

ACCESS TO JUSTICE IN ZABUL AND URUZGAN

PTRO Research and Evaluation Paper, February 2014



This report represents the result of research conducted alongside PTRO's "Strengthening Access to Justice in Zabul and Uruzgan" Rule of Law project. The research aims to assess and evaluate the effectiveness of PTRO's interventions, but also to go beyond the scope of a programme assessment to produce useful lessons learnt for future programming in the area.



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Background

As part of the U.S. Embassy Kabul's Coordinating Director for Rule of Law and Law Enforcement (CDROLLE) program, PTRO undertook training and research in Uruzgan and Zabul provinces from January to November 2013. The training programme focussed on improving local access to justice through conflict resolution and legal awareness workshops aimed at local justice actors.

One element of PTRO's program was research into local justice structures, their capabilities, their legitimacy and their interaction with other formal/informal legal systems. This report describes local attitudes towards justice mechanisms, including the types of cases addressed by each, their success or failure at dealing with disputes, and the limitations placed on them by local conditions. With reference to PTRO's baseline report of justice conditions in Uruzgan and Zabul (published in July 2013), this document assesses the changes in attitude and practice seen by project staff, participants and community members following completion of the programme.

This report presents the findings of the study, carried out after training workshops had been completed in all target districts. General and specific comparisons with the initial baseline study are drawn, providing an initial assessment of the programme's immediate and ongoing impact.

Summary of Key Findings

Many of the key findings identified by PTRO following completion of the Rule of Law training sessions are substantively similar to the baseline findings, reflecting entrenched attitudes towards justice provision. The findings include several indicators demonstrating the vital importance of the informal justice sector in many areas, often more rural, where government reach is sparse and formal justice representatives have no offices.

- The informal justice system in Uruzgan and Zabul provinces plays a fundamental role providing access to justice, particularly in areas where there is no formal system such as outlying and isolated districts. In all areas it is seen, in the main, as trustworthy and legitimate.
- Insecurity continues to play a major role in community members' decisions concerning where to direct their grievances; via local informal representatives or through the government-mandated, formal system.
- In rural areas, community members were unable to access the formal system, as no government offices had been established and the journey to district or provincial centres was considered too risky or prohibitively expensive. It was especially difficult for women, already heavily restricted in where they can safely travel, to access formal justice provisions.
- Where communities lack representative institutions of the formal justice sector, and formal courts are too far or too risky to travel to, informal mechanisms are commonly used, often with a high degree of satisfaction.
- The proportion of respondents who saw the formal system as corrupt, although still high, has decreased over the course of the CDROLLE programme. Formal legal offices are largely seen as ineffective and biased compared to informal justice mechanisms.
- Cooperation between the two mechanisms is relatively well developed, with many actors being aware of what their counterparts are able to address and solve, and a relatively high degree of referrals between the two systems for certain types of cases.
- Weak governance in the formal justice structures is a common perception, articulated as not employing correctly qualified officials, failing to protect participant's rights, delays and deliberate obstruction. Although more community members saw the formal systems as efficient at the end of the process, the system is still largely perceived as ineffective.
- The Taliban were cited by many as an obstacle to justice, yet a substantial minority of respondents said that they referred cases to Taliban courts. These respondents came from distinct communities, those understood to be under substantial Taliban control. Opinions on Taliban justice were also largely dependent on the area which the respondents came from.
- Awareness of the formal system is relatively good, although it varies across locations. Most respondents could name the different elements of the formal justice system, but could not name local individuals involved, beyond district governors and chiefs of police.
- Most community members have experience of some aspect of the informal justice system, and as such know where they could take disputes or conflicts for resolution.

Despite the underlying structural continuity, important changes took place over the duration of the project that had positive effects on access to justice, including an increase in cooperation between formal and informal justice sectors (seen particularly in rural communities) and an increase in trust in formal justice mechanisms (in all areas).

Methodology

Data collected for the final report, as with the baseline survey data, includes information concerning perceptions of local access to justice, and use of the formal and informal justice systems in each area. Both data collection rounds also gathered information on the key actors, relevant power-brokers, and the primary concerns of communities. The questionnaires (full copies of which are contained in PTRO's research project inception report of November 2012) comprise a mixed question set to elicit both quantitative and qualitative responses. Quantitative answers are used to calculate basic statistics demonstrating the types of justice system, common disputes encountered, general support and attitudes towards justice in each province. These provide a direct comparison with the quantitative data gathered as a baseline at the beginning of the project. Qualitative answers, as in the baseline data, provide greater depth to the information, giving respondents the opportunity to elaborate and provide context to their answers.

