

## *Foreword*

A degree of shock never experienced before, the events of Sept. 11, 2001 introduced the world community to terrorism of another kind. Political leadership in the United States of America (US), assisted by their intelligence agencies, was quick to respond to the situation in three ways. Firstly, the leadership felt the need to calm the panicked and anxious citizens and take immediate precautionary measures. Secondly, it devised some short-term initiatives to bring the confidence of the people back as a nation. And thirdly, they took longer-term initiatives to prevent the world from experiencing such traumas in future.

In the immediate aftermath of this incident, the people of the US looked confused and helpless. Prior to these events, Americans could afford to have little concern for the world outside of the US. The reality of terrorism of this magnitude on their own soil forced Americans to stretch beyond their previous mental boundaries. Explanations of this event began to appear. The suicide phenomenon to the people of the developed world seemed to be attributed mostly to a psychological disorder. Then theories of religious fanaticism emerged and, subsequently, the U.S and other members of the world community settled for what many people, communities and nations consider the brutal and blind response of military force. In the war on terrorism, the only visible target was Osama Bin Laden, a native Arab and a one time strong ally of the US secret services, who later turned against the US government policies. We were told that this person was residing in Afghanistan. Afghanistan became the first battleground for this new war on terrorism.

We, the principal researchers of this work, belong to Peshawar in Pakistan, a place just a few miles away from the Pak-Afghan border. We speak the Afghani language as our mother tongue. A few days before September 11, 2001, we landed in the US as Fulbright Fellows to study Conflict Transformation at Eastern Mennonite University (EMU) in Virginia. As Pakistanis and Muslims—probably the only two Muslims at a Christian university—we suddenly found ourselves barraged with questions from common Americans. Media people

rushed to find Muslims in their area. University colleagues came with bundles of questions and community groups invited us for talks.

As we tried to respond to their difficult and often highly technical questions, we noticed that the questions generally centered on three themes:

- Who were the suicide bombers?
- Why they did this to us?
- What should we do now?

To the first question, no one had an immediate answer, but it was clear from the statements of national leadership that the attackers were Muslims and they were friends of Osama. To the second question, the national leadership devised a new theory of terrorism, a term previously used to describe acts of indiscriminate violence within a national or domestic framework. To the third question, no one had a clue.

With the natural bias for peace and tolerance, the EMU community prayed for the victims, gave lots of support to us, and continued to ponder the above questions. To the Mennonites, violence in the name of peace or security is unjustifiable—a stance with which many people in government do not agree. It was under these circumstances that we, as Muslims and Pakistanis of Afghan origin, were expected to give satisfactory answers to our American fellows.

Our understanding of conflict, as students of peacebuilding, is that conflict is an opportunity to address the long-standing issues between parties. In conflicts, violence is used either as an act of vengeance or as a source of communication from one party to the other. Violence to us is a phenomenon, which will invariably attract further violence at least in the long run.

To respond to the above three questions, we started with the basics. The first question, while a matter of scientific investigation, called us to remain cautious, as we may never know the clear identity of the perpetrators. In addition, we bore in mind that the perpetrators may be perceived as martyrs by others in the world.

The second question to us was not a simple one either, but it was clear that the act was not carried out to just destroy buildings and kill innocent civilians: the act definitely carried a deeper message and symbolism. This looked more like a communication of another kind in which parties did not seek to understand each other. Perhaps the

parties in this conflict did not have any other platform on which to put their issues before the other for discussion. Or perhaps one party was too strong and arrogant to pay heed to the concerns of the weaker party.

To the last question again, our understanding remains that an act of violence will beget further violence; therefore for a U.S response of military force against Osama Bin Laden and the Afghani people will not lead to a cessation of terrorism. The question of what action should be taken in response to the September 11 hijackings leads us back to the second question: why did these hijackings occur? What is it that the U.S needs to understand about Osama's violent form of communication? Violence is not only a psychological disorder. A party operating from a place of fear and insecurity may resort to violence when unable to communicate a message and feel heard through a verbal medium.

