

PalArch's Journal of Archaeology
of Egypt / Egyptology

**THE ROLE OF JIRGA IN DISPUTE RESOLUTION IN DISTRICT
MARDAN, KHYBER PAKHTUNKHWA, PAKISTAN**

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In District Mardan, Khyber Pakhtunkhwa, Pakistan , Palarch's Journal Of Archaeology
Of Egypt/Egyptology 18(4). ISSN 1567-214x.**

Keywords: Jirga system, dispute resolution, informal justice, integration.

Abstract:

Jirga is an informal but exclusive institution existing in Pashtun society. Jirga is commonly used for settling the disputes related to both the private and the public space. It is preferred over the formal courts, as jirga is considered to be more effective and quicker dispute resolving body. The main intention for the research was to investigate the position of jirga in conflict resolution. The conceptual framework based on jirga considering it as a speedy process of decision making and a body of social integration, was independent variable while dependent variable was effectiveness of jirga as a dispute resolution body. The data was collected by scheduled interviews, from five villages- LundKhwar, Gul Maira, Mote Banda, ShahDend and Sadat baba. These villages were purposively selected from district Mardan. The sample size was 357 households, selected through stratified random sampling on the analogy design by the Sekaran (2003). The findings of the research indicate that Jirga is an effective body in delivering justice. It also provides the time to both the plaintiffs to present their case. The decision made by Jirga is based on sharia or the local customs. Factors, like social or financial status or the political power of any of the plaintiff, do not affect the verdicts made by the Jirga and is respected by the parties. Jirga is known as the executive legislative body in Pashtun Society. It is an effective way to attain cheap and speedy justice as compared to formal courts. Moreover, Jirga maintains social integration and social

order, restore harmony and peace in the society. Though sometimes Jirga violates human rights, Violation of human rights by Jirga, like practice of Swara, expulsion of offender should be replaced by the forfeits. Presence of the legal expert as member of Jirga committee should be mandatory.

Introduction:

Jirga is an informal but an exclusive institution existing in Pashtun social organization. Jirga, term in Pashto language meaning “circle”. (Islam & Faqir, 2013, p.2). It is quite hard to trace back the origin of practice of Jirga System in Pashtun history. Though, Jirga is as old as the Pashtun community. Different researchers have presented their own version of definition of “Jirga”. Jirga is defined as the group of members of exact subgroup of Pashtun, considering a matter of universal interests (Spain, 1973, p.2)

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 nationwide 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 implicitly 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 alleged by several sections of the Pashtun inhabitants (Carter et. al, 1989 & Glatzer,1998).

Types of Jirga:

Koranay or Shakhsi jirga:

It is an informal structure where the disputes within or among the families are resolved. The members of both parties 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 discussed. As both the parties present their thoughts, third party members of the jirga give their judgment (Yousufzai &Gohar, 2005, p.48).

Olas or Qami jirga:

It is an informal structure 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 from the people to listen and respect all the members of the jirga. The head of the jirga will be responsible for the decision and implementation of that decision (Yousufzai &Gohar 2005, p. 39). 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 indicate that it is the biggest kind of jirga, discussing and resolving inter-tribal issues. It is a platform where the most important matters 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, p.50)

The emergence of informal justice system:

Traditions and customs play an important part in the emergence of the informal justice system in Pashtun society. Most of the Pashtun population reside in the tribal areas of Pakistan. Among this tribal population, most of the Pashtuns are illiterate, poor and lack the basic knowledge about accessing the formal justice system. Consequently, these people are left with the only option to follow the traditional ways of dispute resolving, as its convenient for them thus giving rise to the informal justice system. Jirga. Moreover, facts and figures from earlier studies indicate that absence of any formal legal system in tribal areas gives place to Jirga system to fill the void in Pashtun society in world and especially in Pakistan. The informal justice system first traced in Afghanistan during the period of Mir Wais Hotak. Loya jirga was held, when the six tribes namely- Dahis, Parnis, Khilijis, Barach and Balochis- decided to gather to choose the ruler.

Moreover, the previous studies show that this event appear in history around 250 BC. The historians trace back history of Jirga in that period as there is no credible record to prove the exact nature and composition of Jirga. Hence, during the era of 1705, first grand Jirga appears in the history (Effendi,2001). Moreover, the previous studies show that this event appear in history around 250 BC. The historians trace back history of Jirga in that period as there is no credible record to prove the exact nature and composition of Jirga. Hence, during the era of 1705, first grand Jirga appears in the history. Similar kind of gatherings were also observed during the period of Ahmed Shah Durani 1747 and Amir Sher Ali Khan in 1886. In 20th century, it was practiced in Amir Habib Ullah Khan, 1915 (Vogelseng, 2008).

Jirga as a Body of Social Integration:

Bob-Manuel (2002) said that mediator’s role seemed to be very active during the Ndendeuli of Tanzania. Mediators present an agreement for solving the dispute and try to convince the plaintiffs to accept it. The arbitrators convince the parties by talking or singing, disgracing, and scorning. This technique is used where the arbitrators feel necessary and in cases where the reason of the quarrel is obvious. For changing the actions of agitators, through ritualized or regular discussions inconsiderate and the causes of conflicts conducts are place to disgrace, by

persons talented in poking entertainment on others, in funny habits. Comics, singers and so on, can here be of huge pressure.

