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The Role Of Jirga In The Resolution Of Local Disputes

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ABSTRACT

The present study titled, **"THE ROLE OF JIRGA IN THE RESOLUTION OF LOCAL DISPUTES**". The research was carried out in union council Wari District Dir Upper, Khyber Pakhtuoonkhwa, Pakistan. The sample size of 80 respondents was randomly selected. The data was collected through a well-designed interview schedule. Data was analyzed through SPSS software. The research study contains one dependent variable Jirga system and one independent variable resolution of local dispute.

The results were got through percentage and frequency distribution. The study founded that jirga is the very best source of disputes resolution and it plays its active role up to some extent but it shall need to make its role more effective in dispute resolution. It is further recommended that jirga system must be based on intellectual people. They shall play their role as neutral and impartial. Furthermore, the jirga members should have good reputation and experience in their disputes resolution process.

Introduction

Jirga

The literal meaning of Jirga is "assembly" or "gathering" of the Party for the solution of a dispute and it is a type of self-governing body. According to Pashto desiptivecr dictionary, the term Jirga is an original Pashto word and it is a common traditional

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word used for a get-together of a few or many people. The word Jirga is also used in other languages like Mongolian, Turkish, and Persian that to be consistent to the word circle. It mean that the word Jirga is "a rich traditional code of Pushtoon nation where the tribal peoples gather for traditional Jirga and sit in a large circle to resolve conflicts and take collective judgments related to social issue (Barakatullah,Imran & ahmmad sajid, 2013).

Types of jirga

Koranay or Shakhsi jirga

It is an informal structure of jirga system where the disputes within or among the families are resolved. The members of both gatherings are included in koranay or Shakhsi jirga. It is normally held in any of the guest house "hujra"or any other public space where cases could be easily discusse.

As both the parties present their opinions, third party members of the jirga give their judgment

(Yousufzai &Gohar, 2005, 48)

Olasi or Qami jirga

"It is an informal structure of jirga system where the disputes and issues between the communities are discussed and resolved. It is held at a big open space, where everyone -who is part of that jirga – can speak or discuss the issue. It is also expected form the people to listen and respect all the members of the jirga. The head of the jirga will be responsible for the decision besides implementation of that decision" (Yousufzai &Gohar, 2005). The community members give waak (Authority) to the jirga members to resolve the dispute.

Loya jirga

"The word Loya is derived from Pashto meaning "grand". This show that it is the biggest kind of jirga, discussing and resolving inter-tribal matters. It is a platform where the most important troubles are discussed on a national level. The tribal heads gather at an open ground and discuss the issue and the possible solutions". The history of loya jirga could be trace back in Afghanistan under "Pashtunwali"(Yousufzai & Gohar, 2005) **.**

Objectives of the study

To know about the opinion of local people towards the role of Jirga system in the resolution of local disputes..

To find out various causes of ineffectiveness of jirga system

To recommend some steps to be taken in the resolution of disputes of the local people

Literature Review

"Jirga is an informal but an special institution existing in Pashtun social organization. Jirga,term in Pashto language meaning "circle".(Islam & Faqir, 2013). It stands quite hard to trace back the origin of practice of JirgaSystem in Pashtun history. Though, Jirga is as old as the Pashtun community. Different researchers have present their own sort of definition of"Jirga". Jirga is defined as the group of members of exact

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subgroup of Pashtun, considering a matter of worldwide interests (Spain, 1973).

Jirga is an informal institution, in Pashtun society, having formal influences on society. It is exercised in the tribal areas of the Khyber Pakhtunkhwa, Fata and Baluchistan. It is seen as the umbrella of safety and the protection for the poor especially in tribal areas of Pashtun cultural norms. Through Jirga, disputes related to public and private space are resolved. Jirga follows the democratic norms and persist the neutral position in resolving the disputes between the plaintiffs through mediating and arbitration. Jirga depict democratic structure where every individual has the right to present his thoughts in front of jirga members. The code of conduct, which is being in followed in jirga, seeks moral and spiritual attachments. It can be said that jirga is sort of structure where disputes are settled giving benefits or the penalties according to the decision.

