

Alternate Dispute Resolution Mechanism For Dealing The Gender Based Violence In Baluchistan

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Abstract

Jirga is one of the most commonly used system of resolving the inter tribe and families issues with in the community. On one way where it is appreciable in resolving the issues and conflicts with very speedy way un like the long lasting court procedures on other way it is very weak in providing the real justice to the victims as in Pakistan in most of the Rural areas are dominated by the feudal Slords and dominated by the feudal system where “right is might” prevails and the poor people are mostly deprived of the justice. Due to this injustice factor the Jirga system is not liked by the general masses. The main issue associated with this problem is that, many victims of Jirga remain unaware of even after being the victims of such system. The main objective of the research was to check the level of awareness in the common public as well as to evaluate the current justice system of Pakistan and to determine the role Jirga in this prevailing system of justice in Pakistan. In the light of collected data the researcher reached to conclusion that most people are totally unaware of the judicial system and our

criminal justice systems requires a lot of amendments and our stake holders require training programs to handle this increasing issue. The special focus of the research was to determine the role of Jirga to address GBV issue. Although Jirga system is speedy and very effective in certain cases but in GBV cases Jirga system shows a lot of male dominance and biasness which is not according to rule of law. This thesis explains the role of Jirga in respect of GBV cases.

1. Introduction

Violence is behavior that involves physical force that is intended to hurt, damage or kill someone. The violence can further be classified into many types. One of the types of violence is Gender based violence (Bukhari, S, K, S.; Said, Hamdan; Gul, R; Seraj, P, M, I. 2021). GBV is violence based on the biological sex. GBV includes domestic, physical and psychological violence. This is also termed as violence against women. According to a survey every one of the three women of the world is suffering from violence in different shapes. Although the term gender base violence cannot be limited to the extent of women only. This violence also extends to boys and men. They are also treated with discrimination (Gul, R., Tahir., Ishfaq, U., Batoool, T. 2021).

Jirgaa system is strongly rooted in our tribal system. It is the preferred system of seeking justice in the tribes. It is chosen for its speedy trial and effectiveness in the execution of order. But normally in tribes there is no proper mechanism for the election of Jirgaa members. They are normally selected on the basis of inheritance. Moreover there is no proper system of their education after being the member of Jirgaa, which is necessary to handle the different types of disputes. Jirgaa is empowered by the tribes to deal all type of cases and also to give all type of punishment that includes, sentence to death, fine, extradition etc. And this all is done without following any state law or Islamic law. No standard of evidence is followed. Everything is based on the customary Law. Jirgaa also plays a vital role in the increase in GBV (Ahmad, I., Gul, R. 2021). Because the Jirgaa normally decides to hand over the girls of accused party to victim for the settlement of disputes. This practice is carried on totally against the consent of the subject girls. Jirgaa also promotes the killing of female on the name of honor.

This practice is not limited to the married women only but also extends to the unmarried women living in their parent's home. There they face different type of domestic violence. They are treated unequally. The male members of family are given preference over female members. Females are not given pocket money (Gul, R., Zakir, S., Ali, I., Karim, H., Hussain, R. 2021). They are not allowed to go outside the homes. And in some areas even the women are not allowed to visit to doctor which often leads them toward a miserable death.

And alas that most of such activities related to the Gender Based Violence and discrimination toward female are attributed to Islamic values. The honor killing is specifically attributed to Islam. But if we study the Islam in true then we will come to the conclusion that all these practices are far away from Islamic values. Islam is not the promoters of Gender based violence rather it is the first religion which gave a lot of respect as well many fundamental rights to women which she was deprived off before the emergence of Islam (Ali, I., Gul, R., Khan, S. S., Karim, K. 2021). The principles which give birth to GBV are customary.

Literature Review

Dispute resolution outside of courts is not novel; societies world-over have long time ago utilized non-legal, indigenous methodologies to determine clashes. What is new is the broad propagation and expansion of ADR models, more extensive utilization of court-connected ADR, and the expanding utilization of ADR as a device to acknowledge objectives more extensive than the settlement of particular disputes (Ayub, A., Gul, R., Ali, A., Rauf, B., M. 2021). The ADR movement in the United States was kicked-off in the 1970s, started as a social movement to determine community-wide civil rights disputes through mediation, and as a legit movement to address expanded postponement and cost in litigation from a stuffed court system. From that point forward, the legit ADR movement in the United States has developed quickly, and has evolved from experimentation to institutionalization with the help of the American Bar Association, academics, courts, the U.S. Congress and state governments (Gul, R., Talat, M., Mumtaz, M., Shaheen, L. 2021). For example, in light of the 1990 Civil Justice Reforms Act requiring all U.S. federal district courts to institute an arrangement to decrease cost and postponement in civil litigation, most district courts have approved or established some type of ADR .Developments in ADR models, extension of government-mandate, court-based ADR in state and federal system, and expanded enthusiasm for ADR by disputants has made the United States the most enriched source of experience in courtconnected ADR (Bukhari, S. K. U. S., Gul, R., Bashir, T., Zakir, S., & Javed, T. 2021).While the court-associated ADR movement prospered in the U.S. legit community, other ADR advocates saw the utilization of ADR techniques outside the court system as means to produce resolutions for complex issues that would better address the issues of disputants and their communities, less dependence on the legal system, empowers indigenous civic organizations, safeguard disputants' relationships, and instruct Alternates to savagery or on the other hand litigation for dispute settlement. In 1976, the San Francisco Community Boards program was instituted to further such objectives. This experiment has brought forth an conglomeration of community based ADR projects, for example, school based peer mediation

programs and neighborhood justice system. In the 1980s, interest for ADR in the business segment started to develop as a component of an exertion to discover more productive and powerful Alternates to prosecute. Since this time, the utilization of private arbitration, mediation and different structures of ADR in the business setting has risen significantly, joined by a blast in the quantity of private firms offering ADR assistance. The move from experimentation to institutionalization in the ADR field has in like manner influenced U.S. authoritative rule making and federal litigation practice (Gul, R., Ayub, A., Mazhar, S., Uddin, S., S., Khanum, M. 2021). Laws presently set up approve and urge organizations to utilize negotiation and different types of ADR in rulemaking, public consultation, and administrative dispute resolution. Globally, the ADR development has likewise taken off in both developed and developing nations. ADR models might be straight-forward imports of procedures found in the United States or on the other hand hybrid blending ADR models with components of customary dispute resolution. ADR mechanism is being executed to meet a wide scope of social, legal, business, and political objectives (Gul, R., Khilji, G. 2021). In the progressing world, diverse nations are taking part in the ADR experiment, comprising Argentina, Bangladesh, Bolivia, Colombia, Ecuador, the Philippines, South Africa, Sri Lanka, Ukraine, and Uruguay.