To resolve issues that lead to conflict and to resolve those issues with peace at national level, the first step is communication as jirga is a body of social integration which bonds Pashtun society. This is how the Pashtun society is integrated and united. If normally the Afghans could keep communication and live with peace with one another, they will slowly escort to tolerance, accommodation, and respect for each other (Durkheim, 1964)

Every country has its own legal framework to go with the needs of local mass. In the modern era of rapidly industrialization, those interior systems have maintained social order and restore harmony in the communities. It is witnessed in the last fifty years that there are conflicts within countries and communities with prickly raise. The cause behind these conflicts is poor governance or no governance system. One may say that those systems are democratic but in real they are worse than autocratic, dictatorial, bureaucratic, imperial, and aristocratic, which leads to disturbances (Zada, 1998)

This type of interest related debate can improve obviously into the means of negotiating, that could be extremely efficient, but the informal discussion and negotiations do not guide to a suitable answer the original crisis, actual intervening should be used more properly. This procedure is, though, not one resulting from specialized official approval. The selection of mediators should be from within the society or community where the problem persists. The mediators should be the people who have a communal gratitude for their knowledge and honesty. More than one mediator should be required as often a mediator associated with one of the parties. Typically, a group consisting of small or large number of members, an existing committee or a council can resolve the raised issue (Brock-utne, 2001).

By discussing the issues, the elders can invite larger community to participate in the process. They can lead the discussion from one place to another and also can make a body with the approval of all leading men and having consistent representation from all the stake holders i.e., all the major groups usually have representation in the jirga. A group announced by the jirga which will keep debating on the issue publicly. The group members facilitate the debate and then mapping the arguments by drawing figures on the ground with a stick or with small stones. If they made the decision well and good if they fail then they postponed the session for the upcoming meetings (Spain, 1972).

Consequently, Ulasi Jirga is a get-together of the elders which consist of every household of the community or the village. In this type of jirga issues of property, rights and the allocation of irrigation water, or general worries, like identification of land for school, etc. After discussing the issues by the elders of the community, they call for the Ulasi Jirga. The announcement of the jirga is done by a Naqqara or band beat. They decide the time and venue for the jirga. The jirga ensures the rule of law in the area. Every person expresses his opinions, and every viewpoint is respectable. Jirga holds one or more than one session to take any decision. This jirga has a wider jurisdiction than any other. Jirga can take up any issue or dispute related to national or community (Younas, 1997).

One feature of the jirga is that of a judgment creating body for society level matters. Jirga can call for village level session regarding new issues. The jirga then arranges the people to address those circumstances, the jirga allocate responsibilities among the people and also supervises the execution of the communal employment of the society. As jirga is a well-

organized body, it supervises the whole execution. An example of such a situation is a jirga distributes responsibilities in the people to strengthen the riverbanks for the flood seasons. This kind of act organizes the community (Arthur, 1969).

Role of Mediator Not only in Africa but all over the world, the elders are respected and trustworthy mediators and this because of their vast knowledge and experience. Their roles depend on situations, civilization and characters, consequently. Their roles include influencing or forcing, provision of suggestions, giving appraisal, and so on. Actions used is facilitation, through illustrative available information, promotion of apparent statement, understanding point of views, shortening debates, focusing applicable standards or regulations, imagining the circumstances if harmony is not attained. The peacekeepers will stay inactive, as they are there to stand for significant communal principles. There is a prearranged model, so they change their roles according to the requirements. The intact approach is supple and active, as the whole debates are connected and is there is social influence (Ofuho, 1999).

It is a common practice that whenever there is a jirga, the jirga members sit in circle so that they communicate their messages easily. Jirga is a well-established body having no president, no secretary or any convener. There is no hierarchy in the jirga setup except the white beard elders having neat history and good record in the community. Every member of the jirga is free to express their views (Bangash, 2004).

Transparent decisions contribute to the integration of Pashtun society. Jirga is a local justice system of the community where the jirga members keeping in mind the local customs, values and traditions while giving its verdict. The involvement of local elders is essential because their aim is to keep the disputing parties away from fight and give a transparent decision which will contribute to the social integration of the community members (Wardak, 2006). In Pashtun society, Jirga is a strategy to address an issue in a deliberate way. The two parties communicate the issues with jirga. The verbal communication may or may not lead to any decision, but the process ensures peace. It means that jirga makes lasting peace in the community, as the interference of the jirga keeps both parties from clashes (Yousafzai and Gohar, 2012).

Jirga as a Speedy Process of Decision Making:

In Pakistan, for legal system there are two 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 vow equity on the premise of the framework's viability 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 deliberately 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 bear 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 tolerable solution. Justice through Jirga is a rapid procedure rather than official courtroom. (Braithwaite & Gohar, 2014)

