Pakistan: Information on jirga practice and procedure

Amnesty International report under the heading ‘The process of the jirga’:

“A jirga can be initiated by a sardar who is aware of a feud and calls on the persons involved to submit to a jirga or by a complainant who approaches the sardar. On some cases the sardar alone will decide issues but major conflicts are brought before an assembly of elders. Both the complainant and the accused have to agree to appear before the jirga and to submit to their decision. Proponents of the system have described it as democratic: "A democratic system prevails among the tribes. People only come to the sardar if both parties agree ... if the sardari is a respected person, people will come to him for resolution of conflicts", a sardar told Amnesty International.

Proceedings begin by the complainant presenting his case and the other party then responding. Unlike in the formal judicial system in Pakistan which in some cases allows for trial in absentia, in the tribal system, the accused has to be present in person and present their case in person. In some cases, jirgas have been postponed when the accused did not present themselves. In December 1998, a jirga between the Memon and Phulpoto tribes met in order to settle a murder of seven people but then did not proceed because it believed that without the main accused who did not turn up, justice could not be done and no lasting settlement would be achieved.

During the 'trial', all the people involved usually stay at the place of 'trial' as guests of the presiding person. ‘We give the hospitality and telephones and food ... but we don't charge anything for our service’, a tribal sardar told Amnesty International, acknowledging, however, that some tribal leaders are now asking for a fee. While generally 'proceedings' do not cost the 'litigants' anything, sardars taking fees are seen by many observers as an indicator of the decline of the system. A former Commissioner of Larkana division, Aslam Sindhrani, pointed out to Amnesty International that sardars draw monetary benefit from holding jirgas besides benefits to their status.” (Amnesty International (1 August 2002) Pakistan: The Tribal Justice System)

This report also states:

“Participants may nominate members of their tribe to be present and to support their case, or renowned members of other tribes as arbiters. Tribal elders or particularly learned people like school teachers or other local notables may function as musheer, advisors or counsels to the jirga. Such third party opinion is usually accepted and to be called upon to perform this function is considered a great honour. Proceedings continue till a solution mutually agreeable to both parties is found. This may be very quick but more complicated cases may involve several days. "You have to convince both parties to agree; the decision is oral but I write it down to keep a record", a
sardarin Upper Sindh told Amnesty International. There is no appeal from a jirga decision. As another sardar told Amnesty International, ‘even the Supreme Court cannot overturn our decisions’ “(Ibid)

This report also states:

“Justice is understood not in terms of punishment of the guilty leading to a process of remorse and eventual rehabilitation but strictly in terms of conciliation brought about by restoring a balance disturbed by an offence.” (Ibid)

This report also states:

“Proponents of the tribal justice system stated that tribal courts reach decisions very quickly, with even complicated cases being decided in days. Nawab Aslam Raisani told Amnesty International that he had settled a case going back 96 years that started with a dispute over a piece of land and involved five killings. The jirga lasted nine days and concluded, according to Raisani, ‘to everyone’s satisfaction’.” (Ibid)

The US Department of State Country Report states under the heading ‘Denial of Fair Public Trial’:

“Feudal landlords in Sindh and Punjab and tribal leaders in Pashtun and Baloch areas continued to hold local council meetings (known as panchayats or jirgas), at times in defiance of the established legal system. Such councils, particularly prevalent in rural areas, settled feuds and imposed tribal penalties on perceived wrongdoers, including fines, imprisonment, or even the death penalty. In Pashtun areas, such councils were held under the outlines of the Pashtun Tribal Code. Under the code, a man, his family, and his tribe are obligated to take revenge for wrongs real or perceived to redeem their honor. Frequently these disputes arose over women and land and often resulted in violence.” (US Department of State (25 February 2009) 2008 Country Reports on Human Rights Practices - Pakistan)

This report states under the same heading:

“Many tribal councils instituted harsh punishments such as the death penalty or watta-satta marriages (exchange of brides between clans or tribes). Over the past few years, there has been a growing number of reports of militants running their own courts in several tribal agencies and in Swat, and dispensing quick justice with little due process or transparency in their deliberations.