The fieldwork was carried out in October 2014. All data included in this report was collected after participants had attended the training workshops provided by PTRO as part of the Strengthening Access to Justice programme in Uruzgan and Zabul.

Security concerns

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Respondent selection

PTRO carried out interviews in the three target districts with three distinct respondent groups in each of the provinces: local actors involved in informal justice, formal justice representatives and community members. Up to 30 community members in each location took part, with up to 20 informal justice actors and 5 formal justice representatives, dependent on the numbers available in the district.

The respondent group of local informal justice actors comprised local elders, religious leaders and other community authorities. Representatives of the formal justice systems included district governors, chiefs of police, and government employees in the huquq, ministry of justice and courts. Formal justice actors in some districts were limited to political appointees and representatives of government departments such as the MRRD, as opposed to dedicated justice system employees.

Researchers worked with trusted local representatives, including elders and religious leaders, to identify survey respondents from different communities and of different ethnicities, forming as representative a sample as possible. The majority of interviews were carried out in the district centres, but care was taken to speak to people who lived in outlying communities as well as those from the district centres themselves. A truly random sample is impractical in the context of insecure areas of Afghanistan, and the onus lies with PTRO's experienced researchers to assess and identify respondents who represent as accurate a cross-section as possible of the local

society in terms of ethnicity, profession, social standing and economic situation.

Location		Number of respondents		
Province	District	Community members	Informal justice actors	Formal justice actors
Uruzgan	Tirin Kot	30	15	5
Khas Uruzgan				
	Chinartu	30	15	5
	Total	60	30	10
Zabul	Qalat	37		2
	Shah Joy			
	Sharh-e Safa		19	1
	Other/missing	23	1	7
	Total	60	20	10
Total		120	50	20
				Total
				120

Table 1 : Respondent profiles

As in many surveys undertaken in insecure and relatively isolated areas of the country, the fieldwork for this research, as with the previous baseline data collection, relied heavily on the skill and experience of PTRO staff, both researchers based in Kabul and local facilitators in the field. As such, a substantial degree of individual judgement is required to assess respondents and to approach as representative a respondent sample as possible from the available interviewees.

PTRO's researchers are experienced in techniques to limit the effect of social desirability on the answers provided by research participants. However, these can never wholly be eliminated, and on occasions where this bias was a possibility, the report identifies and substantiates the risk, as well as making clear the affect that such a bias could have on the analysis.

Provincial Profiles

Uruzgan

Tarin Kowt district contains Uruzgan's provincial capital city of the same name, and hosts the province's PRT. Chinar Tu (also known as Shahadi Hassas) and Khas Uruzgan districts are to the West and East of Tarin Kowt respectively, and are situated adjacent to Helmand province (Chinar Tu) and Ghazni/Zabul (Khas Uruzgan).

Community respondents from Uruzgan were overwhelmingly Pashtun, with less than 2% of all participants identifying as other ethnicities. All respondents in Chinar Tu district were Popalzai, reflecting the ethnic make-up of the province as a whole, and the majority of interviewees also claimed affiliation with this same group in Tarin Kowt. Other well represented groups included Asekzai, Muhammadzai, Barakzai and Tukhai.

In Tarin Kowt, participants were from a variety of professions, including shopkeepers, students, teachers and businessmen, whereas in the two outlying districts people identified predominantly as farmers or land owners. Other represented professions included teachers, drivers, religious leaders and retirees. The representatives of the informal justice system, while mostly self-identifying as elders or religious leaders, also contained a number of land owners and shopkeepers, especially in the more rural districts, demonstrating the multiple roles played by economically and politically powerful community figures.

Formal Justice

The formal justice representatives interviewed in Uruzgan were mainly based in Tarin Kowt, partly because most government officials are based in the provincial centre and partly because security concerns did not allow access to outlying districts. Formal justice representatives interviewed ranged from government judicial representative prosecutors and a legal advisor to the police department.

