

Customary Laws

Governing Natural Resource
Management in the

Northern Areas



Planning & Development Dept.,
Northern Areas

IUCN
The World Conservation Union

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Foreword

This initiative was prompted by the fact that, despite the existence of a large body of statutory laws aimed at promoting responsible and sustainable use and management of natural resources in Pakistan, and particularly in the Northern Areas, the process of natural resource depletion continues relentlessly.

The objective of this survey and analysis was to begin to draw out and understand the issues at the interface of customary law governing the use and management of natural resources in Northern Areas and statutory laws applied for the same purpose.

The goal of this initiative is to provide the basis for bringing statutory and customary laws regarding use, management and conservation of natural resources in the Northern Areas into harmony with each other.

It is hoped that the results of this investigation will encourage and enable policy- and lawmakers to recognize the inherent similarities between customary and statutory law rather than focusing on perceived differences, and inspire them to overcome the conflicts that lead to further degradation of the natural resource base.

The results of this study demonstrate that customary law in the Northern Areas is a sophisticated system with many of the same mechanisms – permits, user fees, administrative and criminal penalties for unauthorized use – and institutions – including rangers or wardens and judges – that characterize statutory regimes. There are many opportunities for reforming statutory laws governing natural resources in Northern Areas to converge with elements of customary law, thus adding greater legitimacy and efficacy to the State's efforts towards conservation of natural resources in the region.

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Mr. Asad Bilal researched and authored Part I.

Dr. Huma Haque designed the fieldwork and all survey instruments and authored Part II.

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Glossary

- Agarbati* – incense stick
Ashknach – herb, vegetable
Baleech – snow cock; similar to a partridge, but larger
Bani – holly oak (also known as holm oak), *Quercus ilex*
Bankhakhri – *Podophyllum emodi*; a medicinal plant with properties that improve blood flow
Begana – outsider
Behek – a type of tree, in Yasin
Bud dua – a curse, in Tribal Areas
Chaksi – musk
Charbo – person responsible for making public announcements on behalf of a Raja
Chari dar – 12-bore rifle
Chilli – juniper
Dacoity – banditry
Dehqan – tenant under a landlord
Diyar – a variety of cedar, *Cedrus deodara*. In local languages, also called “deodar”.
Dondrash – a type of tree, in Yasin; wild grass
Gandhak – sulphur
Gon – turn at receiving water
Haitien – village warden
Hanafi fiqha – Hanafi school of Islamic jurisprudence
Hashtam – person who takes care of horses
Hawiltara – shepherd
Ishtamal key malikana haqooq – ownership rights arising from use
Jagir – estate
Jastero – member of a *jirga* in Tribal Areas, village notable
Jirga – traditional council
Jirgadar – member of a *jirga* in *Rajgiri* and Settled Areas
Kalang – fine, compensation, tenancy fee
Kalto – an herb, said in the Settled Areas to be eaten by the ibex
Kanal – measure of land equivalent to 605 square yards
Kasabgar – artisan
Khabo – an herb used to treat fevers in parts of the Settled Areas
Khusman – poor
Kool – water channel, irrigation channel
Kora – strap, whip; a stroke of the whip or lash.
Kothi – a kind of charity or offering given at the threshing ground before taking the first crop
Kush roi juro – pasture owned by the Raja, in Ishkoman
Laqmoos – medicinal herb used in the Tribal Areas
Leech – Monal pheasant
Lora pa – village warden in Shigar
Lumbardar – village headman
Makhuteen – a medicinal plant
Malia – revenue; tax on crops

Maliki – property
Malkiat – property; ownership (in Hunza)
Mari – Slaughter of an animal to be shared among members of the community
Maund – measure equivalent to approximately 40 kg.
Mauza – an area approximately equivalent to a village
Mawaish khana, dukri, harai – animal enclosure, cattle shed; *dukri* and *harai* are usually temporary
Mohallah – neighborhood, spacial unit of a few households
Mukhtabrin – village notables
Nigran chowkidar – water steward in Gorikot
Nizam – administration; also the person who administers
Nobat – turn at receiving water
Nullah – stream, and the surrounding pasture and forest land
Numberdar/Lumbardar/Trangpa – village headman
Opoom – a liaison person between a Raja and his subjects
Pao – a measure equivalent to approximately 250 gm.
Phosht pho – herb used in parts of the Settled Areas to treat blood problems
Qasid chowkidar – person responsible for organising collective village work in Gorikot
Rajaaki – collective work tradition
Ramak – medicinal herb, used in Tribal Areas
Sagho – herb used as a contraceptive
Sahu – a type of wood usually used for making domestic objects in *Rajgiri* Areas
Sakhdar – a warden in Gupis
Salajeet – excrement of the flying fox or bat. Villagers collect it from where it accumulates on the floor of a cave. It is said to be a pain reliever and also an aphrodisiac.
Sarmah – village council in Shigar
Saroo – pine tree
Seer – a measure of grain, equivalent to approximately 1kg
Shamilat – range lands
Sharba – member of a village council in Rondu; *jirgadar*
Shikari – hunter
Soochi hunar – herb used in *Rajgiri* Areas for curing eye pain
Sulah – agreement, truce
Tamoro – wild thyme
Tanzim-i-hussaini – religious group
Tapsick – medicinal herb used in the Tribal Areas
Tarangan – village warden in Rondu
Tarangia – in *Rajgiri* Areas, an official who reported directly to a Raja
Tawan – restitution, reparation
Tehsil – administrative unit at sub-district level
Til – a type of tree, in Yasin
Tola – a measure equivalent to approximately 11.5 gm
Toli – distribution of property, money or goods in equal shares, by lots; in Tribal Areas
Trangpa – village headman, in *Rajgiri* Areas
Tul – a type of wood used for making domestic tools, in *Rajgiri* Areas
Wai sigalo – water steward, in Tribal Areas
Yathkoin – water steward, in Hunza
Zaitu/n – village warden
Zehar muhra – antidote for poison, particularly snakebite, in Settled Areas
Zen – sulphur (also *gandhak*)
Zu – cross between a yak and a cow
Zulum – cruelty
Zuni – village warden, in Darel, Tribal Areas

Introduction

Northern Pakistan is rugged and inhospitable. It is situated at the junction of three mighty mountain ranges – Karakoram, Himalayas, and the Hindukush – spread over an area of 72,496 sq. km. and offers a difficult course of life to its people. Extremely low precipitation, mostly in the form of snow, means that agriculture in the area is dependent on irrigation systems fed by glacial or snow melts. Agriculture is further constrained by the scarcity of arable land and a short growing season.

The mountainous terrain makes access difficult and even areas within the region remain fairly isolated from each other. This particular topography has allowed different parts of the region to maintain and preserve their indigenous cultural patterns. However, the presence of several mountain passes, in addition to ancient trade routes connecting the Subcontinent to China and Central Asia has insured that the area is not totally isolated from the rest of Asia and beyond.

The indigenous people of the region have followed Buddhism, Shamanism and Islam and have hosted, fought and intermingled with a multitude of outside ethnic groups and nations including Aryans, Greeks, Turks, Chinese, Sikhs and British among others. This convergence of religions, races and worldviews has created the multi-cultural society of the area today. For several detailed discussions of the history of Northern Areas, see the References in Annex 2.

Before 1840, the region that today is referred to as the Northern Areas of Pakistan was divided into several independent states governed under one of two systems. The valleys of Darel, Tangir and Chilas consisted of more than a half-dozen small units locally called *Shinaki* where tribal elders ruled. The Gilgit region, including Hunza, Nagar, and Greater Yasin, were ruled by *Mirs* or Rajas under a monarchical system called *Rajgiri*. In some states the ruler was called “*Mir*” and in others “*Raja*”, but both words have the same meaning, i.e. ruler. The Baltistan region consisted of small independent states under the rule of the Raja of Skardu. The expansion of villages took place under the direction of the *Mirs*/Rajas and through forced labour; land within villages was developed through self-help.

The period from 1840 to the end of the 19th century saw the beginnings of the interest and interference of the rulers of the Subcontinent in the area. The first aggressors were the Dogras, who were followed by the Sikhs and the British. Wars were fought in Nagar, Hunza and Chilas. During the period 1840-92, the independent states in the area fell to the combined forces of British India and the Maharaja of Kashmir. The territory that today comprises the Northern Areas was once part of the princely state of Jammu and Kashmir. It was administered by the British Government of India through a political agent, appointed in 1877.

Independence from the Dogra occupation of the Maharaja of Kashmir came at Independence in 1947.

On 1 August 1947, as the British prepared to leave India and the partition of the Indian Subcontinent was about to take place, the Gilgit Agency was handed over to the Maharaja of Kashmir. The Maharaja then decided to join India despite public opinion. This gave rise to dissension amongst the locals of Gilgit Agency and amongst the Muslim officers in the Maharaja's army. On 2 November 1947 the Pakistan flag was raised in Gilgit. In response to a request from the revolutionary council of Gilgit, representing the local population, the Government of Pakistan took over administration of the Northern Areas, appointing a civilian political agent who arrived in Gilgit on 14 November 1947.

In January 1949, the political resident in the North-West Frontier Province (NWFP) was directed to act as political agent for Gilgit Agency and the princely States in the Agency. At the time, Gilgit Agency comprised Ghizar, Gilgit, Hunza and Nagar. Political agents in Skardu and Astore operated with the help of assistant political agents, *tehsildars* and *naib tehsildars* (administrative officials at the sub-district level). In Punial, Ishkoman, Ghizer and Yasin, the political agent functioned through local governors who were popularly elected by the locals. The *jirga*, or tribal council, assisted these governors in conflict resolution. In Hunza and Nagar, the administration was run by the hereditary *Mirs* who were assisted by local *jirgas*.

All of the territory that is today included in the Northern Areas acceded unconditionally to Pakistan after Independence, with one exception: in 1951 the tribal areas that are now Diamir District signed an accession agreement with the Government of Pakistan, retaining certain rights of self-governance.

In 1950 authority for the Gilgit Agency was transferred from the NWFP government to the Ministry of Kashmir Affairs. In 1952 the post of Political Resident and Chief Advisor for the Azad Kashmir Government was created under the Ministry of Kashmir Affairs. The Joint Secretary Kashmir Affairs Division was given additional charge as Resident for the Northern Areas. In 1967 a separate Resident for the Northern Areas was appointed and stationed at Gilgit.

In the years 1972-74, the Government of Pakistan abolished the local principalities and introduced direct federal rule in those areas. The *Rajgiri* system in Punial, Gupis, Ishkoman and Yasin was abolished on August 21, 1972 and in Gilgit and Baltistan in October 1972. The state of Nagar was abolished on January 16, 1973 and the state of Hunza was abolished on September 24, 1974. Deputy Commissioners took over from political agents, the *jagirdari*, or landlord, system was abolished, the Gilgit Agency was converted into Gilgit and Baltistan districts, and three new districts of Diamir, Ghanche and Ghizer were created.

The tradition of cooperation for community development in both *Rajgiri* and Tribal Areas, including collective management of certain resources (such as irrigation channels and alpine pastures) continued even after the abolition of feudal authority. However, in the period immediately following abolition, an institutional and organisational vacuum existed in the region.

Northern Pakistan was effectively isolated from the rest of the country until the opening of the Karakoram Highway (KKH) in the 1970s, linking the area to China in the north and to the rest of the country in the south. After the opening of the KKH, there were far-reaching changes in the socio-economic structure of the region. Of the

many influences on customary law in Northern Areas, the KKH is only the most recent.

The last four decades of the 20th century brought about major changes in the lives of people in the Northern Areas. The region was opened to the outside world in a way that it never had been before. Modern modes of communication and transportation and interaction with people from outside the area have led to many – and sometimes conflicting – developments affecting natural resource use, including the strengthening of state control over natural resources to earn revenue and the emergence of new potential commercial uses for natural resources. All this has created a situation conducive to the over-use and depletion of natural resources.

In the last two decades, as the State has reacted to natural resource degradation and depletion and tried to stop the damage, it has imposed and reinforced a system of statutory law and authority that is perceived among many in the Northern Areas as impersonal, repressive and bureaucratic – the antithesis of the customary system. The intervention of government institutions and, in some cases of non-governmental organizations, in issues of natural resource use and management in Northern Areas has, more often than not, been insensitive to the existence, complexity, and sophistication of customary norms.

Through invasions by foreign princes, imposition of colonial powers and administration by the Government of Pakistan, customary law (*rawaj*) has continued to govern the use of natural resources in what is today the Northern Areas. These customary laws and the traditional authorities and institutions that apply them are similar throughout Northern Areas, regardless of the type of traditional governance system.

For the purposes of this study, “law” means a body of rules recognized by a society as binding. If, as in the case of Northern Areas, a society accepts as legitimate more than one system of rules having different sources and in contradiction with each other, the society is said to have a polycentric, pluralistic legal system (Petersen 1997).

Customary law comprises those sets of rules, established through the process of socialization, that enable members of a community to distinguish acceptable from unacceptable behaviour (Shaheed, 1997). “Customary law” as used in this study includes conventions and usages adhered to and followed by people through generations (Balchin in Gul, 1999).

Introduction of direct administration by Pakistan and enforcement of Pakistani laws in Northern Areas beginning in the 1970s in theory set aside indigenous practices and customary law. A largely illiterate population, however, had very little or no knowledge of the new laws to be enforced on them. Their customary laws, established by communal practice and usage for generations and passed down through oral tradition, were familiar and effective and continue to be practiced to a greater or lesser extent throughout Northern Areas today.

There is a limited number of books and reports on customary practices in Northern Areas. To date, very little has been documented. Nevertheless, it is clear that there is a long-standing and well-developed customary law regime in Northern Areas that governs the principal ecosystems and resources of the region:

- pastures, including resources other than forage available in them;
- forests, including timber and non-timber forest products;
- wildlife; and
- water.

This customary normative framework includes provisions for community and individual ownership, resource use fees, and fines as penalties for violations. The traditional governance systems require community service to maintain supply of a critical resource – water. They also provide for at least one authority, chosen by the community, with responsibility for managing natural resources and enforcing customary law on its behalf.

Part I of this study is based on secondary sources, including research in historical archives, references to contemporary publications, and interviews with individuals in Northern Areas who are familiar with traditional practices.

Part II is based on 11 months of fieldwork conducted in the Northern Areas in 2000-2001 to collect primary data from communities and individuals about the customary laws governing natural resources in Northern Areas.

Part I

A History and
Overview of
Customary Law in
Northern Areas

A. TRADITIONAL GOVERNANCE SYSTEMS

The Northern Areas were previously governed under two different types of regimes. The areas under the *Rajgiri* system were governed by local rulers called *Mirs* or *Rajas*. The second system prevailed in the valleys of Darel, Tangir and Chilas where tribal elders ruled. This tribal system of governance was locally called *Shinaki*. Annex 1 shows the relationships among governance systems, the areas where they applied, and the local languages spoken.

1. Tribal System (*Shinaki*)

In the Tribal Areas, a council of elders governed. This council was comprised of one or two notable persons from every village in the area. Every member of this council was locally called a *jastero*. The number of *jasteros* from each village depended on the size and population of the village.

The so-called victory of the Dogras and the British over the Tribal Areas did not bring any considerable change in the mode of governance and social life of the people in tribal areas, nor did accession to Pakistan a century later. The tribal communities continue to own the natural resources in their valleys and to use them for their personal requirements according to tribal custom. Commercial exploitation of natural resources, particularly forest resources, is now subject to majority consensus.

2. Principality System (*Rajgiri*)

Before 1842, the rest of the Northern Areas was divided into small principalities ruled by local *Rajas*. The *Rajas* ruled with all administrative, financial and judicial powers and their decisions were final. As time went on, the *Rajas* ordered administrative divisions of their states and appointed *wazirs* and *lumbardars* to facilitate administration and governance. The *Rajas* owned the natural resources found within the limits of their states. Their subjects did enjoy certain rights and concessions to use natural resources, but had to seek permission from the *Raja*. The *Rajas* had the authority to withdraw any kind of right or concession as well.

During British rule, *Rajas* continued to govern their principalities, although under the authority of Political Agents. In one instance, a Political Agent delegated authority to determine the grazing rights of the people of Birgal Nullah in the Punial valley to the ancestral ruler of the area. After Independence, the Government of Pakistan upheld delegations of authority over natural resources made by British Political Agents to the ancestral rulers of Punial and other principalities. In the case of Punial, the Government acknowledged the following powers:

As the Punial state is the ancestral Jagir of the Governor, so it is decided that under the modern system your rights will remain protected. There will be no change in your powers and privileges. You will have power/right upon all the lands and Nullahs (include water resources, fuel-wood collection and pasture grazing), to endow to any person you deem fit. The Government of Pakistan will have no objection, however, you are expected to do justice with the subjects.

Letter number 165/7-1650/5 dated February 1952, from the Political Agent Gilgit

This system of governance formally came to an end with the progressive abolition of the Rajgiri systems during the period 1972-74.

B. TRADITIONAL AUTHORITIES AND INSTITUTIONS

In the areas under the *Rajgiri* system, the village headmen served at the discretion of the Rajas, who after 1840 were themselves responsible to the British Political Agents or the Dogra Governors. In the “Settled Areas” under direct British governance, the village headmen functioned as the representatives of the Political Agents. The tribal communities of Darel, Tangir and Chilas remained under the independent rule of their own authorities. In some areas, village headmen received a nominal stipend but mostly no remuneration was paid for their services.

The main responsibility of the village headman was conflict resolution within his jurisdiction. In cases of disputes between communities, village headmen and notables from both parties resolved the dispute. In the Settled and *Rajgiri* Areas, decisions made by a village headman were subject to scrutiny by the British Political Agents or the Dogra Governors. Decisions made by *jasteros* and *jirgas* in the tribal communities were final.

1. *Numberdar/Lumbardar/Trangpa*

The *lumbardar* was considered the backbone of the administration of the princely states. Different local terms are used to designate the village headmen in different parts of the *Rajgiri* Areas. For instance, a village headman is called *tranfa* in Baltistan, whereas in Gilgit, Hunza, and Nagar and the whole of the Ghizar District, he is called a *trangpa* or *lumbardar*.

Lumbardars, or *trangpas*, were directly appointed by the Rajas and were the state agents recognised to implement the Raja’s orders. *Lumbardars* were appointed keeping in view the area and population of a village. Villages with larger population or area had more than one *lumbardar*. Notables of the village assisted the *lumbardars*. Generally, the *lumbardars* reported matters to the wazir who in turn reported them to the Raja, but in some cases the *lumbardars* could directly report to the Rajas. The *lumbardars* collected revenue and other taxes. *Lumbardars* played a vital role in conflict resolution within the limits of their villages, and *wazirs* would decide minor civil and criminal disputes in their jurisdictions. Appeals against a *wazir’s* decision went to the Raja for a final decision. *Lumbardars* were paid in kind, usually with grain, and were exempted from taxes. This system did not exist in the tribal communities.

2. *Jastero*

While their functions are more or less the same, *jasteros* or village headmen in the tribal communities of Darel, Tangir and Chilas were more empowered and independent than their counterparts in the *Rajgiri* areas. This traditional system and the power of the *jastero* did not change even after accession to Pakistan.

Every village appointed a *jastero*. The basic criteria for selection were gallantry and wisdom in the eyes of the people. The *jastero* did not get any remuneration for his services. The *jasteros* spent most of their time in dispute resolution. Disputes were placed before a general public meeting, as described above. If a dispute were resolved in this way, the *jastero* would announce the decision openly in the same sitting. Otherwise, the *jastero* would constitute a delegation of notables from the contesting parties, usually under his leadership, called the *jirga*.

3. *Jirga*

A *jirga* is a body of notable persons in a village or area specially constituted to resolve a specific conflict. In *Rajgiri* areas, a *jirga* might be composed of *lumbardar/trangpa* representatives from both parties in a dispute, with some village notables as middlemen. The *jirga* considered all recommendations and arguments from the contesting parties and then made a decision. For every dispute, a separate *jirga* was constituted. After the conflict was resolved, that particular *jirga* ceased to exist.