As the US-led attack on Afghanistan to hunt Osama became imminent, we argued that, in order to achieve strategic objectives, there was a need for peaceful dialogue with the people of Afghanistan, as opposed to the use of force. Regular diplomatic norms of the nation state system were not possible, however, as the US did not formally recognize the Taliban government. Our suggestion to the US policy makers was to try to utilize the indigenous Afghan social institution of Jirga as a forum to sort out all outstanding issues between war trodden people and one of the most powerful governments of the world. In the US, there was little enthusiasm for this because of many factors. It appeared that the US government was in a hurry to launch an offensive on helpless Afghan people because it was the quickest remedy to the painful experience of September 11. As EMU professor and conflict transformation practitioner, Ron Kraybill, would always remind, "If a hammer is the only tool in your box, everything will look like a nail".

Having lived under a civil war for three decades, the people of Afghanistan were once again destined to face effects of collateral damage, a term so easy to pronounce, but so difficult to afford. Yet, at the end of the day, the US Government invited a national conference of Afghans, called a Loya Jirga, at Bonn in the spring of 2002. However, the Bonn Jirga was held without getting a hold of Osama, the suspected mastermind of September 11 attacks.

Politics and sociology must go hand in hand, as both affect the destinies of common people living in the global village. Where politics bring change in the societies, sociology must enable people to adjust to positive changes. In the absence of a formal political platform, the Afghan culture allowed a quick formation of Loya Jirga, a quasi-political and quasi-social institution, which enabled the war trodden people to get back to a socio-political order of some kind. What would have happened if the Pukhtoon culture didn't have this tradition? Does the nation state system provide for a contingency where a nation can make a peaceful start without any formal institutions? Why is it necessary to identify and respect such cultural understandings not included in the systems of political science? As these questions arose, we felt the need to describe what Jirga is and how it operates. Is it an outdated and obsolete institution or it is capable to face challenges of the present day systems?

We are obliged to the US Institute of Peace for encouraging us to work more on the subject and sponsor our two years of research work in the field. We also thank the Mennonite Central Committee (MCC) for adding partial funding for the project. We went out to talk to over two hundred people who are associated with Jirga in one way or another. The journey took us across all the Federally Administered Tribal Areas (FATA) of NWFP (North West Frontier Province), settled districts of the province, the Pukhtoon districts of Balochistan Province, and a few provinces of Afghanistan, including Kabul and Jalalabad. As this is the very first work to explore the dynamics of Jirga, an effort is made to touch only the very basics of Jirga. This work is an overview of the whole system of Jirga, so as to present a comprehensive and focused work on this long neglected, but well tested, indigenous institution that has influenced the lives of millions of Pukhtoos over hundreds of years of its history.

Many people helped develop this work along the way. The project leader Vernon Jantzi gave us lots of technical input from time to time, while Janice M. Jenner helped us work on designing the project proposal and looking after the budget side. Amy Potter helped us consolidate our work and present it for publication. Our domestic associates include hundreds of people who agreed to spare their precious time, some in pre-organized sessions and others at informal chats, to talk to us on Jirga. Supper talks with elders and peers vastly

enriched our understanding of the processes involved in Jirga. We duly acknowledge the value of information on Jirga put up on the Internet by many freelance as well as professionals which has been used to improve our understanding of Jirga. We remain thankful to the proprietors of all those web sites we used during the course of our inquiry. Special contributions of Ikram Hoti, Usman Yaqub, Javed Akhtar, Askar, Nadia Shams, Kashif Karim, Memoona and Noor Akbar Khalil helped with final compilation of work. Kirstin Rothrock's hard and timely help enabled to give final shape to the document. We sincerely thank all our associates, colleagues and peers without whose contributions; this work would not have been possible.

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## *Introduction*

In the face of the modern age of globalization, how should we treat old and indigenous social institutions? What happens when new and more scientific social sector institutions try to override the old and traditional patterns of a society and force them to change? Is there a way in which the new, more dominant, and of course more codified systems benefit from and collaborate with the traditional systems to bring forward the synergies of two different sets of understandings?

