

Dispute Resolution Councils: The Issues Within Its Institutional Framework And Their Impacts On Its Efficiency And Growth

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Abstract:

Several challenges hinder the efficiency, performance and growth of the DRC. This paper explore the challenges that are within the legal and organizational framework of the DRCs (and police). These include the weak legal regime of the DRCs, their irrational and undefined administrative position and the absence of mandate finances. These internal weakness poses manifold challenges to them that ultimately have impacts on their function, performance and efficiency. The other comprises the missing of any formal linkage of the DRCs with the court that are major component of the criminal justice system and authorized forums of dispute resolution. These challenges obstruct the efficiency and performance of DRCs through their opposition or antagonism to the DRCs, for their various, specific reasons.

Keywords: Dispute Resolution Councils, Internal Challenges, Weaknesses, Efficiency.

Introduction

In 2016, the provincial government of Khyber Pakhtunkhwa, Pakistan, initiated police reforms, replacing the century and a half old Police Act 1861 through an Act of the provincial assembly. Earlier in 2002 federal government had promulgated the Police Order 2002, repealing the Police Act 1861, but the subject was transferred to the provinces with the advent of eighteenth constitutional amendment in 2010 (Shigri, 2019). Subsequently, the government of Khyber Pakhtunkhwa passed the Police Act 2017 from the provincial assembly. The Act is aimed at making the institution autonomous in professional duties, accountable to the public, and defender of fundamental rights (KP. Police Act, 2017).

Besides other changes, the novel thing in the said reforms is the formation of Dispute Resolution Councils (DRCs) at police station level, as an alternative mean of dispute resolution. It is novel because in the past police had never been mandated to function as department of justice. Prior to DRCs, the police at local level used mediated conciliations in some disputes under the Masalihati Anjumans (Associations for Conciliation) set up via the Local Government Ordinance 2001 (Shigri, 2019). Initially, DRCs were started through an administrative order in February 2014 but it was provided legal cover by amending article 168 of the Police Order 2002, after the Peshawar High Court raised an objection to its legality. Later on it was made part of the Police Act 2017 (KP. Police Book II, 2017). By-laws were made for

further description of the DRCs that is known as DRC Manual (2014).

The KP Police Book II (2017)¹ describes DRCs as “an indigenous state regulated hybrid of traditional and modern alternative dispute resolution mechanism based on the principles of Restorative Justice System and Pakhtunwali.” Currently, DRCs are setup at every district headquarters and some tehsil headquarters in the whole province. However, the plan is to setup a DRC at every police station across the province (KP. Police Book II, 2017). The DRC Manual (2014) figures the structure, functions, and procedure of the DRCs. The foremost and main function of the DRCs is the amicable resolution of disputes besides the other two functions that include facts findings and observation of contested police investigations. According to the by-laws, each DRC consists of 21 members’ jury that are divided into seven panels, with one female member at each panel. These DRCs use three different Alternative Dispute Resolution (ADR) methods, including: mediated arbitration, conciliation and neutral fact finding (DRC Manual, 2014). The DRCs have resolved 13643 disputes out of total 24329 since its inception till June, 2016. The average time taken for the disposal of a complaint is not more than 15 days (KP. Police Book II, 2017).

Notwithstanding the successes and efficiency of the Dispute Resolution Councils (DRCs), the DRCs have multiple problems and weaknesses; it also faces certain challenges. These range from financial, legal to administrative and institutional. These weaknesses and challenges not only hinders the DRCs from achieving their objectives but making them obsolete and moving them to redundancy. This paper discusses the weakness and problems faced by DRCs in detail. Moreover, the

challenges it pose are also debated. The findings and analysis of this paper are based on the primary data collected form the interviews with the people who have taken recourse from the DRCs, the jury members of DRCs, the supporting staff of the DRCs, the lawyers and documents analysis. The problems faced by DRCs in its own institutional organization and structure are discussed in this paper, which resultantly have caused several weaknesses in DRCs. The focus in this study is given on the discussion of problems and weaknesses, the DRCs have within its own institution and within the whole organization of the police.

DRC: the Problems and Weakness Within:

DRCs are facing problems internally in its own institutional structure and within the whole police organization, where they exist and function. These problems have roots in legal, administrative, logistic and financial lacunas. The legal base and framework upon which the institution of the DRC include a single section in Police Act 2017 and a small body of rules in DRC manual 2014 (KP. Police, n.d). Except these, no other laws and rules specific to the DRC are available. These existing law and rules are too brief to define and chalk out the structure, functions, mechanisms and other important aspects of the DRC. Many of the problems and weaknesses in DRC are directly related to the gaps in the body of law and rules governing it.

