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# Dispute Resolution through Customary Laws: The Role of 2008 Murree Accord in Resolving Sectarianism in District Kurram

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### ABSTRACT

2008 Murree Accord, commonly known as Murree Jirga, is the one of the major joint agreement between Sunni and Shia groups of District Kurram regarding the resolution of 2006-07 long lasting sectarian conflicts. This is a unique agreement because it involves fifteen council elders (Maliks) from both sides of the two warring groups which have never signed such agreement in the past. This study aim in exploring the mediator role of the Jirga under customary laws in bringing stability and peace for the common good of the locals of District Kurram while addressing the major question that how Murree Accord proved to be successful in the peace and stability of the District? Further, the study is also try to highlight the provisions of the agreement that were supposed to be implemented in its true sense until the mid of 2009 using qualitative approach by conducting ten in-depth interviews with Maliks, participated in the Accord. This paper is therefore analyzing the subject matter at hand while looking at the role of Murree Jirga in the context of sectarianism to fill the gap in the existing literature in order to have a broader overview of the interplay between Jirga and Sectarianism.

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## 1. INTRODUCTION

Human history reveals that conflicts of different kinds have happened since the life started on this earth. Humans, being the social animals, have the ability to deal with these conflicts by using different philosophies and practices over the past (Folberg, 1994). Human's existence tells us that different efforts have been made to resolve these conflicts through different traditional ways in order to settle down the repercussions that are emerging through these disputes in various ages of the human settlements (Barret, 2004). Conflict transformation/resolution mechanism has been

done through a centuries old traditional way of legal and informal justice of in many parts of the contemporary world. Conflict is integral to the existence of human civilization on earth. Traditional way of legal and justice regarding conflict transformation/resolution operating in different parts of the Pukhtoon dominated areas is the unique characteristic of social organization for bringing stability and peace for all in the due course of history through the centuries old justice system of Jirga (Maraka) along with the formal legal system under the idea of legal pluralism.

Sect based conflicts, commonly known as sectarianism isn't a novel phenomenon in Pakistan in general and District Kurram in particular. The present day Pakistan is passing through the worst phase in the due course of its history due to internal security issues and law and order situations. Sectarianism and terrorism has never stuck the state with such intensity in the past as it has since the last two decades (Zaman, 2016). In this regard, the newly merged District Kurram has been one of the regions in Pakistan where these sect based conflicts have contributed to a tense environment. These conflicts had begun in 1986 for the very

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first time and still continued over the three decades. The 2006 and onwards sect based conflicts have intensified the conflicts between the Sunni and Shia. These conflicts resulted in the confiscating and destroying of almost 40 villages and a massive migration of almost 2 lack IDPs of both Shia and Sunni by these warring groups of Shia and Sunni (Zahb, 2009). Due to these conflicts the main Peshawar and Parachinar (District Administrative Headquarter) has also blocked for any kind of transportation for almost 2 years.

Tribal Jirga, commonly known as Murree Accord 2008 is a first joint peace initiative between the two warring groups of District Kurram, the Sunni Bangash and Turi Tribes of Shia. The two groups signed a permanent peace agreement on October 15, 2008 held in Murree to avoid sect based disputes and conflicts for the future peaceful environment in District Kurram. The Murree Accord of warring tribes was first held in Islamabad and then in Murree. Fifteen members each from the Shia and Sunni groups also participated in the Jirga, which included 23 members from a reconciliatory delegation (Munir, 2011). All the members of the Accord are agreed on the smooth implementation without any further delay for the peaceful coexistence and peace building. The Jirga concluded with the final verdict that if any of the two groups would violate any the provision of the 2008 Accord he or they be paid Rs. 60 million as fine of violating the Jirga (Dawn October 7, 2012).

This research is therefore an attempt to look at the role of Murree Accord (A traditional Tribal Jirga) in the context of sectarianism. The research is trying to explore the efforts of the council of elders (Jirga) 2008 regarding the long lasting ideological tensions between the Sunni and Shia communities of District Kurram and its role in bringing stability and peace for the common good of the two communities.

