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Doing Pashto

Pashtunwali as the ideal of honourable behaviour and tribal life among the Pashtuns

1 EXECUTIVE SUMMARY

Various value systems are competing with each other in Afghanistan today. Our understanding of the Pashtuns, of their culture and traditional values is often overshadowed by the Taliban and their fundamentalist interpretation of Islam. This paper brings back into discussion a system of values and rules of behaviour which, for a rather long time before the rise of the Taliban, had been held sacred by virtue of tradition and which, by virtue of its imperative character, had been intended to determine the behaviour of the individual and of social groups in both everyday life as well as in exceptional situations.

In Pashto language, most of these values and rules of behaviour are summarised under the word 'Pashtunwali' which can be understood as 'the way of the Pashtuns'. Pashtunwali presents an ethnic self-portrait of the Pashtuns according to which the Pashtuns are distinct from other ethnic groups not only due to their language, history and culture, but also due to their behaviour. Since, according to this concept, Pashtuns are trusted and expected to act honourably, we can qualify Pashtunwali as a code of honour. 'Doing Pashto' means to act honourably and to be guided by the values of Pashtunwali.

Among the Pashtun tribes, these values and rules of behaviour have been transmitted orally for centuries, but as late as the 1950s, some Afghan men of letters became more and more interested in Pashtunwali when searching for the guiding

principles for a modern Afghan nation. Later on, Afghan scholars started to study Pashtunwali from a folkloric point of view. Thus, written accounts of Pashtunwali appeared, offering a view from inside the culture of the Pashtuns. Some of these are written in a didactic style and many reveal the philosophy behind particular values and rules. The perspective of these accounts is featured in this paper wherein Pashtunwali is described as the ideal of honourable behaviour and tribal life among the Pashtuns. Ideals never come up to reality, of course, but they serve as important guiding principles for behaviour.

The tribal spirit of the Pashtuns is explained here in the framework of a social organisation, which follows the principle of patrilineal descent and in which groups of different size (tribes, sub-tribes, clans, and lineages) can be distinguished depending on the genealogical depth taken into account. Although the majority of the Pashtuns adopted a settled lifestyle centuries ago, the tribal spirit and other aspects of Pashtunwali can be traced to their nomadic background. Since the Afghan state originally emerged from a Pashtun tribal confederacy, Pashtun tribes were favoured with much autonomy and other privileges within Afghan society. This, in particular, explains the persistence of the tribal spirit and tribal customs among the Pashtuns.

The rules of conduct of Pashtunwali follow the dichotomy of honour and shame. Behaviour, consequently, is guided by the question as to how it is evaluated in the eyes of others according to

the common understanding of honour and shame. The following values and rules of behaviour will be discussed in this paper:

- Honour of the individual and honour of groups
- Fighting spirit and bravery
- Equality and respect for seniors
- Consultation and decision making
- Willpower and sincerity
- Compensation and retaliation
- Generosity and hospitality
- Pride and zeal

A person who embodies almost all of the values and rules of behaviour of Pashtunwali and who leaves no doubt that he does his utmost to abide by them, is respectfully called *ghairatman*. He represents the ideal Pashtun.

Being an ideal of the tribal way of life, Pashtunwali also includes a system of customary legal norms (*narkh*) which is closely related to the code of honour. Since self-governance was one of the privileges which Pashtun tribes were traditionally granted in the state system of Afghanistan, customary legal norms were applied even to topics addressed by secular law. In remote rural areas, some customary legal norms remain important today and at times even Taleban leaders advise the members of their movement that they should solve disputes among the local population by applying tribal mechanisms of conflict resolution.

Whenever a commonly recognised norm is broken, the threatened group feels responsibility for taking measures against the norm-breaker in order to re-establish the previous balance and to retrieve their honour. Crimes which offend the whole community are differentiated from crimes which offend only a particular group of persons like a lineage or clan. Various habits and customs allow for avoiding a blood feud cycle and resolving a conflict peacefully. These mechanisms are based on the ideology of patrilineal descent, the tribal spirit and the code of honour as expressed in Pashtunwali. The customary legal system can vary in some details from tribe to tribe and from region to region. Variation mainly concerns the computation of the amount of blood money to be paid rather than the mechanism of conflict resolution.

It is important to stress that the society of Afghanistan, including Pashtun society, was subject to fundamental change in almost every respect during the last decades. As a result, today the ideals of Pashtunwali compete with other value systems that gained influence during that time.

The question how important Pashtunwali still is in modern Afghanistan cannot be answered in a general way. The transformation of formal and organisational aspects of the tribal life (principles of decision making, role of elders, art of warfare, inner coherence of tribal units and others) is more obvious than changes within the system of values. An evaluation of the present-day importance of Pashtunwali as a system of values requires qualitative case studies in various parts of Afghanistan that cannot be presented within this paper. It depends on every particular situation by which values the behaviour of individuals or groups is guided, but there is no doubt that among the competing value systems the ideals of Pashtunwali still continue to present an attractive and sometimes binding option today.

2 INTRODUCTION

In modern Afghanistan, the culture and way of life of the Pashtuns are usually viewed through the prism of the quite idiosyncratic interpretation of Islam presented by the Taleban. This perspective hinders the recognition of certain cultural values and rules of behaviour, which had been determining the way of life of many Pashtuns for a long time before the rise of the Taleban as a military and political movement, and which remain of considerable influence today.

In the Pashto language, most of these values and rules of behaviour are often summarised under the word Pashtunwali (*paštunwali*¹, also *paštunwālai* or *paštungalwi*). This word consists of the noun *paštun* 'Pashtun' and the suffix *-wali*, respectively *-wālai* or *-galwi*. In Pashto, these suffixes generate nouns with an abstract meaning. Hence, the word Pashtunwali (or its variants) can be translated literally as 'Pashtunness' or in a freer translation as 'the way of the Pashtuns'. Pashtunwali signifies a concept which can be interpreted as an ethnic self-portrait of the Pashtuns.² It includes all traditions by which the

¹ For Pashto words, a simplified system of Romanisation is used in this paper. Most characters and pairs of characters (*sh, zh, ch, kh, ai, au*) can be pronounced almost like in English. Following the Romanisation tables of the Library of Congress retroflex sounds are marked by a dot under a character. A macron over *a* (*ā*) shows that *a* must be pronounced as a long vowel. The character *ə* stands for a mid-central vowel sound (*schwa*) which is pronounced like *a* in English 'separate' (*sepərat*). The combination *gh* should be pronounced as guttural 'r' (sometimes known as French 'r').

² See Bernt Glatzer, 'Zum Pashtunwali als ethnischem Selbstportrait', in Günter Best and Reinhart Kößler (eds):

Pashtuns, according to their understanding, distinguish themselves from other ethnic groups. Like many other concepts which are aimed at shaping ethnic identity, Pashtunwali describes an ideal, in this case, the ideal of the way of life of the Pashtuns. This ideal includes the tribal spirit of the Pashtuns, a sophisticated code of honour, moral and ethical rules of behaviour, the demand for martial bravery, reasonable actions and consultation, a system of customary legal norms and not least, faith in Islam.³

The concept of Pashtunwali is an ethno-centric concept because it is based on the idea that the Pashtuns are distinct from other ethnic groups not only due to their language, culture and history, but due to their behaviour as well. The ideal of the way of life of the Pashtuns is sometimes confused with an ethnic stereotype, but neither the ideal nor the stereotype necessarily corresponds to actual behaviour. Furthermore, similar values, norms, customs and habits can be found among other ethnic groups in Afghanistan and Pakistan.⁴ But the Pashtuns have evolved these values, norms, customs and habits into a strong set of rules to a higher degree than most other ethnic groups of that region.⁵ For the Pashtuns, these rules define what constitutes honourable behaviour and they include various sanctions for those who are in violation of these rules. The idea that Pashtuns are

trusted and expected to act honourably therefore qualifies Pashtunwali as a code of honour.

When British officers and colonial servants took notice of the norms and values of Pashtunwali in the nineteenth century, they were interested above all in administrative and military questions and their main focus was on customary law and blood revenge.⁶ In the second half of the twentieth century, the norms and values of Pashtunwali engaged the attention of western anthropologists who analysed it in a wider perspective, bringing into focus moral and ethical values and rules of behaviour as well.⁷ In recent publications, Pashtunwali is usually seen in the context of the current war.⁸

Within Pashtun society, the values, norms and rules of Pashtunwali have been transmitted orally for centuries, although as early as the seventeenth century, the Pashtun poet Khushhāl Khān Khaṭṭak (1613-1689) wrote a book in Pashto prose that can be seen as the first attempt to define rules of behaviour for the Pashtuns. The word Pashtunwali, however, was not used in the text. The name of

Subjekte und Systeme: Soziologische und anthropologische Annäherungen. Festschrift für Christian Sigrist zum 65. Geburtstag (Frankfurt: IKO-Verlag 2000).

³ The word *paštunwāli* does not belong to the active vocabulary in all Pashto speaking regions. It seems that it is more frequently used in the south-eastern parts of Afghanistan (Khost and neighbouring provinces) than in the southern and western parts. However, this is rather a question of linguistic behaviour and does not mean that the ideals and values for which the word Pashtunwali can stand would not be valid in those regions where the word is less or not used in active speech. The expression *pašto kawāl*, 'doing Pashto,' in the meaning of following the ideal of honourable behaviour and tribal life is common to almost all Pashto speakers.

⁴ The difference is rather in the degree of rigour with which these ideals and values are pursued. For common values see, for example, the remarks on seclusion and dignity (*pət au 'izzat*), reputation and honour (*nang au ghairat*), loyalty and promise (*wafā au zhmāna*), shame and modesty (*sharm au hayā*) and others in the chapter 'Afghan habits' (*afghāni khuyuna*) in Aurangzeb Irshād, *Afghānistān pezhandāna* ['A country study of Afghanistan'] (Pešawur, Dānish khparanduya ṭolāna 1386 h. sh. = 2006) p. 327-333.

