

Quarterly

# JIRGA MONITOR

March – May 2013 | Issue 8



Community  
Appraisal & Motivation  
Programme

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## EDITORIAL

Dear Readers,

Welcome to a brand new edition of *Jirga Monitor* bringing you a wide range of the project's news and interesting updates, as well as case studies pertaining to the Jirga's role in dispute resolution and justice dispensation across the Pakhtun belt of Pakistan.

Phase IV began in March 2013 and includes a new component, '*Addressing Honour Crimes through Local Stakeholders in Pakistan*' which involves a research study and an advocacy campaign based on the findings aimed at minimising such crimes across the country, implemented through local partners and stakeholders. An overview of the honour crimes component is provided on the following pages.

The component titled '*Reforming the Jirga System through Evidence based Advocacy and Sensitisation*' aims to extend its activities to KP and Balochistan through a series of various activities. In addition, CAMP will continue publishing the *Jirga Monitor* on a quarterly basis which will report on various *Jirga* decisions utilising its existing network of civil society organisations. A summary of proposed activities in Phase IV is included on page 4.

Other contents of this edition include a commentary on the FCR (or official) *Jirga* which is often accused of tending towards the political administration; in fact it is perceived as a way for the Political Agent (PA) and his supporters to exercise control over the public. For a full analysis of perceptions regarding the FCR *Jirga*, please refer to page 5.

We have also included an account of a girl who was saved from being given away in '*Sawara*'; this case study has been shared by a training participant who attended capacity building workshops. It is indeed heartening to note that our training participants are making an effort to identify such practices within their areas and reporting them. We also owe a note of thanks to our Jirga elders who are putting the ban enforced by CAMP's May 2012 Jirga into practice and responding effectively to such cases. The full story appears on page 6.

For the new phase, we hope and pray that we can continue our previous successes and bring about real change in people's attitudes and behaviour in relation to anachronistic traditions and social evils to ensure positive progress in Pakistani society.

We at CAMP expect to carry on our efforts in sensitising people and implement our activities successfully at the grass roots level with the cooperation and help of our government and civil society partners.

**Barrister Irum Ali Khan**

**Editor and Advocacy Coordinator,  
CAMP Office, Islamabad**

## A review of RLPP Capacity Building Workshop in Phase III

In Phase III, a total of 105 participants were provided with capacity building training on 'Reforming the Tribal Jirga system through Sensitisation on Fundamental Rights'. A brief evaluation of the training is included below, which was gathered from pre and post evaluation forms:

4. 100% of participants found that group discussions were useful, which reflects on the content as well as training methodology. Meanwhile, 68.57% stated that the duration of these discussions was acceptable, while 32% were of the view that they were quite short.
5. 100% of participants were satisfied with the trainers' knowledge and information they provided and all participants were also satisfied with the overall training.



1. 100% participants agreed that their level of information has increased on the topic of 'Reforming the Jirga' after attending the training sessions.
2. A large majority, 79% of the participants, believed that training sessions' objectives were 'achieved' while 21% said that the objectives were achieved 'to some extent'.
3. 59% of participants believed that three days were enough for this training, while 20.95% were of the view that it was too long, and 20.05% stated it was too short to cover all the topics.
6. 79% were of the view that the length of sessions in training was sufficient while 10.67% found it quite short and the same percentage found it too long.
7. 68.57% of participants were satisfied with the logistical arrangements for training workshops, while 31.48% found it more than satisfactory.
8. 89% of the participants were very happy with the trainers' attitude, while 10.67% expressed satisfaction.



## Rule of Law Programming in Pakistan (RLPP) Phase IV

### ‘Reforming the *Jirga* System through Evidence based Advocacy and Sensitisation’

In Phase IV of the RLPP project, CAMP intends to continue advocating for reforms in *Jirga* at the grassroots level; sensitise stakeholders on Human Rights issues; undertake a comparative research study of other informal justice systems in Pakistan; and, organise policy dialogues by generating debate on informal justice systems and the state of Human Rights in Pakistan. A total of four advocacy sessions will be organised relating to different themes of the *Jirga* aiming at raising awareness on the *Jirga* and its positive aspects as well as suggestions for reform to help incorporate the rights of women and minorities and make it more inclusive and accessible to such vulnerable groups.

