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The Status Of Jirga In The New Merged Districts Of Khyber Pakhtunkhwa: A Case Study Of Hassan Khel Sub-Division Peshawar

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Abstract: *This study provides a comprehensive analysis of the current status of Jirga with its proceedings as dispute resolving body in Hassan Khel Sub-division Peshawar. The study examined disputes and its resolution, Jirga a social justice system, the importance and limitation of the Jirga, along with recommendations for strengthening its capacity, are examined in relation to its post- merger role in dispute resolution with Hassan Khel Sub-division, Peshawar. After the merger of FATA with Khyber Pakhtunkhwa, the formal judicial system has replaced the traditional mechanism of justice. The researcher highlighted an important justice practicing model “Jirga” to explore its significance and turned attention towards its survival. The research aims to incite and protect the post merger consequence of Jirga. The researcher utilizes qualitative methodology, for collection of data; non probability sampling/ snow ball technique are utilized. The information available in the form of books, journals, articles, newspapers, official records, column, thesis of the students and progress reports were concerned for covering the secondary data. Similarly, the primary data was collected via interviews with focused group discussions and through non-probability sampling technique. This dissertation is response to the questions, to define current status of Jirga with its role in dispute resolution in Hassan Khel Sub-division Peshawar. The findings explore that during expanding formal justice Jirga remains active in resolving local disputes due to its cultural roots and community trust. However, challenges such as legal limitations and authority are affecting its traditional role. After merger Jirga become toothless and lost its legal position. The researcher seeks to get attention of policy makers towards this cultural erosion.*

Keywords: FATA merger, Jirga System, Hassan Khel Sub-division, dispute resolution, Current Status of Jirga, cultural erosion

Introduction

On May 31, 2018, under 25th Amendment, FATA was merged with Khyber Pakhtunkhwa by substituting 1901 rules Frontier Crime Regulation (FCR). FR Peshawar (Now Hassan Khel sub-division Peshawar) is located in distract Peshawar had been a part of FATA. According to Pakistan Bureau of statistics as per census-2023, it has an area of approximately 261 square kilometers area having population 72,557. Sub-tribes of *Adam Khel* dwell in Hassan Khel sub-division Peshawar having been divided into Hassan Khel, Asho Khel and Jwakai (Khan H. , 2024). Like other tribal areas of tribal

domain Hassan Khel sub-division embodies same norms, values, tradition, and customs of *Jirga*, Maraka, and other traditions. These customs had remained the part and parcel of Hassan Khel Sub-division which culminating all social issues and affairs (Kamran, 2020).

Hassan Khel Sub-division Peshawar possessing the custom of *Jirga* in order to address and resolve all social and cultural issues. *Jirga* acted as a court system of tribal societies of erstwhile called seven agencies and six Frontier Regions (FRs) and has a reference framework of gathering of elders for resolving thorny issues. All the important issues and matters are supposed to be decided and resolved as per the norms and values glorified by these societies. The elders used to set together at a specific location and time, specified earlier. Like a legislative body, it had a legal capacity to established proper norms, values, customs and traditions for the smooth execution of their social rules. *Jirga* used to be conducted mostly in Hujra or outside an accessible area within a society. Different kinds of decision: punishments, fines in case of immoral acts, and rewards employed to implement viz a jury (Afridi, 2008). After the FATA merging in Khyber Pakhtunkhwa, the *Jirga* having been the social justice system effected owing to the introduction of reforms substituting tribal norms with emerged laws and principals. *Jirga* being a social justice body lost its status due to replacing of tribal customs by new reformative structure of Khyber Pakhtunkhwa. After FATA was officially emerged, impacts on all these customs as well as on justice body (*Jirga*) were expected because of resting a code and constitution of life of the people of FATA in early ages. There were some excellent codes of conduct in *Jirga* system which are expected to be replaced with the passage of time owing to reforms introduced are not Pakhtun laws in nature. Some of the reformative laws oppose the Pakhtun customs: arrest of female, search of home by police or other law enforcement agencies, have not accepted in Pakhtunwale code of conduct (Khan H. , 2024). In this research, the researcher explicitly to find all the facets which have affected the *Jirga* system in Hassan Khel sub-division Peshawar after it was officially merged in Khyber Pakhtunkhwa.

Statement of the Problem

The 25th amendment was legally approved in the constitution of Islamic Republic of Pakistan 1973 merging FATA in Khyber Pakhtunkhwa. This ground breaking amendment and new rules directly challenge the norms, values, customs, and traditions of the people living in erstwhile, FATA. *Jirga* had been a social justice system of the erstwhile, FATA. FR Peshawar had been a part of FATA which was merged with Khyber Pakhtunkhwa. After the adoption of 25th amendment and the merging of erstwhile FATA into KP, a new system was evolved, which has not only transformed the role of existing *Jirga* system in FR Peshawar now called sub-division Hassan Khel, but reduced the significance of tribal norms in the area. This study endeavours to find out both negative and positive ramifications unleashed by a new system in Hassan Khel sub division after emergence of FATA in to Khyber Pakhtunkhwa.