It can be presumed that both Jirga framework and court framework are viable in their conduct where Jirga framework has the masters of being quick. Cases are resolved within few days only, while justices through the court system integrate is a longer process. Initially first investigation report should be enlisted at the law enforcement headquarters. Then, the police check on the registered first information report and document accuse sheet of the court so that the listening to procedure could begin. The procedure itself makes colossal time delays because of experiencing many stages of culmination and wants a significant assess of determination from both the gatherings seeking for fairness, Due to this incompetent and unhurried procedure "more than 2.5 million cases are awaiting in the courts at current" as conceded by the Chief Justice of Islamic Republic of Pakistan (CJP) Justice Iftikhar Mohammad Chaudhry. Moreover, approachability to this equality network next to the benefit to re-advance against crooked choices is in addition earth shattering in deciding their viability. Jirga is a structure, found in the areas of Khyber Pakhtunkhwa and Baluchistan, honed by the Pashtun clan, consequently, only reachable to Pushtun it was. Then again, there is a Supreme Court in Islamic Republic Pakistan, a high court in each territory and session courts are found all over the state. The courtroom is reachable to every person neglecting ethnicity irrespective of race and cast one allies to. Regarding re-appeal, in Jirga both the parties have to bear accept the decisions of Jirga leaders. Jirga made decisions based on sharia. Even that both of them believe that Jirga has not fulfilled the justice requirements for the most part can't re-claim for audit of their case and need to shoulder by the first choice complete by the Jirga members In court according to law on person can file petitions for reopening her or his case if she or he may perhaps verify that the original judgment was unreasonable individuals said that courts are too moderate, extensive and degenerate (Shinwari, 2016).

Individual believes that this Jirga- traditional justice system is better than formal legal system of justice. Usually, due to corruption in formal legal system, people of Pakistani lack trust in the judicial system. This lack of trust in formal legal system has damaged the rule of law and raised hostility counting crimes, terrorism, and the abuse of human rights. The formal judicial system is mostly on critics that justice is expensive, nontransparent, unjust and consumes much more time. It is also said that the system is biased and the rich and powerful are more powerful than justice system. This as a result provides people to accept the easy, cheap and on time justice. That is why the people of Pashtun community prefer the informal justice system of jirga. The jirga members are the elders and the respectable members of the host community, their white beards are taken as symbol of respect. This is the reason that members are not accused of, and do not take any kind of bribe (Gohar 2006).

Jirga is an informal structure where every member of the jirga has the right to express his viewpoints without reluctance. Jirga also provide equal opportunity to both disputing parties to narrate their views as jirga is an informal but an open assembly court. The jurisdiction of this kind of jirga is vast than any other kind of jirga or gathering. There are equal chances of expressing views for both parties and compliants (Yousafzai & Gohar, 2012).

Material and Methods:

The study was conducted in Union council Lund khwar in district Mardan, comprises of five purposively selected villages namely Lund khwar, Gul maira, Mote banda, shahdend and sadat baba. Pilot survey reports them as the areas which are traditional in many ways. Jirga is part and parcel of social life. All the decisions in one way or other mainly made through Jirga which is

purposely selected. According to the pilot survey there were 4908 households in the selected area. Keeping in view of human and financial resources constraints the data for the present study was collected from 357 households. The sample size has been drawn by keeping in view of the sampling procedure design by the Sekaran (2003). Interview schedule was designed to get the primary data in the light of objectives of the study. The collected data was analyzed through proper statistical technique. Besides this, frequency and percentage distribution of the data in the Uni-variate analysis was also carried out. In the second leg of the process, the Bi-variate analysis was carried out through cross tabulating the independent variable and dependent variable through the application of χ^2 statistics. A conceptual framework was plan and questions were asked accordingly from the respondents through interview schedule. The chi - square test was used to test the association between dependent and independent variable as per criteria mentioned by Sekaran (2003) in her book. Following statistical technique was adopted to calculate the chi-square.

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

Results and Discussions

Jirga is a Speedy Process of decision making and Effectiveness of Jirga in Dispute Resolution:

Table 1 disclosed that majority, 99.2% sampled respondents told Jirga is a speedy and quicker decision-making body than courts. These results are similar with the finding of Braithwaite and Gohar, (2014) that Justice through Jirga is a rapid procedure rather than official courtroom. Moreover, 92.2% sampled respondents said that Courts are expensive than jirga. These results are synonymous with the finding of Braithwaite and Gohar(2014) as there is threat of conflict between parties so the jirga arranges rapid meetings to stop the clashes. In a couple of meetings, the jirga decides the case. The jirga members themselves are of the opinion to solve the case as fast as possible. Jirga provide speedy justice than courtrooms.

Majority, 91.9% sampled respondents replied that Courts are slower than jirga. However, 5% sampled respondent's answer that courts are not slower than jirga. This outcome is matched with Shinwari (2016) who stated that, jirga decide the case in a few days, while the legal court system is a long procedure with wastage of a lot of money. The legal court system goes with the legal procedure and consumes time while the jirga system keeping the risk in mind decides the case in much less time than court system.

Majority, 48.2% sampled respondents responded to this question as "No" they said that there is more corruption in courts than jirga. However, 37.8% sampled respondents agreed with the idea and they said "Yes" to this question while 14% sampled respondents were unsure. Majority, 61.1% sampled respondents described that Decision in jirga are made on the basis of sharia while 17.9% sampled respondents answer that in jirga decision are not made on the basis of sharia and 21% sampled respondents were doubtful about the idea. The findings are in the line

with the results of Shinwari (2016) who said that jirga is a gift from the elder to its offspring. The procedure is based on the basis of sharia. It is the understanding of Muslim that it is the Islam which can guide us on the right path. The Quran guide us in taking decisions which are based on the equality and justice.