⁵ Some causes of this development will be discussed in chapter 2.

⁶ For example, Mountstuart Elphinstone, an officer of the East India Company who made an official mission to the Durrani winter residence in Peshawar in 1809, describes Pashtunwali in his report as a "rude system of customary law". See Mountstuart Elphinstone, *An Account of the Kingdom of Caubul*, 2 volumes (Karachi, Indus Publications 1992) p. 220.

⁷ See Alfred Janata and Reihanodin Hassas, 'Ghairatman – Der gute Paschtune', *Afghanistan Journal* (1975) 3:83-96, Charles Kieffer, 'Über das Volk der Paštunen und sein Paštunwali', *Pašto Quarterly* (1360/1981) 1:63-76, Jon W. Anderson, *Doing Pakhtu: Social Organization of the Ghilzai Pakhtun* (Chapel Hill: University of North Carolina 1979), Charles Lindholm, *Generosity and Jealousy – The Swat Pukhtun of Northern Pakistan* (New York, Columbia Univ. Pr. 1982), Willy Steul, *Paschtunwali: ein Ehrenkodex und seine rechtliche Relevanz* (Wiesbaden, Franz Steiner Verlag 1981), Bernt Glatzer, 'Zum Pashtunwali als ethnischen Selbstportrait'.

⁸ See, for example, Major Richard Tod Strickland, 'The way of the Pashtun: Pashtunwali', *Canadian Army Journal* (2007) 3:44-55, John H. Cathell, *Human geography in the Afghanistan-Pakistan region: Undermining the Taliban using traditional Pashtun social structures* (Newport, R. I.: Naval War College 2009) <http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA502894&Location=U2&doc=GetTRDoc.pdf> (referred to on 9 March 2011), Craig Cordell Naumann, John F. Richards Fellow, 'The Pashtunwali's Relevance as a Tool for Solving the 'Afghan Crisis'' (Edited and updated excerpt of the Research Report submitted to the American Institute of Afghanistan Studies (2008), http://www.educationinafghanistan.com/The_Pashtunwalis_Relevance_as_a_Tool_for_Solving_the_Afghan_Crisis_September_2009.pdf (referred to on 8 March 2011).

the book is *Dastār-nāma* ('Book of the turban') and Khushhāl Khān Khaṭṭak describes twenty abilities (*hunaruna*) and twenty virtues (*khislatuna*) which a Pashtun man must own to become worthy to wear a turban. Some of these values, such as self-knowledge (*dā dzān ma'rifat*), bravery (*shujā'at*), consultation (*mashwarat*), modesty (*sharm, hayā'*), honesty (*rāsti*), respect for the elders (*dā malik intizām*), ambitiousness (*himmat*), pride and honour (*ghairat*), are close to the values of Pashtunwali in the sense described earlier. But some other abilities, like falconry and hunting (*shikār*), chess (*nard dā shatranj*), poetry (*she'r*), music (*musiqi*) or painting (*taswir dā naqqāsh*), are addressed to the nobility first of all. Thus, this book stands rather in the tradition of classical Islamic texts in the genre of 'Mirrors for princes' like *Qābusnāma* ('Book of Qābus') by Kai Kā'us, *Siyāsatnāma* ('Book of Government') by Nizām al-Mulk, or *Nasihāt al-muluk* ('Counsel to Princes') by al-Ghazālī.⁹

In modern time, the first written accounts on Pashtunwali appeared in Afghanistan in the 1950s.¹⁰ Their authors were men of letters who followed the *Weṣh Zalmiyān* movement and other groups of the intellectual enlightenment. They appealed to the history and traditions of the Pashtuns when advocating for national awakening and social justice.¹¹ In their publications, they

⁹ The Pashto text of the *Dastār-nāma* by Khushhāl Khān Khaṭṭak was published several times (Kābul, Pashto ṭolāna 1345/1966, Peshawar, Pashto Academy of the University of Peshawar 1991). Quite recently an English translation was published; see Arif Naseem (transl., commentary), *Dastar nama of Khushhal Khan Khattak* (Peshawar, Pashto Academy of the University of Peshawar 2007). For a description of the book see V. V. Kushev, *Afganskaya rukopisnaya kniga* ['Afghan handwritten books'] (Moskva, Nauka 1980) p. 56 f. and Manfred Lorenz, 'Der afghanische Dichter Chushhāl-Chān Chattak über das Schachspiel', in Adéla Křikavová, Luděk Hřebíček (eds.), *Ex Oriente. Collected Papers in Honour of Jiří Bečka* (Prague, Oriental Institute of the Czech Academy of Sciences 1995) p. 101 ff.

¹⁰ See Qiyāmuddin Khādim, *Paṣhtunwali* (Kābul, 1331/1952), Qiyāmuddin Khādim, 'Paṣhtunwali – tarbiyawi usul' ['Pashtunwali – educational principles'], *Kābul* (1331/1953) 25-32, 'Abdullah Bakhtāni, *Paṣhtani khuyuna* ['Pashtun qualities'] (Kābul 1334/1955), [Gulpāchā Ulfat (ed.),] *Paṣhtani doduna* ['Pashtun habits and customs'] (Kābul: Dā paṣhto ṭolāna 1336/1957).

¹¹ *Weṣh Zalmiyān* ('Awakened Youths') appeared as a rather informal movement in 1947 under the leadership of Muhammad Rasul Khān Paṣhtun. Most members were men of letters and intellectuals like 'Abdurrauf Benawā, Gulpāchā Ulfat, 'Abdullah Bakhtāni, Qiyāmuddin Khādim and Nur Muhammad Taraki. From 1951 publications on the political agenda of this movement appeared in the

confidently proffered the rules and values of Pashtunwali as educational principles for a modern Afghan nation. During the following decades, as Afghan scholars became increasingly more interested in the study of local folklore and traditions, more publications on Pashtunwali and related subjects emerged.¹² Most of these publications were written in the descriptive style of folkloric and anthropological accounts rather than as analytical studies. On these grounds, one can say that these publications offer the perspective of persons within the culture and that Pashtunwali is described in terms which are meaningful to those who are doing Pashto (in the meaning of Pashtunwali).

newspaper *Angar* which was published in Kabul twice a week, but no clear program existed at the beginning. The main ideal of the movement was patriotism. Education, enlightenment, national unity and the participation of the people in political affairs were seen as the main ways to lead the people of Afghanistan out of the 'darkness of ignorance', to give the women their legal rights, to enable the people to become the pillar of a sovereign national government and to develop the economy. Later some members of this movement stood up for a constitutional monarchy system with political rights like freedom of speech, freedom of the press and freedom of political organisations. For details see V. G. Korgun, *Intelligentsiya v politicheskoy zhizni Afganistana* ['Intelligentsia in the political life of Afghanistan'] (Moskva, Nauka 1983) p. 52 ff.

¹² See among others Qudratullah Hidād, 'Dā paṣhtun kahol' ['The family of the Pashtuns'], *Kābul* (1340/1961) 46-51, Bismillah Haqmal, 'Ijtimā'i masāyil au dā taṇiyo wulāsi narkh' ['Social questions and the customary legal system of the Tani'], *Kābul* (1360/1981) 58-68, Qatil Xoṣhyāni, 'Jirga au paṣhto adab' ['Jirga and Pashtun culture'], *Jirga* (no date) 1/4, 25-28, M. Ibrāhim 'Atāyi, *Dā paṣhtani qabilo istilāhi qāmūs* ['Dictionary of Pashtun tribal terminology'] (Kābul, Dā paṣhto ceṛāno naṛiwāl markaz 1357/1978), Muhammad 'Aziz Kākaṛ, 'Dā Afghānistān dā khatidzo au markazi barkho dā kuchiyāno ijtimā'i hālat' ['The social situation of the nomads of the western and central parts of Afghanistan'], *Kābul* (1340/1961) 53-58, Iliyās Waziri, 'Dā waziristān dā barmali dā khalko ulās narkhuna' ['The customary legal system of the people of Barmal in Waziristan'], *Kābul* (1361/1982) 52-61, Hoḍyālai, 'Dā apridiyo nangiyālai qaum' ['The brave tribe of the Afridi'], *Jirga* (no date) 1/5, 42-47, Muhammad Akbar Mu'tamad (ed.), *Nangiyālai paṣhtun* ['The honourable Pashtun'] (Kābul, Daulati matba'a 1345/1966), Jalāt Xān Hikmatī (ed.), *Dā paṣhtano ṭolāniz-iqtisādi jurāshṭ dā saur tar inqilāba* ['The social and economical structure of the Pashtun tribes up to the Saur revolution'] (Kābul, Dā paṣhto ceṛāno bainulmilali markaz 1362/1983), Nur Muhammad Tābish (ed.), *Paṣhtānā kuchiyān* ['Pashtun nomads'] (Kābul, Dā paṣhto ceṛāno bainulmilali markaz 1360/1981).

This paper concentrates on this perspective. It is largely based on written accounts not only because in other publications on Pashtunwali, such accounts have scarcely been taken into consideration, but also because Pashtunwali is usually presented as a phenomenon that is exclusively subject to oral tradition. The value of these written accounts lies in the fact that many of them have a didactic interest and due to their form, present the ideals of Pashtunwali in a much more complex way than is usually the case in oral narratives. In some studies, Pashtunwali is presented as a collection of quantifiable tenets or rules of behaviour.¹³ It goes without saying that Pashtunwali is rather a question of the quality of behavior than of the quantity of particular values. The native accounts examined for this paper reveal the philosophy which stands behind particular values and rules of behaviour and conflates them systematically into an entire world-view. The focus of this paper moreover is not only on keywords and their meaning, but also on the lines of argument used by Afghan authors in order to demonstrate the cultural values and rules of behaviour by which the Pashtuns distinguish themselves from other ethnic groups. Hence, Pashtunwali is mainly described here as an ideal; from time to time, however, the emphasis on the view from within Pashtun culture will broaden to incorporate the observations of the author of this paper, based on his field studies in various parts of Afghanistan over the last two decades.¹⁴ To begin, and to enable a better and broader understanding of the matter, some historical remarks are necessary.