Hence, jirga is only limited to the major or the small criminal- public or the private disputes, but also for the settlement of the individual, group and the tribal conflicts. Jirga is the main structure of political system in the tribal area to resolve the disputes and to promote justice (Bangash,2004).

Jirga is a conventional structure with Afghani roots, strongly linked to the social and the economic activities of daily mundane life. Jirga system is very fixed inside the Pashtun civilization. The classical Pashtun model is more particularized and illustrative model fluctuating gradation by non-Pashtun. It is asserted that jirga is an informal structure where disputes related to not only the indigenous tribal but also countrywide issues are resolved in more efficient way.

Additionally, it is also emphasized that jirga perform as power structure mostly in Pashtun societies. Therefor jirga not only reinforce the social solidarity among the people but also indirectly help in preservation of Pashtun tribe's social order. Though, the effectiveness of jirga as source of conflict persistence depends on the degree to which it is legally supposed by several sections of the Pashtun inhabitants (Carter et. al, 1989 & Glatzer,1998). Scholars argue that the word Jirga is originated from the Turkish language with the same meaning as in Pakhtu (Sherzaman, 2007).Jirga means a position where individuals may express their sentiments and feelings without any threat. In Pakhtu "Jar" means open tone and "gah" means place or position. In Arabic, the word jahar means loud (Iqbal, 2014). The history of the Jirga system is traced back to the Aryan tribes. They transferred from Central Asia to Afghanistan and then to India (Sherzaman, 2007). The Aryans tribe used Jirga for resolving conflicts and disputes. Sometimes the king also joined sessions and overseen Jirga. The Jirga was like a rural council (Wardak, 2004). The decision was taken according to the prevailing customs. Sultan Bahlol Lodhi was the ruler in India during 1451-1489. He formed the Jirga of elder people to resolve people's issues. The Sultan also used to sit amongst jirga members, and all usually in a circle. He also set up an administrative system which was followed by the later rulers as a model (Glatzer, 2002).

Sikander, another ruler in India, distributed most of his state areas to Afghan supporters. He deeply supported Afghan tribal independence and organized local Jirga. Similarly, Sher Shah Suri followed such practice in India. He used a Jirga of elders for the same purpose. He would sit among them in the circle. When their offspring tried to suppress the tribes, the later often got help from their rules to Mughals (Sherzaman, 2007). In 1747, the Abdali tribe of Afghanistan organised a

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Loya Jirga (Grand Jirga) in Qandahar. The issue was to choose a leader. After a long discussion of nine days, Sabir Shah announced the verdict of the Jirga, that no one is better than Ahmad Shah Abdali for this position (Sherzaman, 2007). Grand assembly of Afghan tribal leaders and elders, who sit together in an planned manner, discussed important national issues, and make joint decisions (Badakhshani, 2004). During the regime of Amir Habibullah Khan, the Loya Jirga held in 1916 proposed a decision which was against the wish of Amir. They gave a declaration of jihad against the British in defence of the Turkish Caliphate, associated to Germany. However, the Amir overruled the decision in the favour of the British India. Amanullah Khan was challenged by such a Jirga in 1924 for his Nizam-Nama [a constitution] (Faiz-zad, 1989). A Jirga was organized outside of Afghanistan for unavoidable reason of the fundamental security situation which held its first session in Peshawar, Pakistan from 11-12 May 1980 (Badakhshani, 2004).

Jirga as a Speedy Process of Decision Making:

In Pakistan, for legal system there are twofold options, that is formal legal system represented by formal "Courts of law" and informal legal system represented by "Jirga",. The natives believe that choosing among the two so as to guarantee justice on the premise of the framework's feasibility and decency. Adequacy, here, incorporates term, budgetary assets required, openness to individuals, and the effortlessness of re-engaging against uncalled for choices though; decency incorporates reliability in sheltered laws and debasement. Jirga give an extensive arrangement of equity when contrasted with official courtroom. The seniors approached consciously in Jirga to decide the issue of the clashing gatherings bearing each one of the overheads themselves, with a particular end goal to choose up favors of Allah. The sufferers don't have to acquire any cost to indicate their case to Jirga "as each individual has a right and duty under a full independent atmosphere.