4. *Zaitu* (Warden)

The institution of *zaitu* exists throughout the Northern Areas in one form or other as the village-level institution for the use and management of natural resources. The word *zaitu* also applied to the individuals who carry out these tasks. Before the 1970s, this institution existed in both the tribal and *Rajgiri* governance systems with more or less similar roles and designations. The institution/individual is called *zaitun* in the Ishkoman valley, *chustarang/shaksbia* in Baltistan and *zaitu* everywhere else. In *Rajgiri* areas, the *zaitu* implemented the rules of the Raja, while in tribal areas he answered to village elders.

Zaitus are nominated on an annual or seasonal basis, but an individual may serve indefinitely as long as the community is satisfied with his performance. In larger villages, each neighbourhood (*mohallah*) may appoint a *zaitu*. Active young men are preferred for this job.

Some villages appoint a single *zaitu* for all tasks, while others designate *zaitus* for specific tasks. In some areas, the *zaitu* is responsible only for the protection of agricultural crops and in other areas, he has additional responsibilities such as protection and regulation of irrigation water. In most areas, the *zaitu* is responsible for ensuring that every household in a village sends its livestock to the pastures for grazing so that domestic animals do not damage the crops. The following tasks are assigned to the *zaitu* in different areas with slight variations:

- n controlling the harvesting of crops;
- n controlling plucking of fruits;
- n free grazing;
- n fuel wood and fodder collection;

- n regulating forest cutting;
- n taking the livestock to the summer pastures on commencement of cropping season;
- n regulating irrigation and water supply;
- n maintaining and desilting the irrigation channels.

C. CUSTOMARY LAWS GOVERNING NATURAL RESOURCE MANAGEMENT

Natural resources in many parts of the Northern Areas are still being managed under unwritten customary laws passed down through oral tradition which have now been adopted by the community. Presently two different types of traditional law operate in the Northern Areas with reference to use rights and management of natural resources. These are:

- n *Rawaj* – customary law. A set of rules that are practiced, preserved and passed down through oral traditions and have become the model for accepted behaviour for members of a community.
- n *Shariah* – Islamic law laid down in the Holy Quran, covering almost all aspects of a Muslim's life.

Either or both systems may be used in resolving a dispute over the use and management of natural resources.

1. Forests

Except for the forests of Chilas, most of the Northern Areas is deficient in forest cover due to uncontrolled exploitation, such as heavy grazing pressure, clearing land for cultivation, increased demand for timber, and, where profitable, the construction of roads. This has resulted in the almost total depletion of forest resources.

At the time of the abolition of the principalities, the forests of the Northern Areas were divided into two categories:

- n tribal forests in Chilas, Darel and Tangir and Diamir District;
- n feudal forests owned by the ruling princes.

Although customary rules still operate, it is statutory law that primarily governs use of forest resources in Northern Areas today.

a. Tribal Forests

Members of tribal communities were allowed to take felled wood for their domestic fuel consumption. As wood was abundant, there was no limitation on how much could be consumed by a single household. However, communities were not permitted to take fuel wood for commercial purposes. In case of violations, the local *zaitu* exercised his powers to decide such issues and impose penalties. Mostly the penalty was in the form of a fine that was determined according to the financial and social status of the violator. If the violator came from a financially stable household, the amount of fine would be greater and if the violator belonged to a poorer household, the amount was lesser. However, there were no hard and fast rules regarding the amount of fine.

Under statutory law now in force in Northern Areas, communities own the tribal forests and have the right to decide, on the basis of a 60% majority vote, how they are to be used. The Northern Areas Forest Department extracts a royalty on felled timber from contractors who enter into agreements with communities to purchase felled wood. Half of the royalty goes to the community and half to the Forest Department for its management costs. Contractors are also required to replace felled trees with seedlings of the same variety. However, this rule is seldom observed.

b. Feudal Forests

The state now owns forests that formerly belonged to the feudal rulers, but traditional rights holders are allowed to continue using them as before with some variations. Before the abolition of the *Rajgiri* system, rights holders used to apply to the Raja for permission to take felled timber. Since 1972, they apply to the Forest Department.

2. Pastures

While statutory law now predominantly governs the use of forest resources in Northern Areas, customary law continues to apply to the use of pastures. The economy of the Northern Areas is agro-pastoral, and pastoralism is the dominant mode of subsistence. Average landholdings are one or two *kanals*, which is inadequate for a family to live on. Rainfall in the area is scarce and due to the altitude and snow, the crop-growing season is very short – 5-6 months.

Mixed mountain agriculture is prevalent in the Northern Areas. During the year different altitudes are used because one alone is not sufficient for subsistence. Particularly in single cropping areas, with less agricultural possibilities, livestock is a very important source of income. Livestock produce manure, food, wool, hair and leather, which are a source of prestige and money for their owners.

There are several different types of pastures in the Northern Areas:

- n alpine pastures (lying above 3000 meters altitude);
- n pastures at the edge of forests;
- n pastures in irrigated areas;
- n lower area pastures called *shamilat* (range lands).

In general, communities, not individuals, own high altitude pastures and those at the edge of forests. Pastures in the Northern Areas are mostly common property, although individual or family ownership exists in some places. The group owning a pasture mutually decides the grazing schedule and rotational grazing plan to be followed during the season and the whole community then must abide by these rules. Since these rules are made by consensus, conflicts rarely arise.

Every member of a community has animal grazing rights in a community pasture. In community owned pastures, people build temporary structures, called *dukri* or *harai*, for keeping their animals.

Members of communities that do not own any pastures are allowed graze their animals in the pastures of other communities after paying an agreed amount. An outsider who tries to graze animals in a community pasture without paying compensation is penalized. There are no rules regarding penalties, but they are dependent on the financial status of the offender. The penalty is always in the form of a fine in cash or kind, and never detention or imprisonment.

Three traditional systems of livestock grazing are practiced in the Northern Areas. In mountainous areas, animals are taken to higher pastures while the agricultural crops grow undisturbed in the valleys below.

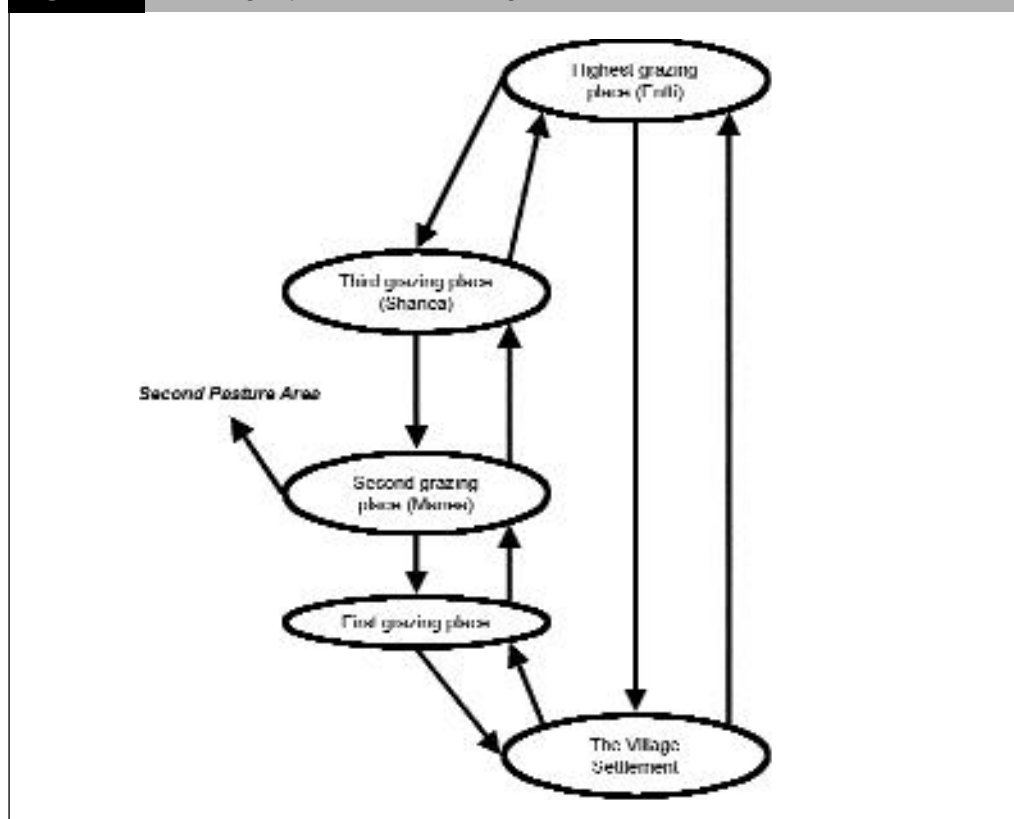
a. Nomadic Grazing

Nomadic grazing is based on locating the best feed resources for the livestock at different times of the year. It is dependent on seasonal climatic conditions and the availability of forage. The migration of Gujars (nomadic grazers) from the Swat valley to the alpine pastures of Handrap is an example of nomadic grazing.

b. Seasonal Grazing

Movement of livestock to and from summer pastures is concurrent with the cultivation and harvest of agricultural crops. It takes place on a single predetermined day, which *zaitus* communicate to all the villages. After this movement, free grazing is banned and violators are fined. In Yasin valley, animals generally migrate to summer pastures in May, whereas in the Ishkoman area of the Ghizar District, people take their livestock to the summer pastures in either May or early June. Initially the herding families in Ishkoman stay at lower altitudes until the end of June, and then they move to higher pastures. The herds move back to pastures close to their villages in the Ishkoman valley at the end of August or mid-September. They finally then return to their villages on a preset day between October 7 and 14. In the Gojal area of the upper Hunza valley, the movement of animals to summer pastures begins in the middle of May and their return is scheduled for the middle of October. Summer pastures in the Golodas and Silpi Bala villages of the Punial valley are used from April/May to September. Similarly, there are fixed days and months in other areas of the region for departing to and returning from the pastures.

Figure 1 Grazing Cycle in Jutial, Gilgit



1. Beginning in February, shepherds take their smaller livestock (goats and sheep) early in the morning to the first grazing place, returning in the evening to the village.
2. Shepherds construct huts in the first, second and third grazing areas. While grazing in one pasture, shepherds monitor the amount of grass and the temperature, both of which are affected by the snow melting process. When the amount of grass decreases and temperature increases, the livestock is moved to the next pasture. In this way, the livestock gradually reaches the last pasture.
3. This process is followed on the way down as well. As available grass and temperatures decrease, livestock is progressively moved back to pastures at lower altitudes and returns to the villages after harvest.
4. The grazing cycle for the larger livestock – cows and oxen, collectively cattle – is different from that of sheep and goats. The villagers take cattle directly to the highest pasture and bring them back directly to the village. Villagers are not allowed to graze cattle in the first, second and third pastures.

c. Free Grazing

In the months of September and October, when the harvest is over and people have stored their crops, livestock are brought back to the villages from higher pastures. Free grazing near the villages begins.

3. Wildlife and Hunting

In Punial, Hunza and Nagar, Rajas granted hunting privileges within the confines of their states. *Lumbardars* and other people with higher social status in the villages could hunt outside the game reserves with prior permission of the ruler. They sometimes gave the dorsal portion of the meat to the ruler as tax but this was not mandatory.

Game reserves were established exclusively for the ruling princes and *shikaries*, hunters who were specially appointed for the purpose. Common people were not allowed to hunt in game reserves and very few received permission to hunt outside the reserves. Restrictions on hunting included total bans on:

- n hunting in breeding seasons;
- n hunting of young animals;
- n hunting of female animals.

There were hardly any violations of these rules and there are no records of penalties or punishments for violators. In tribal areas, hunting was generally allowed, subject to decisions of village elders.

4. Water Resources

Glaciers, *nullahs* (*streams*), rivers and springs are the primary sources of irrigation and domestic water in the Northern Areas. Streams and rivers are fed by snow and glacier melts. Water is abundant in the summers from April to August but gradually decreases from December to February, causing a shortage of drinking water in the region's rural areas. In some higher altitude villages, people melt snow if no other water source is available.

Because water mostly originates from snow and glacier melts, it is often very turbid. This is due to rock flour and other small soil particles that mix with the water when it

flows down from the mountains. Turbidity level in the water rises specifically in the late spring and in summers. Spring water is preferred for drinking purposes, as it is clean and clear, relatively warm in winters and cold in the summers. Such springs are usually at some distance from the villages. Due to low precipitation in the region, rainwater catchment is not practiced in the area.

Traditional Water Supply Systems and their Management

a. Water Channels

The common water supply system in most villages of the Northern Areas, regardless of the governance system, is water channels which draw water from streams, springs, and to a lesser extent, from rivers. This water is used for irrigation, domestic purposes and drinking. The main irrigation channels are sub-divided into a network of smaller channels so that water is available at relatively shorter distances from the houses.

Responsibility for regulating water allocation varies from area to area and in some cases from village to village. In some places, the same authority regulates water and other natural resources. In others, there is a particular authority for water.

b. Water Pits

In the Gilgit region and to a lesser extent in Baltistan, traditional water pits are used to store water for drinking and cooking purposes. In areas with water shortages, these water pits are comparatively bigger, and covered. Usually water pits are situated near the water channel and the pits are filled with fresh water as required. Excess water flows back into the nearby channel. Water pits are normally filled very early in the morning to avoid any contamination from washing clothes and irrigation. Construction, repairing and cleaning of water channels and water pits are male tasks and are managed collectively by the villagers.

c. Water Rights and Distribution

In the Northern Areas, communities usually have a traditional right to utilize a water source that flows within their village boundaries. Water from such a source is considered common property. A neighbouring village is not allowed to use the same source of water without the consent of the owning village. In the past, traditional water rights were established for irrigation water; currently, it is also an important issue in relation to piped water supply schemes. In villages where water is abundant throughout the year and where it is only used for irrigation, water rights are not strongly enforced. In villages with a seasonal water shortage, use rights can become more of an issue as they affect the allocation of water.

Water use rights entitle specific people to utilize a particular water source. In most villages, communities have also developed systems to determine the quantity of water to be used by a single household. A single household's allocation is determined by the size of its landholding. In villages where water is short, communities have developed indigenous systems for water distribution to overcome shortages.

D. TRADITION OF COOPERATION

Communities have developed rules such as grazing rights in pastures, forest regulations and water distribution systems to ensure proper management of natural resources. These present customary rules are the result of community usage over

Box 1 Water Use Rights – An Example from Jutial Nullah

In the adjacent villages of Gilgit, water use rights are only given to people who own settled land. Settled land is agricultural land for which *malia* (agricultural tax) was paid before 1970. Farmers who brought land under cultivation after 1970 cannot claim irrigation water for their land and are allowed to use excess water only.

Jutial *nullah* has insufficient water to supply the agricultural lands in Khomer and Jutial. Both the communities have water use rights for the agricultural lands settled before 1970. Jutial and Khomer jointly developed a system to overcome water shortages.

The inhabitants of Jutial and Khomer have the joint right to use water from the Jutial *nullah*. In times of shortage (end-March till May) water rights are strictly enforced. The irrigation water for a part of Zulfiqar colony is stopped because this is a recent settlement without traditional rights. In this period, the colony is not entitled to use Jutial *nullah* water for its water supply scheme and relies on a river water lift scheme for drinking purposes.

Water rights can particularly become a crucial issue during planning and construction of water supply schemes as in the case of the “Greater Water Supply Scheme” from Kargah *nullah* to Jutial and its new settlements. The communities of Basin, Amphary and Majini *mohallah* (neighbourhood) are objecting to this scheme because water is scarce in winters and they fear they will run short if it is supplied to all these communities.

centuries. The dependency on natural resources and the agro-pastoral economy of the region has resulted in the creation of strong common links and cooperation among villagers. Collective work is usually related to neighbourhood (*mohallah*) or village activities such as the operation and maintenance of communal property, in particular the maintenance of water channels.

Rajaaki – Collective Work Tradition

Traditionally, there were two ways in which cooperative work was initiated. Communal work called for by village headmen was called *hala shere* in some places and *gama-damsa* in Baltistan. Rajas had the right to assign to a community a task such as carrying luggage, harvesting crops or constructing infrastructure. The word *rajaaki* – “the Raja’s work” – which technically applied only to forced labour, by extension came to be used for all types of communal work, the most important being management of water channels. This tradition only exists in the rural areas now.

The rules for voluntary communal work were more or less the same in all villages under the *Rajgiri* system. Every household was required to send one male member to participate. Only the old, very young and women were exempted. In Nagar, women were also ordered to participate in *rajaaki*. There are exemptions from communal work in the following cases:

- n a widow without a male in the household;
- n serious illness of any member of the household;
- n death of any member of the household; and
- n under some circumstances, religious leaders.

If a household was unable to comply for some unavoidable reason, it had to pay to the community an amount equal to one labourer’s wage. For non-participation without

a good reason, the community could decide to levy a fine, the amount and type of which could differ from valley to valley.

Generally the procedures for calling for communal work are the same everywhere in the Northern Areas. When the *lumbardar/jastero* and village elders decide that some communal work is required, a message (*bandish*) is sent to all the households in the village regarding the nature of the work, the place and the time. In most villages, a particular person, often the *zaitu*, is responsible for delivering this kind of message. In the former states of Hunza and Nagar, such announcements were made by beating drums.

Box 2 Traditional Cooperation for Maintaining Water Channels in Gilgit

There are two main water channels in Gilgit town, which used to supply both drinking and irrigation water. Both of these channels were repaired and managed under the tradition of *rajaaki*. Every household in Gilgit used to send a male member to participate in repairs on these channels as and when required. As Gilgit became urbanized, the old tradition of communal work was abandoned and the repair and management of these channels was left to the Municipal Committee Gilgit (MCG). Now these channels are only supplying irrigation water.

Part II

Customary Law in
Northern Areas
Today

A. *Rajgiri* Areas

1. Local Perceptions about Nature, Natural Resources and Pluralistic Legal Traditions

In the *Rajgiri* Areas the dominant definition of nature is 'God and all of the things that have been created by God'. Our respondents identified these things as land and all that grows on land like, forests, crops and herbs. They also included water, minerals, rain, and animals (wild and domesticated) and snow in this list. In Punial, some of the respondents also added that nature is universe – it is everything around us. Most respondents said that forests are spaces with a large number of trees that grow without human intervention. In Punial some people also said that forests are trees given to humans by God for use while in Ishkoman a small number of respondents expressed the opinion that forests are trees meant for burning. In Yasin, 15% of the respondents said that forests are places where people do not live but from where one gets wood to construct houses. Some people here also said that God owns all forests. In Nagar, people said that nature is God and God's laws and that natural resources will never be exhausted because what God has created cannot be destroyed or depleted.

For the most part, respondents in the *Rajgiri* Areas make a distinction between *Rawaj*, *Shariah* and *Qanoon*. They define *Rawaj* as rules of life made by people themselves in older times. *Shariah* is the Islamic way of life, while they think of *Qanoon* as rules made by the government. A few respondents in Hunza, however, did not make any differentiation and were of the opinion that all three of these systems were similar. Most people reported that *Rawaj* is the oldest system of rules. No one knows when it was put together but each area had its own *Rawaj*. They say *Shariah* came with Islam but it did not uproot *Rawaj*. They tend to look at the *Qanoon* as something undesirable because, as they said, *Qanoon* had destroyed their *Rawaj*. The anti-*Qanoon* sentiment was most intense in Nagar where respondents said *Qanoon* is nonsense, restricting everything. Several of the respondents in Nagar also said, '*Qanoon* is not ours and we do not accept it. All the natural resources restricted by the *Qanoon* we steal and use'. People in Nagar were also of the opinion that their *Rawaj* is in unison with the *Shariah*; that is why it continued even after the coming of Islam. They said there were just a few elements of their *Rawaj* that contradicted *Shariah* and were dropped.

2. Social Organization

The social structure in the *Rajgiri* Areas is based on kinship. The community is divided along the lines of *quoms* (tribes)¹, patrilineal clans, and lineages². Hunza illustrates this point. According to the data collected, there are three main tribes in Hunza: Mughals, the Gaishkus and the Madal talainan kus. The Mughals are further divided into two patrilineal clans, Shikonoto and Bichatin. These clans are further subdivided into several patrilineages. Mughals came from Iran. The other two tribes came from Badakhshan and are divided into three clans and several lineages. A similar social structure exists in other parts of the *Rajgiri* Areas, with different tribe, clan and lineage names.