¹³ Cf. 'Depending on one's perspective and interpretation, Pashtunwali is made up of between three and six basic tenets, which in turn develop into a fairly complex interplay guiding the actions and normative behaviours of the code.' (Major Richard Tod Strickland, 'The way of the Pashtun: Pashtunwali', p. 47). See also: 'Pashtunwali also encompasses four personal core values: honor, revenge, freedom, and chivalry.' (John H. Cathell, *Human geography in the Afghanistan-Pakistan region*, 9).

¹⁴ I started linguistic and anthropological fieldwork in Afghanistan in 1988 as a visiting postgraduate student at Kabul University. In the mid 1990ies I carried out fieldwork in the Northern provinces of Balkh, Sar-i Pul and Juzjan; between 2002 and 2006 I made several research trips to the southwestern parts of Afghanistan between Herat and Kandahar with longer stays in Nimroz province. In 2008 and 2010 I worked again in Northern Afghanistan (Balkh and Takhar provinces).

3 THE NOMADIC BACKGROUND OF THE PASHTUNS AND ITS SIGNIFICANCE FOR PASHTUNWALI

The emergence and the vitality of the norms and values of Pashtunwali are deeply-rooted in the social history of the Pashtuns. Cultures of honour are typically identified with nomadic peoples who have no recourse to law enforcement or government when they traverse geographically remote areas in search of pastures, carry their most valuable property with them, risk having it stolen, etc.¹⁵ There are still some Pashtun nomadic herdsmen today, but the majority of Pashtuns adopted a settled lifestyle centuries ago.¹⁶ Today, most Pashtuns live in rural areas and are engaged in agriculture. In nomadic societies, the private ownership of pastureland is unknown although a particular group by tradition may lay claims to a particular pasture in a particular season of the year. But a claim to something is not identical with the ownership/possession of something and these claims were held not by individuals but by groups. Many Pashtun groups retained this practice with regard to farmland for a very long time after they had settled down and begun farming. At the beginning, the farmland usually belonged to the whole community. No particular household had an individual claim to a particular parcel of land; instead, the parcels of land were regularly redistributed among all households belonging to that community. Originally, the parcels were redistributed by lot and redistribution took place

¹⁵ The correlation of cultures of honour and a particular way of life is much more complex in fact. The code of honour of the Pashtuns shows many similarities with codes of honour in the Mediterranean, the Caucasus, Central Asia, the Middle East, East Africa and in the Philippines, but a clear interrelationship of honour cultures and a nomadic way of life (in the past or at present) is not in all cases evident. For a critical discussion see Mark Moritz, 'A Critical Examination of Honor Cultures and Herding Societies in Africa', *African Studies Review* (2008) 2:99-117 and Todd K. Shackelford, 'An Evolutionary Psychological Perspective on Cultures of Honor', *Evolutionary Psychology* (2005) 3:381-391.

¹⁶ A detailed account of the settlement process was presented from a Marxist perspective by the Russian scholar I. M. Reysner who based his analysis on local chronicles, European travel reports and many other sources. According to his study, the first wave of settlement started among Pashtun nomadic tribes between the fourteenth and seventeenth centuries. See I. M. Reysner, *Razvitie feodalizma i obrazovanie gosudarstva u afgancev* ['The development of feudalism and the emergence of the state among the Afghans'] (Moskva, Izdatel'stvo Akademii nauk SSSR 1954) p. 47 ff.

every year. In Pashto, this custom is called wesh 'redistribution [of land]'. The parcels could be allocated to a household according to the number of its members (khula wesh 'redistribution among eaters'), according to the military strength of a household (mlātār wesh 'redistribution among fighters'), or according to genealogical links (dā shajare wesh 'genealogical redistribution').¹⁷ In many Pashtun villages, the custom of wesh was maintained up until the nineteenth century, in singular cases, like among the Shinwāri and Momand Pashtuns of the Nangarhār and Kunar provinces, up until the middle of the twentieth century. In the district of Šhorāwak in the Southern Kandahar province, the Barec Pashtuns continued practising the wesh custom into the 1980s.¹⁸ Group property of a similar kind continued to exist with regard to pastures, threshing floors, or woodlands.¹⁹ A long-term consequence of the wesh tradition can be seen in the fact that in many rural places of Afghanistan, the private ownership of land is still subject to strong restrictions. Land can be the property of a person or of a household, it can be rented to other persons, but it cannot be sold to just anyone. Often this is possible for recognised members of a particular community only. In many places, it is unimaginable and, therefore, de facto almost impossible to sell land to a person who does not belong to the community which traditionally has held rights to it. The acquisition of land is limited almost entirely to inheritance and residence rights which are transmitted through patrilineal descent.²⁰ Group interests are higher than individual interests.

Furthermore, it must be remembered that the Afghan state originally emerged from a Pashtun tribal confederacy. When Ahmad Shah Durrāni was enthroned as the first king of Afghanistan in 1747, he had been chosen by a group of Pashtun and

some Baloch tribal leaders. He kept the title of a shāh ('king'), but for those who had elected him he was not more than a primus inter pares. Ahmad Shah Durrāni could rely on the military and political strength of the tribes which supported him as long as he did not offend their feelings and interests.²¹ The same can be said for all of his successors within the royal dynasties. All of them, self-evidently, were Pashtuns and all of them had to come to terms first of all with the Pashtun tribes in different parts of their kingdom. Pashtun tribes provided the military and political basis for the royal dynasty and they were granted numerous privileges in return, particularly in taxation and in self-government. It has always been a fact that in the tribal regions, the state would not interfere into affairs which ought to be regulated by the state and which in fact were regulated by official institutions in most other parts of the country.²² In the course of time, this exceptional position within the society of Afghanistan became an inherent feature of the self-confidence of many Pashtuns especially in the tribal areas along the frontier with Pakistan. Among all ethnic groups of Afghanistan, only the Baloch tribes shared this exceptional position with the Pashtuns. This reflected a similar way of life with a similar tribal structure and a similar code of honour.²³ Generally speaking, in

²¹ See for details I. M. Reysner, *Razvitie feodalizma*, p. 334 ff.

²² A detailed discussion of the historical relationship between tribes and state in Afghanistan is presented in Richard Tapper (ed.): *The Conflict of Tribe and State in Iran and Afghanistan* (London: St. Martin's Press 1983); see especially the papers by Richard Tapper, 'Introduction' (pp. 1-82), Rob Hager, 'State, tribe and empire in Afghan inter-polity relations' (pp. 83-118), J. W. Anderson, 'Khan and khel: Dialectics of Pakhtun Tribalism' (pp. 119-149), Bernd Glatzer, 'Political organisation of Pashtun nomads and the State' (pp. 212-232) and Nancy Tapper, 'Abd al-Rahman's North-West Frontier: The Pashtun colonisation of Afghan Turkistan' (pp. 233-261). See also Christine Noelle, *State and Tribe in Nineteenth-Century Afghanistan: The Reign of Amir Dost Mohammad Khan (1826-1863)* (Richmond: Curzon Press 1997), Richard Tapper, 'Anthropologists, historians, and tribespeople on tribe and state formation in the Middle East', in Philip S. Khoury, Joseph Kostiner (eds.), *Tribes and state formation in the Middle East* (Oxford: University of California Press 1990) pp. 48-73, Richard Tapper, 'Ethnicity, order and meaning in the anthropology of Iran and Afghanistan', in Jean-Pierre Digard (ed.), *Le fait ethnique en Iran et en Afghanistan* (Paris: Éditions du Centre National de la Recherche Scientifique 1988) pp. 21-34.

²³ Similarities of the code of honour of the Pashtuns to that of the Baloch are evident but they cannot be discussed in detail here. According to my observations in Nimroz, almost all what is described here for the

¹⁷ See for details I. M. Reysner, *Razvitie feodalizma*, p. 104 ff., Hikmati (ed.), *Dā paštano ʔolaniz-iqtisādi jurāšt*, p. 24 ff.

¹⁸ See Hikmati (ed.), *Dā paštano ʔolaniz-iqtisādi jurāšt*, p. 30 ff., M. G. Aslanov and V. I. Kochnev, 'Pushunty' ['The Pashtuns'], *Narody Yuzhnoy Azii* (Moskva 1963) p. 747.

¹⁹ For examples relating to the Khost province see Willy Steul, *Paschtunwali*, p. 23.

²⁰ For the situation among the Ghilzai Pashtuns in eastern Afghanistan between Kabul and Kandahar in the 1970s see Jon W. Anderson, *Doing Pakhtu*, 164. According to my observations in the Nimroz and Farāh provinces, similar limitations concerning the acquisition of land still exist. For the situation in other regions see Hikmati (ed.), *Dā paštano ʔolaniz-iqtisādi jurāšt*, p. 143 ff.

Southern and Western Afghanistan the distinction between Pashtun and Baloch is sometimes very smooth. Indeed, some groups are referred to as *augān-baloch*, i.e. Afghan-(Pashtun-)Baloch. These are splinter groups of Pashtun origin which were incorporated into the tribal organization of the Baloch, or alternatively, groups of Baloch origin which were incorporated into the tribal organisation of the Pashtuns.²⁴ In Afghanistan, prominence is given to both Pashtuns and Baloch by the name *āzād qabāyil* 'the free tribes'.²⁵ This situation only began to change significantly in the last three decades when other groups gained in military and political power in the civil war and started to enforce their political claims on an ethnic basis.²⁶

Pashtuns can be transferred to the Baloch in south-western Afghanistan although particular terms may vary. Some features of the code of honour of the Baloch of Afghanistan are described in Abdulsattār Purdeli, *Chint pahlok sha balochāni rabadagi pahlistānā / Chand gul az farhang-i purbār-i Baloch* ['Some flowers of the cultural garden of the Baloch'] (Kabul: Regional Studies Center of Afghanistan 1387 = 2008/09) pp. 71-82. A detailed analysis of the Baloch code of honour with the main focus on Pakistan was presented by Erwin Orywal, *Krieg oder Frieden: eine vergleichende Untersuchung kulturspezifischer Ideale – der Bürgerkrieg in Belutschistan/Pakistan* (Berlin: Reimer 2002).

