

**Exploring the Processes of Informal Justice System in  
Resolving Gender-Based Violence: A Case Study of Mansehra City**

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**Abstract**

Gender-based Violence (GBV) remains a prevalent issue in Pakistan. The GBV cases are often settled through Informal Justice System which functions more as a reconciliatory body than a provider of justice to victims. This study explores the processes of the informal justice system, specifically the Jirga, in addressing GBV within the context of Mansehra City. The research examines the structure, function, and effectiveness of the Jirga in resolving GBV cases, focusing on the challenges faced by women seeking justice through this system. Issues such as patriarchal practices, lack of female representation, and societal pressures often undermine the resolution process, leaving female victims with limited options for justice. Through qualitative methods, including interviews with female respondents and other key actors, the study reveals that while the Jirga provides a quicker, more accessible, and culturally relevant means of dispute resolution, it frequently perpetuates gender biases and patriarchal norms. Main findings indicate that women in joint family structures experience higher incidences of GBV due to domestic power struggles, while nuclear families report fewer conflicts but face financial constraints. The preference for the Jirga, cited by 90% of respondents, stems from its cost-effectiveness and cultural alignment, yet its male-dominated structure often marginalizes women's voices and concerns. The study highlights the need for reforms in formal and informal justice systems, emphasizing the importance of incorporating gender sensitivity and inclusivity. Recommendations include fostering community awareness, enhancing women's education, and creating hybrid justice mechanisms that integrate the accessibility of the informal system with the procedural rigor of the formal system. The findings underscore the critical role of education and societal support in reducing GBV and fostering a safer environment for women in Mansehra City.

**Keywords:** Gender-based Violence (GBV), Informal Justice System, Jirga, Patriarchal Practices, Female Representation, Dispute Resolution, Cultural Relevance

**1-Introduction**

Gender-Based Violence (GBV) refers to harmful acts directed at individuals based on their gender, stemming from power imbalances and systemic inequalities (UN Women, 2021). It manifests in physical, sexual, psychological, and economic forms, such as domestic abuse, sexual harassment,

emotional coercion, and financial control (World Health Organization WHO, 2021). GBV disproportionately affects women and girls, with its roots often embedded in patriarchal traditions, rigid gender roles, and harmful societal norms. Practices like forced marriages, honor killings, and dowry violence further perpetuate this issue, reinforced by inadequate legal protection and societal acceptance (Amnesty International, 2020). Gender-Based Violence (GBV) is a global issue affecting individuals across all cultures, regions, and socioeconomic backgrounds. The World Health Organization (WHO) reports that approximately 1 in 3 women worldwide have experienced physical or sexual violence in their lifetime, making it one of the most pervasive human rights violations (WHO, 2021). GBV exists in various forms, including intimate partner violence, sexual violence, human trafficking, and harmful practices like female genital mutilation and child marriage (UN Women, 2020). While women and girls are disproportionately affected, men, boys, and individuals from marginalized communities, including LGBTQ+ groups, are also vulnerable to GBV due to intersecting forms of discrimination (UNHCR, 2021).

Gender-based violence in Khyber Pakhtunkhwa, particularly in Mansehra City district, has seen a concerning rise. Instances of domestic violence, forced marriages, and honor killings are prevalent, reflecting deep-rooted patriarchal norms and systemic issues. For example, in Mansehra City, cases of domestic violence often go unreported due to societal pressures and lack of support systems. A notable incident includes the tragic case of a young woman who was brutally murdered by her husband for not bringing dowry, highlighting the severe consequences of dowry-related violence (Khan, 2023). Furthermore, the Human Rights Commission of Pakistan reported most cases in the region where women endure physical and psychological abuse within their homes, worsened by insufficient legal protections and enforcement (HRCP, 2022). Tackling these issues demands collaborative efforts from local authorities and civil society to establish robust legal frameworks and support mechanisms for victims of GBV (Jahangir, 2023).

The informal justice system, often referred to as traditional or customary justice, is a non-state mechanism for resolving disputes that operate outside the formal legal framework. It is typically rooted in cultural, social, and religious norms, with community elders or respected figures serving as the primary decision-makers. In many societies, such as in rural or tribal regions, informal justice systems like the jirga in Pakistan or Afghanistan, or the panchayat in India, play a significant role in maintaining order and resolving conflicts. These systems are often seen as more accessible, quicker, and less costly than formal courts. However, they can also be criticized for reinforcing traditional power structures, excluding marginalized groups—particularly women—and sometimes delivering biased or unjust outcomes. Despite these criticisms, informal justice systems remain deeply entrenched in many communities, with ongoing efforts to reform them in ways that ensure more equitable treatment and align them with international human rights standards. The jirga system is an ancient conflict resolution and governance method used by the Pashtun people in Afghanistan and Pakistan. Originating with the Aryan tribes who migrated from Central Asia, jirgas traditionally involve male elders who make decisions by consensus, based on the Pashtunwali code of honor, hospitality, and justice. During British colonial rule, the 1901 Frontier Crimes Regulations institutionalized the jirga system within the tribal areas of Pakistan, formalizing but also limiting its traditional autonomy (James, 1990).

The Jirga, a traditional assembly of elders, holds significant importance in resolving disputes within tribal and rural communities in South Asia, particularly in Pakistan and Afghanistan. Rooted in centuries-old customs, the Jirga operates as an informal justice system offering quick, accessible, and culturally relevant solutions. Its primary function is to maintain social harmony by mediating conflicts, including cases of gender-based violence (GBV). Given the complexities and delays often associated with formal legal systems, many communities prefer the Jirga for its perceived efficiency and alignment with local traditions (Yousaf, 2020).

### **1.1 Problem Statement**

In Mansehra, the persistence of GBV, despite formal legal mechanisms, highlights the limitations of the justice system in reaching marginalized groups, particularly women. This gap has led to the reliance on informal justice systems, such as the jirga, for conflict resolution. While jirgas are deeply rooted in cultural traditions and offer accessible dispute resolution, their male-dominated structure and potential gender biases raise concerns about their capacity to address GBV equitably. This Study investigates the role of Mansehra's jirga system in addressing GBV and family disputes, exploring its challenges and potential for reform. It seeks to identify how these informal systems can be better aligned with gender-sensitive practices to mitigate GBV effectively, contributing to the broader discourse on integrating cultural traditions with contemporary justice needs.

### **1.2 Objectives**

1. To explore the functioning, structure and processes of the Jirga in Mansehra City, with a focus on how this informal justice system resolves cases of gender-based violence (GBV).
2. To determine people's preference for the informal justice system (jirga) or the formal justice system in resolving disputes.