Role of Jirgaa in GBV

Late news stories have been commanded with appalling gender abominations progressively dedicated against ladies. A Jirgaa (an ancestral gathering) in Abbottabad ruled young lady be set on fire for helping a companion run off. A week ago, a 16-year old young lady was killed by her mom for wedding her preferred man. Many ladies are slaughtered in Pakistan every year for the sake of respect. What is bizarre about the most recent revealed case is that the wrongdoing was executed not by a dad, sibling or uncle but rather by a lady — the unfortunate casualty's mom. The terrible scale and pervasiveness of the act of respect killings was as of late conveyed to consideration by Sharmeen Obaid-Chinoy's honor winning film *A Girl in the River: the Price of Forgiveness*. While the chief has completed a great occupation in conveying the issue to cutting edge, the response in Pakistan has been discouraging. In numerous political circles, it was met with out and out disavowal. A few people saw nothing amiss with the wrongdoing being featured in the film. Others expelled it as just another connivance against Pakistan. This obviously demonstrates the difficulties that Pakistan faces on issues featured by Obaid-Chinoy and Malala Yousafzai.

Gender-based violence is across the board in our general public. It is the most genuine and inescapable type of separation. Ladies shape the larger part of those

living in neediness and are ordinarily denied access to wellbeing, training and pay openings (Gul, R., Khan, S. S., Mazhar, S., & Tahir, T. 2020). They are presented to different types of violence and misuse that remain to a great extent unchallenged. There are different components that add to gender-based violence including lawful courses of action and socio-social standards. Exchange debate settlement systems, for example, panchayat (a town chamber) and Jirgaa are broad, especially in provincial and innate regions. Their development and power have been fuelled by shortcomings of our legal frameworks that routinely neglect to give sufficient methods for equity to poor people. Such conventional game plans, driven by nearby boss or medieval masters, symbolize man centric outlook and frequently strengthen it by requesting murders and even assaults of ladies under the affection of safeguarding 'respect' (Gul, R., Tahir, T., Ishfaq, U. 2020). The most recent consuming of the adolescent young lady in Abbottabad is an a valid example.

Violence against ladies can be best comprehended when contextualized in the more extensive social and social standards supporting the Pakistani society. We live in a male centric culture where there are strict controls on female sexuality and portability out in the open areas, confining them to simply regenerative jobs. Standards of legacy and plunge are patrilineal. This is a district with probably the most minimal female work taking an interest rates on the planet. This is a culture that qualities children and dehumanizes girls. In a culture where social standards legitimize certain types of violence and victimization ladies, how might we address the issue of gender violence?

"It's our convention," one parliamentarian from Balochistan broadly commented while defending the covering alive of a few ladies in his area. Tragically, his contention resounds with the greater part that sees and legitimizes respect killings as social convention. These customs endure on the grounds that they have been permitted to hold on by the state, by the laws and by the ministry. Government has been hesitant to brace down on religious radical gatherings to safeguard their vote bank. This clandestine help has had gigantic ramifications for the battle against fanaticism and issues, for example, gender violence. As of late, the Council of Islamic Ideology (CII) proposed its very own ladies insurance bill, prescribing 'a light beating' for the spouse on the off chance that she resists the husband. Such backward recommendations look to authorize violence against ladies on religious grounds. Following the proposition, the executive of the CII drew wild feedback, inducing numerous Pakistanis to rally for the chamber to be for all time disbanded. However, given our support based governmental issues, the director stays ensured and the committee unchallenged.

The London School of Economics and Political Science as of late propelled a commission on gender, imbalance and capacity to distinguish factors that keep ladies down. The discoveries feature four social powers that add to imbalance: media, the monetary circle, political chance and the lawful calling. The report demonstrates that these social circles don't work freely; rather, control uneven characters in a single segment swell out into others. The possibility of gender disparity cutting crosswise over various social circles as featured in the report can light up our comprehension of gender-based violence in our general public. For instance, while gender-based violence may be believed to be a worry principally of law, absence of ladies in governmental issues will mean less political will to handle it. Our neighborhood parliament is implanted with backward and sexist legislators where men conveying that mentality rule and dwarf ladies.

When looking for models of social advancement and gender correspondence, we don't have to look far away. Our own special previous East Pakistan, present-day Bangladesh has gained exceptional walks in accomplishing social ground and change. Regardless of having low dimensions of per capita salary and poor administration, Bangladesh's execution on the social front has been great. It has seen decrease in ripeness rates, decrease in maternal mortality alongside decrease in gender difference regardless of having an illiberal and degenerate political framework. Improvement specialists and scholastics have progressively tried to comprehend this confusing change. Neighborhood specialists have distinguished ladies' organization, among different components, as a noteworthy power in driving social change. Ladies' upgraded access to esteemed assets, for example, arrive, credit, paid work and instruction have prompted striking enhancement in social pointers. Bangladesh's advancement in social improvement has to a great extent been driven by a lively affable society that organized ladies strengthening through advancing microfinance, business enterprise and contraception.

As far as accomplishing social advancement and gender uniformity, Pakistan has far to go. The battle against gender violence will require all encompassing and multidimensional arrangements. Mindfulness is dependably the initial step down a superior way. Media is completing a fine employment by bringing frequencies of respect killings and household maltreatment to open consideration. At people group level, there is a need to test socio-social hindrances that avoid ladies advancing. Interest in training and financial open doors for ladies is fundamental. At the state level, government must look past close to home increases to guarantee insurance to ladies. Who set out oppose the priests? At present, arraignment even in the most deplorable cases has been uncommon. While it is gladdening to see the Women Protection Bill gone by the Punjab government, such signals must be bolstered by a more prominent will for arraignment and usage.

