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**RESEARCH PAPER**

**The Customary Laws of Ancient Baloch Society: A Qualitative Analysis**

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**ABSTRACT**

This study provides a detailed analysis of the historical significance of Customary laws, unwritten rules and traditions that developed over time within the ancient Baloch society. These laws were often based on the shared values, customs, and practices of the community, and they played a crucial role in regulating behavior, resolving disputes, and maintaining social order. This study also delves into the customary laws of ancient Baloch society, classifying them into constitutional, procedural, and substantive categories. The constitutional aspect encompasses the institutions of Sardar and the Council of Elders, forming the basis of governance. Procedural laws involve Mei'rh and Jirga, serving as institutional frameworks for dispute resolution. The substantive laws encompass diverse legal norms such as Bahooti (revenge), war ethics, Bijaar, Marriage laws, and regulations concerning minorities and vulnerable segments of society. The research aims to classify these laws and provide a detailed exploration of their essential components.

**KEYWORDS** Bahoot, Baloch , Bijjar, Customary Laws, Legal Norms , Substantive and Procedural Laws

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**Introduction**

Customs and laws are integral components of human social evolution, developing gradually over generations . The material conditions and changes in human society determine and shape the patterns of behavior of a society. In the case of the Baloch people, their customary laws were not established by a single event or individual; rather, they evolved over an extended period. Baloch society, influenced by material conditions and changes, shaped its behavioral patterns.

The influence of neighboring and invading culture on Baloch customary laws further highlights their dynamic nature. At one point, the Baloch were followers of Zoroasterism and they where they interacted with diverse nations and they influenced each other culturally, socially, religiously and politically which contributing to the evolution of Baloch customary laws.

The oldest written documents present Baloch to have lived in this land prior to 3000 BC. The Greek historians, Arian and Strabo, are of opinion that this nation existed before Christ (Baloch, 2021).

Thus, it is not easy to draw a reference point for evolution of these laws. These laws have either evolved with the gradual evolution of the Baloch society or are an adoption of other legal systems of different societies.

It is indeed a common trend for societies to undergo various stages of evolution, and one prominent stage is the tribal epoch. Tribal pattern of life had its own institutions, structure and normative behavior, governing set-up. Tribal system requires a code acting as its constitution (Khan, 1999). The customary laws as a whole acted as a code for the society.

Further, the institute of Jirga existed in all primitive societies. Because of underdevelopment and lack of organization of proper state machinery, the notables of the particular locality gathered to resolve matters of people (Khan, 1999). The first governmental structure established in human history was that of tribal set up. The tribal set up was the forerunner of the present structure of modern state. The roots of democracy, dictatorship and even communism are said to be seen in tribal structure (Bughti, 2017). To deal with anarchy existing in state of nature, man established a governing force to enforce the codes, norms and rules of behavior. To guide activities and affairs of day to day life, codes of conduct were formed. These became laws for the society. Tribe was an extended form of family and state that of tribe (Bughti, 2017).

The Baloch tribal structure dates back to antiquity. Historians yet carry differing views with respect to its Baloch history. Mir Jalal Khan is mentioned as having formed first tribal confederation. His rule is followed by Meer Shayhaq. Shayhaq's death resulted in disintegration of the confederation. The Lashar tribe refused to recognize Mir Chakar as the new Sardar. It appointed its own separate Sardar. This later resulted in thirty years war between the both tribes (Bughti, 2017). Besides this, the substantive customary laws are not traceable easily. These laws are seen to be observed, practiced and governing the affairs of tribal life in the times when the tribal structure came into being in a gradual process of evolution.

### **Litratue Review**

Theories of customary laws attempt to determine an "additional factor" by dint of which a custom becomes a law. Determining such additional circumstance is their primary concern.