## 2. LITERATURE

### 2.1. Understanding Jirga and Its Operation in Pakhtoon Society

Pakhtuns have preserved their centuries old culture and traditions in the name of Pakhtunwali. Pakhtunwali is strictly observed and quoted with pride, being the Pakhtun's dearest value; controlling and conducting their routine lives, behaviors and attitudes. Jirga is one of the values or factors of Pakhtunwali without which the code of Pakhtunwali is incomplete. Jirga cannot be explained alone without referring to the context of pakhtunwali which holds the institution of Jirga from generation to generation. Thus Jirga and Pakhtunwali are entwined with each other in a way that both the codes are incomplete without each other.

James W. Spain writes in such a way that; *The Pathan is above all an individualist, despite the rigid behavior standards prescribed by clan membership. Nonetheless, there are important traditional and social factors which guide community life and in many cases influence or even determine the action of individuals. These mores vary considerably in different parts of the area, and codification of them is virtually impossible. However, certain of them are almost universal, and some knowledge of these is essential to an understanding of what the Pathan is and how he got that way* (Spain, 1963.p.63). This un-codified set of rules, which guides the Pakhtun way of life, is known as "Pakhtunwali." Jirga is one of the most prominent codes of Pakhtunwali which can be understood in context of the social

organization and set up prevailing in Afghanistan and Pakhtoon belt of Pakistan.

The Descriptive Dictionary of Pashto (1978: 1272) defines the term "Jirga" is the Pashto word which refers to the gatherings of a fewer or a large number of people; it also means consultations conferring to this source (Wardak, 2011). It is operating as a tribal/local institution of decision-making and settlement of disputes or rivalries that integrates the prevalent local customary law, local institutional rituals and group of village elders whose communal decision about the resolution of a disagreement is binding (morally and socially) on the parties involved. J.W. Spain reveals that; *A Jirga in its simplest form is merely an assemblage...Practically all communal business, both private and public, is subject to their jurisdiction. In its operation, it is probably the closest thing to Athenian Democracy that has existed since original. It exercises executive and legislative functions, and yet regularly acts as an instrument for arbitration and conciliation* (Spain, 1963). It is an also an opportunity to those locals/people where Jirga is applicable alongside with the formal justice system. Bangash (2010) articulated that *"Jirga provides an opportunity of justice to the weaker portion of the society from the mighty ones with respect to their full participation and representation in the council of the elders (Jirga). It also acts an umbrella of safety and safeguard for all regardless of any social and cultural differences on different grounds and ensures the true manifestation of the justice in tribal society of Pakhtoon"* (Bangash, 2010).

The institution of the Jirga is the most prominent and powerful mechanism of justice in the Pakhtoon society in general and tribal belt of Pakistan in particular. Jirga is simply a gathering of few or many people/tribals during a dispute. The institution acts as a parliament, judiciary and kind of administrative body at the same time and has a mass acceptance from the locals. It allows everyone to speak but old persons and the people, whose interests can be affected, are preferred to speak on the occasion. Decisions are made on the basis of consensus and majority solving the problems by ending differences between the petitioner and respondent. At the end of Jirga after reaching a consensual decision, a religious scholar prays for the success and implementation of the decision (Khan, 2000). The main function of Jirga is to peacefully settle disputes (by establishing "Theega"). Yasin and Banuri (2004) in this regard have touched upon the Jirga's three main functions. First, it normalizes life at all levels within a tribal culture requiring communal courtesy. Secondly, Jirga acts as a mediatory body to pass the opinions/decisions of a tribe to the government and vice versa. Thirdly, it acts as a jury to an officer held responsible for investigating a crime under the Frontier crimes regulation. This has little to do with Pakhtunwali in traditional sense (Yasin and Banuri, 2004).

### 2.2. The Beginning of Peace Talks

The event of 9/11 has changed and added a new nature and dimension of the sectarian conflicts across Pakistan, especially in District Kurram. District Kurram and District Orakzai have remained a sanctuary for banned Punjabi Sunni extremists taking shelters there since 2002. Lashkar-

\*Theega is a Pashto word which means a big stone; by placing or establishing Theega refers to the first step of Jirga to stop violence from spreading over. After Theega is established, none of the disputants dare to further the dispute.

e-Jhangvi, Jaish-e-Muhammad and Sipah-e-Sahaba Pakistan are among the prominent banned (Dawn, April 9, 2007).