²⁴ For example, groups like Barec and Nurzi can be found both as Pashtun and Baloch tribes. Baloch Nurzi and Baloch Barec maintain tribal relations not only to other Baloch tribes, but to Pashtun Nurzi and Barec as well and vice versa. Usually such splinter groups switched over to the language of the tribal group they were incorporated into, but bilingualism is a wide-spread phenomenon as well (own observations, more detailed soon in Lutz Rzehak 'Ethnic minorities in search of political consolidation', forthcoming).

²⁵ This term describes the Pashtun and Baloch tribes who reside in the frontier regions with Pakistan and Iran and who traditionally arrogate the privilege of crossing the border without limitation. In the political system of Afghanistan, this status was officially recognised by the establishment of a special ministry for tribal affairs after the Saur revolution. See Neamatollah Nojumi, *The Rise of the Taleban in Afghanistan. Mass Mobilization, Civil War, and the Future of the Region* (New York, N. Y.: Palgrave Publishers Ltd. 2002), pp. 67 ff. This ministry still exists today under the name Ministry of Borders and Tribal Affairs.

²⁶ As a result, the responsibility of the Ministry of Borders and Tribal Affairs was extended to all minority groups, mostly by providing education programs in minority languages and by helping them in the resolution of disputes with other tribes and ethnic groups (information provided by Abdul Karim Brahui, Minister for Border and Tribal Affairs, during an interview with the author in April 2005 in Kabul).

4 TRIBAL SPIRIT

'Among the Pashtuns the word Pashtunwali implicates everything what ranks among the roots and basics of their tribal spirit, historical greatness and national traditions ... Pashto is the name of their national language, Pashtun is the name of their tribe, Pashtunkhwa is the name of their homeland; and from these words the meaningful word Pashtunwali was created'.²⁷

This Pashtun author, Qiyāmuḍḍin Khādim, places the tribal spirit (*qaumi ruh*) first when he defines the word Pashtunwali in his fundamental book on this subject. *Qaum* is the word which he uses for 'tribe', and *qaumi* is the word which he uses for 'tribal'. No doubt is left that his reference to the tribal spirit applies to all Pashtuns. One could interpret *qaumi ruh* as 'national spirit' therefore, but there is another word with the meaning of 'national' in Pashto and in other languages of Afghanistan (*milli*). Qiyāmuḍḍin Khādim uses this latter word to refer to the language and the traditions of the Pashtuns, but he uses *qaum* with reference to the Pashtun people and *qaumi* when describing their spirit. This is due to the fact that the word *qaum* implicates the idea of common descent to a much higher degree than imaginable lexical equivalents. Like other concepts of group identity, *qaum* expresses identity as a rather cumulative or polymorph feature which can be imagined as a pool of fragmentary characteristics like common descent, language, culture, shared history, customs, way of life, religion, neighbourhood, etc. Hence, *qaum* in fact is a very elastic term which, depending on the situation, can be understood as 'nation', 'tribe', 'clan' or as a group of some other kind.²⁸ The size of a group can differ, but the word *qaum* indicates that among all features of identity, priority is given to common descent. A group termed *qaum* is a descent group, first of all.

Among the Pashtuns, the descent of an individual is reckoned from the father's line of descent. Thus a *qaum* is a line of descent from a male ancestor to descendants in which the individuals in all intervening generations are fathers. The tradition holds that all Pashtuns are father-line descendants

²⁷ See Khādim, *Paṣhtunwali*, p. 10.

²⁸ For the concept of *qaum* see Erwin Orywal: 'Ethnische Identitäten – Konzept und Methode', in Erwin Orywal (ed.): *Die ethnischen Gruppen Afghanistans. Fallstudien zu Gruppenidentitäten und Intergruppenbeziehungen* (Wiesbaden, Dr. Ludwig Reichert Verlag 1986).

of a legendary ancestor named Qais²⁹ (alias Patan) who according to prevailing opinion, lived at the time of Muhammad. When Qais converted to Islam, he assumed the Islamic name 'Abdurrashid. According to genealogical tradition, Qais 'Abdurrashid had three sons – Saṛbun, Gharghašt, and Baiṭan – who became the founders of three descent groups. Today, the descent groups of Saṛbun, Gharghašt and Baiṭan appear as tribal groups to which most Pashtun tribes can be assigned. A fourth tribal group named Karlāṇi goes back to a person called Karlāṇ. It is said that Karlāṇ was a foundling who was brought up by a Pashtun and later married the daughter of his adoptive father. The descendants of Saṛbun, Gharghašt, Baiṭan and Karlāṇ are regarded the ancestors of various tribes, their descendants are regarded the ancestors of various sub-tribes, etc. Depending on the number of generations taken into account, patrilineal descent groups of different size can be distinguished, and the members of each group can demonstrate their common descent from an apical ancestor. Bigger descent groups are named tribe (tāyifa or qabila). Each tribe is divided into two or more sub-tribes (ṭabār), sub-tribes consist of smaller groups which can be named clan (khel or zai on a higher level and plarina or psha on a lower level). The smallest group of the Pashtun tribal system is called kahol. The common ancestor of a kahol usually lived seven or eight generations ago. Every kahol consists of several extended families. A household (kor) is an economical rather than a tribal unit. Ideally, it consists of a grandfather, his wife or wives, sons, daughters-in-law, unmarried daughters and grandchildren. A young man can create his own household after marriage although it is often located quite close to his father's household and meals still can be prepared commonly. In everyday life, patrilineal descent groups of the kahol level represent the most important units of social organisation. This is the level at which marriages are arranged, people help each other in agriculture or in building houses, disputes about land usage arise and are solved, or opinion-formation about political questions takes place.³⁰

The lowest level demonstrates the dynamic nature of the Pashtun tribal system. Groups which appear as the smallest units at a particular time, increase in number with every new generation and thus they transform gradually into clans, which are divided into several new groups of the kahol level after some generations. But all groups share the

²⁹ Also: Kais.

³⁰ See Willy Steul, *Paschtunwali*, pp. 28 ff., Jon W. Anderson, *Doing Pakhtu*, pp. 223 ff.

belief in common patrilineal descent that unites individuals on a particular level of the tribal system and distinguishes them from other individuals on the same level, even though they all belong to one group on a higher level. Patrilineal descent groups of different genealogical depths, i.e. tribal groups, tribes, sub-tribes, clans and smaller lineages are solidarity groups. Each particular situation dictates which genealogical depth is taken into account concerning the need for solidarity. Rivalling lineages of a clan forget their rivalry and stick together when clan interests are in danger. Clans which belong to one sub-tribe and which are in conflict over a particular matter, forget their conflict and stick together when interests of their sub-tribe or of their tribe are in danger, etc.³¹

Genealogical knowledge is of vital necessity in a society which is structured along patrilineal descent groups of different size. Ideally, a Pashtun can demonstrate his descent from Qais 'Abdurrashid, the common ancestor of all Pashtuns, by enumerating all linking forefathers. In reality, a Pashtun knows by heart at least all his forefathers up to the ancestor of his kahol group, i.e. for about seven or eight generations as a minimum. For genealogical knowledge which goes back deeper in history, older and experienced men who are regarded as experts in this field, are contacted. When necessary, they refer to written genealogy trees (shajara) of their clan, sub-tribe or tribe. Attempts to codify the common genealogical tree of all Pashtuns date back to the early seventeenth century.³² Like later compilations of that kind,³³ they are unable to keep up with the

³¹ Here the Pashtun tribal system was described from a structural point of view. For a more detailed and critical discussion see Bernt Glatzer, 'The Pashtun Tribal System', in G. Pfeffer & D. K. Behera (eds.), *Concept of Tribal Society* (New Delhi, Concept Publishers 2002), R. Tapper (ed.): *The Conflict of Tribe and State in Iran and Afghanistan*, Jon W. Anderson, *Doing Pakhtu*.

³² Ni'matullah al-Herawi who served as a chronicler at the court of the Mughal Emperor Jahangir, wrote down a history of the Afghans. It is often referred to as *Makhzan-i Afghāni* or 'History of the Afghans' and lists thousands of tribes (see Khwaja Ni'mat Ullah b. Khwāja Habīb Ullah al-Harawī: *Tarīkh-e Khân Jahānī wa makhzan-e Afghāni*. Ed. by S. M. Imāmuddīn (Dacca, Asiatic Society of Pakistan 1960-1992). An English translation was made by B. Dorn, *History of the Afghans translated from the Persian of Neamet Ullah*, by Bernhard Dorn (London, A. J. Valpy 1829 & 1836).

³³ A very popular genealogy was compiled under the name *Hayāt-i Afghān* during the reign of Amir Sher Ali Khan in 1865. For a Pashto edition see Muhammad Akbar Khān: *Hayāt-i Afghān* (Kābul, Də sarhaduno chāro wazārat 1370/1991). Publications of that kind remain to be very popular today. See [Pohanwāl] Muhammad

dynamic character of the tribal system, and, correspondingly, less or no information is available about groups on the lowest levels which, however, are the more important in everyday life. Oral knowledge of the genealogical tradition remains absolutely essential. When two Pashtun men meet for the first time, they often check their genealogical roots. If they find a common ancestor, the chance acquaintance will turn into a relationship with mutual obligations and support.