The AHRC reported since 2002 more than 4,000 individuals, two-thirds of whom were women, have died by order of jirga courts in the country. Although the superior courts have declared these rulings illegal, AHRC reports that some of those involved in implementing jirgas sit in parliament.” (Ibid)

Under the heading ‘Women’ this report states:
“In early March Taslim Solangi, a 17 year-old girl, was allegedly the victim of an honor killing ordered by a jirga. According to the AHRC, she was attacked by dogs and then killed by her in-laws. On December 23, President Zardari appointed an inquiry officer in the case.” (Ibid)

This report states under the same heading:

“There were no developments in the 2005 rape case of Shazia Khalid at the Sui gas field in Balochistan. Baloch nationalists claimed that Frontier Corps personnel raped her; the government claimed DNA evidence indicated otherwise. A tribal jirga condemned Khalid to death for dishonoring the tribe. She and her husband left the country in 2005; human rights organizations alleged they did so under pressure from the government.” (Ibid)

This report states under the heading ‘Children’:

“On May 30, a jirga in Chach, Sindh, ordered that 15 girls from the Chakrani tribe, ages three to 10, be given away in "vanni," which meant they would be married to a rival tribe to settle an old dispute. As of June the Chakrani tribe had not handed them over and the matter was resolved.” (Ibid)

Freedom House report:

“Feudal landlords and tribal elders throughout Pakistan adjudicate some disputes and impose punishments – including the death penalty or the forced exchange of brides between tribes – in unsanctioned parallel courts called jirgas. In 2004, responding to growing concern over the potential for abuse in this practice, the Sindh High Court banned all trials conducted under the jirga system in the province. However, such proceedings continue to take place. Tensions between national laws and the efforts of provincial assemblies to pass restrictive Islamist legislation remain a problem. Militants in several tribal areas and NWFP’s Swat district have reportedly set up their own parallel courts, dispensing harsh penalties with little regard for due process.” (Freedom House (16 July 2009) Freedom in the World 2009 – Pakistan)

The UK Home Office quote a number of other reports under the heading ‘Tribal Justice System’:


‘Jirga also called Panchayat is an age old tradition of resolving disputes or rivalries at village level. However, with the establishment of modern state system, judiciary replaced jirga. However, in Pakistan, Jirga system still runs parallel with the state judiciary system despite a ban imposed on it by the Sindh High Court. Jirgas are not only conducted by feudal lords and tribal elders but also by known parliamentarians and district legislators. It is the Jirgas, who have played the most critical part and still does in the perpetuation of these cruel and brutal traditional practices in Pakistan. They
wield immense power in the villages and the poor, illiterate and benign tillers have little courage to challenge these Jirgas. Many, who have been brave enough to challenge find little or no support from the civil society, or the government and the judiciary to stand up against these Jirgas.’ (p29)


‘In a tribal court, witnesses and hearsay are the primary form of evidence and a verdict often rests on the reputation or power of a witness. Women are automatically considered sexually corrupt and their testimonies carry little weight. During a session spectators will gather and they tend to pick a side, after which they will heckle and pressure the decision makers. Needless to say, the most popular verdict may not always be a just one; it is difficult to reconcile justice with the will of an over-excited mob. Superstition also comes into play. In certain cases defendants have been told to walk on hot coals and if they feel and show no pain, then they are innocent...’ (p16)

The AHRC Report 2008 stated that:

“In the last six years over 4,000 people have died in murders sanctified by illegal jirgas or tribal courts, two thirds of them women. Their deaths have often occurred under barbaric circumstances. Many are considered Karo- kiri or ‘black women’, charged with having a relationship out of marriage (which is often a fabricated claim) while others are victims of rape or are suspected of planning marriages contrary to those arranged for them by their families. This type of murder has become known as ‘honour killing’, and due to the ease by which an unjust sentence is passed, they have become a way of resolving property disputes, particularly by male family members who resent losing property to another family through marriage.” (p14)


“Despite clear rulings by the judiciary that the jirga system, that is, dispensation of justice at unauthorized forums, was unlawful, jirgas continued to be held throughout 2007 and there were suggestions that the government was not averse to sanctifying them. Pakistan fully supported and joined a joint jirga with Afghanistan for solving a variety of bilateral issues. An officially sponsored jirga struggled with maintenance of peace in North Waziristan for a better part of the year... The government did not respect some jirga decisions, such as the one that opposed military action in Swat. Some sections of the administration did not respect the jirga verdicts that violated the Protection of Women Act and action was initiated against jirga members who had sanctioned vani/swara transactions. However the government had no problem with jirgas and panchayats across the country, which delivered judgments in all kinds of criminal cases.” (p36, Administration of justice; Jirga system sanctified) (UK Home Office (28 July 2009) Country of Origin Information Report – Pakistan)
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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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