Similarly, the administrative position of DRC within the administrative organization and hierarchy of the police department is centralized and one directional, hence not rationalized. DRC is under the direct administrative control of the district police officer (DPO), who is all powerful in governing its affairs. For instance, only the DPO is empowered to select and remove the jury members, refer cases to the DRC, refer cases for

review to the DRC and post and transfer the supporting staff. On the other hand no one in the police administration and hierarchy is subordinate to the DRC. The DRC have to route its directions to any police official via the office of the DPO. Lastly, there is no budget head in the police annual budget. Allocation of finances, if any, are made by the DPO under administrative orders. According to the interviewees no such allocations have been made so far. According to them, the logistic requirements are met within the budget of the police station or sometimes through the voluntary financial contribution made by the jury members themselves (S Ashraf, personal communication, September 18, 2020).

These problems have collectively added to the weakness of DRCs, which resultantly had adversely effected the performance and efficiency of the DRCs. The quantitative analysis of the data collected from both the selected DRCs for the year 2019 shows the successful disposal rate at 27%² and 48 %³ for district Shangla and district Peshawar, respectively. In 2014, the success rate in district Shangla was at 90% while in district Peshawar it was 87%. In the selected cases of the field areas from among the whole cases for the year 2019 for this study shows that 60%⁴ cases were unresolved in DRC Alpuri district Shangla while in DRC Gulbahar district Peshawar the percentage of unresolved cases stands at 57%⁵. The decline in percentage of successful disposal rate is due to multiple factors. These factors can be divided into two groups under the two different aspects of the DRC. One is related to the structure/organization of the DRC while the other one is related to the mechanism of DRC.

The organizational structure of DRC includes the DPO, the jury members and the supporting staff.

The jury members is the main component of DRC's organization. Under section 73 of the KP Police Act 2017, "Dispute Resolution Councils at District, Sub Divisional or Police Station level, which shall consist of such number of members who have respect and repute in the society for their honesty and impartiality and shall include minimum one female member and shall conduct its business in such a manner as may be prescribed" (KP Police Act, Sec LXII, 2017). Accordingly under the DRC manual 2014, each DRC shall consist of 21 jury members, who will be selected by the concern DPO from among different sections of the society, which may include professionals, retired judges, retired civil servants, retired military officers, educationists, religious scholars, businessmen and journalists. Moreover, the members shall have be matured, experienced balanced personality and no political affiliation; besides they are well respected and reputed in the community. The DPO can replace a member of the jury, if the member wants to leave the council; and can also remove a member on any valid complaint. The membership is voluntary and there is no monetary or other incentive for any member.

Since the jury members make the main body and structure of the DRC, so it becomes the nucleus of the institution. The function and efficiency of the DRC have a major reliance on the jury members. During the field work of this study, while interweaving the people who have taken recourse in the DRC and their cases had not been resolved, it surfaced that the jury members had played a part in the non-resolution of their disputes⁶.

According to Mr. Mohamad Khan,

I took my issue (dispute) to the DRC because I thought it was a governmental

forum (Sarkari Jirga) with a highly degree of neutrality and independence. I hoped that in DRC poor and illiterate person like me would be treated fairly unlike the local Jirga, where one's economic and social position plays a part in the outcome of the Jirga. However, I was disappointed by the biasedness of the members of the DRC. The elders of the local Jirga constantly influenced the DRC members. So, I withdrew my complaint. Sir, it is the socio-economic position that matters whether it is local Jirga or government Jirga. (M. Khan, personal communication, August 10, 2021)

Mr. Mohammad Shah recorded a similar problem. He told me,

DRC's members showed little interest in our case, as we were told in the first proceeding that it could not be resolved in DRC. The members of the DRC were clearly under some influence from the opposite party in our dispute. He is political person who have connections with the local power political elites. It is well known that the government favors the powerful. (M. Shah, personal communication, September 21, 2021)