Explaining the essence of Pashtunwali, Qiyāmuḍḍin Khādim referred to the tribal spirit (qaumi ruh) of all Pashtuns because all Pashtuns are patrilineal descendents of Qais 'Abdurrashid and moreover, because he wrote his book during a period of national awakening. Yet all other segments of the tribal system can be referred to similarly as qaum. Hence, the reference to the tribal spirit can be an appeal for solidarity across all levels of the tribal system, i.e. within a tribe, a sub-tribe, a clan, or within smaller lineage groups as well.

5 HONOUR, SHAME AND RULES OF BEHAVIOUR

As previously mentioned, Pashtunwali means that the Pashtuns are different from other peoples not only due to their language, but also due to their behaviour. The Pashtun author 'Abdullah Bakhtani takes this idea to the point that 'a person who speaks Pashto but has no Pashtunwali is not a Pashtun because persons from other peoples also have learned Pashto and speak it. Only a person who does Pashto and follows its rules has Pashtunwali'.³⁴ Pashtunwali means 'doing Pashto'; and 'doing Pashto' means to bring one's behaviour in line with the ideals and moral concepts of the Pashtuns. These concepts are projected in numerous rules of behaviour. One of the basic rules states: *paštun haḡhā wi chi na dzān sharmawi au na bāl* ('A Pashtun is he who disgraces neither himself nor others').³⁵ As we can see, the rules of behaviour are grouped around the dichotomy of honour and shame.³⁶ Behaviour is

'Umar Rawand Miyākhel: *Dā paštano qabilo shajare au mene* ['The genealogies and homeland of Pashtun tribes'] (Kābul, Maiwand Khparandoḡya ṭolāna 1383/2004), Siyāl Momand: *Dā paštani qabilo shajare* ['Genealogies of the Pashtun tribes'] (Quetta, Sidiq kutubkhāna, no date).

³⁴ See Bakhtāni, *Paštani khuyuna*, p. 2.

³⁵ See Quyamuddin Khādim, 'Paštun cok dāy?', *Kābul* (1333/1954), p. 1.

³⁶ In Balochi, this dichotomy is expressed by the words *nang-u mayār* ('honour and shame') which are also used

honourable or shameful when it is honourable or shameful in the eyes of other people. Consequently, the main rule of conduct is the question as to how one's behaviour is evaluated in the eyes of other people. In addition, the cited rule implies another dichotomy: individual honour and shame are closely linked to the honour and shame of other people.

5.1 Honour of the individual and honour of groups

The concept of *nanga* (also *nang*) arises from the tribal spirit of the Pashtuns: '*Nanga* means to defend one's rights and the rights of one's tribe honourably'.³⁷ Thus, this concept has a double meaning. *Nanga* is the call to defend one's personal honour, which is based on an individual's dignity and trust in oneself. But the call for *nanga* is not limited to personal honour because the honour of an individual and the honour of the lineage or tribe one belongs to are interdependent. Only in the lineage or tribe can one find allies who would provide support if necessary. Living outside of the tribal structure is almost unimaginable because a person without a genealogical tree is a person without a descent group, and a person without a descent group is a person without allies or supporters. Hence, *nanga* is the demand for personal dignity and self-confidence because only a person with dignity and trust in oneself can uphold the honour of one's lineage or tribe. A person who lives up to this standard is held in high esteem and will be called *nangyālai* ('honourable').

The demand for *nāmus* has a similar rationale behind it, but with a focus on those members of the society for whom a Pashtun man feels responsible in a very special way. These are, first of all, his wife or wives, daughters, and his unmarried or widowed sisters. The word *nāmus* can be translated as 'honour', 'reputation', 'esteem', 'conscience', and 'chasteness', and it can denote all female members of a household as well. In the world view of Pashtunwali, the honour of a Pashtun man and the honour of all females for whom he is responsible are interdependent. Defending their honour means to provide shelter and to take care of them and this is the best way to defend one's own honour and reputation. Pashtun authors propagate this idea by referring to a popular verse which is attributed to the poet Hamid Baba (1660-1732). He says: *chi dā bāl nang*

as an established expression to denote the Baloch code of honour in general.

³⁷ 'Atāyi, *Dā paštani qabilo istilāhi qāmūs*, p. 277.

au nāmus sātalai na-shi / wu-bā na-sāti cok khpāl nang au nāmus ('He who cannot defend the honour and reputation of another person doesn't defend his own honour and reputation.')

³⁸ Seclusion is seen as the best way to defend a female's reputation and consequently, one's own honour because the main rule of conduct is the question about how one's behaviour is evaluated in the eyes of other people. A female who is almost invisible to the eyes of other people cannot disgrace herself in the eyes of other people. If a woman, nevertheless, has been unfaithful, her husband feels obliged to kill her together with her lover right away. In the eyes of a man who is trusted and expected to act honourably, this is the only way to defend his honour and reputation.³⁹ However, in reality, he can let himself be guided by the principle that 'a shame is not a shame as long as nobody is aware of it'. Thus adultery (like other missteps) can be covered up to avoid blood feuds.⁴⁰

In the concept of Pashtunwali, the position of women is mainly defined by the idea of patrilineal descent and by the clear distinction which is made between relationship by descent (*khpālwali*) and relationship by marriage (*kheshi*). This explains why the birth of a son and the birth of a daughter cause different feelings, why women are excluded from the division of the estate, why many Pashtuns prefer marriages inside the patrilineage, why the transfer of money and goods is compulsory for marriages, and why marriages are often arranged as patrilineal cross-cousin marriages. The idea of patrilineal descent can also explain levirate-marriages according to which the brother of a deceased man is obligated to marry his brother's widow, and the widow is obligated to marry her deceased husband's brother. Levirate-marriages are also a question of *nāmus*. They serve as protection for the widow and her children, ensuring not only that they have a male provider responsible for them, but that the children remain in the responsibility of their father's patrilineage.

The seclusion of females blocks our view of some spheres of social life which are less public, but where women have much authority. Women are often the treasurers of a household and play an important role in matchmaking because at the

³⁸ Khādim, *Paṣhtunwali*, p. 127.

³⁹ Cf. Alfred Janata and Reihanodin Hassas, 'Ghairatman – Der gute Paschtune', p. 86.

⁴⁰ It's in the nature of things that even in confidential conversations one hears only very subtle hints at such cases. All attempts to quantify them would be idle speculation.

beginning, they are usually responsible for identifying a suitable wife and a suitable member to join their household. Older women are held in such high esteem that they can help to resolve a blood-feud conflict peacefully.⁴¹

5.2 Fighting spirit and bravery

The demand for *tura* is aimed at raising the fighting spirit of the Pashtuns. In Pashto folklore, one can find innumerable proverbs, sayings and verses praising bravery. Pashtun authors often quote from that folklore when they explain the concept of *tura*. One popular verse is attributed to Khushhal Khan Khattak (1613-1689) who is regarded as the national poet of the Pashtuns. He says: *chi min pā wasla na-wāy mard de na-waye khpāl dzān-ta* ('If you don't like weapons you should not call yourself a man').⁴² The original meaning of *tura* is 'sword' and as a rule of conduct, *tura* is the demand for physical bravery. A person who fights fearlessly and bravely is honourably called *turyālai* ('brave'). This title can also be attributed to a lineage, clan or tribe.

The fighting spirit of the Pashtuns has been subject to proof many times over the course of history. It extends back to the nomadic past and was raised again and again during the long struggle against Safavid and Mughal rulers and during the campaigns of Pashtun tribes against other peoples as well. In the three British wars in Afghanistan, the Pashtuns learned to combine their fighting spirit with their faith. Until that time, Islamic reservations about the so-called unbelievers had been quite unclear for many Pashtuns, but during the British wars, the Pashtuns – like other inhabitants of Afghanistan – physically experienced the burden of the colonial aggressors and gained a very realistic picture of the dreaded unbelievers. As prophesised in the Quran, they found themselves in danger of being triumphed over by these unbelievers, dressed in British uniforms.⁴³ Thus, their struggle for independence turned into a struggle for their faith.⁴⁴ Today, the fighting spirit

⁴¹ For more details on the position of women in the patrilineal Pashtun society see the excellent study by Nancy Tapper, *Bartered Brides: Politics, Gender and Marriage in an Afghan Tribal Society* (Cambridge, Cambridge University Press 1991).

⁴² For this and other verses see Khādim, *Paṣhtunwali*, pp. 15-20.

⁴³ 'Nor will they cease fighting you until they turn you back from your faith if they can' (Quran, 2/218).

⁴⁴ Already during the first Anglo-Afghan war, Afghan theologians wrote numerous tracts in which the struggle for freedom was declared a holy war. One of the

of the Pashtuns has become intertwined with the sacred traditions of their struggle for freedom, independence, and for their faith. The call for *tura* is always the demand for physical bravery in a just cause.