The three target districts reflect different levels of formal justice activity. Tarin Kowt has active employees in the Police, Judiciary, Courts and Attorney's office, and Chinar Tu reportedly has no functioning judicial system. Khas Uruzgan sits between these two extremes, with a judge acting as district representative of the Judicial department.

Formal justice system representatives in Tarin Kowt are fully aware of the required legal procedures and time limits on detention of suspects and investigations, and have a variety of options available to address cases, including referral to the informal system for certain types of case. Respondents in all districts said that they refer disputes concerning women, families and inheritance to the informal system.

Informal Justice

Elders and religious leaders in Uruzgan play a variety of roles, in addition to their positions in the informal system. In contrast to the baseline survey, none said that they work alone in addressing disputes, all specifying that they are members of certain local bodies, including various shuras; the ulema, elders and local shuras. All informal justice actors claim a degree of local legitimacy, often stating that they are selected because of their experience, trust from the local population, knowledge, education and the legitimacy derived from their families' traditional community leadership.

Most interviewees were reportedly very active in resolving disputes, and although in the outlying districts they only met when cases needed addressing, many reported that this required them to meet twice each week. In Tarin Kowt respondents reported that they meeting regularly twice a week, whether or not there were specific cases to discuss. As opposed to the formal system, there was no written record of cases brought to informal bodies, or of the decisions made prior to the CDROLLE training, but there appears to be a relatively large number of referrals from the formal authorities, suggesting a high level of cooperation, at least in certain types of case.

The training included instruction on the use and upkeep of accurate and complete records for representatives of the informal sector. Participants showed a good deal of enthusiasm for the process, and many requested further

training and support on record keeping. In some cases this even extended to participants suggesting that they train other informal justice actors in neighbouring communities.

Most respondents pointed to specific procedures used for different case types. Resource disputes (over land or water) are addressed through examining the existing documentation and calling witnesses, and family or inheritance disputes are addressed with reference to Islamic law. Criminal cases in outlying districts were primarily dealt with by the informal system, through mediation between the parties. Informal justice actors said that they use national statutory law, Islamic law and local customary codes (such as Pashtunwali) to help in criminal cases.

Informal actors in Tarin Kowt, recognising that successful resolution relies on reconciliation and the agreement of both parties, also said that serious criminal cases, and cases where the parties could not reach agreement, would be referred to the relevant government organs. However, this was notably not an option in some remote areas, where formal government mechanisms are not active. In these areas, referral to the local shura was the only alternative available for serious cases.

Zabul

Zabul province, to the south east of Uruzgan, borders Pakistan to its south-east. The three target districts form a band across the province from south-west to north-east, with Qalat, the provincial capital, in the centre flanked by Shah Joy to the north east and Shar-e Safa (also known as Ternak wa Jaldak) to the south west. The vast majority of provincial residents belong to one of the main Pashtun tribes, and many respondents reported that they were from the Popalzai, Barakzai, Alakozai, Tarakai or Suleiman Khel ethnic groups. Other groups had some representatives in Zabul, including some Tajiks, Kuchis and Tukhai.

Many participants said that they were shopkeepers or tradesmen of some sort, with some teachers, students, labourers and drivers in Qalat. In the outlying districts a larger proportion of respondents were farmers but even in rural areas researchers identified shopkeepers, students, NGO employees and tradesmen.

Formal Justice

10 Formal Justice Representatives were interviewed in Zabul and respondent occupations ranged from Judges and Prosecutors to huquuq employees. Only one of the respondents works alone; all the others stated they work within a team.

Regular meetings are held every week, and ad-hoc meetings are called when cases arise and need addressing. It takes a minimum of 10 to 15 days to resolve a case and some cases can take up to 3 or 4 weeks. Respondents said that there is a formal process in place to submit cases which involves submitting a written application to the District House where the District Governor registers the case and submits it to the relevant judicial department to investigate. All cases are registered in the same manner, however different disputes have different rules and procedures to follow by the relevant departments. Respondents did not indicate how the rules and procedures differ from one another, however it is clear each case is looked at independently.

In total 130 cases were brought to the district huqooqs in Zabul, of which almost 75% were solved to the satisfaction of the parties involved.

Informal Justice

Informal justice representatives interviewed in Zabul identified themselves as teachers, elders or religious leaders, with a small number of government employees.

