Dispute Resolution (ADR) is known to be a tool for easy and quick access to justice worldwide. It is cost effective and decreases the backlog of undecided cases in courts. Given the increasing disappointment of people with both the process and consequence of the court case, Alternative Dispute Resolution is ever more effective, being recognized as one of the instruments to enable, reach or access to justice with a win-win situation. The Alternative Dispute Resolution (ADR) mechanism has proved to be highly effective in dealing with legal cases on time efficiently (Khan, 2017). The system has been developed as a mechanism of law, through which the people may bring their complaints, hire a mediator, counselor,

or lawyer to resolve their disputes. In this way, the two parties meet and resolve their issues under the supervision of legislation team. This system is also highly beneficial for speedy disposal of disputes. Youth Zone published a report (2017) in which they highlighted the best way of conflict or dispute resolution without going to court.

During June to December 2014, 7817 disputes were entertained by DRC 3,500 were resolved and only 187 were referred for further legal action (Smith & Martinez, 2010). Rehman (2018) elaborate the advantages of ADR in term of easiness and quicker relief. He further explains that it is inexpensive relief which also minimized the number of cases pending before the courts (Khan, 2017). The rationale behind such a huge achievement was viewed as the huge cost savings funds, and speed of the procedure. India began its LokAdalat development in March 1982 in Gujrat. Until, 1996 more than 13,000 Lok Adalat had been held in India, which settled more than 5 million disputes (Smith & Martinez, 2010).

As indicated by the Law and Justice Commission of Pakistan, the accumulation of cases in courts has come to 2.9 million (Shinwari, 2019). Larger part of the peoples has no entrance to speedy and inexpensive justice and masses fear to come to courts because of the issues of postponement in justice, costs involved and the technicalities in the procedures (Shinwari, 2019). Free and fair justice is the basic right of state citizen, which ensure the protection of their rights. Most of the people have no access to speedy and inexpensive justice which cause frustration in the masses (Rehman, 2018). From the above mention declaration, it can be presumed that justice can be ensure if there is inexpensive and less time consuming process like Alternate Dispute Resolution (Romualdi, 2018).

Problem Statement

The formal judicial system of Pakistan is notorious for its slow and inefficient handling of cases. Millions of various nature cases are pending before the high courts and Supreme Court of Pakistan. A major portion of our population lives in rural and tribal areas where Jirga system is recognized since centuries. The delayed and expensive justice in Pakistan is the main reason of the trend where many aggrieved people instead of going to courts approach their local Jirga and panchayats. Such problems in formal judicial system lead the people to recourse the alternative options for peaceful settlement of dispute resolution. People in Pakistan like other people in the world also seek speedy, swift and cheap justice but the ancient justice system of Pakistan abstains them. It is expected that the Jirga system in line with the formal judicial system will ensure in-time justice.

Objectives of the Study

Objectives of this study are:

- To examine the problems and loopholes in formal judicial system which lead the people to recourse the alternative options for the peaceful settlement of dispute resolution
- To find out and study the measures which should be taken by the provincial government for the enactment of laws on DRC
- To study the efficiency and effectiveness of DRC in peaceful settlement of dispute resolution

Research Questions

- Whether DRC is an effective and efficient mechanism for the peaceful settlement of disputes?
- Whether there exists loopholes, lacunas or problems in our formal Justice System due to which people usually opt alternate mechanism for their dispute settlement?
- What measures should be taken by the Provincial Government in particular for the enactment of laws on DRC?

Significance of the Study

The study highlights our judicial system which is the most important aspect of the State's progress, without which no society can stand as a successful and strong nation. Justice has great importance in any society, without which the provision of civil and human rights cannot be ensured. Thus, the better implementation of effective legislative frameworks in the current justice system of Pakistan, and improvements in Dispute Resolution Council will be highly helpful for the State to ensure the provision of justice to every individual and fulfillment of all civil and human rights. Also the current study will highlight the flaws in the existing justice system of Pakistan, and thus the affected systems can be re-designed and improved to increase its efficiency level. This will not only be helpful to create better society but also will leave a very positive impact on State's image at International level.

