

## DISPUTE RESOLUTION COUNCIL (DRC) AS A FLEXIBLE SYSTEM OF CONFLICT RESOLUTION: EVIDENCE FROM PAKISTAN

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### ABSTRACT

*The current study was conducted in district Mardan of Khyber Pakhtunkhwa with the aim to found people's satisfaction from Dispute Resolution Council (DRC) as flexible system. A sample size of 311 respondents was taken through Mwakaje (2013) formula who had registered their cases through DRC using simple random sampling technique. The data were collected through interview schedule and univariate and bivariate analysis were conducted. Findings of the study denoted that DRC is a flexible system which is easily accessible by the poor masses. It is an impartial system free from any external influence. Due to the diverse nature of its panel, it solve problem according to culture, religion and law of the society. Equal opportunities are given to the disputant parties to explain their view point without pressure. Moreover, the decision of DRC is not final. In case justice is not provided to them, they can easily challenge its decision. People should feel free to contact DRC any time for their cases. People should registered their cases at any stage of their dispute, should be solved in minimum duration to save resources of the people, and guidance should be provided in legal matters to the uneducated and poor people for free of cost.*

**Keywords:** DRC, ADR, Disputes resolution, Flexibility, Khyber Pakhtunkhwa.

### INTRODUCTION

Conflict is the struggle between more or two individuals over scare resources, power, and competition for status, power or values. When there is perceived or real difference in interest view conflict take places such as concerns, fears, needs and wants that cannot be satisfied simultaneously (Wertheim et al., 1998). Conflict takes place when the values and needs of more or two parties are incompatible (Tillet, 1991). It is trend to observe that conflict a harmful practice due to strangely complex situation. Those who is in dispute also called disputants be likely recognize partial choice and limited assets for in search of result, slightly numerous chances may perhaps exit outer in the box (Healey, 1996). The conflict is viewed as negative experience arises by different circumstances. Conflict is disagreement through which the parties involved perceive a threat to concerns, interest or needs (Mayer, 1990). Conflicts up to a great extent are circumstances which grow naturally as we have to depart about difficult life and managing difficult circumstances. Clients invest personally in these circumstances (Ury et al., 1988).

There are three barriers to resolve disputes according to Stanford University that were described by (Arrow et al.1995): a) Strategic and Tactical barriers n order to increase long or short term gains such barriers stem from the parties. b). Psychological barriers: In social identity, requirements, interpretations, perceptions and values of one another such barriers stem from differences. c). Structural, Organizational and Institutional barriers: The leaders may be prevented by such barriers from arriving at a decision that is in the party's interest and may also disrupt the transferring of information. Therefore, a mechanism should by adopted for the resolution of disputes like Alternate Dispute Resolution (ADR) that are used commonly and involves conciliation, mediation, Arbitration and Negotiation (Stone, 2004). Alternate dispute

resolution (ADR) is found locally and globally a fast, economical and much efficient alternative mechanism to legal action which is currently slow and too cost (Isfandyar, 2011).

The fact found out that in 1980s and 1990s much people stated that the old traditional ways are too much costly too slow and consume more time by resolving the legal and valid disputes in the United States for much civil law suits. As the court process is slow and costly, that's why in order to speed up the process of litigation, arbitration has been introduced. With the passage of time, the judicial system of the world started reorganization. To deal with this situation one of the options is ADR (alternate dispute resolution) (Stone, 2004).

Different countries have launched variety of techniques to resolve the problems. Such as in the form of ADR (Alternative Dispute Resolution). This system has not replaced the legal system but is the balancing apparatus to decrease the working stress on the countries courts and people get justice as soon as possible (Hasan, 2002).

Settlement of disputes the parties reach the decision alone and the process of resolution is facilitated by the catalyst with no vested interest in the process is a mediator that is chosen by the participants of the disputes. A structured environment for discussion can be created by the mediator and to promote settlement agreement the mediator is there (Pope and Bush, 2000). The participants are required to follow other options if they are not agreed at any mutual settlement. If the disputants wish to maintain their relationship the mediation is very useful and is a very vital aspect of ADR (Verge, 2000).

ADR in 21<sup>st</sup> century is find faster, easier, economical and efficient approach towards justice (Tanveer, 2017). Further, confronts to modern justice system McManus and Silverstein in (2011) stated that due to expensive, costly and long processes of modern justice system was found to be less efficient. The narration related to efficiency of ADRs and its significance in clearing the on hand backlog of cases (Ramzan, 2016).