In the same way majority, 62.5% sampled respondents described that Jirga decision are fairer than courts. On the other hand, 21.3% sampled respondents disagreed to the proposed idea while the rest of 16.2% sampled respondents remained indecisive. The results are synonyms to Ali (2007) he said that people of Pashtun community are of the opinion that judicial system is expansive, unjust, and nontransparent while it also consumes more time. The informal justice system “Jirga” is respectable in all manners. Jirga consumes less time, no money requires, and the decision is fair and transparent.

Majority, 89.9% of respondents responded to this question as “Yes” they said that Equal chance is given in jirga to both parties, while 5.3% sampled respondents disagreed with the idea and they said “No” to this question while 4.8% sampled respondents were unsure. This outcome is bolstered by (Yousafzai, & Gohar, 2012). They stated that, Jirga provides equal opportunity to both parties to express their views and present their cases without any hesitation. Both the disputing parties’ feels free while presenting their mind views as the jirga members are from their community. On the other hand, court system also provides open expression of interest, but parties hesitate from free talks as they think that any loose or false talk can damage their cases. Additionally, Majority, 59.7% sampled respondents were disagreeing with the statement that taking bribes from the wealthy have been heard frequently in Jirga. However, 24.1% sampled respondents were agreeing with the idea while 16.2% sampled respondents were unsure about the idea. This outcome is very similar with Wardak (2007) who stated that the jirga members are the white beard elders from the community, which is a sign of respect, while the number of members of jirga also declines the experience that jirga members take bribes from the wealthy and powerful people. During surveying a lot of respondent said that it is an attempt to demoralize the jirga system.

Table: 1. Frequency and percentage distribution of Jirga a Speedy Process of decision making and Effectiveness of Jirga in Dispute Resolution

Statement	Agree	Disagree	Uncertain	Total
Jirga is speedy and quicker decision-making body than courts.	354(99.2)	3(.8)	0(0)	357(100)
Courts are expensive than jirga.	329(92.2)	8(2.2)	20(5.6)	357(100)
Courts are slower than jirga.	325(91.0)	18(5.0)	14(3.9)	357(100)
There is more corruption in courts than jirga.	135(37.8)	172(48.2)	50(14.0)	357(100)
Decision in jirga is made on the basis of sharia	218(61.1)	64(17.9)	75(21.0)	357(100)

Jirga decision are fairer than courts.	223(62.5)	76(21.3)	58(16.2)	357(100)
Equal chance is given in jirga to both parties.	321(89.9)	19(5.3)	17(4.8)	357(100)
Taking bribes from the wealthy have been heard frequently in Jirga.	86(24.1)	213(59.7)	58(16.2)	357(100)

*Values in the Table represent frequencies while values in the percentages represent percentage.

Jirga as a body of social integration and Effectiveness of Jirga in Dispute Resolution:

Table no 2 disclosed that majority, 88.2% sampled respondents described that Jirga is a body of social integration in Pashtun society while 2.0 % sampled respondents disagreed to the proposed idea and rest of 9.8% sampled respondents remained indecisive to the statement. The given results are matched to Durkheim (1964)repressive law which can be applied in this scenario; inPashtun society jirga is the key agent which integrates them in a bond. The Pashtuns are free to communicate with each other and live-in peace by tolerating and respecting each other. That is why jirga plays effective role in Pashtun society.

Majority, 77.3% sampled respondents responded to the question as “Yes” they said that Jirga maintains social order and restores harmony in the community,while 8.1% sampled respondents disagreed with the idea and they said “No” to the question and 14.6% sampled respondents were unsure to the idea. This outcome is very synonymous with Zada, (1998). In the modern world every country has developed its own legal framework to fulfill the needs of the masses. These framework and legal system unite the community and keep social order and restore harmony in the society.

Majority, 81.2% sampled respondents described that all major groups usually have representation in jirga. While 6.4% sampled respondents disagreed to the idea and 12.3% sampled respondents were doubtful. These results are similar with Spain (1972). According to him the participation of all stake holders is necessary in the jirga for inclusion of all members stance in the discussion. The presentation of all major groups in the jirga is a good sign of communal interest.

Majority, 46.2% sampled respondents answer to this question as “Yes” they said that Rule of law in the area is made through jirga while 21% sampled respondents disagreed with the idea and they said “No” to this question and 32.8% sampled respondents were unsure. This outcome is very synonymous with Younas (1997) who stated that Jirga is playing the role of agent that keeps the community order and social integration in the community members. Jirga is an informal institution; its proceeding made the rule of law in the community and at national level also.

Majority, 89.4% sampled respondents responded to this question as “Yes” they said that you consider jirga as a well-organized body. While 7% sampled respondent disagreed with the idea and they said “No” to this question and 3.6% sampled respondents were unsure. This outcome is very similar with Arthur (1969) who states that jirga plays some powers other than resolving disputes. Calling for village level sessions regarding new issues and distributing role and responsibilities is also seen in practice. Jirga in true sense is the leading group that supervises the execution in any situation.

Majority, 72.8% sampled respondents responded to this question as “Yes” they said that transparent decisions contribute to the integration of Pashtun society. However, 22.1% sampled

respondent disagreed with the idea and they said “No” to this question while 5% sampled respondents were unsure. This outcome is matched with Wardak (2006). Who stated that jirga integrates the community by its fair and transparent decisions? Making of decisions the local customs, values, traditions and sharia is put on front wall which helps in the transparency of decision making. That is why the transparent decision integrates the Pashtun community.