There is a customary law theory known as "tacit consent of all" by the Romans. This holds that an additional element is necessary for a custom to become a law. The nature of such element is not necessary to be manifest. To be specific, Epitome Ulpiani says that "custom is the tacit consent of the people." The main point of this theory is when customs which are practiced for a long time are approved by the consent of its observers, such customs become laws. The additional element is, thus, the approval by consent of observer of such custom. In this sense, a custom transforms into a law because people treat it as law to bind them (Watson, 1984).

Further, in accordance with opinion necessitates theory, a certain principle is observed by individuals in a society by reason of their belief that it is a law. They must express their will for the legal validity of such rule of law. This act of observance is not only a fact in psychological level but must necessarily be a sense of responsibility to comply with such a norm as approved by other members of the society. In simple terms, a custom transforms into law when it is recognized and accepted as law and is finally, in practical life, observed as a legal rule/law by people in the same legal system (Watson, 1984).

The Volksgeist or common spirit theory is by Von F. Savigny of historical school of law. Literally, "Volks" means "people" while "Geist" implies spirit. Collectively,

Volksggeist means spirit of the people. In accordance with this theory, law grows, it is not made. It is similar to language evolving in line with economic social and other dominant factors. Law is not an abstract set of principles imposed on a collection of people by some superior political authority. Law is spirit of the people (Bohra, 2020). The source of law is common consciousness of people. Individual behavioral acts, though as a whole play a role in formation of law, are not source of law (Theoris and history of customary law, n.d.) . Thus customary law is the common consciousness of people.

Austin's command theory tries to bring forth a different view of customary law. According to it, the source of such laws is the "rules of positive morality," which again originate from approval of people governed. So, the customary laws are moral rules. The state creates positive laws from these rules. The creation is in two forms: either "by statute or judicial decision." In Austin view, customary conduct of man in itself does not create law. "A custom becomes a law only when it is subject of statute or judicial decision" (Watson, 1984).

It is deduced from above theories that custom plays the role of law when people treat it as law. The primary source of such law is the people themselves. However, such law is not scientific as positive law is. It becomes scientific and acts are a uniformed law when state recognizes it by through court or the legislative body.

### **Literature Review**

The scarcity of literature on various aspects of Baloch society, both ancient and modern, reflects a significant gap in our understanding of this unique cultural group. Essential facets such as philosophy, customs, values, and laws of the Baloch remain underexplored, limiting our insight into the richness and complexity of their heritage.

There is a lack of literature on various aspects of Baloch society, both ancient and modern, reflects a significant gap in our understanding of this unique cultural group. Essential facets such as philosophy, customs, values, and laws of the Baloch remain underexplored, limiting our understanding into the richness and complexity of their heritage. Therefore, this study aims to study the customary laws of ancient Baloch society. The quantity of literature on customary laws of ancient Baloch society is so small. The available literature even fails to bring forth comprehensive research on them. No categorization of such laws is made out.

Jan Muhammad Dashti, in his book, the Baloch Cultural Heritage, attempts to lay down a descriptive and general layout of customary laws of Baloch that include Meirh, ethics of war, Bijjar, Bahoot, crimes and punishment, etc. It does not classify the laws.

Similarly, Naseer Dashti, in his book, "The Baloch and Balochistan: A historical account from the beginning to the fall of the Baloch State" discusses the politico-legal institution of Sardar, its composition and powers, the judicial system of ancient Baloch society, the institute of Meirh, its composition, crimes like theft, robbery, murder, adultery. Most of literature of Naseer's book relating to this particular area has been derived from Jan Muhammad Dashti's book.

Naseer Dashti's book, the history of ancient Baloch Society, describes the ancient judicial system of Baloch. It discusses concepts like Meirh, Jirga, Sardar etc.

Naseer Dashti, in his Article, "The Baloch" presents his theory of Baloch genesis. He traces Baloch origin from Balashagan. They arrived in southwestern Iran after leaving

Central Asia. They were part of the Aryan exodus. Basically, the Baloch were agro-pastoralist. Fed up with different challenges during Sassanid rule, they migrated and settled in Kirman and Sistan, where their name changed from Balashki to Baloch and their language also became Balochi. Once again after a long time, the Baloch were forcibly made to leave. Thus, they came to this present day Balochistan. Naseer's work helps understand the historical evolution of Baloch's customary laws. By a grasp of their growth, we will better detect Baloch's psyche from these laws.

