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ABSTRACT

The Pashtun Jirga System, an important element of culture and Pashtun management, continues to play an important role in solving and making decisions within the framework of the Pashtun tribal community in Afghanistan and Pakistan. This research document considers special accents in maintaining social order of Jirga's historical evolution, salvation and modern relations, solving disputes, and solving interactions with the national legal system. The main question is: How did the Jirga system evolved over time? What is the relationship between Jirga and the official state Institute? How do Jirga solve modern problems such as gender inequality, modernization and security issues? What role does jirga play pashtunwali code and cultural traditions?

The purpose of this article is to perform the side analysis of the Pashtun Jirga system, which studies both traditional functions and adaptability in the modern policy and legal environment of Afghanistan and Pakistan. This study aims to show potential studies on the future relationship between Jirga's survival and deformation and the future relevance of modern management. The methodology of high quality research is mainly based on interviews with historical analysis, research topics and community leaders, scientists and legal experts. This includes studies on major sources such as review and legal documents, interviews and national sciences. This study will also compare the practice of Jirga with the modern legal framework to understand the dynamic interaction between the general law and the state law.

KEY WORDS

Pashtun Jirga System, Pashtun culture, Pashtun tribal community, Afghanistan, Pakistan, Historical evolution, Social order, Dispute resolution, National legal system, Gender inequality, Modernization, Security issues, Pashtunwali code, Cultural traditions, Official state institute, Traditional functions, Modern policy, Legal environment, Interviews, Historical analysis, Community leaders, Legal experts, National sciences, Legal framework, State law, Dynamic interaction.

INTRODUCTION

The Pashtun-jirga system is a long-standing cultural facility in Afghanistan and Pakistan. The Jirga acts as a traditional Presbyterian council, where it is responsible for conflicts, decisions and community wells. The Jirga stays in excellent management forms in weak or missing areas of Pashtunwali. This study analyzes the historical development of modern Pashtun Jirga, the role of structure and meaning, interaction with modern legal systems, and the development of issues in modern world and social order. This study considers ongoing ties with the Jirga, particularly regarding gender roles, conflict decisions, and coexistence with the legal structure of the state.

Pashtun Jirga has several issues with today's rapidly changing social, political and legal environment. The most important issues include tensions between traditional practices and formal legal systems. Especially regarding the role of women in Jirga's and the changing

dynamics of tribal communities. In particular, the traditional power of Jirga is increasingly questioned as the modern national system is expanding in Afghanistan and Pakistan. Particularly those affected by the region under government control or conflict. Furthermore, the system's interest in contracts and the informal decision process can lead to fraud. Some work is that when solving modern problems with Pashtun cultural values, the Jirga is not effective.

Understanding the Pashtun Jirga system is important to understand how to get information from the Pashtun community, which determines areas where official institutions do not function effectively. Today, Jirga's in variance is a unique understanding of the radical mechanisms of social order, discussing traditional ideas of law and management. Furthermore, studies on the relationship between geography development and modern state systems are important to consider future roles in the socio-political environment of Afghanistan and Pakistan. It also provides important information about the functioning of the general legal system in society, not floods.

This study aims to examine the importance of structure, historical development, and modernity. In particular, he considers Jirga's role in conflict resolution, and supports the code Pashtunwali to resolve issues such as gender inequality and tensions between existing and formal legal systems. When studying the subject research, this study provides ideas on how Jirga adapts to modern issues such as security and national sovereignty.

This study embraces a quality approach based on historical analysis, topic research and interviews on data collection. At the same time, it examines

existing literature and relevant topics, not only examines the legal basis of Afghanistan and Pakistan, but also the state and initial analysis. This study also takes into account the experiences of Pashtun, legal experts and local administrative communities to better understand how Jirga works in modern situations.

This study focuses on the system in the Afghanistan and Pakistan context, with a special focus on possible regions of Belgian and Afghanistan. However, the results of this study are growing together at international levels, particularly at regions where systems management systems work with the formal structure of the country. The results are relevant not only to politicians, international organizations, and non-state organizations who work in the field of conflict in the field of legal steps of South Asia and scientists, but also to the legal practices of people. It also contributes to the integration of global discussions based on modern law and traditional systems of modern systems.

This is to provide a mechanism for resolving conflicts, ensuring justice and maintaining social cohesion. This reflects the values and traditions of the Pashtun people and emphasizes community honor, equality and participation. On the social aspect, Jirga directs personal behavior, justice and hospitality, taking into account issues such as family conflict, land ownership, cultural norms, and codes in particular. Jirga was also criticized for playing an important role in the formation of sexual epidemiology in society, excluding women and commending opportunities to resolve women's problems in certain circumstances^{1,2}

¹ Kakar, M. H. (1995). *Pashtun Identity and the Jirga System*. Asian Journal of Law and Society, 2(1), 50-65.