Moreover, 94.7% sampled respondents said that Jirga is a well-established body in their area. While 3.9% sampled respondents disagree with the statement and remaining 1.4% sampled respondents were unsure. The results were similar with the findings of Bangash (2004) who stated that jirga is well established body which unites the community in organized manners. i.e., instead of raising their voices from every corner of the community, both the disputing parties are led by the jirga and jirga after analyzing the situation produces its verdict.

Majority, 79% sampled respondents responded to this question as “Yes” they said that Jirga makes lasting peace in the area. However, 7.8% sampled told that jirga is not lasting peace in the community. While 13.2% sampled respondents were unsure. This outcome is matched with Yousafzai and Gohar (2012). Who stated that the provision of jirga verdict is purely based on the local traditions, values, and customs? The issue is handled in deliberate way by keeping regular communication with both disputing parties. Jirga keep the disputing parties away from clashes which results in long lasting peace.

Table: 2: Frequency and percentage distribution of Jirga is a body of social integration and Effectiveness of Jirga in Dispute Resolution

Statement	Agree	Disagree	Uncertain	Total
Jirga is a body of social integration in Pashtun society.	315(88.2)	7(2.0)	35(9.8)	357(100)
Jirga maintains social order and restores harmony in the community	276(77.3)	29(8.1)	52(14.6)	357(100)
All major groups usually have representation in jirga.	290(81.2)	23(6.4)	44(12.3)	357(100)
Rule of law in the area is made through jirga.	165(46.2)	75(21.0)	117(32.8)	357(100)
You consider Jirga as a well-organized body.	319(89.4)	25(7.0)	13(3.6)	357(100)
Transparent decisions contribute to the integration of Pashtun society.	260(72.8)	79(22.1)	18(5.0)	357(100)
Jirga is a well-established body in your area.	338(94.7)	14(3.9)	5(1.4)	357(100)
Jirga makes lasting peace in the area.	282(79.0)	28(7.8)	47(13.2)	357(100)

*Values in the Table represent frequencies while values in the percentages represent percentage.

General perception about effectiveness of Jirga as a Dispute Resolution Body:

Table 3 describes that Majority 95.8 % sampled respondents told that the jirga operation is carried out in democratic way. While 1.4% sampled respondents disagree with the statement and

remaining 2.8% sampled respondents were unsure. The results were synonymous with the findings of Carter and Connor (1989), who stated that jirga act in a democratic way. Both parties are free to express their views. Facts are analyzed and by joint consensus the verdict is finalized. After jirga disclose its verdict in front of both parties, both parties are free to accept or reject the jirga decision. The whole process is democratic in nature.

In Addition, Majority 91.9% sampled respondents replied that possible efforts are made to reach a fair solution to the problem in jirga while 5% sampled respondents disagree with the statement and 3.1% sampled respondents were unsure. These findings were in the line of Olsen (1995) who stated that the jirga members say that “we are Allah’s workers” it means that the jirga members’ work for the will of Allah. Their aim will be purely on the basis of sharia and the verdict should be on the basis of true justice. Jirga decision is fair and transparent.

Majority 73.1 % sampled respondents told that jirga provide protection to the poor and weak segment of society. While 23% sampled respondents disagree with the statement and remaining 3.9% sampled respondents were unsure. The results were matched with the findings of Bangash (2004) who stated that the framework of jirga provides the opportunity of cooperation of general population in controlling equity and ensure that equity that plainly done. It means everyone is equal in front of jirga. There is neither poor nor weak, no rich or political influential that affect the proceeding of jirga.

Moreover Majority 68.6 % sampled respondents said that Courts are disliked and avoided in Pashtun society. However, 22.7% sampled respondents stated that courts are not avoided in Pashtun society while 8.7% sampled respondents were unsure. The results were synonyms with the findings of Barfield (2006) who stated that due to wasting much more time and money than expectation, the Pashtun communities avoid court system. On the other hand, it takes time to prove once case while the jirga system is an easy one and the community members saves time and money.

Furthermore, 80.1 % sampled respondents were disagreed with the statement that Jirga fails to resolve disputes effectively While 11.2% sampled respondents agree with the statement and remaining 8.7% sampled respondents were unsure. The results were similar with the findings of Richel (1998) A big number of the Pashtun society disagreed with the statement that jirga failed to provide justice. The reason behind it is that it is the jirga which not only saves money of the poor people but also provide speedy justice having no personal interests. Furthermore, 84.6% sampled respondents told that Fair and public hearing is a key condition in jirga while 14.8% sampled respondents were disagreeing with this statement while 0.6% remained uncertain.

Moreover, 71.1 % sampled respondents said that Jirga also protect the basic rights of minority. However, 23.8% sampled respondents reply that jirga is not protecting the rights of minority. While the remaining 5% sampled respondents were unsure. These findings are in the line of Shinwari and Abubakar (2016) who stated that a number of people are of the opinion that jirga protect basic human rights of minorities. The inclusion of Sikhs and Christians members in the jirga of FATA illustrates the case. It means jirga not only protect the human rights of Muslims but also of the minorities.