Research Methodology

The study design used in this research is quantitative; the researcher got appropriate data in figure. Secondary data for the period of one year from January to December 2019 was collected from dispute resolution council's main office situated at Police Line at Timergara. Data about Existing Cases, Newly Registered Cases, Decided Cases, Pending Cases and Referred to Court cases was collected and was analyzed through Microsoft Excel and presented in tabular and graphical form.

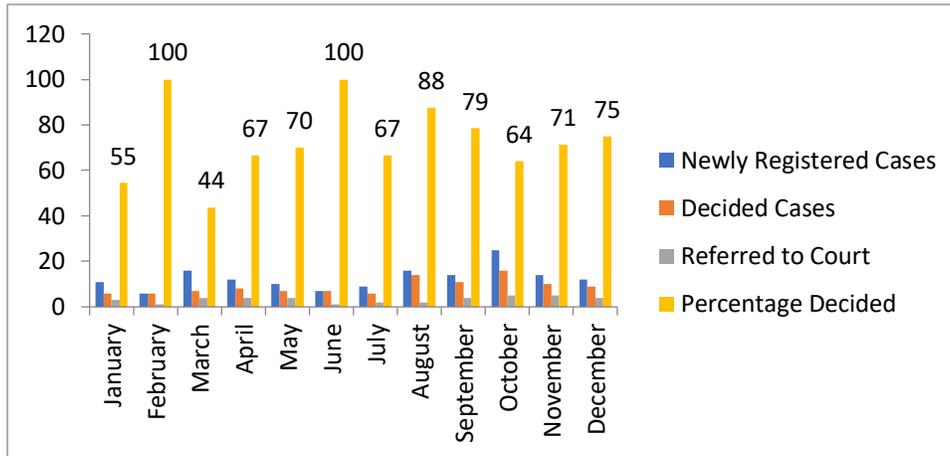
Results

According to available data 152 cases were registered in the study period from January 2019 to December 2019 with the dispute resolution council at Timergara District Lower Dir. The data was analyzed using MS Excel and the following column charts were obtained. Figure.1 and Table. 1 show overall results which are separately discussed in next pages.

Table: 1

Month	Existing Cases	Newly Registered Cases	Decided Cases	Pending Cases	Referred to Court	Percentage Decided
January	0	11	6	2	3	55
February	2	6	6	1	1	100
March	1	16	7	6	4	44
April	6	12	8	6	4	67
May	6	10	7	5	4	70
June	5	7	7	4	1	100
July	4	9	6	5	2	67
August	5	16	14	5	2	88
September	5	14	11	4	4	79
October	4	25	16	8	5	64
November	8	14	10	7	5	71
December	7	12	9	6	4	75
Total	53	152	107		39	70