### **1.3 Significance of Study**

This study is crucial as it addresses the role of informal justice systems, particularly the jirga, in resolving gender-based violence (GBV) in Mansehra City. In regions like Mansehra, where formal legal systems may be perceived as slow, inaccessible, or biased, informal systems like jirgas often serve as primary mechanisms for conflict resolution. By evaluating the effectiveness of jirgas in handling GBV cases, this research offers insights into the strengths and limitations of such systems in managing sensitive issues, like gender-based violence, in rural and semi-urban contexts.

## **2-Literature Review**

Gender-based violence (GBV) and family issues present complex challenges in societies worldwide, necessitating multifaceted approaches for effective mitigation and resolution. GBV encompasses a range of harmful behaviors directed at individuals based on their gender, including physical, sexual, and psychological abuse, as well as economic deprivation and coercion (WHO, 2021). These issues not only affect the victims but also have far-reaching impacts on families, communities, and societies at large. Informal justice systems, which include community-based dispute resolution mechanisms such as jirgas and panchayats, have emerged as significant avenues for addressing GBV and family issues. These systems are particularly prevalent in regions where formal justice mechanisms face limitations in accessibility and cultural relevance (Ahmed, 2018). Formal justice systems, which include courts and legal institutions, often face barriers such as bureaucratic inefficiencies, high costs, and a lack of cultural sensitivity, making them less accessible to marginalized populations in regions like Mansehra, Pakistan, traditional structures such as jirgas play a crucial role in the community. Jirgas are assemblies of local elders and community leaders who convene to resolve disputes and make decisions on various issues, including those related to GBV and family matters. These informal justice systems are deeply rooted in local traditions and cultural practices, which can make them more acceptable and accessible to the local population compared to formal legal institutions (Hussain & Khan, 2020). The effectiveness and fairness of informal justice systems are subjects of ongoing debate. Concerns about bias within these systems, particularly against women, have been raised. Patriarchal norms often shape perceptions of justice and gender roles within these communities, leading to inequalities in decision-making processes (Malik & Khan, 2019). For instance, practices

such as "swara," where girls are given in marriage as compensation for resolving disputes, highlight the systemic challenges faced by women in accessing justice (Asad, 2021). This practice is deeply rooted in cultural traditions but raises significant human rights concerns. The discrimination and marginalization of women in these systems are further exacerbated by traditional and social norms that perpetuate patriarchal systems. In Pakistan, for example, these norms contribute to the segregation of women and limit their opportunities for education, employment, and participation in public life (Awan, 2005). The recent surge in domestic abuse cases, particularly during the COVID-19 lockdown, has underscored the urgency of addressing these issues (Khan, 2020).

The structure of jirgas and panchayats usually involves a group of male elders who are respected for their wisdom, experience, and social standing. These elders gather to hear cases and make decisions based on traditional laws and customs (Hussain & Khan, 2020). The process is typically less formal than in courts, with an emphasis on reconciliation and restoring social harmony rather than punitive measures (Ahmed, 2018). In cases involving GBV and family issues, these bodies aim to mediate disputes and offer resolutions that are intended to be quick and cost-effective. For example, in disputes between families, a jirga may facilitate a compromise or an agreement that both parties find acceptable (Hussain & Khan, 2020). This can be particularly beneficial in areas where legal proceedings in formal courts are slow, expensive, and perceived as biased or corrupt. One of the primary benefits of community-based dispute resolution mechanisms is their accessibility. In many rural and remote areas, formal legal institutions are not easily accessible due to geographical, financial, and social barriers (Ahmed, 2018). Jirgas and panchayats, on the other hand, are locally based and can provide immediate relief to disputing parties. This immediacy is crucial in urgent cases, such as those involving domestic violence, where timely intervention can prevent further harm. These traditional mechanisms are cost-effective. Formal legal proceedings often involve significant expenses, including legal fees and court costs, which can be prohibitive for many individuals, particularly in poorer communities (Hussain & Khan, 2020). In contrast, jirgas and panchayats typically do not charge for their services, making justice more accessible to those in need. Despite their benefits, community-based dispute resolution mechanisms are not without their challenges and criticisms. One of the major concerns is the potential for bias, particularly against women and marginalized groups. These traditional bodies are often dominated by male elders who may hold patriarchal views, leading to decisions that reflect and reinforce gender biases (Malik & Khan, 2019). For instance, practices such as "swara," where girls are given in marriage as compensation for resolving disputes, are indicative of the systemic gender inequalities present in these systems (Asad, 2021).

Concerns about bias within informal justice systems, particularly against women, have been widely raised. These biases are deeply rooted in patriarchal norms that shape perceptions of justice and gender roles within many communities. This often leads to significant inequalities in the decision-making processes of traditional dispute resolution mechanisms such as jirgas and panchayats (Malik & Khan, 2019). The implications of swara are profoundly detrimental to the girls involved. They are treated as commodities, with their well-being and consent being secondary to the resolution of the dispute. This practice not only violates their basic human rights but also subjects them to a lifetime of potential abuse and marginalization (Asad, 2021). The persistence of swara highlights the systemic challenges women face in accessing justice within these traditional frameworks. The biases inherent in informal justice systems severely impact women's access to justice. Decisions made by jirgas, and panchayats often reflect the gendered power dynamics of the community, with women bearing the brunt of these inequities. For instance, in cases of domestic violence, women may be pressured to reconcile with their abusers or may receive little to no support or protection from the jirga (Hussain & Khan, 2020). Addressing the biases in

informal justice systems requires concerted efforts to reform these structures and integrate them with formal legal mechanisms. Educating jirga and panchayat members about national laws, human rights standards, and gender equality is essential. This education can help mitigate some of the biases and ensure that decisions are more aligned with contemporary legal and ethical standards (ibid).

The jirga, a traditional assembly of elders in Pashtun culture, often perceives "Swara" as a legitimate approach to dispute resolution. Swara is a custom where young girls, often minors, are given in marriage to the family of an offended party as compensation for resolving a conflict, which may even involve a homicide (Asad, 2021). This practice is deeply entrenched in the cultural traditions of the Pashtun people, particularly in regions such as Swat. Swara is deeply rooted in the Pashtunwali, the traditional ethical code of the Pashtun people, which emphasizes honor, revenge, and the maintenance of social harmony. Within this context, swara is seen to restore peace and honor between feuding families. By offering a young girl in marriage, the offending party seeks to appease the aggrieved party and resolve the conflict without further violence (ibid). This practice places a significant burden on the girls involved, who are treated as commodities rather than individuals with their own rights and autonomy. These girls often face a lifetime of subjugation, abuse, and marginalization, as their marriages are not based on mutual consent but rather on the need to settle a dispute (ibid).