Table: 3: Frequency and percentage distribution of Effectiveness of Jirga in Dispute Resolution

Statement	Agree	Disagree	Uncertain	Total
The jirga operation is carried out in democratic way.	342(95.8)	5(1.4)	10(2.8)	357(100)
Possible efforts are made to reach a fair solution to the problem in jirga	328(91.9)	18(5.0)	11(3.1)	357(100)
Provide protection to the poor and weak segment of society.	261(73.1)	82(23)	14(3.9)	357(100)
Courts are disliked and avoided in Pashtun society.	245(68.6)	81(22.7)	31(8.7)	357(100)
Jirga fails to resolve disputes effectively	40(11.2)	286(80.1)	31(8.7)	357(100)
Fair and public hearing is a key condition in jirga.	302(84.6)	53(14.8)	2(.6)	357(100)
Jirga also protect the basic rights of minority.	254(71.1)	85(23.8)	18(5.0)	357(100)

*Values in the Table represent frequencies while values in the percentages represent percentage.

Bi -Variant Analysis of Respondent:

Bi-variate analysis attempts to observe the association between dependent (Effectiveness of Jirga as a Dispute Resolution Body) and independent variable (Jirga as a Judicious Body, Jirga a Speedy Process of decision making, Jirga as body of social integration, Accessibility to Jirga) through cross tabulation (chi-square test). Discussion on each of the above variable with suitable reason is discussed below.

Association between Jirga is a Speedy Process of decision making with Effectiveness of Jirga as a Dispute Resolution Body:

Jirga is speedy and quicker decision-making body than courts were found, non-significant($p=0.230$) with Effectiveness of Jirga as a dispute resolution body. Moreover, Courts are expensive than jirga was found, non-significant ($p=0.092$) with Effectiveness of Jirga as a Dispute Resolution body. These results are similar with the finding of Braithwaite and Gohar (2014), if people want to solve their dispute in court, he shall arrange all the operating cost. Furthermore, a non-significant association ($p=0.033$) was found between Courts are slower than jirga with effectiveness of Jirga as a dispute resolution body.

A highly significant association ($p=0.000$) was found between “There is more corruption in courts than jirga” and “Effectiveness of Jirga as a dispute resolution body.” This outcome is very similar with Shinwari (2016) which states that individuals said that courts are too moderate, extensive, and degenerate.

Moreover, Decisions in jirga are made based on sharia was found highly significant association ($p=0.000$) with Effectiveness of Jirga as a Dispute Resolution body. These results are similar with Shinwari (2016) which clearly mention that Jirga made decisions based on sharia.

Jirga decisions are fairer than courts were found highly significant association ($p=0.000$) with Effectiveness of Jirga as a Dispute Resolution body. The given results are very similar to Shah (2007) results which also say that Individual thinks that traditional justice system is better than moderated system of justice.

Furthermore, a significant association ($p= 0.033$) was found between Equal chance is given in jirga to both parties and effectiveness of Jirga as a dispute resolution body. This outcome is very similar with the results of Yousufzai and Gohar (2012). Who stated that there are equal chances of expressing views to both parties?

Taking bribes from the wealthy have been heard frequently in Jirga was found highly significant ($p=0.000$) with effectiveness of Jirga as a dispute resolution body. This outcome is very similar with Shah (2007) who stated that, the jirga members are the elders of the host community and their white beard is a sign of respect that is why the members of Jirga do not take bribe.

Table: 4: Association between Jirga is a Speedy Process of decision making and Effectiveness of Jirga as a Dispute Resolution Body

S. No	Statement	DV			Statistics
		Yes	No	Uncertain	
1	Jirga is a speedy and quicker decision-making body than courts.				P=2.940 (0.230)
	Yes	234(65.5)	86(24.1)	34(9.5)	
	No	1(0.3)	2(0.6)	0(0)	
	Uncertain				
2	Courts are expensive than jirga.				P=7.979 (0.092)
	Yes	216(60.5)	84(23.5)	29(8.1)	
	No	7(2.0)	1(0.3)	0(0)	
	Uncertain	12(3.4)	3(0.8)	5(1.4)	
3	Courts are slower than jirga.				P=10.477 (0.033)
	Yes	219(61.3)	73(20.4)	33(9.2)	
	No	9(2.5)	9(2.5)	0(0)	
	Uncertain	7(2.0)	6(1.7)	1(0.3)	
4	There is more corruption in courts than jirga.				P=44.702 (0.000)
	Yes	114(31.9)	19(5.3)	2(0.6)	
	No	88(24.6)	54(15.1)	30(8.4)	
	Uncertain	33(9.2)	15(4.2)	2(0.6)	
5	Decisions in jirga are made on the basis of sharia.				P=80.609 (0.000)
	Yes	169(47.3)	46(12.9)	3(0.8)	
	No	21(5.9)	20(5.6)	23(6.4)	
	Uncertain	45(12.6)	22(6.2)	8(2.2)	
6	Jirga decisions are fairer than courts.				
	Yes	178(49.9)	41(11.5)	4(1.1)	

	No	24(6.7)	26(7.3)	26(7.3)	P=93.434 (0.000)
	Uncertain	33(9.2)	21(5.9)	4(1.1)	
7	Equal chance is given in jirga to both parties.				
	Yes	220(61.6)	71(19.9)	30(8.4)	P=20.564 (0.000)
	No	4(1.1)	11(3.1)	4(1.1)	
	Uncertain	11(3.1)	6(1.7)	0(0)	
8	Taking bribes from the wealthy have been heard frequently in Jirga.				
	Yes	23(6.4)	32(9.0)	31(8.7)	P=1.191 (0.000)
	No	166(46.5)	46(12.9)	0(0)	
	Uncertain	45(12.6)	10(2.8)	3(0.8)	

*In the table the figures show frequencies, the figures in parenthesis shows the percentage and in the last of the table represent the chi-square value.