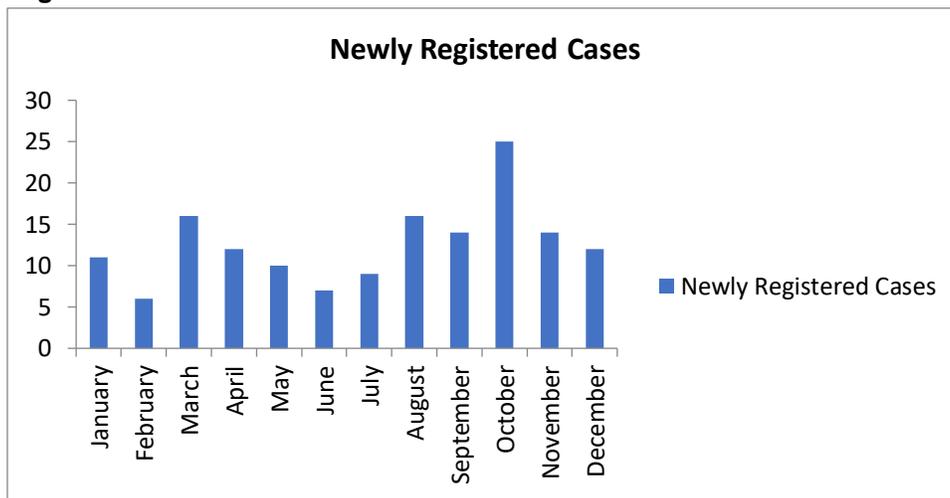
Figure: 1



Newly Registered Cases

Figure. 2 Shows the newly registered cases each month in the study period. In January total 11 cases were registered and from February to December 6,16,12,10, 7, 9, 16, 14, 25, 14 and 12 cases were registered each month. Record shows that clients are increasing which is evidence of clients trust and DRC performance. The following column graph shows the cases newly registered with DRC.

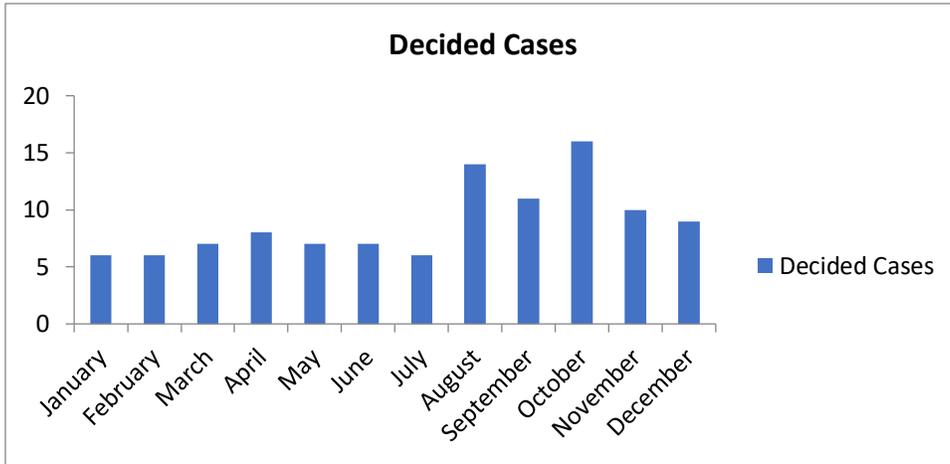
Figure: 2



Cases Decided

The following figure shows that minimum six and maximum sixteen cases per month were decided. From August to December the ratio of cases decided was increased. Forty four percent cases were decided in first seven months while fifty six percent case were decided in last five months. The cases decided are plotted in the following graph.

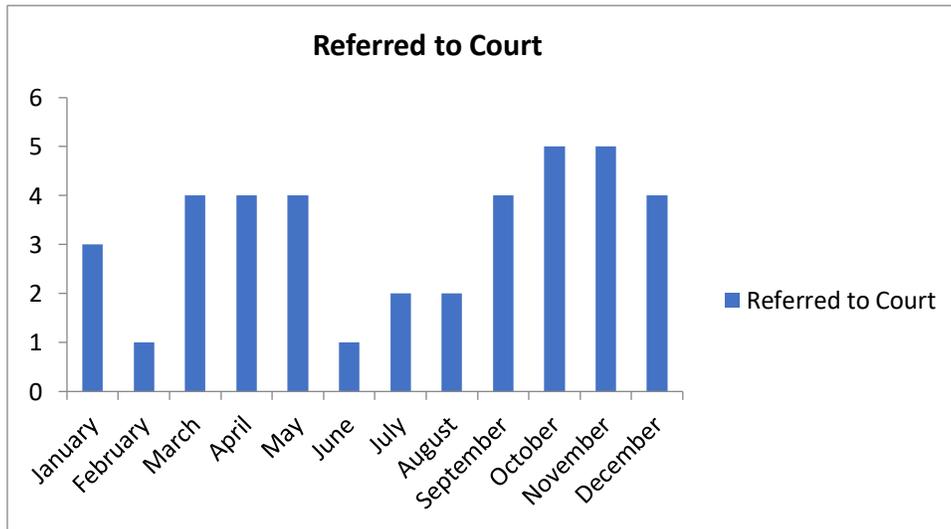
Figure: 3



Cases Referred to Court

The result shows that due to some limitations DRC could not decide all cases. Such cases were referred to relevant courts. Maximum five cases and minimum one case was referred to court each month. The results can be verified from Figure. 4 as well.