Inayatullah Baloch, in his work "The Problems of Greater Balochistan: A study of Baloch nationalism" sheds light on the Baloch national code of honor wherein he makes a descriptive study on Baloch-mayar, Beer, Bahoot, Mehmani, adultery and etc.

Ghulam Nabi in his article, "Baloch Norms and code of manners", along with other things mentions the code of revenge (beer geeri) bahooti, the Sardar, the Jirga system etc. He carries out a descriptive study. The essential features of Baloch code and philosophy of honor are highlighted. He describes the classical period of Baloch history with reference to poetry. His work is relevant to this work in hand.

In their research paper titled "Sardari System (A case study of political organization in Baloch tribes)" Ghulam Nabi, defines the social and political structure of Baloch tribal structure, highlights the role of sardar, his election and removal and the Baloch codes of conduct. It helped in writing the portion of this work relating to sardari system.

Mumtaz Ali Baloch, in his research article titled "The origin of Jirga in Balochistan" sheds light on importance, working, composition and tiers of Jirga in Baloch society. He also mentions reforms brought by sandeman in Jirga system. The reforms in laws of Jirga by including Islamic values by Nasir Khan are also briefly referred. This paper helped in writing the portion on Jirga in this thesis.

Dr. Abdul Qadir Khan and Dr Adil Zaman Kasi's research paper "The Tribal System in Balochistan: Its administrative organization and Modern democracy" sheds light on administration of Baloch tribes. He specifically elaborates the institute of Sardar and Jirga. The composition and election of Jirga is explored. The functions and duties of Sardar are defined. He considers them to be democratic in nature. He expounds institute of Jirga as parliament that exercised administrative, executive, judicial and legislative powers.

In their research paper titled "Jirga: a historical institute" Prof. Dr Gul Hassan and others cover the given academic points: origin of Jirga in different societies in general, reforms in institute of Jirga by Sandeman that changed the structure of it by introducing local and Shahi Jirga, and the procedure of Jirga. It presents some historical Jirga decisions. It also discusses the institute of Sardar in Balochistan.

### **Material and Methods**

It is qualitative research. It cites secondary sources of data, including research articles, books and electronic sources. Its research approach, design and strategy are descriptive. The customary laws are described by systematization and exposition. Further, this work brings into use the thematic data analysis method. The relevant data on Baloch customary laws are studied and coded, afterward; themes are developed which are then interpreted descriptively.



### **The context of customary law**

The author used the legal term customary law in a broad sense which includes and means the Baloch code of conduct, the customs, and other principles on the basis of which the society was governed. For theoretical clarity, he refers to them collectively as customary laws because they all functioned as laws.

The Baloch code of conduct, referred to as customary laws, is broad. It influenced and covered every aspect of tribal life. It includes various principles and behavior patterns expounded in this work. Customary laws are not specifically discussed in the context of a set period of history. Their prevalence is particularly seen in the tribal epoch of Baloch history.

### **Procedural customary laws**

Procedural laws relate to institutional procedures in terms of their methods and process of dealing with matters and their jurisdictions and powers.

Procedural law is that law which prescribes method of enforcing rights or obtaining redress for their invasion. (Procedural law, n.d.) Such laws act as the 'machinery' for enforcing rights and duties. Procedural laws comprise the rules by which a court hears and determines what happens in civil, criminal or administrative proceedings, as well as the methods by which substantive laws are made and administered. Procedural laws lay down the ways and means substantive laws can be enforced. (Substantive and procedural laws, n.d.) The judicial of institute *Mei'rh* and *Jirga* are purely procedural laws. Therefore, these are categorized as procedural laws.