Research Questions

1. What are the challenges to *Jirga* system after the introduction of new judiciary system in Hassan Khel sub-division Peshawar after FATA merging into KP?
2. What steps can be undertaken to reconcile *Jirga* system with the new judiciary system?

Objectives of the Study

1. To identify the challenges to *Jirga* system after the introduction of new judiciary system in Hassan Khel sub division Peshawar after FATA merging into KP?
2. To explore potential steps to strategically reconcile *Jirga* system with the new incorporated judiciary system?

Literature Review

A writer, columnist, and Pashto poet of Hassan Khel Sub-division Peshawar has explicitly explained in

his column the meaning and history of Pakhtun *Jirga*. The word '*Jirga*' is a Turkish word meaning the collective thoughts and decisions. The word "*Panchayat*" is used in *Urdu* in place of *Jirga* which is basically a Sanskrit word. In Arabic, the word "*Shura*" and in English 'parliament' is used as a substitute word in place of *Jirga*, he has further stated that, the first notable *Jirga* was conducted against Mehmood Ghaznawi, before 1000 years ago in the province of Ghor in Afghanistan. Pakhtun *Jirga* is as old as Pakhtun culture (Iqar, The need & Importance of Jira in community [Pashtu], 2024).

An author published his research work under University of Peshawar (Area Study Centre (Russia, China and Central Asia)) titled "*Jirga System in Tribal Life*" has elaborated the historical background, definition, and application of *Jirga* system. He explains that the substitute word used for the tribe Pakhtun as Pakhtun-Afghan in Persian and *Pathan* in Indian context. The people had developed some kinds of ethics to regulate their life. These ethics are born through necessity and thus transformed into traditions. Pakhtun tribe calls this set of tradition as *Pkhunwali* (The code of life of Pakhtuns). There are some traditional practices: *Jirga*, *Waak* (delegation of power), *Tiga* or *Kanray* (Ceasefire), *Nagaha* (fine), *Chegha* (Commonly turn for defense), *Melmastia* (Hospitality), *Ashar* or *Bandara* (voluntarily participation in work), *Machalga* (Surety), *Swara* (a practice where a girl is married into the rival family to settle a feud), *Walwar* (money fixed for the bride), *Khun-Baha* or *Sazz* (blood money), *Tor* (refer to any form of accusation), *Matiza* (a woman who elopes with her lover), *Nanawati* (A formality of through which an individual begs forgiveness for harmful act or speech), *Badraga* (escort), *Baramta* (recovery of claimed money/ property by force), *Bonga* (Abduction for ransom). One of the traditions is meeting and consultation which is called in Pashto *Jirga/ Marakah*. Under the above customs and rules, the *Jirga* goes through mediation and their decision would be on the basis of the tribal conventions, traditions, and tenets of justice (Taizi, 2007).

An author (Chief executive of community appraisal & motivation program) has published his research work with the collaboration of Max Planck institute for comparative public law and international law, Heidelberg, Germany under titled "*Understanding Jirga Legality and Legitimacy in Pakistan's Federally Administered Tribal Areas*" explains the *Jirga*, its types, and implication of Frontier Crime Regulation. Firstly in 1848, under an agreement, Frontier Crime Regulation was incorporated in six occupied districts of NWFP (Khyber Pakhtunkhwa). In 1871, the British administration adopted more encompassing sets of rules to bring the whole Pakhtun region under subjugation. They further modified these rules in 1873 and 1876 till 1901, calling it frontier crime regulation, under which the regions were falling in Political Agent jurisdiction having no access to judiciary (Shinwari, 2011).

A couple of upper rank researcher who have completed their research from Mennonite University Harrisonburg Virginia, (USA) has written a research book on titled "*Towards understanding Pakhtun Jirga*." The authors explain pakhtun *Jirga* in a complex way and stated that *Jirga* is a set of processes with some purposes: peacebuilding and positive development. It governed via all these concern pakhtun traditional codes of Pakhtoonwali. Pakhtoonwali is the code under which *Jirga* finds its authority and jurisdiction. In modern perspective, *Jirga* may be noted as an informal institution where less documentation is involved. Its process is flexible and delicate. Briefly, a *Jirga* can be expressed as a strategic interaction between two individual aimed at resolving a persistent issue through verbal communication. The authors have quoted Noor Ul Amin Yousufazi as the origin of *Jirga* is not clear, but it may have been originated in Pakhtoon society may have originated in, or migrated to the region from area bordering Iran. Every one has equal right to speak and argue. The *Jirga* passes judgment after necessary investigation in connection with a dispute. If any party is not satisfied with the justice, they can quote the rules and challenge the decision. If someone refuses the decision despite the existing rules of Pakhtunwali, the *Jirga* determines the punishment type as per rules they call a corner meeting on the matter and suggested the punishment according to status of the matter. *Jirga* can impose powerful sanction or fines. A council of tribesmen implemented the decision of *Jirga*. The term '*Lashkar* or *lakhkar*' is used, while in the afridi regions it retains the same name, and in kurram it is referred to as

