

Changing Conflict Resolution Mechanisms Among Pashtuns

(A Study of Tarnab Village, District Peshawar)



By

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Department of Anthropology Quaid -i- Azam

University Islamabad, Pakistan

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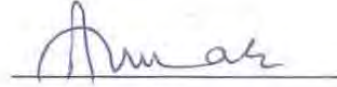
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Final Approval of Thesis

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FORMAL DECLARATION

I, hereby, declare that this research is produced by me without anyone's assistance except those mentioned herein. Any third-party sources or ideas taken directly or indirectly have been mentioned as such. This work has not been published or submitted to any other examination board. I am completely accountable for the contents of this thesis and only I have its copyrights.

Islamabad, 2021.

Muhammad Wasim Ahmad

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Abstract

This study explores an ongoing change in Pashtun speaking society. This change is primarily concerned with the decision making process while settling down disputes that may arise due to many reasons. Disputes arise within a community and it is very normal. History of disputes is as old as man himself. Man has always found some ways to tackle the difference of opinion resulting in disputes and conflicts. The ways that man has found for solving disputes fall into two broad categories, one of which is the peaceful resolution of conflicts and the other is violent resolution of conflicts. Each of the mentioned ways has been tried in different times.

The research is basically concerned with Pashtun speaking people. Pashtuns are mainly known for being very traditional in nature and are famous all over the world for following their customs and traditions. Jirga is one such old customary institution which is used by Pashtun community for solving out disputes among them. With the passage of time Pashtun people are shifting towards another way for solving out their disputes and that way is by following Alternate Dispute Resolution ADR. DRC is one such tool used under ADR in Pakistan and mainly in Pashtun belt of Pakistan. This research focuses on why people are moving away from the traditional and customary way Jirga.

The research has used different tools for data collection that are face to face interviews, audio recording of the interviews, group discussions, key respondent interviews etc. The data collected through above mentioned methods came up with facts and figures worthy of mentioning. There is clear conflict between what the literature review has revealed and what actually is happening on surface level.

The differences that were identified at the end of data analysis suggests that there is a misperception among people for understanding the behavior of Pashtun towards dispute solving have changed. Why have they changed is discussed in detail by the data that is gathered from the respondents.

The locale selected for the purpose of research was village of Tarnab located on GT road. It is located near GT road. On one side of Tarnab is Noshera district and on the other side is Peshawar. Both cities lie at a distance of 14 kilometers from Tarnab. The locale was chosen for the purpose of research because Tarnab is one of the notable places near Peshawar and Noshera and it has retained its original identity to quite a good level. People of Tarnab are traditional in nature. Everybody whether they are educated or not, living in joint family system or not, agriculturist or businessman, they each have a high regard for their cultural values. As this research aimed at finding why people are moving away from the traditional and cultural institution of Jirga and demand of the research area was to be traditional in nature, Tarnab was viewed as a suitable location for data collection.

The findings of the research concluded that people are finding it hard to regard Jirga as an old institution for finding a solution for their disputes. People still have high regard for the old and customary ways and feel proud to be known as Pashtuns yet they need a solution that is more reliable, just in nature, verified by the government and is in line with the international standards for human rights and dispute resolution. The literature suggested that Jirga is the most trusted and preferable dispute solving institution among the Pashtuns and that they prefer not to share their disputes outside the local community. It is generally believed among the Pashtuns that Jirga is suitable and sufficient and that they trust it in order to find solutions to their problems or disputes. The decision given by Jirga is highly valued and followed among the Pashtuns and that they consider it a disrespect not to follow the decision of Jirga even if the decision given is against a party who thinks they deserve justice.

The analysis of data suggested that people are moving toward DRCs for dispute resolution. It is not to say that people have abandoned the old institute of Pashtuns. Jirga still holds value among Pashtuns. People are showing trust in the decisions that are given by the DRC. DRC is in a position to enforce its decisions while remaining neutral or unbiased. An important finding was that people have

pointed out that DRC is in accordance with the laws of the country and is established by the government as a legitimate body who can exercise powers issued by the competent authority under its given jurisdictions. DRC was found to be active in dealing with cases and taking steps towards peace building.

Change in Pashtun social construction in the light of theory under the name of conflict theory of social change is the hypothetical structure I have utilized in this social science research. This theory is important and covers almost each and every detail relating or concerned to topics covered or addressed in this study. It covers why there is need for social change, it additionally covers the cultural separation anyone or any specific group of individuals face.

(Mushtaq, Yaqoob, and Javaid 2016) states that by looking at the history, all people whether they were living alone, or in bunch or later one in clans, gatherings of people and social orders have questioned and gone up against each other over scarce products and assets. The products might represent land, cash, political force, and belief system.

(Talbot, 1999) states that struggles on one hand are however old as people may be and then again men have a past filled with battling for and controlling different assets and products that are restricted in nature.

Key words

Alternate dispute resolution, Dispute resolution council, Jirga, Formal, Semi-formal, National Commission on Human Rights, Marakah, Mediation, Arbitration, Collaborative law, Litigation, , Faislo, Musalihat Anjuman, Musalihat Committee, Speen Geeri, Shariah, Badal, Ghairat, Swara.

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Chapter 1

Introduction

Human mind work in diverse forms allowing people to react and respond a given scenario in different ways. Difference of opinion or conflict among the humans since they first appeared needed different way of dealing from time to time. By ‘time to time’ the importance of this social aspect needs to be understood in detail. Details may include why or how conflicts or differences arise among humans, why or how they need to be addressed, and also many other variables.

In anthropology the above stated social problem is dealt in two major or most important ways namely, peaceful and violent resolution of conflicts. Main focus of this research is the peaceful or non-violent resolution of conflicts among human beings. From time to time the stated approach has helped humans in solving their daily life issues, the importance of which can vary in many different forms. Many different forms highlight and verify the fact that humans vary greatly in cultures, customs and traditions across time and space.

In Pakistan previously there were two main approaches for handling conflicts or difference of opinion among human beings; formal and informal justice system having the former one totally legitimate, well protected by written laws, backed up by the government. The later one is the system this research aims to study. This informal justice system is not state or government supported but it has its own unique identity and respect among specific social groups because of its rich, unique and long history tracing back to colonial times. This is the system where people act on their own as judge, jury and executioner providing social groups a peaceful resolution of conflicts. Previously this informal justice system was greatly adopted by the people of FATA and PATA and worked under the umbrella term of Pashtunwali or Pashtun code of honor. Because of inter and intra city migration this justice system is now part of everyday life in almost all of the country. With the dissolution of FATA and PATA this informal system of justice

has lost its grip in some ways as these areas are now part of the provinces run by the federal and provincial rules respectively. This system has proved its importance and value again and again in the past. In Pakistan semi-formal justice system is introduced which is a classic blend of both formal and informal justice system. As mentioned earlier that the ways of handling conflicts among the humans are different in different cultures, or these ways have evolved, adopted social and cultural changes occurred with the passage of time resulting in changes among social norms of culture. This semi-formal justice system works under the names of Dispute Resolution Council/Committee DRC. A DRC include a member from the police department, a member appointed by a competent authority, i.e. the state for solving out the conflicts and differences among people and other well-reputed personalities of the community. The people of Pakistan are considered as traditional and are known for following and admiring the Jirga system in their respective areas. It is very uncommon for the female of these areas to leave their homes or villages and to take a step forward in order to find justice denied to them, but only under special circumstances. It is very interesting and very important at this point to mention that this 'uncommon' is on its way becoming 'common'. This research puts a great deal of positive energy to understand why it is happening, what are the driving factors or forces behind this cultural change or need. This research target areas in Peshawar and peripheries (KPK) where informal justice system exist under one name or another such as Jirga or Marakah in KP. This research aims to look in to the facts why specific informal justice system is a success or not able to resolve the conflicts in a specific geographical location across Pakistan and is there an undergoing transition. For the purpose of this research area of 'Tarnab Farm' located in district Peshawar is included in order to find out why people are becoming open minded and accepting a change that previously was unacceptable.

1.1 The Problem

This research is primarily aimed at the conflict resolution mechanism among the Pashtun communities. Conflict resolution all over the world is a very talked about

topic. Conflicts are as old as human beings themselves. Various mechanisms from time to time are in place to solve conflicts. Every culture have their own specific ways for dealing with the problems. These ways are rooted deep down in the traditions and customs of that culture and such ways are very hard or difficult to be changed.

The perception of people of Tarnab village District Peshawar was asked by conducting detailed interviews from the respondents. In this research the locale was chosen keeping in mind the geographical location of the area. People from different locations in Peshawar reside in this area for a long time. Some of them have migrated from the former FATA and PATA. Most of the people are living here for a very long time and have detailed knowledge of the customs and traditions relating to Pashtuns. The respondents for the interviews were very carefully selected with the help of the key respondents. Once they were chosen, they were then contacted and were asked for their permission regarding interviews. This research is specifically related to the Pashtun people and their ways of dealing with day to day disputes and conflicts and finding a common ground as a solution which is acceptable to all the parties involved.

1.2 Statement of the Problem

Traditional people like Pashtun feel pride in following the footsteps of their ancestors. Nowadays there is a change or a phase of transition in which Pashtun are adopting semi-formal system in Pakistan. This research aims at finding the reasons behind such a transition in process.

The literature that has been studied for the purpose of research highlight the facts that Pashtun are very traditional people and that they stay connected to their customs and traditions. It is to say that Pashtun people don't change with passage of time or in other words their customs and traditions are strict and rigid. Jirga is portrayed in the literature as the old and customary institution for solving out disputes and differences among Pashtun people. It is discussed and stressed in the literature that Pashtun people consider it against their customs and traditions to think of Jirga as an institution that is unable to find solution to all their problems.

The Pashtun people will not want to take their disputes and problems to some place or institution other than Jirga.

The analysis of the data collected for the purpose of research has come up with some interesting facts. It has given a new direction to this literature or has pointed out the drawbacks or shortcomings in the literature. Analysis of the data has very clearly pointed out that no proper or serious field work has been conducted regarding the issue why Pashtun people are moving away from Jirga. This conflict in the literature and the data from this research is a very serious issue. People who will go through the literature which has been studied for this research will think that Pashtun people are still very traditional in nature and they hold on tight to their customary ways whereas the actual situation or the ground level realities are totally different.

Major themes that are covered in this research or at least are brought into light are that there is no doubt that Pashtun people are traditional in nature and have high regard for their rich traditions but what this research brings into light is that Pashtun people are feeling dissatisfied with the system of Jirga because of many reasons such Jirga taking sides with one party while neglecting the rights the party should have.

1.2.1 Conceptualization

This research is directed towards finding out the problem solving mechanism among Pashtun people. For this purpose Jirga is used among Pashtuns. Also in this research it is intended to find out why Pashtuns are moving towards other mechanisms for conflict resolution like DRC.

Jirga according to Encyclopedia is a traditional assembly of leaders that are supposed to make decisions by consensus and according to the teachings of Pashtunwali. According to Marriam Webster, Jirga is a council of Afghan tribal leaders. The Jirga is, according to Ibrahim Atayee, a meeting of a group of tribal men that has the authority to settle a dispute in a way acceptable to both sides. According to freebase dictionary, a Jirga is a tribal assembly of elders

which takes decisions by consensus, particularly among the Pashtun people but also in other ethnic groups near them; they are most common in Afghanistan and among the Pashtuns in Pakistan near its border with Afghanistan. According to Encyclopedia, Pashtunwali is the traditional lifestyle of the Pashtun people.

According to Legal Information Institute, Alternative Dispute Resolution (ADR) refers to any means of settling disputes outside of the courtroom. ADR typically includes early neutral evaluation, negotiation, conciliation, mediation, and arbitration. Alternative dispute resolution (ADR), or external dispute resolution (EDR), typically denotes a wide range of dispute resolution processes and techniques that act as a means for disagreeing parties who had not to come to an agreement short of litigation a collective term for the ways that parties can settle disputes, with the help of a third party.

According to Khyber Pukhtunkhwa, Dispute Resolution Council is a public service project of the Khyber Pakhtunkhwa police which is based on the spirit of the Pakhtunkhwali code for resolution of local issues and petty disputes through reconciliation offered under supervision of the local police. To facilitate the common man in getting his petty issues resolved amicably through an alternate process of restorative justice involving members of the civil society.

1.2.2 Operationalization

According to my perception of the term Pakhtunwali, it is just like culture which in its simplest form can be said to be a common way of life. Pakhtunwali is how Pashtuns in their daily life deals with day-to-day problems they face. It is the most important aspect of Pashtun culture. DRC is a conflict solving mechanism which is used by government of Pakistan. Such system of conflict resolution is used when the existing judicial system is weak or is not capable of dealing with the issues arising among its people. Pakistan is using Alternate Dispute Resolution system because of its incapability to deal with the conflicts among its people. Jirga is an important part of Pakhtunwali. It is used by Pashtun people for solving their disputes. It is highly respected and talked about institution among Pashtuns.

1.3 Objectives of the Study

- To explore the traditional role of Jirga as an institution for conflict resolution.
- To explore the transition from informal to formal justice system.
- To explore the natives' perception about the informal and formal justice system.
- To explore the role of Jirga in contemporary society.

1.4 Research Questions

Objective 1

Q1. How people nowadays value Jirga?

Q2. Do people really think about Jirga as the only problem solving institution?

Q3. Do Pashtuns blindly follow Jirga?

Objective 2

Q1. Is there really a need for a transition towards formal justice system?

Q2. What are the factors affecting this transition?

Q3. How satisfactory is this transition?

Objective 3

Q1. What is the perception of modern day Pashtun towards Jirga?

Q2. What is the perception of today's Pashtun regarding DRC?

Q3. Are Pashtuns satisfied with the performance of DRC?

Objective 4

Q1. Is Jirga capable of solving today's problems?

Q2. What are the reasons responsible for Jirga's unpopularity?

Q3. What is Jirga's value in today's Pashtun?

1.5 Hypothesis

With the level of education rising among Pashtuns, the people are moving away from Jirga.

Due to lack of leadership and other issues relating to leadership, Pashtuns are moving away towards formal justice system.

1.6 Rationale of the study

Keeping in mind the research objectives and questions, this research was conducted with the main purpose to find out whether the Jirga is still the most respected and trusted conflict resolution place for Pashtun. Also the research aimed to find out why Pashtun people are moving away towards alternate dispute resolution mechanism such as DRC. Why is there a trust issue among Pashtun people, what is making them move towards alternative measures.

This investigation investigates a continuous change in Pashtun society. This change is essentially worried about the dynamic cycle while at the same time settling down debates that might emerge because of many reasons. Questions emerge inside a local area and it is extremely typical. History of disputes is quite much as old as man himself. Man has with the passage of time discovered some approaches to handle the difference of opinion that might lead to several debates and clashes. The manners in which that man has found for tackling disputes fall into two general classes, one of which is the simple way or peaceful resolution of struggles and the other is violent resolution of goals. Every one of the mentioned ways has been attempted on various occasions.

The research is actually worried about Pashtun speaking individuals. Pashtuns are primarily known for being extremely customary in nature and are renowned all around the world for following their traditions and customs. Jirga is one such old standard foundation which is utilized by Pashtun people group for settling out

disputes among them. With the passage of time Pashtun individuals are moving towards another way for finding answers to their questions and that way is by following Alternate Dispute Resolution ADR. DRC is one such instrument utilized under ADR in Pakistan and mainly in Pashtun belt of Pakistan. This exploration centers on why individuals are moving away from the conventional and standard way Jirga.

The area chosen with the end goal obtaining data for analysis was town of Tarnab situated on GT road. It is situated close to GT road. On one side of Tarnab is Noshera area and on the opposite side is Peshawar. The two urban areas lies away 14 kilometer from Tarnab. The region was picked with the end goal of research that Tarnab is one of the remarkable spot close to Peshawar and Noshera and it has held its unique character to a serious decent level. Individuals of Tarnab are traditional in nature. Everyone if they are instructed, living in joint family framework or not, agriculturist or financial specialist, they each have a high respect for their social qualities. As this examination pointed toward discovering why individuals are moving away from the conventional and social establishment of Jirga and request of the exploration region was to be traditional in nature, Tarnab was seen as a reasonable area for information collection.

1.7 Significance of the Study

This study aimed at meeting with the respondents in person and asked them about their views about informal and semi-formal justice systems and their preference in regard to solving their disputes.

During the research it was noted that the awareness about DRC as a dispute solving body was not widespread. There were certain respondents who had no idea about DRC. Then there were respondents who had very little knowledge about DRC. These two categories of respondents were made aware about DRC, like what it is and how reliable and legitimate this dispute solving body is. It will be carried to others in future and will eventually help so many people. Some of the respondents also had concerns about DRC. They were made clear about their misperceptions. Again these respondents will pass on the message to others and at

the end many will benefit from it. All this positive transfer of knowledge about DRC will help greatly towards building a peaceful environment where people can solve their disputes in well-mannered way. If people are not satisfied by the way their local disputes are handled, they will not feel safe and satisfied. This can instigate many problems in area which will affect the local peace and harmony.

The respondents of the research also shared their feelings about how or why were they dissatisfied with the performance of DRC. By finding out such issues that can have a negative effect on the nature of DRC, these views along with the recommendations can be sent over or shared with the concerned authority that can further improve the performance of DRC and help in making DRC a popular dispute solving institute among Pashtuns. If an institution is any way unaware of the public opinion, this can be a serious threat to its survival. It is very important that the DRC is accepted by popular majority. This will show that they have trust over this institute.

It is evident from the findings of the research that the literature contains many short comings in respect to what the actual perception of people is towards Jirga. Literature had blurred my vision or I was given this feeling that the Jirga is the only and most popular conflict solving institution among Pashtun. There was a feeling in the literature that the Pashtun people are not interested in consulting any other conflict solving institute. They consider it against their traditions. On the contrary I found out by my field work that the perception mentioned in the literature is not showing the real picture. It is against the ground situation or ground realities. There is no doubt that the Pashtun people have high regard for this traditional conflict solving institution but at the same time they also have so many reservations against it. Like for example they consider Jirga to give one sided decisions and that the people who would lead Jirga are not of same class and caliber as before.

This research has pointed out some very basic truths which were denied or not brought into light before. This research and its findings will help the future

researchers and policy makers even for better understanding of the realities related to conflict resolution mechanisms among Pashtun.

1.8 Theoretical Frame work

Change in Pashtun Social Structure in the Light of Conflict Theory of Social Change

Change in Pashtun social structure in the light of conflict theory of social change is the theoretical framework I have used. In fact this theory is applicable to almost all the objectives of this research. It covers why there is need for social change, it also covers the societal discrimination anybody or any group of people face.

(Mushtaq, Yaqoob, andJavaid 2016) states that historically, all humans whether they were living alone, or in group or later on in tribes, social groups and societies have disputed and competed against one another over limited commodities and resources. The commodities may include land, money, political power, and ideology.

(Talbot, 1999) states that conflicts on one hand are as old as humans are and on the other hand men have a history of fighting for and controlling various resources and commodities that are limited in nature.