Association between Jirga is a body of social integration with Effectiveness of Jirga as a Dispute Resolution Body:

Moreover, a highly significant association ($p=0.000$) was found between Jirga is a body of social integration in Pashtun society with effectiveness of Jirga as a dispute resolution body the results are very similar to the solidarity and integration of Durkheim, 1984.

Jirga maintains social order and restores harmony in the community was found highly significant association ($p=0.000$) with effectiveness of Jirga as a dispute resolution body. This outcome is very similar with Zada who states that jirga systems have maintained social order and restore harmony in the communities.

Furthermore, a highly significant association ($p= 0.000$) was found between All major groups usually have representation in jirga with effectiveness of Jirga as a dispute resolution body. The results are similar with Spain, (1972). which clearly mentions that all the major groups usually have representation in the jirga.

In addition, a highly significant association ($p=0.000$) was found between Rule of law in the area is made through jirga with effectiveness of Jirga as a dispute resolution body. The outcome is very similar with Younas (1997) who stated that the jirga ensures the rule of law in the area.

Moreover, you consider jirga as a well-organized body was found highly significant association ($p=0.000$) with effectiveness of Jirga as a dispute resolution body. This outcome is very similar with Arthur (1969) who states that jirga is a well-organized body, it supervises the whole execution.

Transparent decisions contribute to the integration of Pashtun society was found highly significant association ($p=0.000$) with effectiveness of Jirga as a dispute resolution body. The outcome is very similar with Wardak (2006) who stated that transparent decisions which will contribute in the social integration of the community members.

Jirga is a well-established body in your area was found highly significant association ($p=0.000$) with Effectiveness of Jirga as a Dispute Resolution body. The results were similar with the findings of Bangash (2004) who stated that Jirga is a well-established body.

In addition, a highly significant association ($p=0.000$) was found between Jirga makes lasting peace in the area with effectiveness of Jirga as a dispute resolution body. The outcome is very similar with Yousafzai and Gohar (2012). Who stated that jirga makes lasting peace in the community?

Table No 5: Association between Jirga a body of social integration with Effectiveness of Jirga as a Dispute Resolution Body:

S. No	Statement	DV			Statistics
		Yes	No	Uncertain	
1	Jirga is a body of social integration in Pashtun society.				P=75.848 (0.000)
	Yes	223(62.5)	76(21.3)	16(4.5)	
	No	2(0.6)	4(1.1)	1(0.3)	
	Uncertain	10(2.8)	8(2.2)	17(4.8)	
2	Jirga maintains social order and restores harmony in the community.				P=91.810 (0.000)
	Yes	209(58.5)	60(16.8)	7(2.0)	
	No	5(1.4)	15(4.2)	9(2.5)	
	Uncertain	21(5.9)	13(3.6)	18(5.0)	
3	All major groups usually have representation in jirga.				P=1.790 (0.000)
	Yes	223(62.5)	66(18.5)	1(0.3)	
	No	3(0.8)	5(1.4)	15(4.2)	
	Uncertain	9(2.5)	17(4.8)	18(5.0)	
4	Rule of law in the area is made through jirga.				P=1.252 (0.000)
	Yes	135(37.8)	29(8.1)	1(0.3)	
	No	19(5.3)	26(7.3)	30(8.4)	
	Uncertain	81(22.7)	33(9.2)	3(0.8)	
5	You consider jirga as a well-organized body.				P=58.301 (0.000)
	Yes	229(64.1)	69(19.3)	21(5.9)	
	No	6(1.7)	12(3.4)	7(2.0)	
	Uncertain	0(0)	7(2.0)	6(1.7)	
6	Transparent decisions contribute in the integration of Pashtun society.				P=1.427 (0.000)
	Yes	209(58.5)	48(13.4)	3(0.8)	
	No	18(5.0)	30(8.4)	31(8.7)	
	Uncertain	8(2.2)	10(2.8)	0(0)	
7	Jirga is a well-established body in your area.				P=21.185 (0.000)
	Yes	231(64.7)	76(21.3)	31(8.7)	
	No	2(0.6)	9(2.5)	3(0.8)	
	Uncertain	2(0.6)	3(0.8)	0(0)	
8	Jirga makes lasting peace in the area.				P=81.614 (0.000)
	Yes	212(59.4)	54(15.1)	16(4.5)	
	No	3(0.8)	12(3.4)	13(3.6)	
	Uncertain	20(5.6)	22(6.2)	5(1.4)	

*In the table the figures show frequencies, the figures in parenthesis shows the percentage and in the last of the table represent the chi-square value.