### **Mei'rh**

In a wider sense, *Mei'rh* meant admission of the "guilt" by the criminal and then begging for forgiveness. The act of admission was either performed by offender himself, his family members i.e. mother, sister or he would request the elders of the commune to approach the victim family and ask for a peaceful and proper settlement of the dispute (Dashti, 2021).

*Mei'rh* was a voluntary association of elders in a tribe. Its modern and wider shape is *Jirga*. Often the elders were respected by victim family and issues were resolved. *Mei'rh* played the role of a mediator.

### **Structure of Mei'rh**

*Mei'rh* consisted of elders in a village or tribes. They were men of ability and high self-honor. They were those having the wisdom and ability to resolve the matter in a reasonable and rational manner. They adjudicated the matter in accordance with the customary laws and prior rulings and judgment. In the absence of either of them, they used their judicial mind and reasoning. Their gathering would take place in the home of an elder man of the village. The men participating in the *Dewaan* (gathering) would avail equal opportunity to express their respective opinion and reasons with regard to the concerned matter. Reasons may have reference to proverbs, events, precedents and the customary laws.

## Jirga

The word Jirga is of Persian origin and borrowed by Balochi language. The Balochi word for Jirga is "Diwan". Diwan means gathering (Hassan, 2023). Jirga means gathering of selected people for resolution of a particular issue in accordance with norms and customs of a society.

The word Jirga is presumably traced from the Mongolians. It meant a "large assembly of men" associated in circular shape for purpose of "laying siege around a game or animal for hunting or game." The Aryans also had a kind of Jirga institute. It was divided in two councils called "Simite and Sabha." Simite was an upper and superior body. It comprised of the tribal leaders. On the other hand, sabha functioned in lower and rural levels (Muzaffar, et. al 2021; Mahmood & Ashfaq, 2018).

There is no exact point or time to trace origin of Jirga. Its development and origin can be logically derived from evolutionary changes in human society. When people begin living in larger groups and the social structures become more complex, the problems among people started increasing. They needed a forum to resolve their problems peacefully. Jirga was formed to avoid anarchy and chaos in the society. Its development and origin is different in every society because every society evolves and advances in a distinct course of history. Every human society has a divergent dialectical nature. Thus change flows and emerges accordingly.

In the Baloch tribal society, Jirga acted as a judicial institute for adjudication of disputes. It had its own mechanism. Customary law was its main guiding principles.

Jirga had no suo motto powers. Cases were referred to it by the parties for decision. Decisions were taken based on the opinion of majority of Jirga members. The Sardar himself acted just as a single member in the Jirga. Sardar could, with prior approval of Jirga member, remove any Jirga member. Petty issues were handled by Sardar himself. Jirga was convened for important and complicated matter and disputes. Jirga had jurisdiction over all kinds of matters i.e., political, social, economic, administrative, judicial and so on (Baloch, 2018).

Based on the nature and importance of matter, Jirga was in two tiers. At a local and lower level, a clan had an "advisory council." It functioned as an advisory body. It gave necessary advice to the clan head on matters that concerned the clan (Baloch, 2018). This Jirga of lower tier was empowered to adjudicate petty matters within its clan. Such matters included marriages, divorce, irrigation, etc,

In the upper tier, all heads of clans collectively formed the Jirga that functioned at the tribal level. It was a sovereign and apex court. It had a wide and unrestrained jurisdiction in whole tribes. It dealt with all important matters that generally affected the tribesmen. It had not only judicial but also administrative powers. Sardar also was advised by Jirga on certain matters (Baloch, 2018).

### The procedure of Jirga proceeding

There was no fixed procedural law in Jirga that laid down entire procedure of judicial activities. No fixed procedure was applied in Jirga proceedings. It depended on the nature of cases. However, some basic customary rules were sine quo none i.e, the parties had to mutually agree to submit the matter to the Jirga and agree to accept decision of Jirga. The Sardar could also take cognizance upon receiving knowledge of a

matter by any parties. Jirga, in term of procedure, looked like arbitration forum than a court (Hassan, 2023).