The recent sectarian conflicts started in the month of April 2007 when a procession in the area of Parachinar (District Headquarter) was fired on (The News, April 6<sup>th</sup>, 2008). These conflicts were followed by a series use of heavy mortars and heavy RPGs were used from both side of Shia and Sunni communities and resulted in the casualties of more than 3000 locals and 5000 injuries (Daily Times, January 2, 2008). An era of Sectarianism with new forms and trends started in erstwhile FATA during late 2007 and onwards. It is found that an unknown member of the Shia community hurling hand grenade in the front of Sunni's mosque in November 2007 during Friday prayers. On the other hand, Shia community of the district accused a group of Sunni boys firing rockets and AK-47 at the homes and mosques of the Shia community in the main Parachinar city. The news of the conflict spread across the district within few hours that alarmed and weaponized Shia against Sunni and Sunni against Shia. It was quite difficult for the law enforcement agencies to cope with the situation. To take control the city of Parachinar and Sadda, district headquarters of Upper and Lower Kurram respectively, state army opted for military gunship helicopters to maintain timely law and order situation in the region. However, the firing and fighting from both sects continued with greater intensity as compared to the previous conflicts in 1986, 1995 and 2002. Later on, the Sunni community was joined by the proscribed groups of Tehreek-e-Taliban and Al- Qaida against Shia locals due to their religious and ideological attachment with the Sunni sect of Islam (Frontier Post, December 27, 2007). UNCHR recorded that around 6000 locals' mostly children and women of the Sunni sect migrated and fled to Afghanistan from Parachinar during the conflicts (Daily Times, January 2, 2008).

In December 2007, a suicide bomber killed a Pakistan People Party election candidate in front of the Parachinar election commission office along with 47 party workers and media officials. More than 100 locals were get wounded by the suicide attack (Daily Times, February 18, 2008). These sects based clashes got full fledge intensity due to the favorable climatic condition in the summer in 2008. The locals, national and international media was blaming the government for not stopping the clashes started in August 2007. By the month June 2008, locals from district Kurram especially Shia community staged at front of the Parliament House (Islamabad) to convince the federal government to intervene into the matter as the political administration was failed in coping with the situation, but all in vain. Though, instead of prevailing to stop the violence, the administration kept claiming that there was no any sect based problem in the region of Kurram, accusing an external hand for pitting the tribes against each other (Dawn, September 26<sup>th</sup>, 2008).

The continuous firing, clashes and target killing from both sects resulted in the blockade of Thal-Parachinar main road that ultimately resulted in the shortage of medicines and food in the district primarily affected the Shia Sect. No single vehicle was allowed by the Sunni Sect to travel from Parachinar to Thal and Peshawar and those who were trying to travel were either abducted or beheaded by the Tehreek-e-Taliban, an ally of Sunni Sect. Many of the truck drivers were abducted and beheaded. The whole control of the Thal-Parachinar road was in the hands of the Sunni Sect and the Shia community was besieged. The Shia community was forced to travel to Peshawar either by Pakti and Kabul, the

cities of neighboring country Afghanistan. In the areas of Dara Adam Khel and Kohat, where the militants have been active since early 2007, travelers who took the chance of being stopped were frequently kidnapped: "They stop every vehicle, ask the travelers to take away their shirts [to identify Shi'a by the marks left by Muharram flagellations on their back], and also check their identity cards as well" (Dawn, September 6, 2008). Therefore, paramilitary personnel were routinely kidnapped; Shi'a soldiers were frequently executed while Sunnis were usually released.

The violence continued till the month of Ramadan despite of a unilateral ceasefire agreement as confirmed by the two warring groups ahead of Ramadan (Dawn, September 2, 2008). To ensure an environment of peace, a Sarkari (government) Jirga was called by the Political Agent of Kurram in the Capital Islamabad. The main points/ agenda of the Sarkari Jirga were the re-opening of the Thal-Parachinar road, the release of the prisoners and peaceful coexistence of the two sects in their respective villages and locales (The News, December 7, 2008). In the wake of the Jirga, the two groups did not stop their terrorist activities by targeting each other's out of the district in different parts of the country like Kohat, Hangu and Peshawar. In this regard, a gathering of a Shia community in Kacha Risaldar, Peshawar was targeted by a heavy bomb on December 5 that killed almost 34 Shia people and more than 100 were injured. Half of the casualties and injured were hailed from Parachinar with few from Kohat and Hangu.