Gender-based violence (GBV) in Mansehra City is deeply intertwined with the social fabric and dynamics of the community. Social hierarchies and gender roles significantly influence the prevalence and forms of GBV. In many households, women are often seen as subordinates to men, which perpetuates power imbalances and justifies abusive behavior. The community's collective mindset often dictates the social acceptability of such violence, where patriarchal norms are prevalent, thereby enabling the continuation of GBV (Khan, 2023). Understanding these dynamics is crucial for developing effective interventions and supporting mechanisms. Cultural norms in Mansehra City play a critical role in shaping attitudes and behaviors toward GBV. These norms, deeply rooted in tradition and often reinforced by community elders, dictate acceptable behavior for both men and women. Practices such as dowry, child marriages, and the preference for male children contribute to an environment where women are devalued and susceptible to violence (Hussain & Khan, 2020). The jirga system, an informal justice mechanism, often reflects these cultural norms, making it challenging to address GBV effectively within its framework.

Jirgas and panchayats, traditional assemblies that operate parallel to the formal legal system, often exacerbate the problem of GBV. These informal justice systems tend to uphold patriarchal norms and values, which frequently result in decisions that are unfavorable to women. For example, in cases of domestic violence, these bodies may pressure women to reconcile with their abusers rather than seek justice (Khan & Nawaz-Allah, 2020). One of the key aspects of legal reform is to harmonize informal justice systems with formal legal standards. This can be achieved by training jirga and panchayat members on national laws and human rights principles. By aligning traditional practices with contemporary legal norms, it is possible to reduce biases and ensure that justice is administered fairly (Hussain & Khan, 2020).

The government's initiatives represent significant progress, but critical gaps remain in both policy formulation and implementation. For instance, the lack of effective monitoring mechanisms has led to inconsistencies in the enforcement of GBV-related laws (UN Women, 2021). Furthermore, the patriarchal nature of society often results in resistance to legal reforms, particularly in rural areas where informal justice systems dominate (Aurat Foundation, 2022). Another challenge is the limited capacity of shelter homes and crisis centers, which are often overcrowded and underfunded. Similarly, while training programs for informal justice systems are a step in the right direction, their impact is constrained by deeply ingrained cultural norms that prioritize traditional

practices over legal frameworks (Government of Pakistan, 2020). To address these gaps, there is a need for enhanced collaboration between government agencies, NGOs, and international organizations, as well as increased investment in public awareness campaigns and capacity-building initiatives (UN Women, 2021). Pakistan has made commendable efforts to address GBV through legislative measures and partnerships. However, the effectiveness of these initiatives is hindered by socio-cultural barriers and resource constraints. A more integrated approach, combining legal reforms, community engagement, and institutional capacity-building, is essential to create a safer and more equitable environment for women (Aurat Foundation, 2022).

The study by Khan and Nawaz-Allah (2020) underscores the immediate necessity for comprehensive legal reforms to address gender-based violence (GBV) in Pakistan. The infringement upon fundamental human rights, especially in the cases of GBV, is intolerable in contemporary society. The researchers argue that progress and development should be measured by the well-being of citizens, and systemic injustices against women must be eradicated. The existing legal frameworks in Pakistan, although designed to protect women, often fall short in practice. Issues such as weak enforcement of laws, lack of awareness among the populace, and societal acceptance of patriarchal norms contribute to the perpetuation of GBV. Despite the presence of laws like the Protection of Women Act 2006 and the Domestic Violence (Prevention and Protection) Act 2012, implementation remains inconsistent, leaving many women vulnerable to violence and exploitation (Khan, 2020).

### 3-Materials and Methods

The study utilized a combination of in-depth interviews and focus group discussions to gather comprehensive and detailed data. These qualitative techniques were selected for their effectiveness in eliciting rich, contextual information crucial for understanding the multifaceted nature of informal justice systems like the Jirga in Mansehra City. In-depth interviews were conducted with key informants, including members of the Jirga, victims of GBV, community leaders, and legal experts. Semi-structured interviews allowed participants to express their views and experiences freely while ensuring that all relevant topics were covered. The interviews focused on understanding the processes followed by the Jirga, the criteria for decision-making, and the perceived effectiveness and fairness of the resolutions. Participants were asked about their perceptions of the Jirga's role in resolving GBV cases, the nature of the cases handled, the decision-making criteria, the influence of cultural norms and values, and the outcomes of the resolutions.

#### 3.1 Study Area

Mansehra, a city located in the Khyber Pakhtunkhwa province of Pakistan, is renowned for its rich cultural heritage and diverse population of 1,797,177. The city is a unique blend of urban and rural characteristics, making it an ideal setting for exploring the dynamics of informal justice systems. This study focuses specifically on Tehsil Mansehra in District Mansehra, aiming to capture the nuances of both urban and rural environments.

**Table 1 Population census and Literacy Ratio**

<b>Population Census (2017)</b>		
Total Area of District Mansehra: 4,125(SQ.KM)		
<b>Male</b>	<b>Female</b>	<b>Total Population</b>
771,976	783,509	1,555,742
<b>Literacy Rate of Population</b>		
<b>Literacy Rate</b>	<b>Female Literacy Rate</b>	<b>Male Literacy Rate</b>
74.10%	59.86%	62.14%

To achieve a balanced perspective, two Village Councils (VCs) were selected to represent these diverse settings: VC Nogazi as the urban site and VC Labarkot as the rural site. A total of 60 respondents were chosen, with an even distribution between these two VCs. This selection ensures a comprehensive understanding of the community's preference for the informal justice system (jirga) versus the formal justice system in resolving disputes.

Urban Site	Rural Site
VC Nogazi	VC Labarkot

**Table 2 Study Area Divide** Nogazi, Urban Site: VC Nogazi

VC Nogazi, an urban area of Tehsil Mansehra, developed infrastructure, diverse occupations, and access to formal legal institutions. It offers a unique lens to study the coexistence of the jirga system with formal justice mechanisms and the interplay between modernity and tradition in addressing GBV cases. VC Labarkot, a rural area of Tehsil Mansehra, is marked by a traditional lifestyle, limited formal legal access, and a closely-knit community. It provides insights into the reliance on the jirga system and the cultural and social factors shaping the preference for informal justice in resolving GBV cases.

### 3.2 Sampling Techniques

The study employs two sampling methods to gather relevant data: purposive sampling and snowball sampling. Purposive sampling and snow ball sampling for the data.

#### Sample Size

The sample size for this study was n=80.

Participant Category	Number of Participants	Percentage
Women Victims of GBV	60	75.0
Lawyers	4	5.0
Police Officials	5	6.25
Dispute Resolution Council	5	6.25
Community Leaders	6	7.5
<b>Total</b>	<b>80</b>	<b>100</b>

**Table 3 sampling Size**

This study includes diverse participants providing comprehensive insights into the dynamics of resolving gender-based violence (GBV) cases through the informal justice system. Women who have experienced GBV and interacted with the Jirga share their challenges, perspectives on fairness, and the system's effectiveness. Legal professionals with expertise in GBV cases offer valuable insights into the formal justice system and its interaction with the Jirga. Law enforcement personnel involved in GBV cases provide perspectives on the challenges of enforcing laws and the role of the informal justice system. Members directly involved in dispute resolution, including GBV cases, contribute to understanding the decision-making processes and the influence of cultural norms. Additionally, local figures, such as political, religious, and elder leaders, are included, with three participants each from VC Nogazi (urban) and VC Labarkot (rural), to examine how their roles shape justice outcomes in both urban and rural settings.