40% of informal justice actors work alone, yet may also cooperate with local elders on some cases. As Religious Leaders respondents already have a social standing in the community, thus people generally seek advice from them; personal characteristics such as being just, impartial and honest were stated as reasons for achieving their positions within their community, although inheritance of responsibilities was also mentioned by several.

90 cases were brought to these particular informal justice representatives in the last six months, with 86 reportedly solved to the satisfaction of both parties.

Research Findings

A high proportion of the formal justice representatives interviewed in Zabul are not from the province (two respondents from Kunduz, one from Laghman and one from Kunar). This is common practise, particularly in areas where local capacity is low and anyone with more than a very rudimentary education gains employment either with NGOs (whose salaries are generally better) or in larger cities away from these provinces.

Common Disputes

The most common disputes facing the target communities in Zabul are predominantly civil cases comprising land, water, financial and interpersonal disputes. Only 5% of respondents reported that criminal cases were amongst the most common forms of dispute.

Type of Dispute	Uruzgan		Zabul	
	Baseline	Final	Baseline	Final
Land	17%	28.2%	29%	20.3%
Water	18%	25.8%	16%	11.4%
Financial	15%	13.4%	19%	20.3%
Children	16%	13.4%	6%	17.7%
Interpersonal	16%	6.7%	17%	12.7%
Criminal	13%	11.5%	5%	17.7%
Other	5%	14.8%	6%	3.8%

Table 2: Common Disputes

The proportion of common disputes did not change to any significant extent from the baseline to the final surveys, with land and water disputes forming the majority of cases experienced within communities. Conflicts over financial arrangements also remained at largely the same level, but the proportion of respondents saying that interpersonal disputes were most common decreased slightly in both provinces.

Where community respondents said that 'other' disputes were most common, the majority were cases concerning women or 'tribal' disputes, but also included disagreements over inheritance and 'mental disabilities'.

These results show little change in the most common types of cases over the course of PTRO's justice programme. This is consistent with the project's anticipated impact, as the objective of PTRO's training was not for better representation of particular case types; rather, the aims included better cooperation between, and increasing trust in, both formal and informal justice mechanisms.

Conflict resolution body	Uruzgan		Zabul	
	Baseline	Final	Baseline	Final
Local shura	25%	31.7%	41%	42.5%
Religious leader	19%	25.8%	11%	6.3%
Government court	17%	10.8%	14%	20%
Huquq	11%	6.5%	9%	6.3%
Local commander	13%	10.8%	0%	0.0%
Chief of policel	12%	2.2%	10%	18.8%
Taliban	2%	12.4%	12%	6.3%
Other	1%	0%	3%	0%

Table 3: Popularity of Conflict Resolution Bodies

While previously nearly two-thirds (64%) of community members in Zabul said that they would first take their disputes to the informal justice system (to either local shuras, religious leaders or the Taliban), this proportion is now slightly lower at 55%. Just over 6% of respondents said that they would first take their disputes to the Taliban, as opposed to 12% previously. All but one of these respondents came from outside Qalat. A corresponding increase in the proportion of respondents who would first take their grievances to the formal system (up from 33% to 45%) is mostly due to slight increases in the trust shown in the government court and the Chief of Police.

In a similar way, nearly 70% of community members from Uruzgan refer their disputes to informal justice mechanisms, including a significant increase in those choosing the Taliban as their preferred dispute resolution body. It is worth noting that many of these respondents indicated that they would be equally comfortable approaching local commanders, shuras and religious leaders with their disputes; showing a clear preference for informal justice mechanism rather than simply just the Taliban. However, most of the increase was seen from respondents in Chinar Tu, a relatively new and only moderately secure district where there are no government representatives beyond the district governor and chief of police, and where informal justice representatives such as shuras and mailks are relatively weak. Because of this, the majority of respondents are willing to bring disputes to the Taliban, who, as well as maintaining control over much of the local area, are quick in making decisions and have the capacity locally to enforce them – for better or ill, a quick resolution to disputes is often preferable.

Only 30% of community members from Uruzgan said that they would refer their disputes to the formal justice system, down from 40% recorded during the baseline research.

Informal justice representatives were evenly split in their view of the popularity of the different justice systems. All of those in Tarin Kowt reported that different elements of the formal system were more popular, whereas all respondents in Chinar Tu district said that community members used local councils to solve their disputes. Several suggested that local councils were used because of the complete absence of formal justice structures within the district.