Rapakan. *Jirga* literally operates within a context and without it, it is impossible. The *Jirga* in this context, is rooted in historical precedent, cultural values, and long-standing traditions. Locally, this way of life is governed by Paktunwali, the traditional code of conduct followed by the Pakhtun people (Gohar, 2005).

An elder, writer, and a former army officer of Hassan Khel Sub-division Peshwar Brigadier (Retired) Gulman Sher Afridi wrote a research book on Pakhtun traditional institution: *Hujra*. Which is strongly relevant to my research topic as the writer shared his experience of Hassan Khel Sub-division Peshawar. As we further analyzed *Hujra* and *Jirga* having been the pillars of Pakhtun culture and society. *Jirga* meeting is conducted in a *Hujra* and provides it a neutral space to conflicting parties to meet before a *Jirga* verdict is given both reinforce Pakhtun solidarity (*Wesh*). *Hujra*, acts as social unifier and *Jirga* as a decision making body. The writer has stated that the *Hujra* plays a central role in the social, cultural, recreational, economic, political, and religious spheres of Pakhtun society. Given its diverse functions and significance, people describe the *Hujra* in various ways: as a guest house, recreational and entertainment information center, educational and learning institution, an assembly house, holding *Jirga* meetings. As we know that tribal society is governed according to its own laws and traditions and code of conduct. These laws are unwritten. The only way to learn these laws, which every tribesman must know, is to visit the *Hujra* regularly and listen to the village elders and guests who frequently narrate various case studies of disputes between parties, the legal points involved and the way these disputes were resolved by *Jirga*. The young men are encouraged to witness *Jirga* meetings of the clan or the tribe to learn how these laws are interpreted and debated in the meetings (Afridi, 2008).

A researcher in his research article titled “*Jirga: A Historical Institution*” have explicitly, stated that *Jirga* is a practice in many parts of South Asia including Balochistan. In most of old-age world, the institute of *Jirga* has existed and has been practised. *Jirga* is being practiced in some parts of Iraq. They resolve their issues by *Jirga*. The Aryans had the same two councils: *simite* and *sabha*. Sultan Behlol Lodhi and Sher Shah Suri the Afghan ruler of India had participated in *Jirga* proceedings and form a *Jirga* constitution. When Zulfikar Ali Bhutto abolished the *Sardari* system in 1976, *Jirga* actively worked as an influential institute in tribal life of Balochistan. It originated around six hundred years ago in Baloch society. *Jirga* was also there in British era in Balochistan (Hasan, 2023).

Some researcher in their research paper titled “Installation of the judicial setup in the newly merged area of erstwhile FATA: The Future of *Jirga*.” explore that The Pakhtun *Jirga* having been a traditional council, plays an indispensable role in maintaining tranquility and peace in the region, resolving disputes in Pakhtun residing areas, viz Khyber Pakhtunkhwa, Baluchistan, and Afghanistan. The Pakhtun trusts on the *Jirga* for peaceful solution of conflict. More importantly, the merger of FATA with Khyber Pakhtunkhwa has deeply impacted the *Jirga* having been a traditional justice system. The amendment aimed to replace the *Jirga* with formal court system. The local still refer and trust on *Jirga*. As compare to Pakistani current legal system, *Jirga* is a faster way in resolving conflicts and inextricably linked with Pakhtun society (Hameed, 2024).

Some writers in their research article titled “The effects of militancy and military operations on Pashtun culture and traditions in FATA” described that the militancy and military operations was deeply affected the Pashtun culture, tradition, customs, values, and art in FATA. It has destroyed the local culture by kidnapping and killing of local *Maliks* who were pro government. The people of these family members were killed in military operations joined hands with Taliban to take revenge but some families supported military forces on the pretext that their members were kidnapped or killed by Taliban. The families who were incapable and unable to take revenge from stronger families found an opportunity to get empowered by joining Taliban. The *Hujra* was effected and replaced with mosque the militancy empowered *mullah* from mosque to *hujra*. It also deeply affected the traditional tribal *Jirga* by imposing their own brand of Islamic governance. It was useful to them because they could easily interpret the Islamic laws to their own cherished objective. Before the militancy, the tribal *Malik* (chieftains) interpreted conflicts through

local customs and codes, but taliban implemented harsh and strict version of islam to their own need of governance (Surat, 2019).

