

Change in the Behavior and Character of the Jirga System in the British period (A Case Study of Balochistan)

Political Science

Dr. Adil Zaman Kasi ¹, Dr. Abdul Qadir Khan ²
& Abdul Qadir ³

Abstract

Jirga is an informal customary judicial institution which has a formal effect on the Baloch society in general and the tribal Balochistan in particular. Through this institution, the cases are tried, rewarded and even punishments are imposed to the culprits. It enjoys the confidence of the tribesmen and thus in the tribal life of Balochistan, it had been flourishing in the administration of justice. Its process was very simple and speedy but this situation lasted till the establishment of the British government. The British government had found the Jirga system in Balochistan very useful in order to solve the tribal disputes and also to protect their colonial interests in the region of Balochistan. For the sake of their convenience, the British government had changed the structure and spirit of Jirga and thus they divided this old institution into different tiers i.e. Local Jirga, Joint Jirga, Shahi Jirga, Inter-Provincial Jirga etc. The British government also framed the Rules of 1882 and the Frontier Crimes Regulations 1901 for the purpose deteriorating the old and ancient institution of Jirga and made it a tool of the colonial power. As a result of those developments by the British government, the concept of tribal adjudication by Jirga now radically changed.

Key Words: Administrative Structure, Balochistan, British Government, Colonial Power, Jirga System, Judicial Structure, Sardars.

Introduction

Everybody in tribal life is familiar with the word Jirga. Though Jirga has passed through many phases during the last six centuries, this institution still enjoys the confidence of the tribal people. Jirga as defined by the Pashto Descriptive Dictionary, is a consulting council, where the tribal elders get

¹ Assistant Professor, Department of Political Science, University of Balochistan, Quetta.

² Assistant Professor, Department of Political Science, University of Balochistan, Quetta.

³ Lecturer, Department of I.R. University of Balochistan, Quetta.

together to discuss and decide important tribal issues. (Pashto Descriptive Dictionary, 1981:1242) Pashto Ariana defines jirga in these words, "It is a council of elders of tribes to discuss and sette problems, disputes. In ancient times the tiny issues were resolved by 'Dasbano Jirga' i.e. Awami Jirga, and the matters of state significance were settled down by 'Seematic Jirga' i.e. Jirga of Khans (Lords). (Pashto Ariana, 1976:370)

The untraceable history of justice and Jirga go together. In various parts of the world this institution has been present since the inception of mankind, though different words were used for this system. 'Panchiat System' in India is also a form of ancient Jirga. Disputes and quarrels are natural in human society. The need is felt that the notables of society should sit together, hear the parties and pass the verdict. This is very simple way of dispensation of justice. In the early period, the institution of Jirga functioned very successfully in the tribal life in general and in Balochistan in particular.

Interclan disputes including thefts, robberies, disputes of land and the big offences including murders were jointly decided by the chief and the heads of the clans; while disputes within a clan were decided by the head of the clan, who summon both the parties to an open session and give his judgment according to Islamic Sharia, as understood by him. Mostly the decisions used to be correct, for heads of the clans had their own authentic sources of interpretation in the matter of judging the culpability or otherwise of an alleged offence. (Marri, 1977:253)

Merits of jirga system

The Jirga system had been successful in administration of justice in the tribal life. It enjoyed the confidence of the tribesmen. It had almost all the qualities, a judicial system ought to possess. Jirga system was good because,

- 1) It was a cheap system of justice.
- 2) Its process was very simple and speedy.
- 3) The judgments of Jirga were readily accepted by the parties.
- 4) As this system had its roots in the tribal culture so it suited them.
- 5) The Jirga was easily approachable and understandable.
- 6) The Jirga men were well aware and acquainted with the tribal traditions and culture so they used to pass the verdict homogenous to the tribal society.

- 7) The tribal loyalties were very strong so the jirgamen could not cheat or deceive. (Khan, 1988:139)

Jirga System in the British Period

The Jirga system functioned in its pristine beauty until the arrival and establishment of the British government. They changed the judicial character of this institution and exploited it for their colonial objectives. Robert Sandeman (later Sir Robert Sandamen) was the main architect of British rule in Balochistan. He during his stay at Dera Ghazi Khan, had observed the Baloch traditions closely. When he was posted at Quetta, he utilized these experiences and got the required results. He found the Jirga system useful in solving the tribal problems and so protecting the government's colonial interests. He wrote a letter to the Central Government on 5th October, 1988 admiring the Jirga system. He said:

“No system can be better recommended than the jirga system for the solution of tribal and intertribal issues. Jirga is like the local self government system. It has all the qualities and character which are wanted”. (Khan, 1988:136)

Sir Robert Sandamen used this and other indigenous institutions to establish British rule in Balochistan. He was very successful in his policies. Richard Issac Bruce pays homage to Sandamen in these words:

“Sir Robert Sandamen's system was to keep the troops wherever until the tribal arrangement could be thoroughly depended on, but not a day longer: and to show how well the plan worked. I need only mention that within a very short space of time we had the satisfaction of being able to substitute tribal levies for the regular troops in every one of the posts above mentioned with the exception of Sibi and Sooe”. (Bruce, 1977:125)

Judicial, Administrative Structure of Balochistan (British Period)

The British government had divided Balochistan from administrative point of view into two:

- a) The British Balochistan.
- b) Independent States of Balochistan.