Taking a step further, during Phase IV, training sessions will also be extended to parts of Khyber Pakhtunkhwa and Balochistan as a follow up to the comprehensive comparative study conducted in the previous phase on the Pakhtun *Jirga* system in these two provinces. Moreover, the project will continue to organise radio programmes so as to create more awareness on the *Jirga’s* pros and cons, and also give the public an opportunity to ask questions related to this age old institution. A total of 10 programmes will be broadcast during this phase.

### Addressing ‘Honour Crimes through Local Stakeholders in Pakistan’

As a culmination of views and opinions gathered from research, CAMP aims to address the issue of ‘honour crimes’ in Pakistan. CAMP will build on its past research on the *Jirga* and link the issue of honour crimes with informal justice mechanisms across Pakistan. All the activities under this component are designed to deliver a ‘quick impact’, in particular awareness and advocacy activities.

CAMP aims to compile a comprehensive national level research by mapping perceptions of local stakeholders regarding different forms of honour crimes and the role of informal justice systems in addressing these crimes in Pakistan through qualitative and quantitative data utilising various research tools. A desk review of the available literature, a perception survey of representative sample size and interviews with key informants will be conducted to gather the data. The report will be published and made public through a national launch in Islamabad.



Four advocacy sessions will also be held in Pakistan’s major cities, covering all provinces. Briefing papers will be produced so as to formulate and present strong and persuasive arguments to minimise honour related violence through local stakeholders in Pakistan for this purpose.

CAMP will engage a theatre group to sensitise and educate the masses regarding honour crimes and fundamental rights of women in Pakistan. Two bi-annual newsletters titled ‘Honour Crimes Watch’ will be published to circulate data on honour related crimes across Pakistan.

Other IEC material including calendars, posters, brochures, and material portraying messages relating to the themes of the project will be published and widely disseminated.



## FCR *Jirga*: Fast Losing Public Support

By Ibrahim Shinwari

Despite widespread respect and acceptability for the all important institution of *Jirga* as a conflict resolution mechanism within the Federally Administered Tribal Areas (FATA) of Pakistan, tribesmen by and large express reservations about fair and judicious functioning of the officially nominated *Jirga*, commonly known as Frontier Crimes Regulation (FCR) *Jirga*.

It is commonly believed across the entire tribal areas that 'FCR *Jirga*' is under the political administration's influence, and in most cases justice is denied to the aggrieved party. It is also alleged that officially nominated members of FCR *Jirga* accept bribes from influential and wealthy parties and/or individuals.

Malik Asadullah, hailing from Kurram Agency believes that FCR *Jirgas* have now become a lucrative business amongst their officially nominated members.

He argues that an increasing number of appeals against FCR *Jirga* decisions to the FCR Commissioner of the previous and now newly established FATA Tribunal reflect a lack of trust of the majority in the FCR *Jirgas* and its decisions.

Citing an example of a decision given by FCR *Jirga* in Shalozan area of Parachinar in Kurram Agency, he lamented that a poor labourer was denied justice despite the fact that he presented witnesses in support of his charges against an accused murderer of his younger brother. "Everyone in Parachinar knows that *Jirga* members and local officials of the political administration accepted bribes from the accused's family and thus he was set free", Malik Asadullah complained, adding that the poor labourer had no financial resources to further challenge the decision of the official FCR *Jirga*.

Alongside corruption, it is generally believed that official FCR *Jirgas* are not independent in their functioning and there is continually increasing interference from local political administration.

"Interestingly, these *Jirga* members have now fixed price (*Narkh* in local parlays) for different types of disputes and cases they resolve on a day to day basis", says Malik Asadullah of Kurram Agency

Requesting anonymity, some officially nominated *Jirga* members also conceded that in most cases they are dictated decisions by the political authorities, particularly in favour of the influential party, despite being guilty of a crime or offense.

"I believe that *Sarkar* (political administration) becomes a party in most cases and thus pressurises *Jirga* members to give a verdict of their choice in favour of the party which the *Sarkar* recommends to them", said one such *Jirga* member from Khyber Agency.

The increasing influence and pressure tactics applied by the political administration have greatly affected the performance of official FCR *Jirgas* and thus they are rapidly losing their reputation.

Nawab Daud Khan of Bajaur Agency said that a 15 year old dispute over the ownership of a natural-mines enriched hillock between Jalakhel-Charmang and Kamangarha-Tharkanri tribes in Nawagai tehsil of Bajaur has so far claimed more than a dozen lives from both sides as the official FCR *Jirgas* have been switching sides time and again in favour of the tribe that 'offers' more money. Hence, the dispute remains unresolved till date.