People divide themselves into three types of groups, namely *biradiri*, *khandan* and *tabar*. A *biradiri* includes members of one's lineage, clan members, friends, affines and other collateral relatives. The only exception to this rule is Ishkoman where the respondents perceived *biradiri* at three different levels. At one level they thought of it as described above. However they also thought of everyone belonging to the same religious sect as part of their *biradiri*. Some of the respondents in Ishkoman also talked about *biradiri* as a linguistic group. A *khandan* is a person's lineage. The larger clan and affinal relatives (if out of the lineage) are not included in a *khandan*. A *tabar* comprises the people living in one house. It was reported that people living in one house as a rule share the hearth and pool economic resources.

3. Customary Uses of Natural Resources

In the *Rajgiri* Areas, there are three categories of uses of natural resources: for ceremonial use, subsistence use, and commercial use.

a. Ceremonial Use

The ibex ceremony was an all-male activity undertaken in the fall in the past. It has not been celebrated for about thirty years now. It was reported that it involved men going to the other side of the glacier where ibexes came to feed. Men would then kill one ibex and put an earring in the ear of another one. Next year the one with the ring would come and bring another one with him. The older one would be killed and the new one given a ring. It was given up because ibexes stopped coming to feed. It is thought that a polluted woman went to this place and the ibexes got annoyed.

b. Subsistence and Commercial Use

Subsistence is defined as the work done by people to eat, replace the calories they use up in daily activities and save themselves from sickness and death (Kottak, 1994).

1. "Tribe" is one of the four types of social and political organization found in human societies. Tribes usually have a pastoral or horticultural economy and are organised by villages and descent groups. The main regulatory officials are village heads, descent group leaders, village councils and leaders of pan-tribal associations.

2. Clans and lineages are descent groups. A descent group is a permanent social unit whose members claim common ancestry. Common to clans and lineages is the belief that members descend from the same apical ancestor. Lineages have demonstrated descent while clans have stipulated descent. This means that members of a lineage can recite the names of their forebears from the apical ancestor to the present while members of a clan believe that they descend from the common apical ancestor but cannot trace the actual genealogical links. With patrilineal descent, people automatically have life membership in the father's group. The name, property and offices in patrilineal societies are passed on in the male line.

The skin of the ibex is used for making socks and other clothing. Young ibex hides are used for caps. Another often hunted animal till a decade or so ago and occasionally even now is the musk deer. Its meat is consumed and the hide is sold. Hunting, the people said, was like an addiction and its products are used in domestic consumption. Birds like partridges (*chakor*) are hunted for meat and the eagle is hunted because it damages livestock. Partridge feathers are used as pillow fillings because unlike cotton, these feathers do not attract insects. The horns and hide of ibex fetch good money in the market and government servants and high army officials contact the hunters to buy these. Several hunters interviewed said that the ibex horns and hide fetches a sum of Rs. 2,000-5,000/- depending on the size of the animal. A medium sized leopard's hide will sell for Rs. 20,000/-. A hunter in Gupis said that he had sold three leopard skins in the last 15 years for Rs. 30,000/- each. Two of these were sold to an army colonel and the third one to a Pathan contractor. In Ishkoman, Yasin and Hunza, respondents said that 20 years ago they used to sell cow, goat and ox hides but the practice has declined due to shortage of livestock. In Punial, an increase in the incidence of selling hides of these animals was recorded.

Respondents collect *salajeet* which is sold in the market. It is said to be used by the pharmaceutical industry as well as by indigenous healers to prepare medicine for arthritis. Pine (*saroo*) needles are used for making incense sticks (*agarbatis*). *Saroo* wood is also used as fuel. The shepherds who take livestock to the pastures sometimes also cultivate the pastures and bring back the crops. They bring wood for fuel and construction from the forest. Respondents also reported bringing back gemstones from the mountains and forests. They said that there is a special type of grape that grows in the forests naturally and they make wine from it. Another forest resource they used for consumption as well commercial purposes is wild almond. Respondents extract oil from these almonds, the women use it for cosmetic purposes and it is also sold in the market. Different types of wood brought from the forests is used for manufacturing agricultural and domestic tools. *Sahu* and *tul* is the best for these purposes and *bait* is used for basket making.

c. Medicinal Use

People in the *Rajgiri* Areas use several herbs for the treatment of various diseases. They bring *khusman* from the forests for stomach aches; *makhuteen* is used to grow hair and cure baldness. An herb called *soochi hunar* is widely used for curing pain in the eyes and another one called *hashtam* is considered very effective for fever.

Several female respondents reported that a short yellow plant in the forests is used to terminate a problematic pregnancy. The plant, they said, is skinned and its bark taken off and burnt. The pregnant woman then inhales the smoke. It is believed that the smoke is poisonous and aborts the foetus. Another herb by the name of *sagho*, reportedly is also brought from the forest. It is heated in milk and then drunk by women as a contraceptive.

4. Customary Laws for Management and Conservation of Natural Resources

a. Agricultural Land

The term management as used here means organization and regulation of any activity. Respondents said agricultural land was inherited patrilineally, meaning from father to son. The eldest male in the household, called the *sarbarah*, owns the

land. When his sons marry, they may choose to live with him or shift to their own houses. In the former case, the land continues to be owned by the *sarbarah*. In case the married son wants to move to a separate house, the *sarbarah* gives him his share of the land as well as the livestock. He now owns this property. All those who live in one house eat from the same hearth, with few exceptions. All earning members living in the same house pool their income and give the money to the *sarbarah* who controls the household finances. Those who pool in keep a small amount of their incomes to meet their personal expenses.

b. Nullahs/Pastures

Nullahs are streams; the word is also used to refer to the pastures and forests in the surrounding valleys beyond a village. Animals go to the pastures for grazing in May and return to the villages in September. A *hawiltara* (shepherd) takes the livestock to pastures and is paid by the animals' owner in kind and sometimes also in cash. Payments are made on the departure of the livestock for the pastures and when the owners go up to the *nullahs*, once or several times a season, to check on their animals. The shepherds use all of the products of livestock while up in the pastures. In olden times, they used to give one kilo of *ghee* for five *paos* (1 *pao* is roughly equivalent to 250 g.) of milk of each animal to the owner when they returned. Now this practice has stopped.

In Hunza, respondents said that the *nullahs* belong to individual villages and within each *nullah* different pastures belong to different clans residing in the owning village.

In Puniyal, single villages own pastures but people from neighbouring villages may also take their animals for grazing if they pay a fee (*lagan*) to the owning village. The fee may be paid in cash or kind. In-kind payment is either one small animal (goat or sheep) for every 200 hundred animals grazed. Cash fees range Rs.20-50 per animal grazed.

People may graze their animals in *nullahs* that belong to their village and may also bring back grass, wood and herbs. Villagers paying *lagan* to graze their animals in pastures their villages do not own, may graze their animals but have no right to any other resource found there. There are some *nullahs* in Puniyal where reportedly one tribe in a village has ownership rights but every one else in the village has use rights. The tribes that own these *nullahs* may also cultivate here but non-owners may only take wood and grass and graze animals.

According to the majority of respondents in Puniyal, the *nullahs* originally belonged to their forefathers. When the Rajas invaded these areas and established rule here they forcefully appropriated peoples' lands and made them their own. Respondents do not put a date or century to this take-over; they talk about it as the remote past. After the take-over, the Rajas started taking *lagan* from their subjects, whose land it actually was. On payment of *lagan* the villagers were allowed to graze their animals. The *lagan* paid by people from outside of the jurisdiction of a particular Raja was much higher than the *lagan* taken from a Raja's own subjects. *Lagan* was taken in the form of animals or *ghee*. According to the respondents, when the Rajas lost their authority people bought back their lost lands from the Rajas, giving them 20 *maunds* (1 *maund* equals approximately 40 kg.) of wheat for every seven *kanals* of land. In Ishkoman, Gupis and Yasin, respondents said that the *nullahs* were originally owned by the Rajas but the common people took them when the rule of the Rajas in these areas ended, and did not mention buying the *nullahs* from the Rajas.

Respondents in Nagar said that when the Rajas owned the *nullahs* they gave good and productive *nullahs* to high-ranking families and clans in the area who were

close to the royal house. The Rajas also allowed common people to use certain *nullahs* in their dominion but these *nullahs* had very little grass; people were allowed to graze animals and bring back wood but they could not cultivate there. After 1972, villages bought pastures from the Rajas by pooling their money. Some individuals paid extra money and bought their own land which they currently cultivate within the village *nullahs*.

Irrespective of how the *nullahs* became the property of villages, there is a consensus on one issue throughout the *Rajgiri* Areas. Everywhere respondents said that in the times of the Rajas, permission was required to use the pastures. The Rajas took *malia*, or tax, on pastures as they did on agricultural crops. Every family gave some wood and coal yearly for using the pastures. Rajas maintained a *tarangia*, *charbo* and *numberdar*. The *tarangia* and *numberdar* reported directly to the Raja. The *charbo* was responsible for making public announcements on behalf of the Rajas and an *opoom* was the liaison person between the Rajas and their subjects.

In Hunza, Nagar, Yasin and Puniyal, respondents said that when a member of a village, region or tribe having no ownership or use rights in a *nullah* takes his animals there or brings back something from there he is fined by the owning village. The fine is often in the form of an animal or animals. These animals are cooked and eaten collectively by the people of the offended village, region or tribe.

In Ishkoman respondents reported that the *nullahs* are owned collectively by all of the tribes residing in a village except the Gujars. Gujars are an ethnic group of shepherds who take other people's animals for grazing up to the pastures in summers and are paid in cash or kind by the owners of the livestock. Gujars were given limited use rights by the other tribes in Ishkoman fifteen years ago. The majority of the respondents in Ishkoman said that since every one in this area owns *nullahs* and livestock, *kalang*, or compensation charged for grazing of livestock by non-owners, does not exist, except for Gujars who have to pay *kalang* to the owning villages. Nobody needs to encroach on other people's pastures. They said that the only pasture where *kalang* has to be paid is *kush roi juro* which was owned by the Raja and no one can graze there unless they pay. Not many go there though, because everyone has enough pasture space. The remaining respondents said that occasionally there are violations and the owning village takes *kalang* at the rate of Rs. 5/- per animal from the violators.

Phander has three *nullahs*. Respondents reported that everyone who lives in villages in Phander and owns agricultural land in these villages may graze their livestock in all three *nullahs*. Within one *nullah*, other than collectively owned and used pastures, there are three pastures which are owned by five individuals, and only they use these. Another *nullah* has three pastures which belong to people who live there in summers with their livestock. They graze animals as well as cultivate there. The third *nullah* belongs to all 12 tribes that reside in greater Ishkoman. The respondents reported that pastures differ according to their use. Residents of Ishkoman can bring wood from some pastures while nothing can be brought back from others where only grazing is permitted.

There are some *nullahs* where only oxen and cows may graze while in others all livestock may go for grazing. Anyone from outside greater Ishkoman wanting to graze their animals in these pastures must pay cash compensation. Every outsider must also give the owning village a blanket and the owning tribe an animal, which is slaughtered and shared (*mari*).

c. Livestock and Wildlife

In summers all animals, except those kept back for milking, go to the *nullahs*. To scare predators away during grazing, the shepherds or owners accompanying the livestock make noises and light fires beside the animal enclosures. Respondents reported putting DDT and other types of poisons on large pieces of meat outside the animal enclosures so that predators would eat it and die. This was practiced very regularly until fifteen years ago. Although they are not supposed to do this now because the law prohibits it, respondents said they still resort to it when they feel they can get away with it. One response that only came from Yasin was that Forest Department functionaries supplied the poison used to kill wild animals and save livestock.

Bear and leopard have decreased significantly due to hunting and to diseases transmitted from domestic animals to wild ones, respondents reported in Ishkoman. In Hunza and Punial, bear, wolf and ibex have decreased significantly over the last thirty years because of hunting. In Hunza and Nagar, respondents also reported that leopard numbers are decreasing because leopards eat ibex and ibex is hunted a lot. Another reason given for why leopards were diminishing in the area was the fact that leopards are afraid of guns and are retreating to higher altitudes and safer areas. One respondent in Nagar also expressed the opinion that leopards are getting fewer and fewer because they do not reproduce a lot. Lack of food and deforestation were the other reasons given by respondents in the *Rajgiri* Areas for the dramatic decrease in leopard and bear populations.

Common reasons given by most respondents for why wild animals are still being hunted, despite legal restrictions, were:

- i) for entertainment;
- ii) for provision of meat and other subsistence needs;
- iii) due to availability of more efficient weapons; and
- iv) to save livestock from predators.

Respondents in Yasin, Punial and Nagar said the major reason why hunting of big animals goes on is the money that the hides, horns and skins of these animals fetch in the market. Respondents in Punial and Nagar were also of the opinion that the decrease of wildlife is due to the fact that animal food has dwindled owing to lack of rain and shrinking forests. A common response of interviewees in Yasin with regard to the decline in the number of animals like ibex, bear and leopard was that animal food was being contaminated due to the pollution caused by urbanization and rock blasting. They also felt that wild animals are getting sick because they are being pushed into smaller niches due to increasing population. Respondents in Punial reported that while big game was being depleted, fox and wolf were increasing. They explained the trend towards an increase of these two animals in terms of a high rate of reproduction and lack of commercial benefit in hunting these species.

d. Forests

Forests in the *Rajgiri* Areas are owned by geographical areas larger than the villages. For example, four villages of Phander have collective ownership and use rights in the same forests. The information from respondents indicates two systems used by the locals to classify forests. Some respondents grouped forests into two categories- artificial and natural forests. Others recognise three categories: *awami* (people's) forests, artificial forests and government-owned forests. The latter categorization was described more often than the former.

Respondents said *awami* forests are natural forests that the people of this region had bought or received from the Rajas. Artificial forests were described as being, for the most part, individually owned, and government forests were described as a combination of natural forests and government-owned nurseries. Most of the pine forests in the area are government owned. Respondents said that the government had prohibited the cutting of living trees from the forests but that households are allowed to collect dead and dry wood up to a certain limit; most said that one household could bring 40-50 donkey loads. This limitation on cutting and collecting wood was only 20 years old. Besides firewood, when wood was needed for construction or house repairs, permission had to be sought from the local *jirga*. These restrictions are enforced by the World Wide Fund for Nature (WWF), the district forest officer and, in case of Ishkoman, by the cluster committees. A small percentage of respondents said that they still collect as much dry wood as they want. A small number of people in Yasin said that the situation is better now, for in the times of the Raja, they had to take permission for cutting wood from the Hakeemi family and no household could bring more than 15 donkey loads in a year. Now they bring it on tractors and lots of it. These people also said that in recent times they have cut so much wood that they have finished all of the *til*, *behek* and *dondrash* trees in the area despite government restrictions.

The government has prohibited the locals from cutting any wood for selling. Respondents said, "If we are caught bringing living trees or wood for sale we are fined and the stolen goods are confiscated." Referring to the times of the Rajas, a small number of respondents said, "In those times there was no restriction on any forest product except wild animals. We could take whatever we wanted. For hunting we had to take permission from the Rajas or the Mirs but in the last few years the government has even levied restrictions on bringing minerals like *salajeet* for sale, not to mention animals and wood."

A majority of respondents in the *Rajgiri* Areas believes that all natural forests belong to the people of the region. They resent the fact that forests with certain types of trees – pine forests in particular – have been restricted and taken over by the government. They feel that the government has no right to do this.

e. Water

The major sources of water in the region are snow melts, springs and streams. Water is brought from these sources to water channel/s in the villages. Water is distributed from the channels to individual landholdings. Every village in a larger area has its turn for water supply. The decision regarding turns is made by the *numberdars* and the *jirga*. Within a village, provision of water starts from one end and goes to the other. Every household gets one hour of water supply or more depending on the size of its holdings. Water stewards – the local name for this post varies from village to village – then see that the orders of the *numberdar* are not violated. Every household gives some money or a predetermined amount of wheat yearly to the water steward for performing this job.

5. Changes in the customary use and management of natural resources in the last 20 years

Several things have changed in terms of use and management of natural resources in this research domain during the last two decades. These changes, as per data from respondents, have come about due to:

- i) increase in people's knowledge about the natural resources available;
- ii) governmental regulations, initiatives and departments coming in;
- iii) presence of various civil society organizations and non-governmental organizations (NGOS) concerned with natural resource conservation.

According to respondents:

1. A generation or two ago they did not know about the uses that minerals like *gandhak* could be put to. Their elders were also not aware of the commercial value of various precious stones that are there in the mountains. Therefore, there wasn't a wide enough market for these stones in the area. Due to this, their elders did not try to obtain these things from the environment.
2. There is a greater trend amongst the younger people towards education; thus, the number of hands available for livestock care has decreased. This in turn has meant a sharp decline in the amount of livestock per household in the area. As a result, the variety and volumes of clothing and domestic use things made out of animal products like hides, wool and fur have decreased. Now daily use goods previously made on the farm have to be bought from the markets, which requires cash.
3. In recent times, the climate has changed. There is less snowfall and rain now. This in turn means less food for the wild animals and slower growth of plants and trees in the *nullahs*. They say that although the forest growth has declined due to climatic changes as well as population growth and expansion of settlements into previously uninhabited areas, people still need wood so the cutting continues and deforestation has resulted.
4. Wild animals have decreased, but not only due to hunting as is often assumed by the government and NGOs. Population expansion, rock blasting, making of roads, urbanization and deforestation have also contributed tremendously towards this situation.
5. *Qanoon* is taking over *Rawaj* in terms of wildlife. Statutory law has weakened the authority and control of the *jirga*, and in some places it has been totally eradicated.
6. The rule of the Rajas is over. In some cases, some of the functions of *numberdars* and other *Rajgiri* officials have been continued, but in others they have not. These changes have created confusion about the patterns of use and management of natural resources. Respondents said, "Now people do not follow any one system of rules properly."
- 7) Due to the opening up of trade with China and down-country, business has taken over agriculture and livestock-keeping as modes of subsistence. There is also a greater tendency amongst the populace to take up salaried jobs within and beyond the region, which again alters the subsistence economy prevailing only a generation earlier.
- 9) The relationship between the owners of livestock and the shepherds who take these animals to the pastures has changed. Earlier the shepherds used to give the owner one kilo of *ghee* for each goat and five kilos for a larger animal, but they have stopped doing that. Now the owners pay them not only in kind but in cash as well.

- 9) In the last 10-15 years, commercial use of wildlife has decreased due to legal restrictions on hunting and a decline in wildlife. This, however, does not mean that hunting has stopped altogether. Earlier, people did not have guns and they used to capture animals alive. This was considered bravery and there was a social premium on it. Now, however, they kill the animals; the meaning of bravery has changed.
- 10) Respondents said, “Now we do not use only herbs for treating sickness, people also go to hospitals.” But they feel that in the old days the health standards were higher.
- 11) In the days of the Rajas and Mirs, the *jirga* did not have the type of formal structure that it has today. The Rajas used to gather everyone and decide cases when there was a dispute.

There is a definite difference of opinion across generations when it comes to evaluating the changes in farm inputs and technology. The younger and particularly educated people say that the use of tractors is better than oxen because it is less time consuming and makes for better farming. They also approve of the use of threshers because it is less time consuming and it separates the chaff from the crop more thoroughly. They are also for the use of various types of pesticides because these sprays save crops more efficiently than the cold water technique did. Young people also approve of the use of chemical fertilizer because they say it gives a better yield.

Older people, on the other hand, are more pessimistic and disapproving of these changes. They believe that animal ploughing is better because it penetrates deeper into the soil, which is good for the crop and the soil. The use of threshers, they say, makes for loss of chaff because it gets mixed in the soil and blows away with the breeze. Insecticides, in their opinion, may be more efficient at killing insects but they destroy the taste and quality of the crop. Chemical fertilizers increase the crop yield but destroy and harden the soil. It also makes the soil less responsive to organic fertilizer. The *bhoosa*, or chaff, that is separated from the grain by the thresher is hard and has too much dirt mixed with it and animals injure the insides of their mouths when they eat it. Thus, they do not eat enough and remain malnourished.