Jirgaa is losing its Value

An examination ponder on 'Jirgaas' by National Commission on the Status of Women (NCSW) shows decrease in the acknowledgment and fame of 'Jirgaa' due to expanding mindfulness and media giving an account of Jirgaa choices that permitted violence against ladies for question settlement.

The examination titled 'Ladies, Violence and Jirgaa: Consensus and Impunity in Pakistan' is one of three investigations propelled by NCSW on Thursday. The three research ponders center around portrayal of ladies officers in Pakistan's Federal Service Commission, access to equity for overcomers of rape and Jirgaa's job with respect to violence against ladies.

The occasion highlighted introduction of key discoveries by the scientists pursued by remarks from recognized speakers to talk about different parts of the examination considers. The dispatch occasion was led by Justice (r) Mehta Kailash Nath Kohli. The talk was directed by Executive Director Shirkat Gah Farida Shaheed.

In her appreciated comments, NCSW Chairperson Khawar Mumtaz expressed gratitude toward every one of the specialists for their work. She said that for bigger effort, the Commission intends to interpret examine reports in Urdu and would broadly scatter the features with the pertinent offices.

The exploration report 'Conspicuous Invisibility: Women Officers in Pakistan's Federal Civil Services' by Homer Jan Baloch and Kaiser Bengali, investigations the information of ladies portrayal out in the open division for year 2013.

The report uncovers that ladies' offer adds up to pitiful 4.5 percent in common administrations. At larger amount (review 17-22), the rate is short of what one-fifth at 19.3 percent. There were 92 ladies in review 20, 33 in review 21 and 5 in review 22. The report features the need of positive measures to incorporate more ladies at the more elevated amount of administration.

The second report titled 'Access to Justice: For Survivors of Sexual Assault' that is led by Sohail Akbar Warraich and helped by Hiba Akbar and Anum Asif Bajwa, inspects instances of sexual violence with respect to the Protection of Women (Criminal Law Amendment) Act, 2006 and how higher courts' decisions have treated these cases.

The report features the gender preference and absence of limit of state foundations including police, indictment, medicinal staff, and even the courts, regularly hindering or notwithstanding denying equity to survivors. It says that the sexuality of survivor stays under investigation. Medicinal and imperative legal proof isn't a need of state or courts though, the general impression among law requirement offices is that the greater part of these cases are created by the survivors.

Research report 'Ladies, Violence and Jirgaa: Consensus and Impunity in Pakistan' by Nazish Brohi ponders the advancement and contemporary job of Jirgaas and its enemies of ladies rehearses, its predominance and interface with the formal lawful framework. The report says that Jirgaas present test to formal equity framework as it develops from the agreement. The issues identified with Jirgaas concerning ladies is the strange idea of choices and commercialization of Jirgaas, transformation of the old idea of Jirgaas and constitution of Jirgaas with no portrayal of ladies. Rather than settling the wrongdoing or hoodlums, the goal of Jirgaas is reestablishing harmony.

In her remarks on 'Noticeable Invisibility: Women Officers in Pakistan's Federal Civil Services,' key discussant Federal Secretary for Human Rights Rabia Javeri Agha prescribed governmental policy regarding minorities in society for making bolster instruments for ladies in organization. She said that the level of ladies in broad daylight area has expanded manifolds in recent years which will consider more elevated amount later on.

As a discussant for 'Ladies, Violence and Jirgaa: Consensus and Impunity in Pakistan,' Senator Farhatullah Babur said that Jirgaas avoid and debase ladies. He recommended NCSW to shape an enlist of the wrongdoing submitted against ladies and name that enroll "Enlist of Embarrassment."

In her remarks on a similar report, MNA Sabiha Nazir gave case of the case Mukhtar Mai and the battle she experienced to get equity. Executive Provincial Commission on the Status of Women (PCSW) Sindh, Nuzhat Shirin said that state need to wind up gathering to every such case. About ladies in administration, she distinguished absence of washrooms, transport and unfair conduct of the male staff as a portion of the fundamental issues which make inconvenience for ladies out in the open division.

As discussant on 'Access to Justice: For Survivors of Sexual Assault,' SSP Investigation for Rawalpindi Maria Mehmood conceded that gender-based violence isn't the need of the law requirement offices. She worried for making mindfulness around the issue in police division and legal executive.

Kohli (EX Justice) recommended making the exploration reports some portion of the preparation educational modules for police and legal executive. He said that things begin enhancing when individuals are enlisted on critical posts based on legitimacy. He recommended refreshing the counter lewd behavior law, strict usage of standard and arrangement of fundamental offices with the end goal to improve ladies portrayal in administration.

Dr.Rana Altaf (2010) focus on legal aid. The Legal aid conveys the assistance provided by the society to its weaker members in their efforts to protect to their and liberties. While women become in weaker section of society and on the other

side every person have right to speedy justice under Article 21 of constitution. It means legal aid is right of both spouses. Legal aid means legal advice, which is pre litigation stage when the legal issue has already arisen. With the aid of such an advice a legally informed person listen to the one facing the problem and advises him as to how should confront with the problem. The advice may be to avoid litigation, it may be to do so or it may take the shape of drafting an application or legal document. It's nothing but conciliation or mediation of pre-litigation.

Justice Salahu din S.C.(2010) explain the importance of ADR .No doubt system of judiciary needs some alternate. The need of Alternate means because amicable settlement of disputes, speedy justice, economic settlement, time saving management, legal recognition. The matrimonial issues are directly effect on individual and life. Hence the need of speedy justice is very important. Every individual have not only right to justice but also right to speedy justice.

Dina Villiams (1990), Research in field of domestic violence indicates in family assault need of implementation of laws as well as private counselling. The method of mediation bears fruitful results to deal with family violence. For that the establishment of family courts, free legal aid, counselling for young people. Means shelter of mediation and counselling is protect to women as well as her matrimonial relations and will change the criminological view towards violence in family.