The process of our civil justice process has failed to administer justice in faster paced, more diverse, and timely manners in economically and technological altering society. To settle disputes outside the court ADR has been adopted very early by Bangladesh, Sri Lanka, India, England, Australia, Hong Kong, Singapore and United State America. Large numbers of countries have updated their judiciary system and achieve a very fruitful result from them. In the above mention countries, ADR appear for important associations and result in the speedup of justice, time-saving as well as result in cost reduction. The overload cases pressure is not just a problem for these countries, but similar problems were facing by Pakistan. Due to these reasons Pakistan also follows these nations and adopted alternate dispute resolution council (ADR) (Zafar, 2014).

In Pakistan the alternate dispute resolution council (ADR) functions are classified into two types; the customary ADR and the latest system of ADR. The Jirga setup of Khyber Pakhtunkhwa, Baluchistan and the Panchayat in Punjab come under the domain of customary alternate dispute resolution council (ADR) while the arbitration councils, conciliations council and dispute resolution councils putted in latest ADR system. The main endeavor of these committees to resolved the conflicts far away from the courts. In Pakistan the Arbitration is practiced quasi-legal way, the controversial groups propose a mediator to solved their problems, they should take decision according to the law. Any against group can defy the decision in the court early than its announcement. Although the accessible legislation in the shape of settlement court works 1961, the pacification is performed rarely in Pakistan (Naima, 2015).

## **METHODOLOGY**

### **Study design**

This research activity was carried through cross-sectional study design as suggested by Babie (1989).

### **Universe, Sampling Procedure, Sample size, nature of respondents & universe of the Study**

The present study was carried out in district Mardan of Khyber Pskhtunkhwa to measure the association between flexibility in ADR and people's satisfaction. Those people who had registered their cases through DRC/ADR were considered in the study. Through random sampling method, a sample of 311 respondents was selected.

### Conceptual Framework of the Study

Conceptual framework of study is given in table. 1 consisting of one independent variable (flexibility in DRC) and one dependent variable (people satisfaction from dispute resolution council (DRC)).

**Table. 1 Conceptual Framework of the Study**

Independent variable	Dependent variable
Flexibility in DRC	People's satisfaction from Dispute Resolution Council (DRC).

### Tools for Data Collection

The data were collected through interview schedule covering the objectives given in the conceptual framework. Interview schedule was thoroughly checked and pre-tested before final data collection to remove ambiguities. The data were collected from those respondents who were involved in DRC for their dispute resolution.

### Ethical Considerations

Informed consent was taken from the police administration, and people who had registered cases in DRC. Secrecy of the data was assured. Before the data collection, the purpose and importance of the study was explained to the respondents.

### Data analysis

The collected data was entered into SPSS (Statistical Package for Social Sciences) tool for analysis. Uni-variate and bi-variate process were used to investigate the information which were as follows.

#### Uni-variate analysis

Uni-variate analysis was carried out for independent and dependent variables, which shows frequency distribution and percentage of the respondents. Percentages of data were considered by applying method (Chaudry and Kamal, 1996).

$$\text{Percentage of data class} = f/N * 100$$

*F* = frequency

*N* = number of observation.

#### Bi-variate analysis

Bi-variate analysis was used to examine the relationship of independent and dependent variables. Chi-square test was used to investigate the association between dependent and independent variables as given by Tai (1978).

$$\chi^2 = \sum_{i=1}^r \sum_{j=1}^c \frac{(O_{ij} - e_{ij})^2}{e_{ij}}$$

## RESULTS AND DISCUSSION

### Univariate results

Table 2 shows that out of total 311, 86% of the respondents were in the favor that mechanism of DRC for conflict resolution is flexible, while 11% respondents were not agree to the statement. It is clear from the table that mostly people considered DRC best solution of their problems, and give priority because of speedy justice, economical and flexible mechanism. This study proved the previous conducted studies which affirming that DRC is flexible mechanism of conflict resolution, people feed up and tired from the courts and their rotating (Nasser & Mustafa, 2006).

Similarly 88% respondents were of the opinion that there is no political influence in the decision of DRC, while 4% respondents were not agrees to the statement which means that there is no political hold in the DRC forum, conflicts are resolved on the merit which leads to give justice to the deprived one. Such findings were supported by the study of Navin (2006) affirming that there is minor intervention of political hold in DRC, but mostly provide transparent output and worked on the merit base to provide equal justice to both poor and rich party.