A former student of Peshwar University in his research thesis titled “The impact of terrorism on *Jirga* system in South Waziristan.” has concluded that terrorism creates a sense of fear in the minds of people who are connected with *Jirga*. The terrorism developed a sense of fear leading to helplessness and hopelessness among the *Jirga* members. The militant targeted *Jirga* repeatedly by plan, the author put figure of the attacks on *Jirga*. The *Jirga* always advocate government affiliated organizations to resolve the issues and they also advocate with active terrorist groups to ensure them and faction a peaceful resolve of conflict. The terrorist were against any cooperation. Terrorism definitely affected the social progress and well-being of *Jirga*. In short, terrorism has unleashed long-lasting repercussions the members and overall structure of *Jirga*. (Ghulam, 2014-16).

JIRGA ITS PROCEEDINGS AND CURRENT STATUS

JIRGA بے جرگی نه به بل کار په لاس وانخلي ----- چی خبر وی د جرگی په برکت. (خوشحال خان خټک)

According to Pashto language dictionary, *Jirga* means “The Union of Advice,” The union of negotiations experts, give advice, meeting of a few or a huge gathering of individuals etc., (Kaka Khel, 1966). *Jirga* implies an assembly; a party meeting for consultation (Taizi, 2007). The word “*Jirga*” is the combination of two pashto wards “*Jar*” implies an open discussion or tone, and “*gah*” denotes a space or circle. (Hameed, 2024). *Jirga* by word literally implies “wrestling ring,” or circle. It is remembered that *Jirga* has the same concept/ meanings in Persian and Arabic language. It is also remembered that a few of writers categorized *Jirga* as a Turkish word in origin (Iqar, The need & Importance of *Jirga* in community [Pashtu], 2024)

STATUS OF *JIRGA* BEFORE MERGER IN HASSAN KHEL SUB- DIVISION PESHAWAR

Jirga was very strong in Hassan Khel Sub-division Peshawar like all Ex-FATA; no one can challenge the well-known traditions, Pakhtun social standards, *Pakhtun's* code of life called *Pakhtunwali*. The system of *Pakhtunwali* or sometimes just called '*Pakhto*' has evolved throughout a long-term process; expanded in due course of centuries with practical experience. It has been an unwritten constitution which consists of customs, ideas and attitudes which are transmitted from generation to generation by learning and practice mainly in the *hujra's*. “The foundation of Pakhtun society lies in upholding its traditional code of conduct, known as *Pakhtunwali*, through all means and every level. This code consists of customary agreements and moral principles that guide the collective foundation of the community. *Pashtunwali* is believed to govern every stage of life, from birth to death. It evolved over centuries through shared social practices and the collective wisdom and experience of many generations. As we know that *Jirga* is one of the basic and indispensable dimensions of *Pakhtunwali*, The *Jirga* passes through its proceedings in the set tenets of the well-known traditions of *Pakhtunwali*. The powerfulness of *Jirga* was covered in the power of *Qoam* and *Qoam* was covered in all tribal chain. This system operated by justice and the place for un-justice was limited. A strong force of tribal youth was existed for the implementation of these well-known traditional decisions which *Jirga* has cited. This force was called with different local names in different parts of Ex-FATA in Khyber with name of *Sharishta* or *Lakhkar*, in Kurram *Rafiqan*, in Waziristan *Salwekhtee*, in Hassan Khel *Qoqmi Malatr*, etc. If someone opposed *Jirga* decision which was as per well-known traditions, then this force implemented *Jirga* decision enthusiastically. If someone kept opposing *Jirga* decision, or breaking up traditions, resultantly, this force would implement *Jirga* decision by force. Open fired on offender, a set fire on home to implement *Jirga* decision. But it did not mean that if *Jirga* violated tradition and his decision will stay the last option. If someone found *Jirga* against the traditions can approach to another *Jirga* for review. After investigation mistake would revise accordingly. Now after FATA merger into KP, the legal status of *Jirga* with tribal status, which even British accepted in FCR rules, has gone to oblivion. Now *Jirga* remained only a body without soul after the merger of FATA in KP (Hussain,

2025). A number of the respondents share the opinions that some of the *Jirgamars* comes under the influence of some influential families or group which directly affects the justice in Jirga system. Some of the *Jirgamars* made Jirga as a source of income taking taxi charges, driver's charges, some time food/ *Chai* charges in hotel and comes to Jirga on daily wages not as a Judge which is clearly a gross violation of the judicial temperament (Dawar, 2025). A negligible portion among the respondents was, however of the opinion that 30 to 40 year before, Jirga was on its zenith and at strong position but near to merger Jirga is on its down position. There was no justice in Jirga. The elder, *Jirgamar*, become corrupt, taking money even in sensitive cases like *Quran-e-Pak* and *Sharm*. They habitually break the *Laar* (traditional rules) while in past time *Laar* was strictly followed by the former elders (Dawar, 2025).