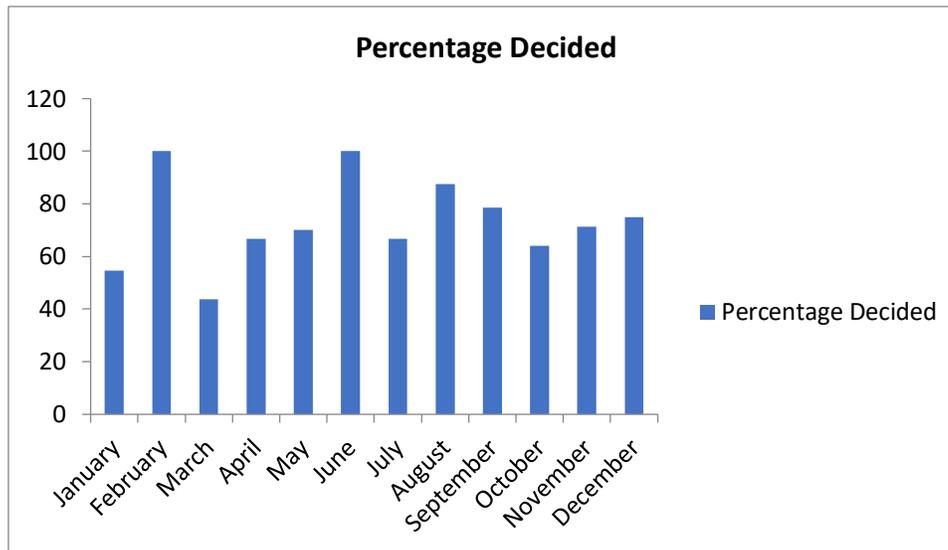
Figure: 4



Percentage Decided

The results shows that 55% cases were decided in January and 75% in December. From February to November the cases decided were as 100, 44, 67, 70, 100, 67, 88, 79, 64 and 71. In February and June 100% cases were decided. The results are plotted in figure. 5.

Figure: 5



Discussion

It is evident from the results that on average, thirteen cases were registered each month and the cases registered each month increases as compared to last month. Increasing number of cases with DRC is proof of clients trust and DRC performance. The record is evident that each month enough cases are disposed and decided. With the passage of time efficiency of DRC improves. It is observed that some cases are complex and the parties are emotional at the time of registration due to which the DRC cannot decide the cases and refer such cases to court for solution according to prevailing laws. Number of such cases is very low as the DRC members are fully devoted to solve issues. Performance of the DRC is appreciable as in two months it decided 100% cases while minimum 44% cases were solved in a month.

Conclusion

After thorough examination of the problems and loopholes in formal judicial system it was concluded that the formal judicial system in Pakistan is expensive, inaccessible and time consuming. The aggrieved parties don't have direct access to honorable judges and they hire lawyers to present their stances in front of courts. Furthermore, the debate of lawyers with illiterate and tactless witnesses pressurizes the witness to speak in front of the court. Usually the prolonged justice process exhausts the litigants and later on the parties' recourse the option of informal justice system.

The government needs to make legislation on federal as well as provincial level to give legal protection to informal justice system and take measures for accessible, inexpensive and speedy justice delivery mechanism.

The study further finds that DRC is very efficient and effective tool for peaceful settlement of dispute resolution. It provides the justice on doorstep; it needs no lawyer to present one's case to DRC members. The processing time of DRC is very less as compare to the formal justice system.