Alternative Dispute Resolution has moved the process of dispute resolution away from the courts and online dispute resolution is focus by **Sophia Firtado et.al. (2010)** online dispute resolution refers to the processes of dispute resolution in which electronic means of communication is used instead of the traditional face to face interaction. The researcher describe the advantage of online dispute resolution such as, affordability and cost saving, time saving ,better convenience, transmission and availability of information and possibility of using expert. Today every person is busy either male or female hence because of affordability, efficiency, convenience, speedy decision, technical advantage of ODR (online dispute resolution) is very useful in family matters.

Nevedita Memon(1996) comment On real justice to women. The consideration is the engagement with language of rights and the law. It means right and law is distinctly connected. When failure of legal system or improper implementation of law like ADR mechanism towards women which resulted into failure the justice in feminism.

The scenario of Indian women explain by **Shalu Nigam(2001)**.The Indian culture glorifies the image of women who is tolerance and receptive of whatever given to

her by the husband. because no source of support like emotional or material or support from paternal family, on availability of alternative in terms of physical, economical and social rehabilitation etc. The main thing is inadequacy of social support network which compels a women to compromise or reconcile and inadequacy of legal provisions which take long time to dispense justice. But that compromise is done by forcefully and justice delay is the justice denied. Hence ADR only one solution of this problem.

Samuel Alferd (1992) argues that the remedy of restitution is unconstitutional, as it violates a women right to privacy and it must be replace by the remedy of reconciliation. It is general duty of court to make every effort to preserve a marriage .the remedy of reconciliation would permit the party abandoned to approach the court.

Peter Worsley, explain the cultures vary in the degree of marital conflict. It is vary from one society to another society and the appropriate solution also varies. But the intensity of marital conflict has not been measured in any culture. Divorce is to be seen one kind of mechanism for dealing with pressures and problems inevitably caused by marriage. Hence the person who is neutral but knowing the family culture of both spouse, there background etc. Will be good mediator for solving their conflict rather than regular court.

Myneni S..R. (2006) when discuss about the status of women in Vedic or ancient Period that man and women play vital roles in the creation and development of their families in particular and the society in general. Women in ancient period was considered more powerful than man and treated as goddess of 'Adi Shakti'.but in later period the status of women is degraded. According to Deb, men in India looked upon women as household slaves. The mentality of men changing towards women like slavery or dasi. The present status of women is imbalance they treated as inferior members in their own family even though they are independent and superior position in society hence this type of conflicts in marital life and the relation become stressful. Hence now the need of mediator or conciliation for the removal of their conflict.

Muhammad Munir (2004) Explian the advantages and limitation of ADR in his book Alternative Dispute Resolution Arbitration ,Conciliation and Alternative Dispute Resolution Systems. It can be used at any time before filing case, even pending case before court, better solution at less cost, its flexible hence not westing time for technical procedure, ADR can used with or without lawyer while permission to parties to choose neutral person who is specialist for solving

disputes. The ADR is not favoured in cases like when any one party not agreed for amicable settlement, in criminal cases etc. But in matrimonial cases most of matter of sentiments and emotions hence the method of ADR is perfect for these matters.

Milton Desoza (1997) describe the topic of Arbitration through Arbitration versus litigation, these are the two methods of resolving dispute which are mutually contradictory or incompatible. Litigation and arbitration are both methods of resolving the dispute, one in court of law and other is through private tribunal. when the dispute resolve through court of law then the individually advocates will not leave or sacrifices the less paying hence they are not agree for solving the dispute through arbitration. But collectively all advocates agree for the adoption of procedure of ADR for solving the disputes. It means like French philosopher Montaigne said that, I have gathered posy from other man's flower and nothing but the thread binds them is my own.

The Rhys Taylor (2012) explains the benefits of family arbitration. The parties have liberty to choose their tribunal, they choose their tribunal to resolve dispute with subject to the interests of justice. The fundamental principle of arbitration that it does not have to follow court procedures. The parties can choose the environment in which their dispute is determined. The arbitration procedure is speedy and quickly. Confidentiality is important in Family cases. It is a fundamental principle of the Rules that the arbitration shall be confidential and no press intrusion. The parties can choose manage their costs.

C.P.Nandini et al (2010) describe the online dispute resolution can be best solution. The mode of ADR replace the traditional court system by online dispute relationship and best suited in the current scenario of technological development. Its need to be understood that online dispute resolution is supplement and compliment to the existing ADR system and its adoption would be beneficial to the parties most convenient, cost effective and speedier justice delivery system, compare to the conventional court, that has innumerable and stringent procedure to be followed.

Latif (2011) views expressed by the respondents regarding the effectiveness of panchayat court as an ADR mechanism are summarised. The ADR mechanism of dispute resolution is referred to judicial procedure. It is inexpensive an expeditious. The litigants never rejected as resolution are arrived at on mutual consent. The service of panchayat court members is voluntary. The panchayat ensures the services of such persons having the qualities of social commitment,

trustworthiness, impartiality, confidentiality, patience, credibility, articulate skill, empathy and respectability.

Javed Iqbal (2012) focus on challenges and reforms of breakdown of marriage. The challenges to the present marital laws are due to the following factor- Distribution of matrimonial property, Irretrievable breakdown of marriage, live in relationship, same sex marriage, ceremonies of marriage, Non-registration of marriage, Dilatory and costly litigation, Child marriage, bigamy by conversion to Islamic religion, maintenance rights. Hence for solution of this challenges there is urgent need of revising the existing law in the context of modern demands of young minds who wants more freedom and less responsibility.

Faisal Yaqoob (2011) Emphasis on cost of litigation. ADR is the weapon to meet the challenge of raising cost of litigation and reduce the pendency of litigation. But the fact that if anyone is going for arbitration, will end up paying more than what he would in courts as arbitrator are charging above Rs 10,000 per sitting, the lawyers fees and burden due to adjournment are extra. punchyt also failed as it cannot take decision, if one of the parties not agrees for settlement. The formalities to get legal aid is away from because of illiteracy of people and dependency for filing application forms officer of legal aid is denial of aid in some cases.

Justice S.B.Sinha (2006) explains the stages of mediation. At First stage of mediation, mediator lets lawyers and clients know what to expect and how to prepare. At second stage Mediators explain the process and procedural guidelines. At third stage identifying the problems. At the fourth stage mediators assist for exploring the problem through values, needs and interest. At the fifth stage that mediator and parties identify and evaluate options for resolving the disputes. And at the last concluding the mediation with confirmation of parties understanding and acceptance of the agreement and future responsibilities of the parties and acknowledge conclusion of mediation.