Further, 42% of the respondents were in the favor that DRC is partial, while 52% of the respondents were not in the favor of this statement. It is deduced from the study that people thinking more fascinated

towards the negative statement. Likewise, decisions were given on the foundation of the previous study by affirming that DRC is partial and did not deny the rights of anyone (Merrill's, 2000)

Moreover 78% of the respondents were not in the favor that DRC execute its decisions by force, while 42% respondents were agree to the statement. Similarly 78% were in the favor that DRC listened the arguments of both parties and then decide the conflict, while 18% respondents were not agree to the statement. It is clear from the study that DRC did not implement their decision by force; therefore people registered the cases in DRC office instead of judiciary because the DRC listen both the parties' arguments and then decide the concern issue as stated by (World Bank, 2002; Naima, 2015).

Table further shows that 51% were in the favor that they have the right to challenge the decisions of DRC, while 37% respondents were against of this statement. It is clear from the study that respondents may have only the opinion that they have the right to challenge their DRC decision on another forum if they do not agree with them as found by (Ontario Bar Association, 2013).

Likewise 76% of the respondents were in the favor that DRC panel is cooperative, while 12% respondents did not agree with the statement. It is deduced from the table that mostly people have the opinion that the DRC panel is cooperative, without threatening the interest of the people; therefore they registered their cases in DRC. Similarly, beforehand the conducted studies also confirmed that DRC panel is cooperative and the chairman of the DRC has polite and soft language to listen the arguments of the disputants and settled the dispute on proper and well mannered way (Wilke, 2010).

**Table.2 Frequency distribution of respondents view regarding DRC as flexible system**

Attributes	Yes	No	Don't know	Total
DRC is flexible mechanism of conflict resolution	266 (86)	33 (11)	12 (4)	311 (100)
there is political hold in DRC	11 (4)	272 (88)	28 (9)	311 (100)
DRC is impartial	129 (42)	159 (51)	23 (7)	311 (100)
DRC execute decision by force	27 (9)	243 (78)	41 (13)	311 (100)
DRC listened the arguments of both parties and then decide the conflict	242 (78)	55 (18)	14 (5)	311 (100)
decisions of DRC can be challenged	158 (51)	114 (37)	39 (13)	311 (100)
the Panel of DRC is cooperative	237 (76)	36 (12)	38 (12)	311 (100)

Percentages are given in parenthesis

### **Bivariate results**

#### **Association between flexibility of DRC and people's satisfaction**

Table 3 shows the relationship between flexibility of DRC and people satisfaction from it. Results show statistically significant association between people's satisfaction from DRC and flexibility in DRC ( $P=0.007$ ). DRC is flexible mechanism of conflict resolution because people fed up and tired up from the court and humiliation which they face in the formal judiciary setup. In opposite to formal judicial system, DRC provides a friendly and favorable environment to the disputants to present their cases in a dignified way. Ahmad (2013) have the same opinion about that the dispute resolution council (DRC) is a flexible mechanism and decide the conflicts according to the consent of the parties as well as give opportunity to represent their issues. Nolah-Haley in (2012) deduced that dispute resolution council provides the friendly and confidential platform to resolve the conflicts frequently.

Furthermore, there is no political influence on DRC ( $P=0.003$ ). Similarly, a highly significant association was found between people's satisfaction from DRC and the impartial nature of DRC ( $p=0.000$ ). There is minor intervention and political hold in DRC, but mostly provide transparent output and worked

on the merit base to provide equal justice to both poor and rich party. The panel of DRC remains neutral in its decisions. These results are in line with the study of Bacha (2014) who dig out in his study that dispute resolution council (DRC) play impartial role in the society to resolve the problems. The panel keeps in mind the norms and values of Pashtun have and never pressurized from political or influential personalities while deciding the conflict. Moreover, Pope and Bush (2000) highlighted that dispute resolution council created the structured environment to the disputants without any political hold and resolved the conflicts.

Moreover, the relationship between people's satisfaction and DRC does not execute its decisions by force was found significant ( $p=0.004$ ). DRC provides a platform which is flexible and adopt a procedure which is not rigid. It brings to opposite parties to a point from where there issues can be resolved without the use of force through mediation and reconciliation. Similar findings concluded by Frederick (1994) in the past study that dispute resolution council (DRC) did not implement the decision by force, rather explains cost and other punishment of the courts to the parties which must they beared. They tried to compel both sides on compromise.