1.8.1 Main Contributors

Main contribution towards this theory is by Karl Marx. Conflict theory is a part of set of theories regarding social change. There are also other social scientists who have contributions towards this theory, for example, Coser, Max Weber.

Main Concepts of the Theory

There is a common perception that disputes in society are settled through common consensus and mutual understanding. Conflict theory states that it is not true. Society uses power and forced subjugation to ensure social order.

According to conflict theory, people in society who have power and wealth try to retain these traits by any means possible. These means may include use of force and violence.

Conflict theory states that in a society there is no feeling which can be related as sense of unity and working for betterment of others, rather everybody works for their own interest only.

Conflict theory states that the rich and powerful people in society will make laws, rules and regulation which would be in their own interest only. The rich and powerful class will stop the lower class people to move up in the societal hierarchy.

1.8.2 Criticism of the Conflict Theory of Social Change

Conflict theory fails to draw a clear picture of why and how different parties or persons involved in economic interaction have mutual interests.

Giving his remarks on this hypothesis, Percy S. Cohen (Modem Social Theory, 1968) states: "This hypothesis is conceivable, however it isn't necessarily obvious. The dispute that societal struggle is an adequate condition for social change is clearly not acceptable or is debatable. It is questionable that organized clash, when it includes a genuinely equivalent equilibrium of powers, really deters change which may somehow happen.

1.8.3 Concepts Borrowed from Conflict Theory and Applied

The theory states that people within a society who hold power and influence will never allow the lower class to rise in society and hold power just like them. They will use different measures to keep them suppressed so that they continue enjoying the power in hand.

The theory states that societal stability is never because of the mutual understanding and consensus in society, but is because of use of force and power.

These statements are in agreement with the findings and objectives of the research which states that the Pashtun have lost its trust over the institution of Jirga because it favors one party and ignores the other. Previously the Jirga members would work free of cost without having interest in financial gains, purely working for the peace and stability and harmony of society. Whereas nowadays Jirga

members take money and sometimes take money as a bribe. This is why there is a transition in place among Pashtun people and they are moving towards ADR.

1.9 Structure of the Thesis

The research report starts with chapter one in which the introduction about the conducted research is given. Disputes and conflicts are explained in detail and then it is discussed that how have people over the passage of time dealt with this issue. Also why is there a need to solve dispute and conflicts? This chapter also highlights significance of the study and problem. It discusses what the problem at hand is and it moves towards exploring shortcomings and deficiencies in the literature and compares it with the findings of the data collected. This chapter states that man from the very beginning have found ways to deal with problems and disputes. The chapter also discusses the locale selected for research and why is it selected, the reasons for its selection. The research questions along with their objectives are discussed in the chapter. Theoretical framework needed and adopted for the purpose of research is also discussed in detail.

Chapter two is about literature review. For the purpose of research, already available research is studied. The literature quoted in the research is backed up by proper referencing. Studying literature is very important in order to compare the findings of literature and the findings of the data collected.

Moving further in research is chapter three which discusses methodology and area profile in detail. For every research there needs to be a proper methodology that needs to be followed. So is the case in this research. A proper methodology is followed in order to complete the research and gather data in a way that the data can reveal some results. Methodology cover important details like what methods were applied in the field for data collection, locale, no of respondents, no of key respondents, qualitative approach followed. This chapter also covers the important information about the locale of the study like location, population, health, education and any important and notable features of the area worth mentioning.

Next in the research comes the data analysis. Data collected in the field needs to be analyzed for important aspects that it highlights. This is like a main chapter of research. In this chapter different views of respondents are discussed along with some case studies.

Moving towards the end of the research comes the chapter about summary, conclusion and recommendations. Every research needs to be summarized for ease of study. Some basic conclusions are drawn from the data collected in the field and on the basis of that data some recommendations are suggested. These suggestions or recommendations are very important in the sense that if a specific social phenomena needs to be accepted by popular vote then these shortcomings mentioned in the research must be addressed properly.

Chapter 2

Review of Related Literature

Jirga in common words is an everyday gathering of people for solving out everyday problems or disputes. In this gathering problems are solved, solutions are found out. A Jirga solves problems in accordance with local or prevailing customary local village laws. Jirga is run by a group of local elders whose decision is the final verdict, the decision they make is binding on all the parties that are involved in the Jirga (Shinwari & Siddique, 2015).

Jirga is a main place for discussing and finding a solution to the common problems and disputes in Pashtun society. Such gatherings are called as jirga-marakah in Pashto. To further explain, "Jirga" is the panel of elders who are known as members of Jirga while on the other hand "Marakah" means talking and finding a solution. If we discuss Pashtun Jirga then the most important feature of such a Jirga is the democratic and participatory nature of Pashtun Jirga. The main reason for this is that it promotes equality and everyone gets a chance equally to sit in the Jirga. Jirga is an important dispute dealing institution of the Pashtun Code of Honor 'Pashtunwali'. A Jirga may comprise of two or more persons who are most preferably elders in the family while the religious leaders or local religious elders also attend Jirga. Jirga exercises both the powers, i.e., the executive and the judicial powers within a given area. However, different issues for example, intertribal affairs, disputes relating to land, money disputes, blood feuds and all other different types of conflicts and disputes that may arise among the Pashtun society are properly taken care of by the Jirga (Mushtaq, Yaqoob, & Javaid, (2016).

What is Jirga? There are many different views given by the people stating what the nature and scope of the term Jirga is. Many people will surely describe it as a customary institution for dispute resolution arising within the Pashtun societies or communities. Jirga is a very old custom with limitless potentials for resolution of conflicts in the Pashtun belt of Pakistan and Afghanistan. It is a name given to the body in which a Pashtun society live their life, to undertake issues between

different individuals and also between different communities, to address individual concerns, and to look for solutions that are acceptable to all parties involved. The Jirga which deals with most of the local community issues, either public or private, are settled in the North West Frontier Province (and also Balochistan) and Afghanistan, is most probably the nearest match to Athenian democracy that has existed thousands of years back. Syed Abdul Qudus has also related Jirga to democracy. According to him "The Jirga represents the pure essence of democracy in operation under which every individual has an opportunity to directly say what is needed to be said with the expectation to change the course of events or disputes around him. Practiced this way, democracy operates as a spiritual and moral force working for the betterment of people and society instead of becoming something whose sole purpose is to gain votes."

In many different parts of the world, everyday there are some significant and increasing contributions made to deal with conflict transformation and to help peace building are being made by local practitioners who are mostly concerned about peace and stability within their communities, using locally accepted, traditional knowledge, conflict resolving institutions and practices. Pashtun Jirga is one such example that such institutions are present and operates under the old customary and traditional laws of the traditional institutions. The institution of Jirga is the oldest and the most prominent and talked about component of the Pashtun culture and yet as compared to its history and importance in history, there is an absence of written rules and regulations or guidelines which needs to be followed in order to operate a Jirga. Most of the disputes that arise within a Pashtun life depends greatly on the institution of Jirga for the proper and smooth working of their daily lives. The traditional and customary institute of Jirga is mainly in the Pushto speaking areas all over Pakistan. The Jirga is held responsible to maintain law and order in every sphere of daily routine life, from national and international affairs(Loya Jirga, Grand Jirga), to daily routine life with small or petty disputes(Yousufzai & Gohar, 2005).

The informal justice system Jirga remained in focus though known with different names from time to time in different regions all over Pakistan. In the given legal environment, it has its own unique and appealing significance and that is the reason why till today it is still in running condition. This unique form of dispute resolution system is an essential and integral part of the common life for the citizens of FATA. Jirga system is something that is not new for the tribal belt of Pakistan. In a society which is driven by its culture and traditions, social, political, and economic disputes are very common and natural. In this socio-economic era, the judicial system must be very effective so that it can deal with disputes and conflicts in a fast and timely manner. In Pashtun culture, the Jirga system is one of the oldest and well-established institution for dispute solving. Till date the constitution of Jirga, how it works, and different lines of action remains unwritten or verbal. As a matter of fact, this is one of many such institutions that work as a driving force in the entire life of the Pashtun individual. Jirga system is used as probably the best tool to solve out the disputes arising among individuals and it satisfies people's needs and the expectations of the people who follow and believe in Jirga. Since its creation or formation, it is not limited only to trials of major/minor crimes and civil or domestic disputes, but also helps in solving major conflicts or difference of opinion between larger groups and larger tribes. There is a systematic method and a proper criteria which helps in the selection of Jirga members. For the first choice, noble elders of the area are chosen who are known for their good will, sharp mind and a concrete grasp on local and traditional knowledge and understanding of Pakhtunwali, and to some extent the Islamic law. When a question is included that involves specific knowledge of Islamic law, the people having religious clarity in issues relating to Islam also takes part in the Jirga. The word Jirga is originally a Pashtu word which is used in terms of the gathering of a small or a large number of people. (Ghyathul-Lughat, 1871).

In Persian language the word Jirga refers to a group or crowd of people. Scholars are of different opinions but most of them argue that the word Jirga has its roots deep in the Turkish language having the same meaning as in Pashto language. In Pashto Jirga means a gathering where individuals may express their sentiments

and feelings without any fear of threat to them or to their families. In Pashto “Jar” means open tone and “gah” means a place or venue. In Arabic, the word jahar means loud. The history of the Jirga system can also be traced back to the Aryan tribes. These tribes have migrated from Central Asia to Afghanistan and later on to India. The Aryan tribe have said to used Jirga for resolving their local conflicts and local disputes. Sometimes the king would also join the Jirga sessions and make arguments as well. At that time the Jirga was like thought of as a rural council. The decision would be made in accordance with the prevailing customs and traditions. Sultan Bahlol Lodhi was the ruler in India during 1451-1489. He formed the Jirga or a group of elder people whose sole purpose to solve issues that people would face in their daily lives. The Sultan would sometimes also used to sit among Jirga members, most of the times in a circle. The sultan had also set up an administrative system which was then followed by the rulers after sultan as a role model.

The Jirga exercises both roles of executive and judiciary and settles all disputes relating to the distribution or possession of land, property disputes, blood feuds and disputes, arranging and demanding blood money, and also dealing with other important inter-tribal affairs based on old and customary laws, or by rules which were place in those societies long before them for the provision of justice and solving disputes. In Jirga, the judicial and executive functions are exercised keeping in mind the traditions and customs practiced by the people in the tribal area of Pakistan. If anything is practiced against it then the people may oppose such decisions. In provinces of Khyber Pakhtunkhwa and Baluchistan, Jirga is mainly and mostly used as a method for solving out problems, conflicts, issues, and disputes of the local people. Sometimes business issues are also settled by the Jirga. It also resolves disputes relating to land, disputes relating to civil and criminal issues of the local people. As a matter of fact, the Jirga plays a very vital and significant role in highlighting and upholding the democracy because by doing so every individual has the right to sit in the proceedings of a Jirga and can have a say. Parties are examined and inquired and questioned in front of the public at large so that there is complete transparency. It is a safe and secure and so

much used and reliable method to make people aware of the rules of that locality if they don't know. (Mahmood, Ullah, & Ashfaq, 2018).

Since time that is hard to remember, there have been a number of such mechanisms that humans have created and practiced in order to deal with the number of conflicts that may arise among them. As a matter of fact, there is a great understanding among social scientists that in the absence of such formal and informal councils or gatherings for the peaceful resolution of conflicts, people would take the law in their own hands and thus would increase the chances of disrupting peace and prosperity of the local area. So it is safe to say that mechanisms for dispute resolution are very vital in preventing lawlessness which would in turn have very serious and dangerous consequences on the peace of a society.

The process through which we can resolve disputes or conflict resolution has been defined by different organizations around the world. It looks like the most widely accepted definition is given by the New York State Dispute Resolution Association (NYSDRA) which states that 'Dispute Resolution' consists of "such methods that are used by the trained neutrals (elders in Pashtun society) to help people to communicate more clearly, negotiate effectively, develop and evaluate solutions, or resolve conflicts". There is another definition which is given by the Harvard Law School, highlights the true essence of dispute resolution as "one of the several different processes used to resolve disputes between parties by using different tools and methods which may include negotiation, mediation, arbitration, collaborative law, and litigation".

In other words, Alternate Dispute Resolution (ADR) is a health exercise which makes ensures that a court-room trial shall be the last option that could be availed for obtaining justice. While putting aside the efficacy of ADR and the use of its main features or components i.e. Negotiations, Mediation and Arbitration in Pakistan, researchers have pointed out that they have noted that ADR's effectiveness in solving out local conflicts and disputes has been acknowledged by both the corporate and legal communities in the country. ADR is seen by

people as a means of resolving disputes in a way that could be in the reach of almost every individual and in timely manner putting aside the lengthy costly and technical process that are related with the formal judicial or dispute resolving conventional mechanism.

In the Indian subcontinent, the presence of such platforms such as Jirga for the provision of alternate dispute resolution can be traced back to the pre-colonial times. Perhaps, the most unpolluted form of ADR which was practiced prior to and during the British Raj has been the Jirga system, which were chaired by the local tribal chiefs keeping front of them the local tribal and customary laws for solving out disputes which may arise among the individuals.

So when Pakistan came into being after gaining its independence from the British raj has tried its best keep in use the original form and variants of the traditional alternate dispute system, which have played an important role in delivering justice across the country. Under such forums are the Jirga in Khyber Pakhtunkhwa, the Federally Administered Tribal Areas (FATA) and Baluchistan, Faislo in Sindh and Panchayat in the Punjab province, and have been very useful in dispensing justice through which conflicts have been settled between individuals, families, communities and tribes. These forums have always been present along with the forums such as traditional ADR and public ADR ranging from private courts at community level to conciliation courts at council level. The weak judicial system, weak state of bureaucracy and slow and time consuming judicial process in Pakistan has created space for such forums.

Disputes in Pakistan arise due to different reasons such as unstable regional settings, the socio-cultural settings. One of the most important factors that contributes greatly towards rising of disputes is education. With low education people are unaware of basic human rights, human rights violations. Apart from all this political and sometimes ethnic relations are also significantly responsible for generating conflicts in Pakistan.

Furthermore, Pakistan has also performed review of the arbitration act and it has been initiated to promote effective arbitration in Pakistan under the access to justice program. The government of Pakistan has provided and formed bodies like the institution of Musalihat Anjuman which act as conciliation forums has been provided at the level of Union Councils for dispute resolution through ADR. In present days, the Strengthening Rule of Law Program (SRLP) has proven to be pivotal in addressing gaps in the justice sector through engaging with judicial and police officials.

ADR has come to forefront in a great way very much likely after the formation of the Dispute Resolution Councils (DRCs) at the recommendation of the KP Police, when the appointed IG, Nasir Khan Durrani launched a pilot project in 2014. When these bodies proved their significance to the authorities, these bodies were formally inducted in the criminal justice system in 2015, when the KP assembly passed the “Police Order 2002 Amendment Act 2015.” In 2017 some more amendments were made and the laws were studied again. All this helped and made way for these councils or bodies to be incorporated into DRCs for the speedy and convenient dispense of justice (Manzoor, Ahmed, & Ahmed, 2020).

Jirga means a place to meet for consultation, discussion and resolving conflicts and disputes. It would serve as a democratic council which is at its best providing people with speedy and needy justice. According to Pashtu dictionary the word Jirga means a simple gathering of few or more members who gather with the agenda of helping out people by solving their conflicts and disputes. The word Jirga is also used in other languages such as Persian, Turkish and Mongolian languages and in these languages this word Jirga appears to mean ‘a circle’, but again it is normally used to refer to the gathering of people. Putting aside the origin of the word, the Jirga is a pure council of elders whose sole purpose is to solve out the disputes and conflicts among the people. The Jirga solves the disputes of people by keeping in front the prevailing customary laws, rituals, and by having a group of elders who have collective knowledge of all the knowledge

needed to solve out the disputes among different parties in most effective way possible.

Jirga is known by different names in different cultures, for example, in Persian it is called Majlis and in Punjabi and Hindi Panchayat. The Jirga exercises both judicial and executive roles meaning it decides and gives a decision and also enforces it to settle all disputes relating to the distribution of land, properties, blood feuds, blood money. It also deals with other important aspects such as important intertribal affairs based on tribal customs, traditions and other ways of providing justice. There are no hard and fast or written rules for the selection of Jirga members. All elders – Speen Geeri (white-beards) who have enough local and traditional knowledge are considered eligible for its membership. However, it is believed that for effective outcome of the decision made by the Jirga, the Jirga members should have enough social status, some political influence, should have money and must have a working force or man power. The Jirga assemblies are normally held in a Hujra or a village mosque or in an open field outside the village. Jirga members position themselves in a circle. This is been followed from the beginning and is considered one of the most followed principle while conducting a Jirga. Sitting in circle is not giving away any authority to anyone. The meeting of members in a circle talking about solving various issues at hand reflects the democratic nature of the Jirga in which everybody has equal right to participate.

In Pashtun culture, apart from cases related to land disputes, or domestic issues or sharam and pardah issues, Jirga also deals with criminal cases as well. They are dealt by Jirga rather than to be handed over to local police station. The Jirga normally comprises of two or more persons, who may normally be family elders or can be their representatives. The usefulness of a Jirga depends upon how competent, learned, authoritative the Jirga members are.

In the today's, world the Jirga system came to forefront and international took a notice of it through media. In the most recent years, a few decisions which related to violence against woman were recorded through Jirga and that caught media's

attention. Some doubts and suspicions were created in the minds of the people which raised question on the sacred body of the Jirga.

Tribal societies or traditional societies have always shown some resistance in the sense that they are not willing to accept the laws which are put in place by the government, and for which proper judiciary is present. The reasons can vary in number and length. In Pakistan, for a long time some resistance is always shown in the rejection of laws that are enforced by the outsiders. The Pashtun and Baloch tribes had resisted such laws for a long time and are still in denial. It was by the means of their continued struggle that rulers of that time were forced to leave the lands and rule of shariah and local customs were made part of their lives. It was a big change a big victory for the people of those lands. As a result of these struggles by the local people, Frontier Crime Regulations FCR were introduced in 1901 in Pashtun Tribal Area known as FATA. From then onward, the tribal territories in Pakistan were administered under a complex political and legal system until FATA was dissolved by the federal government. (Advocate & Sajid, 2013).

Historically, all humans whether they were living alone, or in group or later one in tribes, social groups and societies have disputed and competed against one another over limited commodities and resources. The commodities may include land, money, political power, and ideology. In many parts of the world, where the judicial system is either overburdened or is weak and not strong enough to handle the amount of disputes it faces, traditional way of justice or locally integrated conflict transformation or resolution institutions for example Jirga in Pakistan are being put into place or their help is sought in this regard which would help to ensure peace and stability within local societies or tribes. Such institutions are often suitable in their local habitat or within the areas where such institutions are followed in which they operate, because they satisfy the local needs and satisfy the psyche.