Research Methodology

During this research, the researcher followed qualitative research method. Researcher took several steps where description of the nature and scope of the problem with examining root cause of stated problem is tried to be examined by applying qualitative research approach. For in depth analysis of stated problem, Researcher described what and whose behaviors constitute the social problems by examining and explaining the political, social, legal, economic, etc. causes of the problematic behaviors. Research design for this study is formulated based on

already existing methods where problems are tried to be addressed by in depth interviews and conducting surveys. Researcher developed recommendations for steps that need to be taken to address the causes of the problematic behaviors.

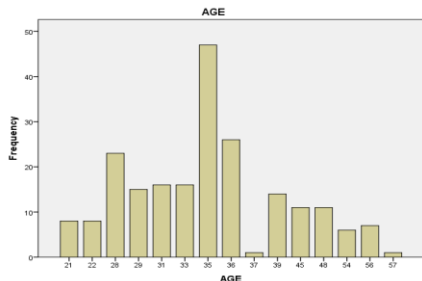
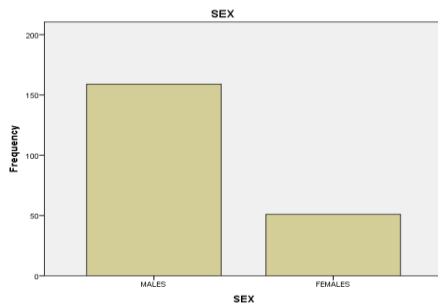
3.2 Data Sampling

The researcher used the random sampling method to collect the data for the subject research. The questionnaire was sent to 300 participants and received response from 210 people so the response rate was 70 % almost. Both primary as well as secondary data are utilized to go through this research in depth understanding. As Primary Sources Researcher surveyed the related areas and held interviews of victims and perpetrators. The researcher formulated a questionnaire to get the response regarding research questions. While as Secondary Sources, Books, Law digests and social study guides were consulted in this regard.

4. Data Analysis & Results

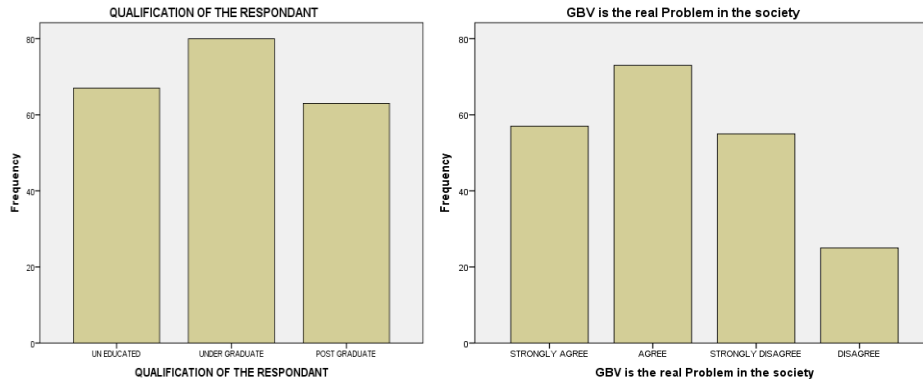
For the purpose of analyzes the researcher used the SPSS to get the right response as provided by the recipients. Survey was conducted in the light of received responses from interviews. Analysis commenced at earlier stage when during data received by interviews. Coding with underlined themes were constructed and questionnaire was formulated for conducting survey. For accurate analysis of survey results, SPSS was used by using descriptive analysis method. Results of conducted survey are given below:

Gender of the participants

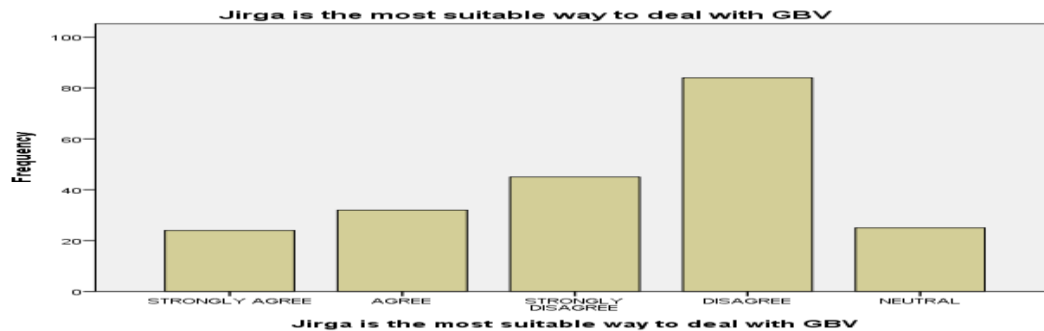


Age of the Respondents

Qualification of the Respondents GBV is the real Problem in the society



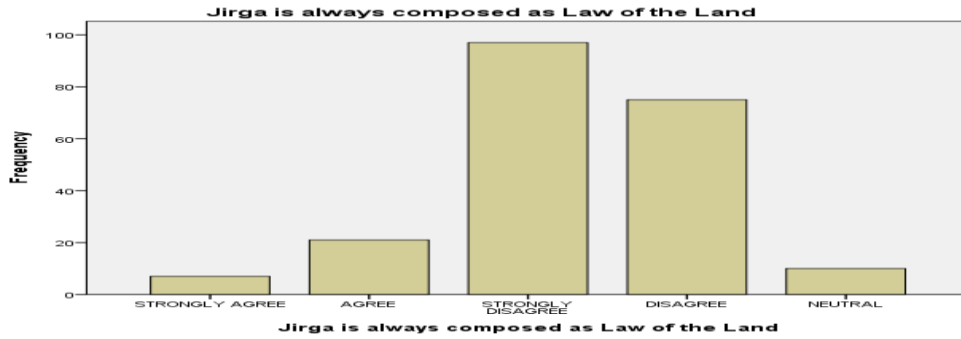
Jirgaa is the most suitable way to deal with GBV