The proceeding of Jirga starts with the complainant presenting his case. He presents all evidences and witnesses before the Jirga members. When the Jirga remains unsatisfied with argument and evidences of the parties, it can take initiatives to further investigate the matter itself. Such order is made in complex cases. Decisions are often pronounced within short period of time in the first hearing unless the case is complicated. All persons acquainted with the case are examined by Jirga. All the members of Jirga act as a bench of judges headed by Sardar who presides the proceeding as chief judge (Hassan, 2023).

### **The election and composition of Jirga:**

It was not a complex structure. Its composition and elections were simple. Every clan in the tribe either elected or selected a leader. Leaders from each clan in the tribe composed the Jirga. These leaders represented their clans in Jirga (Kasi, 2015).

### **Importance of Jirga**

Jirga carried great importance for “social welfare and economic integration of the tribe.” It functioned in different tiers in the tribe in accordance with administrative partition of tribe. There were Jirga set ups in clan levels. These were coordinated with Jirga at tribal level (Baloch, 2018). Jirga system was an efficient judicial set up. It provided inexpensive justice. Unlike modern legal system, it needed almost no expenditures from parties. Its procedure was not complicated. It delivered justice in a jiffy. Cases were disposed of in few hearings. Further, Jirga was so important with respect to state affairs. The Sardar often sought instructions and advice from it.

### **Diwaan**

Diwaan functioned as a traditional forum where the head or Sardar would gather with the tribesmen and discuss political, legal, social issues. Each participant had a right of speech. The Diwaan gathered at house of Sardar or sometimes at a specific and distinct place called ‘Diwaanjaah’. Basically, its participants were the elders and specific persons (Dashti, 2019). This get-together helped people resolve problems of each other. This also functioned as a means of enforcement and execution of legal decisions of Jirga. Besides, it was imperative in handling day to day matters of tribesmen.

### **Constitutional customary law**

#### **Institution of Sardar: A custodian of customary laws**

Sardar was an executive head. In tribal epoch of history of Baloch, there existed different tribes and each tribe had a head, known as Sardar. He acted as a leader of the tribe. The institution of Sardar was basically a concept of constitutional laws based on unwritten constitution of Baloch. Structurally, the lowest level of governance was carried out by sectional heads that were responsible for administration of small communities in tribe. Above them was the council of elders which again was the composition of sectional heads. Sardar was the head of this Council of elders. This functioned as a parliament. Sardar was elected by the Councils of elder on behalf of the people (Baloch, 2021; Dashti, 2019).



Sardar was the most significant and influential man in Baloch tribal system. He was to be a brave, generous, sincere and wise man. He always abided by Baloch customary laws in affairs of governance. It was generally believed that the Sardar possessed "spiritual power of seven saints." At the same time, office of Sardar acted as prime minister, president, chief justice and the military head (Buzdar, 2017).

Sardar was accountable to the tribe. He represented the will of his people. People entrusted him with this prestigious office. In case of misconduct and incapacity to hold office as per his duties, the tribesmen had the power to remove him and appoint another man as Sardar. At the same time, a Sardar was the supreme commander of army, chief justice and the head of state (Hassan, 2023). Sardar carried the obligation and responsibility of political, social and economic affairs in the tribe. It is true that Sardar discharged his obligations in accordance with advice and consultation of Jirga. Irrespective of this, Sardar's instructions, directions and standpoints were considered and respected by Jirga (Kasi, 2015). He held an honored and distinct place in Baloch tribal structure.

### **Composing elements of Baloch tribalism:**

The legal institution of Baloch tribalism comprised the following composing elements:

1. The Baloch code of conduct/the customary law:

The Baloch customary laws guided the entire Baloch society. They worked as guiding principles in every affair of society. The office of Sardar was regulated by them. Such laws include the traditions of Bahooti, revenge, Jirga, war ethics, social manners etc.

2. **The Sardar/ Tribal chief:** Sardar was regarded as the most essential element in Baloch tribal system.