While discussing the changes in the natural resource laws of the government, most respondents felt that in the time of the Rajas the situation was better because restrictions were followed more strictly. People were afraid of the all-powerful Rajas. They said, “Now we bribe the government, i.e., Forest Department people, and hunt and cut wood. If our institutions like the *jirga* catch the thief, government functionaries take bribes and let them go.”

6. Traditional Regulatory Institutions

There are several indigenous institutions that maintain the laws of management and use of natural resources.

Hunza

a. *Jirga*

The *numberdar* of the village heads the *jirga*. It is an inherited position. In some villages there is just one *numberdar* but in others like Murtazabad there are

several. In villages like Murtazabad, one of the several *numberdars* is considered the head *numberdar*. *Numberdars* together with two members of the village committee and 10 respected people of the village constitute the *jirga*.

A *jirga* is an institution that has existed since the time of the Mirs. The *jirga* has always consisted of the same number of people but in political and legal terms, it has weakened in the post-Mir times. This is due to the fact that most people now go to the police with their disputes. The *jirga* has no legal authority behind it, but continues to have a certain degree of moral and historic authority. The *jirga*, despite its declining authority, still fines people for cutting living trees, cutting wood from other people's forests, hunting wildlife or grazing animals in unauthorized pastures.

b. Yathkoin/Butgoin or Ilgoin (Water steward)

This is also a very old institution. There is normally more than one *yathkoin* in the villages of Hunza. The respectable people of the village select the *yathkoins*, who look after the security of the water channels. They also inform the villagers about mending the water channel when necessary, since every able-bodied man in the village must take part in this activity.

Custom dictates that every household of the village must give 10 kilos of wheat or money to each one of the village *yathkoins*. The *yathkoin* can penalize people for damaging the water channels. If the offenders do not pay, the *yathkoins* go to the *muhtabrin* (respected and notable people of the village), who assist them in collecting the penalty.

c. Haitien (Livestock warden)

From September/October 1st through February, livestock is left in the villages to graze. At all other times, if someone leaves his animals for free grazing, he is fined. Two people who volunteer to work as guards (*haitiens*) levy this penalty. The *jirga* selects these people from those who volunteer for the job. *Haitiens* also serve in the *jirga* as members. This is not a paid position; *haitiens* give any fines collected to the *jirga* which spends it on development work in the village. The scale of fines charged by *haitiens* is: Rs.10-20 per goat; Rs.5-15 per sheep; Rs.30-40 per ox or cow; and Rs.5 per chicken.

If someone does not comply in paying a fine, the *haitiens* are authorized by the *jirga* and custom to go to the house of the culprit and take an animal or something else of value. This confiscated property is not returned to the owner till he pays the penalty. The community ostracises those who refuse to pay.

d. Hawiltara (Shepherd)

Hawiltaras are shepherds who take the livestock of villagers up to the *nullahs* for grazing. Each household whose animals they take gives three *seers* (1 *seer* is equivalent to approximately 1 kg.) of wheat flour, sugar, tea and potatoes to them as payment for the work done.

e. Zaitun (Warden)

Zaituns are responsible for getting all the villagers together for any thing that requires collective effort. They are selected by the *numberdar*. Great care is taken to ensure that those selected as *zaitun* are strict and hard working. They look after the crops and animals and keep a check on the trees in the forests. If they catch someone cutting unauthorized wood, they fine these people approximately Rs.5000 for five trees. If someone who has been fined by the *zaitun* refuses to pay the fine, the *zaitun* takes something valuable from the offender's house and keeps it till the offender pays

the fine. In addition to the fine, the *zaitun* also makes culprits replant trees that were cut down. Each *mohallah* (neighbourhood) in a village has a *zaitun*. The *zaitun* also collects people for the construction and maintenance of water channels. If a *zaitun* is not performing well, the *numberdar* fines him.

Nagar

a. **Alghawin (Water steward)**

All villagers together select a person for the position of water steward (*alghawin*). This position has existed since the time of the Mirs. Every household pays the *alghawin* Rs.40/year for his services. His responsibilities are:

- i) opening the water channel in the morning and informing the people that they can take water according to their turns;
- ii) getting the water channel mended under his supervision through the collective labour of the villagers;
- iii) collecting money and getting repairs done in case of a landslide.

The *jirga* fines anyone taking water out of turn Rs.100; the *alghawin* receives the fine on the *jirga*'s behalf.

b. **Trangpa/Numberdar**

Before the abolition of the princely states, the *trangpa* or *numberdar* was appointed by the Mir and was very powerful. He relayed orders from the Mir to the villagers and extracted revenue from the villagers on behalf of the Mir. Now the local presidents of the *Dehi Tanzim* and representatives of the Aga Khan Rural Support Program (AKRSP) along with the president of the local council are referred to as *trangpa*.

Ishkoman

a. **Zaitu**

In each village there are two or three *zaitus*. They are chosen by consensus of the villagers. Every household gives Rs.10-20 and four to five *seers* of wheat every month to each *zaitu*. People selected to be *zaitus* must have a sound understanding of *Qanoon* and *Rawaj*. The responsibilities of the *zaitus* are:

- i) regulation of irrigation water;
- ii) closing the *kool* at night; and
- iii) saving crops and fruits from livestock.

The *zaitu* fines anyone caught stealing water at night, taking someone else's turn for water, or allowing his livestock to ruin crops or fruit trees. The money a *zaitu* receives in fines belongs to him.

b. **Jirga**

A *jirga* has six to twelve members. For each dispute or offence it is constituted afresh and so is not a permanent body. The complainants select the members of a *jirga*. Only those people can be selected for a *jirga* who have demonstrated an understanding of the *Qanoon* and *Rawaj*, are respected by the community and are known for their wisdom. In the time of the Rajas there was one *jirga* for the whole area. Now every village has a *jirga*.

The responsibilities of the *jirga* include dealing with all sorts of interpersonal and inter group disputes in the village, and any disputes relating to forests and/or pastures. If

the *jirga* takes a decision and the offender does not abide by the decision, the villagers socially boycott the offender until he complies. Sometimes the *jirga* members forcefully take something valuable from the offender's house and do not return it until he pays any fine that has been levied.

Gupis

a. *Jirga*

In the Gupis valley, every village has a *jirga* with four to five members. It comprises a *numberdar*, union council president and members of the local council. In the Raja's times, Gupis was divided into clusters of several villages and the *jirga* had seven members. Each cluster had one *numberdar* who headed the *jirga* of all villages in the cluster he belonged to. Individual villages selected the other six members for their *jirga*. People selected these *jirgadars* by consensus. In a dispute, the contesting parties selected three *jirgadars* each and then the *numberdar* presided over them, a practice still followed today.

The *numberdar* listens to the arguments and has the deciding vote. The *jirga* can levy fines and often works in collaboration with the union council and the Forest Department. The *jirga's* responsibilities are:

- i) ensure forest preservation;
- ii) restrict cutting of living trees;
- iii) restrict livestock from going into forests;
- iv) ensure that livestock does not go to pastures not allowed by the village and that their owners pay *kalang*;
- v) keep an eye on village hunters.

Kalang is a payment for using pastures that is made to the villages or individuals owning pastures in a *nullah*. It is taken from Gujars and commercial goat keepers. *Kalang* is one goat per 500 goats grazed.

Yasin

a. *Jirga*

A *jirga* in Yasin has four members. The son of the Raja used to head the *jirga*; now the direct male descendent of the royal line heads it. The other members of the *jirga* have to be respected and notable people of the village and are often selected by the headman. The *jirga* in Yasin deals with agricultural land disputes but does not deal with forest disputes. It can levy fines.

b. *Numberdar*

The function of the *numberdar* used to be to communicate the Raja's messages to the people. Today, the *numberdar* has become the messenger of the *tehsil* (administrative unit at sub-district level) and helps the government in revenue collection. He also informs people if there is some labour opportunity in the area.

Gojal

a. *Numberdar*

Numberdar in the time of the Mirs was an inherited office but it is not so anymore. The *numberdar* used to report everything that happened in the village to the

Mir. At that time the Mir paid the *numberdar* in kind, gave him servants, and the *numberdar* did not have to pay taxes. Now he has no financial benefits.

The *numberdar* of today sits in on community decisions as another notable among many. Villagers select the *numberdar* on the basis of the following criteria:

- i) he must be a very active and alert person;
- ii) he has to have very good public relations skills; and
- iii) he must be economically strong.

The duties of the *numberdar* today include signing official documents like contracts between people and development agencies. It is also part of his job to attest papers.

7. Semi- traditional Institutions

In some of the locales in the *Rajgiri* Areas that were the subject of this study, there are political and legal institutions which have been recently constituted but are based on tradition and customary rules. For the purposes of this study, we will call them semi-traditional institutions. These are:

a. *Jirga* in Hunza

According to some respondents in Hunza, the *jirga* did not exist in the time of Mirs, but was constituted 12 years ago. It operates on the village level and has at least 10 members and cannot exceed 20. It has a president, vice president and a treasurer. The responsibilities of the *jirga* are:

- i) ensuring that livestock does not destroy crops and fruit;
- ii) settling all sorts of village disputes;
- iii) generating funds for development work in collaboration with government agencies;
- iv) stopping people from cutting living trees or taking the bark off of live trees;
- v) fining people if they are caught cutting or damaging trees and getting the offender to replant the tree;
- vi) punishing people for stealing livestock.

The penalty for livestock theft is three animals for one stolen animal or an equivalent amount of money. The *jirga* also subjects the thief to *koras* (lashes). If money is taken as penalty, one third of it goes to the *jirga* and the rest to the owner of the stolen animal. If animals are taken as a fine, one animal is taken by the *jirga* and collectively eaten by the villagers and two animals are given to the person whose animal was stolen. The *jirga* also fines outsiders who bring livestock to the village pasture for grazing. This fine is in cash and if the offender does not pay he is lashed.

b. *Zaitu* in Gupis

This institution is 10-12 years old. A *zaitu* here is called a *chowkidar*, or sometimes *sakhdar*. When selecting a *chowkidar*, villagers see to it that he is honest and is not nepotistic. Every year the local council selects a new *chowkidar*, and every household pays him Rs.150 and one *maund* of wood per year.

The *chowkidar* goes inside the *nullahs* to see who has cut how much wood when people are preparing for winter. He also keeps an eye on Gujars, can fine people if he finds them cutting too much or unauthorized wood, and watches to see that no one is selling wood. He also stops livestock from destroying crops and fruit trees and safeguards and protects artificial forests.

The *chowkidar* penalizes people for misbehaviour of their livestock and the penalty money is deposited in the bank. If he is negligent in his duties, the local council fines him.

c. Social Welfare Committee in Gojal

The Social Welfare Committee was constituted in 1990. It comprises one male from each household. The *jirga* was abolished in 1990 because people had started going to the police, the *jirga* had lost its authority, and the Committee was created to restore peace in the village. It has a president, a general secretary, a finance secretary, and members-at-large. The president and the general secretary are selected by the villagers keeping in mind the criteria of justice, popularity and wisdom. The president and the general secretary appoint the finance secretary. The Committee tries to restrict free grazing and ensures cleaning and maintenance of the water channel. It also determines the date for livestock migration to the pastures in summers. The Committee can fine anyone whose livestock is grazing in the wrong pastures or destroying someone's crop. The minimum fine is Rs.50 if the owner of offending livestock is absent at the time of cleaning or repairing of the water channel; otherwise, the fine is Rs.100. All the fines taken by this Committee go to the village development fund.

d. Conservation Committee in Gojal

The idea came from an AKRSP workshop in 1990 where it was stated that forests and animals should be saved. Those from the area who attended that workshop shared the idea with other people in the villages. Everyone, except the hunters, agreed and the majority got together and levied a fine on cutting living trees and hunting wild animals. IUCN-The World Conservation Union and WWF supported the idea and the Conservation Committee was formally constituted and started working in 1995. The members of this Committee are selected by the members of the Social Welfare Committee in consultation with villagers. This alliance with IUCN and WWF has made the implementation of restrictions more powerful.

e. Chatkala Committee in Gojal

The Chatkala Committee came about in 1983 after potatoes became a cash crop. The villagers select members for a period of one year; members of this Committee are not paid. One man is selected from each village *mohallah*. The responsibilities of the Committee are announcing the date for the livestock to leave for pastures and penalizing the owner of any livestock found roaming about in the village unescorted and destroying crops. The fines can vary from Rs.5 to Rs.20. If the damage incurred is significant, then the members of the Committee can take damage money also. This is in addition to the fine and is given to the person whose crop has been destroyed. If an offender refuses to pay the fine, the Committee members forcibly take an animal from him and keep it until he pays the fine plus the damages and the money spent on feeding the animal taken to enforce the penalty. The Committee also looks after the water system, reprimanding anyone who tries to steal water or takes water out of turn. The Committee is very busy during the months of May and October. The Committee records the money received as fines; it is spent on development work in the village or on water channel repairs.

f. Shahi Khyber Imamabad Development Organization in Gojal

The villagers constituted this organization because various organizations of the AKRSP at the village level were working on their own without any supervision. There is a president, a secretary and 10 members. The first two are selected by AKRSP and they select the other members. The responsibilities of this organization are:

- i) supervising the four AKRSP outfits working in the village and writing a yearly report of their performance;
- ii) supervising the work of the Conservation Committee;
- iii) collecting income generated from hunting licenses and, together with IUCN, signing and depositing the money in the village account; and
- iv) selecting the conservation guide who accompanies hunters who have a legal license.

A conservation guide is a person who can climb, has been a hunter and knows forests, pastures and wild animals. These people work with IUCN to make the census of game animals in the area and help the hunters in selecting prey. They are paid Rs.200 per day when they are accompanying hunters.

8. Summary of Customary Laws of Use, Management and Conservation of Natural Resources in *Rajgiri* Areas

a. Ownership

Agricultural land

Agricultural land is inherited patrilineally. The *sarbarah*, the eldest male of the household (*tabar*), holds the agricultural land in his name and controls the income from this land. He also makes consumption, production and management decisions regarding the input as well as output of the family farm. This customary practice results in the reduction of cultivable land into small parcels that are not economically viable.

Nullahs/Pastures

Spatial and genealogical connections serve as the basis of ownership of pastures. In most places in the *Rajgiri* Areas, each village has its own grazing land, which is divided among different tribes living in a village. This creates a sense of joint interest as well as responsibility within the members of each owning village and tribe. This in turn creates or has the potential to create an indigenous monitoring system aimed at stopping overgrazing and depletion of pasture resources.

In some areas of Puniyal, the principle of tribal affiliation overruled the principle of space in terms of ownership of *nullahs*. In these areas, tribes living in a village are stratified and only one tribe, the one culturally considered most superior, is the owner of the village pastures while all other tribes have use rights only. The tribe considered the owner can cultivate in the pasture but the others can only graze their animals there and take non-timber forest products and wood.

In other places in the *Rajgiri* Areas, like Phander, there are joint rights of pasture ownership. Three *nullahs* are owned and used by all villages in Phander. In the *Rajgiri* Areas, there are also some portions of pastures that are owned by a group of individuals. The owners use these portions exclusively, for grazing as well as cultivation.

Forests

All natural forests in the *Rajgiri* Areas belong to the local people. Multi-village ownership of forests was the community law until the Mirs established supremacy in the area. At the time of the abolition of the princely states, the people reclaimed their village forests.

Since the imposition of statutory law, local people recognize categories of forests: natural forests; “artificial” or privately-owned forests; and government forests. Some people understand “artificial” forests as including government forests, and others understand government forests as a separate category.

Wildlife

There is no concept of ownership of wildlife. Hunting was regulated under the Rajas, and is regulated by statutory law today.

Water

Water resources were not “owned” by any village or individual, but shared on terms agreed among villages in a watershed and among the inhabitants of each village.

b. Institutions

Traditional institutions and authorities continue in most villages in the *Rajgiri* Areas. The highest customary authority in the *Rajgiri* Areas is the *jirga*. The number of members constituting a *jirga* varies but the village headman (*numberdar*), who in the past was hereditary or appointed by the Mir, always heads it. For each dispute or offence, the *jirga* is constituted afresh; it is not a permanent body. The only permanent position in the *jirga* traditionally has been that of the *numberdar*. The complainants select the *jirga* members. The *jirga* is authorized to decide all disputes related to land, forest or pastures along with other personal disputes. The *jirga* levies fines for destruction or overuse of natural resources, particularly agricultural land and crops, forest products and water resources. If an offender refuses to pay the cash and/or in-kind fine levied on him by the *jirga* and/or any of the functionaries authorized by the *jirga*, a valuable item can be confiscated from his household and kept until he pays.

One area – Gojal – has abolished the *jirga* and established committees that carry out the enforcement functions that the *jirga* used to exercise.

Pastures, Forests and Wildlife

Most villages select by consensus one or more young men as *zaitus*, who in some villages are called *haitien*. Households in the village generally pay them in kind. In some villages *zaitus* receive nominal cash payments as well, and in some places they are allowed to keep part or all of the fines they levy. Generally, the duties of the *zaitus* in the *Rajgiri* Areas are:

- i) seeing to it that no one cuts wood for subsistence needs;
- ii) protecting crops and trees from children and animals; and
- iii) seeing to it that no outsider comes into the village pastures to graze their animals without paying a fee (*lagan*).

They are authorized by the *jirga* to fine anyone who is caught violating any of these rules. In the case of cutting live trees, the *zaitu* is authorized to make the offender replant the trees.

Water

Most villages also appoint a water steward – known by several different titles – whose responsibilities include:

- i) opening and closing of the water channel in the village every day;
- ii) seeing to it that no one wastes water, takes water out of turn or steals water;
- iii) seeing to it that no one breaks or damages the water channel;
- iv) organizing village labour for repair and maintenance of the water channels.

The water steward is authorized by the *jirga* to fine people who misuse village water resources in any way.

c. Use

Pastures

Customary law in the *Rajgiri* Areas divides the pastures into three categories according to use:

- i) pastures where all types of livestock can go for grazing;
- ii) pastures where only cows and oxen can graze; and
- iii) pastures where animals cannot be grazed but wood can be taken.

Livestock must leave the villages for the pastures in May and come back in September. The livestock moves to higher pastures as the snow melts. This cycle has a dual advantage in that it allows livestock to utilize grazing land optimally and saves the crops in the fields and fruit in village orchards from damage by animals.

In some parts of the *Rajgiri* Areas, like Hunza, people will allow non-owners to graze their livestock in their pastures in times of need. For this, the outsider has to pay a fee, or *lagan*, in cash or kind.

Forests

Use of forests and taking of forest products, particularly cutting of live trees, is regulated both by customary law and statutory law. In most places, villagers may collect dead and dry wood up to certain locally-determined limits. Permission to take wood for construction or repairs in many places requires permission from the *jirga*. Statutory law prohibits cutting trees for commercial sale.

Wildlife

Under the Rajas, hunting was strictly regulated and required permission from the Raja. Currently, it is regulated under statutory law, but local people continue to hunt for subsistence, to protect livestock from predators, for sport, and for trophies, hides and horns that bring cash income.

Water

The basic water management unit usually comprises six to eight villages. Every village has its turn for water supply, which is determined by the *jirga* and the *numberdars*. A water steward appointed in each village is responsible for operating the water sharing system, opening the channel in the morning, informing people when their turn comes, closing the channel at night, and arranging for repairs. The duration for which a household gets water in a cropping season depends on the size of the landholding and is determined by the *numberdar*.

d. Enforcement

Pastures

If a person is caught grazing livestock in a pasture where he/she has no ownership or use rights and has not paid a fee (*lagan*), the owning community has the right to levy *kalang* – a fine or compensation in cash or kind. If the fine is in kind – usually one or more animals – the animals are slaughtered and shared among the members of the owning community.

The enforcement of *lagan/kalang* controls overgrazing and also controls use of other resources. *Lagan*-paying people can graze their animals in the pastures of other

villages but cannot take any other natural resource from these pastures like wood, grass or herbs. This allows people to fulfil their grazing needs when there is fodder shortage in their areas while avoiding over use and depletion of *nullah* resources.

Gojal has set up the Chatkala Committee to monitor and enforce rules for pasture use and controlling livestock damage to crops and orchards.