Another interviewee, Mr. Luqman Ali told me,

My case was not difficult to be solved but the members of the jury failed to solve it. They had neither the attitude nor the skills required for resolving issues. Conciliation and mediation are distinctive characters of some people, like possessed by the local Jirga elders. The government should appoint people with these skills or train the existing members. Only past service in a government organization cannot makes

one a good conciliator. The secretary of DRC is still acting like police officer. Conciliation needs humility, skills and expertise of its kind. (L. Ali, personal communication, September 13, 2021)

Similar views about the jury members were shared by Mr. Imtiaz Afridi, he told me,

I went to the DRC with a hope that I would get a speedy justice like the one we were getting in our ancestral village's Jirga. I was disappointed by the old retired government servants acting as members of the jury for lacking the basic required skills of a Jirga. (I. Afridi, personal communication, December 8, 2021)

Mr. Mumtaz Ali complaint the same, he said,

The members of DRC Alpuri do not have the capacity to resolve the issues. Members' craft of dispute resolution matter in DRC. Like the DRC Khwaza Khela, which is situated in my home town and where I get success in resolving my other two disputes, is efficient than DRC Alpuri because of its skillful jury members. (M. Ali, personal communication, November 13, 2021)

The data analysis shows that the people, who have taken recourse in DRC and were unsuccessful in resolving their disputes due to the jury members, counts two issues. One is the alleged biasness and lack of interest of the jury members in resolving disputes. According to them the socioeconomic and political power difference between the disputant parties influences the jury members. The privileged and elevated gets the favor of the jury members as compare to the less powerful. The second is the lack of skills and expertise, required for conciliation and dispute resolution, of the jury members.

The statistical analysis of the data shows that about 25% of the total people interviewed in district Shangla, who could not get resolve their dispute, blame the jury members for the non-resolution of the dispute⁷. However in district Peshawar, the percentage in this case is 10%.⁸ Moreover, the biasness and partiality of jury was only counted by the interviewees from district Shangla (50% of the total interviewees). No one from district Peshawar objected the neutrality of the jury members. On the lack of skills and expertise, the percentage from district Peshawar was 100% while it was 50% from district Shangla.

This difference of percentage between district Shangla and Peshawar was intriguing. So to probe this additional questions were put in front of the police officials and DRC members, besides document analysis. According to the data and subsequent analysis, there are two main reasons for the overall difference in percentage.

Firstly, the difference between the dynamics of urban and rural socioeconomic structure. Mr. Hasan Zeb, who is a jury member of the DRC Alpuri and also a member of the local Jirga told me that,

Unlike district Peshawar, district Shangla is a rural area where people are mostly tied among themselves with traditional and tribal linkages. Jirgas are prevalent, effective and popular among the people. The local Jirga leaders would be more effective in DRC as they enjoy more legitimacy in public due to their social reputation and status. But they are reluctant to become a member of the DRC for various reasons. So, we are short of such popularly acceptable members in the DRC. (H. Zeb, personal communication, November 16, 2021)

To the similar question the DPO district Shangla Mr. told me that, “I have limited options in selecting the best members for DRC because neither the reputed local leaders are willing to join the DRC nor there is availability of high ranked retired civil servants” (DPO, personal communication, August 9, 2021).

The issue of not having the best jury is not only confined to the rural-urban divide and the specific dynamics but also to the inherent flaws in the law and by rules which governs the DRCs. As mentioned earlier, DRC are govern under a section 73 of the KP Police Act 2017 and the rules made their under, known as DRC manual. Under the law and the rules, there is no broad based intuitional mechanism for nomination, performance evaluation and removal of the jury members. Rather these powers are given exclusively to the concern DPO. It implies that the performance of DRC depends on the performance of the DPO. It is DPO who actually navigates the DRC. For instance, a DRC will perform well if a DPO wants it to perform and vice versa. Almost all the members of the DRCs I interviewed told me that the performance of the DRC is mostly dependent on the well of the concern police officials.

Besides them one disputant, Mumtaz Ali who have taken recourse in two different DRCs, DRC Alpuri Shangla and DRC Khwaza Khela Swat, told me, “I have successfully resolved two of my cases in Khwaza Khela DRC. It is also performing well in other people’s cases. One of the reasons for its good performance is our concern SDPO” (M. Ali, personal communication, September 2, 2021). Similarly, I asked about the reasons for the declining of percentage in DRC cases institution from the record keeper of DRC Alpuri Shangla, Mr. Amir Zahid. He told me,

Earlier the concern police officials were taking keen interest in the DRC. They were forwarding complaints to DRC and providing the jury members with the required assistance. Now, their interest and zeal has lowered down. They seldom forward complaints, which are filed with them. (A. Zahid, personal communication, September 12, 2021)