It is also a just cause to defend one's honour and rights. Both individual rights and honour and the rights and honour of a lineage, clan or tribe need to be defended bravely. Property offences as well as libel and slander can cause bloody quarrels therefore. But bravery requires reasoned actions based on considerateness and prudence. In every conflict, preference should be given to non-violent and amicable methods of resolution. Heroic courage and bravery are in demand only when there is no longer any alternative.⁴⁵ This idea is fixed in a proverb which says: *tura dā teke ma-bāsa ka de wu-istāla biyā-ye no sra wu-teke-ta achawa* ('Don't unsheathe the sword, but when you have unsheathed the sword sheathe it red [from blood] afterwards').⁴⁶

Describing bravery as one of the ideals and values of Pashtunwali, Pashtun authors emphasise that the Pashtuns follow special rules and customs of warfare. Whenever fighting becomes inevitable, the members of a lineage or tribe feel called upon to forget internal quarrels in order to present a united front and lead off to the fight. Solidarity groups appear as combat units. In the concept of *tura*, it is a holy duty to oppose an enemy face-to-face and to fight until the last breath. Escaping from the battle is seen as an act of cowardice and a Pashtun must not even turn his back to his enemy. Otherwise he will be called *dawus* ('cuckold'), i.e. he is compared with a man whose wife has been unfaithful. The ideal of a fearless warrior is preached in various genres of the Pashtun folklore. There are short verses (*landāi*) which are sung by

most famous tractates of that kind was written under the title *Rauzat-ul-mujāhidin* ('The Garden of the Mujahidin') by Mullā Fayz Muhammad Ākhundzāda. He wrote this tractate by order of Emir Sher Ali and finished it in 1876. It is written in verses, consists of 1500 lines and presents a military codex for the mujahidin. See G. F. Girs, *Istoricheskie pesni pushtunov* ['Historical songs of the Pashtuns'] (Moscow: Nauka 1984), 47. Contemporary Pashtun folklore provides evidence for the fact that in the Anglo-Afghan wars the struggle for independence was seen as a struggle for faith. For examples see *ibid.* pp. 79-111, James Darmesteter, *Chants populaires des Afghans* (Paris, Imprimerie Nationale, 1888-1889).

⁴⁵ See the discussion on *tura* and *aql* ('sword and reason') in Bernd Glatzer, 'Zum Pashtunwali als ethnischen Selbstportrait', pp. 94 ff.

⁴⁶ See 'Atāyi, *Dā paštani qabīlo istilāhi qāmūs*, p. 59.

women to cheer their sons and husbands. One of these verses says: *ghāzh shu pā kaṭ-ye jānān rā-wu-waṭ / zṛā-mi pā pur shu chi-ye pā shā na-wi zakhmuna* ('There was a battle cry, my beloved made it in the bed / my heart is full [of concern] that he wouldn't be wounded at the back').⁴⁷

Explaining the art of war of the Pashtuns, Qiyāmuddin Khādim mentions a story about a battle of the Afridi tribe in 1897/98. A British officer watched Afridi women collecting bodies from the battle field. He saw an old woman who lifted the head of every dead man in order to find her sons. Then she kissed six men and slapped the face of the seventh. The British officer sent a scout to find out what had happened. Later, the scout explained to him that all seven men were the old woman's sons. Six of them were wounded on the front side and she kissed them for their bravery. The seventh was wounded on the back, and the woman had said that a cuckold deserves nothing but a slap in the face.⁴⁸

According to the traditional rules of warfare, women are expected to support their fighting sons, brothers and husbands not only morally but physically as well. In his book on Pashtunwali, Qiyāmuddin Khādim devoted a special chapter to the role of women at war. It is said that both men and women take part in fighting and that women support their fighting men by bringing food, water and other necessities to the trenches. According to the same rules, women must not be attacked.⁴⁹ This is partially due to the fact that the kinship system of the Pashtuns clearly distinguishes relationship by descent from relationship by marriage. A woman remains a member of her father's descent group after becoming married. When a woman gets hurt in action, both her husband and her blood relatives can take vengeance. Besides that, in the concept of *tura* bravery requires coequal opponents. Attacking a woman is regarded as an act of arrogant cowardice. For similar reasons, it is forbidden to attack children as well as members of castes with a socially inferior status, like barbers or musicians. Mullahs as well as Sayyids, i.e. males who are accepted as descendants of the Islamic prophet Muhammad, Hajjis, i.e. persons who have successfully completed the pilgrimage to Mecca, spiritual leaders of Sufi brotherhoods and other dignitaries should be excluded from military actions due to their holiness. Like other ideals, this was not always followed during the civil war.

⁴⁷ See Khādim, *Pašhtunwali*, p. 29.

⁴⁸ See Khādim, *Pašhtunwali*, pp. 31-34.

⁴⁹ See Khādim, *Pašhtunwali*, pp. 41-42.

5.3 Equality and respect for seniors

The concept of *musāwat* expresses the idea of equality. This idea is closely related to the genealogical tradition of common patrilineal descent. Pashtun authors proudly claim that their language does not have genuine Pashto words with meanings like 'slave', 'servant' or 'Lord'.⁵⁰ With this statement, they want to demonstrate the importance of the concept of *musāwat*. Equality as conveyed in the concept of *musāwat* is the equality of brothers but it does not contradict social inequality, difference in age or differences by other hierarchical principles. Furthermore, equality as conveyed in the concept of *musāwat* is deeply-rooted in the concept of personal dignity and honour. In the Pashto folklore, this idea is expressed in a popular proverb which says: *paštānā har yau man dai nim man paki nashta* ('Every Pashtun weighs one *man*⁵¹; there are no half-*man* among them.')⁵² This means that Pashtuns are not simply equal, but they are equal in their pride and dignity. A person who expects others to respect his or her dignity and honour must respect the dignity and honour of others in an equal way. Consequently, the concept of equality requires respectful and modest behaviour in every way. Taking turns to let the other go first does by no means inflict damage on somebody's dignity. In contrast, only dignified persons are able to pay tribute to somebody's honour in that way. The tradition holds that the former king Zaher Shah brought his car to a stop because an aged Pashtun man was crossing over the road. Needless to mention that ostentation represents a crude breach of the rules of conduct; and one should not even talk about oneself without being asked to do so. A good illustration of this rule of behaviour is the greeting ceremony. When inquiring after somebody's health one will hardly get an answer right away. Instead of answering, the other person will inquire after the health of the conversational partner. Such questions and counter-questions can last for several minutes in many cases. Answering too soon would show that one wants to be in the focus of attention, but one must demonstrate to the conversational partner that his or her state of health is the focus of attention instead. When finally answering, one will content oneself with saying that everything is fine and thanking God for that. At this stage of conversation, more detailed

answers or information as to personal problems would again show that one wants to be the focus of attention.

The idea of equality as expressed in the concept of *musāwat* goes hand-in-hand with the demand for respectful and honourable behaviour towards seniors (*də məshārāno manāṣht*). This demand defines the position of tribal leaders as well as the relation between fathers and their sons, between brothers, cousins, etc. Like the English words 'elder' and 'senior,' the Pashto word *məshār* can denote both a person who is older in age and a person whose prestige is based on social categories like leadership, experience of life, knowledge, etc. Several age-groups which are generally gender-separated can be distinguished in the society of the Pashtuns. In this hierarchy, the position of a man depends not only on one's age but also on the criteria whether one is unmarried or married, whether one keeps a household of one's own, whether one has children, whether one owns a plot of land, etc. Besides by difference in age, the position of women is also defined by criteria whether one is unmarried or married, whether one has children or grandchildren, etc. All persons can pass through these age-groups over the course of their lives whereas only selected persons are regarded as seniors due to criteria like leadership, knowledge of tribal customs, or experience of life.

Traditionally, in the society of the Pashtuns, two groups of elders or tribal leaders can be distinguished due to their social functions and competencies. The first group consists of persons who are called *khān* or *malik* in Pashto.⁵³ These are elders or a village headman of high prestige who have much influence and power and who act as representatives for their tribal group or village in negotiations with government agencies and other tribal groups. In most regions, the position of a *khān* or *malik* is hereditary and depends much on land ownership and economic strength although

⁵³ The usage of *khān* or *malik* as an honorary title for these leaders depends on the dialect. See M. Ibrāhim 'Atāyi, 'Pə qabilawi ṭoləna ki də məshārəy pər fakto yawa itnolojiki ceṛəna' ['A study on the factors of leadership in a tribal society'], *Aryānā* (1360/1981) 3: 65, 75. In regions where both titles are in use, preference is given to one of them due to the criterion of land ownership. In some regions such as Khost, a person whose leadership is mainly based on landholding, is called *khān* whereas a *malik* is a person whose economic influence is less important for leadership. See Steul, *Paschtunwali*, p. 70. Among the Nurzi and Ghelzi of South-Western Afghanistan the position of a *khān* depends mainly on leadership abilities and economic power is less important today (own observations).

⁵⁰ See Khādīm, 'Paštunwali – tarbiyawi usul', p. 30.

⁵¹ *Man* is a measure of weight. Depending on the region one *man* is about 4 kg (Kandahar), 32 kg (Peshawar) or 565 kg (Kabul).

⁵² See Khādīm, *Paschtunwali*, p. 43.

leadership ability is also necessary. Two or more leaders of that type can coexist in one village and sometimes they rival for followers and loyalty. A *khān* or *malik* does not exercise direct power over his followers; decisions are instead usually based on consultations with followers. Evidently, a *khān* or *malik* must hold all attributes of a 'good Pashtun' as prescribed by the norms and rules of Pashtunwali. In addition, a tribal leader of that kind needs to have considerable economic resources. Followers must be feasted for their loyalty from time to time. A follower, who has placed his trust in a leader for a long period of time, expects financial or material aid in the event of an emergency. Generally speaking, the position of a *khān* or *malik* is more that of a patron than of a landlord, but economic dependency has gained importance in the relationship between such elders and their followers.⁵⁴ During the civil war, the position of traditional tribal leaders such as *khān* or *malik* was seriously weakened by the military and political strength of military commanders. In times of peace, a *khān* or *malik* organised access to pastures, took care of the irrigation system or dealt with state authorities, but during the war other leadership abilities were in demand. A leader had to organise weapons, money and food which were often supplied via Pakistan or Iran. Hence, a leader needed access to military groups and foreign organisations. Many of the elderly traditional leaders were physically unable to cope with these tasks and left their position to military commanders.⁵⁵

The second group of traditional elders consists of persons whose prestige and influence are based exclusively on personal attributes and on the knowledge and experience they have gained during their long lives. Such elders are regarded as wise men and are respectfully called *spinzhiri* ('white-bearded men', singular: *spinzhirai*). They have a good knowledge of the traditions and values of Pashtunwali. They are experienced rhetoricians and can be asked for advice in almost all situations. Generally, every aged man can be called *spinzhirai*, but one must possess all aforementioned personal attributes and have the knowledge and experience of an aged wise man to

be respected as a leader of that type. Economic power is less important, but one should own at least a plot of land to demonstrate that one is economically independent. Aged men who have an expert knowledge of the customary legal system are called *narkhi* (singular: *narkhai*) respectfully. A *narkhai* is not a judge, but a person who is experienced in judicial matters, who is able to quote precedents and who is therefore asked for advice on various issues. Elders of this type (both *spinzhiri* and *narkhi*) are granted numerous privileges that enable them to act as intermediaries in cases of conflict. Sayyids, Hajjis, some spiritual leaders of Sufi brotherhoods and other dignitaries are privileged in a similar way.