3. **The family heads:** The council of elders headed by Sardar was composed of family heads. The family heads formed the tribal structure (Buzdar, 2017).

### **Decision Making by Sardar**

In terms of lawmaking, Sardar played the same role as played by Prime Minister in a Parliamentary form of government. Sardar was a sovereign authority. He possessed prerogatives. He could pass orders. Such orders extended to entire tribe. He also advised and led Jirga with respect to resolution of any dispute. Sardar had sovereign powers on foreign policy of state. Jirga refrained from interference with external affairs. The Sardar had great powers but was under check and balance (Kasi, 2015).

### **Qualifications for Sardar**

A Sardar had to possess the following qualities. He had to be mentally sound and rigorous for efficient handling of tribal matters. He was required to be kindhearted, sincere, and audacious and have problem-solving power. Further, he had to come from a significant background in terms of caste and creed. He was to be of pure blood (Kasi, 2015).

### **Law making powers**

The institute of Sardar in Baloch tribal set up acted as an important part of parliament. Its members came from different clans. It was empowered to legislate matters relating to administration, judiciary and other domains. Sardar acted as leader of such law making body. His role was same as a legislator (Kasi, 2015).

### **Executive and judicial powers**

Sardar was not only an executive head but also Chief justice. The institute of Sardar also acted as an appellate forum. When any dispute was brought before Sardar for resolution, he gave equal opportunity to both complainant and respondent to present their argument. He heard both of them in an open court. The final decision was made on a specified date and time in either party's presence. Matters of non serious nature were disposed of by leaders of clans. When a party was aggrieved of their verdict, he had the remedy to appeal to Sardar. His decision was final (Kasi, 2015). Besides the judicial duty, Sardar possessed executive powers. He made order for enforcement of laws and Jirga verdict. He was the custodian of customary laws of Baloch.

### **Council of elders**

Family was the basic block of human organization. The collection of family formed the clan. Clans constituted a tribe which was run by a tribal chief locally called Sardar. The Sardar was chosen and provided assistance by a "Council of Elder." Similarly, the combination of many tribes formed a "Raj" whose head was called "Rajoar." Although both Sardar and Rajoar had a great degree of sovereignty, there was a check and limitation of Council of elders on them. The council of elder was the parliament performing functions of administrative and governmental nature. It was constituted on the basis of the unwritten constitution of the ancient Baloch (Baloch, 2021).

### **Composition of the Council of elders**

The Council was a sovereign authority. It was accountable to perform functions relating to judiciary, administration, and other spheres of the tribal society which were linked to the stability and prosperity of the people. (Dashti, 2021). The 'heads of clans and sub-clans' formed the Council of elder (Dashti, 2021). Each clan was headed by a head. Therefore, the council of elder was a composition of these elders. Also, there was a 'council of elder' for each clan. Clan was a combination of families. From each family came a head. The family heads together formed the council of elder of the clan.

### **Authorities of the council of elders of the elders/clan**

The clan had a great degree of sovereignty and power. It was free to deal with matters having a local nature. However, matters relating to war and peace entirely vested with the council of elder of the tribe (Dashti, 2019).

The council of elders was empowered to amend any customary laws. Either it created new laws or invalidated the outdated ones (Buzdar, 2017).

The day to day matters were handled by the clans. Such matters included irrigation of crops, marriages, divorces, minor conflicts, inheritance etc.

## **Substantive customary laws of Baloch**

Substantive laws define the rights and responsibilities in civil law and crimes and punishments in criminal law. Substantive laws deal with those areas of law which establish the rights and obligations of the individuals and what individuals may or may not do. Substantive laws deal with the legal relationship between individuals or the legal relationship between an individual and the State. Substantive laws determine the subject matter of litigation pertaining to the administration of justice. (Substantive and procedural laws, n.d.) The substantive customary laws in Baloch ancient legal system, to the extent of this work include Bahooti, beer (revenge), war ethics, bijaar, marriage laws, laws on minorities and weak sections of the society. These laws define certain rights, duties, crimes and punishments.