Forests

Most villages in the *Rajgiri* Areas appoint one or more wardens – called *zaitus* or *chowkidars* – to monitor use of forest products, particularly cutting of live trees. In some villages, the *jirga* has this responsibility. Wardens generally have the power to fine offenders, to confiscate property if an offender does not pay a fine, and to order replanting to compensate for trees cut down.

Gojal has abolished the *jirga* and set up a Conservation Committee to monitor forest use, particularly cutting of live trees.

Wildlife

In most parts of the *Rajgiri* Areas, it is still the *jirga* that monitors wildlife use and imposes penalties for unauthorized hunting. In Gojal, the Conservation Committee performs this function. Hunting is also regulated under statutory law.

Water

Water stewards are empowered to fine villagers for any misuse of water resources and for damaging the delivery system. In most villages, if an offender ignores the water steward's fine, the *jirga* will enforce the penalty.

In Gojal, the Chatkala Committee is the water resource monitoring and enforcement authority.

B. Settled Areas

1. Local Perceptions about Nature, Natural Resources and Pluralistic Legal Traditions

Nature is defined by the respondents in the Settled Areas as power, God and the ability to do anything. Some respondents in Shigar also talked of nature as being the systems and things made by God. Forests are perceived here as spaces with rain, streams and greenery but which are not lived in. Respondents said, “It is a place from where we get wood.” A forest, for several respondents, is a piece of land where trees, plants, animals and herbs grow without any human effort. Wildlife, according to respondents’ perceptions, includes all *haram* (polluted) and *halal* (clean) animals that live in forests. Twenty per cent of the respondents talked about wild animals as those animals that are aggressive and cannot be domesticated.

A substantial number – 30% – of respondents tended to conflate *Rawaj*, *Shariah*, and *Qanoon* and not see the distinction between these as clearly as people in the *Rajgiri* Areas did. These respondents made statements like “*Qanoon*, *Shariah* and all other ways are *Rawaj*” or “when people accept a way then it becomes *Shariah*” or “*Qanoon*, *Shariah* and *Rawaj* are not at loggerheads with each other.” Fifty per cent of respondents distinguished among the three legal systems in the same way as respondents in the *Rajgiri* Areas. They defined *Rawaj* as the way of doing things that was established centuries back by their forefathers. Respondents referred to *Shariah* as “Islamic *Qanoon*” and “the way of Prophet Muhammad” (PBUH). They also said that *Qanoon* is that which a government makes, and that *Rawaj* is better because it is stable, whereas *Qanoon* keeps changing.

The most forceful statement was that of a teacher from Jalalabad who said, “*Rawaj* is the best thing to deal with natural resources because *Qanoon* is *begana* (outsider or other).” *Qanoon* makes the government the owner of the natural resources in the area but realistically speaking government can at best be the *nigran* (guard) of these resources.

Twenty per cent of the respondents in the Settled Areas were of the opinion that *Shariah* was the best way of dealing with natural resources because it has within it good for all. They said they have used *Shariah* to stop people from hunting because hunting is considered cruel (*zulum*).

2. Social Organization

In the Settled Areas, social organization is along the same lines as in the *Rajgiri* Areas except for the fact that they tend to define *biradiri* in a more expanded fashion. Respondents said that *biradiri* includes all lineal, collateral and affinal relatives as well as everyone who helps in times of trouble. People who live in the same neighbourhood (*mohalla*) but do not fall in any of these categories are not part of the *biradiri* but *haiti*.

3. Customary Uses of Natural Resources

a. Ceremonial Use

All ceremonial uses described by respondents in the Settled Areas involved domesticated and cultivated resources, rather than wild natural resources.

b. Subsistence and Commercial Uses

Respondents reported there is not much hunting now because there are few animals left and the government has made hunting illegal with heavy fines. They added that due to the limited game, prices have also increased substantially. Thus it is very profitable now if one can hunt an animal which, along with its associated products, can be sold to the handicraft people in Gilgit, foreign tourists or Pathan traders from the south. All three buyers pay good money. Sometimes game and its products are just given away to government officers for public relations purposes.

From the 1950s through the 1980s, wild animals were hunted freely. The favourite game in the area at the time was deer, ibex, leopard and bear. On a smaller scale, foxes and wolves were also killed previously to protect domestic animals. Respondents said that deer and ibex were the best game because the meat is *halal*, and deer hide sold very well because prayer mats were made from it. Deer were also stuffed and used for decorative purposes and deer musk used in perfumes sells for a good price. Ibex horns also fetched a good price; scissor handles were made of them. The ibex hide was used for making carpets and rain covers, which kept snakes and insects away. *Chakor* and *ram chakor* was eaten and the feathers were used for filling pillows and quilts. Leopard skin is very expensive, and is used as decoration.

c. Medicinal Uses

Bear fat is said to be very good for arthritis, is used in many medicines, and fetches a good price. Pigeon meat is described as good for liver diseases. Respondents reported that they get from the ibex *zeher muhra*, a stone, which is said to be the hardened saliva of the animal after it has eaten an herb called *kaltos*. The *muhra* is believed to be the cure for snakebite. Popular herbs are *phosht pho* for blood problems and pink *khabo* for fever.

4. Customary Laws for Management and Conservation of Natural Resources

a. Nullahs/Pastures

The government allocated pasture lands among villages during the settlement process. Respondents reported that individuals who own agricultural land and live on it permanently, irrespective of their tribe, have use rights for the related pastures as well. These rights are called *ishtamal key malikana haqooq*, which literally means 'rights due to use', and which according to the respondents has always been the same. People take their animals to these pastures for grazing and can bring back wood from them.

There are two types of pastures in the Settled Areas: summer and winter pastures. The animals go to the *nullahs* in summers, beginning in June, free-graze in October, and are taken to pastures closer to the villages to be grazed from morning to sunset in winters. Most *nullahs* are beyond the village boundaries but some villages, like Nialli for example, do have a pasture inside their boundaries.

Some summer pastures can only be used by people of particular villages. For example, there are pastures that only Balchar/Jalalabad people can use and some in Gilgit that only the Tehsot people can use.

Winter pastures are all communally used by several villages. For example, there are some pastures in Gilgit which are used by the people of Tehsot, Balchar and Butkor while there is another which is used by these three villages as well as the people of Chamogarh. Before June, either a shepherd or one member from each household takes the animals to the pastures close to the village or within the village boundary for the day. Winter pastures are mostly visited for the day, but there are some winter pastures that are far from the villages where enclosures have been built so that people and the animals can stay there.

The topographical features of a pasture and the type of vegetation it has determines its use in terms of the type of livestock that is taken there. Large animals – cows, *zu*, oxen – are not taken to steep pastures because they can fall and injure themselves or die. Smaller animals like sheep and goats are not taken to pastures with dense forests, as these animals can get lost there. If anyone takes animals to a pasture where he has no rights, the shepherd – or the owner, if he has taken the animals himself – must give one goat per flock grazed to the owners of that pasture. The money collected from fines goes to the village development organization.

The villagers bring firewood and herbs for medicinal use from the *nullahs*. In Rondu village, there are some *nullahs* where people from Mehndi village individually own agricultural land. An example is the Lee Phoro *nullah*. Respondents said that due to cultivation and standing crops, animals are not allowed free grazing. They are only housed there in the evenings after they have grazed in other nearby *nullahs*.

In the village of Nialli, in Shigar, respondents said that violations do sometimes take place. If the offender is from surrounding villages where the Nialli people have affinal relationships, they just push the animals out but do not fine the owners. If the offender comes from another area or from a village not connected to Nialli through marriage, he is fined in cash or kind.

Respondents in Jalalabad and Gilgit reported that sometimes there are conflicts over who can use a particular pasture. In the past, Balchar and Tehsot shared pastures. Then people started fighting over use and access to grass, herbs and firewood so the Settlement Department separated most of the shared pastures. The respondents believe it is because nowadays people do not want to share anything and cannot live or work together.

In Mehndi and other villages in Rondu, respondents reported that although all villages have their own *nullahs*, sometimes people still fight over ownership and use rights. They said whenever there is a dispute over pasture use, they consult the government records maintained by the Settlement Department and decide. In Gorikot, respondents cited a few examples. They said they recently fought with the Nogam people over the boundaries of the Kinibari *nullah*. They also had a dispute with the Makial people on the primary use versus use in dire need³ right to the Bulash Bar. Villagers in Gorikot consult local people who have historical knowledge of pasture rights and also consult the settlement records to resolve these disputes.

3. There are certain pastures in this area that are allocated to particular villages by the government and these villages have the primary rights of use here. However, in case of dire need, other villages can also use these.

Respondents also said that disputes over *nullahs* do not occur only between villages in one *mauza* (larger geographical area comprising several villages). Such disputes could arise between different *mauzas* also. The respondents cited an ongoing dispute between Gorikot and Ramanpur over Tarznai *nullah*. The Settlement Department was reportedly looking into the matter.

b. Wildlife and Hunting

Respondents said that despite governmental restrictions they do sometimes kill wild animals for sport, consumption, or to save their livestock. When a hunter goes after big game now, he must do it in a clandestine fashion. If he is caught, he has to make the person who catches him a *hisadar*, or shareholder. This means the hunter keeps the thigh and the tail and divides the rest of the meat in equal portions with the man who caught him. The hunter does not have to do this if he cooks the liver and eats it before being caught. The locals said that villagers are aware of who hunts in the village but no one tells on their own people.

In Nialli and Gorikot, people reported there being very few, if any, deer and ibex left. They said that bears have disappeared from the area altogether. In their opinion, reduction in wildlife was due to hunting, because leopards feed on the ibex and deer, and because of human population increase.

Respondents in Nialli and Gorikot described hunting in a rather nostalgic fashion. They said it was entertainment that has now disappeared to a very great extent and they miss it. In addition, hunting provided meat for personal consumption and commercial benefits from the sale of wildlife products as well.

In Jalalabad, if someone is caught hunting, he is fined one or two oxen by the Deobani Development Organization (see section 6.a., below).

c. Forests

There are two major resources used from the forests – wood and wild animals. Forests in the Settled Areas are managed through a combination of customary and statutory law. Generally in the Settled Areas, if the Forest Department catches someone cutting green wood or hunting a wild animal they fine him Rs.2,000-3,000.

In Jalalabad before 1996, there was no restriction on taking wood and hunting. In that year, the people created the Deobani Development Organization and restricted the cutting of living trees and hunting. Before the Organization was created, if a villager needed construction wood and his village forests had no dry or dead wood, he paid a fee to the Forest Department and was permitted to cut wood from the forest of another village. Now, if someone in Jalalabad needs wood for construction, the Organization acquires a permit from the village that owns the forest and gives it to the person who needs the wood. The fee is given to the villagers from whose forest the wood is being cut, rather than to the Forest Department. The fee for construction wood is more than the fee for fire wood. The beneficiaries then use this money for development work in their own village. If extra wood is left after construction, it must be sold back to the village forest committee.

If the local forest committee catches a person cutting prohibited wood, the committee fines him. The local forest committee fine can be in cash or kind. If it is cash, it goes towards development work in the village. If it is in the form of animals, then the animals are cooked and eaten by the whole village. Sometimes the fine for cutting wood and hunting is taken by whoever catches the criminal, which may be the Forest

Department or the local forest committee, but sometimes both organizations separately fine the violator.

It is believed that people use more wood now than they did a few generations ago; this is attributed to an increase in population. Respondents said that despite all the restrictions and laws, local people still decide for themselves how much wood they need and then take it.

d. Water

In the Settled Areas, some villages have abundant water resources and some have very little. Villages with very little water practice *nobat*, taking water by turns. Distribution of water also has to do with the fee, or *lagan*, paid to the government. Those who have more land and pay higher fees to the government are allowed greater amounts of water.

In several villages, the *jirga* or the villagers appoint men to look after the water channels in order to stop people from stealing water and irrigating their fields out of turn. These appointed people also inform the *jirga* if any repair work is required on a channel. The village *jirga* will then decide if the water channel needs repair and if so, all men in the village must participate.

At the beginning of spring when cultivation starts and water comes into the channels, the *jirga* organises the men to get together and clean the channel. In Gorikot, respondents reported that water management was done according to *Rawaj*. The number of *khandans* in a village is counted and then one week is allocated to each. When the village population increases, a new water channel is made and turns are fixed afresh according to the number of *khandans*. This process is called *wai gon* – *wai* meaning “water” and *gon* meaning “turn”.

5. Changes in the customary use and management of natural resources in the last 20 years

The changes respondents reported are similar to the ones reported in the *Rajgiri* Areas.

The older generation does not approve of the restrictions on wildlife hunting. They believe these restrictions have criminalized activities that gave men prestige and respect in the past. ‘The sense of male bravery has died in our next generation’, they said. They feel these restrictive laws curtail their ability to carry on something their forefathers were very proud of. The elderly believe life has become too expensive because they have to buy too many consumption goods from the market, whereas previously they used to make these at home.

The younger people can be divided into two groups. One group approves of the restrictions on hunting and gives reasons that they have heard from various organizations working on animal preservation in the area. They stated, “These animals keep a balance in the environment by destroying several harmful things in the natural environment” or “these animals without the restrictions would be extinct and that means destroying an element of nature forever.” The other group opposes the restrictions on hunting because they feel that it has meant the loss of jobs and livelihood for some in the area. They also feel that not being able to hunt deprives them of a very lucrative source of commercial income and subsequent upward mobility.

Most people (70%) sampled in the Settled Areas did not wholeheartedly support the restrictions on woodcutting due to the fact that these restrictions make their present lives expensive and/or difficult. However, they did understand the problems that can arise due to deforestation.

6. Traditional Regulatory Institutions

Gilgit

a. *Zaitu*

These people are selected for the period between spring and fall. The number of *zaitus* is decided with reference to the population of the village. If the village is small then the notables of the village select one person; if it is big, then several *zaitus* belonging to different neighbourhoods (*mohallas*) in the village are selected. In the Settled Areas, a *mohalla* is also called a *haiti*. Normally people living in a *haiti* are all relatives though sometimes there can be a household that is not related to the rest of the people living there. For a person to be a *zaitu*, he has to be smart, young and well thought of in the village. The responsibility of a *zaitu* is to save the crops from livestock. In olden times, it was not allowed for anyone to eat unripe fruit. If children were to eat raw apricots or grapes, the *zaitu* could go to the child's parents and take two kilos of wheat from them as a fine. Every fruit had a date before which no one could pluck it. Now in Jalalabad, fruit restrictions have been dropped and *zaitus* only look after the crops.

All livestock, other than those kept behind for milk, must be sent up to the pastures by June 21st. If any animal other than a milk animal is left behind, the *zaitu* slaughters it and eats it, sharing it with other *zaitus*. If the milk animals are let into the fields, the village notables go and estimate the damage and make the animals' owners compensate the owner of the destroyed crop in kind, with the same crop as the one destroyed. This compensation is called *tawan*.

b. *Jirga*

The *jirga* makes decisions relating to water, pastures and agricultural land. It comprises respected people of the village. There is no restriction on the number of members, or *jirgadars*, that a *jirga* must or can have. In earlier days the village *numberdar* had to be part of the *jirga* and he chose the other members. This has now changed. Each *haiti* places its prominent people in the *jirga*. The *jirga* can fine an offender, and if the offender doesn't comply, *jirgadars* can take a valuable item or livestock from the offender's house. Fines are now often in cash and vary with the extent of the offense. Statutory courts generally do not overrule the decisions of a *jirga*.

Shigar

a. *Sarmah*

Sarmah is a very old institution, totally responsible for all village affairs. A *sarmah* has at least two and at the most five members. The *sarmah* tries to resolve disputes amicably rather than punishing people. It can fine people in land or water disputes. Fines are in cash. If somebody is physically abusive towards another person, the *sarmah* can fine him an animal. The *sarmah* can also refer a case to the courts.

b. Lora pa

Zaitus are called *lora pa* in Shigar. There can be one or several *lora pas* in a village. Their job is to save crop from livestock damage. *Lora pas* are selected by the *sarmah* after consultation with the villagers. The fact that the *lora pa* is selected by consensus gives him added authority. *Lora pas* are changed every year. If a *lora pa* performs well, he may be retained for the next year. Each household gives seven kilos of wheat to each *lora pa*. He also retains the fine money he collects. If he commits an error, he is fined. If someone does not listen to him, the *lora pa* can take something valuable from the offender's house and keep it until the offender complies.

Gorikot

a. Zaitu

The village has two *zaitus*. When the crops are starting to grow in the beginning of April, the village notables, including the members of the village committee, ask who wishes to be *zaitu*. When selecting a village *zaitu*, special attention is paid to the fact that he is honest, fit to roam about in the village, and impartial. Once people have expressed an interest, they start bidding for the payment acceptable to them. The two with the lowest bid are selected. *Zaitus* are paid in kind. Their responsibilities are:

- i) saving crops from animals;
- ii) saving fruits from children;
- iii) saving trees; and
- iv) determining a date for the departure and return of animals to and from summer pastures and fining violators.

If animals staying back as milk animals damage crops, the *zaitu* can fine the animals' owners. The fine is determined according to the size of the animal and is paid in wheat. As a rule of thumb, the fine is 1/4 kilo for a goat or sheep, _ kilo for a cow or an ox, and 1 kilo for a donkey or a horse. Animals confiscated by the *zaitus* are eaten by all, but the wheat taken as a penalty belongs to the *zaitu*. *Zaitus* also investigate crop destruction and ensure that damages are paid to the offended party. If a *zaitu* is sick then he must provide a substitute. If a *zaitu's* animals violate rules, then he is charged a double fine. For the last five years, *zaitus* have also seen to village security. The *zaitu* reports to the *jirga* all violations of rules ranging from woodcutting to misbehaving with women. It was said that *zaitus* are the *jirga's* spies in the village.

b. Chowkidari Nizam

There are two types of chowkidars in Gorikot.

(1) Qasid chowkidar

This is a very old position. The *qasid chowkidar's* duty is to inform the villagers about any collective activity that has to be undertaken – the *jirga's* decision to repair the water channel, for example. The village notables appoint a *qasid chowkidar* for a year. If he performs well, he can remain in this position for several years. He is not paid but is excused from all collective labour duties in the village.

(2) Nigran chowkidar

There are several *nigran chowkidars* in a village, responsible for water management; each is paid Rs.2000 per month. The notables of the village select them. Their responsibilities are:

- i) looking after the maintenance of the water channels and informing the notables if a water channel needs repair;

- ii) seeing to it that no one violates their turn of watering the fields and reporting the offenders to the *jirga*;
- iii) making sure that the water flow is not excessive and damaging to the channel; and
- iv) opening the water channel in the morning and closing it at night.

c. *Jirga*

Jirgadars are selected by the villagers; the position of *jirgadar* is not an inherited one. *Jirgadars* are selected for their age, wisdom, moral integrity and ability to serve. They are responsible for supervising development work in the village, selecting *chowkidars*, overseeing village security, supervising water management and resolving all sorts of village disputes. The *jirga* may fine offenders according to the offence committed. In the past, the fine (*shilen*) was paid in the form of livestock but now it is usually paid in cash. Animals taken as fines are consumed collectively and money paid as fines is given for development work in the village.

Rondu

a. *Tarangan*

Tarangan is a very old institution. The number of *tarangans* has increased because the population has increased. The whole village chooses the *tarangan* before planting. When appointing the *tarangan*, the following criteria are kept in mind:

- i) his economic stability;
- ii) his ability to be firm so that he can easily take fines from people when required;
- iii) his good public relations skills; and
- iv) his good moral reputation.

A *tarangan* works voluntarily and is not paid anything.

The *tarangan's* main duty is to safeguard crops and fruits from livestock and children. After planting, all the *tarangans* meet to decide when the animals must leave the village. A *tarangan* handles the following situations:

- i) animals destroying crops – if an animal destroys a crop in a field, the owner of the animal has to give the owner of the field the same crop back in compensation;
- ii) illegal tree cutting – the *tarangan* confiscates wood cut illegally and levies a fine of Rs. 200/- per tree. Only wood cut for construction carries a fine. If someone needs construction wood, the *tarangan* puts it up for village discussion and decision;
- iii) water theft – the *tarangan* and the *jirga* settle water theft by taking an animal or money as fine and giving it to the offended person;
- iv) a tree in one field that has spread into another person's fields destroying their crop;
- v) organizing the return of animals to their rightful owners when on 25 July the animals come down from the pastures;
- vi) settling between owners and shepherds the loss of animals that are stolen or die in the pastures. This may be done with or without a fine;
- vii) investigating animal theft; and
- viii) fining a hunter and confiscating his rifle.