In Zabul the majority of informal justice actors indicated that both systems were used, mostly in the form of the huquuq and local shuras, and were equally popular. This appears to be because community members approach the different systems with distinctly different types of cases: disputes over land that could conceivably be solved by mediation, for example, were seen as suitable for the informal system.

“The formal justice system has no presence in our district, and the provincial centre is huge distance away. People here live in poverty.”

Community member, Chinar Tu district, Uruzgan

Types of Dispute and Resolution Bodies

The popularity of specific justice mechanisms in specific places is a function of ease of access, efficiency and social legitimacy, as well as the type of dispute that complainants need addressing.

The majority of respondents indicated that intra-family disputes were dealt with by community elders where they could not be addressed within the family itself. Intra-community disputes were addressed almost exclusively by local elders, either working on their own or, more commonly, as members of the local shura. In contrast, respondents said that they would prefer to bring conflicts between communities to one of the available government representatives, from the district governor to the formal court and office of the huquuq. In these types of cases, community members were more inclined than they were previously to use local government representatives, especially in Uruzgan, where almost 80% of respondents held this view.

The level of Taliban involvement in justice processes has remained at a constant level in Zabul, where a small but

significant minority of respondents continued to report that they would take disputes of all types to Taliban representatives in their areas. As may be expected, these areas are characterised by the lack of government officials, no access to government services, and Taliban control over movement and governance.

This group of respondents also had the most limited knowledge of, and access to, government-provided justice services. Although it is unclear how prohibition is enforced in these areas, respondents from these locations reported that none of them were able to access any government services.

Relationships between Formal and Informal Systems

The relationship between informal and formal systems varies by location, but in general appears to be co-operative in areas where both systems are accessible. All interviewed representatives of the formal system in Zabul province indicated that they referred cases to the informal system, and more than half had also received referred cases from the court or huquuq. Informal justice actors and community members also noted that referrals were relatively common. Over the last year, government legal staff saw between 3 and 4 referrals each, on average, from the informal justice system. The division of responsibilities seems relatively well understood, if not codified, with informal bodies addressing family quarrels, interpersonal disputes, conflicts over land and some inheritance cases, leaving criminal and adversarial cases to the formal system. Some respondents indicated that the informal system would pass cases to the formal system where it became clear that a negotiated settlement through mediation was unlikely.

In Tarin Kowt representatives of the informal justice sector said that they received referrals from the huquuq where cases required a knowledge of Islamic laws, suggesting that they have little confidence in formal justice system actors when it comes to Islamic jurisprudence.

Pashtunwali was seen as a legitimate code on which the informal system could base decisions, but only on the condition that it did not interfere or contradict Islamic law.

The one outlier in ongoing co-operation is Chinar Tu district in Uruzgan, where no disputes were referred by informal bodies to the formal system, and only one referred in the other direction, because of the district's lack of functioning government offices. In this district, co-operation was commonly reported between the informal representatives and the district governor and chief of police, rather than specific legal departments of the government.

To a significant extent all these findings align with the results of the baseline survey, in the most part demonstrating a high level of interaction between the two systems in most areas. Longer-term research in the target provinces, including investigation of written case records, would enable a more thorough assessment of intra-system co-operation and the extent to which channels between the two structures are open and utilised.

"We refer all the cases that we can't solve, and the criminal ones, to the formal justice system."

Local elder and informal justice representative, Shar-e Safa district, Zabul province

Obstacles and Challenges

Community members across Zabul named corruption, insecurity and the lack of trust in the courts as the most common obstacles restricting people's access to the formal justice system. In Uruzgan the same concerns were expressed, except in Chinar Tu, where the major obstacle was the absence of government in any functioning form. These results broadly reflect the concerns highlighted in the baseline findings. Delays were also widely mentioned as a significant source of frustration with the formal system, and the physical distance required to travel to government legal offices was also seen as a significant impediment.

Most community members reported that poor people and those living in isolated areas found it particularly

difficult to access the formal justice system, with some indicating that Kuchi tribes also encountered problems. Despite the local dominance of the Popalzai community, no interviewees reported marginalised groups (such as the Ghilzai) had difficulties accessing the justice system. However, most respondents (over 75% of the total) agreed that women could not easily and equitably access justice services.