5.4 Consultation and decision making

As mentioned above, individual honour and shame are closely linked to the honour and shame of the tribal group to which one belongs. All questions require thorough consultations with other tribesmen who may be affected by them. In many cases, it is sufficient to ask the elders for advice; in other cases, all concerned persons are called together for consultations. In the tribal structure of the Pashtuns, the demand for consultation has been institutionalised in the *Jirga* tradition. Generally speaking, every gathering of Pashtun men which is held in order to solve a question of common interest can be called *Jirga*. In most cases, a *Jirga* is convened spontaneously whenever a problem of common interest needs to be solved. There are no superior or inferior *Jirgas*. The group of participants is defined by the circle of persons who are affected by a particular problem. When a *Jirga* is held on the village level, all adult men who have founded a household and own at least a patch of land have the formal right to join it. In other cases, only the elders of a tribal group or village may come together. Supporters of a particular position can form informal parties in advance and authorise elders to define their position at the *Jirga* gathering. Experienced elders emphasise their ideas impressively using proverbs, quoting precedents or telling moralising narratives. In some regions such as Paktia, the *Jirga* has transformed into a tribal assembly of elders which is not open to everyone though this assembly is also called *Jirga*. When a *Jirga* of this kind comes together the elders are surrounded by a kind of tribal police which is called *arbaki* (singular: *arbakai*) and recruited from brave tribesmen.⁵⁶ The *arbaki* deny access to unauthorised persons

⁵⁴ See J. W. Anderson, 'There are no khan any more: economic development and social change in tribal Afghanistan', *Middle East Journal* (1978) 2, pp. 167-183.

⁵⁵ For details concerning the situation of traditional elders during the civil war of the 1990ies see Bernt Glatzer, 'Being Pashtun – being Muslim: Concepts of person and war in Afghanistan', in Bernt Glatzer (ed.), *Essays on South Asian Society: Culture and Politics II* (Berlin, Das Arabische Buch 1998), p. 83 f.

⁵⁶ See Ali Mohammad Sobman, 'Arbakai in Paktia', *Pašto Quarterly* (1359/1980) 3:81.

and are responsible for the enforcement of the Jirga decision.

Depending on the problem to be solved, a Jirga can take on a consulting and designing role, it can be part of the dispute resolution mechanism in a dispute between two groups, and it can be used as a court in cases of criminal conduct. In all cases, decisions are made by consensus.⁵⁷ The discussion lasts as long as there is no longer any opposition to a particular position. All participants must agree to a proposal. It can happen, therefore, that a Jirga lasts a very long time or that it breaks up without taking a decision. In such cases, a new Jirga can be called or intermediaries are invited to come to a decision.

The decision taken by a Jirga is binding for all members of a tribal group. Contravention of a Jirga decision can cause a tribal penalty (*nāgha*). It is reported that with serious violations, the house of the offender was burned or he or she was expelled from the village or tribal group.⁵⁸

5.5 Willpower and sincerity

The concept of *meṛānā* expresses the demand for willpower and tenacity. Doing Pashto means to overcome any difficulties with considerable effort and a great deal of time if necessary. The word *meṛānā* was derived from the Pashto word for '[married] man' (*meṛā*), but the demand for willpower and tenacity must be met by women and children as well. Pashtun authors claim that these are national attributes of the Pashtuns which were brought forth by the difficult geographical conditions of their homeland.⁵⁹ Faithfulness, reliability and sincerity are special features of the concept of *meṛānā*. A given word must not be broken. Promises are weighed thoroughly because doing Pashto requires keeping promises without exception. In Pashtunwali, these values are expressed by the concept of '*ahd au wafā*' ('promise and fidelity'). It is said that in Pashtunwali 'speaking Pashto' and 'keeping one's promises' are synonyms.⁶⁰ Furthermore, doing Pashto requires telling the truth. In his article about the educational principles of the Pashtuns, Qiyāmuddin Khādim has an extra chapter named *riṣhtiyā* 'truth' and he emphasises that the words which are used in Pashto for 'lie' (*durogh*), 'flattery'

(*mudāhina*) and 'blarney' (*chāplusay*) are not of Pashto origin. With this statement he wants to show that Pashtuns disdain falseness and insincerity. He argues that sincerity is not a matter of wealth. On the contrary, willpower will help a poor person to cope with his situation. As in other cases, Qiyāmuddin Khādim does not refrain from using big words, saying that generally for a Pashtun it is better to die than to lie. And when a Pashtun dies, he does not even want to be buried next to a liar.⁶¹

5.6 Compensation and retaliation

Freedom, strong-mindedness and sincerity are basic features of one's dignity and honour. These feelings are incompatible with the idea of owing anybody anything. The concept of *badal* conveys the demand for compensation without condition. The original meaning of the word *badal* is 'exchange'. In the course of time, it acquired the meaning of compensation and retaliation. In Western publications, *badal* is often understood exclusively as revenge and blood feud.⁶² Pashtun authors, however, unmistakably point out that both good deeds (*nekāi*) and bad deeds (*badāi*) require corresponding actions in return.⁶³ Hence, the concept of *badal* expresses not merely the call for revenge, but also the obligation to thank for the provision of help and to provide compensation as soon as possible. In Pashtunwali, it is sinful to be given something good without reciprocation. The feeling of indebtedness to someone who has done you a favour is considered unmanly and cowardly although reciprocation does not need to be granted right away. Compensation can be provided at a convenient time because doing Pashto means to settle one's debt when the opportunity arises. On these grounds, numerous nets of mutual obligations are woven. One simple example can illustrate how such nets work. In 2006 in Nimroz province, a local *khān* of the Nurzi told me that he had bought with his own money more than 100 prayer mats for a friend in Farāh province who had completed the hajj to Mecca and needed these prayer mats to be presented as souvenirs to relatives and friends. When I asked him if the friend had already given back the money for the carpet mats, he said no. He explained that he wouldn't take the money, but whenever he would have a problem in Farāh province, this friend who

⁵⁷ Only at the Loya Jirga as enshrined in the Constitution of Afghanistan decisions are taken by voting.

⁵⁸ See Khādim, *Paṣhtunwali*, p. 54.

⁵⁹ See Bakhtāni, *Paṣhtani khuyuna*, p. 16.

⁶⁰ See Khādim, *Paṣhtunwali*, p. 58.

⁶¹ See Khādim, 'Paṣhtunwali – tarbiyawi usul', p. 30.

⁶² See Lindholm, *Generosity and Jealousy*, p. 210, Steul, *Paṣhtunwali*, p. 153, Strickland, 'The way of the Pashtun', pp. 4-5.

⁶³ See Khādim, *Paṣhtunwali*, p. 48.

had a high position in the local administration would be obliged to help him. This could be tomorrow or in some years. Numerous obligations of this and similar kinds are woven into numerous nets of mutual obligations which makes any discussion about corruption much more difficult than it would seem at a first glance.

Like good deeds, bad deeds also call for reciprocation. If a bad deed consists in an attack on a person's honour or physical integrity, reciprocation means to take revenge. Revenge is aimed at restoring the primary balance between individuals and groups and at retrieving one's honour. This equivalence is also called *badal*. A cycle of retaliatory violence can turn into a blood feud. Such feuds are named blood feud not because bloodshed must be necessarily involved, but because they are carried out by kin groups which are related by blood, i.e. by descent groups of different genealogical depth. Revenge can be taken by the patrilineal relatives of someone who has been wounded, killed or otherwise wronged or dishonoured, and it can be directed against the offender or against one of his patrilineal relatives. Since blood feuds are aimed at restoring the primary balance between individuals and groups, revenge must be reciprocal. The principle to be applied is an eye for an eye and a tooth for a tooth. For example, killing a person requires killing the killer or one of his relatives. Only in this case the primary balance and equivalence between the two groups would be restored and peace negotiations would be promising. Revenge does not need to be taken right away. Vengeance can be delayed and the obligation to take revenge (*por*, literary 'debt') can even be left to the next generation. A popular proverb says: *paštun sāl kāla pas khpāl por wu-asikht / ham wayāl-ye chi ghaltī-mi wu-kra* ('A Pashtun took his revenge after one hundred years and he said that he was in a hurry.')

Moral harm caused by killing and injury must also be taken into consideration when the primary balance between individuals and groups is to be restored in the course of vengeance. According to custom, some money needs to be paid by the offender or his relatives to compensate moral damage. In Pashto, this money is called *sharm*. Originally, this word means 'shame' and thus it shows that revenge is also a question of honour and shame. Money can be paid as compensation for physical harm as well to avoid pointless bloodshed. This money is called *khunbahā* ('blood money'). Such payments are very important for the peaceful solution of disputes.

⁶⁴ See Khādīm, *Paštunwali*, p. 43.