For the students of political science and international relations, the nation state system, through the instruments of democratic governance, should ensure continued progress and growth of societies. A sociologist, however finds enormous richness in the traditional and indigenous social mechanisms, which are duly credited for carrying the societies through the difficult periods of their history, giving them energy and helping them go on. This very practical aspect of traditional practices, combined with the love and appreciation indigenous people have for the past, gives indigenous people the confidence needed to continue to utilize their traditional institutions.

The meeting point between the new and the old systems therefore is of critical importance to those who wish to see things right. The negotiation between the two must meet the standards of justice if the change desired is to be positive and sustainable. The western democratic system brings with it many new ideas of equity and social justice. Its task then becomes selling these new ideas to the older generations and remote societies in such a way that they find advantage in leaving behind their rich and inherited cultures. In the process, many of the old practices that are rooted in local wisdom are discarded as people seek out the better life promised in the modern systems. What is often neglected is how the ancient traditions and practices can inform the modern systems.

The Pukhtoon Jirga is one such institution, which according to modern standards of governance, apparently seems to have outlived its utility. Yet an overwhelming majority of people living under this system, sing its praises. The latest example of the Loya Jirga at Bonn in the spring of 2002, used to form an Afghan national government after three decades of civil war, is a good example of use and viability of

traditional institutions. In this Afghan scenario, when nothing else worked, the people of Afghanistan put their trust in a Jirga to help them recover from a state of anarchy and decide for their future. Suddenly, the Loya Jirga—its history, procedure, and jurisdiction—became visible to the greater world community.

Historically a people of unique characteristics, Pukhtoon societies have held the concept of Jirga quite sacred to them and have allowed this institution to rule them throughout their known histories. Loya Jirga is just one component of what we know about Jirga. Jirga has operated in the Pukhtoon culture in many horizontal and vertical ways. It is a dispute resolution body at all levels. It has legislative characteristics, plays a diplomatic role, and enjoys many more roles that have rarely been articulated.

We have tried to identify some of the processes of Jirga through describing what Jirga is as well as when, where, why, how, and for whom Jirga works. Our desires are to document various micro processes involved in Jirga, introduce it and its dynamics to those outside of the culture who are dealing with Pukhtoon groups, and to help the Pukhtoons develop Jirga to meet the challenges of present times.

To our understanding, the outside world, with their peculiar worldviews, needs information on Jirga and Pukhtoonwali but find it difficult to agree with what little Pukhtoon worldview offers. The barrier in communication created by the worldview differences is little appreciated particularly by the modern day NGOs and donor community. Rather than discarding an indigenous tradition, the outside world needs to better understand what Pukhtoons have to say, give them confidence to say more, sensitize them to important issues and support them towards education and development. An outright opposition of a deep-rooted culture like Pukhto can contribute little towards developments.

The apparently closed nature of Jirga and its absolute reliance on the Pukhtoon cultural paradigm, the code of Pukhtoonwali, obliges us to explore the Pukhtoon worldview as we talk more about Jirga. While recognizing the danger of overgeneralization, we note that Pukhtoons are typically traditionalists, conservative and devoted to their culture (Pukhtoonwali). Their loyalty to Pukhtoonwali earns them a sense of

pride, sometimes leading to ethnocentric attitudes, which outsiders find difficult to understand and accept.

We have tried to present Jirga in its many forms, as is apparent from the table of contents. We would like, however, to provide some initial clarity about our view of Jirga and what it is not. Jirga, in its current form, is not a government or a ruling body. It is not a purely legislative body, nor is it a judicial entity. We see Jirga as a set of processes with similar purposes as many well-known social practices, such as peacebuilding and development. Jirga is operative only in the Pukhtoon areas and its substantive part is governed by the code of Pukhtoonwali.

Because of its roots in Pukhtoonwali, one has to visit the history of Pukhtoons and explore some prominent features of Pukhtoonwali at the outset. Pukhtoonwali is the code under which Jirga finds its jurisdiction and authority. Outside the code, we find that Jirga is a set of processes meant to build communications between parties and people. Beyond this simple capacity of allowing people and parties to talk, Jirga is tied intrinsically to Pukhtoonwali.