The majority of formal justice actors in both provinces also reported that insecurity, including the weakness of the police, was to blame for the lack of access to the formal system. Many of these respondents also claimed that communities’ lack of knowledge of the formal system together with people’s ‘distance from the government’ was also a hindrance. No-one in this respondent group pointed to corruption within government departments as a problem, and a minority in Uruzgan even claimed that there were no significant challenges to the huquuq/court system, possibly because it has no presence in those areas.

Despite increased levels of cooperation and case referrals in both directions, informal justice actors were also widely sceptical of aspects of the government system, with several reporting that corruption and bribery presented a major challenge, alongside widespread insecurity, to the formal court system.

“There are a lot of problems in the government system, such as bribery and assigning unfit people to positions of responsibility. Until these problems are solved we will continue to distrust the government system.”

Religious leader, Shar-e Safa district, Zabul province

Integrity and Legitimacy

Trust in the formal court system has improved over the past 6 months. Questions examining people’s perceptions of the effectiveness of government courts and huquuq resulted in more than 55% stating that they were very or reasonably effective in Zabul. Although the effectiveness of these bodies was seen as worse in Uruzgan (with only 20% saying they were reasonably effective, and none saying they were very effective), the results were almost exactly the same as those collected during the baseline survey. In addition, a large proportion of the negative views came from respondents in Chinar Tu, where there is no available government office. Perceptions of the ineffectiveness of government legal offices in both areas mirror perceptions of the effectiveness of informal justice structures, with similar proportions of respondents reporting both that the informal system is effective and the formal system is ineffective. This result accurately reflects the findings from the baseline survey.

Formal	Uruzgan		Zabul	
	Baseline	Final	Baseline	Final
Full trust	6.3%	0%	36.7%	51.7%
Some trust	35.4%	22.4%	15.6%	13.8%
Limited trust	26.6%	36.7%	4.4%	1.7%
No trust	27.8%	40.8%	41.1%	32.8%
Informal	Baseline	Final	Baseline	Final
Full trust	38%	76.7%	63.3%	82.8%
Some trust	49.4%	21.7%	12.2%	6.9%
Limited trust	3.8%	1.7%	3.3%	1.7%
No trust	6.3%	0.0%	18.9%	8.6%

Table 4: Trust in local justice systems

Trust in both formal and informal justice mechanisms has increased in all areas apart from the formal sector in Uruzgan, where confidence has fallen slightly. Table 4 shows the proportion of respondents and their levels of trust in specific justice mechanisms at the time of the baseline survey (before PTRO's training had begun) and again at the end of the programme. Significant increases in trust were recorded in both systems in Zabul province and in the informal system in Uruzgan, with those saying that they fully trusted the government justice system in Zabul rising to over 50%, to more than 75% for the informal justice system in Uruzgan, and almost 83% for informal justice in Zabul.

Levels of perceived corruption in the formal system did not decline significantly between data collection rounds, with the great majority of respondent community members in both provinces saying that corruption is very common. However, where respondents in Uruzgan are equally scathing in their assessment of the impartiality of formal court decisions, with all respondents claiming that decisions are not impartial, almost all respondents in Zabul thought that court decisions were made impartially. This is a significant increase in belief in the formal system from the baseline survey, where nearly two-thirds of respondents said they thought judgements were biased. The discrepancy could demonstrate how the politics and personalities at provincial level can make huge differences in how the institution is perceived, or could be a genuine reflection of the general focus on improving provision of justice in these areas.

The openness and accountability of the formal system is one area where, at least in theory, progress is being made, with formal actors in both provinces claiming that all cases are reported and documented, and those that are not confidential (e.g. property records) made publically available. Most formal justice actors also pointed to official complaints procedures as proof of their responsiveness to appeals, and even those who said there was no complaints procedure said that the district administrator is available to receive petition letters outlining complaints.

Similar suggestions were made for improving relations with the formal system, with informal justice actors claiming that the way to improve relations between communities and the government justice system would be through tackling corruption, employing competent and honest people in government positions, and developing better cooperation with the informal system.

Access

Community members reported that access to formal justice systems is hindered by corruption, insecurity and weak governance structures, as they reported during the baseline survey. Focusing on particular groups, less than a third of community members agreed that women have access to the formal system. Most of the respondents answering positively were located in the district centres.