According to Pashto dictionary the word Jirga means a simple gathering of few or more members who gather with the agenda of helping out people by solving their

conflicts and disputes. The word Jirga is also used in other languages such as Persian, Turkish and Mongolian languages and in these languages this word Jirga appears to mean 'a circle', but again it is normally used to refer to the gathering of people. (Shinwari N. A., 2011).

One of many beautiful traits of Pashtun ethnicity is its 'meetings and consultations' for the purpose of finding solution to day to day problems, disputes and conflicts. In Pushto, such meetings and gatherings for finding peace for society by solving problems are called Jirga-marakah. Jirga means the group of those elders who act as main members of the Jirga and marakah means sitting together to talk, finding solutions by consulting with one another.

Jirga means 'an assembly, a sitting, a party whose sole purpose of meeting is for consultation, a sort of democratic, open to all kind of council amongst the Yusufzai's.' However, it is not limited to Yusufzai, its boundaries further expands to many other casts. It is the important law enforcing institution of Pukhtunwali. The Jirga comprises two or more persons; they are normally family elders or their representatives. Religious elders also attend Jirga Authority and competence of the Jirga member depend on the nature of the problems the Jirga has to tackle (Taizi, 2007).

The Jirga system for centuries is present to solve the problems arising among the people of a specific locality. Jirga structure or jurisdictions were modified under the Special Provision Ordinance (Criminal Provisions) of 1968. However, Jirga is always debatable in the sense that when it is compared with the system that running the rest of the country, then questions start to arise, voices are heard, rumors are spread. There is a very strong feeling among women right activists and also among many others that Jirga fails to uphold the rights of women as it should be doing. It is not paying respect to women as is needed in this time. Also, human rights activists and other such institutions argue that the standards of justice set by the Jirga or the rules that a Jirga follow for proving its point or enforcing its decision are not equal for all, rather there is discrimination.

Jirga means a place to meet for consultation, discussion and resolving conflicts and disputes. It would serve as a democratic council which is at its best providing people with speedy and needy justice. According to Pashto dictionary the word Jirga means a simple gathering of few or more members who gather with the agenda of helping out people by solving their conflicts and disputes. The word Jirga is also used in other languages such as Persian, Turkish and Mongolian languages and in these languages this word Jirga appears to mean 'a circle', but again it is normally used to refer to the gathering of people. Putting aside the origin of the word, the Jirga is a pure council of elders whose sole purpose is to solve out the disputes and conflicts among the people. The Jirga solves the disputes of people by keeping in front the prevailing customary laws, rituals, and by having a group of elders who have collective knowledge of all the knowledge needed to solve out the disputes among different parties in most effective way possible (Zaman, Khan, & Naz, 2018).

There are certain procedures and processes for avoiding conflicts and peacefully resolving in every society. Pashtuns constituting a major ethnic group in Pakistan and Afghanistan possess a significant quality of adaptability to an alien environment. However, Pakhtunwali, the traditional code of life of Pashtuns has the ability and mechanism to respond to any such situation and peacefully resolving it. Their social structure, tribal organization, centuries' old traditions and customs sometimes force them for disputes and conflicts. Conflict is inevitable in human society. It is a natural part of human interaction. Men have conflicts over money, land, power, and ideology. On the one side it provides equal opportunities to the members of the community for peacefully resolving disputes and disagreements, and on the other side strengthens the social bonds among the members and increase their self-confidence in their way of life. Some conflicts are merely disagreements, but some turn violent. (Yousufzai & Gohar, 2005).

If we want to find out about why disputes or conflicts arise between human beings then we should know that there are different reasons for conflicts and disagreements within Pashtuns which may be summarized as Badal, Ghairat, land

disputes, and Swara etc. All these reasons can cause conflicts in the Pashtun society, and they usually are the reasons behind disputes but on the other hand, a traditional institution of Jirga has been active in removing the uncomforted among the members of the community for having disputes. They have a repute for their honesty, wisdom and a firm understanding and knowledge of Pukhtoonwali and Shariah. Jirga in common terms means a unique feature of the Pashtun society is a council of elders that fight injustice in society in the time of disputes, listens to the parties involved and passes judgments in order to find a solution, to put an end to the conflict. The decisions are considered binding on the parties of the dispute and the stakeholders. Only the male can take part in the proceedings of Jirga which are carried out in a mosque, Hujra (guest house) or under the shade of a tree.. Mostly “noble” elders of the locality (Speen Geeri) are chosen for this purpose. There are no hard and fast rules or there is no criteria for the selection of Jirga members (Mehmood, Haider, & Ali, 2017).

An ancestral social framework that originates before advanced composed or fixed-laws and is directed to resolve questions among the Pashtun public yet less significantly among other close by bunches that have been affected by Pashtuns in Afghanistan and Pakistan. A Jirga is a conventional gathering of pioneers that expected to settle on choices by agreement and as indicated by the lessons of Pashtunwali.

In a January 2019 request from National Commission on the Status of Women (NCSW), Supreme Court of Pakistan controlled Jirga up to allowable furthest reaches of the law to the degree of going about as intervention, intercession, exchange or compromise gatherings between parties associated with a common debate, in the midst of proceeded with reports of inescapable mocking of sacred standards and basic freedoms. In 2017, the Pakistani government passed The Alternative Dispute Resolution Act, 2017 of Pakistan planning to bring Jirga into the conventional equity framework. Its basic role has been to prevent ancestral conflict. Most Jirga are led in Afghanistan yet in addition among the Pashtun clans in adjoining Pakistan, particularly in Khyber Pakhtunkhwa (KPK).

According to *The Economist*, “barbarism has become another word used for Jirga” because of their use of harsh punishments, for example, burning the house of a convict. Though other people view such punishments as very rare and trace them back times of illiteracy. Pakistani daily newspaper in its early June 2020 editorial says that unlawful Jirga are not limited to tribal district but do operate across Pakistan with exemption from any kind of restrictions.

Historically, all humans whether they were living alone, or in group or later one in tribes, social groups and societies have disputed and competed against one another over limited commodities and resources. The commodities may include land, money, political power, and ideology. In many parts of the world, where the judicial system is either overburdened or is weak and not strong enough to handle the amount of disputes it faces, traditional way of justice or locally integrated conflict transformation or resolution institutions for example Jirga in Pakistan are being put into place or their help is sought in this regard which would help to ensure peace and stability within local societies or tribes. Such institutions are often suitable in their local habitat or within the areas where such institutions are followed in which they operate, because they satisfy the local needs and satisfy the psyche.

Some scholars also target Jirga as an informal or anti state judicial system. Usually Jirga receives great criticism from different spheres of life and particularly human’s rights, women’s rights activists. Often they build up their argument around the notion of gender discrimination that there is no participation of females and all the decisions are taken by the male counterparts in Jirga system. These scholars and human and women’s rights activists are of the opinion that it is not fair and legitimate to marry someone against her consent just for the purpose of ending a feud. Moreover, they also consider some practices like Swara which is practiced through Jirga, as an act of gender discrimination. While these decisions, taken by the males are later implemented and imposed on the women folk. In this particular practice of Jirga a girl is married to the member of enemy’s family in order to settle a blood feud. (Mushtaq, Yaqoob, & Javaid, 2016).

Jirga are not the only non-state actor to give fillip to violence against women. The misogyny of religious militants such as the Taliban is well documented, from prohibiting women's work and mobility, killing of women doctors and nurses, ban on schooling for girls and murder of women asserting themselves. The attacks on women in roles as diverse as teachers, local councilors and art performers, their brutality needs no reiteration. While also settling some civil disputes such as petty theft, the institution of Jirga has increasingly become the locus of misogynist practices such as child marriages and the barter of women for conflict resolution. Since Jirga have the blessing of so many people of society because they are collective though all are male made decisions. This the reason why Jirga is very much unpopular among circles working for women rights. Such council have got no place in formal legal law framework. They are here only because the Federally Administered Tribal Areas (FATA) and the Provincially Administered Tribal Areas (PATA) rules and regulations.

The historical backdrop of Jirga as a body or committee of seniors returns to British colonization. The foundation of Jirga got reinforced and some framework was presented under the British Raj. There are provincial varieties to this pre-history. The picked strategy for colonization was roundabout standard, under which such committees were implanted as a feature of true cycles to win loyalties of clan leaders by giving over equity related issues and social administration to them. By then, wraps of what is currently Pakistan were essential for ancestral belts, remembering locales for every one of the four areas of Pakistan. These districts were represented by the Sindh Frontier Regulations, Balochistan Frontier Regulations and the Punjab Frontier Crimes Regulations (the last stretched out to what in particular is presently Khyber Pukhtunkhwa and FATA). The central director of the district was either the Political Agent or the Deputy Commissioner who facilitated and partook in the Jirga.

Jirga remain in the news almost exclusively because of decrees resulting in women's human rights violations. While the arguments in support of Jirga center on dispute resolution of petty matters, examining the gendered dynamics of Jirga offers a stark contrast to all arguments for achieving order based on notions of

justice. A gender lens illustrates the systemic bias, showing how asymmetric the notions of accessibility and affordability are, and shreds the claim of Jirga being participatory, equitable and focused on reintegration of community members (Brohi 2016).

Casual equity frameworks, otherwise called conventional or non-state equity frameworks, are systems for debate goal that are not a piece of a state's formal legal executive. Casual equity frameworks address significant issues for people and networks, like nearby wrongdoing, security of land, goal of family questions. Casual equity frameworks are famous on the grounds that they are available, economical and fast. Be that as it may, casual equity frameworks are additionally condemned, now and again, for giving inconsistent treatment of ladies and distraught gatherings, for not sticking to worldwide standards and principles, and for supporting existing force structures in networks. The UN report from 2012 characterized casual equity frameworks as, "the goal of debates and the guideline of lead by arbitration or the help of an impartial outsider that isn't a piece of the legal executive as set up by law and whose meaningful, procedural or underlying establishment isn't fundamentally founded on legal remiss(Ricken, 2013).

Casual equity frameworks have recently gotten a lot of consideration among law and order scholars and professionals. The thought alludes to an assortment of organizations that serve to determine questions and identify with social practices particular from true state strategy. Casual equity frameworks might be controlled by customary or strict specialists, older folks or other regarded local area members. They are "casual" as in they apply non-state strategies for compromise (Röder, 2012).

Alternate Resolution Act was passed by the National Assembly of Pakistan in 2017. With the progression of time this demonstration was embraced all through Pakistan. Punjab gathering passed The Punjab Alternate Dispute Resolution Bill in 2019. In KP the Alternate Dispute Resolution was set up under the name of Dispute Resolution Council DRC in 2014. ADR in Sindh was set under the name of Dispute Resolution Committee 2019.

Elective question goal (ADR), or outside debate goal (EDR), regularly signifies a wide scope of question goal cycles and procedures that go about as a method for differing gatherings to go to an arrangement shy of suit: an aggregate term for the manners in which that gatherings can resolve debates, with the assistance of an outsider. Notwithstanding, ADR is additionally progressively being taken on as an apparatus to assist with resolving debates close by the court framework itself. In spite of noteworthy protection from ADR by numerous well known gatherings and their promoters, ADR has acquired far reaching acknowledgment among both the overall population and the lawful calling lately.

Elective debate goal (ADR) alludes to a bunch of practices and methods pointed toward allowing the goal of lawful questions outside the courts. It is typically thought to include intervention, assertion, and an assortment of "half breed" measures by which an impartial works with the goal of legitimate debates without formal arbitration. These options in contrast to arbitration are pushed on an assortment of grounds. Potential advantages are said to incorporate the decrease of the exchange expenses of question goal in light of the fact that ADR cycles might be less expensive and quicker than common legal actions; the making of goals that are more qualified to the gatherings' hidden advantages and needs; and worked on ex post consistence with the provisions of the goal.

At the point when gatherings need to determine a lawful debate, a preliminary under the steady gaze of a state-endorsed court is just a single other option – and one rarely picked at that. Most respectful suits are indeed settled by exchange not by arbitration – by "haggling in the shadow of the law". Discretion, intervention and an assortment of mixture techniques presently address a variety of other conceivable manners by which an outsider (other than an appointed authority) can be associated with debate goal. Regardless of whether and how ADR assists with conquering boundaries to accomplishing Pareto proficient results, and the impacts of its acquaintance on impetuses with resolve and the effectiveness of the debate goal framework, warrant further hypothetical and observational investigation by law and financial matters researchers(Mnookin, 1998).

Jirga is the most intriguing foundation of Pashtun society. It serves to work as a chamber or get together or both. So Jirga is as a gathering of older folks, incredible pioneers, boss and strict pioneers, who are working for the goal of questions between the disputants. Jirga is casual organization however it has extremely formal impacts on the pukhtoon society. It addresses the pith of majority rules system in its lead, under which each individual has an immediate say in forming the course of things and occasions occurring around him. Jirga is the conventional and standard legal establishment where the cases are attempted and disciplines and rewards are incurred. The range of prominence of Jirga isn't restricted to preliminaries of major or minor violations or common questions however it likewise helps in settling clashes and debates between people, gatherings and clans.

The Jirga or Maraka contains the "Speen Giris" white beard senior men, and different individuals. The Jirga part might be an illiterate individual yet he should be straightforward fair and skilled to report choice over all questions and complaints of any of the clashing gatherings. The Jirga individuals are not chosen by individuals of the space yet are named by a well wisher gathering of individual being occupied with arrangement between the clashing individual, Tribes. The choice are of two types one depends on the idea of "haq" the right and the other on "Waak" authority. A delegate of each party mutually moves toward the designated Jirga with a solicitation to reach on fixed date and spot as chosen by the moderators. The Jirga individuals when reach as the clashing individual tribes to give their verbal assertions on the side of their cases in regards to the current debate. Subsequent to paying attention to the two players, reveal to them that choice will be reported after so many days on that spot. On this day they first to all request that the gatherings give them their charge called Pandora.(Rehman 2018)

Jirga is essential part of Pashtun social association. In spite of the fact that state organizations (formal) have superseded this casual body by and large, yet its

usefulness didn't disappear. Jirga framework has been an example of overcoming adversity that is the reason the idea has been fused into state organizations of Pakistan and Afghanistan. With the progression of time, some adverse patterns like traditionalism, male aggressive polices, political and factional inclinations and quality reduction have penetrated into the foundation of which basic freedoms associations and Government have paid a lot. Anyway its benefits are more than the negative marks. The organization of quick and reasonable equity, capable compromise, change of hostility into fellowship, successful execution and respect for good and social qualities; are positive aspects of Jirga. Pashtun is general and tribesmen specifically think that solution to the current emergency in FATA and rest of the nation, lies in reactivation of Jirga framework.

The Peshawar High Court, in its preliminary hearing requested the KPK government to outline laws for sidelining the old and traditional custom. However the Khyber Pashtunkhwa officials were working yet it didn't make any progress towards that end. As a result, the Governor issued Ordinance "Khyber Pashtunkhwa Elimination of Custom of Ghag 2012 which announced the custom of ghag as cognizable act. Later on, the officials got together changed the law into act(Faqir & Atta, 2013)

Pakistan has a compelling Alternate Dispute Resolution laws set up, which gives breathing space to determine debate outside the court. For the most part, these sorts of procedures are administered by The Arbitration Act 1940, inside the country. There are some different rules which manage the discretion measures in different fields of life, for example, The Family law 1961, The Small Claims and Minor Offense Ordinance 2002, Code of Civil Procedure (Amendment) 2002 and so on Before 2005, there were no figured structure or methods carried out to administer International Arbitration in Pakistan, with the exception of, The Arbitration (Protocol and Convention) Act, 1937, to execute foreign laws. To reestablish the premium and draw in the unfamiliar financial backers in Pakistan, Parliament of Pakistan has passed "The Arbitration (The International Investment

Dispute) Act" in 2011. This resolution ventures forward to engage International Arbitration and authorization of international laws.

It is assumed that the Alternate Dispute way is the quickest, fast, productive and private approach to determine differences between the contracting parties. This methodology has been embraced overall generally in the business areas. The lawful hypothesis behind this idea is to determine the question out of court, by the interceding of third definitive party to resolve down the debate by common understanding and grant in the light of confirmations and best of his insight without including of gatherings in specialized intricacy of procedural law. Court requests ought to be supportive of one party and other party won't get a single thing from such orders, then again, in mediation the two players conclude to some specific conditions and resolve their question, which bring about fulfilling of the two players. These days, intervention becomes standard strategy to determine business debates. This cycle limit the hypothesis of "one size fits all" and furthermore abbreviate case processes. Specialized standards of system and proof are not relevant in Alternate Dispute Resolution. In any case, with the improvement of various local areas like global laws, this strategy draws an ever increasing number of difficulties.

It is human nature to have battle or to oppose, in current culture, steps to determine conflicts will lead towards solution. Legal scholars empower the appeasement interaction and control to resolve disputes in the general public. It is significant support of legal framework and gives huge alleviation to customary legal interaction. This cycle have solid authentic limits without culture in various forms, for example, "Panchyat framework" or "Jirga framework" or through impedance of older folks, which gives wide scope of solutions for resolving disputes. With the passage of time, leaders in public and worldwide organizations have raised question to the rulings issued by Jirga because it is against the international standards and international laws. Alternate Dispute Resolution have not prospered as it needed be in our overall set of laws and not became a field of specialization in Pakistan(Iqbal, 2016).

Though Jirga is protected by law in Afghanistan, in Pakistan it is rehearsed more in a casual limit, particularly after the abolishment of a colonialization and its rules – the Frontier Crimes Regulations (FCR) – and the participation of Pashtun 'ancestral' regions, previously known as the Federally Administered Tribal Areas (FATA), with the Khyber Pakhtunkhwa (KP) Province in May 2018 (Yousaf, Hammad, & Gul, 2018).

Before putting FATA and KPK together, the past FATA locale was represented under the FCR established by the British Raj in its last structure in 1901, initially comprised and presented in 1872, to 'tame' the Pashtun clans on the Afghan line. Despite the fact that the FCR did fairly perceive the Pashtun Jirga, it gave an ultimate conclusion by giving power to the Political Agents (PAs), who were delegates of the British Raj (Barfield 2014).

The writing that has been studied with the only goal of exploration feature the realities that Pashtun are extremely conventional individuals and that stay associated with their traditions and customs. It is to say that Pashtun individuals don't change with passage of time or all in all their traditions and customs are severe and inflexible. Jirga is depicted in the writing as the old and standard organization for settling out questions and contrasts among Pashtun individuals. It is talked about and highlighted in the writing that Pashtun individuals consider it against their traditions and customs to consider Jirga a foundation that can't discover answer for every one of their issues. The Pashtun public won't have any desire to take their debates and issues to some place or foundation other than Jirga.

The examination of the information gathered with the end goal of exploration has come up with some hard realities. It has provided another guidance or way to this writing or has brought up the disadvantages or deficiencies in the writing. Examination of the information has obviously called attention to that no legitimate or genuine field work has been led with respect to the issue why Pashtun individuals are moving away from Jirga. This contradiction in the writing and the information from this examination is an intense issue. Individuals who

will go through the writing which has been read for this examination will believe that Pashtun individuals are still extremely conventional in nature and they hang on close to their standard ways though the real circumstance or the ground level truths are very surprising.