Jirgaa is the most suitable way to deal with GBV

	Frequency.	Percent.	Valid Percent.	Cumulative Percent.
Valid STRONGLY AGREE.	24	11.4	11.4	11.4
AGREE.	32	15.2	15.2	26.7
STRONGLY DISAGREE.	45	21.4	21.4	48.1
DISAGREE.	84	40.0	40.0	88.1
NEUTRAL.	25	11.9	11.9	100.0
Total.	210	100.0	100.0	

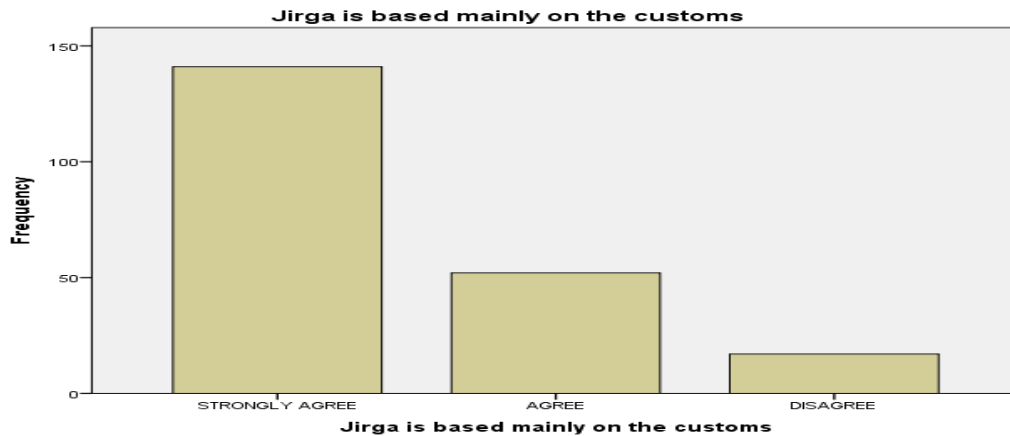
Jirgaa is always composed as Law of the Land



Jirgaa is always composed as Law of the Land

	Frequency	Percent.	Valid Percent.	Cumulative Percent.
Valid STRONGLY AGREE.	7	3.3	3.3	3.3
Valid AGREE.	21	10.0	10.0	13.3
Valid STRONGLY DISAGREE.	97	46.2	46.2	59.5
Valid DISAGREE.	75	35.7	35.7	95.2
Valid NEUTRAL.	10	4.8	4.8	100.0
Total.	210	100.0	100.0	

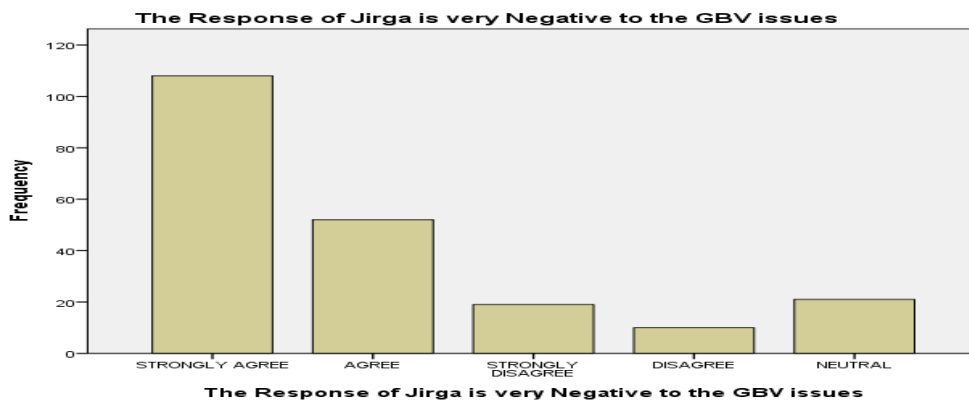
Jirgaa is based mainly on the customs



Jirgaa is based mainly on the customs

	Frequency	Percent.	Valid Percent.	Cumulative Percent.
Valid	141	67.1	67.1	67.1
	52	24.8	24.8	91.9
	17	8.1	8.1	100.0
Total,	210	100.0	100.0	

4.9 The Response of Jirgaa is very Negative to the GBV issues

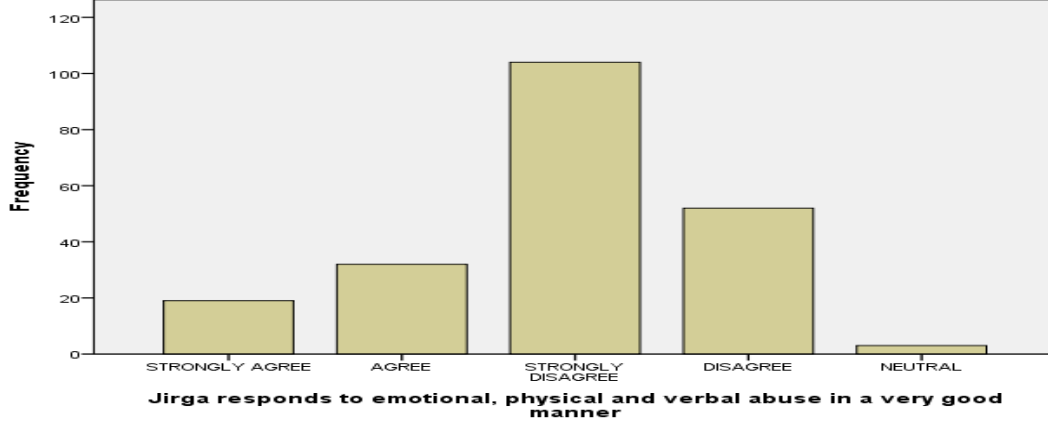


The Response of Jirgaa is very negative to the GBV issues

	Frequency	Percent.	Valid Percent.	Cumulative Percent.
Valid	108	51.4	51.4	51.4
	52	24.8	24.8	76.2
	19	9.0	9.0	85.2
	10	4.8	4.8	90.0
	21	10.0	10.0	100.0
Total.	210	100.0	100.0	