Although these loopholes in law and rules of DRCs related to jury members have affected the performance of both the DRCs but the affect is different for both of them. The difference in affect is due to the proximity of the DRC with the central police office⁹ and the oversight of police officials. DRC Gulbahar district Peshawar was the first and model DRC established in the province. It is situated on the main road and a few kilometers to the central police office. According to its secretary Brig (r) Saleem Ashraf,

DRC Gulbahar is the mother of all the DRCs. It has a mandate to lead by example and it is successfully chasing its goal. The credit is to the police officials and the jury members. The police high officials constantly review the performance of the DRC and it under constant gaze from the DPO and especially CPO. (S. Ashraf, personal communication, November 12, 2021)

Interestingly, similar views were shared by Mr. Bahrudin, secretary DRC Alpuri. He told me that,

The interest taken by and the oversight of the police matters in the performance of the DRC, especially in selecting the jury members and reviewing their performance. Besides the regular oversight of DPO, Gulbahar has an additional oversight of the CPO.

Probably, this is the main difference between our (Alpuri) DRC and their (Gulbahar) DRC. (Bahrudin, personal communication, August 28, 2021)

The other issue recorded by the disputant interviewees regarding the jury member is the lack of expertise and skills required in mediated-arbitration and conciliation. In terms of percentage which is mentioned above, this issue is higher than the issue of lack of neutrality. During the data analysis, several reasons surfaced due to which the end users had raised question marks on the skills, required in ADR, of the jury members. These includes, the centralized method of nomination, the vague selection criteria, lack of required trainings and excessive reliance on technocrats (retired government servants).

As discussed above, the powers to select and remove the jury members solely rest with the concern DPO. Also, there is no institutional method to review and evaluate the performance of the jury members. This method has several drawbacks which affects the performance of the DRC. For example, a DPO is usually an outsider in the concern district and is appointed for a specific term. He/She is less knowledgeable about the people and society of the district. For selection of best members from among the people of the district, one must have adequate information about the people or society. That is one reason which makes the DPO a bad selector. Moreover, the term of a DPO in a district is short and he/she is preoccupied and overburden with his primary responsibly on the operational side of police. So he/she has less time to look into the affairs of the DRC or evaluate its performance. Contrary to this, an institutional control of DRC would have been more effective. Under the KP police Act 2017, there are other bodies which could be entrusted with such powers. For instance, District Public Safety Commission,

Police Liaison Committee and District Justice Committee. By amending the act, a broad based committee could also be made for this purpose.

The second problem with the selection of the jury members is the very subjective criterion for member of the jury. According to the DRC manual, the eligibility of person to become a jury member of the DRC shall include apolitical background, maturity and balanced personality. Moreover, the person shall be well respected and well reputed. Notwithstanding the importance of these adjectives in a person, but the stress which has been given to these for a job that needs a lot of skills and expertise is misconstrued. Resolving a dispute between parties is a complex and hard thing and process to do. A dispute is not only confined to the instant facts of the case but it has a social-economic and psychological baggage, too. It needs a lot of expertise and skills to navigate the way towards amicable resolution of the dispute. Mere subjective attributes of the jury members are not helpful. Although the manual has mentioned 'experience' in the eligibility criteria but with no further elaboration. During the interviews when the members of the DRCs were ask whether they had got any training. The responded that except a two days training session by the United Nation Development Program, they have got no training.

Lastly, retired government servants and technocrats are given preference in selection to the jury membership. The DRC manual states that members would be selected from across the society including 'retired judges, retired civil and military officers, educationists, religious scholars, journalists and businessmen.' During my personal observation of the proceedings in both the DRCs, I have observed a 'bureaucratic' kind of behavior meted towards the disputants especially from both the secretaries of the DRCs. To substantiate this excerpts from two of the above stated interviews, are produced. Mr. Luqman Ali told me that, "Only past service in a

government organization cannot makes one a good conciliator. The secretary of DRC is still 'acting like police official'. Conciliation needs humility, skills and expertise of its kind." Mr. Imtiaz Afridi stated that, "I was disappointed by the old retired government servants acting as members of the jury for lacking the basic required skills of a Jirga" (I. Afridi, personal communication, November 12, 2021).