Significant issues that are discussed in this study which are brought into light are that there is no question that Pashtun individuals are conventional in nature and have high respect for their rich practices however what this examination brings into light is that Pashtun individuals are feeling disappointed with the arrangement of Jirga due to many reasons such as Jirga favoring one side with one party while disregarding the rights the party ought to have.

The literature that has been studied for the purpose of research has come up with few main ideas. One thing the literature points out the most is that Jirga is the most talked about and one of the most respected institutions among Pashtuns. It is the only institution that is consulted by the Pashtuns for solving out their disputes. These disputes whether they are in a village, a tribe or between tribes are brought into the Jirga and a common solution which is acceptable to both the parties is produced. The decisions of the Jirga are respected highly among Pashtuns and this shows the amount of trust they have over Jirga. Pashtun people who belong to different regions consult Jirga for any problem they face. The problem can vary from a simple domestic violence case to settlement of blood feuds.

The research aimed primarily at finding facts and figures relating to the validity of the literature reviewed. A series of processes will be carried out to identify the gaps and discrepancies in the given literature. In-depth interviews will be conducted to find out about the perception of the Pashtuns about Jirga and also why they are moving towards other ways for finding solution to their problems. Key informant interviews will be conducted in order to find out the reasons for looking at Jirga or DRC as the main institutions for dispute resolution.

Chapter 3

Research Methodology

Research methodology is a procedure through which verifiable data or information is collected, and it delivers reasoning, logic and identifies and explains data to understand the research problems. Research methodology is a way of understanding something properly, to collect new information. It includes various tools and techniques. In this research, I used qualitative research design to effectively understand the research problems reasonably and explicitly. Qualitative research mainly has six different paradigms namely phenomenological, ethnographic, grounded theory, historical, case study, and action research. We have used ethnographic technique while conducting research.

3.1 Research Techniques and Tools

For the data collection, I used the following anthropological techniques and tools that were useful and appropriate in the context of the research locale. The techniques and tools are explained below.

3.1.1 Sampling Techniques

Purposive Sampling

Researcher will use purposive sampling method to collect data. The researcher is concerned with a certain kind of respondents that is why researcher will choose purposive sampling method.

Purposive sampling (otherwise called judgment, particular or abstract inspecting) is a testing strategy where analyst depends on their own judgment while picking individuals from an area to become a part of a research.

Purposive examining is a non-likelihood testing technique and it happens when "components chose for the example are picked by the judgment of the scientist. Analysts frequently accept that they can acquire a respondent with particular knowledge sets.

Television correspondents stopping certain people in the city to get some information about certain political changes comprises the most famous illustration of this inspecting strategy. In any case, indicate that the TV columnist needs to apply certain judgment when concluding who to stop in the city to pose inquiries; else it would be the situation of irregular testing method.

Then again, purposive examining technique might end up being powerful when just restricted quantities of individuals can fill in as essential information sources because of the idea of exploration plan and points and goals. For instance, for an exploration investigating influences of individual misfortune, for example, family mourning on execution of senior level chiefs the scientist might utilize his/her own judgment to pick senior level directors who could participate in detailed interviews.

3.1.2 Participant Observation

The establishment of good friendly and meaningful rapport is important for conducting research. Going to a new community or group to get information from the native point of view was not so easy for my course of data collection. Rapport building is a major and initial technique, which the researcher used. A researcher needs to build a good rapport among his or her respondents. I took my respondents in confidence so that they would get me the firsthand data.

Participant observation is the way of collecting data which is mostly used in the qualitative form of research like in cultural anthropology, ethnology, etc. It is a way of observing people from inside by mingling with other cultures for over a long period and by sharing with them their day-to-day activities to collect information about their daily life experiences. The observer collects field information and records data in a natural setting. "Through participant observation, the data about people can be effortlessly observed and recorded. This method can be applied by making people friendly. I as a researcher did not hide my identity with respondents where I entered the field with key respondents. I joined native ceremonies, gatherings, and other matters so that, I could observe their manners those I documented.

Key informant is one of the major sources of collecting information. The key informant knows his or her respective culture and knows more than anyone else around. Key informants are those individuals with whom researchers develop the close relationship they are chosen over time, for having information, experience, and reputation and who can give information about their own respective culture. A key informant must have firsthand information about the issues the researcher is investigating in a community. I needed to have key informants for better guidance as I am non-native to the field. I had two key informants in the field who helped me in introducing in the field for data collection. People agreed to give me information due to my key informants who were having social respect among natives. With the help of key informants, I was capable to reach for saturated data assisted me at every forum for conducting my research. The criterion for selecting my key informants depends upon their social knowledge they have, and their reputation where people of the locale could not deny sharing information what I inquired.

One of my key informant was member of local union council. He has chosen by me as key informant because of his knowledge about dispute solving mechanism, which in our case is Jirga. Being a member of union council for a long time and also working as a social worker, my key informant had enough firsthand information needed for the research. My key informant has also worked with number of local NGOs and have also taken part as helper in many projects run by international NGOs. He had been to Jirga and also to DRC and have enough and verifiable knowledge about these mechanisms. Being a member of local union council and also of some local village social work bodies he has a social circle whose size is quite large and also have enough influence in the area. He was also found to be respected among the villagers and people would listen to him if they have some issue they solving.

Another key informant I used during my research for data collection was a retired police officer. He had enough firsthand data about the customs and traditions of that local area. This police officer was highly respected among people and had enough influence over his vast social circle because of the field he was in for 25 years. The profession he had made him aware of his local area tremendously. During his service as a police officer he had

made contacts with several other notable figures of the village and also in the neighboring lands. I had taken so much help from key informants during all the phases of data collection and analysis.

3.1.3 Socio-Economic Survey

Study about an area depends on the factual methodology like calculating existing number of people, pace of populace development, populace estimating and displaying. Wellbeing, instruction, arrangement of frameworks in the networks and the general social work on mental/advancement plan is planned. In the social and economic review, livelihoods of individuals, pay sources and cost and advantage are investigated of the said projects.

Evaluation of families and people situated inside the area must be embraced to enroll and archive the situation with have some influenced on people inside the selected area. It will give an overall idea outline of the people who are served by the Resettlement Plan (RP) and profiles of family resources and fundamental information about work. It will cover 100% of the people who are influenced inside the study region.

3.1.4 In-depth Interviews

The format of the interviews was set to be semi-structured. Both open ended and close ended questions were included in the interviews. This was done keeping I mind about the responses from the respondents. Semi-structured interviews helps in gathering data in good quantity which can be later on analyzed for finding out answers to the questions. The interviews were conducted keeping in mind the research objectives and questions. One must keep in mind about these things because if not then the data gathered might not reflect what the research aims to find out.

It is one of the most important methods used in qualitative research which is used to collect data through detailed and in-depth interviews. I asked open-ended questions from my respondents and listened carefully to their relevant and irrelevant information. The in-depth interviews enabled me to saturate my research demand where I conducted formal interviews of one or half hour with some of my respondents usually one-on-one. Good understanding of the topic allows you to make a good questionnaire (interview guide) that gives respondents appropriate, important, and meaningful responses to each question

that is being asked from them. My interview guide is made up of relevant questions that are related to my research topic. The semi-structured interview guide questions which comprised the interview guide were asked from the respondents. I chose an interview guide to ask the semi-structured questions and they freely answered my questions. The interview guide assisted me in not missing any aspect of research that was followed as a memory of queries. My interview guide contained both open-ended and closed ended questions that the respondents freely communicated with me. It helped me in covering the investigation holistically. I in some situations added and deducted questions from my interview guide in case of irrelevancy and relevancy of them, but in totality, I have covered whole questions.

3.1.5 Case Study

The case study method is widely used in anthropological research and is an important source to know the in-depth account of the community's perceptions about different phenomena. It is the way of understanding and rebuilding someone's past life experiences and it can provide holistic representation and detailed information about the real causes and issues in case of any event. The best way for a researcher to understand a complex situation is to explore it from all angles. I used it because it was convenient to justify my data collected from the local experiences. In the field, everything appeared abnormal for me to understand the local narrations that are why I conducted some of the case studies from the same respondents to strengthen my data in a more transparent manner.

3.1.6 Photography

The researchers do a lot of photography during the field research as a non-verbal mechanical aid to get and capture informal facts about the people and the locality. I also did photography to take various pictures of locations and events related to my research. It helped me to keep evidence and relevant pictures. Many pictures are displayed in the dissertation.

3.1.7 Daily Diary

It is another important method being practiced by anthropologists is to keep the records of an unknown community to gather data for the research purpose. It is like Science

practical notebook in which a researcher notes down his or her daily activities and experiences. It is a creative activity that must be done with precision because and is a one-time activity. I used it daily after returning home and collated the data from the field. The record of interviews and notes proved to be the findings of the day and I kept it closer to my heart.

3.1.8 Field Notes

The field notes method will be used by the researcher keeping its significance in mind to note down every piece of information observed during the research work. The writing of field notes allows the research to recall the events and mode of discussion with the respondents and with the common people which ultimately proves a very useful part of the data.

3.1.9 Audio recording

The researcher used the audio recording to record the interviews of the respondents, so that, it eases out the task of documentation of the data. I used it also to record the interviews of my respondents because it helped me to document data easily. I asked my respondents before recording his and her interviews. Many of them did not permit me to use a voice recorder because my research domain scared them for sharing information with recording their voices. On the other hand, many responded allowed me for recording their voices who felt comfortable giving interviews through a voice recorder. I have data of my respondents into two shapes of recorder and field notes. But audio recording eased my work in case of documenting each aspect of my documentation.

It is unethical to risk the life of the researcher as well the lives of respondents in a community as part of a larger security situation in the country. All the people who were interviewed for this research are the storehouses of information of the locale and events happening in the locale. For security reasons, their names and identities are kept secret. The term “Respondent” is used instead of their real names and XYZ as names of the case study. This was done for the protection of the lives of respondents so that they may not feel threatened in any case of security and inquiry takes place. I did not conduct any interview forcibly or compelled them to interview. I ensured them that I would keep their identity confidential.

It is very difficult to calculate or point out exactly to what extent the behavior of my respondents changed in front of me. I have to take this into consideration because it is a very important aspect in conducting research. Myself as a researcher was new to the area of my research. The people of that area had no contact with me previously and I so do myself. It is generally thought that the presence of an outsider definitely have an effect on the perception and behavior of people, as to what extent is dependent on many factors. I have tried my best in every possible way to gain respect and trust of my respondents. In some cases I have observed that there was a slight change in the behavior of respondents when they came to know that they were going to be interviewed. But overall I was able to keep my respondents to behave normally.

Sometimes the respondents would feel uncomfortable in front of a specific person. Sometimes they would feel uncomfortable while giving me the interview at home because the interview questions or interview guide would make the respondent to reply in aggressive tones or use some words that they would not feel comfortable. I as a researcher came to realize all these issues once I started conducting my interview. In my opinion it is very difficult to totally control the behavior of the respondent and as far as I am concerned it is good in many ways. If you control the environment or behavior, the data collected might not help you understand the underlying phenomena. What is important is that the respondent feel safe and comfortable while giving interview.

3.2 Sample Size

A sample of 38 respondents were included in the study. These 38 respondents were chosen from 150 households scattered across the research locale. These households were home to 450 individuals. Out of these 38 respondents, two were used as key respondents keeping in view the amount of local knowledge they possessed as compared to others.

3.3 Research Site

The researchers need to find out the locale for the purpose of their qualitative research or data collection. Selecting the village of Tarnab for the purpose of research was that it proved very useful in fulfilling the purpose of the research.

Tarnab is a small village located at a distance of one kilometer from main GT road. Tarnab holds a unique location because from one side lies Noshera at the distance of about fourteen kilometers. On other side is Peshawar at the distance of fourteen kilometer. Tarnab lies on a very busy road. It is packed with traffic of all types all day long. There are two primary and two secondary schools each for boys and girls. There is boys and girls college having separate campuses. Tarnab is an agricultural village. About 90 percent of the population is dependent over agriculture. People here have very simple living style.

From main GT road there is a small road leading towards Tarnab village. The first point of Tarnab village is Machine Chowk (square). There is a canal running along with road leading towards village. On one side of the canal is agricultural land and on the other side are shops, markets, shopping plazas, schools and colleges. Then comes the residential land. Tarnab is not properly planned village. Just like many other parts of KPK, population blast has left people with no other choice but to build house without thinking about planning. As a result sanitation problem is very serious threat to the overall health of every single individual. Tarnab has few very notable features as well such as bee farming, its international honey trade market and a lot of plant nurseries which are home to vast varieties of plant breeds, the agricultural research and training institute. At a distance of two kilometers towards Peshawar on GT road is a famous cattle market at a place called Doran Por.



Figure 1 Map of District Peshawar taken from World Atlas

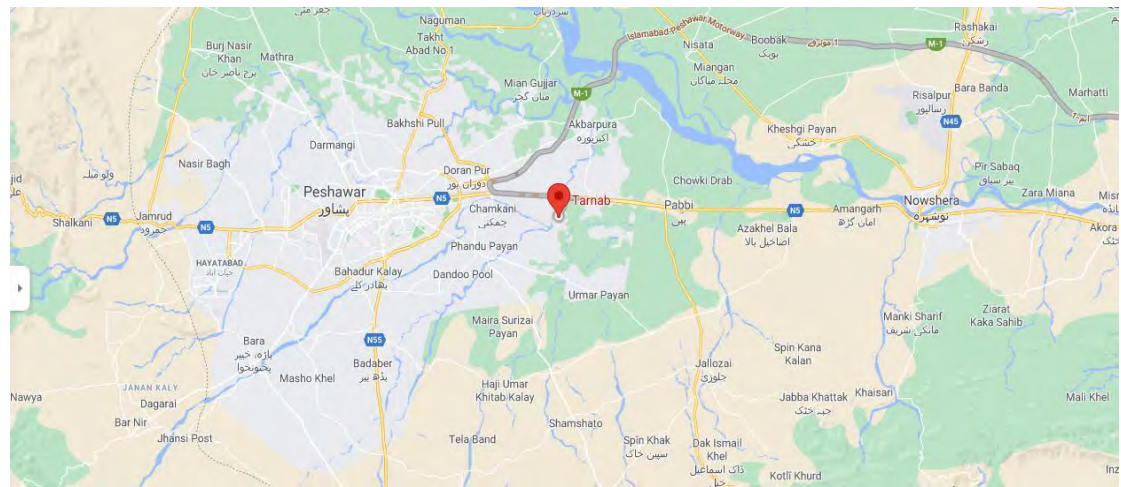


Figure 2 Map of Tarnab taken from google



Figure 3 picture from field work

3.3.1Climate

Tarnab is located on GT road. It is an area with a lot of trees. The people are basically related to agriculture and bee farming. The climate of Tarnab is very pleasant. In summers at morning and evening times, there is always fresh breeze which makes them very relaxing times. The winters are cold as it is surrounded by trees and open agricultural lands. There is a canal flowing through the village of Tarnab which is also a major reason why the wind is always or most of the time fresh and cold. Due to its location Tarnab basically has a very pleasant weather. Tarnab has prolonged summers starting from March and lasts until October. It has a short span of winters as compared to summers starting from December and lasts until February. Generally we can say that winter season lasts for a short time as compared to summer season.

The old houses in Tarnab are built in a way as to deal with both types of weathers. The amount of rain fall is very high as compared to surrounding areas. It partly is because of

the greenery and partly because of its open and clean environment. The rain fall helps lands remain green and very good for agricultural purposes.



Figure 4 picture of local house

3.3.2 Population

Population of Tarnab is 17078 according to the latest census report. Tarnab is part of Lala Union Council No. 29 of district Peshawar. Majority of the population about 98% is Pashto speaking. People of this area are mainly related to the field of agriculture. Population of this area are living in a typical village type environment. Houses are of mix structures. Some of the houses are built according to the latest designs and methods while other half of the village is living in traditional style houses with walls built of clay.



Figure 5 Local village picture

3.3.3 Ethnicity

The locale selected for the purpose of research Tarnab represent people belonging to different groups speaking or using Pashto language as their native tongue or first language as the language of communication. People of Tarnab belong to the ethnic group of Pashtun. There are more than ten Major casts that reside in the territory of Tarnab. A few of these casts are in majority which are

- Syed
- Gillani
- Shah
- Yousafzai
- Afridi

The Yousafzai and Syed casts are primarily related with the field of agriculture. They range from small land owners with small houses up to very influential persons owing large farm houses and huge pieces of agricultural land. Both these casts have low literacy rate. Family members are encouraged to join family business at very early stage.

Shah cast people are mainly related to bee farming business. They own lands where they have built bee keeping farms which produces very pure quality honey. Gillani cast people own plazas and markets. There is an international honey market at Tarnab. Most of the buildings are owned by Gillani people.

About ninety percent of the people living here are Pashto speaking. On one side of the GT road where Tarnab is located resides people who speaks Pashto while on the other side of the road opposite to Tarnab resides Punjabi speaking community. The Pashtun speaking side is primarily dependent with agriculture and honey business. The Punjabi speaking side of the people is mainly dependent on cattle farming and dairy products.

Afridi people are running different businesses in Tarnab and surrounding areas. There businesses include automobile business, agriculture related products, construction firms, building materials. Afridi people have migrated from formerly known FATA area. These people have enough money and have invested in different businesses. The literacy rate among Afridi is on the low side.



Figure 6 Pashtun at a wedding

3.3.4 Subsistence Type

People of Tarnab rely mainly on agriculture for the purpose of subsistence. Main crops that are grown in the area are,

- Sugar cane
- Wheat crop
- Different vegetables

This pattern of subsistence is helping a lot of families that are involved in the field of agriculture in one way or another. Usually the eldest or most experienced person in the house hold is responsible for the agricultural business. He makes decisions regarding sowing, cutting, making it ready to be delivered to the market. Rest of the family helps in this business at different levels along with different

responsibilities. The agriculture sector in Tarnab is very well established. Farmers and land owners are using modern machinery in order to get their work done more quickly and easily. Because of the presence of Tarnab agriculture institute, the farmer of this area benefit a lot. Training sessions are arranged by the Tarnab agriculture institute to equip the local farmers with modern knowledge to help them earn more..



Figure 7 taking fruits from field to market

3.3.5Fruits

Tarnab has very ideal place for the fruits to be grown. The soil is very fertile, there is no shortage of water. It rains a lot in Tarnab. The water bed is at very best level which is very good for farming. A lot of families are associated with fruit farming business. Some families own these lands and businesses and other families get to work on those lands. Tarnab is located in a way that the access to main GT road is very easy and the fruit market is not very far from the village. Good roads mean that mode of transportation is easily available for the farmer to deliver the fruits to fruit markets. The agriculture research institute offers free courses for fruit farmers from time to time in order to equip local fruit farmers with modern ways and knowledge.