However, community members further highlighted specific groups that have less access and include poor people who cannot afford bribes or do not have personal contacts in government departments; groups living far away from the district centre; groups under Taliban control and certain ethnic groups such as Kuchis. Despite obvious tribal tensions in some areas, none of the respondents reported that tribal minorities had problems accessing justice.

"The main barriers to the courts are peoples' lack of awareness and the Taliban presence throughout the province."

Community member, Qalat district, Zabul province

Access to the court system in Uruzgan was reportedly restricted by the lack of government representation in Chinar Tu, and the distance that complainants would need to travel to attend the court or huqquq. Related to this was the insecurity inherent in travelling through areas of the province that are not under government control.

Poor people and those living in Taliban controlled areas were identified as groups that have even less access than ordinary community members. Very few respondents believed that women could access the formal court system either, some saying that women could not leave their houses for any reason, and that even if they could they would not be aware of their available options.

Extent to which Objectives have been Reached

The overall project objective, as specified in the original proposal document, was to improve access to justice and legal awareness in both provinces by increasing the credibility and efficiency of both formal and informal justice mechanisms. The intended outcome was that the justice system as a whole is better able to serve the population fairly and reliably.

In addition, a number of specific objectives were outlined:

- increase the capacity of justice actors in Uruzgan and Zabul in order to strengthen the rule of law.
- improve communities' understanding of their legal rights and their capacity to work with formal justice structures to address their needs.
- increase coordination, cooperation and understanding between the different justice mechanisms.

Through the technical legal training offered to both formal and informal justice representatives in the two provinces, the capacity of justice actors has increased, giving them additional confidence and strengthened competence in addressing common community concerns.

From the community member surveys, respondents expressed increased confidence in informal justice mechanisms following completion of the training programme, including a better knowledge of what community justice structures could provide and which issues they were competent to address.

The findings of the research did not indicate an immediate increase in the numbers of cases being referred from the informal to the formal system, or vice versa, but improvements in cooperation following the training are expected to lead to greater collaboration, including regular meetings and discussions about common case types and approaches to shared concerns.

The final objective related to the research element of the programme, indicating that researchers would investigate the functions of the different justice systems in the target locations, examine changes in working practice over the 12-month duration, and assess the impact of the project.

By training local staff and developing their skills in delivering legal and community training, PTRO have put in place measures to ensure that the project is sustainable, even in the absence of further funding. Building the capacity of local staff has strengthened civil society in those areas, and increased exposure to the different justice systems has given communities knowledge of the structures to which they are able to bring disputes in the expectation of resolution. Continued support and regular repeated engagements following the workshops have built on the initial sessions to give justice sector actors more confidence in dealing with local disputes.

Because of the general lack of suitably qualified women, allied to the conservative and traditional nature of informal justice bodies, no women participated in this phase of the CDROLLE training. However, issues of particular relevance to women were comprehensively presented and discussed by training participants, and gender sensitivity, including the discrete handling of domestic and women's cases, was stressed at a number of points. This has given participants, especially representatives of the informal justice system, a better understanding and practical training in dealing with cases brought by women. Continued research and monitoring of the informal bodies' activities would demonstrate the extent to which women's access to justice has improved.

Conclusion

Throughout the duration of the CDROLLE training programme in Uruzgan and Zabul, access to justice remained patchy and inconsistent, with many local factors affecting the ability of community members to have their cases addressed in either formal or informal justice systems. However, community members are aware of both systems, and most respondents felt that they could access at least one of the two systems if needed. Trust in both systems increased over the project duration, and while confidence in formal mechanisms remains low, it appears as though more respondents are now willing to bring their disputes to government officials.

In general, the informal justice system was seen as more trustworthy, legitimate and efficient, while the formal system was seen as corrupt, time-consuming and ineffective, although attitudes did change over the course of the programme. The level of corruption in the formal system, together with the practical problems of access and pervasive insecurity, mean that many people cannot physically attend the formal court system, especially those in rural and isolated districts, and those that do are forced to pay bribes to facilitate a result.