The individual is free to society. If people want to solve their dispute in court, he shall arrange and stand all the operating cost. Address by inspecting the certainties of the debate, analyzing the witnesses, taking after an exhaustive dialog with the gatherings and coming up with a supportable solution. Justice through Jirga is a rapid procedure rather than official courtroom. (Braithwaite & Gohar, 2014).

Sandeman introduced the Jirga as an Institution

Sir, Robert Sandeman remained the Agent to Governor-General and Chief Commissioner in Balochistan from 1876 until his death in 1892 in Las Bela. British historiography acknowledges him as the "peaceful conqueror" of Balochistan (Redaellli, 1997) , because he successfully carried Mastung Treaty and Jacoabad Treaty; due to these, the British not only became the only mediator between Khan and its Sardars, but also the controller and power holder in the Khanate of Kalat. He began his career as an infantry soldier in the East India Company, where his father was already serving and retired from the rank of General. Due to his gracious services, he was offered "an honorary place in Punjab's Commission that he ultimately joined uncertainly in May 1859 as a gazette Assistant Commissioner in Punjab State" (Zaib, Dali, Zahoor, & Khan, 2021). He became acquainted with Baloch areas in 1866 when he was chosen as the District Officer of Dhera Ghazi Khan, where he offered

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conciliation to tribal disputes. He was sent on two missions to the Khanate of Kalat to deal with the Kalat affairs (Ahmad, Alam , Rahmat, Mubarik, & Hyder, 2022).

The Procedure of Jirga

There is no fixed procedure for conducting Jirga proceedings. It differs from case to case based on its nature, but certain customs and Riwaj are fundamental and non-volatile. For instance, the basic rule is that the parties, through mutual consent before consensus, refer the matter to Jirga and promise to accept Jirga's decision at any cost. Still, sometimes the Sardar may take observation of a case on the complaint of a single party. However, the procedure of Jirga resembles more mediation proceedings than a court. Following is the general and basic procedure of most Sarwan House Jirga (Irshad, Husaain, & Qureshi, 2021).

Proceedings begin with the consent of the members of the Jirga to accept its decision. Then the complainant, followed by the offender, existing their case along with arguments and evidence before the Jirga. If the Jirga cannot reach a decision based on the presented facts and evidence of the parties, it may employ its means of investigation to amass evidence. Mostly, the decisions are pronounced in a few hearings and sometimes in a single hearing where the case is not difficult" (Irshad et al., 2021).

RESEACH METHODOLOGY

Universe of the research study

The research study was restricted to union council Wari, tehsil wari district Dir upper. To get more reliable information the data was collected from different stakeholders related to different walks of life in research area.

Sample procedure and sample size

Sampling is process of selecting a sub-group or unit from a particular population from which data is collected. In this case we used simple random sampling procedure, where each and every person had equal opportunity of being selected. This study was limited to Uc, wari proper. Therefore a sample size of 80 respondents had been finally determined.

Tool of data collection

Interview schedule was used as a tool of data collection.

Conceptual framework

S.No	Independent variable	Dependent variable
1	Resolution of local disputes	Jirga system

Data analysis

SPSS software was used for data analysis and got percentage and frequency distribution.