### **Bahooti (refuge/ Asylum)**

Bahooti is one of the most important customs and codes of conduct of Baloch. It forms a significant part of Baloch customary law. This custom obliges every Baloch to take every measure to safeguard the person who he has granted refugee. The refugee seeker may be an alien or his enemy (Inayatullah, 1987).

Bahoot was given to that person who was a victim of unjust treatment and persecution. This right could not be availed by 'proclaimed offender' and person accused of committing offences against women and child and adultery (Inayatullah, 1987; Dashti, 2012).

Bahoot was either implied or express. Impliedly, a neighbor was always considered under safeguard and protection. As a custom and moral principle, refugee was available to everyone subject to the exceptions. 'The method of obtaining Bahoot was to step in dwelling of a Baloch and then ask for refugee and protection (Dashti, 2019).

The custom of Bahoot was firmly recognized and established. Dr Inayat mentions a tale recorded by American anthropologist L. Dupree, in which a Tribal chief kills his own son for murdering their Bahoot (refugee).

Numerous narratives and occurrences involving Bahoot are preserved in the oral traditions of the Baloch. One of the main reasons of the three-decade-long conflict between the Lashar and Rind tribes was the incident related to Ms Gohar, who was a Bahoot of Mir Chakar Rind. Members of the Lashari tribe killed the camels belonging to Gohar. This action was deemed a direct disrespect to Mir Chakar, rising tensions between the tribes. Mir Chakar took harsh steps to safeguard his Bahoot. The principle was to protect the Bahoot at any cost even if the protector has to sacrifice his life. Bahoot was equally available. Bahoot could be a friend, outsider, a low caste or even enemy (Mohyuddin, 2015).

### **Beer (Revenge)**

Taking revenge of a person killed by another is a proud and firm custom of Baloch. It is observed as an obligation of a Baloch as part of his code of conduct. This duty mostly lies on male members of family and would pass on tribesmen if there were no near relatives (Dashti, 2019).

Taking revenge was an obligation on the victim family and their tribe against the accused family and tribe (Mohyuddin, 2015).

There is a famous Balochi proverb on revenge: "the Baloch's revenge for blood remains as young for two hundred years as a deer of two years" (Mohyuddin, 2015). This clearly demonstrates Baloch's behavior towards revenge.

The method of taking revenge was that it was performed in proportion to the offence committed. However, different ways which were considered essential were applied and used to avenge. For example, Baloch used Guerilla tactic of hit and run to avenge Blood of his brother, Doda (Dashti, 2019).

This custom led to wars among tribes. Therefore, Naseer Khan the Great and British after him took initiatives by introducing compensation for death as a law. Principle of compensation was again derived from customary laws of Baloch (Inayatullah, 1987). Revenge was claimed as a right and it was recognized as such although causing great loss.

### **War laws**

As a rule of war among Baloch, battles were always initiated outside the general population and homes. Baloch women, in case of intertribal battles, were never enslaved. No homes were attacked after gaining victory in the war zone. Battles were always fought in open fields. Women, children and old aged were never harmed or murdered as they were considered as non battler (Dashti, 2019). Some major principles of war are as follows:

1. The Sanctitude of home was never violable
2. "Men of low castes, minstrel and clergymen were never put to death."
3. Old aged, children and women were never harmed and killed
4. Wounded enemy was never slain.
5. Enemies who ran from warzone were never followed and massacred
6. Armed conflicts were fought out of general public (Dashti, 2019).

### **Sanctity of home**

A Baloch was under duty not to infringe the sanctity of home of a Baloch. The home of a Baloch was inviolable under all circumstances. Sanctity of home was respected and honored to the extent that even if a criminal stepped in home of a Baloch, there remained no justification to approach and arrest him because now he was not only considered a guest but also a Bahoot, thus safeguarded no matter what the consequences. Sanctitude of home was a generally and collectively recognized custom and was observed by all reciprocally (Dashti, 2019). Even till to date, the Sanctitude of home is respected among Baloch.