Before channels were constructed, the *tarangan* was also responsible for regulating water. There are no water disputes these days due to plentiful water.

If the *tarangan* does not do his job, the villagers call a meeting and give him a warning. If after two warnings there is no improvement in his performance, he is fired.

b. Sharba (Jirgadar)

Historically, *sharbas* were people who loaned wheat and other crops to the poorer people in the village and that is why people listened to them. Responsibilities of the *sharba* include:

- i) doing development work in the village and cooperating with NGOs and government agencies in development work;
- ii) advising the youngsters on all matters;
- iii) settling all kinds of disputes;
- iv) distributing among the members of the community the funds for the poor that are given by the government; and
- v) organizing the villagers for repairing the water channel or any other construction work requiring a collective effort.

A *sharba* is not an inherited position but family background is important. The criteria for becoming a *sharba* are money, family history, respect in the community, and involvement in the development of the village. People can work for 15-20 years as *sharbas*. If the father was a *sharba* then there is a great likelihood that the son will become one.

Being a *sharba* has financial advantages. Earlier, if a *sharba* took an animal as a fine, the villagers collectively consumed it. Now a *sharba* often takes money as a fine in place of animals or other household goods. Often the fine taken by the *sharba* is given to the offended party to make up for the loss. If the fine is a small amount of money, the *sharba* who takes the fine keeps it. If the fine is a substantial amount of money, it is put in the village development fund. Sometimes if an offender appeals to the *sharba*, the fine can be returned. The basic idea of a *sharba*'s fine is not to hurt people but to make them realize their mistake and scare them into not repeating their offense. It is because of this underlying principle that fines are returned if the offender repents. The power of a *sharba* has now decreased because people have other options that they can utilize, like the police and other law enforcement agencies.

7. Quasi-Traditional Institutions

a. Deobani Development Organization in Jalalabad

Each of the twenty-four villages of Jalalabad, Bagrot and Haramosh that constitute the Organization have their own pastures and forests but banded together in 1996 for wildlife security. The Organization has a central body comprising a chairman, vice chairman, general secretary, joint secretary, finance secretary, and press secretary. This central body issues a circular to all village organizations to come and elect their representatives. There are three clusters under this central body:

- i) Haramosh;
- ii) Jalalabad, Tehosat, Butkor, Balchar, Hamaran, Chamogarh; and
- iii) Bagrot.

Each cluster has its own president, vice president, and secretary.

The responsibilities of the Organisation include:

- i) conservation of wildlife;
- ii) liaising with foreign donor agencies interested in development work;
- iii) organizing meetings for creating awareness about wildlife;

- iv) appointing people to see that no one cuts living trees or sells wood; and
- v) connecting the locals in need of wood with the Forest Department.

The Organisation has set restrictions on the cutting of green living trees. It has also prohibited cutting dry wood in excess of a person's requirement. If a person cuts dry wood for personal use and realizes later on that it exceeds their need, it must be sold to the Organisation and not to an outsider. The Organisation has agricultural and forest sub-committees.

b. Bulash Bar Conservation Committee

The Bulash Bar Conservation Committee was created in Gorikot in the late 1990s by combining the village Forest Security Committees in Gorikot and registering them. This was done in cooperation with the WWF and the Forest Department. The Committee has twelve members including WWF representatives as well as those nominated by the village notables. WWF and Forest Department representatives attend all meetings. Offences are reported to the government and fines are spent on village development.

Village-level Forest Security Committees had been established approximately a year before the Bulash Bar Conservation Committee was created, because the people of Gorikot realized that much of their forest had been cut. The Committees operate at the village level. All village Forest Security Committees now come under the umbrella of the Bulash Bar Conservation Committee. The WWF and the Forest Department help them with their work.

Each Forest Security Committee comprises one person from each village neighbourhood and works on conserving the Kinidas and Bulash Bar forests. The main responsibility of each Committee is to secure wildlife and stop the illegal cutting of wood. Villagers are allowed to take necessary construction wood but they have to take permission from the village notables and the Forest Department. For firewood, people take wood from their own artificial forests or dry, fallen wood from natural forests. There are penalties for not complying with rules for taking wood. On the first offence, the offender is warned. If he repeats the violation a small animal – a goat or sheep – is taken from him as a fine. He is then reported to the government agencies who will also fine him. If a culprit refuses to pay the fine levied on him then social pressure is exerted. The *zaitus*' monthly salaries are paid from these fines.

Members of the Committees are trying to sensitise people on the issue of preserving wild animals and have not yet fixed a fine for hunting.

c. Dehi Tanzim in Gorikot

The *jirga* has changed its form or disappeared altogether in several places. In Gorikot, it operates in the form of the *Dehi Tanzim*, which means 'rural organization' or 'village organization'. The *Dehi Tanzim* is called in session when a public work has to be started, an announcement has to be made, or someone has violated a communal rule. It has one chairman and four members, all of whom must be respected individuals in Gorikot. It takes money from the government and does development work for the village, like building schools, and makes decisions regarding the construction and maintenance of water channels.

The *Dehi Tanzim* deals with all types of village disputes and tries to resolve them without any penalties. If an agreement (*sulah*) cannot be reached, the guilty party is fined (*shilen*). The fine can be in the form of an animal or money. If it is an animal then

every one eats it; if it is money then it is used to pay the salaries of village *chowkidars* and *zaitus*. Notables from other villages are also invited if the offence is serious like insulting a woman. The *Dehi Tanzim* also refers cases to the *tehsil* or police. A similar organisation exists in Rondu.

8. Summary of Customary Laws of Use, Management and Conservation of Natural Resources in the Settled Areas

a. Ownership

Agricultural land

Traditionally, the eldest male (*sarbarah*) of the household (*tabar*) holds the agricultural land in his name and controls the income from it. He also makes consumption, production and management decisions regarding the input as well as output of the family farm. This practice has had the effect of reducing cultivable land into small parcels that are not economically viable. In the Settled Areas, this system is eroding at a very fast pace.

Pastures

The government holds pasture land in the Settled Areas. Use rights in pasture lands were allocated to villages as part of the settlement process.

Forests

Rights in forests and forest products in the Settled Areas are determined through a combination of customary and statutory law; particular arrangements vary from village to village.

Wildlife

There is no concept of ownership of wildlife. Hunting is regulated by both customary and statutory law.

Water

Water resources are not “owned” by any village or individual. Distribution of water is governed primarily by customary law, but is also subject to payment of fees to the government.

b. Institutions

Jirga, *sarmah* or *sharba*, as the institution is referred to in different parts of the Settled Areas, is central to the customary legal system. *Jirgadar*, or member of the *jirga*, is not an inherited position. Economic stability, family history of having wielded authority, age, wisdom, moral integrity, and respect in the community are the criteria evaluated when selecting a *jirgadar*. The *jirgadars* are responsible for selecting *chowkidars* and *zaitus*, supervising water management and ensuring that offenders, particularly those abusing water and forest resources, are punished. They also have the authority to return a fine to an offender if he repents.

The *jirga* or *sharba*, in consultation with the villagers, selects one or more young men every year as *zaitus* (called *lora pa* in some parts of the Settled Areas and *tarangan* in others). In some villages such as Gorikot, the *zaitus* are selected through a process of communal bidding. Although there are local variations in the scope of a *zaitu's* duties, they generally include deciding the date for picking fruit, the date of departure

of livestock for summer pastures and the date for these animals to return to the village. *Zaitus* also ensure that livestock and children do not damage crops and trees.

If a *zaitu* falls sick, custom requires that he provide a substitute for himself to ensure that the process of protecting natural resources is not disrupted. If a *zaitu* is negligent in his duties, in some villages the *jirga* fines him.

In Gorikot, *chowkidars* are responsible for water resource management. In other villages, the *jirga* or *sharba* manages water use.

c. Use

Pastures

Grazing land in the Settled Areas is divided into summer and winter pastures. The former are located at a distance from the villages while the winter pastures are closer. Free grazing of livestock is allowed in the summer pastures but the winter pastures are for daily use only. Throughout the day the animals are under the surveillance of the person accompanying them to make sure they do not go beyond the grazing area and destroy the crops or fruit trees because in parts of the Settled Areas agriculture is possible all year around.

Single villages use summer pastures but several villages use winter pastures collectively. Residents of a village or villages having use rights in a particular pasture can graze their animals there and bring back wood for domestic consumption.

Large animals are not allowed to graze in pastures with steep slopes and smaller animals are barred from pastures near forests. These customary restrictions avoid the loss of animals.

If a person with no customary use rights in a pasture brings his animals there he must pay a fine to the villagers who have *maliki* rights over that pasture. The only exception is when there are affinal relationships involved. In such cases the fine is not taken.

There are certain pastures that are allocated to particular villages by the government and these villages have the primary rights of use. However, in case of dire need, such as a drought or any other emergency, another village may also graze its animals in those pastures.

Forests

Residents of villages having use rights in a *nullah* may take from that *nullah* any amount of firewood and herbs they need.

Wildlife

Customary law permits people to capture and kill wild animals for sport, domestic consumption, and to save livestock from predators, while statutory law strictly regulates hunting.

Water

Irrigation water is distributed to the farmers on the basis of *nobat* or turns. In Gorikot, for example, the head of the *jirga* counts the number of *khandans* in the village and allocates one week to each *khandan*. The eldest male in the lineage decides the turn of each household within each *khandan*. More time is allocated to *khandans* with greater land holdings. When lineages in a village increase over time, a new water channel is made in the village.

Customary law requires that able-bodied men of the village do the cleaning and repair of water channels collectively. The *jirga* decides the date and time for this collective labour.

d. Enforcement

Agricultural land

In case of damage to crops or orchards, a *zaitu* fines the offender, his family, or the owner of the animal or animals causing the damage. He also estimates the value of the damage done and makes the offending party pay reparation to the affected party. This reparation is called *tawan* and is in addition to the fine taken by the *zaitu*.

Pastures

In several parts of the Settled Areas, villagers will consult government records and the Settlement Department, as well as local elders with historical knowledge of resource use rights, before deciding disputes. In some cases, traditional institutions will now refer cases to statutory courts. Fines for unauthorized grazing may be in cash or in kind. The holders of the use rights have the option of waiving the fine if the offender is in some way related to them.

Forests and Wildlife

Depending on who catches the offender, either the Forest Department or traditional authorities may fine someone who cuts live trees or hunts wildlife. In some cases, an offender may be fined by both. Cash fines levied by traditional authorities go to village development funds. If in-kind fines are taken in animals, the animals are slaughtered and shared with the entire village.

Water

If someone does not follow the instructions of a water steward (*chowkidar*), or is found stealing water or otherwise misusing water resources, the water steward reports it to the *jirga*, which fines the offender.

C. Tribal Areas

1. Local perceptions about nature, natural resources and the pluralistic legal traditions

The respondents in the Tribal Areas were all men. They perceive nature as “all that exists around us and has been made by God to be used by humans.” They define forests as spaces having lots of naturally grown trees and herbs. They also associate forests with the existence of a variety of wild animals. The only natural resource that their forefathers did not use was precious stones found in the mountains because “they did not know their value and there were no markets for these gems back then.” All other resources they say they have always used and will go on using in the future. Wild animals, to tribal respondents, are animals with teeth and horns larger than those of domesticated animals and the wild animals are free to roam. They say no one can control wild animals.

A very clear distinction exists between *Rawaj*, *Qanoon* and *Shariah* in the minds of respondents in the Tribal Areas. *Rawaj* is understood as the way of life of their communities, which is centuries old and which they say has not undergone any significant change. *Qanoon* comprises the rules made and implemented by the state while *Shariah* is Islamic law.

Respondents say that *Rawaj*, or customary law, is most important in the Tribal Areas. People may not abide entirely by *Shariah* but must obey customary law. The *jirga* enforces customary law. Offenders who do not abide by *jirga* decisions are banished from the *biradiri* which is perceived as being the worst possible fate.

2. Social Organization

Social organization in Tribal Areas is similar to that in the *Rajgiri* and Settled Areas. In the Tribal Areas, *biradiri* includes one’s relatives, friends and all the village people. No one can survive without *biradiri*.

3. Customary Uses of Natural Resources

Respondents in the Tribal Areas are very conscious of the fact that their resource base is such that they cannot depend on any single source of income. This was the only one of the three domains where 70% of the respondents explicitly stated this or implied it. Their major reported sources of livelihood are cultivation and livestock. They supplement this with salaried jobs and daily wage labour.

a. Ceremonial Use

Respondents in the Tribal Areas did not refer to using wild natural resources in ceremonies. Rather, ceremonies are described in the context of agriculture and other domestic situations.

b. Subsistence and Commercial Uses

Wild animals and birds that are hunted in the Tribal Areas include musk deer, bear, ibex, wolf, rabbit, partridge, *chakor*, pigeons, *leech*, *baleech*, and “golden bird”.

Leech and *baleech* meat is eaten while their crowns can be sold for Rs. 1200-1500. These species are hunted in winter. The “golden bird” is hunted for its skin, meat and crown; the crown is used for bridegrooms’ headdresses and for decorating houses and hotels. The skin and crown used to sell for Rs. 40 and now sell for up to Rs.3500.

Chakor, ibex, rabbit and deer meat is also consumed. Musk from the musk deer is called *chaksi*. It is used by the perfume industry and is also put in children’s caps to prevent the evil eye. *Chaksi* has a market price ranging from Rs.10,000 to Rs.25,000; it is usually sold in Swat, in NWFP. Musk deer hides sell for Rs.10,000-11,000 and are used for making prayer mats or to give to local government officials to foster relationships. Musk deer horns are sold to decorate mosques and houses. Leopard, bear and fox are also hunted in the Tribal Areas. A leopard skin may sell for Rs.40,000-50,000.

Bears are killed to save livestock, and are also hunted for their fat, which can be sold in the market as a medicine for arthritis and male impotence. Wolves are also killed to save livestock. Earlier, wolf pelts had no commercial value but now sell for Rs.100. Fox pelts are also sold; the price has increased from Rs.4 to Rs.400. Respondents say that the number of wild animals has reduced dramatically.

c. Medicinal Uses

People in the Tribal Areas collect a variety of herbs from the forests to use as a cure for various human ailments. The most sought after herbs are ramak, *tapsick*, *laqmoos* and *ashknach*. The respondents did not know exactly what diseases each one of these herbs cures as this is primarily the domain of women with whom our data collectors could not speak for cultural reasons. Herbs are also widely used to cure livestock diseases. In addition to bear fat, the bear spleen and penis are also sold for medicinal use.

4. Customary Laws for Management and Conservation of Natural Resources

Respondents reported that it was decided that they would retain their rights over their forests and pastures when they became a part of Pakistan in the early 1950s. All matters pertaining to natural resources are therefore decided in accordance with *Rawaj*, or customary law.

a. Nullahs/Pastures

There are two types of ownerships of *nullahs* in the Tribal Areas; those that are owned by individual villages and those that are owned by several villages. Individuals from villages that have ownership rights in a pasture also have all types of use rights there. Villages that do not have ownership rights in a *nullah* can take herbs and fruits, graze their animals, and hunt there, but cannot take wood.

Respondents reported that there are eight *nullahs* in Darel. All villages in Manical share three of these *nullahs* – Kotu, Bushay and Lati. The people of Manical Bala collectively own Garor, Khakal and Jur *nullahs*. Manical Bala and Padiyal share Kalgah *nullah* while the eighth *nullah* is shared between Manical Bala, Manical Pain, Shut and Padiyal.

There are seven *nullahs* in Gabbar (Tangir). Everyone living in Gabbar has use rights in all seven *nullahs*. Ownership rights here belong to only two tribes. Pastures in the *nullahs* are used for collecting dry wood, herbs and grass. If needed, people also cultivate the land here.

Tenants (*dehqans*) are not considered full-fledged members of the villages in the Tribal Areas but they are permitted by the villagers to take wood for construction and fuel from the pastures and forests owned by the villages they live in. Permanent residence and ownership of agricultural land in a village are required to be a full-fledged member of a village.

No one can cut any wood from the *nullahs* for sale, and no one is allowed to cut wood in excess of personal needs. Cutting green and living trees is also now prohibited. The holly oak (*bani*; *Quercus ilex*) may not be cut by anyone under any circumstances because goats and sheep eat its leaves. No full-fledged member of a village can permit someone who is not a member to take wood or anything else from a *nullah* owned by his village. Only the village *jirga* can permit that.

All livestock goes up to the *nullahs* in the summers. In winters, larger animals such as cows, bulls, horses, and donkeys remain inside the house and are fed there while the smaller animals go to the close-by *nullahs* during the day. At home as well as in the pastures, livestock is locked in animal enclosures (*mawaishi khanas*) at night. Shepherds keep rifles with them to save livestock from predators.

b. Wildlife

Since the *jirgas* have not made any rules restricting or prohibiting hunting, everyone is free to hunt, including guests. Hunting overall has declined, due to decreases in numbers of game species. Numbers of bear and ibex are decreasing rapidly, while fox and wolf are multiplying. Respondents say that ibex is decreasing due to intensive hunting. Bear, however, is not hunted very much and respondents do not know the reasons for its decrease. Previously, animals were killed with *chari dar* rifles and “5 shots”; now automatic weapons are used. Respondents said that human population increase, resulting deforestation and subsequent animal migration have mainly contributed to declining wildlife populations in the area.

c. Forests

Respondents in the Tribal Areas define forests as spaces where trees, plants and herbs grow naturally and plentifully and where there are lots of wild animals. Respondents in Darel divide trees into three types. For example, certain trees like *far* and *diyar* are used for construction and fuel, others like *chilli* are only used as fuel, and *kael* is used to manufacture agricultural tools and for other domestic purposes. In Gabbar, respondents tended to divide trees into two types – those used for construction and those used for fuel.

In Darel, respondents said that some forests were collectively owned whilst others were independently owned. In Tangir, the forests are owned by only some people of certain tribes. Others living in the same village, but not belonging to the same tribe, have use rights only. In Gabbar, only the Shin and Kameen tribes have use as well as ownership rights in forests. Members of other tribes may use forest resources, but only with permission from the owners. Non-owning tribes may take grass and herbs from the forests without permission. Traditionally, in both Darel and Tangir people could take any amount of wood for household use but recently the *jirga* has declared it illegal to cut green living trees.

The commercial significance of the *chilghoza* tree has been recognized and the *jirga* banned the cutting of it in the late 1990s. The nuts are sought after by Pathans because they cannot be found in Dir and Chitral.

d. Water

In Darel, there are some villages where fields are watered directly from canals or *nehers*. This water is spread through the fields in small, narrow drain-like structures called *kiyaris*. If the main supply of water needs to be closed, stones are placed in openings made on the sides of the fields. In other places, water channels are used to take water from mountain streams and then to the land. If there is heavy rain then the land is cut at the sloping end of a field so that the water can flow out.

5. Changes in Natural Resource Use and Management in the Last Two Decades

1. Two changes were the result of decisions of the local *ulema*:
 - i) Formerly, only two tribes had ownership rights in *nullahs*. Other groups only had use rights because they served the two dominant tribes. Now the local *ulema* has termed this practice un-Islamic and made the *jirga* give ownership rights to everyone; and
 - ii) The groups other than the two dominant tribes now receive their share of the village money earned from selling communal forest wood. This was not previously so.

Respondents commented that “since the *ulema* have said it, we must not say anything about it, we must listen to them.”

2. Hunting has declined because wildlife populations have declined. Respondents were unhappy with this change. Hunting was considered a source of pleasure and provided men the chance to display their bravery. They miss not being able to hunt but do not regret having killed so many animals. They feel the decline in the number of animals it is a natural phenomenon and nature will take care of this problem.