4.10 Jirgaa responds to emotional, physical and verbal abuse in a very good manner

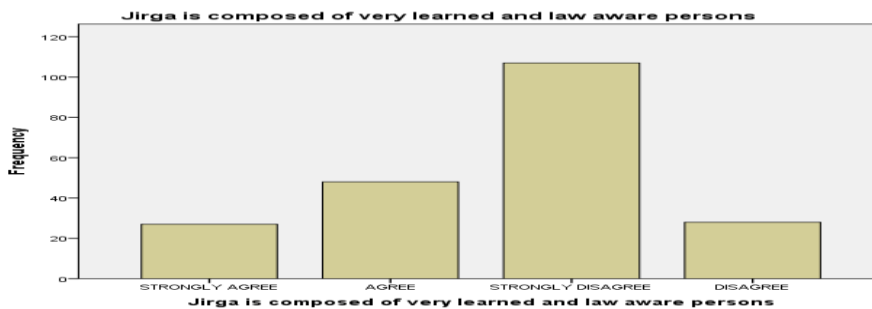
Jirga responds to emotional, physical and verbal abuse in a very good manner



Jirgaa responds to emotional, physical and verbal abuse in a very good manner

	Frequency.	Percent.	Valid Percent.	Cumulative Percent.
STRONGLY AGREE.	19	9.0	9.0	9.0
AGREE.	32	15.2	15.2	24.3
STRONGLY DISAGREE.	104	49.5	49.5	73.8
DISAGREE.	52	24.8	24.8	98.6
NEUTRAL.	3	1.4	1.4	100.0
Total.	210	100.0	100.0	

Jirgaa is composed of very learned and law aware persons

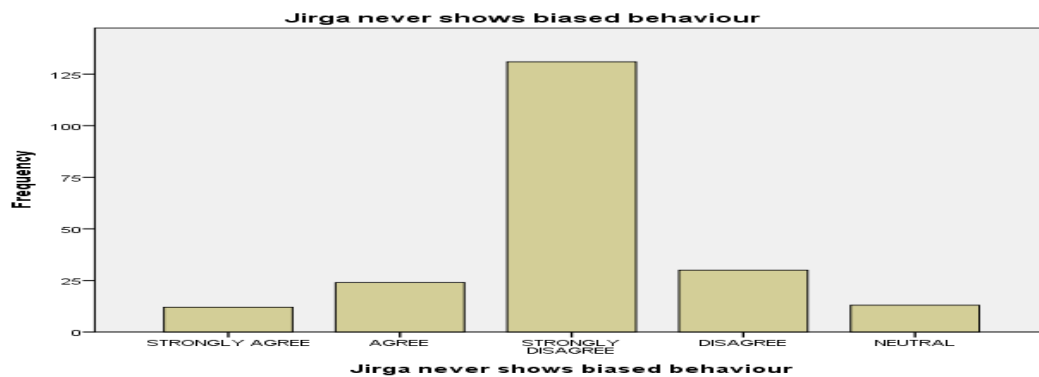


Jirgaa is composed of very learned and law aware persons

	Frequency.	Percent.	Valid Percent.	Cumulative Percent.
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	STRONGLY AGREE.	27	12.9	12.9	12.9
	AGREE.	48	22.9	22.9	35.7
Valid	STRONGLY DISAGREE.	107	51.0	51.0	86.7
	DISAGREE.	28	13.3	13.3	100.0
	TOTAL.	210	100.0	100.0	

Jirgaa never shows biased behavior



Jirgaa never shows biased behaviour

	Frequency.	Percent.	Valid Percent.	Cumulative Percent.
	STRONGLY AGREE.	12	5.7	5.7
	AGREE.	24	11.4	17.1
Valid	STRONGLY DISAGREE.	131	62.4	79.5
	DISAGREE.	30	14.3	93.8
	NEUTRAL.	13	6.2	100.0
	Total.	210	100.0	100.0

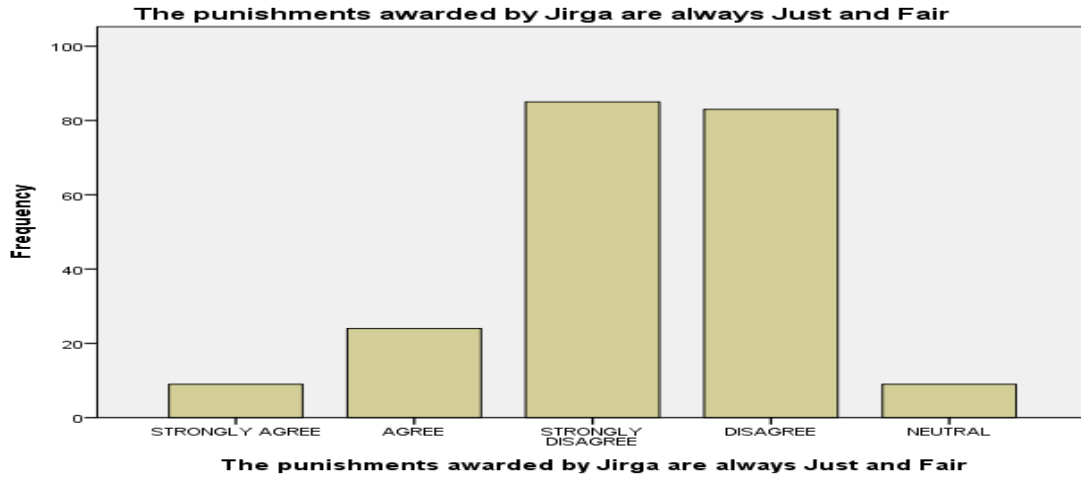
In Jirgaa the members are added from both disputant parties



In Jirgaa the members are added from both disputant parties

	Frequency.	Percent.	Valid Percent.	Cumulative Percent.
STRONGLY AGREE.	82	39.0	39.0	39.0
AGREE.	89	42.4	42.4	81.4
STRONGLY DISAGREE.	4	1.9	1.9	83.3
DISAGREE.	6	2.9	2.9	86.2
NEUTRAL.	29	13.8	13.8	100.0
Total.	210	100.0	100.0	