Recommendations

Through analysis of the literature and survey findings, it is recommended that government of Pakistan must develop different DRC centers in almost every town or rural area of Pakistan, including Punjab and Sindh. People, who consult to DRC, must be provided with proper security and confidence so

that they must not be hesitant while asking for the justice. The hearing must be done efficiently and effectively, where the decision must be taken after deep analysis of the matter. No decision must be taken under the political or social pressure. There must be an audit process. In case, someone gives decision against the ethical values of constitutional policies, he must be punished hard. Also, the person, who could not get justice from DRC, must have right to appeal to the formal court to appeal for the justice again. In this way, people will start trusting formal and informal justice systems of Pakistan and will enjoy having peaceful life everywhere. This will also reduce the crime rate, as people will be afraid of being captured. The following are the specific recommendation which need to be adopted.

- Government should empower DRC (dispute resolution council) for decision implementation.
- DRC (dispute resolution council) should be established on each tehsil level.
- There must be female representation should be mandatory in each council.
- Salary and dues should be provided to DRC members because to more transparent the DRC members.
- There should have an ethnic and minority representation in DRC (dispute resolution council).
- Monitoring committee should be established at each district level to monitor and report on the performance of DRC (dispute resolution council).
- There should have a law knowing member in each panel of DRC (disputes resolution council).
- There should have a democratic procedure for the selection of DRC (dispute resolution council) registrar.
- There should have a proper check and balance of police department on DRC (dispute resolution council) members.
- There should be necessary to know the opinion of disputant's parties about the decision of DRC

References

- Chowdhury, M. A. (2018). An Overview Of The Practice And Prospect Of Alternative Dispute Resolution In Criminal Jus Tice S Ys Tem Of Banglades H: Promotion Of Access To Justice. *International Journal of Advance Research*, 6(11), 712-721.
- Hussain, D. F. (2019). The Judicial System of Pakistan. *Federal Judicial Academy*.
- Hussain, F. (2019). The Judicial System of Pakistan. *Law & Justice Commission of Pakistan*.
- Iaria, M. (2011). The Criminal Justice System: A Survival Guide. *Law Office of Michael Iaria PLLC*.
- Idris, A. (2018). Alternative Dispute Resolution. *LEAP Pakistan*.
- Kalanautri, Z. I. (2018). Designing ADR/Mediation Program. *Supreme Court of Pakistan*.
- Karim, R. (2015). Introduction Of Alternative Dispute Resolution In Criminal. *Journal of Asian and African Social Science and Humanities*, 98-114.
- Khan, J. (2017). Dispute Resolution Councils reduce crime, violence in KP. *Crime & Justice*.

- Khattak, S. G. (2014). Documentation of Alternative Dispute Resolution through Local Support Organizations. *Open Society Foundations*.
- Madani, S. M., & Hosseini, S. N. (2013). Analyzing Performance of Dispute Resolution Council. *International Journal of Advanced Studies in Humanities and Social Science*, 1(8), 1018-1023.
- Röder, T. J. (2019). Informal Justice Systems: Challenges and Perspectives. *Max Planck Institute for Comparative Public Law and International Law*.
- Romualdi, G. (2018). Problem-Solving Justice and Alternative Dispute Resolution in the Italian Legal Context. *Utrecht Law Review*, 14(3).
- Sani, S. S., Rehman, Z. U., & Rasool, A. (2017). 02 Days National Conference On Alternative Dispute Resolution. *UNDP*.
- Sarat, A., & Grossman, J. B. (1975). Courts and Conflict Resolution: Problems in the Mobilization of Adjudication. *The American Political Science Review*, 69(4), 1200-1217.
- Shaukatullah. (2014). Jirgah As An Alternative Dispute Resolution Mechanism: Challenges And Prospects. *International Islamic University*.
- Shinwari, N. A. (2019). Understanding the informal Justice System. *legal pluralism in Pakistan*.
- Smith, S., & Martinez, J. (2010). An Analytic Framework for Dispute Systems Design.
- Youth. (2017). Solving Problems Without Going to Court. *Youth Zone*.
- ZiaUr-Rehman. (2018). Expedient Dispute Resolution Mechanism within Formal Judicial System of Pakistan. *National Judicial Conference*.