A study of Pukhtoonwali will help distinguish between Pukhtoonwali and Jirga. It will also help in finding the links between the two. Through that process we can address the limitations as well as the possibilities of this old system. Along with this, we hope to create space for the Pukhtoons to address some outstanding issues between the Pukhtoon culture and the outside world.

## RESEARCHING JIRGA

The complexities involved in describing Jirga can best be understood in the following fable. A few blind persons wanted to see an elephant, but since they were blind, they needed to touch in order to see. Each person got hold of a different part of the elephant and tried to understand how the whole elephant looked. The person who held the leg of the elephant said that an elephant looks like the trunk of a tree. The one who touched the tusk said that the elephant is like a spear. The one who touched the body said that the elephant is like a wall, the one on the tail said that an elephant is like a rope. The descriptions of Jirga are like these found in this story. Our job as researchers has been to sift through the disparate understandings and stories of Jirga and attempt to describe its whole.

This work is an outcome of over two hundred qualitative interviews conducted with a wide range of individuals and groups of Jirga people in formal and informal sessions. Our research spread over about 18 months, during which we traveled extensively in the tribal and settled areas of NWFP and Balochistan in Pakistan, and parts of Afghanistan. Initially we were scheduled to hold only 60 structured interviews with professional Jirga people, but as we advanced our understanding of the different dynamics of Jirga, we got more and more involved in talking to people. Other than the professional Jirga people, we found amazing information in talking to the common people who live under the influence of the Jirga system. We also spoke to a number of people from NGOs and women working on advocacy. The Afghan refugee camps provided us with many resource people from a wide range of areas in Afghanistan.

The methodology of research through qualitative interviews suited our work because, although there are comments and remarks on the Jirga traditions in a number of books written by local as well as foreign writers, to our knowledge, the subject of Jirga has never been a focus of such an extensive study before. We wanted to keep the scope of our work as wide as possible so that future studies on various aspects may commence by interested individuals and groups.

As the title suggests, this work represents an overview of the institution of Jirga, raising some very basic issues and questions. The idea is to simply present the Jirga as it is understood.

There are five basic objectives of the work:

1. To document dynamics of Jirga,
2. To introduce Jirga to the outside world,
3. To look at Jirga as a peacebuilding body,
4. To present Jirga as a grass-roots organization, and
5. To initiate a dialogue regarding the future of Jirga.

The work therefore addresses a wide range of clients including Foreign Governments, Academic Institutions, Non-Governmental Development Organizations and the local population.

The write up provides some patterns of Jirga as defined by our interviewees and seen on the ground. Jirga represents different ideas to different people and, therefore, we have tried to identify each shade of Jirga and each profile of it in very broad terms. This will be helpful for us as we attempt to differentiate between the substantially different

forms of Jirga, all of which carry the name of Jirga. On the political side, Jirga is found to be operating at three levels: the national level—more popularly known as Loya Jirga, the regional level, and the local (government) level.

Horizontally, Jirga plays many different roles including those of executive, legislature, and judiciary, all without much distinction in name.

At interpersonal and community levels, Jirga operates as a lubricant for the fragile tribal social setup, binding the Pukhtoons in one social fabric known as Pukhtoonwali. It is very much wrapped up in the meaning Pukhtoons give to their life and it enables them to go on. Jirga's specialization of dispute resolution has been especially highlighted because of the enormous richness and indigenous nature of the processes adopted for peacebuilding.

The work is comprised of the perceptions and understandings of the people regarding their history and the value they attach to it. It also discusses the possible reasons for the special value of this sparsely recorded history. The context of Pukhtoon worldview is further defined through exploring the code of Pukhtoonwali—the basic framework of the Pukhtoon social system.

On our way, an attempt has been made to explore the future prospects for Jirga. We examine the possibilities of using Jirga in the forthcoming local government system, which is under design for the tribal areas of Pakistan. We consider the institutionalization of Jirga at the national level in Afghanistan and also how the development sector can partner with the tribal and rural Jirga.