It is pertinent to mention here that the DRC Gulbahar has made changes in the composition of its jury members. For instance, it has included such a number of lawyers in the total number of jury members that at least one lawyer is included in every panel of the DRC. It was revealed by Mr. Mohammad Ahtasham Haleem. About the rationale behind such improvisation, he told me that

Initially, we had two lawyer in the batch. With the passage of time, we realized that their output is better than the other members. They had understanding of law and expertise in articulation. As compared to us, they were more convincing for the parties to the dispute especially their realization to them about the legal consequences in case the dispute is not resolved amicably. So, we requested the police officials to include more lawyers in the jury members. (A. Haleem, personal communication, November 21, 2021)

Among the lawyers, three are female lawyers. Besides this, the jury members include two non-Muslims and one transgender. The DRC Alपुरi district Shangla has a total number of 19 members, including two lawyers but no female jury member.

The supporting staff of DRC is drawn from the regular police force. Currently, the DRC Gulbahar Peshawar has a total four members

supporting staff. It includes office superintendent, computer operator, stenographer and attendant. In DRC Alpuri Shangla, the number of supporting staff is two. There is no female member in supporting staff in both the DRCs. According to the secretaries of the DRCs, permanent, at least one, female member is necessary because female disputants would feel more comfortable with a female staff member. There is no special training given to the staff that is required for office management and other related matters. For example, the record of DRC Alpuri was very poorly maintained.¹⁰ The secretary DRC Gulbahar during his interview stressed on the need for training of the supporting staff, especially related to public dealing. According to him,

The staff provided to DRC has been trained in regular policing. Unfortunately in our country, the police are very poor in public dealing. They have their own peculiar style of public dealing. DRC needs a staff with a good public dealing skills. (Secretary DRC, personal communication, August 10, 2021)

The jury members during their interviews also counted financial problem as cause for the decline in the performance of the DRC. As mentioned above, there is no budgetary allocation for the DRC in the police annual budget. For their financial and logistic needs, they are dependent on the police station and the DPO. The police station provide space, stationary and pays the utility bills of the DRC. Both the DRCs are provided a jury room and record room. There is no honorarium or other allowance given to the members. The members during their interviews complaint about the lack of facilities and provision of necessary logistics. According to Mr. Kamran Elahi,

The absence of any budget allocation and the financial dependence on the DPO creates inconvenience in the day to day affairs of the DRC, which resultantly affects the performance of the DRC. It is also a source of annoyance for the DRC members. They start losing interest in the affairs of the DRC. (K. Elahi, personal communication, December 10, 2021)

Mr. Kamran further said that the absence of proper mechanism for the required financial needs exacerbates when an officer less interested in DRC was in charge. According him since last years the officers have lost the earlier enthusiasm for DRC. Currently, the members arrange even tea and other refreshments from their pockets. Similarly, a member of DRC Alpuri Shangla Mr. Hasan Zeb told me,

We are providing free of cost services but it becomes annoying when we have to spend our money on DRC. Sometimes in certain disputes the members need to visit the venue of the dispute for facts findings. In two such instances where I was the jury, we had arranged the transport by ourselves. (H. Zeb, personal communication, November 16, 2021)

By mechanism, I mean the proper defined procedure and process through which the DRC operates and performs it functions. There is lack or ambiguity in this aspect of DRC. Especially, the mechanism for ensuring the attendance of parties and implementation of decisions. This also has greatly affected the performance and efficiency of DRC. The analysis of the collected data for this study shows that the weakness of this aspect of DRC has a similar impact on the performance of the DRCs as the structural weakness has had. According to the statistical analysis of the unresolved cases in the selected

cases, 24% of the case in DRC Alpuri were unresolved due to non-attendance of the opposite party, while in DRC Gulbahar the percentage stands at 30%. In the cases that are resolved the single occurring problem is the implementation of the decision of DRC. In DRC Alpuri the percentage of non-implementation of decision is 43% whereas in DRC Gulbahar it is 10%.

