

M.Pakistan

1. Background

In autumn 2009, a young Pakistani lawyer visited the institute as a research intern. This led to contact with his Pakistani employer, the non-governmental organisation “Community Appraisal and Motivation Programme” (CAMP). CAMP has been active in the Khyber Pakhtunkhwa province of Pakistan and the Federally Administered Tribal Areas (FATA) in the north-west of the country since 2002.

In early 2010, the Max Planck Institute and CAMP developed ideas in consultation with the Federal Foreign Office of Germany regarding ways to improve legal conditions for the people living in Khyber Pakhtunkhwa and FATA and strengthen the rule of law in this crisis-hit region as a whole. As the institute has dealt with South Asian states in a research capacity (including Pakistan) time and again since its foundation in 1924 – most recently with three contributions to Pakistan within the framework of the publication project “*Constitutionalism in Islamic Countries: Between Upheaval and Continuity*”(ed. T. Röder, R. Grote; 2011) and an essay on Kashmir by Tilmann Röder in the *Max Planck Encyclopedia of Public International Law* – the opportunity arose to utilise its academic competence once more by providing advice on specific development projects in Pakistan. Furthermore, the experience gained from long-term project work in Afghanistan can also be useful in this volatile region on the Afghan border.

2. Projects

a. Supporting judicial reform in tribal areas

The tribal areas in the region of Pakistan on the Afghan border have traditionally had special legal status since the colonial era. As such, Pakistani federal laws, for example, do not apply in the FATA, unless the

Pakistani President declares that the laws are applicable there. The President can also govern by decree in the tribal regions. Moreover, the administrative structure is different to that of the rest of Pakistan. The judicial system is also subject to its own regulations. Great importance is given to Jirga, a traditional non-governmental system for settling disputes. Jirgas are “councils of elders” comprising socially recognised tribal leaders who can intervene in civil and criminal law disputes to establish peace between the parties involved. Experiences show that such informal, traditional structures can endanger the human and civil rights of the individuals involved time and time again.

To get a more accurate picture of the function and importance of Jirgas, CAMP systematically investigated the situation in the region using interviews, discussion groups and a detailed survey (CAMP, *Understanding Jirga: Legality and Legitimacy in Pakistan's Federally Administered Tribal Areas*, 2011). On this basis, CAMP started an awareness campaign in 2011 which aimed to bring about better consistency between human rights standards and the Jirga system. Additionally, discussion groups were held with a target group of around 700 participants, radio stations were developed and broadcast in the FATA and information materials were compiled and distributed. The Max Planck team also developed materials with CAMP in 2011 which educate about the advantages and disadvantages of Jirgas and explain the human rights standards to which the Jirgas must also comply. CAMP held training sessions for tribal elders on this basis.

Because many national and international actors deal with Jirgas in Afghanistan, where they are very widespread, the institute led a Jirga workshop in Kabul so CAMP could contact these experts and initiate stronger networking. CAMP workers were also able to gain more experience with pluralistic legal systems by participating in the conference on legal pluralism in Berlin mentioned below.

b. Improving the legal environment of Afghan refugees

Pakistan is still host to the largest number of refugees worldwide. Around 1.7 million registered Afghan refugees live in Pakistan. Yet Pakistan has not acceded to the central international treaty laws for the protection of refugees and does not have a national refugee law. This contributes to the difficult living conditions for Afghans in Pakistan. To find out which specific legal problems they have recently had to face, CAMP worked on a study on this topic (CAMP, *The Legal Environment in Pakistan for Registered Afghans*, 2012) from the middle of 2010 to its publication in January 2012 with the help of the Max Planck Institute. As part of the study, interviews were conducted and both the administration of justice and media reports were evaluated. In addition, 1,500 registered Afghans who live outside of the refugee camps in Khyber Pakhtunkhwa were interviewed in detail. On the basis of this new information, three handbooks aimed at different people were also produced by CAMP with the help of the Max Planck Institute in 2011/2012. One handbook was aimed directly at registered Afghans in Pakistan, to inform them about their rights and increase awareness about law enforcement (CAMP, *Accessing Justice for Registered Afghan Citizens Living in Pakistan – A Guide to Pakistani Institutions, Laws and Procedures*, 2012). Two more handbooks are for the training of government and non-government figures whose work focuses on Afghan refugees (CAMP, *Researching Forced Migration in Pakistan: An Introduction to Research Ethics, Quantitative & Qualitative Methods*, 2011; CAMP/MPIL, *International Human Rights Protection for Registered Afghans in Pakistan – An Introduction to International Mechanisms and Procedures*, 2012). With the help of these handbooks, training sessions for these target groups were held in Pakistan at the end of 2011 and the start of 2012 with the support of institute staff.

3. Further planning

In light of the similar modes of operation of the traditional Jirga dispute settling system on both sides of the Afghan-Pakistani border and other

partially comparable challenges, and with regard to the Max Planck Institute's excellent networking in Afghanistan and Pakistan, stronger transboundary projects in the field of judicial reform are planned. The Max Planck Institute would also like to continue working towards improving the legal situation for Afghan refugees.