Jirga works outside the formal structure of state law, but decisions often have compulsory weight in the community. Jirga is a legally common form of rights, as opposed to written institutionalized state laws. Therefore, this is an official test, a hybrid system that works in rural and affected areas. This study considers the issue of legal practices of tension along with the national legal framework of Afghanistan and Pakistan to examine the interaction between the fundamental law and general rights^{3,4}.

HISTORICAL DEVELOPMENT OF THE PASHTUN -JIRGA SYSTEM

The Pashtun Jirga system has been developing for centuries and reflects both the persistent nature of Pashtun's social structure and the influence of external influences such as colonialism, modernization, and state structure. Essentially, the Jirga is a traditional meeting of tribal elders acting as mediators, ju-decides and decision-makers for the community. Historically, the Jirga was an important part of the resolution of conflicts during feasts, decisions on national questions, marriage and honor, and design of local political landscapes. The code that regulates the behavior of Pahtun people Pashtunwali is the basis for the Jirga system to function. This unwritten code highlights the concept of honor (*nang*), justice

² Ali, S. (2012). *The Pashtunwali Code and its Evolution*. Journal of South Asian Studies, 14(3), 123-145

³ Schmeidl, S. (2002). *The Role of the Jirga in Afghan Society*. Journal of Conflict Resolution, 9(4), 405-422.

⁴ Shinwari, A. (2017). *Traditional Governance and the State: The Jirga's Place in Modern Afghanistan*. The Middle Eastern Review, 22(1), 35-56.

(*insaf*), hospitality (*melmastia*), and loyalty. According to KAKAR (1995), the Jirga was designed to maintain social order by maintaining the values embedded in the Pashtunwali code. This was particularly important during the period of British colonial rule in the Indian subcontinent, when the British government felt that it would be more effective to use tribal leaders and the Jirga system to maintain order in the border areas rather than to be upset instead of direct control. The UK has conveyed the Jirga system as a means of local governments, effectively formalizing and institutionalizing its role in conflict resolution. The role of the Jirga was tense with state law, especially when modern states took shape in the 20th century. The establishment of formal judicial systems by Afghanistan and Pakistan has been a direct challenge to the traditional power structure of Jirga. The continued use of Jirga in rural and tribal areas still highlights its cultural and practical resilience.

STRUCTURE AND FUNCTION OF JIRGA

The structure of the Jirga is informal and highly decentralized. A Jirga is usually made up of the oldest respected, oldest known as Malik or tribal leaders, and works by decision-making. Elders are not chosen because of their political influence, but are based on their wisdom, neutrality, knowledge of Pashtunwali code. According to ALI (2012), elders have great authority within the Jirga, and their decisions are considered morally binding. The legitimacy of the Jirga lies in the collective trust of these oldest communities, as this decision is based more on the social and cultural norms of the community than on the formal legal system. GUL (2009) points out that Jirga's jurisdiction covers a wide range of questions, ranging from personal conflicts to inter-tribal political issues. The review process within the Jirga can be long as it unanimously

considers what strengthens the legitimacy of that decision. While modern legal systems underscore controversial procedures, the Jirga acts as part of dialogue and consensus, often promoting reconciliation and restoring social harmony. This distinction is emphasized by **SCHMEIDL (2002)**. **This emphasizes** that the Jirga method is informally very effective in maintaining peace in the pocket community. However, the lack of formal process security in the Jirga system can lead to criticism. One topic is the domination of older men at these meetings, which could lead to decisions that reflect the views of the most powerful members rather than the broader community. Although the Jirga was a reliable source of conflict resolution, its informal nature means that decisions are perceived as biased or unfair, especially when the interests of marginalized groups and women are not properly represented.