Currently, summons to attend the proceedings are issued by the DRC and send through the police to the parties. Besides, parties are also informed via telephone.¹¹ However, there are no formal written rules and procedure for summoning parties to the dispute. Similarly for compulsory attendance of the parties, there exist no legal instrument and mechanism. It is upon the sweet will of the parties to the dispute to either attend the proceedings or skip them. The DRC cannot force a party to take part in the proceedings. To one of my questions from the jury members, whom I interviewed, all of them mentioned this as a weakness of the DRC. According to Mr. Bahruddin,

We cannot force any party to either attend the proceedings or take part in the proceedings. There is no compulsion on the parties. Only their voluntary consent is all that matters. This is our only force. Probably, this is the main weakness of the DRC that is exploited by the respondent parties. (Bahruddin, personal communication, August 28, 2021)

Similar comments were made by Brig (r) Saleem Ashraf. According to him, “Legally, the DRC is has no authority or jurisdiction in this matter. Our rules and law has no such provisions” (S Ashraf, personal communication, September 18, 2020).

Apart from legal powerlessness, DRCs are also hapless administratively. As discussed above, the administrative position of a DRC with the police

administrative organization is very unusual and strange. It has an upward subordination but no authority downwards. This has put DRC at the complete mercy of the DPO. For every function, direction and action, it is dependent on the DPO. No one in the police, especially at the police station level, is legally bound to carry out its directions, without the prior approval of the concern DPO. This has further thinned the role of DRC to carrying out its functions. For instance, the parties are summoned through police of their concern local police station. If the concern police have no immediate directions from the DPO then it is upon the sweet will of the police to honor the summon. A member of the DRC Gulbahar, Mr. Kamran Elahi told me,

DRC is dependent on DPO. In the existing legal and administrative framework, its function and efficiency is directly proportional to the will and interest of any sitting DPO. For example, the first challenge in every case is to ensure the attendance of the opposing parties. In the current mechanism, we dispatch and deliver the summon via police. The police has an important role in meeting our first challenge but we have no control over the police in this respect. If the DPO has a will and interest in the efficient performance of DRC and he/she disseminate his/her policy to the subordinate officers in this aspect, then they respond promptly and positively to our summons. Recently, I have noted that the DRC is not getting the focus and attention as it was getting in its initial few years. We used to have monthly performance evaluation meetings with our DPO. Now for the last two years, we hardly have a couple of them. This has affected our performance greatly. (K.

Elahi, personal communication, December 10, 2021)

The fixing of responsibility exclusively on the shoulders of the DPO or other police officials is partially true. Because the police, in ideal situation, too have no legal authority to compel a party to take part in the proceedings. According to DPO Gulbahar,

The issue is not wholly related to the well or interest of a police officer. The main cause is the weak legal base of the DRC not only within the police organization but in the whole justice system, including its relation with formal courts and other regimes of law. For example, the police cannot compel anyone to come to the DRC or ADR. None of our laws permit so. Initially DRC were not so popular. A summon was honored because no one was knowledgeable about its mandate. Any summon from its side was only honored on the assumption that it was a police summon. Now people know the fact that attending in DRC is not mandatory. (DPO, personal communication, 2021)

Related views were shared by Mr. Shah Fawad during his interview. He said,

The loopholes in the legal jurisdiction of the DRCs are easy to be exploited; and they are exploited by those who either have knowledge of the DRC's mandate or by those who, at prime facie, have weaker ground to defend the instant case. The later usually consult lawyers before taking part in DRC. The lawyers, knowing the jurisdiction of the DRC, suggest such people to avoid presence in the DRC proceedings. (S. Fawad,

personal communication, September 27, 2021)

The other issue which is related to the mechanism of implementation of DRC's decision has more or less the same reasons. For instance, the lack of legal authority and administrative control to execute the decisions. However, the DRC's decision has one worth and that is that it is presented in the court as evidence in case the dispute is filed in any court by the a party, except void ab initio¹². Before the start of any proceedings in a dispute, a written consent is taken from both the parties and at the end of the proceedings the decision is written and signed by the parties. All other formalities necessary for any legal agreement are also fulfilled.

During the data collection, there were mix views of the lawyers, being interviewed, on the admissibility of DRC's decision as evidence in the court. According to Mr. Haq Nawaz,

In one of my case, my client gave me the decision of DRC in the instant case. I present it in the court as an evidence, because it was written on a legal bond, signed and consented by both the parties; and it did not violated any law or procedure. (H. Nawaz, personal communication, September 9, 2021)

However, Mr. Rustam Khan was skeptical about the quality of decisions being made in DRCs and later on its admissibility in the courts. He told me,

In the last few years, I have come across many decisions of the DRCs during my cases in the courts. Roughly about 90% of their decisions were void and non-admissible. The courts have struck them down. (R, Khan, personal communication, November 29, 2021)

According to him, the main causes for such void decisions includes, the unfamiliarity of jury members with law and the police 'excesses', used in the proceedings and process of the DRCs.