### **Bijaar**

In the primitive and the subsequent tribal society, Baloch lived a shared and collective life. Sense of collectivity was a sense of security and was maintained by customs like Bijaar/Bijaari.

Bijaar was a help which could be attained in times of marriage, death, or losses of any kind or work that needed abundant expenses. It was mostly provided to the needy, but actually it existed as reciprocal and mutual practice. It was a voluntary assistance whose renderence was considered a moral duty. The modicum of this act was not fixed. It always depended upon the capacity of the performer.

In the tribal structure, the men of tribe also voluntarily contributed to various 'expenses' of Sardar. This practice became institutionalized and the tribal chief was given Bijaar after every season of harvest. As the tribal society became disintegrated in nineteenth century, this practice was used as a tool to get forced labor and assistance by the Sardar from tribe men (Dashti, 2019). This traditional practice thus lost its inherent worth and force. It became a tool of oppression.

The person who wanted bijjar was not personally supposed to approach the tribesmen. Often a responsible person was appointed for the job. At times, the Sardar would also order the tribesmen for bijjar to the needy.

### **The family laws**

#### **Divorce**

Divorce was extremely disliked among Baloch. It was considered an embarrassment. As per custom, where a woman was divorced because of her own fault, the husband was entitled of return of dower or revocation of it where it was contingent. In other cases, the husband had no right to claim dower i.e. when he himself was the cause of dissolution of marriage. No formal ritual or practice existed for revoking marital ties. It was annulled in a simple way (Dashti, 2019; Muzaffar, et al. 2018).

#### **Laws on Adultery (Siahkari)**

An unfaithful and adulterous woman's punishment was death. Where a married woman eloped, she was handed capital punishment. But if she sought refuge at Sardar's or village head's home after her alleged adultery, she was protected by them until a final adjudication of the dispute. Such woman was mostly divorced. The husband was necessarily recompensed by her family. The lover was often forced to marry her as no other person was willing to wed her. But the adulterous man was not bound to tie the knot with her because, as per the customs, she was seen as betrayer of her own husband. This act remained a bad sign on her character forever. Thus, she was not approved and appreciated. The Punishment of adultery was not awarded by the husband alone. It could be executed by any one of his family members. The husband's enmity with the adulterous man continued even after his wife's divorce. Such man often left the place and remained in an unknown or different area. Where adulterous man refused to marry her, she was married often to outsider and unknown person who had no knowledge of the entire affair. Where such woman or man was murdered for adultery, no formal ritual was observed for burial of them (Dashti, 2019; Muzaffar, et al. 2018a). They were dubbed a curse and embarrassment for the family.

A family member was not entitled to claim recompense for adulterer and adulteress killed for adultery (Mohyuddin, 2015).

#### **Legal protection of vulnerable**

The customary law on weak and helpless sections of society lays down certain principles. It obliges the tribesmen not only to honor and respect weak and helpless but also refrain from harming and murdering them. Weak and helpless under Baloch Customary law means and includes: women, teenage under 17 years of age, religious minorities i.e., Hindus, persons of lower races i.e., slaves (locally called Ghulam, lori etc., a person residing in a worshipping place (Mohyuddin, 2015) .The weak and helpless were never harmed or killed in intertribal wars. They were immune and exempted.

**Conclusion**

The customary laws of ancient Baloch were categorized and described in a simple descriptive pattern. They were placed in three categories: constitutional, procedural, and substantive. The institute of Sardar and council of elder which formed the parliament derived from constitutional customary laws. The judicial institute of Me'rh, Jirga and Diwan come from procedural customary laws. Finally, substantive customary law consists of Beer (revenge) Bahooti, war ethics, Bijaar, marriage laws, laws on minorities and weak sections of the society. This paper elaborated above categories of customary laws briefly in separate sections.

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