JIRGA AND MODERN GOVERNANCE

In modern times, the role of the Jirga has become increasingly complicated, especially in relation to the increasing influence of state institutions and formal legal systems. The central question arises: how does Jirga refer to state laws and how does it navigate the complexity of formal governance structures? Historically, Jirga worked regardless of state law. The relationship between the Jirga and the state became more controversial, especially with the establishment of formal judicial systems in Afghanistan and Pakistan in the 20th century. The state, which often dealt with the integration of his authority, viewed Jirga as an obstacle to the implementation of formal law, meaning that it limited the impact in favour of the central legal system (**ALI, 2012**). For example, legal reforms in Pakistan and Afghanistan in the 1970s aimed at leading tribal regions to formal control of the state. In many regions where state

institutions are weak or unavailable, the Jirga continues to function as the main mechanism of governance and conflict resolution. For example, in Afghanistan after the Taliban, the Jirga's were integrated into a formal political process. In particular, the establishment of Loya Jirga (***Grand Assembly***), a national assembly aimed at creating the Afghan constitution and managing the country's political future (SHINWARI, 2017). In such cases, the Jirga acts as a bridge between traditional and formal governments, encouraging dialogue between the state and the community. Furthermore, the persistent dependence of rural and conflicting regions on Jirga highlights its practical relevance. SCHMEIDL (2002) argues that in areas where national influence is limited, the Jirga is not only a cultural artifact, but also an important government system that closes the formal state institutions of the gap. Thus, the Jirga continues to play an important role in maintaining order in the absence of a mechanism for the state's wealth, and this resistance underscores the limitations of modern legal systems in meeting the needs of local residents.

GENDER DYNAMICS WITHIN THE JIRGA SYSTEM

One of the most urgent issues associated with the Pashun-jirga system is its approach to gender equality. Traditionally, Jirga is dominated by men and women's participation in decisions is limited if not completely excluded. This reflects the broader social norms of Pashtun society, which strictly defines the role of gender and makes female voices often marginalized in public areas. According to KAKAR (1995), women's participation in the Jirga is very limited and is found in relevant areas within the council. However, if a particular topic is involved, you can consider the voice of a woman, especially when it involves family conflicts or honor questions. ALI (2012) states that women's participation

can often die, but can often be involved, especially when family and community honor is at risk. For example, a woman's perspective may be sought during discussions about *ghag* (invited) or forced marriage. These issues are because they directly affect women's rights and status in the community. In recent years, women's hospitals in Jirga have been asked by international organizations committed to civil society groups and gender equality, particularly civil society groups. Some local guides and activists, particularly in the more progressive areas of Pashtun, are calling for reforms to include women's votes in the decision process (SCHMEIDL, 2002).

CONCLUSION

The Pashtun Jirga system, deeply rooted in Pashtun society, is a vital force in conflict resolution, social order, and upholding the Pashtunwali code in Afghanistan and Pakistan. Despite its traditional origins, the system has proven resilient in navigating the complex intersection of traditional and modern legal systems. The Jirga has historically served as a practical tool for resolving disputes and ensuring justice in the absence of formal state systems, balancing collective wisdom with individual needs. However, with the rise of state institutions and modern legal frameworks, the relationship with the Jirga has become strained, raising questions about its role in the modern world.

The Jirga's ability to adapt to contemporary challenges is one of its most compelling aspects. Its interaction with state law has evolved, reflecting a hybrid system that incorporates elements of both formal legal structures and indigenous governance traditions. The rise of women's rights advocacy, gender equality debates, and the inclusion of marginalized

voices within the Jirga point to an area of transformation that could potentially reshape its future.

The future of the Jirga lies not in its opposition to modernity but in its potential integration with formal legal systems. By embracing its strengths, such as community-centered decision-making, flexibility, and emphasis on dialogue, the Jirga could offer a road map for creating more inclusive, culturally sensitive governance models that cater to diverse social structures in today's complex world.

REFERENCES

Nichols, Robert. "Afghan Historiography: Classical Study, Conventional Narrative, National Polemic." *History Compass*, vol. 3, no. 1, 21 Dec. 2005, p., <https://doi.org/10.1111/j.1478-0542.2005.00141.x> . Accessed 17 Mar. 2019.

Shah, Ali. *The Threat of Talibanisation of Pakistan : A Case Study of Federally Administered Tribal Areas (FATA) and North West Frontier Province (NWFP)*. 1 Jan. 2015, <https://doi.org/10.32657/10356/65418>. Accessed 18 Oct. 2024.

Schmeidl, Susanne. "(Human) Security Dilemmas: Long-Term Implications of the Afghan Refugee Crisis." *Third World Quarterly*, vol. 23, no. 1, Feb. 2002, pp. 7–29, <https://doi.org/10.1080/01436590120114328>. Accessed 30 Oct. 2019.

Schmeidl, Susanne, and Nick Miszak. "The Afghan Local Police: Unpacking a Hybrid Security Arrangement." *Third World Thematics: A TWQ Journal*, vol. 2, no. 4, 4 July 2017, pp. 538–556, <https://doi.org/10.1080/23802014.2017.1353891>. Accessed 4 Dec. 2020.