

# Jirga system

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*Nation  
Society & Social  
Problem*

The jirga is one of the informal institutions that has very formal effects on the Sindhi society in general and tribal society of Pakistan in particular. The jirga is a customary judicial institution in which cases are tried and rewards and punishments are severely inflicted.

From the outset, the use of the jirga is limited not only to trials of major or minor crimes and civil disputes but it also assists in resolving conflicts and disputes between individuals, groups and tribes.

It is the only vehicle by which the political administration in the tribal areas dispenses justice. It was in the interest of colonial powers to keep the feudalism intact to achieve their goals and objectives. Masses were illiterate and ignorant, subservient and loyal to the feudals.

Tenants were at the mercy of feudals. Feudals were in a better position to inhibit the voice of patriots and provide concrete information about activities of local leaders who were determined to fight against British imperialism. In other words feudals were masters and tenants were the slaves. Titles were decorated on their chest and fertile lands were awarded to these feudals. Therefore, the freedom from the yoke of British imperialism also provided the umbrella of safety and security to the weaker sections of the tribal people from the mighty ones.

The incident of a gang-rape in Pakistan's Muzaffar Garh district, on the orders of local panchayat, had again highlighted the status of women in the country, especially in its tribal areas. The panchayat ordered that Mukhtar Bibi be raped because her brother had allegedly sexual relations with the woman of another tribe. (Corruption is at its height in those areas.) This incident is just a tip of the iceberg as thousands of similar case go unreported. I was shocked to hear that in June there were almost 200 cases of rape in Punjab and 100 in Sindh. The only way to rectify this is



A victim of honour killing

they are above law. We need only proper education in every tribal area. These so-called courts need to be abandoned as soon as possible.

Human Rights activists have hailed a High Court judgment,

banning all trials conducted under the jirga system in the southern province of Sindh. This landmark decision is likely to go some distance towards changing the women's rights landscape in Pakistan. Sindh High Court (SHC)

judge announced the verdict a few months ago, after he heard the petition of a young couple who had married of their own will but feared for their lives after being declared "karo-kari" (liable to be killed in the name of honour) by their tribes.

"It's a landmark judgment. It's a very good judgment," Noorjahan soomro, the human rights activist, expressed her views. "It needed to have come a few years earlier, perhaps, but it's an important step in the right direction to recognize that Jirga systems simply increase injustice rather than solving any of the problems," she stresses. "It's also clear that Jirgas have delivered verdicts over the last few years, which all of us know about, which have created complication and implications for the society."

The 48-page statement by the high court judge said that according to an old law, Jirga trials might have been permissible but, since the repeal of that law, the Jirga system was unlawful and illegal and against the provisions of the constitution and the law of land. "It'll strengthen all those who are trying to implement the law of the land and you can take action against those who get involved in these extra-legal activities. But it'll still take time," she cautioned. Vociferous vocalists of human rights are asking the government to frame strict laws against the jirga system. They are very much right to criticize the feudal which has crippled the social fabric of the society. Most tribal chiefs or sardars in Pakistan have enjoyed higher education; many

hold office in the country's legislature on the basis of their tribes' allegiance and bloc voting pattern; all are at least locally and many nationally influential. However, many sardars do not appear to integrate their roles in national

brutally injured. Relatives of both parties fled away and took shelter somewhere else.

Case was registered against both the parties and eight people were sent to the jail. Citizen alliance played a positive role and convinced both parties to make a compromise in order to avoid further deadly clashes. A prominent local landlord was selected as Amin (whom both party trust) to hear the version of both parties and settle this polemic.

Prior to the jirga, weapons were surrendered and only select people from both tribes were allowed to sit in the jirga. Enough time

was given to both parties and the landlord directed a flood of queries to solve the riddle. In the end, jirga announced the decision and a heavy penalty was imposed. Apart from fine, the landlord decided

that Solangi tribe would give two girls to the opponent tribe. He also advised that within a stipulated time marriage ceremony of both minor girls should be organized so as to bring closeness between the parties. Pakistan's corrupt political structure has come from these powerful landlords who want to stay in power forever. Imagine if someone casts a vote against these landlords in their constituency; he will certainly face severe consequences. (Landlord has to take punitive and relentless steps against the disgruntled elements in order to maintain supremacy.)

Awareness of the masses is a big threat to the feudals. They are sending their children abroad for better education but sternly opposing that schools should be opened in their constituency. Through media and television drama a new role of feudals is emerging. Educated feudals are active working to ameliorate the poor conditions in their regions.

They are bridging a gap which their ancestors had widened. They are enthusiastically supporting federation and the federating units. They are avoiding regional politics. But in reality their mentality is the same. The existing system of feudalism is the root cause of such happenings. The police and even local judiciary at district level is under the influence of these feudal lords. Off springs of feudal lords are mostly literate but they follow the footsteps of their ancestors. Their elimination from society will eradicate such incidents.

Feudal lords and influential corrupt political elements are the causes of Pakistan's economic and social failure. If we cannot get rid of feudalism and corruption from the Pakistani society then injustices and poverty will increase. If this is "Wadera" culture, then it should be uprooted as quickly and as ruthlessly as possible. Unfortunately, due to illiteracy and other such reasons tribal chiefs think

politics and their tribal milieu, keeping the norms, standards and discourses well apart.

They hold jirgas with unquestioned authority, then fly to Islamabad to take part in a formally democratic system based on the notion of equality of all. The view that the jirga system serves the tribal community best is widespread among sardars.

Sardar Khadim Jatoti told Amnesty International that both sides to a conflict have trust in the sardar as the most respected person and therefore do not lie before him. This makes it easier for the sardar to settle a dispute than the regular

judiciary where people lie and bribe the police.

Nawab Mohammad Aslam Raisani likewise emphasized: "The tribal justice system is what people are familiar with and trust fairly and in a short time. It is usually settled in a jirga lasting mere days or a tribal conflict going back 96 years to British times, involving five deaths. The official system could not achieve such fair and speedy solutions."

Sardar Wali Khan Marzari while acknowledging that there had been some corruption of the system due to political rivalry of sardars, stated: "Notwithstanding the gross human and fundamental rights violations committed in such cases [Karo-kari cases], often the feudal lord brings about reconciliation between the affected parties. The custom of monetary or matrimonial compensation adjudicated by the sardar ends the feud. It will be appropriate if a convention of feudal chiefs would initiate reforms of the Karo-kari system, especially for the real victims of such tragedies."

Similarly Mir Hazar Khan Bijarani, a member of the National Assembly, justified the custom but opposed its commercial aberrations which, he stressed, should be controlled by appropriate legislation. Given the large number of fake honour killings, some tribal leaders have begun to look into ways to stop this distortion of the system, for instance by demanding that accusations be made under oath.

Some sardars are reportedly looking into the allegations more carefully before deciding them. However, as public perceptions do not differentiate between unfounded and well-founded accusations, women may not necessarily benefit from the sardar using greater care to assess their cases on merits as the community may still go ahead and kill them on mere suspicion before placing the connected issue of compensation before the sardar.

Other tribal leaders have encountered similar obstacles when trying to rid the system of abuses.

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