This area produces fruits such as,

- Peach
- Mango
- Pear
- Cherries
- Strawberry

People of this area are hardworking and honest. This area has vast lands that are used by the local people for agricultural purposes. There is a strong connection between these lands and people who are of the belief that the lands that they have for cultivation are sacred gifts for them and that it is their duty to utilize these lands for the purpose of fulfillment of their daily needs.



Figure 8 local peaches

3.3.6 Living Condition

Living condition of the people of Tarnab is not very good. During the field work it was clearly observed that the people of this area are denied some very basic necessities of life such as electricity, clean drinking water, health facilities, roads, basic infrastructure, buildings, markets, parks, playing grounds, education. Most of the facilities denied to this area are because of political reasons and also

personal issues such as conflict of interest and opinion. If a project in a specific area is approved for this area then that project may not find its way to the surface because of the reasons mentioned. People of this area demand all the facilities that are needed by the residents in order to have a peaceful life. It is not to say that there are no facilities in this area but the facilities already there needs some up gradation. A major portion of the people of Tarnab lives in houses that are mostly made of mud. Use of bricks is very rare. These houses lack basic living facilities greatly. They have no proper drainage and sewerage system. This poses a very serious threat to the health of the people of these areas. As a result the health of the people in these areas is not very good. The mortality ratio is higher as compared to more developed areas. One reason for the backwardness of such areas is that people are poor and they cannot afford to make any changes to the already present infrastructure and thus they rely totally on the government for the betterment of their areas. Access to clean drinking water is available only to a small fraction of the population. Roads and streets of such areas are not properly built and it is very difficult to walk in these streets after it rains. The people or areas who have access to proper streets and roads and other basic facilities are the families who are financially strong and stable. In most of the cases they contribute in the development of the area. These rich families have also contacts with the government officials. They have political affiliations which helps them in getting developmental projects completed quickly in their areas.



Figure 9 roads condition after raining

3.3.7Health

Basically if the health of Pashtuns is discussed then it fall under the category of ‘good health’. This good health is mainly because of the fact that they eat fresh organic food and which in turn gives them good health. People of Tarnab are a mixture of two types one of which can be called good and the other bad. Tarnab is a village that can be thought of as a village that has been neglected by the authorities or government. Due to lack of basic health facilities people often suffer by having different diseases. For example if there is Malaria issue then government fail to provide people with basic health facilities. If there is a pandemic in the area that is left unattended by the health authorities will definitely result in poor health. The water sanitation is a very big issue in these areas and gives rise to a number of health issues. The local hospital at Tarnab is lacking basic health facilities. There are many private clinics in Tarnab. But the problem is that people have limited amount of money to spend. These private facilities are

very expensive and only a certain percentage of population have access to it. People of Tarnab needs to have access to public facilities, public hospitals where they can be treated free of cost. The already established medical facilities like district health center, public dispensary needs modern facilities. They were found to be understaffed and were lacking many facilities needed upfront. Every village needs emergency center where any type of medial help can be provided on emergency basis.



Figure 10 poor sanitation system

3.3.8 Education

Majority of the villages in the Pashto speaking belt have low educational facilities. The already established buildings that are used as schools are sometimes under staffed and in some cases over staffed as well. During the research it was found out that these problems are basically because of political influence. Tarnab has schools for boys and girls separately operated by the provincial government. There are colleges which offer different courses to be taught to both boys and girls in separate buildings. Parents in the area have different views about education as well. Most of the families send their children to government schools while a small portion of people send their children to private schools as well depending on the level of income. Ratio of school going boys is higher than the

ratio of school going girls which is not surprising given that this area is an agricultural area. The educated youth of Tarnab travels to Peshawar for higher education purposes. Peshawar is the largest city and capital of KPK so people from near and far travel to Peshawar to gain educational facilities. In the government college for boys and girls have different courses offered in their prospectus but in actual these institutes are understaffed.

The class rooms lack some basic facilities like proper furniture, ventilating system, fans etc. In summers there are frequent power breakdowns and there are no generators in schools to supply electricity. Imagine how hard it will be for the children as well as the staff members to carry on educational activities in scorching heat. The staff at the schools don't seem to have much interest towards their duties which is visible from the educational standards of the students. These schools lack proper computer labs which in today's world hold very importance. Students are taught computer subjects orally which is under no way acceptable. Even if there are computer labs in the schools they lack computers, or if they have computers then most of them will not be in working condition.



Figure 11 children at local school

3.3.9 Recreational Sports

When it comes to sports, the Pashto speaking people are very much fond of cricket. So is the case with the village of Tarnab. People here are addicted to cricket and football. There are other sports played as well such as Kabadi, Golidanda, Shenoli, Pitogaram. Both the children and the adults play cricket, football, kabaddi. Shinoli and pitogaram are mainly played by the young generation. The people of Tarnab also play badminton. Although there is only one private swimming pool in Tarnab, people of Tarnab are very good in swimming activity. If someone is interested in playing at club or higher level they can avail such facilities in Peshawar, the capital of KPK.

Although funds have been approved for different sports facilities, still there are no buildings or grounds which can thought of as provided by the government. There are many hurdles in this way. The government have planned sports activities without consulting with the local community and such plans always fail if it is against the wish of local people.

They have made courts for different sports on their own. There are some vacant grounds or plots which are used by the local youth for recreational purposes. Almost all of such areas are property of local people who have given permission for the lands to be used for recreational purposes. Cricket and football tournaments are arranged by the local organizers which are fun to watch as the local talent is seen in action.



Figure 12 volley ball match in village

3.3.10 Family Structure

It is often thought that the Pashto speaking people are very traditional in nature when it comes to family structure or family patterns. The word that comes to mind is the joint family structure. Yes, it is true but what is more interesting is the fact that with the passage of time the family structure is also changing. Nuclear family structure which was once looked upon as something against the norms is now adopted by many families. In fact according to some of the respondents, living separately is much more peaceful. Tarnab has both these family structures. The ones moving or moved towards nuclear family system are mostly educated families. These families have come out of the originally followed family structure which is the joint family system. Most of the elders have still managed to retain the old or original form of family structure and for them joint family is the source of unity and strength. It is worth mentioning that the families which have moved away from the joint family system are not hated or looked as something bad, rather they have the same connection and bond with their families.

There are marriages within the same cast and also between different casts. At first only marriages in same casts were preferred but with the passage of time this restriction or tradition is also evolving. There are now marriages even outside the village, city, and in some cases in other countries as well. All this change can also be associated with education. Education brings change in people's attitude and behavior. It changes thinking capacity and style of people. Outside marriages whether it is other cast or another city or country, the educated masses are practicing it more frequently as compared to others. Previously, thinking like this was not considered good or it was considered against the traditions but the case is different now. People are welcoming and adopting to new ways in life.



Figure 13 combined kitchen

3.3.11 Marriage Patterns

Arranged marriages is the norm followed in Pashto speaking people. It is also the case in the village of Tarnab. Once a partner is selected, both the families of bride and groom meet several times to discuss and finalize the arrangements of marriage. It is a highly followed and highly regarded marriage pattern in Tarnab. According to the local people it is an honorable tradition that the elders of a family decide about the marriages in their households. Typically a girl is not allowed to speak in the matters of marriage or the choice of partner. It is the elders within that family who will decide about such issues and the girl is to follow whatever is decided by the elders. If a girl fails to do so it is considered bad in the families.

It is not to say that there is no other form of marriage that is practiced in this area. There are a few cases where the boy and girl have a say in choosing who to marry. It is a fact that with changing times, education level has improved and it

has in turn given the people choices about who to marry and who not to marry. Although such number of marriages is very low in this area.

According to respondents, the attitude of local people is changing with the passage of time. The addition of mass media, internet, mobile and education according to respondents are responsible for such changes. In some cases the parents are unable to force their children against their wishes as was the case in past. Parents have also changed their attitude towards this phenomena or are becoming flexible by accepting wishes of their children. The Afridi and Yousafzai cast people prefer to marry within their casts and families and is mainly because of the issues related with the properties and land. To retain land and properties within their families they prefer inter family marriages. This inter family marriage between first cousins have also resulted in children born with disabilities and mental health problems, but nevertheless it is still practiced.

Other casts including Durrani, Shah, and Syed have no hard and fast rules regarding marriages. They have marriages within the families and also outside families. The issues relating to land and property are solved before marriage by giving the person their fair share. It is also because the people belonging to these casts are much more educated as compared to Afridi and Yousafzai.



Figure 14 people gathered at a local wedding

3.4 Some Old Fashioned Cultural Figures in Tarnab

Every culture has different persons which have their specific roles in respective cultures. In Tarnab during the research few such notable and very old fashioned figures were highlighted by a key respondent. They included

3.4.1 Rapati

Rapati or the ‘reporter’ is a person in village who has different and very important duties. These duties relate to birth of a child in the village, death of a person in the village. The ‘Rapati’ is the person responsible in the village to keep a track of all such record. Every evening the rapati will go to the local police station to give an update about births, deaths etc. in the village. This cultural figure is now off course replaced by phone, e-mail, fax, internet and many others.

3.4.2 Ostakaar

This cultural figure is responsible for services related to marriage and death ceremonies. An Ostakaar carries the news about an event or a ceremony relating to marriage or death and funeral news. He will spread the news in the surrounding areas or in the areas pointed out to them. An Ostakaar will arrange for all the services that are needed for marriage or funeral, for example, arranging sitting area, cooking area, providing the necessary utensils or pots. This culturally practiced service is now being replaced by the internet, mobile, fax.

3.4.3 Mashki

Mashki is responsible for providing water to houses, gardens, watering roads. Water is a basic necessity needed by everyone. In old days a Mashki was the person responsible for this service. He would go door to door and provide the house members with water enough to meet their requirements. Mashki would come twice a day for providing water to houses. Mashki was also responsible for looking after gardens for watering plants and also watering the roads to settle down the dust. This cultural figure is replaced by water tankers, government water supply, and other means of obtaining water.

3.5 International Honey Market Tarnab

Tarnab is home to the largest honey market in Pakistan. It is known throughout the country as international honey market. It is a huge market with hundreds of honey producers, bee farmers, and a number of services related honey business. Honey is supplied from this market throughout Pakistan and also worldwide. It is place where honey business is conducted all over the world. This market has mainly people from Tarnab and surrounding areas and also from other areas of Pakistan.



Figure 15 International Honey Market

3.6 Agriculture Research Institute Tarnab

Tarnab is famous for its agriculture research institute. This was founded by the British government in 1908. This research institute has contributed greatly towards its country, Pakistan. This research facility is helping local farmers with new and advanced techniques about farming, it also helps in providing its services towards seed technology providing the farmers with seeds that would be easier to grow and to produce more output. Imagine the importance of such research facilities in an agricultural country like Pakistan.



Figure 16 Agricultural Research Institute

Chapter 4

Jirga Popularity

4.1 Jirga Popularity: Widely Recognized and Appreciated

Almost all the respondents were of the view that Jirga in Pashtun society is the most notable and noble institution for solving disputes among people. Among the respondents, different views were recorded.

According to Turab khan *‘I respect and follow Jirga because my elders, my forefathers have done so. It is a kind of legacy’*. The respondents shared their views highlighting the fact they have been trained by their elders not to forget the importance and value of Jirga in their life. Another respondent Ashiq Gellani said, *‘for me and my family it is very important that we follow and respect this institution’*.

Many of the respondents were of the view that there is no shame in saying that they follow and respect and will uphold the importance of Jirga at any cost because it is their moral duty. It is a very old and cultural institute of Pashtun society and this makes Jirga a kind of cultural heritage which needs to be safeguarded.

Noroz khan said, *‘I don’t consider wise talking to someone that has no regard for Jirga.’* He further added *‘I have been told by my elders that Jirga has a rich and long history and that it is Jirga because of which we have survived many ups and downs through time.’*

It was very interesting to find out during the research that Pashtuns have a very special connection with Jirga and they feel proud about such a connection. Afzaal bacha, a very senior member of Jirga and DRC said, *‘Pashtuns have a very rich history comprising of many notable features and Jirga is one of the most talked about feature. A Pashtun feels pride and joy when he is invited to attend a Jirga*

or to participate in decision making process for him this is one of the most proud moments of his life’.

According to Amjid khan, ‘ *why I follow and respect Jirga is very simple. Jirga decisions are fast and just. There are no questions about the outcomes of Jirga. I follow it blindly.*

This makes another very interesting assumption about Jirga that some of Pashtuns follow it blindly. They are of the opinion that Jirga decisions can never go wrong and that it is mandatory for them follow and respect whatever the Jirga decides about a specific matter. Also the decisions are made quickly and totally justifiable. Judging from the responses of people it was quite obvious that people trust the elders who organize Jirga and give decisions about different issues. They were of the opinion that according to them the elders never decides against or in favor of any particular party for no reason. What the decision is, it is based on proper facts and findings. The decisions are not biased or inclined towards a particular person or party.

(Zaman, Khan, and Naz 2018) states that Jirga means a place to meet for consultation, discussion and resolving conflicts and disputes. It would serve as a democratic council which is at its best providing people with speedy and needy justice. According to Pashtu dictionary the word Jirga means a simple gathering of few or more members who gather with the agenda of helping out people by solving their conflicts and disputes. The word Jirga is also used in other languages such as Persian, Turkish and Mongolian languages and in these languages this word Jirga appears to means ‘a circle’, but again it is normally used to refer to the gathering of people. Putting aside the origin of the word, the Jirga is a pure council of elders whose sole purpose is to solve out the disputes and conflicts among the people. The Jirga solves the disputes of people by keeping in front the prevailing customary laws, rituals, and by having a group of elders who have collective knowledge of all the knowledge needed to solve out the disputes among different parties in most effective way possible.



Figure 17 Interview with Key Respondent

4.2 Dispute Resolution at Local Level

If we go deep in to the history of Pashtun, we will find that Pashtun never liked their disputes to be addressed publically. The concept of sharam and pardah comes into play. These mentioned concepts are a kind of sacred things or ideas in Pashtun. Whenever and wherever there is or was a dispute, the Pashtun would like it to be addressed and solved in a peaceful yet in a private way. Let us consider an example of a dispute where there is female involvement. Now that dispute needs to be solved within the boundaries of that house or else it will become a kind of taunt for that family. *“I would never ever want my family dispute involving females to be heard outside my boundary walls”*, said khan. It will be a matter of shame if anything like this happens. *“We are always under a lot of public pressure whenever there is a dispute of any kind that may involve female participation of any kind”*, according to Siar khan. This public pressure mentioned here plays a very important role in Pashtun society.

According to a respondent, “*even if we want our disputes to go outside our boundary and to be heard by other parties or elders we cannot do so because of public pressure, sharam pardah*”. Sometimes it might be possible that the decision making party is not in good terms with one of the party on other side. This surely affects the outcome. “*I have been side lined by the Jirga because i am not in their good books*”, said respondent who then turned over towards DRC for fair trial. So many cases are affected by such affiliations.

4.3 Versatile Nature of Jirga

During our research, a great deal of effort was put into finding what kind of disputes are brought into Jirga. By conducting a thorough investigation it was found out that the highest number of cases brought before a Jirga are domestic issues such as domestic violence, husband beating wife, issues between wife and mother-in-law, issues between brothers or sisters. Then comes land and property disputes among families, different parties etc. Next comes the business disputes among different parties, disputes of payments etc. Water disputes were also among the major disputes brought before Jirga.

“As long as I remember, our family disputes are solved by Jirga and yes there are always disputes in our family”, said Iftikhar. According to him their family always looks towards Jirga for solving family disputes and will continue doing so because that is what they have learned from their ancestors. “It will be a disgrace to my family if my family disputes are heard and solved by outsiders”, added Syed Iftikhar. He added, I don’t need to go anywhere else for finding a solution as the local Jirga has always solved our disputes for us.

Most number of respondents included in this study mentioned that there are highest number of domestic disputes in their locality and that the local Jirga or elders are always present to help them solve out these disputes.

(Shinwari, Siddique 2015) discusses that Jirga in common words is an everyday gathering of people for solving out everyday problems or disputes. In this gathering problems are solved, solutions are found out. A Jirga solves problems in

accordance with local or prevailing customary local village laws. Jirga is run by a group of local elders whose decision in the final verdict, the decision they make is binding on all the parties that are involved in the Jirga.

4.3.1 Case Study

The concept of sharam and pardah and respect for female holds very high place among Pashtuns. A lot of disputes are related to these concepts and such disputes are resolved easily. It is not wrong to say that before any conclusion is made relating to these concepts, innocent blood is spilled. Each and everywhere there are many cases relating to these concepts and most of the cases take years and years to be solved.

During the interviews a very interesting case was discussed with the respondent. There is a girls high school in Tarnab Farm. A few middle aged boys used to stand in front of the school, used to smoke and taunt young girls. A few efforts were made by the local elders to stop these boys but they failed. There were constant complaints from the girl's parents and also by the residents of that area. During all the efforts in order to resolve this matter the situation became intense as some of the boys belonged to influential families and they always used their influence against the people who tried stopping them from standing and smoking in front of the school.

A Jirga was formed but it also beard no fruit. It was very disturbing situation as the girls were not feeling safe and so were the parents. A few family members of some girls tried stopping these boys from standing in front of the school but all this resulted in more quarrels and the situation got more intense. Parents of the families approached the school administration and tried to find out a way out of this but the results were not very promising. The school administration was reluctant to get involved in this matter as they knew confronting these boys mean trouble for them and their families in future.

Ultimately the case was put up to DRC. The members from DRC visited the site and the village. A lot of data was gathered regarding the boys and their families in

order to find out a solution to the problem. They then came up with a fantastic plan. The DRC members visited village and asked the elders to form a group which would make sure that nobody especially young blood stands in front of any school. So a group was formed consisting of youngsters from the village and were tasked with the responsibility of guarding the premises of the girls school. These boys were told that they should guard the school and that no one should be allowed to stand in front of gates. Now this was a very tricky situation for the boys. On one hand the boys themselves used to stand outside the school and on the other hand they were interested with the responsibility of guarding the gates. One of the boys who used to stand outside and was the oldest among them was made leader. In this way DRC solved this crisis which has been going on for a long time and had created a lot of disturbance. DRC solved this issue by solving the problem on one hand and on the other hand maintaining the dignity of the boys involved. If dignity was not considered in this case it is my belief that this case would have never been solved and the situation would have gotten too worse.

4.3.2 Case Study

People nowadays are willing to invest in businesses for the purpose of profit. They can either invest or become an active partner meaning they would be involved in all or some of the activities of the business or they can invest and become a sleeping partner meaning he has just invested in the business and gets a fixed amount of profit for his investment. Both forms of investment are very common everywhere but both forms require proper agreement to be written among the partners so that if there is any kind of dispute that could be resolved.