#### Participant Codes

Participant Category	Number of Participants	Codes
Women Victims of GBV	60	WV-01 to WV-60
Lawyers	4	L-01 to L-04

Police Officials	5	PO-01 to PO-05
Dispute Resolution Council	5	DRC-01 to DRC-05
Community Leaders	6	CL-01 to CL-06

### 3.3 Data Collection

Data collection involved in-depth interviews and focus group discussions (FGDs) to gather rich qualitative data on the informal justice system in Mansehra and its role in resolving gender-based violence (GBV) cases. To ensure ethical and sensitive data gathering, my clinical psychologist sister accompanied me during most interviews, providing professional support and creating a comfortable environment for participants. In highly sensitive cases, she conducted interviews independently, using her expertise to build trust and rapport. Additionally, a local batch mate helped identify and reach out to participants, leveraging community knowledge to ensure diverse representation. This collaborative approach combined professional expertise and local insight, ensuring safe, ethical, and confidential data collection.

### 3.4 For Qualitative Data

- Audio-recorded interviews were transcribed verbatim.
- Codes were made from the transcripts to identify recurring themes and patterns related to gender-based violence, informal justice systems, and societal norms.
- Themes were made based on coded data, and relationships between themes were explored.
- The themes were interpreted to gain a comprehensive understanding of the experiences of women facing gender-based violence and the role of informal justice systems, specifically the jirga, in addressing such issues in Mansehra.

## 4- Data Analysis

### For Quantitative Data

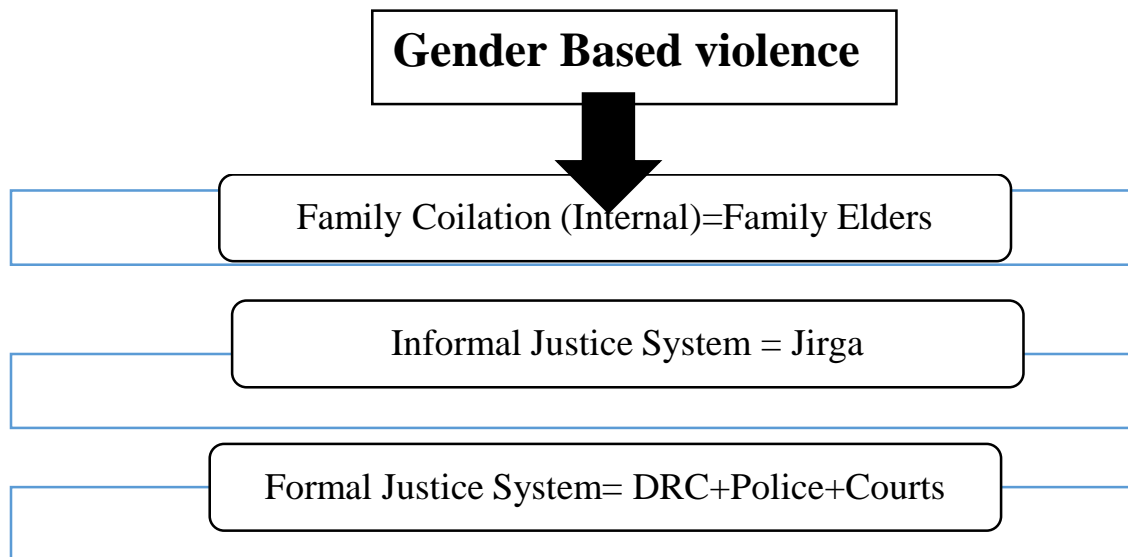
Descriptive statistics were used to assess the information gathered from questionnaires. Once submitted, sample size data were shown graphically and tabulated in a Microsoft Office Excel file. Highlighting the key points and conceiving and grouping the material into themes assisted in creating a section in the case of interviews that was studied using thematic analysis.

## 4- Results and Discussions

The analysis focuses on the structure and functioning of the Jirga system and how the Jirga resolves gender-based violence cases. The findings are discussed in relation to both theoretical frameworks and practical implications for policymaking and community-based interventions.

Victims of gender-based violence (GBV) in the study area often resort to informal methods of handling their situations, such as seeking help from family members, community leaders, or the Jirga system. Many women prefer these approaches due to their accessibility, cultural familiarity, and lower costs, though the lack of formal legal protection can sometimes exacerbate the abuse. In some cases, victims may tolerate or endure violence due to social pressure, financial dependency, or fear of social stigma. This tolerance is often reinforced by the patriarchal norms deeply ingrained in the community, which discourage women from voicing their suffering or seeking justice. As a result, the informal systems, despite their accessibility, may fail to provide equitable resolutions, particularly when addressing cases of severe abuse or challenging entrenched gender biases.





**Figure 1 How Victims Handles GBV cases**

Victims of Gender-Based Violence (GBV) utilize various methods to address their situations, depending on the cultural, social, and legal frameworks available. One of the primary approaches is through family coalitions, where family elders mediate and resolve disputes. This method is widely preferred in many communities due to its privacy, cost-effectiveness, and alignment with cultural traditions. Family coalitions provide a space for victims to voice their grievances within a familiar and supportive environment. However, these coalitions may often prioritize family unity over justice, leaving victims vulnerable to compromised resolutions.

Another widely used method is the informal justice system, particularly the Jirga, a traditional assembly of community elders. Jirgas are valued for their accessibility, swiftness in decision-making, and their grounding in local cultural norms. They provide an alternative to the formal legal system, especially in regions where accessing courts or police can be challenging. However, Jirgas are often criticized for their male-dominated structures, which may marginalize women and overlook their rights. Despite these concerns, many victims turn to Jirgas because of the trust placed in their decisions and the cultural legitimacy they hold within the community.

In contrast, the formal justice system, which includes the involvement of police, courts, and Dispute Resolution Committees (DRCs), offers a structured and lawful avenue for addressing GBV. Victims approach the police to report incidents and seek immediate protection, while courts handle legal proceedings to ensure justice is served. However, many victims face significant barriers when engaging with the formal justice system, such as lengthy legal procedures, high costs, and fear of retaliation or social stigma. To address these challenges, DRCs provide a hybrid model, combining elements of mediation and legal intervention to resolve disputes more efficiently. Although the formal justice system provides a robust framework for ensuring accountability, it remains underutilized in many cases due to systemic inefficiencies and a lack of victim support services.