6. Traditional Regulatory Institutions

Darel

a. Haiti

Haiti in the local language means a collective group of people. Each *haiti* comprises smaller units called *kothis*. There is no limit to the number of people who can be in a *haiti*. On an average, there are 850-900 people in a *haiti* but the size can vary. A *kothi*, however, has a fixed number of 20 people. The number of *haitis* in an area depends on the total population. In Manical Bala, there are six *haitis*. Every *haiti* selects two *zaitus*. When the *jirga* fines someone for over-cutting wood, the fine is divided equally amongst the *haitis*.

b. Zaitu

In Darel, a *zaitu* is also called a *zuni*. There are two types of *zaitus* in Darel: one looks after the crops and the other takes care of the forests. The *jirga* and the village committee appoint both for a year. The criteria for selecting a *zaitu* are experience, wisdom, alertness and agility. *Zaitus* take an oath of honesty when accepting the position.

Each household gives ten kilos of wheat or maize or Rs.100 to each *zaitu*. The *nullahs* that are shared by several villages have a larger number of *zaitus* than those that are owned by one village. *Zaitus* are authorized to fine people. Fines for forest violations are greater than for crop and fruit violations.

c. *Jirga/Jastero*

Only adult men can be part of the *jirga*. There is no standard number of people in a *jirga*. It is headed by a *jastero* who is selected by the villagers. There can be more than one *jastero* in a village. The selection criteria are age, experience, wisdom, dependability, and desire to serve the community. Men belonging to families that have provided *jasteros* in the past are more likely to be selected. This fact notwithstanding, it is not only the family background and history that matters. Other individually achieved attributes like money, moral reputation, wisdom, and speech also play a significant role in someone's selection as a *jastero*.

The *jirga* settles village disputes, selects and supervises the *zaitus*, and negotiates matters with government functionaries whenever the need arises. The *jastero* is the key person in negotiations with the government and selection of the *zaitus*.

When the *jirga* is in session, the discussion is led by the *numberdar*, the *jastero* and the *zaitu*. Most offences that the *jirga* deals with are related to illegal woodcutting. The size of the *jirga* depends on the magnitude of the dispute. If the *jirga* finds an accused guilty, a fine is levied at the rate of Rs.100/foot of wood taken illegally. If the offender does not pay the fine, people abuse him physically and his *biradiri* ostracizes him. The people may also put a curse (*bud dua*) on him, signifying this by turning their hands palms down. It is believed that a severe calamity will befall a person given *bud dua*. The *jirga* may also take something valuable from the offender's house. An offender may also be reported to the Forest Department, which can arrest him.

If someone is suspected of over-cutting wood but there is no concrete proof available, the *jirga* puts him to a test. The suspect is asked to swear on the Quran and agrees to divorce his wife if he is found guilty. It is believed that if someone swears on the Quran falsely they are ruined. According to the *Hanafi Fiqha*, which is followed by the people of the Tribal Areas, if a man says "I divorce thee" three times to his wife, she is divorced and he cannot go back on it. The way this works in the case of a man suspected of over-cutting wood is that the suspect says these words in front of the *jirga*. If the *jirga's* investigations prove that he is guilty, his wife is considered divorced and he loses her. The *jirga* may forgive an offender but this is uncommon.

Kalang is the fine that the *jirga* imposes when an unauthorized person uses another's *nullah*. Depending on the *jirga*, the fine can be in the form of an animal, ghee or money. The *jirga* may also pardon the offender without any fine.

Tangir

a. *Zaitu*

Zaitus are well respected in the community. Every *khandan* selects from among its members a *zaitu* who is confirmed by the village. Each village may have several *zaitus* at a time, depending on need. There are two different types of *zaitus*: one for crops and one for forests. When deciding on a *zaitu*, *khandans* evaluate health, physical fitness, wisdom and alertness of the potential candidates. A *zaitu*, if performing well, can continue in this capacity for years. The villagers do not compensate *zaitus*. Instead, the fines collected by the *zaitus* are distributed equally amongst them.

If someone's animals destroy crops and fruit or if someone is caught cutting excessive wood, then the *zaitus* can fine the offender in kind or cash. If someone's livestock destroys a crop, the fine is the value of the damaged crop. The amount of fine for over-cutting wood varies according to the type of trees. For some species, there is a fine of Rs.500, whereas for others, it is Rs.100 per branch. There are some trees for which a fine of Rs.100 per foot is levied. First-time offenders are often forgiven by the *zaitu*. Repeat offenders are reported to the *jastero* to deal with. Earlier, the *zaitu* could also fine people for plucking fruit from their own trees before it was ripe. This does not happen any longer as people feel they can do what they want to their own property. "People are more individualistic and aware of property rights now," the respondents said.

b. Jastero and Jirgadar

The *jastero* is a village elder, the highest authority in a village. The *jastero* must be respected by the community, honest, wise and *khandani*. Members of only two tribes are considered *khandani*. Others who are not considered *khandani* are not eligible to become *jasteros* or *jirgadars*.

There is no restriction on the age of *jirgadars* but the *jastero* must be an older person. A *jastero* selects *jirgadars*, who also must be from one of the two dominant tribes. *Jirgadars* deal with land disputes, murder, theft, banditry (*dacoity*) and all other issues. A *jastero* can select two to five *jirgadars* depending on the magnitude of the case. In selecting *jirgadars*, it is ensured that they are not from the same lineage as the offenders so as to maintain fairness and impartiality in settling the dispute.

People remain *jasteros* for life; they work for respect and are not paid any salary.

c. Haiti

Haiti is a spatial unit. In Gabbar there are ten *haitis*. *Haitis* in Tangir are the basis for distributing wood for construction and money received from the sale of wood. If any income is derived from a forest, it is distributed in ten unequal portions according to the size and population of each *haiti*. The income received by each *haiti* is distributed in *tolis*. Males get one *toli* while females get a half each. Direct descendents of the martyrs⁴ get four *tolis* each. Each household's *tolis* are added and benefits are distributed accordingly given.

d. Wai Sigalo

The whole village selects a *wai sigalo* whose responsibility is to open the water channel in the morning and close it in the evening. Every household gives 15 kilos of maize per year to the *wai sigalo* as payment.

7. Semi-traditional Institutions

One semi-traditional organization – the village committee – functions in the Tribal Areas. This Committee was formed on the order of General Pervaiz Musharraf when he took over as the President of Pakistan. The Committee has seven members plus a chairman. It liaises with the government on development work done in a village.

4. A century ago the tribals fought the Hindus near Chilas and several people were martyred. These are the martyrs referred to here.

8. Summary of Customary Laws of Use, Management and Conservation of Natural Resources in Tribal Areas

a. Ownership

Agricultural land

Only the tribes that own agricultural land and are permanent residents of a village are considered full-fledged members of that village.

Pastures

There are two types of *nullah* ownership rights in the Tribal Areas: *nullahs* owned by the full-fledged members of single villages and those owned by full members of several villages collectively. Only the tribes that own agricultural land are considered full members of villages and therefore have ownership rights in *nullahs* as well.

Dehqans and Gujars are excluded from *nullah* ownership because they are not full-fledged village members.

Forests

Forest ownership is similar to *nullah* ownership – some forests are owned and used by all the tribes residing in a single village, while others are owned and used by all the residents in several villages. As with *nullahs*, only tribes that are full-fledged members of villages have ownership rights in forests.

Wildlife

There is no concept of ownership of wildlife; anyone is free to hunt.

Water

Water resources are shared; there is no concept of ownership as such.

b. Institutions

A *jastero* is the village headman. Only adult men from the landowning tribes can be *jasteros*. In addition to tribal affiliation, the criteria used for selecting *jasteros* are age, experience, wisdom, dependability, and family history. The *jastero* heads the *jirga*, selects the *jirgadars*, and leads in any negotiations with the government.

The *jirga* appoints and supervises the performance of the wardens (*zaitu/zuni*) and the water steward (*wai sigalo*) and settles disputes.

One *zaitu* is responsible for crops and another is responsible for forests. *Zaitus/zunis* are responsible for making sure that crops and fruit trees are not destroyed by livestock or human beings, and that people do not cut wood from the forests for any reason other than subsistence. In Darel, the *jirga* and the village committee appoint *zaitus*, and households compensate them in cash or in kind. In Tangir, family groups (*khandans*) nominate *zaitus* to be confirmed by the village. *Zaitus* in Tangir are compensated from the fines collected.

The water steward (*wai sigalo*) is selected by the villagers and is paid in kind. He opens the water channel in the morning, closes it in the evening, and makes sure that no excess water comes into the fields.

c. Use

Pastures

Members of patrilineal family groups in each tribe have rotational use rights in the land owned by their tribe. Members of the *nullah*-owning tribes may take from pastures any natural resource – including wood, grass, fruit, herbs and minerals – for their subsistence use. Members of non-owner tribes residing in a village may take fire and construction wood from village pastures with the permission of the village *jirga*. Generally, members of non-owner tribes do not need permission to take grass and herbs. There is a ban on cutting the *bani* tree from the *nullahs* because sheep and goats feed on it.

Forests

Use of forest products is permitted for subsistence only, and not for commercial purposes. Members of land-owning tribes have full use rights in the forests that correspond to their villages. Members of non-owning tribes who wish to take forest resources must get permission from the *jirga* of the village that owns the forest.

In Darel, trees are classified into three types according to their use: for construction and fuel; for fuel only; and for other domestic uses such as making tools. If there is income from a forest, it is distributed according to the size and population of a *haiti*; women are included in the distribution but receive a lesser share than men.

In Tangir, trees tend to be classified by two types of uses – for construction and for fuel.

Wildlife

There is no customary law prohibiting the hunting of wild animals. Anyone, including guests of full-fledged members of a village, may hunt. Villagers in the Tribal Areas have always shot wild animals to save their livestock and continue to do so.

Water

Irrigation water in the Tribal Areas is supplied through *kiyaris* directly from the streams or through water channels fed by snow melts. Maintenance and repair of the waterways is the collective responsibility of the able-bodied men of a village under the supervision of the *jirga*.

d. Enforcement

Generally, *zaitus/zunis* may impose fines for violations of customary rules. The *jirga* judges major offenses related to natural resources, particularly cutting wood in excess of subsistence needs, as well as land disputes and criminal matters. Among the penalties a *jirga* may impose for over-cutting wood, encroaching on another village's grazing land, or unauthorized use of water are:

- i). fines (*kalang*) in cash or kind;
- ii). confiscation of something of value belonging to the offender;
- iii). ostracism by the community;
- iv). divorce;
- v). a curse.

A *jirga* may pardon an offender, but this is uncommon. Repeat offenders are reported to the *jastero*.

Agricultural land

Zaitus/zunis may impose fines in cash or in kind for damage to crops or fruit trees. If livestock destroys a crop, the fine is the value of the lost crop. Fines for agriculture-related offenses are generally lower than fines for forest-related offenses.

Pastures

The *jirga* may impose a fine in cash or in kind for unauthorized use of a *nullah*.

Forests

Zaitus/zunis may impose fines for forest-related offenses. The *jirga* may impose fines and other penalties as well. Fines for illegal woodcutting are generally greater than fines for damage to crops and fruit trees.

Wildlife

As there are no rules governing hunting, there are no penalties for use of wildlife.

Water

The *jirga* may impose a fine or other penalty for unauthorized use of water.

D. Statutory Institutions

The Forest Department is the principal government institution working in the field of management and conservation of natural resources in the *Rajgiri* and Settled Areas. Respondents in two locales in the Settled Areas – Gorikot and Rondu – said that the Forest Department has been functioning there for as long as they can remember. As perceived by respondents, the responsibilities of the Forest Department are:

- a. restricting hunting of wild animals;
- b. restricting cutting of wood from forests;
- c. stopping people from taking herbs from forests and pasture;
- d. stopping people from taking minerals from mountains and forests;
- e. stopping people from grazing their livestock in forests;
- f. stopping people from living in forests and making houses there.

Respondents reported that the government, through tenders, gives leases for extracting minerals and taking herbs and wood, the royalties from which are kept by the government. This, they felt, was unfair. According to respondents, herbs and minerals that are taken or leased out include *bunkhakhri*, *zen* and *salajeet*.

According to respondents, if someone takes anything from a forest without the permission of the Forest Department, the Forest Department confiscates the goods taken, fines the offender and may even give other punishment according to statutory law (*Qanoon*). Respondents reported that if an offender gives monetary bribes to forest guards, he is not penalized; otherwise, he is. Penalties are imposed on villagers, but respondents reported that forest and military functionaries have actually destroyed the forests in both the *Rajgiri* and Settled Areas, noting that army personnel cut significant areas of forest.

Respondents in Rondu said that the Forest Department there is supposed to perform all the tasks it performs in other parts of the Settled Areas, with an added responsibility of helping replant trees. They felt that the Forest Department had largely failed, but that since civil society organizations had started working in the area the Forest Department's performance had improved slightly. Respondents in the *Rajgiri* Areas reported similar experience with the Forest Department.

In Rondu, respondents reported that the Forest Department, the *tarangan*, and civil society organizations working in the area do meet concerning wood-cutting offences and hunting. Sometimes there is a dispute over the amount of a fine levied on an offender. As described by respondents, the *tarangan* usually proposes a lesser fine, while the Forest Department authorities want a higher one. The respondents generally suspect Forest Department authorities' motives for demanding higher fines.

Respondents in *Rajgiri* Areas reported similar interactions between traditional and statutory authorities. According to respondents in Hunza, traditional and statutory institutions do not tend to meet very often, as people are too busy and there are few forests and wild animals. In Nagar, the *Dehi Tanzim* and the *jirga* meet once a week to discuss natural resource related issues; the Forest Department is never represented in these meetings.

In Ishkoman, respondents were not aware of interaction and dialogue between traditional and statutory institutions. In Gupis, respondents said that the Forest Department, the Union Council, the *jirga*, and at least one civil society organization working in the area meet regularly to discuss pasture and forest related issues. They

reported an incident when there was a difference of opinion between community authorities and the Forest Department. The Forest Department had fined an offender Rs.30,000 for cutting live trees, given half of the fine to the community, and kept the other half. The community protested that the forests belonged to the villages and that the Forest Department had no right to the fine. Eventually the money was returned to the community and the conflict was resolved.

In other locales, respondents reported occasional meetings the traditional and statutory institutions.

E. Conclusions

The people residing in the places in which fieldwork was carried out in Northern Areas conceptualise nature and natural resources as having been made by God to be used for human consumption. This concept does not equate use with depletion or destruction because what God creates is understood as self-regenerating. The concept does recognize that the introduction of non-natural elements such as rock blasting, markets, firearms, and chemical fertilizers, among other things, may interfere with the divine programme. Respondents in the Northern Areas understand nature as something to be lived with and not something to be confronted or overcome. This bond and mutual dependence is evident, particularly, in the subsistence and medicinal uses of various natural resources in all three domains.

The customary legal system in Northern Areas is structured around the principles of shared space and shared blood relations. In each of the three areas – *Rajgiri*, Settled and Tribal – different combinations and permutations of these two principles underlie the management and use of natural resources. The customary regulatory system is based on collective responsibility that in most cases aims at using natural resources in a sustainable manner.

This collective responsibility is built into the structure of the customary regulatory institutions, which are similar in all three areas, although there are local variations on specific powers and duties. Members of the communities select the functionaries of these institutions and compensate them; therefore all members of a community have a stake in their performance. People listen to the customary authorities because they are members of the community, rather than outsiders (*begana*) and because not listening to them means wasting their investment.

Traditional authorities – particularly the wardens – are accountable to their communities. In the *Rajgiri* and Settled areas, the *jirga* may fine wardens who do not perform or who commit violations themselves. Since wardens are usually selected for one season or one year, if they do not perform well the community will not renew them in their posts, which means a loss of personal income in cash and in kind.

The collective nature of the customary system is further reflected in the type of ownership rights in natural resources in Northern Areas. In all three areas – *Rajgiri*, Settled and Tribal – collective ownership of pastures and forests predominates, although some individual rights in pastures and forests are recognized in *Rajgiri* and Settled areas. Ownership may be collective within a single tribe, among tribes in a village, and among villages. In Settled Areas, where the government allocated pasture lands during the settlement process, there were more reports of disputes over ownership and use rights in pastures than in either the *Rajgiri* Areas or the Tribal Areas. Individual ownership of agricultural land is reported in *Rajgiri* and Settled areas.

There is no concept of ownership of wildlife and water resources. Under customary law, wild animals belong to the hunter/captor; statutory restrictions on hunting and dwindling numbers of game species have significantly altered customary practices. Water is a shared resource under customary law; it is owned by no one, and its use is allocated within each village according to internal requirements and rules.

Use rights in pastures and forests are determined by the tribes and villages that own them. Customary rules in *Rajgiri* and Settled Areas classify types of pastures and

specify the kinds of animals that may use different pastures. Customary law in the *Rajgiri* Areas is unique in that it provides for a user fee – *lagan* – that permits use of a pasture by those without ownership or use rights in it. In the Tribal Areas, the *jirga* may permit use of pastures – including subsistence use of non-timber forest products from the *nullahs* – with no fee attached. Customary law in all three areas provides for fines for unauthorized use of pasture lands.

The impact of statutory law on customary law and authority is strongest in the regulation of forest management and commercial use of forest products in the *Rajgiri* and Settled areas. In *Rajgiri* Areas, statutory law controls commercial use of timber, while local *jirgas* may still to some degree regulate subsistence use of non-timber forest products. In the Settled Areas, customary use rights in pasture lands generally include subsistence use rights in non-timber forest products as well. In Tribal Areas, the *jirga* regulates use of timber, including prohibitions on cutting live trees without permission and complete bans on cutting certain species.

Use of wildlife – hunting – would appear to be the notable exception to the sustainability of customary practices. It must be remembered, however, that traditionally, hunting was done with different types of weapons and that there were few external markets for wildlife products. Today, the introduction of modern weapons for hunting and the high prices that outsiders will pay for wild animal trophies contribute to and maintain incentives for unsustainable use of wildlife in traditional villages. These conservation disincentives are being mitigated in some villages through programmes that promote sustainable management of wildlife populations, allow carefully controlled hunting by outsiders, and share the income from hunting permits among the villages that sustainably manage the wildlife in their areas.

Enforcement measures in all three areas are similar, with local variations. In Tribal Areas, fines are differentiated – those for offenses related to forest products are generally higher than fines for damage to agricultural land and crops.

Unauthorized use of pastures carries a fine – in cash, in kind, or in some cases, both. In *Rajgiri* and Settled Areas, authority to levy fines is usually delegated to the warden and the *jirga* enforces compliance, if necessary. In *Rajgiri* Areas, the warden or the *jirga* may confiscate something of value from the offender as a means of enforcing compliance, returning the item once the offender has complied.

Cutting trees without permission carries a fine in all three areas. In some parts of the *Rajgiri* Areas, an offender will be required to plant trees to replace those cut. In *Rajgiri* and Tribal areas, authority to levy fines may be delegated to the warden with the *jirga* enforcing compliance. For serious offenses, the *jirga* may levy the fines directly. In Settled Areas, where semi- or quasi-traditional institutions have assumed responsibility for local forest management in several villages, those institutions enforce local and statutory rules governing forests.

There is no customary regulation of hunting in *Rajgiri* and Tribal areas. In Settled Areas, where traditional authorities enforce a mix of customary and statutory law governing wildlife, local authorities in some villages may impose fines for hunting and confiscate a hunter's firearm.

Misuse and unauthorized use of water resources and damaging the water delivery system are fined in all three areas. In *Rajgiri* Areas, the water steward levies the fines and the *jirga* enforces compliance. In Settled and Tribal areas, generally the water steward reports offenses to the *jirga*, which then fines the offender.

Fines are generally applied, either directly or indirectly, for violations related to resource management. In some cases, fines in cash and/or in kind may be the only compensation local authorities receive for their services; or the fines may supplement compensation in cash and/or in kind. When an animal is taken as a fine, its meat is either shared among the wardens or among the entire community. In both *Rajgiri* and Settled areas, cash fines may be deposited into a community account or may be directly spent by the *jirga* or another local authority on development work within the community.