One of the key respondents in this research shared his personal experience. He said I wanted to invest some money into the construction business. I found a construction firm owner. He was from the next village to ours. I was introduced to this person through a man from my village. I inquired about the person with whom I intended to invest and found few flaws about him but I would say they were nothing serious because we all have weaknesses and nobody is perfect. I had a school fellow who is now a legal adviser. I asked him to help me out in

preparing an agreement between me and my new partner. My friend drafted a detailed agreement and I took that agreement to my new would be partner. He studied that agreement and had no reservations against it.

A day was set for signing the agreement. We both went to my friend's office and agreement was signed properly. I would like to mention here that at first I was not very interested in having a written agreement as the person who introduced me to this new business partner said that he is a very fair man and that he had known him for many years and has been into business arrangements with him in the past. All such FALSE knowledge made me somewhat reluctant towards writing an agreement. Then this legal adviser friend of mine forced me that I must write an agreement because it is very common among partners that they come to a point where they cannot work together and business and profits needs to settle among partners which is never easy without having any written agreement. So I took his advice and I now realize that my friend was absolutely right. We had an agreement signed in which I was the major investor in the construction of a plaza at our village. The plaza was completed in 18 months as we had enough capital and enough labor to ensure maximum construction speed.

It is very common practice among our people that we perform Hajj or Umrah after we have some kind of success in our lives and for me this plaza was dream come true kind of situation as I was very much excited. So after the completion of the plaza I wanted to perform Umrah. I went to perform Umrah and a plan was decided with my partner that upon my return we will have a proper opening ceremony. My partner agreed and I went for Umrah. I returned after ten days but the shock that I received was not what I expected upon my arrival. I found out that the plaza was sold to someone else and the construction firm owner was unable to be traced. I tried within my resources to reach to him but I failed many times.

I tried contacting the person through whom I was introduced to this partner of mine but I was not able to locate him either. I went to his home several times but not got a clear response once about his whereabouts. I was under a lot of pressure

as the money I have invested belonged to my family as well and I had promised each member a certain amount of profit for their contributions but more importantly I was trusted by my family and now I had nothing to repay them.

I also tried contacting the person who has bought that plaza. For many days I was unable to make any contact with him but when I did contacted him I came to know that he was famous for such deals meaning he would purchase such properties and he was not a man to be trifled with. I went to meet this person along with my legal adviser friend. He refused to talk about the plaza saying that he has bought it and has paid for it and that it is now his property and there is nothing to talk about it. This left us in middle of nowhere. We tried through several means to contact this person again and again and we also showed him the written agreement. He replied that I have many more agreements like this, would you like to see them and laughed at us. I knew very well at that point that there is nothing I can do but I was not willing to give up that easily.

After two months I located the person responsible and contacted him through Jirga. The Jirga arranged an opening session and we were to attend that session. When my ex-partner was asked why he had done something like this he said that he had never went to any kind of agreement with me and he showed Jirga a written agreement in which there was nothing through which I could be declared a partner or an investor. When I was asked about my opening statement I produced Jirga with the original agreement written between us but my ex-partner refused it at once and said that it was a plot against him. He then showed court the sale deed that was made between him and the purchasing party. The sessions went on for about four months but no decision was made. I investigated personally and found out that the Jirga was bought by my ex-partner and that he had advised Jirga not to make any decision especially against him. All this was very frustrating, upsetting and disturbing for me.

Ultimately I decided to present my case in DRC and this was also on the advice of my lawyer friend. The signed agreement was produced in DRC as this was the only piece of evidence I had in my favor. The DRC tried contacting the person

through whom I was introduced to my ex-partner but he was not found for several days. After that local police was involved and they were assigned with the task of finding and producing the middleman in front of DRC. Police have their own ways of investigation. They ultimately found the middle man and he was presented before DRC. DRC inquired him about the person and that he had said it on a number of occasions that my ex-partner was to be trusted completely. He was unable to deny these facts. Then he was asked if he had known about this written agreement between me and my ex-partner. He said yes he knew about it because I had shown it to him after the deal was made.

After all these and some more evidences presented before the DRC, the DRC decided to perform tests to see which of the written deals was forged. Ultimately my written deal was considered to be the actual deal. This was a very serious accusation against my ex-partner. I asked DRC that I was not interested in anything other than getting my fair amount of share which I deserved. The DRC within three weeks decided the case in my favor. I got back my share of investment along with the profit as per agreement. My partner was arrested and jailed. The government sold the property and gave me my fair share. I am very much thankful to DRC for giving me money back as I have already mentioned that this was not only my money but many other family members were also involved.

4.4 DRC Still Needs a lot of Attention

While most of the people talked about in favor of DRC as compared to Jirga, same respondents also pointed out that DRC is still in growing phase and needs a lot of attention from the government. Some respondents pointed out that DRCs are not up to the standard to which they should be. Few of the respondents even pointed out that even DRC can enforce one sided decisions. DRC like Jirga can be in control of few people who possess power and are in position to change the decisions. Some of the respondents shared their concerns regarding the enforcement of the decisions of DRC that could take longer time. It is much better as compared to Jirga but still needs a lot of work”, said one of the respondents.

According to him DRC is better because it has a proper office, a proper location, government sponsored, legally recognized. It has the power to make a decision based on facts and findings and most important thing is that it can enforce its decision.

“No doubt DRC is a good initiative by the government, but the government at the same time must ensure that it must not become under control of few members just as what happened with Jirga”, said a respondent. He added, any decision making body is acceptable as long as it serves justice, which is the sole purpose of such bodies but once it loses such a thing then the people start to lose their confidence in such bodies which is exactly what happened with Jirga system. As long as it served its purpose in a true sense people had believe in Jirga but once it became biased because of being in control of few, it lost its credibility. “DRC must ensure that the decisions it make are enforced as quickly as possible”, said Hamayoun. According to him one of the reasons why people are looking towards DRC is that it enforces its decisions much more quickly as compared to Jirga but I have seen few cases where the decisions made by DRC have taken quite a lot of time to be enforced. Such shortcomings needs to be tackled very efficiently by the concerned authorities.

4.5 DRC Gives Decision in Short Period of Time

Respondents shared their views regarding DRC that because it is a proper legitimate decision making body formed by the government, the decisions are enforced in short period of time. Justice is served more quickly. There is a proper timeline given by the government about the decision making process. Cases are properly followed up by the concerned personals.

“My experience with the DRC is very good as it served me with justice I deserved and it followed my case in a very professional manner”, said a respondent. He added that he had previously gone to Jirga but he was denied justice and the decision was given against him although he provided all the evidence to the Jirga. I then took up my case to DRC which in a very professional way handled my case

and provided me with the justice I deserved. Most of the respondents pointed out that when a person goes to a Jirga for solving a dispute, he/she is mainly concerned about two things, justice and fast handling of the matter. It is because of these reasons that the Jirga has lost its grip over the period of time because it is failing to provide justice that people deserve and it takes longer period of time. According to the respondents if Jirga has not failed these two objectives in first place there was a very little chance that people would have diverted towards DRC or any other such decision making body.

4.6 Visit to the Tarnab Farm Police Station

While conducting the research, a visit was planned to the local police station. It was very generous of the SHO to meet us and gave time to be interviewed. The SHO told us that they are pleased with this change that people are diverting towards DRC. Upon asking why he said that first of all Jirga was never recognized by the government of Pakistan and was banned by the Supreme Court of Pakistan. Secondly Jirga is not what it used to be. It was an interesting finding because the SHO was a Pashtun and belonged to a very respectable family. The SHO added that DRC has given people a chance to fight for their justice for their rights for their freedom. He said if the Jirga implemented a decision and if it was not welcomed or accepted by the parties, there is nothing we could do. On the other hand if DRC gives a decision we can enforce it if needed. According to him everything changes with time and so has the traditional decision making process of Pashtun. According to him the people are happy with the DRC. No doubt the Jirga still holds a very prominent and respectable place among the Pashtun for the decision making process. According to him the ultimate reason for the decline or losing grip of Jirga was the dissolution of FATA and PATA by the government.

4.6.1 Case Study

This case was told by one of the former member of local Jirga. He said that this is a very famous incident that happened in the village of Tarnab Farm. This was a case relating to ‘‘ substance abuse’’.

Few male members of the community used to smoke ‘charas’ on the roads of our village. They were a group and used to change places but somehow they enjoyed doing it on roads where people would pass by and they would laugh and smoke in front of them. These people were from our village and we knew them very well and they had a long history of ‘substance abuse’ and despite of being told again and again by the people including elders, women, youngsters they never stopped. One time at our village a ‘khan’ returned after performing ‘Umrah’. There was a feast arranged by him for the villagers as is normally the custom. This group of people who used ‘substance abuse’ were present on that road too and were smoking as usual. The guests were using that road as it was the only road leading to the khan’s Hujra. Some of the guests came to khan and told him about these men who were smoking and they said they taunted us and insulted our families. The khan at first did nothing but as the complaints increased in number he became furious. As the name indicate he was khan so he sent few of his workers or as they are called ‘topak maar’ in the village to stop these guys from disturbing the guests. These men sent by khan started abusing the men who were smoking and after a while a fight started between them. The khan’s men showed their weapons and it made the other party very angry and they also started to fire their weapons.

Few of the elders sent few men including myself to resolve the issue. I along with others went on the spot and did our best to resolve the issue. We managed to disperse both the parties at that time and went back to attend the feast but the other party was very angry at the khan and his men. Those men started to smoke intentionally on the road the led to khan’s house. Both the parties were influential and more importantly illiterate. People like these they enjoy fighting with one another for no reason. The khan became very angry when he came to know about those men smoking on the road that led to his residence and he saw them himself a couple of times. A fight started and went on couple of weeks. None of the party was backing down or was ready for negotiation. All this disturbed the peaceful environment of our village. People started to complain about them and asked for a Jirga to be formed in order to resolve the issue. While we were planning on

forming a Jirga which took a few days, one of khan's men shot a guy in the other party. That person was taken to hospital and first aid was provided and was discharged from the hospital but this action led to a fierce war between two parties. For a few days there was firing from both parties during nights but luckily nobody else was injured. In the meanwhile a Jirga was formed in which I was also included.

As was the rule, Jirga divided into two groups. One group went to khan's Hujra and the others went to the smoking person's Hujra. Both the parties recorded their statements and spared no expense in blaming the other party. For about two months the Jirga tried its best to resolve this issue and to create a common ground on which both parties could agree but all the efforts were in vain. None of the parties was ready to show some flexibility that would help the Jirga to resolve this issue and the situation during all this time was very tense. This went on for five months during which total of three Jirga were formed and dissolved without coming to any conclusion. After consulting with few elders of our community I was sent to file this case in DRC. I filed a written application stating the problem and the efforts that were made for resolving the said issue. DRC decided an opening date for the case. Representatives from both sides were called upon to attend the proceedings of DRC. For about a month the case was trailed at DRC but none of the parties showed responsible behavior that would indicate that a party is willing to resolve the issue. Meanwhile at the village the situation was very tense and people were constantly complaining about both the parties.

After a very tiring trail, the khan whose men fired at the other party was made to pay some amount in order to compensate. The other party was approached through Jirga members as well to accept the amount and to solve this dispute. A truce was made between the parties not to fire at each other during day or night. But the actual problem remained which was the use of 'substance abuse' by the other party. DRC already knew about this issue as it was all in writing in the initial statements. DRC after consultation with local elders and Jirga members called upon the head of that substance abuse party to their office. They presented

him with refreshments and after that a file was handed over to him. Upon asking the DRC told that person that they have made a committee who will look after people who try to smoke on roads or in streets and that he was made head of that committee at the local community level. That man had no chance to say no to DRC because he knew he himself is involved in that smoking group and on the other hand it was a kind of authority a higher position he was awarded with. That man after returning to village never smoked on roads and so did his other friends.

I myself liked the way DRC handled the situation because it was a very wise decision on their part. On one side they resolved a long awaited dispute which made everybody at the village happy and the other hand they tried to keep the integrity of that person un harmed. If this case was miss handled in any other way I am sure things would have gone terribly wrong as nobody compromises over their personal integrity.

Chapter 5

Dispute Resolution Council's Perception

5.1 Following the Footsteps of Jirga

A very interesting finding during the research was that the Jirga members or the elders of the community were in contact with the local police station, government officials, NGOs, lawyers, politicians, magistrates etc. long before the DRC.

One of the key respondent pointed out that the local community members or the elders were always in contact with the local police station. For instance he said that we have a monthly meeting with the local police station. This meeting involves the elders from our community including a female member as well, local SHO, and DSP of that area. We discuss different issues, some new some old. We discuss the progress in these issues, deadlocks relating to these issues. We also discuss issues like sexual abuse cases, drug abuse and many other local problems. Not only we discuss these issues but we work together in solving out the local problems.

Another key respondent who also happened to be an NGO member shared his views and said that i have always found my elders to be in contact with different NGOs regarding child rights, domestic violence, violence against children and women, education related NGOs. It will be not wrong to say that the main reason behind me joining NGO was the local motivation which I had through my elders. I have seen NGOs taking keen interest in issues relation to their organizations and I have also noticed that they have helped a lot towards solving local issues one other factor is this that we have always participated in different events, seminars, trainings whenever an NGO has requested us to do so. We have a team here consisting of local members who are responsible for attending such activities.

During the research it was also found out that the local elders or jirga members were also in contact with local government servants, local magistrates and other

high up officials and all this has been going on for a long time, long before the introduction of DRC.



Figure 18 on way to conduct interviews

5.2 Jirga Decisions are not Always Justified

During the research it was found out that the decisions made by the Jirga members are not always justified or in other words such decisions are not always welcomed by people. Some of the respondents during the research pointed out that sometimes people (including themselves) accept these decisions because of the customs and traditions, sometimes they accept these decisions because of public pressure, sometimes because of the pressure from Jirga members.

The responses from the respondents suggested that Jirga decisions are not always justified and are biased. Sometimes there are parties that are stronger than the other side having political or social influence on the decision.

“My dispute was handled against all the evidence against the other party. One thing I didn’t had was money, which affected the whole outcome of the Jirga”,

said a respondent during his interview. I know and the Jirga members know that I am the one who is denied my basic rights but the Jirga members were forced to vote against me because the other side had social influence.

During the research conducted it was clearly found out that the Jirga decisions now a days mostly inclined towards the stronger party having social, political or monetary influence. This issue was raised by many respondents during the interviews conducted.

“It is very common now a days to buy Jirga members to obtain the decision you require” , said Qadoos. He himself was a victim of such a Jirga where all the evidence pointed against the other party but at the end the decision was given against him because of the money used by the other party.

5.3 Jirga System has Changed with the Passage of Time

Many of the respondents during the interview shared their views regarding a very important point and that was the change in the true nature of Jirga. They shared their views and said that a visible change can be seen nowadays. Upon inquiring it was found out that typically what a Jirga used to be is not what a Jirga is nowadays.

“let me tell you what a Jirga was previously, it was a sacred gathering of most respected and trusted members of the community whose only purpose was to provide justice and to stop anything that would disrupt the fabric and beauty of Pashtun society”, said Amin. I have witnessed Jirga since my childhood when I used to go with my father and elders. I used to sit quietly and listen and observe the proceedings of Jirga. I have witnessed a remarkable change, a change of which I am not proud of. I am not proud because there is improvement with the passage of time. Look at the roads, buildings, education, schools, colleges, health facilities, building structures, everything has improved with the passage of time but this Jirga that I used to be proud of has gone in the other direction. I can still remember and even name the elders and the respected members of our community who participated in Jirga. I cannot recall a single incident where both the parties

of Jirga were not pleased or dissatisfied with the decision of the Jirga. It was so because people trusted those elders. There was no question raised against their decisions. But nowadays the Jirga are somewhat polluted, polluted by the injustice, by social, political, religious affiliations and most importantly by the Jirga members. It is a very common practice nowadays to take money and decide Jirga against the other member. Amin further added that if both the parties are strong then the decision can never be implemented and the case or dispute remains unsolved and the tension never ends.

5.4 Knowledge about DRC Mainly to Elders or Grownups

During the research conducted it was clearly noted that the knowledge about DRC is not very common. It is known to elders and grownups mainly and that it is because it is a relatively a new concept. Some of the respondents pointed out that the concept of DRC is not welcomed by the villagers. They consider it against their customs and traditions. According to them it is polluting the pond.

“It is because of DRC that our women are going to courts, police stations, meeting with people that was not previously welcomed or considered bad”, said one of the respondent. According to him it is a matter of shame for the Pashtun that their women are going outside and meeting outsiders for resolving their disputes. Those male members whose women are given permission by them to go outside are a shame and disgrace and I would never ever allow my women to go outside.

During the research process, it was a noted that some of the members of the community were against the decisions that were made by the DRC. They considered them against the Pashtun culture.

“We have always followed and voted in favor of Jirga because it is the right thing to do”, said a respondent. We are known in the whole world for following our customs and traditions and we feel proud about it and we will not welcome or allow any such process (like DRC) that would change this concept about us.

“I think we don’t need DRC or any other such body. I think Jirga system is more than enough for us” said a respondent.

On the other hand while conducting our research we also came across many respondents and many views which supported the idea of DRC and further advocated that such systems must be introduced because they speed up the decision making process and also making the whole decision making process more transparent and justified.

5.5 DRC Much Reliable Compared to Jirga

This was a very interesting finding while conducting our research that DRC according to local people was much more reliable as compared to Jirga. Most of the respondents shared their views regarding Jirga and DRC. According to these views Jirga is no doubt an old concept in accordance with the customs and traditions of Pashtun but the main drawback according to respondents in Jirga is that it has lost its touch due to many reasons. DRC on the other hand according to the respondents is relatively a new concept and it has its own merits. Merits like government recognized body, participation from government, police, judiciary and many more if needed.

“it is very good that people are moving towards DRC including myself because the traditional decision making system is now brought into main stream” , said Ghafoor khan. According to him the decisions made by Jirga could take months to be implemented while the decisions of DRC are enforced much more quickly. Furthermore he added that nowadays most of the times the decisions of Jirga may not be accepted by both the parties and it creates a kind of dead lock whereas DRC decisions can be enforced through proper means and measures. At least there is some authority in DRC, some legitimacy”, said a respondent while discussing a dispute he had in the community. He added that most of us know that Jirga is not recognized by the government of Pakistan and yet people favor it because they can have the decision they want by using force against the weaker side.

(Manzoor, Ahmed, and Ahmed 2020) states that ADR has come to forefront in a great way very much likely after the formation of the Dispute Resolution Councils (DRCs) at the recommendation of the KP Police, when the appointed IG, Nasir Khan Durrani launched a pilot project in 2014. When these bodies proved their significance to the authorities, these bodies were formally inducted in the criminal justice system in 2015, when the KP assembly passed the “Police Order 2002 Amendment Act 2015.” In 2017 some more amendments were made and the laws were studied again. All this helped and made way for these councils or bodies to be incorporated into DRCs for the speedy and convenient dispense of justice.