Impacts on Jirga after merger in Hassan Khel

Based on the analysis of the responses from participants regarding the question, "What is current status of Jirga in Hassan Khel Sub-division Peshawar?" A significant number of the respondents held this view that Jirga has been badly affected by merger. They showed their expression by using some shocking concepts like: lost its power and become toothless, without salt, without wings, without hands & feet, lying on ventilator, lying on death bed only its burial ceremony is left behind. Jirga has no longer existed which showed the importance, sensitivity, deepness, traditional collapse and interests of people in Jirga and its current status in Hassan Khel Sub-division Peshawar (FGD, 2025). Some sub-themes are as under:

a. JIRGA POWER

Most of the respondents were of the opinions that the powerfulness of Jirga was covered in the power of *Qoam* and *Qoam* was covered in all tribal. This was a system like a chin. In this system, strong force of tribal youth was existed for the implementation of Jirga decisions. This force was called with different local names in different parts of Ex-FATA; in Hassan Khel Sub-division it was called *Qoqmi Malatr*. If someone was opposing Jirga decision all *Qoam* gathered against this traditional violation, mobilized a force of youth *Qoami-Mlatr*. This force implemented Jirga decision with zeal and zest. In case of breakup traditions, this force implemented Jirga decision by force by open fired on offender's home, give fire to its home to implemented Jirga decision. Now after FATA merger into KP the legal status of Jirga with tribal status, which even British accepted in FCR rules has finished. After FATA merger into KP the legal status of Jirga with *Qoami* power has been demolished, which was the glory of Jirga. Now the Jirga is present there but the force behind Jirga or tribal system no more existed. Jirga cannot implement their decisions with such magical fashion. If someone rejected its decision in absence of tribal *Qoami* power, the Jirga have no power to implement its decision or impose fine like before merger would take fine with enthusiasm and discipline. Now the Jirga has become, just like requesting board, which can only request not to impose its decisions but it is remembered that dispute cannot be resolved by requests. Now Jirga has become like the snake without teeth, or man without feet which have the body but no one feel fear. The power of Jirga was inside the tribal system after merger. The new rules were introduced in FATA, which has their own proceedings through police. The government introduced DRC which is a new form of Jirga with very limited powers. Its decisions always refuse and have no mechanism for strict implementation. In short, one can state that the body of Jirga is present their but soul is its power. Now Jirga is a body without soul (FGD, 2025).

b. JIRGA MANDATE

Most of the respondents were of the opinions that after merger of FATA into KP, the Jirga has become optional. Jirga was mandatory before merger of the FATA into KP. The Jirga was only single option to resolve the issue was Jirga in FATA. Now with the merger of FATA the police and court system, like KP introduced in ex-FATA. The Jirga is exists their but its legal status is doesn't exist. If someone wants to pass through Jirga well and good while if someone wants direct approach to court can do, it

depends on the individual. While prior merger Jirga was mandatory, most every individual would bring their dispute Jirga for resolution. Now after smashing its power, the Jirga has become toothless. The 80% people of Hassan Khel approach to Jirga mostly poor like prior but if the opposition is not sincere according to tribal tradition, feel lost in Jirga, want to suppress the his opposition, his statement or claim not based on truth which they cannot depend in front of Jirga. Such hypocritical people get the new option (FGD, 2025). Few of the respondents were however of the opinion that after the merger of FATA into KP in all ex-FATA including people of Hassan Khel keep hope whose problems were not resolved by the Jirga or who have objection on the some decisions of Jirga. Gets the option of court where they have a hope of justice otherwise, Jirga is as option (Iqar, Hassan Khel Jirga, 2025).

c. JIRGA MEMBER'S RESPECT

The majority of the interviewed participator expressed their view that, following the merger of FATA into Khyber Pakhtunkhwa, the Jirga lost its power as well as its glorious proceedings in Hassan Khel Sub-division Peshawar. The *Jirga* proceedings were significant in its style. The most members of Jirga were white beard and respected personalities. The Jirga members as well as candidates set in an open place during the Jirga proceedings with respectable manner. There was a mechanism of respect for *Jirga* member and candidate of justice in *Jirga* proceedings, the *Jirga* members take the statements of both parties politely whether rich or poor, often sets with parties according their arrangements, economic status, i-e even sets on land. The hosts also give a lot of respect to *Jirga* members with best arrangements according to their economic position. The *Maliks* were officially recognized by the government though political agent under the law of Frontier Crime Regulation (FCR) before merger, which has been abolished through the 25th amendment which reduced the importance and character of *Maliks*/Masheran. Malik used to receive allowances, security, and other benefits from political agents which are finished with merger of FATA with KP. Now after the merger of FATA into KP, the *Jirga* lost a mechanism full of respect for elders/ *Jirga* members as well as public in result of emergence of police dictatorship. The government introduced DRC as a substitute of public *Jirga*, which are under the jurisdiction of Police SHO who dictated the *Jirga* members instead of old free influence. The *Jirga* members not get such respect like the glorious proceedings before FATA merger in Hassan Khel Sub-division Peshawar. The official recognition through Political Agent/ Assistant Political Agent demolished and government allowances also windup. The new mechanism reduced and even demolished respect for elders. (FGD, 2025).