The table further shows that people satisfied from DRC's decisions because DRC listened both the parties equally ( $p=0.007$ ). Majority of people were in the favor of DRC, because it is flexible and give opportunity to both parties to record their arguments in easiest way without any fear and other formal complications to resolve their issues through consent and understanding. Shah (2013) dig out in his study that DRC panel listened both parties and then decide the concern issue. Durrani (2012) argued that dispute resolution council (DRC) consists of different techniques to compelled the disputants on mutual agreement and resolved the conflict.

Furthermore, the decisions of DRC can be challenged, that's why people found it feasible for them ( $p=0.005$ ). It means that people can challenge the decisions of DRC in courts or other formal decision making bodies if they found that DRC has violated their rights, or in case they feel they did not decide them with justice. These findings are similar to the study of Bacha (2014) who found that anyone has the right to challenge the decision of dispute resolution council (DRC) in other justice forums if they negate the decision. Furthermore, Allan (1998) demonstrated that the disputants are not bound to the decision of dispute resolution council, but can challenge them in the formal judicial court if they negate the declare decision.

Similarly, the relationship between people's satisfaction and cooperation from DRC panel was found significant ( $p=0.003$ ). From the table it is clear that DRC is flexible mechanism of conflict resolution. All the members of DRC use polite and soft language and listen the arguments of the disputants in well mannered way. They use tactics to persuade the opposite parties in order to reach on conclusion. The previous study conducted by Conflict Resolution Network (CRN) (2006) said to resolve the conflict between the disputants on a proper way that both side happily accept the decision and eradicate the issue. Frederick (1994) also found that dispute resolution council (DRC) structured the cooperative environment for the disputants to resolve the issue among them.

**Table. 3 Association between flexibility of DRC and people satisfaction**

Do you think that:	Categories	People Satisfaction from DRC			Chi-square value	P-value
		Yes	No	Don't know		
DRC is flexible mechanism of conflict resolution	Yes	169	62	25	1.4580	0.007
	No	34	0	0		
	Don't know	0	0	21		
	Total	203	62	46		
there is political hold on DRC	Yes	11	0	0	1.8173	0.003
	No	192	62	18		
	Don't know	0	0	28		
	Total	203	62	46		

DRC is impartial	Yes	129	0	0	2.3875	0.000
	No	74	62	23		
	Don't know	0	0	23		
	Total	203	62	46		
DRC execute decision by force	Yes	27	0	0	2.8291	0.004
	No	176	62	5		
	Don't know	0	0	41		
		203	62	46		
DRC listened the arguments of both parties and then decide the conflict	Yes	203	39	0	2.5022	0.007
	No	0	23	32		
	Don't know	0	0	14		
		203	62	46		
decisions of DRC can be challenged	Yes	158	0	0	3.9407	0.001
	No	45	62	7		
	Don't know	0	0	39		
		203	62	46		
DRC have fear environment	Yes	41	0	0	1.2933	0.009
	No	162	61	27		
	Don't know	0	1	19		
		203	62	46		
panel of DRC is cooperative	Yes	203	34	0	3.5808	0.003
	No	0	28	8		
	Don't know	0	0	38		
		203	62	46		

### CONCLUSIONS AND RECOMMENDATIONS

Disputes are found in every society. Without conflict resolution, there will be no peace and prosperity in society. There are various formal and informal mechanisms adopted by every society to resolve the issues among the people. In recent times when people realizes that formal judicial system is complex and rigid which is not easily accessible and where they cannot express their opinion freely; also the process of formal justice system is much complicated which is not understand by the common citizens. Similarly, the courts decisions are abide by the people wholeheartedly without their will; DRC is the alternate mechanism for dispute resolution found by the people on their door step. This is very simple, less time consuming, easily approachable and flexible system. Panel of DRC is diverse, involving people from all segment of society having expertise in their fields. They solve problems with cultural norms & values and resolve the issue in peaceful manner and save resources of the people which they can utilize in constructive activities. Because of the flexibility of this system, it does not force the disputant parties and does not implement its decision on them. People can easily challenge its decisions and can approach other means of justice. Based on these conclusions it is recommended that;

- Fear of the people should remove that the decision of DRC is not final and can be challenged in case they noticed some injustice.
- DRC members should be cooperative and should listen the parties in friendly environment where they do not feel any pressure.
- Although flexibility is a unique feature of this system, but minor penalties should be imposed on the violation of the decision of dispute resolution council (DRC) so peace can be brought in the society.

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