5.5.1 Case Study

This incident took place in 2017 in our village of Tarnab farm. I am a married man having two sons and two daughters. I am a farmer and I make a reasonable living out of it. The incident is about my elder daughter who was school going at that time. She was student of grade 7 at that time. My wife one night told me that I feel that our daughter is having some trouble. I asked why you would say something like this. She said that she feels like she is being bullied at school or it is something else that is troubling her. I asked my wife to talk to her, take her into confidence and inquire about what actually is troubling her.

My wife told me few days after we had this discussion that she has talked to our daughter and the matter is quite serious. I was going to my fields and I told her that we will talk about it at night. By the looks of my wife I could easily understand that it actually was something serious. After finishing my daily tasks I went back to her and asked her. She said that there is a boy who is troubling our daughter. I asked how?. She said that the boy stands in her way while she goes and come from school and also taunts her, smiles at her. This was a shocking news for me as I have not expected this from someone in our village. I told my wife that I will look into the matter as quickly as possible.

With the help of few people I found out the boy’s family. I went to his home along with few trusted fellows of mine. When I told his father about what his son is up to, he said it is not possible that his son will be doing something like this. I

got a feeling from the conversation that the father was trying to protect his son. I started to inquire about the family and the boy's father. I dug deep into the matter as this was very serious matter and needed to be solved very maturely. The information that I got from different sources suggested that this family has a repute for activities such as this one. This again was a shocking news. If I wanted I could have used force to solve this matter but I wanted to do it the right way and I guess that was my mistake. After a week or so my daughter said that she does not want to go to school anymore. I knew straightaway that why was she reluctant to go to school and at this moment I decided to form a Jirga and resolve this matter at once. I went to the people who are commonly involved in Jirga related activities and presented my case in front of them. A Jirga was formed and I was told a date for meeting. At the said date I along with my brothers and few trusted fellows attended Jirga. The Jirga started by calling out both parties and the claim was put in front of Jirga. The father of the boy showed very violent behavior and was shouting at Jirga. He was told repeatedly not to do so but he continued to do so. The Jirga went on for a week in which we had two meetings. I came to realize that the Jirga was acting one sided and that I am not going to get any help from the Jirga. I had this feeling because I had inquired through few people and came to know that the father of the boy and his uncles were in the good books of anyone. Incidents like this had happened before and they have never claimed any responsibility for such actions.

On the final hearing of Jirga the case was decided against me and my daughter. My daughter was accused for being the one responsible for all this. This was a shocking news for me and my family. The next week or two were very crucial for my family as we were under a lot of stress. I knew that the Jirga has decided against me because of the use of money and power from the other side. I could have done the same as I too had money and power but my brothers and family members stopped me from doing so. I took up the matter to the local police station and wanted to file a complaint against the boy and his father. The report was not filed for few days and I was pressurized to take back the complaint. The pressure was from the boy's father. The father of the boy started to threaten me

directly. He confronted me several times and pressurized me for actions for filing the report. Stones were thrown at our home at night and a few times power was cut off to our home. I was under a lot of pressure and the situation at our home was almost always tensed.

Younger brother of mine one day came to me and asked me to come with him. I asked him where he was planning on taking me and he replied to DRC. I told him that I was not interested in going there as I did not expect to have justice from them either. My brother took me anyway and we went to DRC office. I came to know then that my brother has been here before and he has already filed case against the boy's family. Our case was re-opened and both the parties were asked to attend the hearings. The boy's side never showed up for the hearings. The family was warned twice for not attending the hearings. During this time my family and I were again threatened by the other side which I straight away reported to DRC. DRC instructed local police station to bring the other party to the hearing. With the use of force the boy and his side were brought to the hearing. That hearing went on for three hours and at the end the boy and his father were heavily fined. They were not only fined but they had to sign a written plea bargain with me in which they confessed that the boy has been harassing my daughter and that the boy or the family if caught again in such immoral activities would be fined and imprisoned.

This day was a very satisfying day for me and my whole family. I thanked each member of DRC personally and I also thanked my brother because of which the case was re-opened and a fair decision was made. If it was up to the local Jirga, the case would have never been solved in fair way.

5.5.2 Case Study

Business disputes are very common everywhere whether in cities or in villages and such disputes are not easy to be solved. In most of such disputes at villages it is very common that there is no written agreement between the parties involved in any sort of business. In some cases there are written agreements but still there will

be disputes because one of the party reverts from its stance. This is one such example of such dispute that took place at the village of Tarnab Farm.

I am a bee farmer in Tarnab Farm and I am into this business for the last 25 years. For the purpose of bee farming I have into many places in Pakistan suitable for bee farming. I have extensive experience in this field as I have worked with my elders and learned from them. One man's efficiency cannot exceed beyond certain point in my business. It is because if I am alone I can take care of a fixed number of boxes. I wanted to extend my business in order to earn more revenue. For this I needed a partner who could sometimes look after the business while I was away and more importantly I needed help with the finances. I asked some of my close friends and relatives if they wanted to invest in this business and after a month I found my partner for the business. He was known to me for many years as we lived and grew up at same village.

My business partner and I worked together for about 14 years. Things were going smoothly for almost all these years. Everybody have disputes among them and so did we. But every time we managed to resolve our issues. Basically I was in charge for looking after whole business as I had experience in every field but it is not to say that my partner did not helped me in running our business. He also financed some capital into the business. He also had good contacts or should I say had new contacts in honey markets throughout Pakistan. With the help of these contacts and his capital we were able to expand our business as I had desired. As I said before things went on rather smoothly for all the time we were into this business together. I would make the load of honey ready to be delivered to honey markets across Pakistan and I my friend would then take it to where it was needed. Things went on like this then suddenly one day my whole load of honey has not made its way to the honey market outside our village on GT road. I tried contacting my partner who was in charge of taking the honey containers to the market but could not get hold of him. After a few days I saw him in the village and I asked him about the shipment. He said that he has stored that shipment in a safe place and he wants to re-negotiate the terms and conditions of the business.

That load was worth eight hundred thousand rupees. I asked him to deliver that load to the market as we have many business commitments to fulfill. He refused and formed a Jirga to decide the new terms and conditions of the business.

I provided Jirga members with the necessary information they needed. All the Jirga members were known to me and they knew me as we were from the same village. Surprisingly the Jirga decided against me and asked me to re-negotiate terms and conditions along with handing him over the entire honey load. This was totally against my case as I had nothing to hide and have never betrayed my partner in any case. I requested Jirga to look again into the matter as this decision was not justified. The Jirga started to enforce its decision over me and also threatened me of the consequences if I failed to do so. I discussed the case with few of my friends and family members and decided to put up my case in DRC.

The DRC decided a date for hearing. I was present at the said date and time but the Jirga member who decided against me was not present. He had sent an application stating he was not feeling well. It happened the next time as well when DRC asked both parties to attend the trial. I inquired about the Jirga member and found out that he was intentionally ignoring the summons. I put up the matter in front of DRC. The DRC very professionally with the help of local police caught him resting and hiding at his Hujra. The case was reopened and I was served with the justice I deserved and surprisingly it all happened within two weeks' time. I am very thankful to the government and to the DRC for looking into the matter unbiased.

5.5.3 Case Study

This incident was shared by one of the key respondents of the research. It is very common tradition in villages of aerial firing on occasions relating to births, weddings, engagements, circumcision and many more. It is also to be noted that this tradition has also cost many precious lives on a number of occasions as well. But still Pashtun follow and practice this tradition and feel proud in doing so. While a number of restrictions and fines are imposed on such activities from time to time by the government, aerial firing never stopped.

There was a family in our village of Tarnab Farm, a very rich and having connections with police, politicians and other local authorities. This family used to do aerial firing on most of the occasions other than deaths. They would fire even if they are not related to the persons performing the ceremony in anyway. They would feel proud about it and would actively participate in any such activity. This family while doing aerial firing has injured a couple of fellow villagers as well but they always used their influence to suppress such matters either by giving money or by threatening the other party. As the time passed complaints about this family increased in number. People started to talk behind their backs. As a matter of fact this family was never in good books of the people of Tarnab Farm but as stated before they has money and power.

Once there was a wedding in our village. As usual the members of this family arrived with guns in their hands and showing them off to people around them. They started firing as they always do. Suddenly people started shouting and the firing and the music and dancing stopped. Upon inquiring it was found that a boy aged fifteen years was badly injured because of that family's firing. The wounded boy was taken to the near by health facility at once where he was provided first aid was referred to the hospital later on. That boy had lost a lot of blood and was in very critical condition for two days. The wounded boy belonged to an educated and a very well known family. They waited till the boy recovered and by brought home.

It was strange that during these four or five days the other party did not contacted the wounded boy's family. When the boy was brought back home, his family members went to the firing party's home and told them that they are going to file a complaint against them against the incident. The firing party's family became aggressive and started showing attitude. The situation became very un-pleasant as the boy's family members were beaten and ultimately the police arrived. The boy's family asked police to file a complaint against other party but the police were reluctant in doing so and presented so many excuses leading to the conclusion that they were not going to file a complaint rather they asked the boy's

family to resolve this issue through a Jirga. The boy's family as stated above was an educated family. They at once rejected the offer to resolve this through a Jirga because they knew that Jirga members will never decide against them. A few elders from our community visited the firing party's home and asked them to accept their mistake and to go to the boy's home and ask for forgiveness. They never accepted that offer and even neglected that the boy was injured because of their aerial firing. They blamed other people for this. Situation between these two families proved to be very intense.

The firing party's elders started to threaten the boy's family through multiple means. It was very obvious that they have done something wrong and now they are totally neglecting what happened. They started to show their power and their influence to the boy's family. The boy's family waited for a few days and hoped for a peaceful resolution of this matter but nothing good came out of this waiting. Ultimately the boy's family decided to take up the matter to DRC as the police was also taking sides with the firing party. Complaint was logged against them and representatives from both sides were asked to attend the first hearing. In that hearing the boy's father claimed that his son has been shot because of the aerial firing done by the other party despite of being told again and again not to do so. The firing party at once neglected all this and stated that the boy was shot by the firing of some other guys. The dispute was very tense. DRC ended that first meeting and called upon the officer from local police station, the one that was present of the spot the day this incident took place. That officer was charged with negligence of duty and also for taking side with one of the party. After that the bullet retrieved from the injured boy was checked to be from the weapons of the firing party through certain tests. After a long and thorough investigation the DRC called both the parties for the final hearing. The person who fired the weapon by which the boy was wounded was taken into custody on the spot by the police. The firing party had to plead guilty in front of the boy's family and they also gave a written and signed statement that they will never do aerial firing after this on any occasion in the village and that they were to go into a peace treaty with the boy's family.

Now this is a clear case of lack of trust over Jirga. The boy's family never wanted to resolve this matter through Jirga because they did not trust this institution. Rather they preferred DRC over Jirga because according to them DRC is much more justified than Jirga because of the government's participation and for being recognized as a proper body for resolving disputes that may arise among the community.

Chapter 6

Theoretical Discourse

Throughout the literature that was studied for the purpose of conducting research, it was very clearly noted that literature is supporting Jirga all long. The reasons mentioned in the literature review states that because Pashtun are very traditional in nature and that they hold on to their customs and traditions. Jirga according to literature is an old and customary institution that is used for solving out disputes and differences that arise among Pashtun people. In my opinion there was a gap or some discrepancies in the literature that was reviewed. Literature consistently urges that Pashtun only follow Jirga and that they are not interested in going to some other dispute solving body, in other words they want to stick with the informal ways of conflict resolution. Whereas I have experienced something that does not agree with the above statement. I have found Pashtun to be dissatisfied with the Jirga system. This is the reason why I chose this topic for my research.

This research aims to look in to the facts why specific informal justice system is a success or not able to resolve the conflicts in a specific geographical location across Pakistan and is there an undergoing transition. For the purpose of this research area of 'Tarnab Farm' located in district Peshawar is included in order to find out why people are becoming open minded and accepting a change that previously was unacceptable. Pashtun are known as people who are very traditional in nature. The word traditional here means a lot more than it is normally taken as. When we say some one is traditional that means these people or tribe hold onto their customs and traditions and by doing so they feel proud about it. These customs and traditions are what their ancestors have practiced and they have seen their ancestors practicing them. These customs and traditions pass on from one generation to another in form of indigenous knowledge.

The Jirga system of Pashtun need no introduction. It is a gathering of people or elders who group together to find solutions to the problems that people face in

their day to day life. Problems may include many things with dispute being one of them. Disputes are very common among people or a tribe or tribes. Historically Jirga system was put in place to resolve the disputes among the people of a tribe. This system has proved to be very effective in the past. With the passage of time the Jirga lost its touch due to many reasons. The main reasons were the ban on Jirga by the Supreme Court SC of Pakistan. In 2019 Supreme Court of Pakistan limited the powers of decision making of Jirga to certain tasks such as mediation, reconciliation, negotiation between different parties involved in a civil dispute. The Supreme Court made a decision based on the petition of National Commission on the Status of Women NCSW. This decision made clear that the system of Jirga and Panchayat are a violation of Pakistan's international commitments under the Universal Declaration of Human Rights UDHR, International Covenant on Civil and Political Rights ICCPR, and Convention on all Forms of Discrimination against Women CEDAW. Sindh High Court SHC has imposed a ban on Jirga in April 2004. This ban came in to place over the decisions that were made by Jirga against persons marrying on their free will. Over the past years there are a number of bans that are imposed over the Jirga for violating basic human rights and not being in accordance with International Human Rights. In Khyber Pukhtunkhwa a number of cases are reported in which Jirga has violated human rights and acted against it. It happened on number of occasions. Sometimes houses are burned down, sometimes young girls are given to a party as a fine or a means to end a dispute. Though Supreme Court has spoken against Jirga, Prime Minister Imran Khan has expressed his feelings over the continuation of Jirga system in 2019.

During the research it was stated again and again by the respondents that they are against the Jirga system. Though they may not speak openly against Jirga due to public pressure but they deny such system to be in place. The public pressure is from people who use Jirga as a mean for obtaining one sided decisions or the decisions they desire. Throughout my literature review I have not come across articles from local writers that may highlight tis other side of Jirga. Everyone has stated the benefits of Jirga while ignoring the violations it makes on its way.

There is a saying 'justice delayed is justice denied'. All over the world disputes arise among human beings and in animals too. Humans being superior in intelligence resolve their disputes in a way as to avoid any unnecessary violence. To resolve the issues humans from time to time have come up with some kind of solution. There were times when humans have used violent means of conflict resolution and there were times when humans have used nonviolent means of conflict resolution. With the passage of time humans have evolved and so have their methods and techniques of conflict resolution. Humans have now come to a conclusion that wherever there are humans there will be conflicts and that these conflicts need to be addressed in a way which is acceptable by both the parties involved in a conflict. Peaceful resolution of conflicts comes into place. By using this technique, disputes or conflicts among humans are resolved in a way as to provide a solution acceptable to both the parties.

Pakistan is using Alternate Dispute Resolution ADR as a mean to tackle the issue of conflict arising among people of a specific area since 2017 with the aim to integrate Jirga into the formal justice system. This type of dispute resolution technique is used where the existing judicial system is overburdened or is incapable of providing justice to people of a country. Dispute Resolution Council DRC are the means used by the government of Pakistan to provide the people of a locality in a speedy way possible. The existing judicial system of Pakistan is not able to handle each and every dispute reported to it by the people. So it uses alternate means or measures to provide people with justice. DRC is a unique combination in terms that it maintains the integrity of a place and its people and its customs and traditions on one hand and other hand provide people with fast and accessible justice which in the absence of DRC would be denied to them.

Khyber Pukhtunkhwah has established a total of forty two DRCs across the province which so far has decided almost 28000 cases in the last six years. The amount of work that these DRCs have worked with shows that people have trust issues and they are moving towards the DRCs for resolving their disputes. An important reason why people started thinking about DRCs is that people have

somehow lost their trust in Jirga which was clearly evident throughout the research. The reasons for this loss of trust are a few in number. But this shifting of thinking is not something to be neglected. It is something which we don't see or observe every day. When we say that Pashtun are traditional people it means that these people hold on to their customs and traditions and feel proud in doing so. And yet here we have observed a totally new concept of people regarding dispute resolution.

The theory that has been applied on this research is Conflict Theory of Social Change. This theory also states that in a society there is always struggle between the ruling class and the working class. The ruling class is always busy in keeping themselves up in the hierarchy and they try their best that the working class people do not climb or move upward in the societal hierarchy. According to this theory if a society is peaceful it is not because there is mutual consensus among people and that they respect each other, rather it is because the ruling class use force and other such methods in order to maintain peace in the society. The ways that are followed in a society only benefit the strong or powerful. It has no use for the weak and the working class.

The findings of the research are in agreement with the conflict theory. People are feeling unhappy, they lack trust in Jirga. Jirga members previously would take no money neither were they interested in taking it. But now they take money as fee and also as a bribe. This is totally against the real fabric of Pashtun culture.

Chapter 7

Summary, Conclusion, and Recommendations

7.1 Summary

Human mind work in diverse forms allowing people to react and respond a given scenario in different ways. Difference of opinion or conflict among the humans since they first appeared needed different way of dealing from time to time. By 'time to time' the importance of this social aspect needs to be understood in detail. Details may include why or how conflicts or differences arise among humans, why or how they need to be addressed, and also many other variables. In anthropology the above stated social problem is dealt in two major or most important ways namely, peaceful and violent resolution of conflicts. Main focus of this research is the peaceful or nonviolent resolution of conflicts among human beings. From time to time the stated approach has helped humans in solving their daily life issues, the importance of which can vary in many different forms. Many different forms highlight and verify the fact that humans vary greatly in cultures, customs and traditions across time and space.

In Pakistan previously there were two main approaches for handling conflicts or difference of opinion among human beings; formal and informal justice system having the former one totally legitimate, well protected by written laws, backed up by the government. The later one is the system this research aims to study. This informal justice system is not state or government supported but it has its own unique identity and respect among specific social groups because of its rich, unique and long history tracing back to colonial times. This is the system where people act on their own as judge, jury and executioner providing social groups a peaceful resolution of conflicts. Previously this informal justice system was greatly adopted by the people of FATA and PATA and worked under the umbrella term of Pashtunwali or Pashtun code of honor. Because of inter and intra city migration this justice system is now part of everyday life in almost all of the country. With the dissolution of FATA and PATA this informal system of justice has lost its grip in some ways as these areas are now part of the provinces run by

the federal and provincial rules respectively. This system has proved its importance and value again and again in the past.

In Pakistan semi-formal justice system is introduced which is a classic blend of both formal and informal justice system. As mentioned earlier that the ways of handling conflicts among the humans are different in different cultures, or these ways have evolved, adopted social and cultural changes occurred with the passage of time resulting in changes among social norms of culture. This semi-formal justice system work under the names of Dispute Resolution Council/committee DRC. A DRC include a member from the police department, a member appointed by a competent authority, i.e. the state for solving out the conflicts and differences among people and other well-reputed personalities of the community. The people of Pakistan are considered as traditional and are known for following and admiring the Jirga system in their respective areas. It is very uncommon for the female of these areas to leave their homes or villages and to take a step forward in order to find justice denied to them, but only under special circumstances. It is very interesting and very important at this point to mention that this 'uncommon' is on its way becoming 'common'. This research puts a great deal of positive energy to understand why it is happening, what are the driving factors or forces behind this cultural change or need.