The British Balochistan consisted upon the Pshtoon tribal areas, Marri Bugti areas, the areas of the road (of State and defense significance), railway lines connecting India with Iran and Afghanistan. These regions were directly administered by the British administration where agent to governor general was the centre of all powers. The AGG had his secretariat where revenue and judicial officers were the most active officers, who exercised the powers of AGG. (Khan, 1988:120)

At the district level, the administration was being run by the Deputy Commissioners or the political agents. They were also the commandants of the army stationed or deployed in their respective districts. They were responsible for the movement of the army.

The local administration was being run with the help of the levy system. They were also the responsible officers of the administration of justice and revenue. (Khan, 1988:121) Here the Jirga system very effectively used to resolve the tribal and individual disputes safely protecting the imperialistic interests.

The district was divided into sub-divisions and tehsils. The officers at the sub-division and tehsil level were to implement and execute the commands of the AGG.

Balochistan (independent states) were governed by the Khan-e-Kalat, who had maintained his rule by virtue of agreements with the British government. The Sardars were his administrative heads, and the Mastung Treaty had given many powers to these sardars. The sardars generally used their powers to:

- a) Collect the revenue
- b) Settle the tribal disputes
- c) Maintain law and order
- d) Protect the governmental erections and installations.

The judgments of the sardars were not final and appeal could be lodged before the Khan-e-Kalat. Khan could also appoint the administrators in the areas of his jurisdiction. Khan had divided his territory into the following administrative units:

- 1) Jhalawan
- 2) Sarawan
- 3) Makran
- 4) Kachi

Typology and Structure of Jirga System (British Period)

The British government exploited the institution of Jirga for the promotion of its colonial interests. The government changed the process, structure and spirit of Jirga, giving a new shape to this ancient body. Its new form was in three tiers.

Local Jirga

The civil and criminal cases occurring among the tribesmen of a district were referred to the local Jirga. These cases might include adultery, murder, matrimonial suits, cattle lifting, theft of movable property, disputes of land etc.

Selection of Members

Malik, Sardars, Motabers and the influential elders of that particular area were nominated as the members of the local Jirga. Their number was to be at least three. Their appointment was contingent with their link with that particular region where they were appointed as the Jirga member.

Joint Jirga

Cases of ordinary nature between tribesmen of Sibi and Loralai districts were sent for settlement to the joint Jirga.

Shahi Jirga

This body used to deal with the cases which involved any question of principle or affect two or more tribes or two or more districts. The Sindhi Jirga also dealt with the cases where no satisfactory settlement had been arrived at in local or joint Jirga. The important and serious cases of adultery, murder, matrimony, property (movable and immovable) and those affecting tribal customs were also settled by Shahi Jirga. Shahi Jirga was to assemble in winter at Sibi and in summer at Quetta. (The Gazetteer of Balochistan, 'Sarawan' 1986:153)

Selection of Members

The numbers of Shahi Jirga were settled from chiefs and the headmen of the tribes of significance or the tribes whose tribesmen were concerned.

Inter-Provincial Jirga

All the cases of significance between the tribesmen of Dera Ghazi Khan and Sibi districts and the serious cases among the tribesmen of the district which required a nearly settlement and could not be postponed till the Quetta and the Sibi Jirgas, and the cases in which the parties belonged to the places in the neighborhood of Fort Munro were referred to the inter-provincial Jirga which held there every year in September.

Selection of Members

Fort Munro Jirga or inter Provincial Jirga's members were generally the chiefs of the tribes of significance.

Right of Appeal

One evidence of unjust character of the British Jirga system is that no appeal lied against the orders passed by the Political Agent and Deputy Commissioner but their orders were subject to revision by the AGG and Chief Commissioner. (The Gazetteer of Balochistan, 'Sibi' 1986:172)

Rules of 1882 and Its Effects

The British government framed rules in September 1882 to dispose off the cases of Balochistan and Punjab. These rules were being framed by Mr. R.I. Bruce, C.I.E and Mr. Fryer.