**Cases Handled through Different Forums**

Forum Type	Number of Cases	Resolved/ Unresolved
Family Coalitions	18	Resolved and satisfied
Jirga (Informal Justice)	28	26 resolved and 5 feeling not satisfied

Formal Justice System (Police, Courts, DRCs)	14	5 are Resolved and 9 Are Under-Trial in Family Court Mansehra
<b>Total</b>	<b>60</b>	

The Jirga, a traditional community-based conflict resolution mechanism, handled 46.7% of the cases. Although this system was able to resolve 26 out of 28 cases to the satisfaction of the victims, there were 2 cases where the outcome was unsatisfactory. The Jirga is often seen as an effective means of resolving disputes quickly, and its ability to provide swift resolutions is one of the key factors that make it attractive to victims of GBV. However, the Jirga system has notable limitations, particularly its male-dominated structure. This dynamic can marginalize women and hinder their ability to fully participate in the decision-making process. Additionally, while the Jirga is culturally legitimate and trusted by the community, its informal nature lacks the legal protection that the formal justice system can offer. The fact that 2 cases were left unresolved or unsatisfactory highlights that even in informal systems, there are challenges in ensuring that all parties, especially women, receive fair treatment.

The handling of GBV cases in the study area reveals a clear preference for informal justice systems due to their cultural familiarity, accessibility, and efficiency in resolving disputes. However, the limitations of these systems, such as their male-dominated nature and lack of formal legal protections, underscore the need for reform and improvement in both informal and formal justice mechanisms. The formal justice system, while crucial in ensuring long-term accountability and legal protection, remains underutilized, primarily due to systemic inefficiencies and barriers faced by victims. This analysis highlights the complexities and challenges that victims face in seeking justice, and the need for a balanced approach that combines the strengths of both informal and formal systems to ensure fair and effective resolutions for all parties involved.

- **Structure of the Jirga System**

**Membership:** The Jirga is composed of respected elders or community leaders, often men, who are considered wise and knowledgeable in local customs, traditions, and the law. These elders are typically not elected but hold positions of influence through experience and age. Their authority is based on communal respect.

**Leadership:** While there is no formal leader of the Jirga, a senior figure, often referred to as the chief or chairman, may preside over the discussions. This person ensures that all voices are heard and that decisions are made collectively. However, decision-making is usually consensual, with all members contributing equally. **Participants:** The Jirga typically involves male representatives from the two or more parties involved in the dispute. In some cases, women may be represented by male relatives, though women's direct participation is rare due to cultural norms. The male-dominated nature of the Jirga is one of the major criticisms of the system, particularly in cases involving gender-based violence.

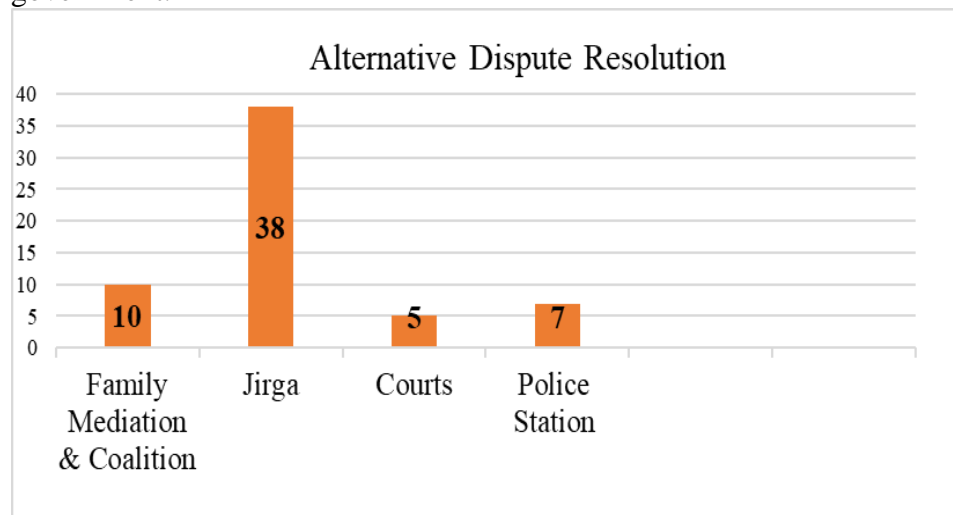
- **Function of the Jirga System**

**Conflict Resolution:** The primary function of a Jirga is to resolve disputes, which can range from familial conflicts to more serious issues such as land disputes, criminal offenses, or cases of violence. The Jirga aims to mediate between the conflicting parties and arrive at a resolution that is acceptable to both sides. This is often done by listening to the grievances of each party and then discussing possible solutions in an open forum. **Decision-Making:** Decisions are typically reached through consensus rather than a majority vote. The elders deliberate on the case, weighing the cultural norms, traditions, and local laws. In some cases, the Jirga may impose a punishment or suggest compensation to restore balance, such as financial restitution or a promise of reconciliation

between the parties involved. Enforcement: While the Jirga does not have formal legal powers, its decisions are generally respected because of the community's reliance on tribal customs. Social pressure and the potential for ostracism often ensure compliance. In some cases, if the decision is not respected, the Jirga may hold further meetings to attempt to enforce the agreement.

Role in Gender-Based Violence (GBV): One of the most controversial aspects of the Jirga is its handling of gender-based violence. Although the Jirga is seen as a tool for providing quick and accessible justice, there are concerns about its ability to protect the rights of women. The male-dominated structure often results in decisions that reflect patriarchal values, and in some cases, women may be pressured into accepting resolutions that are not in their best interest. For example, in cases of domestic violence or honor killings, the Jirga may prioritize family reputation or economic considerations over the safety and rights of women

Respondents identified several Alternative Dispute Resolution (ADR) forums prevalent in their area, including the Jirga, family coalitions, and gatherings led by community elders. These forums serve as informal mechanisms for resolving conflicts and disputes, offering an alternative to the formal legal system. The structure of these ADR forums is typically centered around respected societal figures, such as religious leaders, local elders, and sometimes influential political figures. These individuals are often seen as authorities within the community, and their judgments are viewed with respect and legitimacy, even though they are not officially recognized by the government.



**Figure 2 Resolved cases of respondents**

The bar graph presented highlights the various methods of alternative dispute resolution employed by respondents in the context of gender-based violence (GBV) and other conflicts within the community. The data shows a significant reliance on the Jirga system, with 38 respondents indicating it as their preferred method for resolving disputes. This figure overwhelmingly exceeds the other alternatives, suggesting that the Jirga plays a dominant role in the local conflict resolution landscape.

The high number of respondents favoring the Jirga indicates a strong preference for community-based solutions over formal legal avenues. Individuals may perceive the Jirga as more accessible, less intimidating, and potentially more effective in addressing their grievances. Many women are inclined towards the Jirga system, as it is seen as a more accessible and community-based approach to resolving disputes, particularly in sensitive cases such as gender-based violence (GBV).

One respondent shared her experience.