This research target areas in Peshawar and peripheries (KPK) where informal justice system exist under one name or another such as Jirga or Marakah in KP. This research aims to look in to the facts why specific informal justice system is a success or not able to resolve the conflicts in a specific geographical location across Pakistan and is there an undergoing transition. For the purpose of this research area of 'Tarnab Farm' located in district Peshawar is included in order to find out why people are becoming open minded and accepting a change that previously was unacceptable. Pashtun are known as people who are very traditional in nature. The word traditional here means a lot more than it is normally taken as. When we say some one is traditional that means these people or tribe hold onto their customs and traditions and by doing so they feel proud

about it. These customs and traditions are what their ancestors have practiced and they have seen their ancestors practicing them. These customs and traditions pass on from one generation to another in form of indigenous knowledge.

The Jirga system of Pashtun need no introduction. It is a gathering of people or elders who group together to find solutions to the problems that people face in their day to day life. Problems may include many things with dispute being one of them. Disputes are very common among people or a tribe or tribes. Historically Jirga system was put in place to resolve the disputes among the people of a tribe. This system has proved to be very effective in the past. With the passage of time the Jirga lost its touch due to many reasons. The main reasons were the ban on Jirga by the Supreme Court SC of Pakistan. In 2019 Supreme Court of Pakistan limited the powers of decision making of Jirga to certain tasks such as mediation, reconciliation, negotiation between different parties involved in a civil dispute. The Supreme Court made a decision based on the petition of National Commission on the Status of Women NCSW. This decision made clear that the system of Jirga and Panchayt are a violation of Pakistan's international commitments under the Universal Declaration of Human Rights UDHR, International Covenant on Civil and Political Rights ICCPR, and Convention on all Forms of Discrimination against Women CEDAW.

Sindh High Court SHC has imposed a ban on Jirga in April 2004. This ban came into place over the decisions that were made by Jirga against persons marrying on their free will. Over the past years there are a number of bans that are imposed over the Jirga for violating basic human rights and not being in accordance with International Human Rights. In Khyber Pukhtunkhwa a number of cases are reported in which Jirga has violated human rights and acted against it. It happened on number of occasions. Sometimes houses are burned down, sometimes young girls are given to a party as a fine or a means to end a dispute. Thought Supreme Court has spoken against Jirga, Prime Minister Imran Khan has expressed his feelings over the continuation of Jirga system in 2019.

During the research it was stated again and again by the respondents that they are against the Jirga system. Though they may not speak openly against Jirga due to public pressure but they deny such system to be in place. The public pressure is from people who use Jirga as a mean for obtaining one sided decisions or the decisions they desire. Throughout my literature review I have not come across articles from local writers that may highlight this other side of Jirga. Everyone has stated the benefits of Jirga while ignoring the violations it makes on its way. There is a saying 'justice delayed is justice denied'. All over the world disputes arise among human beings and in animals too. Humans being superior in intelligence resolve their disputes in a way as to avoid any unnecessary violence. To resolve the issues humans from time to time have come up with some kind of solution. There were times when humans have used violent means of conflict resolution and there were times when humans have used nonviolent means of conflict resolution. With the passage of time humans have evolved and so have their methods and techniques of conflict resolution.

Humans have now come to a conclusion that wherever there are humans there will be conflicts and that these conflicts needs to be addressed in a way which is acceptable by both the parties involved in a conflict. Peaceful resolution of conflicts comes into place. By using this technique, disputes or conflicts among humans are resolved in a way as to provide a solution acceptable to both the parties. Pakistan is using Alternate Dispute Resolution ADR as a mean to tackle the issue of conflict arising among people of a specific area since 2017 with the aim to integrate Jirga into the formal justice system. This type of dispute resolution technique is used where the existing judicial system is overburdened or is incapable of providing justice to people of a country. Dispute Resolution Council DRC are the means used by the government of Pakistan to provide the people of a locality in a speedy way possible. The existing judicial system of Pakistan is not able to handle each and every dispute reported to it by the people. So it uses alternate means or measures to provide people with justice. DRC is a unique combination in terms that it maintains the integrity of a place and its people and its customs and traditions on one hand and other hand provide people

with fast and accessible justice which in the absence of DRC would be denied to them.

Khyber Pukhtunkhwah has established a total of forty two DRCs across the province which so far has decided almost 28000 cases in the last six years. The amount of work that these DRCs have worked with shows that people have trust issues and they are moving towards the DRCs for resolving their disputes. An important reason why people started thinking about DRCs is that people have somehow lost their trust in Jirga which was clearly evident throughout the research. The reasons for this loss of trust are a few in number. But this shifting of thinking is not something to be neglected. It is something which we don't see or observe every day. When we say that Pashtun are traditional people it means that these people hold on to their customs and traditions and feel proud in doing so. And yet here we have observed a totally new concept of people regarding dispute resolution.

7.2 Conclusion

The research was conducted for the purpose of finding out why people of Tarnab are in favor of or against Jirga and what are the reasons that the people such as Pashtun are moving towards DRCs for solving their disputes. This research has brought to front the views of people about the systems of dispute resolution. It was evident during the research that most of the people though were against Jirga but did not spoke directly against it. It was because of many reasons and the most important reasons was public pressure which plays very important role during the whole research. The pressure or public pressure is not from public but it is somewhat an artificial environment created by few people who want Jirga to decide what they want, who want Jirga to decide what they favor the most. Such people are least concerned about the rights and wellbeing of other people. They are self-centered people who only value their personal feelings and grudges against others. The main reasons shared by people against Jirga are

- It is in control of few.

- Those who control it does not represent the overall majority of people.
- The people who control Jirga are not selected by people rather they have imposed themselves upon others by the illegitimate use of power.
- The elders who used to head Jirga sessions have died or moved away. Those people were entitled with other people's trust.
- The Jirga gives one sided decisions based on insufficient evidence.
- Jirga nowadays have ignored to protect self-respect of an individual.
- Most of the Jirga are for personal favors and gains.
- Jirga sometimes takes too long to come to a decision.
- People pay money to Jirga elders to get the decision in their favor.
- Most elders sitting in Jirga are people with criminal background.
- It never decides, it just comes to a mutual understanding which is again a debatable topic.

On the other hand the people have expressed their feelings in favor of DRCs. The main points or reasons why people preferred DRC over Jirga are

- It is an institution which is in accordance with law and also in accordance with international human right standards.
- It is just in decision making.
- Fats decision making.
- Not one sided decisions.
- Keeps the self-respect of an individual un harmed.
- It is able to impose its decisions over a party.
- People can appeal against a decision made by DRC.
- Easily accessible to all.
- No discrimination against anyone.
- Under the control of highly educated people.

The comparison of the views of people have clearly stated that they are not satisfied with the decisions of Jirga. Though no such concerns were made in the past which has its own reasons such as blind trust over the people who headed Jirga or just and un biased decisions. It is not to say that Jirga has totally lost its grip. It is still used widely for solving domestic issues within a family unit. But for problems outside this area, people are moving towards DRC and moving away from Jirga.

7.3 Recommendations

In the light of the detailed analysis of data collected after a long field work, following recommendations are suggested. These recommendations are actually the will of the respondents who were interviewed during the field work.

- The most important task is to make public aware of their rights. Most of them seem to be unaware of their basic civil rights.
- This can be achieved by arranging seminars at village level.
- Academic facilities must be provided in the village of Tarnab. These facilities must in accordance with the latest standards.
- The lower class people in the village especially, and also other villagers must be made believe that the government is always there for help.
- A survey at village can be arranged by the KPK government to interview people and find out if there are any serious issues that needs the government's attention.
- The people of Tarnab needs to be told about DRC.
- People must be made aware that the judicial system of Pakistan is strong and capable enough to handle all the conflicts.
- The people of village needs to be aware about how authentic DRC is.
- People of KPK, especially the rural class needs to know about their respective DRC locations.
- Detailed surveys needs to be conducted with proper and extensive field work by the government so that it can know about the actual situation in respect to people's perception regarding Jirga and DRC.

- The working mechanism of DRC needs to be properly planned and also need proper implementation.
- It must be made sure by the government of KPK that DRC remains neutral in any kind of situation.
- People have bad experiences with the government institutions in the past. At this point steps must be taken in order to make people feel safe at DRC.
- Number of DRCs must be increased so that more and more people can easily have access to justice.
- KPK government must have full details about what kind of decisions are made in Jirga.
- If Jirga decisions are in any way against the state law then strict measure must be taken by the government.
- Steps should be taken so that more and more people can consult DRC in order to solve their conflicts.
- Government must have proper information regarding the implementation of decisions of DRC.
- A time frame needs to be set for DRC to handle a case and proper follow up should be done in this regard.

Bibliography

- Advocate, B., & Sajid, I. U. (2013). Jirga System in Pashtun Society: An Informal Mechanism for Dispute Resolution. *Pakistan Journal of Criminology*, 5(2), 45-55.
- Faqir, K., & Atta, M. A. (2013). Jirga: A Conflict Resolution Institution in Pukhtoon Society. *Gomal University Journal of Research*, 29(1), 22-35.
- Iqbal, A. (2016, November 14). Reforming the Alternative Mechanisms of Dispute Resolution in Pakistan. *Social Science Research Network*, 14(3), p. 25-35
- Mahmood, A., Ullah, S., & Ashfaq, S. (2018). The Evolution of Jirga System: A Conflict Resolution Mechanism in FATA. *Liberal Arts and Social Sciences International Journal*, 2(1), 21-28.
- Manzoor, R., Ahmed, S., & Ahmed. (2020). Effectiveness of Dispute Resolution Councils in Alternative Dispute Resolution: A Study of Selected Districts of Khyber Pakhtunkhwa. *Pakistan Journal of Criminology*, 9(2), 50-63.
- Mehmood, W., Haider, S. I., & Ali, R. (2017). Jirga and Sharitization: An Analysis of Maraka in District Karak. *Global Political Review*, 2(1), 54-60.
- Mnookin, R. H. (1998). Alternative Dispute Resolution. (H. L. School., Ed.) *Harvard Law School*, 7(3), 10-20.
- Mushtaq, A. Q., Yaqoob, U. M., & Javaid, A. K. ((2016). Role of Jirga in Pashtun Society an Analysis with Special Reference to Justice Dispensation. (P. U. Society, Ed.) *Journal of Punjab University Historical Society*, 29(2), 11-19.
- Ricken, J. (2013). *The Rule of Law and Informal Justice Systems: A Potential Conflict in Judicial Development*. Department of Law. Johannesburg: University of Amsterdam, 9(2), 22-35

- Röder, T. J. (2012). *Informal Justice Systems: Challenges and Perspectives. Innovations in Rule of Law*,. Max Planck Institute for Comparative Public Law and International Law, 9(2), 22-35
- Shinwari, k. A., & Siddique, A. N. (2015). Understanding the Informal Justice System: Opportunities and Possibilities for Legal Pluralism in Pakistan. *Community Appraisal and Motivation Program*, 2(5), 15-25.
- Shinwari, N. A. (2011). *Understanding Jirga: Legality and Legitimacy in Pakistan's Federally Administered Tribal Areas. Community Appraisal and Motivation Program*.1(8), 25-37
- Taizi, S. (2007). Jirga System in Tribal Life. *University of Peshawar*, 12-19.
- Yousaf, F., Hammad, R., & Gul, I. (2018). “FATA Tribes: Finally out of Colonial Clutches? Past, Present and Future. *CRSS Special Publication Series*, 8(4), 11-25.
- Yousufzai, & Gohar, A. (2005). Towards Understanding Pukhtoon Jirga: An Indigenous Way of Peace Building . *Just Peace*;, 8(3), 65-75.
- Yousufzai, M. H., & Gohar, A. (2007). Towards Understanding Pukhtoon Jirga: An Indigenous Way of Peace Building . *International Peace Justice*, 11(2), 23-28.
- Zaman, L., Khan, Q., & Naz, A. (2018). Critical Discourse Analysis: Jirga and its Survival in Pakistan. *Pakistan Journal of Criminology*, 10(3), 33-45.

Interview Guide

- 1- Profile of the Respondent
- 2- Basic information of the respondent: for example their name, age, gender, qualification, area of residence.
- 3- What is your perception about Jirga system?
- 4- Is Jirga Losing or has lost its Grip?
- 5- What is the positive aspect of Jirga according to you?
- 6- Why would you think Jirga is losing its grip?
- 7- Please discuss if you know the underlying objectives of Jirga.
- 8- Have you ever been to a Jirga?
- 9- What kind of Jirga have you attended?
- 10- Was the Jirga related to domestic violence?
- 11- Was the Jirga about a land dispute?
- 12- Let us know if you have attended a Jirga.
- 13- If yes then let us know why and where.
- 14- Have you ever been either of the two parties in Jirga?
- 15- Will you be satisfied with the decisions of Jirga even if it turns out against you?
- 16- What will be your reaction towards a biased decision?
- 17- How many times have you felt dissatisfied with the decisions of Jirga?
- 18- Please discuss if you feel any change in behavior of people towards Jirga when a decision is made against their will.
- 19- Are such people angry?
- 20- Do have any concerns about the unjust outcome of the Jirga?
- 21- If you face a decision against you then what will be your reaction?
- 22- Discuss if you have felt for a change in your behavior towards Jirga.
- 23- Is such a change possible according to you?
- 24- If there is any such change in behavior of people towards Jirga, why would it be?
- 25- What do you think is the main reason people have turned away from Jirga?
- 26- What other reasons or factors may be responsible for change in people's behavior?

- 27- To what extent do you think is the participation of male members important in Jirga?
- 28- To what extent do you think is female participation important in Jirga?
- 29- Do you think gender plays a specific role in Jirga?
- 30- What kind of disputes or conflicts are presented before a Jirga?
- 31- Do think the disputes presented before Jirga are worth presenting?
- 32- Do you think Jirga can solve all the matters that are brought before it?
- 33- Do you think Jirga can solve domestic violence disputes?
- 34- Do you think Jirga should solve domestic violence disputes?
- 35- Do you think Jirga should solve or try to solve land disputes?
- 36- Do you think land disputes should be brought into Jirga?
- 37- Do you think disputes regarding sharam and pardah be brought into Jirga?
- 38- Do you think Jirga can solve such issues?
- 39- Will you accept a Jirga's decision in such issues?
- 40- Do you think Jirga can solve death related issues?
- 41- Do you think issues related to deaths be brought into Jirga?
- 42- Will you totally agree with Jirga decision regarding death issues?
- 43- Do you think government has allowed Jirga to deal with matters related to sharam and parda?
- 44- Do you think government has allowed Jirga to handle death disputes?
- 45- What will be your opinion if you come to know that government has not allowed Jirga to deal with death related issues?
- 46- Will you still accept the decision of Jirga?
- 47- Will you further attend Jirga after you know it is illegal?
- 48- Do you think the decisions of Jirga about death issues are just?
- 49- Do you think they can contribute towards betterment of society?
- 50- Do you think such decisions by Jirga will effect peace in a society?
- 51- Do you think Jirga should deal with all kinds of disputes?
- 52- Will confining Jirga to few aspects be a good idea?
- 53- Have you ever made a decision in Jirga by leading it?
- 54- Have you always been just in making decisions?

- 55- Have you ever been pressurized by anyone to change your decision?
- 56- Have you ever been unbiased in Jirga?
- 57- Have you ever been biased in Jirga?
- 58- Do you seriously care about what is right and wrong while making a decision towards someone?
- 59- How many times have people opposed you for making decisions?
- 60- Do people agree with you after you have announced the Jirga decision?
- 61- Is informal justice system becoming un-popular in Pashtuns?
- 62- What do think can be the reasons for such behavior?
- 63- Do you think people are justified in showing such behavior?
- 64- What do your perception about informal justice system?
- 65- Do you have any idea about it?
- 66- Are you familiar with the concept of alternate dispute resolution council ADR?
- 67- Are you familiar with the concept of dispute resolution council DRC?
- 68- Do you think our judicial system is capable of dealing with all the disputes in our country?
- 69- Do you think judicial system should be strong enough to deal all the issues?
- 70- Do you think there is a need of ADR?
- 71- Do you think decisions made by DRC are just?
- 72- Do you think DRC is better than Jirga?
- 73- Should DRC completely replace Jirga?
- 74- Are you satisfied with the performance of DRC?
- 75- Have you ever been to a DRC?
- 76- What was your perception after you visited DRC?
- 77- In your opinion do DRCs need change in their provision of justice?
- 78- Have you ever taken up a case into a DRC?
- 79- How was your case handled?
- 80- Are you satisfied with the outcome?
- 81- Will you be satisfied if the decision was given against you?
- 82- Will you honor such decision?
- 83- Have you ever been a part of DRC?

- 84- What part have you played in it?
- 85- Were you justified all the time you served a DRC?
- 86- Were your decisions ever effected by anyone in DRC?
- 87- Were you always just in providing justice ion DRC?
- 88- How have people responded to those decisions?
- 89- Do you think DRC can handle the disputes presented before it?
- 90- DRCs are in accordance with country's law, how does it feel to you?
- 91- Do you think DRC is better in justice provision as compared to Jirga?
- 92- Do you think DRC deals with every case in best possible way?
- 93- Do you feel that Pashtuns are satisfied with the decisions of Jirga, please discuss.
- 94- According to your understanding is the Jirga system totally fair in providing justice to the victims?
- 95- Do you think Jirga system is still popular choice of Pashtuns for solving their disputes?
- 96- Is semi-formal justice system more reliable and just in providing justice?
- 97- Have you ever sought help of Jirga in any dispute?
- 98- Have you been provided justice you deserved?
- 99- Will you ever move towards semi-formal justice system for seeking justice denied to you in Jirga?
- 100- Do you think semi-formal justice system is more just then Jirga?

Annexure 2

Local Terms

Word	Meaning
Jirga	Gathering of people
Maraka	Term used for Jirga in Balochistan region
Loya Jirga	Participation of more than one tribe
ADR	Alternate Dispute Resolution
DRC	Dispute Resolution Council
Rapati	A reporter in old days, a cultural figure
Ostakar	A person responsible for making arrangements on the occasions of marriage and death, a cultural figure
Mashki	A person responsible for providing water on daily basis

Annexure 3

Table of Abbreviations

Abbreviation	Full Name
FATA	Federally Administered Tribal Area
PATA	Provincially Administered Tribal Area
NCSW	National Commission on the Status of Women
NYSDRA	New York State Dispute Resolution Association
ADR	Alternate Dispute Resolution
DRC	Dispute Resolution Council
SC	Supreme Court
SRLP	Strengthening Rule of Law Program
KP	Khyber Pukhtonkhwa
FCR	Frontier Crime Regulations
SPO	Special Provision Ordinance