d. TIMELY JUSTICE

An enormous intellectual figure of the interviewed were analyze that, after the merger of FATA into Khyber Pakhtunkhwa (KP), the provision of timely justice, role in provision of speedy justice to the people is vastly affected because of the unstable and diminished role of *Jirga*. They express their view that many dispute inconsistencies like aggressions need rapid attention to prevent injuries or harm among the opponent groups. The new reforms introduced in erstwhile FATA have not such spirit and speed as compare to *Jirga*. In such situation *Jirga* was only the alliance that has the quality and capability to fulfill such a complex mission with limited time and significant achievement. The people have great trust and belief on *Jirga* accelerated form of justice. They explained role of *Jirga* in provision of urgent and inexpensive settlement of dispute and highlighted well-timed solution by *Jirga* during pre-merger period. Now in the post merger context after any prohibited action required documentation like launching FIR by Police, its investigation, further proceedings in courts like multiple hearings, charges, trial, weak evidence, slow paper work and apples, takes years to resolve the cases. Complex laws require formal filings, evidence collection and lengthy hearings waste time unlike of *Jirga*. Courts depend on Police prosecutors (often absent or lack of spirit in ex-FATA) to enforce orders. Often the wealthy parties exploit loopholes to tire out opponents. On other hand *Jirga* was a proper quick social enforcement mechanism. The *Jirga* members often know personally the family background of the accused and investigate the matter himself which helps to accelerate the proceedings of *Jirga* to resolve

the issue in days or weeks (FGD, 2025).

e. COST ON JUSTICE

A significant majority of the interviewed individuals express their views that *Jirga* offers cost – effective justice to the people in the region, i-e Hassan Khel Sub-division Peshawar as well all merged districts. They express that the *Jirga* have the ability to provide a quick and low-cost justice. They also express the inexpensive and timely role of *Jirga* in ex-FATA including Hassan Khel Sub-division Peshawar. According to the respondents' *Jirga* are the only traditional-institution form centuries which prove themselves as a less expensive justice institution to settle the public disputes. They were stated that *Jirga* members have no official filing fee, courts cost, and the elders volunteer their time and wisdom as community service duty. The *Jirga* members charge only transportation and food charges called *Patkai*. The public give the amount happily to the elders in result of respect, therefore called it *Patkai*, as *Paktai* is the symbol of respect. Unlike courts have very expensive from FIR till decision of the case. During the case proceedings on every step you have to pay due to these formalities and corruption. The court delays cases for years due to burden and many other issues which results in significant opportunity cost: i-e lost of wages, travel time, and prolonged stress, which is an indirect but real financial burden on common individual (FGD, 2025).

CHALLENGES TO JIRGA AFTER MERGER

a. LEGAL STATUS

After 25th amendment in the constitution of Pakistan, new reforms introduced in ex-FATA in result *Jirga* has lost their legal status which was granted by FCR; directly challenge its existence and survival. In the post-merger context when *Jirgas* adjudicate serious criminal matters (murder, rape, terrorism etc) reserved exclusively for state courts under the penal code, they act ultra vires (beyond their legal power), undermining the state's monopoly on criminal justice. The people are still trust and approach *Jirga* for resolution of their disputes, but *Jirga* have lost its legal status, which is declared as a big shift from legal to illegal and challenge to *Jirga* existing and survival (Tariq, 2025).

b. NON- RECOGNITION

The non-recognition of *Jirga* is a big a real challenge to the *Jirga* system. Non-recognition means not belief in something, which denoted that an acceptance that a statement is true or that something exists. In the result of 25th amendment in the constitution of Pakistan *Jirga* comes in non-recognition category. Non-recognition becomes a big challenge to *Jirga* decisions. For example two parties approach to *Jirga*, *Jirga* comes on conclusion, and announced its decision, but on letter stage one party refuse to accept the decision of *Jirga*. If *Jirga* order compensation, punishment, or restrictions cannot be enforced police or courts. It is not just a challenge, but it is the fundamental legal shift. This non-recognition is a contest between the legality and cultural erosion. It has no official status (FGD, 2025).