“Explaining that her brother-in-law had physically beaten her over a minor issue involving her son. She described the incident where her son was playing loudly and

accidentally disturbed her brother-in-law, who was sleeping. In response, he began to beat her son, and when she intervened, he turned his aggression towards her. The situation escalated within her family, leading to deep tensions between her in-laws and her own relatives. Eventually, they turned to Jirga for resolution. The Jirga ruled in her favor, and a decision was made for her husband to provide her with a separate house. As a result, her husband rented a separate house for her, allowing her to live independently and peacefully. This decision from the Jirga brought her a sense of relief and happiness, demonstrating the Jirga's potential in resolving conflicts in a way that addresses both the immediate concerns, and the long-term well-being of the individuals involved(WV-9 August-2024).

- **Strength of ADR**

Alternative Dispute Resolution (ADR) systems, such as the Jirga, offer several notable advantages that make them appealing alternatives to formal judicial processes, particularly in communities where access to courts may be limited or costly. According to my respondents, the primary advantages identified include cost-effectiveness, speed, community acceptance, and merit-based decision-making.

**Cost-Effectiveness:** A significant majority of respondents (around 85%) highlighted the affordability of the Jirga as one of its key benefits. Unlike formal legal proceedings that involve substantial expenses—such as lawyer fees, court charges, and other administrative costs—the Jirga’s services are often free or involve minimal expenses. One respondent shared, "In our area, many families cannot afford the court system. The Jirga is the only way for us to settle disputes without worrying about costs"(WV-12 August-2024). This accessibility ensures that even those from economically disadvantaged backgrounds can resolve conflicts, which is particularly important in rural communities where financial barriers to formal justice systems are high.

**Speed:** Speed is another important advantage of the Jirga system. As one respondent mentioned, "The Jirga solves issues quickly, sometimes in just a few days—while courts take months, even years"(WV-13 August-2024).The informal nature of the Jirga allows for rapid resolutions, avoiding the lengthy delays and bureaucratic obstacles that characterize formal courts. This is essential in maintaining social harmony and preventing conflicts from escalating, especially in communities where immediate resolution is critical to avoid further tension.

**Community Acceptance:** The Jirga is deeply rooted in local traditions and is widely respected within the community. According to 90% of respondents, decisions made by the Jirga are accepted because they align with local cultural norms and values. As one participant explained, "We trust the Jirga because its decisions reflect our customs and traditions. The community respects these elderly because they understand our way of life"(WV-14 August-2024).This cultural resonance ensures that the outcomes are not only understood but are also embraced, with many respondents stating that they adhere to Jirga rulings without the need for enforcement mechanisms.

**Merit-Based Decisions:** Another advantage, as emphasized by 80% of respondents, is the belief that the Jirga makes decisions based on merit. "The elders listen to both sides and make decisions based on what is fair,"(WV-15 August-2024) one respondent shared. The perception that the Jirga prioritizes the facts of the case—without bias—enhances its legitimacy. Community members often view the elderly as impartial and wise, which contributes to the trust placed in their decisions. This merit-based decision-making fosters fairness and makes it more likely that even the losing party will accept the outcome, minimizing the chances of further disputes.

While these advantages make the Jirga a practical and respected means of dispute resolution, there is a need to consider that the system’s reliance on traditional values and community leaders may sometimes overlook the needs and rights of marginalized groups. In particular, the

underrepresentation of women in Jirga decisions suggests a need for reforms to ensure inclusivity and fairness for all.

- **Weaknesses of ADR**

Despite the numerous advantages, the Jirga system has significant drawbacks, particularly when it comes to addressing women's rights and ensuring gender equality in decision-making. Respondents raised several concerns that undermine the effectiveness of the Jirga, especially in cases involving domestic violence and women's rights.

**Gender Bias and Underrepresentation of Women:** A recurring issue noted by 70% of respondents is the male-dominated nature of the Jirga. As one female respondent stated, "Women's voices are not heard in the Jirga. It's always the men who decide"(WV-15 August-2024). Elders who form the Jirga are typically male, and this leads to decisions that often fail to address the needs and concerns of women. Many respondents noted that women's grievances are sometimes dismissed or overlooked, especially when they involve issues that challenge traditional gender roles.

**Quick Resolutions Over Fairness:** The pressure to resolve conflicts swiftly in the Jirga sometimes results in compromises that prioritize family unity over justice, particularly in cases involving domestic violence. As one respondent observed, "The Jirga often focuses on getting a quick solution, even if it means sending a woman back to an abusive home"(WV-16 August-2024). This emphasis on speed over fairness may lead to decisions that superficially resolve the conflict but fail to address the deeper issues, such as the safety and well-being of women in abusive relationships. The desire to maintain family harmony often outweighs the need for a fair and thorough investigation of the situation.

**Patriarchal Norms:** There is also a widespread perception that the Jirga system is biased toward men. As one respondent stated, "In most cases, the Jirga rules in favor of the male family members, even when they are wrong"(WV-17 August-2024). The system's prioritization of social order and family cohesion often results in decisions that uphold patriarchal values. This bias is particularly evident in cases where the interests of male family members conflict with the rights of women. Many respondents mentioned that women who seek justice for issues like domestic violence or marital disputes often face pressure to compromise for the sake of maintaining family unity, even if it means sacrificing their own safety and dignity.

**Perpetuation of Gender Inequality:** Several respondents expressed concern that the Jirga, in its attempt to maintain social stability, perpetuates gender inequality. One respondent pointed out, "The Jirga doesn't protect women. It just keeps things the way they have always been"(WV-18 August-2024). This approach to conflict resolution fails to address the systemic issues of inequality, and in some cases, it may reinforce harmful practices that harm women, such as forced marriages or the acceptance of domestic abuse.

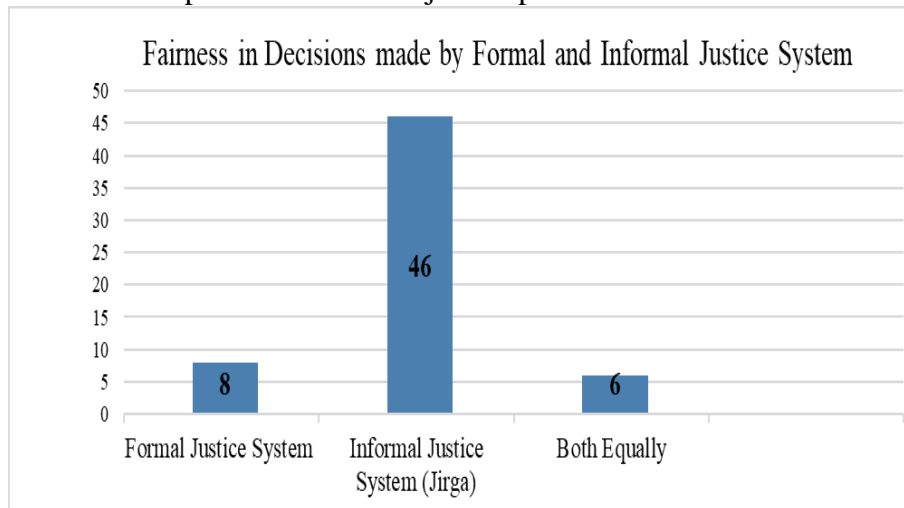
While the Jirga offers accessible, culturally accepted, and swift dispute resolution, its reliance on traditional norms and male-dominated leadership often undermines gender equality. The system's bias toward men and its focus on quick, often superficial resolutions make it ill-suited to address the complexities of women's rights, particularly in cases of domestic violence. Reforms are needed to ensure that the Jirga can serve all members of the community, including marginalized groups, while maintaining its cultural relevance.