Insecurity was consistently reported as the biggest obstacle to justice, a finding common to both research phases. This affected all research locations but was reported as particularly problematic in travelling to provincial or district centres where formal justice bodies have offices. Local representatives of formal justice institutions in rural areas are rare, and districts beyond the provincial capital often have no government justice actors apart from district governors, chiefs of police and district judges. In more isolated communities there is often no formal justice system representation at all, and respondents had difficulty in answering questions about the workings of the formal system. In these areas, residents were generally more likely to use, and more satisfied with the informal system, mainly because of the lack of other options.

The Taliban's parallel justice system was seen as a legitimate and effective option in some areas, closely reflecting those areas under Taliban control where other options are scarce to non-existent. Those respondents using the Taliban courts generally reported being happy with their provision of justice, although in contrast the Taliban were also noted as one of the obstacles to justice due to their opposition to any government authority or government-approved body. Both the Taliban and international forces were also widely seen as helping sustaining insecurity, the biggest obstacle to justice.

The common perception of the formal justice system is of inefficiency and corruption, despite large increases in the levels of trust in both structures between the two research phases. However, some criticisms were consistent over the two rounds of research, ranging from widespread corruption to unsuitable and unqualified employees, leading to cases where people's rights were not protected, decisions were delayed and bribes changed hands to facilitate progress. A small majority considered the formal system ineffective in resolving disputes, and despite the gap closing over the course of the programme, a larger proportion of respondents continued to say that they trusted the various informal mechanisms to address their disputes.

The training provided tried to address the particular concerns of women, and while no women took part in the training themselves, informal justice actors completed the workshops with a better understanding of women's difficulties in accessing justice. Although initial feedback was encouraging, only further research and monitoring will indicate whether women's access to justice has improved.

Informal mechanisms were well-established in all programme areas, ranging from individual elders or religious leaders advising and mediating to local shuras and councils established by the government, particularly those founded under the NSP, such as CDCs and DDAs. While there was no recognised process for addressing particular dispute types through the informal system, many informal bodies take on cases as and when they are brought to them. The vast majority of these cases, over 95% in both provinces, are resolved to the reported satisfaction of the conflicting parties.

In most areas there appears to be a level of cooperation between the formal and informal systems, with the notable exception of locations where there is no government presence. While quantitative evidence of increased co-operation (through increased case numbers referred between systems) was not found, both community members and formal justice actors claimed that certain cases were commonly referred. In general these cases were identified as civil or interpersonal disputes that might benefit from the mediation that the informal system can provide. More serious cases, particularly criminal ones, were seen as too intractable to be resolved through local mediation, and were mostly referred to the courts.

Before the programme began, respondents suggested that access to justice could be improved by increasing cooperation between the two justice systems, alongside more support from the government for religious leaders and elders who are active in conflict resolution and mediation in their localities. PTRO's efforts over the last 12 months have contributed to this outcome in a discernible way.

Lessons Learnt and Recommendations for Future Programming

This project has amply demonstrated the utility of training and support for justice in Uruzgan and Zabul, and the findings from the final survey indicate that trust in both systems has improved in most of the programme locations.

These areas would further benefit from future work on justice and the Rule of Law, and given the experience of this project, PTRO recommend the following continued efforts:

- Increasing the reach of the training to include more women

While a high number of justice actors from both sectors were identified and given instruction in legal disciplines, the training programme did not reach the number of women expected or hoped for. This was partly a result of the locations in which the training was conducted, which were often remote, isolated and not under government control, with a consequent conservative outlook which precluded women's participation in many public activities.

- Continue to support collaboration and cooperation between formal and informal justice bodies

Trust and co-operation have both reportedly improved over the course of the programme, there is still much that could still be done. By actively improving co-operation between the two systems, PTRO's programme has not only increased trust between those working in these offices, but also has increased the level of communities' overall trust in both structures. As a result, a larger proportion of people think that justice systems can effectively deal with common disputes. The continuation of the training, including more joint sessions examining specific commonly-occurring local issues, would be a crucial follow-up activity to support the lessons learned during the programme.

- Increase representation and responsiveness of informal justice actors, including elders and religious leaders.

Community members showed increasing knowledge and understanding of the legal systems that ostensibly represent them. To build on this, further programmes should be developed to build closer links between representatives of both systems and community members who could bring cases for them to address. This will further enhance the credibility of all actors working in dispute resolution, engender trust between community members and legal mechanisms, and give government employees and community leaders a common understanding of the difficulties people have in accessing local justice services.