Conclusion:

Internal institutional challenges include the vagueness of the legal framework, Police Act 2016, which should inform the formation, function, procedure, and power of the DRCs. The lack of clarity about the appointment and functions of the jury members raises several questions about the neutrality and skills of the mediators. In the absence of an institutional mechanism, the DPO concerned has been empowered to select the jury on the basis of qualifications which are themselves immeasurable, subjective, and contradictory, for instance the qualifications of 'apolitical background', 'maturity', 'balanced personality', 'well reputed', and 'experienced', followed by a clause that gives preference to 'retired judges, retired civil and military officers, educationists, religious scholars, journalists, and businessmen'. These qualification and selection criteria obstruct the efficiency of the DRCs since the jury members lacked expertise required for dispute resolutions. Instead of the 'apolitical' technocrats as mediators, the local traditional elites and political leaders could prove better arbitrators since they have a better understanding of the disputes and wield power which is essential for successful negotiations and resolution of disputes.

The second obstacle in meeting the standards of efficiency is the absence of a mechanism that ensures the parties to the dispute are brought to the table of negotiations. Appearance and participation in the proceedings of the DRCs is purely consensual. Moreover, there is no legal authority with the DRCs for the implementation of its awards. These legal lacunas render the DRCs toothless. That is why, initially

the performance of the DRCs was seen more positively since people considered these forums as bodies established on the pattern of local Jirgas which were powerful and influential due to the socioeconomic position of the jury members. However, with the passage of time people became less optimistic about the performance of the DRCs due to the obstacles mentioned above, having a bearing on the performance and legitimacy of the DRCs.

Another challenge that mars the performance of DRCs is borne out of administrative and financial concerns. The DRCs administrative position is one-directional and irrational, subordinated to the authority of the DPO but have no legal authority to direct or summon any individual or institution. Thus it depends on the personal interest of the DPO concerned whether the administration takes the DRCs seriously or not. Having no skilled and specialized staff for office management and maintaining the record of the meetings and hearings, important files are often lost. This lack of professionalism sometimes literally turns out to be a 'policing behaviour' on part of the administration which is constituted mostly of male police personnel. Female personnel are only called in special circumstances but do not make part of the administration. Together with administrative hurdles, financial dependence of the DRCs and the lack of financial incentives cause problems with even basic logistic support and dull the enthusiasm of the jury.

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List of Interview Respondents:

S.No	Name (Bio)	Details	Mode of Communication	Location	Date
1.	Bahruddeen	Secretary of DRC Alpurai, Shangla.	Personal Interview	Shangla	September 25, 2020
2.	Saleem Ashraf	Secretary of DRC Gulbahar, Peshawar	Personal Interview	Peshawar	September 18, 2020
3.	DPO Shangla	District Shangla	Personal Interview	Shangla	August 18, 2021
4.	Amir Zaman	UC Dherai	Personal Interview	Shangla	August 10, 2021
5.	DPO Peshawar	District Peshawar	Personal Interview	Peshawar	September 25, 2020
6.	Muhammad Khan	Lilownai	Personal Interview	Shangla	August 19, 2021
7.	Mohammad Shah	Husband of Ms. Bakhroon	Personal Interview	Shangla	September 17, 2021
8.	Imtiaz Afridi	Landay Sarak, Peshawar	Personal Interview	Peshawar	September 10, 2021
9.	Mumtaz Ali	Khawazakhela	Personal Interview	Swat	November 13, 2021
10.	Luqman Ali	Lilownai	Personal Interview	Shangla	September 13, 2021
11.	Muhammad Khan	Lilownai	Personal Interview	Shangla	August 10, 2021

12.	Hassan Zeb	Jury member of DRC Alpurai	Personal Interview	Shangla	November 16, 2021
13.	Amir Zahid	Record keeper, DRC Alpurai	Personal Interview	Shangla	September 12, 2021
14.	Ahtasham Haleem	DRC Gulbahar	Personal Interview	Peshawar	
15.	Kamran Elahi	DRC member Gulbahar	Personal Interview	Peshawar	December 10, 2021
16.	Shah Fawad	Jury member DRC Alpurai	Personal Interview	Shangla	September 27, 2021
17.	Haq Nawaz	Practicing Lawyer District court Alpurai	Personal Interview	Shangla	September 9, 2021