- **Fairness in decisions made by formal and informal justice system**

The analysis of the preferences among 60 respondents in the study on "Fairness in Decisions Made by Formal and Informal Justice Systems" reveals significant insights into the community's trust in various conflict resolution mechanisms. A substantial majority, comprising 76.67%, expressed a preference for the informal justice system, commonly known as the Jirga. This preference highlights the community's inclination toward local, culturally rooted methods for resolving

disputes, indicating a deep-seated belief in the effectiveness and fairness of these informal processes.

In contrast, only 13.33% favored the formal justice system, suggesting a level of dissatisfaction or distrust in state-imposed legal frameworks. Additionally, 10% of respondents perceived both systems as equally fair, illustrating a nuanced understanding of the strengths and weaknesses inherent in each approach. These findings underscore the complex dynamics at play in the community's perception of justice and fairness, which warrant further exploration and consideration in the development of effective justice policies.



**Figure 3 Fairness in decisions made by formal and informal justice system**

- **Views on Formal vs. Informal Justice Systems**

A significant majority of respondents expressed a preference for the informal justice system, specifically the Jirga, over the formal court system when it comes to resolving disputes. The primary reasons cited for this preference are accessibility, affordability, and efficiency. The informal system is often seen as much quicker in resolving issues, as it bypasses the lengthy legal procedures and bureaucratic delays associated with the formal court system. In a community where economic constraints are common, the lower costs associated with the Jirga make it a more viable option for many families, as they do not have to bear the expenses of legal representation or court fees.

Many women reported that they felt more comfortable approaching a Jirga or a family coalition when seeking resolution for domestic disputes. The informal setting, often held within the familiar environment of the community, provides a sense of comfort and familiarity that is lacking in the formal justice system. The cultural relevance of the Jirga, deeply rooted in local traditions, contributes to its acceptance and trust within the community. For many, the Jirga is seen as an extension of their cultural identity, making its decisions and judgments more relatable and understandable compared to the formal system, which is viewed as more detached and complex.

- **Biases in Jirga Decisions**

Many respondents in the study pointed out that decisions made by the Jirga frequently reflect patriarchal biases that undermine women's rights and autonomy. This bias is deeply embedded in societal norms that prioritize male authority and family honor over individual well-being, especially for women. The prevailing belief that women should make compromises to preserve family honor significantly influences the outcomes of disputes brought before the Jirga. This expectation creates a culture where women's voices are often silenced, and their needs are marginalized, as the focus shifts to maintaining family cohesion and reputation rather than

ensuring justice and fairness. One respondent shared her experience, stating, "I was on merit, but due to bias, the decision was not in my favor. It was made to preserve my family and home rather than ensure justice" (WV-7 August-2024). Her account highlights how such biases can overshadow fairness in the Jirga system, reflecting a broader cultural tendency to prioritize collective reputation over individual well-being, especially for women.

The Jirga's decisions may be influenced by a desire to uphold traditional gender roles, reinforcing the notion that women should be submissive and compliant. When women are encouraged or coerced into compromising their rights and desires, it perpetuates a cycle of oppression that can lead to further instances of domestic violence and emotional abuse. The pressure to conform to patriarchal ideals not only silences women's grievances but also discourages them from seeking help or advocating for themselves in the future. This creates a system where women's issues are consistently deprioritized, leading to a pervasive culture of acceptance surrounding violence and mistreatment.

- **Analysis of Preferences for Informal vs. Formal Justice Systems**

A clear trend emerges in the study: 76.67% of respondents prefer the informal justice system (Jirga) over the formal justice system. This preference is primarily driven by the accessibility, affordability, and efficiency of the Jirga. The informal system, rooted in local customs and community structures, is often viewed as more approachable, especially for women and those with limited resources or education. Many respondents feel that the formal justice system is intimidating due to its complexity, high costs, and long procedural delays. The informal system, on the other hand, is more responsive and easier to navigate, which makes it a preferred choice for a significant portion of the community.

For example, one respondent shared, "I prefer going to the Jirga because it is nearby, and I don't need to worry about long waits or expensive fees like in the court system. The Jirga members are from our community and understand our issues" (WV-21 August-2024). This highlights the local nature of the Jirga, where its members are familiar faces within the community, making it more relatable and approachable, especially for individuals who may be intimidated by the formal legal system.

The preference for the Jirga is particularly strong among women, many of whom feel more comfortable approaching the informal system. As one female respondent stated, "I would never go to court because it feels so cold and distant. But with the Jirga, I can talk to the elders who know my family and understand the challenges we face." (WV-24 August-2024). This view suggests that the Jirga's familiarity and cultural connection make it a more appealing option, especially for women who may feel marginalized in a formal, often male-dominated, legal environment.

- **Cultural Relevance**

The Jirga holds significant cultural relevance for the community, making it a system that people are more comfortable with. For many, the Jirga represents a continuation of traditional dispute resolution methods that are deeply rooted in the community's customs and values. This cultural alignment makes the Jirga a more relatable and trusted system compared to the state-imposed formal justice system, which many feel disconnected from.

A respondent explained, "The Jirga is part of our tradition. The elders know the history of our families and understand our issues in a way that a court never can. They make decisions that fit with our way of life" (WV-25 August-2024). This illustrates how the Jirga is perceived as being deeply embedded in the social fabric of the community, with its decisions being seen as more culturally appropriate and in tune with local values.

- **Perception of Corruption**

The study reveals a significant contrast in how respondents perceive corruption within the two justice systems. A striking 86.67% of respondents view the formal justice system as corrupt, citing prevalent issues such as bribery, favoritism, and bureaucratic delays. One respondent shared, "The court system is all about money. If you don't have it, you don't get justice"(WV-29 August-2024). This sentiment underscores the widespread belief that the formal justice system is often inaccessible and biased, leading many to distrust its fairness.

However, a few respondents acknowledged that the Jirga is not entirely free from bias, particularly in cases involving male-dominated family structures. One female respondent commented, "Sometimes, the elders may be biased, but overall, I trust them more than the courts. At least I know they will listen"(WV-31 August-2024). This highlights the relative trust people place in the informal system, even if it is not without its flaws.