Conclusion:

The findings of the research shows that Jirga is preferred and considered to be source of cheap, speedy justice. Jirga also gives chance to both the plaintiffs to present their viewpoint and the judgments by Jirga are made on the basis of sharia law and local traditions. The factors like financial or the social status, of either of the plaintiff, do not affect the decision by Jirga. All the members and the compliant respect and obey the verdicts of Jirga. It is much respected legislative institution of the Pashtun society. Moreover, jirga is source of speedy and cheaper justice as compared to the formal legal system. as courts are expensive than jirga. Formal legal system like courts is said to be more corrupt, whereas verdicts by Jirga are taken as fairer than court, Jirga is also source of social integration, maintains social order, rule of law restore harmony and peace in the community. Jirga is easily accessible to all community members and its members take Waak [Authority] from plaintiffs; its decisions are acceptable to all parties. Though, in some cases jirga violates human rights.

In terms of changing structure of jirga in modern times raise some questions. How the structure is changing and what are the possibilities of jirga in future are some of the gaps which need to be filled. Moreover, Jirga provides protection to the poor and weaker marginalized segment of society. In traditional Pashtun society courts are disliked and avoided. Jirga provides protection to minority in terms of basic rights.

References:

- Effendi, Yayha. (2001, December 14). Afghan pre-loyal jirga complexities: Afghan pre loya jirga. Dawn. <https://reliefweb.int/report/afghanistan/afghan-pre-loya-jirga-complexities>
- Arthur, W. (1969). North-West Frontier. Hutchinson & Co. (publisher) limited.
- Bangash, M. (2004). Speedy Justice of Elders: What is not decided in the Jirga will be decided by Bloodshed. http://www.khyber.org/culture/a/JirgaSpeedy_Justice_of_Elde.shtml
- Barfield, T. (2006). Informal dispute resolution and the formal legal system in contemporary northern Afghanistan. Washington, DC. USIP.
- Bob-Manuel, I. (2000). A cultural approach to conflict transformation: an African traditional experience. [Term Paper], Written for the course: Culture of Peace and Education. European Peace University Stadtschlaining, Austria.
- Braithwaite, J. and Gohar, A. (2014). Restorative justice, policing, and insurgency: Learning from Pakistan. Law & Society Review. 48(3), 531-561.
- Brock-Utne, B. (2001, February). Indigenous conflict resolution in Africa. [Paper presentation]. In weekend seminar on indigenous solutions to conflicts (pp. 23-24).
- Carter, L., & Connor, K. (1989). A preliminary investigation of contemporary Afghan councils. Peshawar. ACBAR.
- Farhad, Shinwari. and Abubakar, S. (2016). Religious Minorities Granted Rights, Recognition. In Pakistan Tribal Areas. <https://gandhara.rferl.org/a/pakistan-tribal-areas-minorities/27855704.html>

Glatzer, B. (1998). Is Afghanistan on the brink of ethnic and tribal disintegration? In William Maley (Eds.), *Fundamentalism reborn? Afghanistan and the Taliban*. (pp.167-181). Hurst & Company.

Islam, Fakhar-ul, & Khan, Faqir. (2013). Jirga conflict resolution institution in Pakhtoon society. *Gomal University Journal Research* 1(29), 1-9.

Ofuho, C.H. (1999, November). Community conflict resolution and reconciliation in the Kidepos Valley of Eastern Equatoria, South Sudan: Some lessons from grassroots practices of peacemaking. [Paper presentation]. In *All-Africa Conference on African Principles of Conflict Resolution and Reconciliation*.

Olsen, A. (1995). *Islam and Politics in Afghanistan*. Curzon: Surrey.

Reichel, P. (1998). *Comparative Criminal Justice Systems*. Prentice -Hall: New York.

Shinwari, N.A., & Gauhar, N.A. (2013). Understanding justice system of Khyber Pakhtunkhwa, FATA and Balochistan. The pakhtun perspective. *Community Appraisal & Motivation Programme (CAMP)*.

Spain, J.W. (1972). *The way of the Pathans*. Oxford University Press.

Spain, James William. (1973). *The way of Pathan*. (pp.80-87). Oxford University Press.

Shah, Syed Wiqar Ali. (2007). *History and Politics*. Islamabad: National Institute of Historical and Cultural Research.

Durkheim, E. (1964. 1893). *The Division of Labor in Society*. New York: The Free Press.

Vogelsang, William. (2008). *The Afghan*. (5th ed.). (pp.65-75). Willey Blackwell Peshawar.

Wardak, A. (2006). Structures of Authority and Local Dispute Settlement in Afghanistan, in Albrecht H.-J. ed. *Conflicts and Conflict Resolution in Middle Eastern Societies: Between Tradition and Modernity*. Berlin: Duncker & Humblot.

Younas, S. Fida (1997). *Afghanistan: Jirgas & Loya Jirgas, the Afghan Traditions, 977 A.D. to 1992 A.D.* The Aays Software Consultant and Composers. Near Darul Alum. Rahatabad. Peshawar.

Yousfzai, H. Mehmood and Ali Gohar. (2005). *Towards understanding Pakhtoon jirga. Just peace international university of Peshawar. (1st edition):55.*

Yousufzai, H.M. and Gohar, A. (2012). *Towards Understanding Pashtun Jirga: An Indigenous Way of Peacebuilding [i.e., Peacebuilding] and More*. Sang-e-Meel Publications.

Zada, M. (1998). *The Role of Afghan Jirga in Law Making*. [PhD thesis, Faculty of Law University of Peshawar.