As a result of these contentious conflicts and worse security and law and order situations in the region, a Grand Jirga, commonly known as Murree Accord was called upon in 2008 to sort out a desirable and accepted solution for the conflicts. People from Shia community of Parachinar and other parts of the country stage a sit in front of the Parliament in order to settle down the long lasting dispute between the two warring groups and demanded the Political and Capital intervention (The Frontier Post, October 10, 2008). In this regard a grand Jirga of total 50 tribal elders and council members on the basis of equal proportion was held in Islamabad and then in Murree on October 15 to October 17 in 2008. The Jirga also included the two Parliamentarians of District Kurram as mediator to resolve the issue. After a three days detailed discussion regarding the causes and solution of sect based violence in the region, a mutual consensus among the council of elders and Parliamentarians was adopted to stop further violence in the name of religious differences (Bangash, 2012). The Jirga presented and concluded in 9 points necessary measures for the common good of the people.

### 2.3. Main Points of the Murree Accord

Keeping in view the security and law and order situations of District Kurram, the Jirga comprised to two warring Bangash and Turi tribes of Kurram District signed a written declaration for permanent peace in Murree on Thursday October 16, 2008 and adopted a 9 points resolving mechanism was supposed to be implemented from November, 2008 without any delay (Dawn News, October 16, 2008).

Apart from the implementation of the verdict of 2008 Accord, the Jirga strictly warned the two warring groups to strictly follow the decision of the Accord as declared by the members of the Jirga, the Points were:

- Re-opening of Parachinar-Peshawar main road

- Returning to the IDPs to the native homes who were displaced due to sectarian conflicts (approximately 2 lac IDPs)
- Returning and vacation of the territories confiscated during 2007 sect based clashes
- Returning of the prisoners of the 2007 sectarianism
- A Relief Rehabilitation Fund of worth 3 Lac should be given per CNIC to IDPs by the government under the Accord
- Twenty million fines should be imposed if any of the two groups violate the decision of the Accord
- External and internal powers (non-state actors) shouldn't be support by any of the two groups
- Implementation of the Accord will be the responsibility of the members of the Accord under the supervision of the Political administration
- Within the broader context of the Jirga, a four point agreement was also added specifically for Parachinar due to its complex geography and security situations (MurreeAccord, 2008)

#### 2.4. Sectarianism and the Role of Murree Accord

Conflict resolution through customary laws is an integral part of the Pakhtoon society in general and newly merged district in Particular. Jirga is the main institution for insuring collective peace and security within Pakhtoon Society and this has happened in District Kurram through Murree Accord in 2008.

#### 2.5. Ceasefire Trough Murree Accord

The sect based conflict in the year of 2007 lasted for 48 days and cost the death of 3000-4000 casualties of from Shia community and 1000-1500 Sunni community followed by total more ten thousand injured during the conflict. Malik Sardar Hussain, a head of Ajunman-e-Hussaniya and participant of the Accord, told the researcher during telephonic interview that, "the 48 days long and intensified conflicts in the region was never witnessed in the past. Ceasefire was the first step towards Murree Accord based on mutual consensus of the two warring group (Interview Hussain, 2022).

#### 2.6. Re-Opening of the Parachinar-Peshawar Main Road

From the very first day of 2007 sectarianism, the main road of Parachinar-Peshawar, a 196 km long highway was blocked for any kind of transportation on August 11, 2007 (Kurram News October 6, 2017). The blocking of the road resulted in the shortage of food and medicines for the inhabitants of Parachinar, a Shia majority Tehsil of District Kurram. The issue of blocking of the road was put on the top priority by the Shia community of District Kurram. It is because of the fact that a 20 kg flour of wheat was estimated 4000 to purchase which was cost only 8 hundred before the conflicts and blocking of road. Similarly, the people of Parachinar were supposed to use the route of Khost and Kabul (Afghanistan) to come to Peshawar which was quite difficult for common people to travel Peshawar. The re-opening of the road was major development by the Accord (Interview Nazar, 2022).