Penalties levied by the customary institutions are primarily a means of restitution, rather than punitive or coercive measures as statutory law penalties are perceived to be. A *jirga* may waive a fine if an offender repents; a *jirga* or headman deals individually with repeat offenders. Customary dispute resolution mechanisms can maintain these practices because the adjudicators and implementers of customary law – whether they are *sharbas*, *jirgadars*, *zaitus* or others – have multi-stranded⁵ relationships with the complainants. This inter-connectedness of relationships allows the customary institutions to exert moral pressure on the disputants, which is not possible in relationships created by statutory law. The *jirgadar* in the traditional system, for example, is not only an adjudicator to disputants, he may also be the head of a clan or lineage as well as an elder known for his wisdom and moral integrity. Disputants may go to him for advice, protection, prayers and help in many other types of situations. They are bound to the adjudicator beyond the scope of a particular offence.

Customary law regulating natural resources in Northern Areas has most of the fundamental features of a statutory regulatory regime. It provides for permits for using resources; there may or may not be a fee for the permit. Administrative authorities who are appointed by and are accountable to the community are responsible for monitoring resource use; authority to levy fines and other types of penalties is usually delegated to them. Penalties include fines in cash or in kind, or both, which are differentiated according to the type and gravity of the offense. Other penalties include reparation, restitution, and confiscation. Compliance with administrative penalties is generally enforced by an adjudicating authority, which may also take primary action in the case of serious or repeat offenses. Ostracism from the community takes the place of criminal penalties – closing the offender out of the community rather than closing him in a jail.

There are already examples in Northern Areas of mutual recognition between customary and statutory institutions responsible for regulating natural resource use. Customary authorities may refer an offender to the statutory system. Statutory officials in some cases already acknowledge the authority of traditional authorities and respect their judgments. Local authorities have in a few instances managed to secure reversal of an action of a statutory authority in favor of local control over natural resource management. While these examples are encouraging, there are far more situations in which customary and statutory law are perceived to conflict.

The primary, fundamental difference between customary and statutory regimes is clear: most statutory regimes governing natural resource management and use in Northern Areas were designed to promote resource exploitation, rather than resource conservation, with the benefits of resource exploitation flowing to statutory institutions rather than customary ones. The perceived and real conflicts are questions of substance – exploitation vs. conservation and sustainable use – as well as of equity.

5. A multi-stranded relationship is one in which the parties involved are connected with each other through various socially defined and accepted roles in the society.

This study has demonstrated that customary law contains many of the same elements and operates in much the same way as statutory law – with the exception of the focus on equity in distribution of benefits. These results suggest that there would be relatively little difficulty in harmonizing customary and statutory law at the operational level. Introducing the concept of collective property rights into the current statutory system would be more complicated, but feasible through consultation and consensus-building. Harmonization in the sense of equity would undoubtedly be the most difficult issue to resolve, given long-standing vested interests in the benefits of natural resource exploitation.

“Harmonization” in this sense does not mean diluting customary law, incorporating it into statutory law and expecting that it would then disappear. Rather, it means understanding and respecting customary law as a sophisticated and dynamic legal system, with at least as long a regulatory history as statutory law if not longer, and which has already reformed itself to incorporate elements of statutory law. Long-term, effective regulation of natural resources in Northern Areas will require reciprocal recognition of customary law and corresponding reform to incorporate many elements of it into statutory law. The implications for sovereignty have been addressed and resolved in countries that have already taken steps to recognize and provide for the survival of the customary legal traditions practiced in their territories.

International agreements and processes are placing increasing emphasis on recognition of community property rights and equitable sharing of benefits. Pakistan is already a Party to many of these agreements and is an active participant in the global processes. The country has an excellent opportunity to contribute to these processes by taking the results of this study to the next phase of ground-breaking work on the nexus between customary and statutory law for natural resource conservation – substantive legal reform that promotes sustainable livelihoods for natural resource-dependent communities in Northern Areas.

Annex 1

TRADITIONAL GOVERNANCE SYSTEMS AND LANGUAGES IN THE NORTHERN AREAS

	Area	Languages Spoken	Governance System
1.	Yasin	Khowar/Brushiski/Shina	<i>Rajgiri</i>
2.	Gupis	Khowar/Brushiski/Shina	<i>Rajgiri</i>
3.	Ishkoman	Gojali/Khowar/Shina/Parchian/ Badakshani/Gujrati/Pushto	<i>Rajgiri</i>
4.	Punial	Shina	<i>Rajgiri</i>
5.	Hunza	Brushiski/Wakhi/Gojali/Shina	<i>Rajgiri</i>
6.	Nagar	Brushiski/Shina	<i>Rajgiri</i>
7.	Gilgit	Shina	Settled Area
8.	Skardu	Balti	Settled Area
9.	Kharmang	Balti	Settled Area
10.	Khaplu	Balti	Settled Area
11.	Shigar	Balti	Settled Area
12.	Astore	Shina	Settled Area
13.	Chilas	Shina	Tribal
14.	Darel	Shina/Kohistani/Pushto	Tribal
15.	Tangir	Shina/Kohistani/Pushto	Tribal

REFERENCES

Part I

1. Afridi, Banat Gul. 1998. Baltistan in History. Peshawar: Emjay Books International.
2. Ahmed, Ijlal. 1993. House Hold Fuel Wood Consumption, survey in Rural Areas of Sakardu. Gilgit: The Agha Khan Rural Support Program.
3. Ali, Manzoom. 1982. Biloristan Gilgit Baltistan and Diامر (Urdu). Gilgit: Government Degree College.
4. Biddulph, John. 1977. Tribes of Hindukush. Karachi: Indus Publications.
5. Hussain, Altaf and Michael A. M. Langendijk. 1994. Issue Paper 4, Self Help Rural Water Supply Schemes: Lessons Learned from Northern Areas of Pakistan. Northern Areas and Chitral: Water, Sanitation, Hygiene and Health Studies Project.
6. Khan, Sartaj. 1992. Ainna-e-Diامر (Urdu). Chilas: Sartaj Khan.
(Note: The English translation of the title of this book is "Mirror of Diامر".)
7. Langendijk, Michel A. M. 1991. The Utilization and Management of Pasture Resources in Central Ishkoman. Gilgit: The Agha Khan Rural Support Program.
8. (Note: The author of this report is also co-author with Altaf Hussain of the 1994 report listed above, but his first name is spelled differently on the original published reports.)
9. Naseem, M. Qasim. 1994. Baltistan- History and Politics, 500AD to 1994AD (Urdu). Lahore: Raza Mehdi Progressive Publishers.
10. Rasool, Ghulam. 1979. Jangal Kay Basi (Urdu). Lahore: WWF Pakistan.
(Note: The English translation of the title of this book is literally "Animals living in forests" or more generally, "Wildlife of Northern Areas".)

Part II

1. Ali, M. 1998. The Atlas of the Northern Areas of Pakistan. Survey of Pakistan.
2. The Concise Oxford Dictionary of Current English. 1982. Oxford University Press.

3. Dani, A.H. 1991. History of Northern Areas of Pakistan. Islamabad. National Institute of Historical and Cultural Research Press.
4. Eisenstein, Z.R. 1988. The Female Body and Law. University of California, Berkeley, USA.
5. Goodenough, W. 1956. Componential analysis and the study of meaning. Language, #32 pp.195-216.
6. Gul, S. Phallocratic Discourse, Legal Pluralism and the Female Body. Unpublished Masters thesis. Quaid-i-Azam University. Islamabad.
7. Jettmar, K. 1980. Bolor and Dardistan. Islamabad.
8. Khan, R.A. 1987. History of Gilgit. Islamabad. Quaid-i-Azam University Press.
9. Kottak, C. Anthropology, the Exploration of Human Diversity. McGraw Hill.
10. Leitner, G.W. 1978. Dardistan. New Delhi Reprint.
11. Pelto, J. and H. Pelto. 1978. Anthropological Research. Cambridge University Press.
12. Petersen, H. 1997. Legal Pluralism and its Relevance for Women's Law, Women's Law in Legal Education and Practice in Pakistan. New Social Sciences Monographs. Copenhagen, Denmark.
13. Russell, B. 1994. Research Methods in Anthropology. Sage Publications. Thousand Oaks, California.
14. Shaheed, F. 1997. The interface of culture, customs and law: Women's Law in Legal Education and Practice in Pakistan. New Social Sciences Monographs. Copenhagen, Denmark.

PART I – INTERVIEWS

1. Mr. Abdullah Khan, Naib Tehsildar
2. Raja Fakhar Alam, Member, District Council, Ghizar
3. Mr. Ghulam Rasool (Retd.) Divisional Forest Officer
4. Major (Retd.) Hussain Shah
5. Mr. Khan Bahadur, (Retd.) Deputy Commissioner
6. Maulvi Luqman, Khateeb Jamia Masjid, Kashrot, Gilgit
7. Raja Mohammad Alam, notable from Punial
8. Mr. Rasool Mir, Advocate
9. Saba Baltistani (Retd.) Assistant Commissioner, Shigar
10. Wazir Sajad Ali Khan (Retd.), Senior Superintendent Police
11. Mr. Shah Rais Khan, Umpheri, Gilgit
12. Prof. Usman Ali, Historian, Kashrot, Gilgit
13. Mr. Sher Wali Khan, Advocate, President, Northern Areas High Court Bar Association

Annex 4

PART II – METHODOLOGY

The universe of this research was the Northern Areas of Pakistan.⁶ The history of the Northern Areas and discussions with researchers and resource persons born and raised there indicate that the Northern Areas even today can be described according to the political and legal systems that were in existence prior to Independence. Certain areas had been ruled by local Rajas since ancient times; in some parts of Northern Areas, the law of the Rajas survived till as late as 1972. Other areas had been settled by the British in the 1800s and were under British law. Certain historically tribal republics remain as such after their conditional accession to Pakistan.

Due to these historic differences the universe of the research was divided into three domains that correspond to the politico-legal systems:

- a) *Rajgiri* Areas – those that had been ruled by local Rajas;
- b) Settled Areas – those that had been directly governed by the British; and
- c) Tribal Areas – the tribal republics.

The three domains would ensure that any possible variations in the customary laws regarding natural resources in Northern Areas could be encompassed and that research findings would fairly represent the reality of the universe (Russell, 1994. p 78).

After consultations with local resource persons and researchers, each of the three domains was further divided into target populations according to similarities and slight differences in cultural patterns and normative structures. The target populations were:

- a) *Rajgiri* Areas: Punial, Ishkoman, Gupis, Yasin, Hunza, Nagar, and Gojal;
- b) Settled Areas: Gilgit, Godai/Bubin, Khaplu/Karmang/Shigar and Rondu; and
- c) Tribal Areas: Darel, Tangir.

The fieldwork was carried out in two phases. Phase One was conducted July 2000 through March 2001. This Phase started with the pre-testing of research instruments to be used. The pre-test was conducted in the village of Loas in the Parashing valley. After having made the required alterations in the instruments in light of pre-test results, preliminary surveys were carried out in several locations in all three domains. Primary data was collected from six locales in *Rajgiri* Areas, two locales in Settled Areas, and one locale in the Tribal Areas. These locales were target populations for each domain. Research instruments⁷ used in the preliminary survey included:

- a) socio-economic survey forms;
- b) key informant interview schedules;

6. A research universe is defined as the delimiting of a population i.e., people, events, ecological zones, from which the sample is to be drawn. (Pelto and Pelto 1978; pp.129).

7. Research instruments are the concrete tools used to collect information about various units of data collection.

- c) focussed interview schedules; and
- d) participant observation (to the extent possible).

The second, or in-depth phase, of the research began in April 2001 and ended in June 2001. During this phase, the researchers collected data from four locales. One locale was chosen from *Rajgiri* Areas, two from Settled Areas and one from Tribal Areas. For the selection of the target populations in both phases, the cluster-sampling method was used. Based on information on local resource persons and researchers, each domain was divided into clusters of areas having the same social organizational and cultural patterns and one target population was selected from each cluster. Table 1 shows the distribution of target populations in all three domains.

Table 1 Part II - Preliminary Phase					
Domain 1 <i>Rajgiri</i> Areas		Domain 2 Settled Areas		Domain 3 Tribal Areas	
Larger Area	Locale	Larger Area	Locale	Larger Area	Locale
Punial	Singul	Gilgit	Jalalabad	Darel	Manical Bala
Yasin	Yasin	Skardu	Shigar		
Gupis	Phander				
Ishkoman	Immit				
Hunza	Murtazabad				
Nagar	Nialli				

In-Depth Phase					
Domain 1 <i>Rajgiri</i> Areas		Domain 2 Settled Areas		Domain 3 Tribal Areas	
Larger Area	Locale	Larger Area	Locale	Larger Area	Locale
Gojal	Gulmit	Astore	Godai/ Gorikot	Tangir	Gabbar
		Skardu	Rondu		

The units of data collection (UDC) were chosen from each target population using the stratified random sampling method. Each target population was divided into 14 strata. The criteria used for this stratification were occupation and socio-political status in the community. These strata were:

- | | |
|----------------------|--------------------------------------------------------------|
| 1. Religious leaders | 8. Village organization & women's organization functionaries |
| 2. <i>Numberdars</i> | 9. Returnees ⁸ |
| 3. Village activists | 10. <i>Dehqans</i> |
| 4. <i>Jastero</i> | 11. <i>Kasabgars</i> |
| 5. <i>Jirgadar</i> | 12. Older women |
| 6. Teachers | 13. Middle-aged women |
| 7. Revenue officers | 14. Young women |

Research instruments used in the in-depth phase included:

- a) socio-economic survey forms;
- b) key informant interview schedules;
- c) focussed interview schedules;
- d) specialist interview schedules;
- e) participant observation (to the extent possible).

The team of data collectors initially comprised two men and two women. These four researchers collected the data for the Punial, Yasin, and Gilgit preliminaries. The rest of the fieldwork was carried out by a team of three persons (one man and two women). The gender mix of the team ensured that respondents would include both men and women.

The data collectors lived within the community wherever the economic situation of the villagers allowed. In places where an arrangement for overnight stay could not be made, the team stayed in rented quarters near the community being studied. During the preliminary phase, the team worked in one locale for a period of one week to 10 days. Their stay and work in the locales for the in-depth phase was extended to a period of three weeks per locale. The time spent in the locales for the Tribal Areas was longer than the other two domains in both phases. Due to the local cultural restrictions and the volatile political situation at the time of this research in the Tribal Areas, the female data collectors could not work there. Since only two men were working in these areas they took a longer time to complete the work and no data was collected from any female respondents. One person was randomly selected from each of the 14 strata and interviewed using either the key informant schedule or the focussed interview schedule.

In the preliminary phase, the researchers conducted two key informant interviews and 12 focussed interviews in each locale. The key informant interviewees in each locale were selected from UDCs 1, 2, 3, 5 and 12. In addition, 16 socio-economic census forms were also completed for each target population, representing the lower, middle and upper economic classes. There were some target populations where the terms *numberdar* and *jastero* were interchangeably used for the same office. In such situations, two interviewees were randomly selected from one of the other units of

8. People who had left the village for an extended period of time in their lives and had ultimately come back.

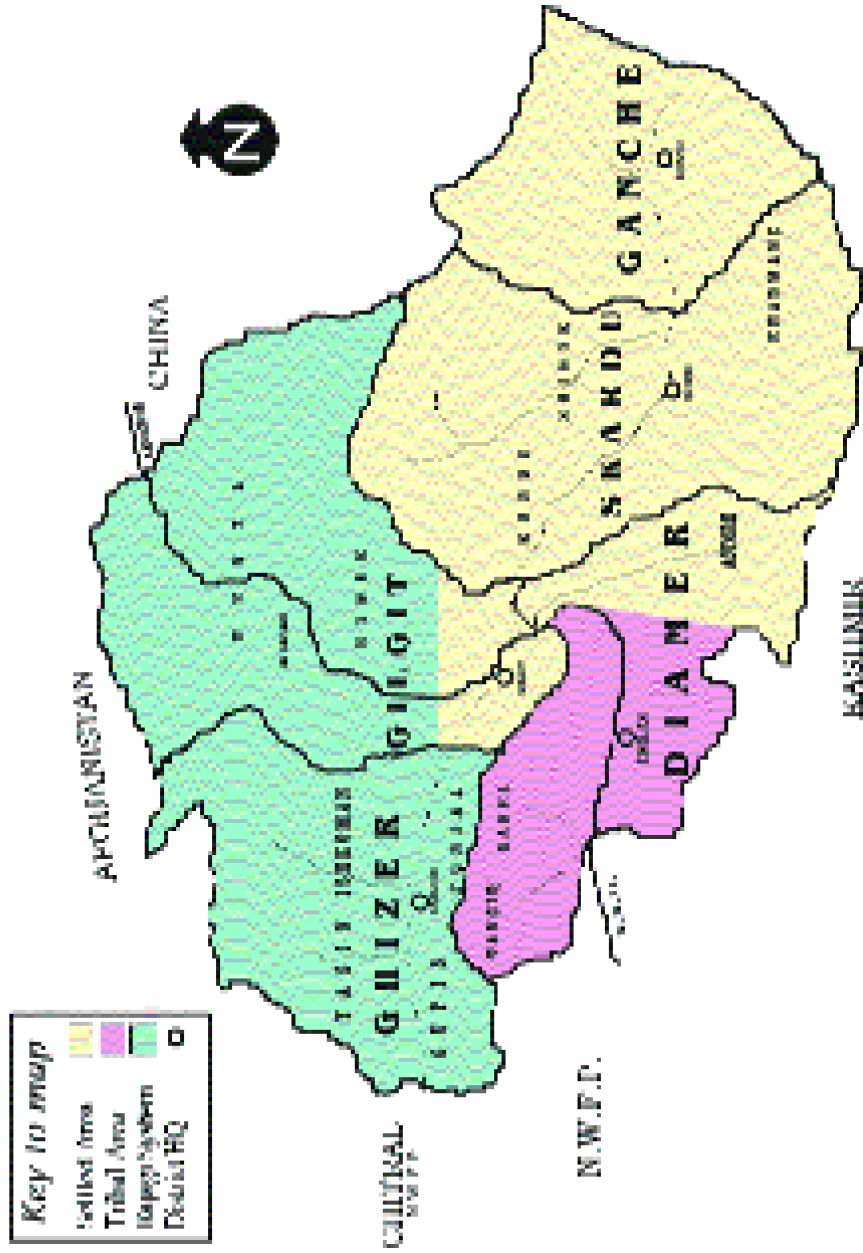
data collection. In the Tribal Areas, since only male data collectors could go and they could not interview any of the local women, two men were randomly selected from UDCs 4, 6 and 10 instead of one each.

For the in-depth phase, four new research instruments were prepared for the specialist interviews. In the preliminary phase, it was learnt that in almost all areas, there were people who for extended periods of time in their lives had worked as *numberdars*, *jasteros*, *jirgadars*, *zaitus*, shepherds and hunters. Thus, four new shorter schedules were prepared for each one of these categories. These schedules were structured as life history interviews but were very narrowly focussed on the particular aspects of interviewee's life connected with their work as *zaitus*, village elders, shepherds or hunters.

The key informant as well as the focussed interview schedules had separate sections of questions pertaining to the use, management and preservation of livestock, agriculture, forests and wildlife resources. In addition to these, each of these schedules also had a section containing questions about the structure and dynamics of various institutions (traditional and modern) that were operating in each locale and addressing natural resource use and conservation issues. With the exception of six questions in the wildlife section, all questions in both of these instruments were open-ended. All of the questions in the four specialist interview schedules used in the second phase of the research were also open-ended. This was because open-ended questions give greater control to the interviewee and allows the interviewer to capture the interviewee's perspective and meaning more easily (Goodenough 1956).

The key informant interviews asked the same questions as the focussed interviews and in addition asked for historic information and dealt with the issue of change in customs and people's lifestyle at greater length. The socio-economic census forms were used to create social profiles for the locales. These forms were also used as a rapport building and introductory device by the researchers.

Map of Northern Areas, Pakistan



Map

IUCN–The World Conservation Union

IUCN is a world leader in developing knowledge and understanding for effective conservation action.

A unique worldwide partnership, IUCN brings together states, government agencies and NGO members, and some 10,000 scientists and experts from 181 countries in a global web of networks to provide a neutral forum for dialogue & action on environment & sustainable development issues.

IUCN Pakistan has five programme offices in cities from the north to the south, multiple field offices and a large portfolio of projects. It is one of the 6 Country Offices of IUCN's Asia Programme, covering 17 countries with a workforce of nearly 500.