- **Gender Dynamics and Biases**

While the Jirga is widely preferred for its accessibility, cultural relevance, and efficiency, it also faces significant criticism for its patriarchal structure, which can lead to gender biases in decision-making. Several respondents acknowledged that decisions made by the Jirga often reflect patriarchal norms, prioritizing family honor over women's individual rights and autonomy. One respondent shared, "In the Jirga, it's always about keeping the family intact, even if it means ignoring the woman's pain or suffering"(WV-32 August-2024). This sentiment highlights the way the Jirga, despite its benefits, can sometimes reinforce traditional gender roles, where women's concerns are secondary to maintaining social and familial harmony.

- **Effectiveness of Resolution**

The effectiveness of the Jirga in resolving disputes is one of the key reasons for its widespread preference. Many respondents noted that the informal system is seen as faster and less expensive compared to the formal courts, which are often bogged down by legal complexities, long delays, and financial barriers. As one respondent explained, "When we go to the formal courts, it takes months, even years, to get a decision. The Jirga, on the other hand, resolves cases in days or weeks, and it doesn't cost much at all"(WV-36 August-2024). This sentiment was echoed by many, particularly those in rural or economically disadvantaged areas, where access to legal resources is limited.

- **Perception of Fairness in Both Systems**

Interestingly, 10% of respondents believed that both systems were equally fair. This group likely recognizes that each system has its own strengths and weaknesses, which can vary depending on the nature of the dispute. For instance, the formal justice system may be more suited for complex legal matters that require strict adherence to the rule of law, such as property disputes or criminal cases, where legal expertise and formal procedures are essential. On the other hand, the informal justice system, like the Jirga, is often seen as more appropriate for community-based disputes where a personalized, culturally resonant approach can offer quicker, more accessible solutions. One respondent explained, "In serious matters, like murder or theft, the formal system should take charge. But for smaller family issues or disagreements that are deeply rooted in our culture, the Jirga seems to work better"(WV-42 August-2024). This view suggests that there is potential for integrating both systems, with the formal justice system handling more complex, legal cases, while the informal system remains a trusted mechanism for resolving everyday disputes within the community.



- **Role of Women in Jirga Decisions**

One of the most significant concerns in analyzing the Jirga's role in dispute resolution is its gendered structure. Women's voices are often marginalized in Jirga decisions, as these forums are traditionally composed of male elders, reinforcing patriarchal biases. Many respondents noted that in cases of domestic violence, inheritance disputes, and other gender-specific issues, women's rights are frequently overlooked or inadequately addressed. One respondent shared, "In the Jirga, women's concerns are often dismissed because the elders are all men. It's difficult for us to get a fair hearing"(WV-43 August-2024).

This reflects the dual nature of the informal justice system: while it is culturally trusted, easily accessible, and rooted in local traditions, it often fails to provide equitable or just outcomes for women. The male-dominated nature of the Jirga means that decisions are typically made within the framework of traditional gender roles, which can limit women's access to justice.

- **Need for Reform**

The analysis suggests a clear and compelling need for reform in the informal justice system, particularly to address its gender biases. The male-dominated structure of the Jirga often perpetuates gender-based discrimination and undermines women's rights. Many respondents acknowledged the importance of the Jirga but also pointed out its limitations in dealing with issues that directly affect women. One respondent highlighted, "While the Jirga works well for some cases, when it comes to women's rights, it often falls short because the elders are mainly men who don't understand our struggles"(WV-45 August-2024).

Thus, reforms that balance inclusivity with the traditional strengths of the Jirga could offer a more equitable justice mechanism for everyone, ensuring that it becomes a system that truly serves all members of the community, irrespective of gender.

## **5-Conclusion**

This study sheds light on the pervasive issue of gender-based violence (GBV) in Mansehra, Pakistan, highlighting its impact on women and the role of informal justice systems, such as the Jirga, in resolving such matters. GBV, deeply rooted in patriarchal norms and harmful societal practices, continues to affect women and marginalized groups globally, exacerbating inequalities and hindering progress toward gender equality. The study found that while the Jirga is preferred by many due to its accessibility, affordability, and cultural relevance, concerns about gender biases, patriarchal decision-making, and lack of inclusivity remain significant challenges. The research also underscores the limitations of Pakistan's formal justice system, which is marred by corruption, political influence, and inefficiency, leaving many individuals, particularly women, vulnerable to injustice. The preference for the Jirga over formal legal channels reflects the distrust in institutional mechanisms and highlights the urgent need for reforms that can address systemic issues of inequality, corruption, and delays. Furthermore, the findings emphasize the importance of gender-sensitive training, gender-balanced representation, and accountability in the Jirga to ensure fairer outcomes for all individuals, especially women. Overall, this study contributes to the broader discourse on gender justice and the role of informal justice systems, providing valuable insights into the complexities surrounding the resolution of GBV in Mansehra. It advocates for a multifaceted approach to addressing GBV, combining legal reforms, community engagement, and awareness campaigns to create a more just, equitable, and inclusive society for all. As the findings of this research demonstrate, tackling gender-based violence requires a concerted effort from all sectors of society, including the government, community leaders, and the justice system. Meaningful change requires stakeholders to collaborate in making justice accessible, gender-sensitive, and supportive of victims. Empowering women and enacting culturally informed reforms are vital to reducing GBV and fostering a violence-free future.

## 5.1 Recommendations

1. Based on the findings of this study, several recommendations are proposed to address gender-based violence (GBV) and improve the effectiveness of justice systems in Mansehra City. First, it is crucial to initiate community-based awareness programs to educate individuals about GBV, its legal consequences, and the rights of victims. These programs should focus on empowering women to recognize, and report abuse while fostering an understanding of gender equality among all community members.
2. To improve the informal justice system, reforms in the Jirga are necessary to include female representation, ensuring that women's perspectives and concerns are adequately addressed. Establishing clear guidelines for fairness and impartiality in the decision-making processes of the Jirga is also essential. Additionally, mechanisms should be developed to enhance collaboration between formal and informal justice systems. Partnerships between Jirgas and local legal authorities can ensure that resolutions comply with national laws and human rights standards.
3. Community engagement and male involvement are also essential in challenging patriarchal norms and promoting a culture of respect and equality. Engaging local leaders and male allies can help dismantle harmful traditional practices and foster societal change. Advocacy for policies that regulate informal justice systems and align them with human rights principles is necessary, along with promoting laws that protect victims and prevent GBV.
4. Finally, systems for continuous monitoring and evaluation should be established to assess both informal and formal justice mechanisms regularly. These assessments can help identify areas of improvement and ensure accountability, with feedback from victims and stakeholders informing future reforms. These recommendations aim to create a balanced and just approach to addressing GBV, combining the strengths of cultural practices with the principles of fairness, equality, and legal integrity.

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