c. DECISION IMPLEMENTATION

In the result of 25th amendment in 2018, Pakistan formal judiciary and police replaced *Jirga* legal position and categorized as unofficial. This shift disrupt the *Jirga* decision implementation power and challenge it, as the powerfulness of *Jirga* was covered in the power of *Qoam* and *Qoam* was covered in all tribal chain. A strong force of tribal youth was existed for the implementation of these well-known traditional decisions which *Jirga* has ordered. This force was called with different local names in different parts of Ex-FATA in Khyber with name of *Sharishta* or *Lakhkar*, in Kurram *Rafiqan*, in Waziristan *Salwekhtee*, in Hassan Khel *Qoqmi Malatr*. If someone opposed *Jirga* decision which was as per well-known traditions, then this force implemented *Jirga* decision enthusiastically. If someone kept opposing *Jirga* decision, or breaking up traditions, resultantly, this force would implement *Jirga*

decision by force. Open fired on offender, a set fire on home to implement Jirga decision. But it did not mean that if Jirga violated tradition and his decision will stay the last option. If someone found Jirga against the traditions can approach to another Jirga for review. After investigation mistake would revise accordingly. Now after this shift the traditional mechanism of decision implementation (*Qoami Malatr*), legally detached from Jirga. It is a challenge to Jirga survival (Hafeez, 2025).

d. NON-MANDATORY STATUS

The 25th amendment to Pakistan Constitution in 2018 led to the integration of FATA into Khyber Pakhtunkhwa. The merge FATA with Khyber Pakhtunkhwa, the Jirga system lost its mandatory legal status. This is a big challenge for Jirga as a justice tool. Under the FCR, Jirga had been the sole and legally binding mechanism for dispute resolution, with decisions enforced by the PA with the repeal of FCR, and the extension of Pakistan's regular judicial, police, and other administrative systems to the new merged districts, the Jirga is no longer a compulsory forum for adjudication. Now Jirga become voluntary, primarily within ADR laws. Jirga was a mandatory component of Pakhtun culture become optional this shift of cultural erosion declared a challenge for its existing and long life (Khan M. B., 2025).

DRC AS SUBSTITUTE OF JIRGA

The 25th constitutional amendment resulted of merger of FATA with Khyber Pakhtunkhwa. The Government introduced reforms including extension of police and judiciary, (levies and *Khasadar* force were converted into Police, PA designated as duty commissioner/ assistant commissioner), promised development funds (e.g., Rs 100 billion annually) for the ongoing development projects, completion of ongoing project including FATA University. The government allocated a 3% share in the *NFC* Awards for the merged districts but all the promises remained only a slogan. The government established DRC under the KP Police Act, 2017 and extends it to merged districts as a substitute of Jirga. During scholar interaction majority of the respondents were of the view that as compare to *Jirga*, DRC has not reached to the position of traditional *Jirga* system because of its jurisdiction, and community trust. DRC has dictated by SHO and DPO while *Jirga* has free from such pressure. DRC have lack of respect in their proceedings for elders/ *Jirgamars*, while *Jirga* has a proper respectable mechanism (FGD, 2025). A negligible portion among the respondents was however held the opinion that DRC ensuring women's access to justice, securing their inheritance rights, and providing a platform for women to present their case unlike *Jirga*. DRC discourage gender based discrimination of women and ensure their inheritance rights (Shumila, 2025).

FINDINGS AND RECOMMENDATIONS

The central objective of this study is to examine the contemporary Status of Jirga system, with significance of Jirga and its proceedings in Hassan Khel Sub-division Peshawar. The subsequent role of Jirga in deciding disputes with the strength and weaknesses of Jirga in context of Hassan Khel, proceeding disputes and making judgments, resolutions are also discussed in this dissertation. The goals of this research work are to critically scrutinize the institution of Jirga as a dispute resolution system, analyzing its current and prior status, its successive role in resolving disputes and after merger cultural erosion in the form of Jirga illegality. In the similar vein, the research further sheds light on the limitation of Jirga in handling and resolving disputes, while proposing constructive measuring various recommendations have been proposed to address the issues and enhance the capacity of the Jirga. The current status of Jirga in Hassan Khel, like in other newly merged districts, is that of an informal but deeply respected institution. Despite the constitutional changes, the Jirga continues to operate in many places, especially in rural settings where access to formal courts and policing structures remains weak or alien to the people. The proceedings of Jirga were based on collective tribal wisdom, backed by the authority of the *Qaum* (tribe) and enforced through *Qoumi malatr* (tribal force). This made its verdicts binding and ensured community-wide respect, with the element of social pressure compelling

compliance. The merger was seen as abrupt change imposed on a society that had exercised centuries-old system of governance. Many stakeholders expressed that such a transformation was not only difficult to adopt but also deprived them of a system that was more effective in addressing their day to day disputes. The Jirga, despite its flaws-including instances of corruption and partiality-was considered efficient, fast, and culturally legitimate. It resolves the issue that ranged from land disputes to criminal offenses with a speed and social unmatched by the formal judicial system.