#### 2.7. Returning of the Territories

The proximity of the villages of the two communities of Shia and Sunni help and intensify the sectarian conflicts emerged in the year of 2007. A total 41 villages including 26

Sunni and 15 Shia villages were destroyed during these conflicts. These villages were latterly confiscated by both Shia and Sunni and resulted into a mass internal migration of more than 2 Lac IDPs from both sides. The main concern of the Accord was to return these confiscated territories. However, the Jirga of 2008 did not success in its true spirit to return these villages until today.

Malik Atta Ullah Jan, a Sunni participant of the Accord, told that, "no doubt Murree Accord achieved a great success in stabilize and normalize the security and law and order situations in the area. However, the issue of returning of the territories from the Shia side is still dream of the Sunni population. The Shia community of the District Kurram using force and other means in the implementation of the provision of the Accord related to returning of territories. Similarly, the political administration, a mediator and implementing body of the Accord, never take active and serious steps towards resolving this issue. The territory of Shurki (a Sunni territory confiscated by Shia community near to Parachinar) is still pending which is a clear violation of the Accord as per the rules of the Accord (Interview Jan, 2022).

#### 2.8. Rehabilitation Relief Fund of Governor KP

The humanitarian community is working to help the FATA IDPs so they can have access to the services they need to live honorably while they are displaced. The humanitarian community also certifies that the measures under the Returns Framework, agreed upon with the Government, are followed, in order to ensure that the returns are safe, voluntary, and dignified. These include identifying the potential return areas, evaluating the security and needs of the areas, and ensuring that the areas are secure for returns and provide the facilities needed for the returning families to resume their normal lives. The assessment pinpoints the areas in which the humanitarian partners can help the families that are returning.

The humanitarian community was told about the proposal to aid the return of roughly 4,500-6,000 NADRA verified families to Kurram Agency at a meeting of the Returns Task Force (RTF) held by FDMA in September. Both Sunni and Shia faiths were to be assisted in a dignified and voluntarily return to their original locations during the return process. In order to help the Humanitarian Country Team (HCT) make informed judgments on providing support for the returns, the humanitarian community was therefore required to carry out an inter-cluster needs assessment mission (FATA Research Center, 2011). As a result of sectarian strife between the Shia and Sunni communities in 2008-2009, a number of families were uprooted from Kurram Agency and relocated to neighboring Peshawar and Orakzai Agency districts. Displacements in later years were also brought on by security operations.

Jawad Agha (a Shia member of the Accord) and Abdul Ghayoor Khan (Sunni member of the Accord) investigate that the proposed fund for the IDPs was not distributed equally and transparently among the people according to the proposed provision of the Accord 2008. The fund was distributed among those who were influential and having higher status in the social setup and organization within District Kurram. Political intervention and choices did not allow the smooth implementation of fund among the deserving. They further argued that, a major portion of the fund was distributed among the most influential members of the Accord (Interview Agha and Khan 2022).

### 2.9. Exchange of the Prisoners under the Accord

During 2007 sectarian conflicts a total of 28 people were kept as prisoners from both side of Shia and Sunni groups. The Jirga concluded in the exchange of the prisoners of the conflicts without any proportion and terms and conditions. In the verdict of the Jirga, the two communities will ensure the release and exchange of the prisoners of the sectarian violence without any harm and demand in return. Malik FakharZaman and MaqboolHussain (a Sunni and Shia member of the Accord respectively) argued in an interview that, "the process of exchange of prisoners was smoothly done with the help of Political Agent intervention timely within the proposed time as mentioned in the Accord" (Interview Zaman and Hussain, 2022).

### 3. CONCLUSION

Jirga has always been proved a major deispute resolution mechanism in Afghanistan and Pakhtoon belt of Pakistan. Murree Accord 2008 in this regard is quite successful during its first phase and implementation and undoubtedly, Murree Accord achieved major success in bringing stability and peace in way of peace building among the two warring groups. However, the process of implementation of certain provisions is still a dream of the locals of the people of the region. Sect based conflicts are still prevailing and persisted in the region at present in the form of target killing and hit and run techniques of warfare and tensions and a clear violation of Murree Accord could be witnessed.

#### Competing Interests

The authors have declared that no competing interests exist.

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