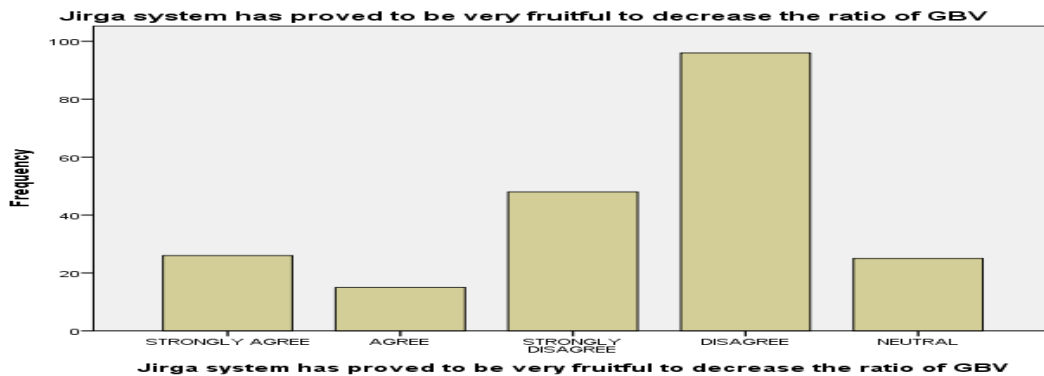
The punishments awarded by Jirgaa are always Just and Fair



The punishments awarded by Jirgaa are always Just and Fair

	Frequency	Percent.	Valid Percent.	Cumulative Percent.
Valid STRONGLY AGREE.	9	4.3	4.3	4.3
AGREE.	24	11.4	11.4	15.7
STRONGLY DISAGREE.	85	40.5	40.5	56.2
DISAGREE.	83	39.5	39.5	95.7
NEUTRAL.	9	4.3	4.3	100.0
Total.	210	100.0	100.0	

Jirgaa system has proved to be very fruitful to decrease the ratio of GBV



Jirgaa system has proved to be very fruitful to decrease the ratio of GBV

	Frequency	Percent.	Valid Percent.	Cumulative Percent.
Valid				
STRONGLY AGREE.	26	12.4	12.4	12.4
AGREE.	15	7.1	7.1	19.5
STRONGLY DISAGREE.	48	22.9	22.9	42.4
DISAGREE.	96	45.7	45.7	88.1
NEUTRAL.	25	11.9	11.9	100.0
Total.	210	100.0	100.0	

Results & Discussion:

Respondents of different age groups with different educational background were accessed to get ample data about the stated study where respondents with different demographics responded to the issues. For better understanding the nature of GBV cases and its commonness, respondents were randomly chosen to give feedback in the perspective of ADR system where Jirgaa is considered an appropriate way to adjudicate matters.

Jirgaa is the most suitable way to deal with GBV

Almost 61% respondents denied with the notion that Jirgaa is the most suitable way to deal with GBV and according to respond that can not be merely considered as suitable way to deal with GBV related matters. While 16% respondents agreed with the statement by affirmatively agreeing or considering this system as the most suitable way to deal with GBV Issues. 12% Neutral response was also eye catching in this research where respondents neutrally replied on the statement.

The Response of Jirgaa is very negative to the GBV issues

51.4% and 25% respondents affirmatively responded the notion by strongly agreeing and agreeing respectively that the issues related to GBV get very negative response from Jirgaa for resolving any dispute or conflict. While 14% respondents denied the notion by taking stance that the response of jirgaa is not negative to the GBV Issues.

Jirgaa responds to emotional, physical and verbal abuse in a very good manner

50% to 25% responded in denial while 15% to 9% responded affirmatively. So it can be observed through received responses that Jirga cannot respond to emotional, physical and verbal abuse in appropriate manner exactly.

Jirgaa is composed of very learned and law aware persons

51% to 13% denied with the notion by strongly disagreeing and disagreeing respectively which is 64% of total respondents while 12 to 23% agreed with that the composition of Jirgaa is based on well educated, learned and legally aware people. which is 35% of total responses.

Jirgaa never shows biased behavior

Merely 17% respondents agreed with the notion while 62% and 14% denied with the statement and remaining 6% remained neutral. So as observing the biasness of Jirgaa system prevails the impartiality of members. Which raised questions upon the fairness and just decisions made by Jirgaa system.

In Jirgaa the members are added from both disputant parties

39% and 42.45 responses agreed with the statement by agreeing and strongly agreeing with the notion. While just 55 respondents denied with the notion. So it is observed that representation of Jirgaa members are included from both disputed parties under conflict.

The punishments awarded by Jirgaa are always Just and Fair

80% respondents denied with the notion by disagreeing with the statement. The ratio is almost 40% disagreeing and 40% strongly disagree, however 16% responses agreed with the notion and considered punishments just and fair.

Jirgaa system has proved to be very fruitful to decrease the ratio of GBV

45.7% respondents disagree with the notion and 30% respondents Strongly disagree with the statement which are 75% of total respondents who denied that this system is not lucrative to resolve issues of GBV and eventually decreasing the ratio of addressing issues of GBV through this system. Merely 19% responded affirmatively and agree with the notion.

Conclusion:

Based on received response through interview and survey results showing clear decrease in the acknowledgment and fame of 'Jirgaa' due to expanding mindfulness and media giving an account of Jirgaa choices that permitted violence against ladies for question settlement. It was also examined that Women are not part of the Jirgaa system so they should be made part of the Jirgaa specially constituted for the Cause of Gender Based Violence issues settlement.

The issues identified with Jirgaas concerning ladies is the strange idea of choices and commercialization of Jirgaas, transformation of the old idea of Jirgaas and constitution of Jirgaas with no portrayal of ladies. Rather than settling the wrongdoing or hoodlums, the goal of Jirgaas is reestablishing harmony.

Another observing reality is that witnesses are not sworn on oath properly for giving their statement and most of them are planted in Jirgaa. A witness criteria must be fulfilled as per Tazkia al shahood in Jirgaa. Undoubtedly the Jirgaa is considered as to finish the root cause of the tribal issues as compare with the court decisions, even in cases where most of the convicted persons have faced their live imprisonment even then their enmity does not finish. However, indemnity should be provided to the Jirgaa system. Educated persons should become part of the Jirgaa and preference must be given to the educated members. Character of the Jirgaa members must be criticized positively and people with bad character and reputation must not become part of the members. Jirgaa decision must be counter signed by the administration officer of the area and if Administration officer feel any flaw he must take action accordingly and the head of the Jirgaa should be answerable to the law

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