The promises made by the government at the time of merger were largely unfulfilled. The commitment to allocate 3% of the National Finance Commission (NFC) Award for the development of the merged districts remains unimplemented, leaving local communities disillusioned. Law and order, which had been relatively stable under the tribal worsened in the absence of an equivalent enforcement mechanism. The police system introduced in the merged districts lacked the spirit, cultural legitimacy, and binding force of the *Qoumi malatr*. The vacuum created by the weakening of Jirga and the slow strengthening of state institutions contributed to rising insecurity, land disputes, and a sense of frustration among the people.

Local stakeholder, including the mayor Hassan Khel, candidly admitted that while they once raised slogans of the merger, they have now realized that were on the wrong side of the history. The abrupt shift dismantled a system without effectively replacing it with a stronger trusted alternative. At the same time, it must be acknowledged that a small but notable segment of society welcomed the merger on the grounds that it provided basic legal rights previously denied under frontier crime regulation (FCR). These include legal representation (Wakeel), the opportunity to submit evidence (Daleel), and the right to appeal (apeel) – even up to the supreme court of Pakistan for them, the merger ended a dark era of collective punishment under the FCR and gave them access to constitutional rights as equal citizens of Pakistan.

The majority of the individuals argue that while Jirga was not perfect, it was deeply entrenched in tribal identity, social trust, and cultural legitimacy. Its strength lay not in statutory recognition but in collective acceptance of the tribe, backed by centuries of continuity. The Jirga was viewed as not merely a dispute – resolution forum but as a way of life, a symbol of tribal sovereignty, and a system of justice rooted in honor and accountability. Even in criminal cases, the public participation in proceedings and the collective oath-taking practices gave verdicts a spiritual force, which no formal court or police intervention can replicate in tribal imagination.

On the other hand, the merger has created new political dynamics. Movements opposing the merger led by FATA loya Jirga and supported by JUI, reflect dissatisfaction and demand for a referendum on whether FATA residents truly desired integration.

In the conclusion, while the merger of FATA into KP was a landmark constitutional development, its success on the ground remains contested. The people of Hassan Khel, like other like other newly merged districts, are caught between the loss of their traditional governance system and the slow realization of promised reforms. The Jirga, once powerful and deeply respected, now stands at a crossroad: weakened by law but sustained by culture. Its future will depend on how policymakers, political leaders, and local communities negotiate the space between tradition and modernity. Unless the promises on economic development, institutional efficiency, and participatory governance are fulfilled, the nostalgia for Jirga will continue to dominate local sentiments. The lesson for Pakistan is clear: meaningful integration cannot be achieved by legislation alone; it requires honoring commitments, and strengthening institutions, and respecting cultural identity of the people. Only then can the merged districts truly become part of the national mainstream without losing the essence of their unique traditions.

RECOMMENDATION'S AIMED AT POLICY-LEVEL DECISION MAKERS

In the light of the research findings, the following recommendations are put forward to strengthen the effectiveness, representation, and equality with Jirga proceedings:

- Conduct referendum on future and current status of FATA according to the wishes of FATA people for smooth survival of the system.
- *Jirga* as a channel of dispute settlement and product of centuries-old experiences, practices, and wisdom with export negotiations, legally protected in FCR, the government are required to maintain its legal status to it in first priority according to the wishes of tribal's people.
- Give the right of court facility to the people of Hassan Khel in the presence of *Jirga* which should not affect the importance legality of *Jirga*.
- Registered the *Jirga* member and modification in some weaken aspects of *Jirga* which should be acceptable in grand tribal *Jirga* (*Staar Warokai Jirga*).
- The basic traditional, rules should be write in the form of book to remember and protect accordingly, established *Jirga* hall to have such rules.
- *Jirga* system commands deep respect among the people of ex FATA as well as all Pakhtune belts, which often turn to it as trusted mechanism for resolving disputes. Recognizing the influence this influence, it is essential to strengthen and build the institutional capacity of the *Jirga*. Historically, *Jirga* have played a vital role in community conflict resolution, offering accessible, timely, and cultural relevant justice. Unlike formal courts – which are often slow and expensive- *Jirga* proceedings are generally low-cost and more readily available to local populations.

Following the merger of the Federally Administrated Tribal areas (FATA) into Khyber Pakhtunkhwa (KP), it is essential to preserve the *Jirga* system as an institutionalized mechanism for alternative dispute resolution. Given the regions socio – economic context – marked by limited legal awareness and financial constraints – *Jirga* remain an accessible and trusted forum for marginalized communities. To enhance accountability and transparency within the *Jirga* system, it may crucial to formally register and licensed *Jirga* members. Rather than abolishing the time – tested institute, efforts should be directed towards its reforms, regulation, and integration within the broader legal frame work.

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