Effects of the Rules of 1882

These rules were meant to strengthen the British rule in Balochistan and Punjab. The framers had the intension to make the Sardars and chiefs of the tribes (of Balochistan) to play the puppet role for the British government. They were cutting the feathers (keeping the wings intact) of the eagles to make them helpless. With the introduction of these rules the sovereignty of Sardars was converted into suzerainty. Rules VI says, "Settlements" (disputes settled by the Sardars) shall be subject to the approval of the Political Officers concerned, "it means that the authority of passing a judgment was being snatched away from the Sardars and they were in other words to give the judgments of the choice of the P.A otherwise he would not accept it. This aspect damaged the ever cherished image of the tribal sardars, who were the symbol of bravery, courage and justice. It is a turning point in the history of the tribal life in Balochistan. Now, the sardar was not to protect the interests of his tribesmen but was ready to act against his own people. (Janmohamad, 1988:164)

Bruce says, "The tribal leaders..... whether Baloch Tumandar and Makadams or Afghan sardars and Maliks ----- and the tribal levies are back-bone of a Frontier Officers's political arrangements. (Bruce, 1977:125)

Frontier Crimes Regulations 1901

Frontier Crime Regulations were introduced in 1909. These regulations can be called the second episode of the series of rules started by the rules of 1882. The regulations further deteriorated the native institution of Jirga and made it a tool of the colonial power. From our point of view, its section 8 and 11 are important. The former was to deal with the civil and the later with criminal cases.

Section 8 speaks like this that where so ever the District Magistrate or Deputy Commissioner is satisfied that there is a dispute that can cause law and order problems or bloodshed or any of the parties belong to frontier tribes, he thinks that the case should be trialed by the Jirga. He will send the case to the Jirga

for the judicious opinion. Further, it is said while referring the case to jirga the Deputy Commissioner or the District Magistrate will clearly show the allegations and the offences. Deputy Commissioner or District magistrate on receiving the opinion of the Jirga will refer the case back to the Jirga for further investigations or appoint to second Jirga or pass his order or advice the parties to go to the civil courts or he will say no further trial is required.(Frontier Crimes Regulations, 1901)

Effects of Frontier Crimes Regulations 1901

These rules further changed the judicial character of the Jirga system and made it play second fiddle to the agents of the colonial power. The autonomy of Jirga was completely killed and it was made only a council which was to give the proposals best suited to the governmental taste. If the proposals of the Jirga were repugnant to the British interests, the governmental agent could reject it and send it back to the Jirga for revision. He could form even a new Jirga or recompose the old one. These developments in the Jirga system shattered the judicious image of the Jirga system and consequently this system lost the mass confidence.

Jirga system after independence

Frontier Crimes Regulations 1901 continued even after the independence. Then a movement was lodged against it. One should clearly understand that the disliking or hatred was against the black laws which damaged the mass interest and not against the indigenous Jirga system which was full of benefits for a poor and grieved person.

Conclusion

Jirga system is an ancient judicial institution. It was cheap system of justice. As the jirgamen were well acquainted with the tribal traditions and culture so they passed the verdicts homogenous to the tribal society to the tribal society. Its process was very simple and speedy. It could satisfy the grieved party. This situation lasted till the establishment of the British government which had her colonial interests and to protect their interests they changed its judicious character and made it political and administrative one. They reduced the powers of the sardars and they could not pass the judgments freely and justly. Their hands were being tied by the rules of 1882 and FCR 1901. In the words of Justice Khuda Bux Marri, "subsequently, however, with more settled conditions and introduction of Frontier Crime Regulations of 1901 by the British government official interference increased, and the concept of tribal adjudication by jirga has now radically changed. False oaths and false evidence

have become the order of the day for avoiding long-term imprisonment. (Marri, 1977:253-54)

These sentences show an explicit change in the behavior and character of the jirga system. Now what is the situation? The answer is the words of Justice Marri, “at present the situation is fluid. There is neither tribal jirga, as it was nor the ordinary laws of the land, operating as they should, and the result is a general confusion in the sphere of dispensation of justice and law and order. (Marri, 1977:254)

References

Awan, A.B. (1985). *Balochistan Historical and Political Process*, New Century, London.

Bruce, Richard Isaac, (1977). *The Forward Policy*, Gosha-e-Adab, Quetta. Frontier Crimes Regulations, 1901.

Janmohamad, (1988). *Essays on Baloch National Struggle in Pakistan: Emergences, Dimensions, Repercussions*, Gosha-e-Adab, Quetta.

Khan, Tahir Muhammad, (1988). *Sayasayat-e-Balochistan*, M.M. Traders, Quetta.

Marri, Justice Mir Khuda Bux, (1977). “*Search Lights on Balochs and Balochistan*”, Gosha-e-Adab, Quetta.

Pashto Ariana, Ministry of Information and Culture, Kabul, Afghanistan, 1976. Pashto Descriptive Dictionary, (1981), Vol. II, The Academy of Sciences, Afghanistan.

The Ghazetteer of Balochistan (Sarawan), (1986), Gosha-e-Adab, Quetta.

The Ghazetteer of Balochistan (Sibi), (1986), Gosha-e-Adab, Quetta.