**"We have the full backing and support of the political administration and thus there is every chance of acceptability of our decision by contending parties", says Malik Pervaiz from Tehsil Landi Kotal of Khyber Agency.**

It was also learnt during investigations in relation to the working of official FCR *Jirgas* that a good number of small issues often escalate into serious matters and at times the conflicting parties take up arms against each other as the political administration tends to ignore what they term 'petty cases'.

"The less influential and less resourceful are always at a disadvantage and thus tribesmen mostly prefer the private or *Olas* *Jirga* instead of the official FCR *Jirga*", observed a *Jirga* member from Orakzai who also requested not to be named.

On the other hand, Malik Pervaiz from Tehsil Landi Kotal of Khyber Agency objected to all these allegations against the *Sarkari* (official FCR) *Jirga* and argued that officially nominated *Jirga* members employ extreme care while investigating a case and deliberating.

Malik Pervaiz added that the losing parties always have the option to appeal against the decision in the FATA Tribunal, while there is no existing authority where the decision of an *Olas* *Jirga* could be challenged.

Malik Pervaiz also said that, with his colleagues, he was able to resolve a dispute spanning over four decades between two families of Landi Kotal within a period of just three months to the full satisfaction of both parties. "At least three private *Jirgas* had in the past failed to resolve the issue and a bloody clash was feared had we not intervened", he contended.



## 'Jirga: A Protection Mechanism'

### Background:

Mohammad Ilyas<sup>1</sup>, hailing from village Agra in Malakand, entered into marriage with Kulsom Bibi against her parents will. As a consequence, Kulsom's father, Imtiaz Ali lodged a police complaint against Mohammad Ilyas claiming his daughter had been kidnapped and coerced. During investigations it was found that Ilyas was already married

When all efforts failed, Imtiaz Ali demanded compensation in the form of an exchange – he agreed to settle the dispute on the condition that Mohammad Ilyas's eight year old daughter be given to him in 'Sawara' as compensation for the affront he claimed he had suffered.

and had an eight year old daughter, Palwasha from his first marriage. However, during court proceedings, the case was decided in favour of the couple as Kulsom Bibi was found to be an adult and capable of making her own choice in entering a marriage.

This led to more ill will amongst the parties and eventually Mohammad Ilyas approached his father in law to reach a settlement. When all efforts failed, Imtiaz Ali demanded compensation in the form of an exchange – he agreed to settle the dispute on the condition that Mohammad Ilyas's eight year old daughter be given to him in 'Sawara' as compensation for the affront he claimed he had suffered. Shockingly, Mohammad Ilyas agreed to this and handed over his innocent daughter to him.

### Jirga to the rescue!

When local elders of the community found out about this decision, a *Jirga* was immediately formed to save the girl. They contacted Sherzaman, President of a local community based organisation who immediately contacted the local press club and District Coordination Officer (DCO) Malakand Levis for necessary action.

DCO Malakand responded immediately by sending the Levis force to recover the girl and all concerned people were arrested. The two parties, Mohammad Ilyas and Imtiaz Ali, were summoned by the DCO to explain their actions. Imtiaz Ali concocted a story by saying that there was never any dispute with Mohammad Ilyas and that Palwasha was visiting him and spending her summer vacations in his house. However, when Palwasha was brought to submit her statement, she informed the DCO and *Jirga* that she had been confined within his house and was not allowed to meet other children or leave the premises.

After detailed investigations, the truth was uncovered and both parties were strictly reprimanded; they were made to submit guarantees to abstain from such an act in future. Mohammad Ilyas was warned that if he ever tried to do so again, his daughter would be taken away and sent to a local shelter, Dar-ul-Aman.

Both parties assured the DCO and *Jirga* elders that this would never happen in future, and Palwasha's well being and protection would always be a priority for her family.

Thus an innocent eight year old girl was saved from the evil practice of 'Sawara' and sent home.

### Jirga as a protection mechanism

This case study illustrates that the *Jirga* system takes notice of every day matters of people's lives in addition to dispensing justice. In this context, it served as a protection mechanism for a vulnerable girl and performed its role by proactively annulling a decision taken by two families, keeping in view religious principles as well as norms of Pakhtunwali. The implementation of a *Jirga* decision and adherence by the parties involved is almost always guaranteed as the elders are influential and wield considerable authority amongst their communities in maintaining peace and harmony.

<sup>1</sup> Names have been changed to protect the identities of parties involved