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Perception of the respondents about Jirga

sno	Statement	Response		Total
		Yes	No	
1	You know about Jirga system.	80 (100%)		80 (100%)
2	Jirga system is popular in pukhtoon society.	80 (100%)		80 (100%)
3	Jirga system is honored in your locality.	74 (92.5%)	6 (7.5)	80 (100%)
4	Jirga system is stronger in rural area of pakistan.	70 (87.5%)	10 (12.5%)	80 (100%)
5	You are satisfied from the role of jirga members in your area.	58 (72.5%)	22 (27.5%)	80 (100%)
6	You are agree that jirga is neutral in the resolution of dispute.	53 (66.25)	27 (33.75%)	80 (100%)
7	Jirga members try to create unity among people.	66 (82.5)	14 (17.55%)	80 (100%)
8	Jirga system provides opportunity to the people to express their views freely.	71 (88.75)	9 (11.25%)	80 (100%)
9	The need of female members is mandatory in jirga system.	29 (36.25%)	51 (63.75)	80 (100%)
10	The jirga system mostly based on male members.	77 (96.25%)	3 (3.75%)	80 (100%)
11	Jirga system is more speedy in dispute resolution.	69 (86.25%)	11 (13.75%)	80 (100%)
12	Jirga system focus to protect the due rights of people in resolution of dispute.	59 (73.75%)	21 (26.25%)	80 (100%)
13	Jirga system plays more rapid and effective role as compare to other agencies.	64 (80%)	16 (20%)	80 (100%)
14	Jirga system is the need of society.	74	6	80 (100%)

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		(92.5)	(7.5)	
15	Jirga system is needed to make it stronger and effective.	76 (95%)	4 (5%)	80 (100%)

This table shows that among total 80 (100%) of the respondents, 80 (100%) the respondents agreed that they are knew about jirga system. 80 (100%) respondent were agree with statement that jirga system is popular in pukhtoon society. 70 (92.5%) the respondents were agree that jirga system is honored in their locality (7.5%) were disagree. 70 (87.5%) respondent were agreed that jirga system more stronger in rural area of Pakistan 12.5% were disagree. 58(72.5%) respondent agree were they are satisfied from the jirga system in their area 27.5% were disagree. 53 (66.25%) respondent agree that jirga is neutral in the resolution of disputes 33.75% were disagree. 66 (82.5%) respondent agreed that jirga members try to create unity among people 17.55% were disagree. 71 (88.75%) respondent agree that jirga system provides opportunity to the people to express their view freely 11.25% were disagree. 29 (36.25%) respondent agree that need of female members is mandatory in jirga system were 63.75% were disagree. 77 (96.25%) respondent agree that jirga system mostly based on male members were 3.75% were disagree. 69 (86.25%) respondent agree that jirga system is more speedy in dispute resolution 13.75% were disagree. 59 (73.75%) respondent agree that jirga system focus to protect the due rights of the people 26.25% were disagree. 64 (80%) respondent agree that jirga system plays more rapid and effective role as compare to other agencies were 20% were disagree. 74 (92.5%) respondent agree that jirga system is the need of society were 7.5% were disagree. 76 (95%) respondent agree that jirga system is needed to make it stronger and effective 5% were disagree.

Conclusion

A Jirga is the collection of people, leaders and experts that makes decisions according to the pakhtoon social code. Through jirga disputes of the people and settle down and they try to bring peace and order in society. In this regard research conclude that most of people knew about jirga system. Jirga system solve problems of any Kind of nature high in small problems like to solve family problems and tribal problem etc. furthermore it is concluded that jirga system plays positive role in dispute resolution it is more cheap economical , effective and rapid in nature. The members of jirga system take from local community which mostly is Khan and Malik of area. The decisions of jirga accept to both parties and local community. In the majority of cases the jirga system transmitted from generation to generation. In pakhtoon society local people of community respect the decision of jirga. When it's is based on justice merit it emphasis to protect the rights of weaker section of society. In many cases works for it also peace and social integration of the local people. The members of jirga system mostly based on male members. Educated people desire to include female members in jirga system as it is the need of modern society in order to address and highlight the problem face by the female section of society.

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Recommendations

Jirga system should be containing on members of good reputation.

The jirga members must be focused on impartially and neutrality while resolving local disputes.

Jirga members should be the group of intellectual people.

Jirga members should be comprised of the specialist and experienced people of their fields.

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