5.7 Generosity and hospitality

The concept of *sakhawat* expresses the habit of giving freely without expecting anything in return. A generous person is called *sakhi* respectfully.⁶⁵ It is said that a Pashtun will never sacrifice his honour, but giving away one's belongings is nothing exceptional for Pashtuns.⁶⁶ Hospitality (*melmastiyā*) is a special form of demonstrating generosity. Every person who enters the house is provided with at least some tea and food and, if necessary, a place to stay. Even poor people are hospitable to such an extent that a guest will probably get a wrong picture of their real economic situation. A guest is seen as a gift sent by God and demonstrating hospitality therefore is a pious deed.⁶⁷ According to custom, a guest is treated with special honour for three days. Afterwards, a guest is served like other members of the household. Hospitality includes not only rules of behaviour to be observed by the host, but rules for the guest as well.⁶⁸ Everyone is free to become somebody's guest, but once this has happened, the guest must give the host the opportunity to show generosity. Hence, a guest can leave the host's house only with the host's permission. It goes without saying, that it is not respectable to refuse offered food. Furthermore, a guest should frankly talk to his hosts although the host may not even ask who the guest is, where he comes from and where he is going. A Pashtun does not need to know a guest's personal details to honour him generously.⁶⁹ The host and his family will entertain a guest, having conversation with him or her in order that a guest shall not be bored. On these grounds, a guest is never left alone. If the host needs to be absent for a while, he will commission his brothers or sons to keep company with the guest. A typical question addressed to a guest is *sā'at-di ter dai?* ('Aren't you bored?'). Often, guests are offered a present when they are leaving.

⁶⁵ The word *sakhi* can be used as a proper name as well. Furthermore, in Afghanistan it is a well known epithet of Ali, the cousin and son-in-law of the Islamic prophet Muhammad.

⁶⁶ See Bakhtāni, *Paštani khuyuna*, p. 29.

⁶⁷ Of course, being generous is also a way to express one's wealth and to gain public reputation but as a primary motive of action, such behaviour does not correspond to the ideals of 'doing Pashto'.

⁶⁸ See Muhammad Kākar, 'Də Afghānistān də xatidzo', p. 55.

⁶⁹ See Bakhtāni, *Paštani khuyuna*, p. 30.

Hospitality also finds its expression in the way buildings are designed and erected. Almost every house has a guestroom which is strictly separated from the house's family part. Many villages have a separate hut which is called *hujra* and serves as a resting place for guests and travellers. The households of a village will supply food and company in turn.

In Pashtunwali, a guest is not only provided with food and a place to stay, but with protection as well. A person is under the host's protection as long as he is the host's guest. The guest on his part must not raise his hand against anyone as long as he is in the house of his host. This element of hospitality includes the obligation to grant asylum (*panā kawāl*) to a person who is persecuted by anyone. A host can try to act as a middleman for the guest and his persecutors, but when the guest is attacked the host will do his utmost to protect him. Defending one's guest means to defend one's honour and the honour of one's tribal group. Asylum must not even be refused to one's enemy. Special mechanisms of peaceful conflict resolution have developed on these grounds. Following the same rationale of hospitality, a woman can present herself as a guest in the house of the man whom she wishes to marry when she is going to be married to another man against her wishes. In this case, the chosen host must settle the matter with her father. In reality, however, this does not happen very often because a woman who resorts to this tactic loses face and runs the risk of starting a revenge cycle.⁷⁰

Escorting (*badraga*) is another feature of hospitality in the meaning of doing Pashto. A person who is travelling in a region where other tribes reside can ask for an escort. Local tribesmen will escort him and provide protection if necessary. An intelligent traveller will never cross foreign regions without seeking an escort by local people.

5.8 Pride and zeal

The concept of *ghairat* is probably the most complex tenet of Pashtunwali. The word *ghairat* means 1. dignity, self-esteem, pride, ambitiousness; 2. zeal, eagerness, passion; 3. bravery, courage, audacity; 4. indignation, anger; 5. modesty.⁷¹ Thus the concept of *ghairat* pools

⁷⁰ See Erika Knabe, 'Afghan Women: Does Their Role Change?', in Louis Dupree and Linette Alberts (eds.), *Afghanistan in the 1970s* (New York, Prager 1974), pp. 146, 147.

⁷¹ See M. G. Aslanov, *Pushtu-russkij slovar'* ['Pashto-Russian dictionary'] (Moskva, Russkij jazyk 1985), pp. 621-622.

almost all values and rules of behaviour of the code of honour of the Pashtuns. A person to whom *ghairat* is attributed is respectfully called *ghairatman*. Such a person is not simply doing Pashto but he is anxious to do so and leaves no doubt that he does his utmost. Such a person is held in high esteem because a *ghairatman* Pashtun personifies the 'ideal Pashtun'.⁷²

6 THE CUSTOMARY LEGAL SYSTEM

6.1 Legal norms and the code of honour

Legal norms differ from other social norms because compliance is supervised by institutions which are socially recognised for this function. In a society where honour covers everything and where the honour of an individual and the honour of the group to which one belongs are interdependent, matters of dispute can hardly be delegated to any persons other than those whose honour is in question. Among the Pashtun tribes, whenever a commonly recognised norm is broken, the threatened group feels responsible to take measures against the norm-breaker in order to re-establish the previous balance and to retrieve their honour. Imposed sanctions need to be accepted by other tribesmen and, if necessary, supported by them to become legal sanctions. This philosophy constitutes the basis for a complex of norms and mechanisms which are known under the name *narkh* (literally 'price') in Pashto and which can be interpreted as the customary legal system of the Pashtuns.⁷³ The customary legal system and the code of honour are closely related to each other. One cannot understand the philosophy and mechanisms of the customary legal system without taking into consideration the ideology of patrilineal descent, the tribal spirit as well as the values and rules of behaviour as expressed in Pashtunwali.

Besides customary legal norms, Pashtuns accept the Sharia, i.e. the sacred law of Islam, and follow the Hanafi School in jurisprudence. Traditionally, Sharia addressed several aspects of family law primarily whereas cases of crime and inheritance disputes were settled according to customary legal norms. No opposition existed between these legal

⁷² See Alfred Janata and Reihanodin Hassas, 'Ghairatman – Der gute Paschtune', M. Ibrāhim 'Atāyi, *Də paštani qabilo istilāhi qāmūs*, p. 199.

⁷³ The fact that a word with the original meaning 'price' is used to denote the customary legal system is related to the custom of paying blood money in the process of conflict solution (for details see below).

systems until the mid-1990s when the Taliban introduced a fundamentalist interpretation of Islam and declared some traditional customs and norms of the Pashtuns to be opposing Islamic law. In 1998, the Taliban issued a decree which banned the custom that in dispute resolution the clan of the offender would present a woman or several women to the clan of the victim as compensation. Another decree forbade levirate marriages declaring that widows had the right to choose their own husbands regardless of whether they belonged to the husband's family or tribe or not.⁷⁴ Today, however, the Taliban recommend caution in applying Islamic law. In a statute for the members of the Taliban movement (*Də mujāhidino askari lāyha* 'Military rules for the mujahedin') which was issued in August 2010, it is said that judicial disputes which are taken to the Taliban by the local population with the request for resolution should be addressed firstly via mediation by legal peacemaking Jirgas. Only if a Jirga cannot come to a solution or if a Jirga cannot be held, disputes shall be taken to an Islamic court.⁷⁵ This recommended preference for tribal methods of conflict resolution strengthens Pashtunwali even though it might be a temporary approach in the eyes of the Taliban.⁷⁶

Furthermore, the customary legal norms of the Pashtuns deal with many topics addressed by secular law. However, self-governance was one of the privileges which Pashtun tribes traditionally were granted in the state system of Afghanistan.

⁷⁴ For details see Juan R. I. Cole, 'The Taliban, Women, and the Hegelian Private Sphere', in Robert D. Crews and Amin Tarzi, *The Taliban and the Crisis of Afghanistan* (Cambridge, London, Harvard University Press 2008), pp. 118, 143-144.

⁷⁵ The third edition of these rules was published in the Internet on 8 August 2010 by the secretariat of the Islamic Emirate of Afghanistan (*Də afghānistān islāmi imārat dār-ul-inšā*). It consists of fourteen chapters and 85 sections. The referred statement is given in section 62 of chapter 14 titled *olāsi mauzu'āt* ('Public questions'). I downloaded the text on 2 November 2010 under the address http://shahamat.info/index.php?option=com_content&view=category&id=9&Itemid=24 but today this site is not working anymore.

⁷⁶ They believe that the conditions for Islamic jurisdiction are unfavourable today. In section 63 of the same document it is said, therefore, that even solutions which were taken by Islamic courts under the sovereignty of the Islamic Emirate of Afghanistan, i.e. between 1995 and 2001, and require renegotiation should not be renegotiated today 'because unlike today better conditions for justified solutions existed at that time' (ibid).

As mentioned earlier, it has always been a fact that in the tribal regions the state would rarely interfere into affairs which were regulated by official institutions in most other parts of the country. When a conflict arose, many Pashtuns used to say *pašto kawu* 'we will do Pashto', i.e. they resolved the conflict by applying customary legal norms. Correspondingly, a Jirga which is held to resolve a legal conflict according to the tribal customs of the Pashtuns is called *pašto jirga*.⁷⁷ Especially in remote areas and in areas with compact Pashtun settlements, government agencies accepted this situation until the recent past by condoning the customary legal system or even by applying customary legal norms in their own judgements. In the early 1980s, Afghan scholars carried out an anthropological survey in Pashtun tribal areas and documented 104 criminal cases. 84 of them were resolved by the tribes without informing government agencies and only in 20 cases were the police or other government agencies engaged to resolve the conflict. In almost all cases, however, their judgments conformed to the customary legal norms of the Pashtuns.⁷⁸

Since in many parts of Afghanistan no functioning government institutions existed during the civil war, customary law continued to be important and in remote areas it is still being applied today. In 2005, I had the chance to join a Jirga of tribal elders of the Nurzi who had come from Farāh and Nimroz provinces to Zaranj in order to discuss a death threat against a young man from their tribe who had been engaged in cross-border drug trafficking. Although a leading security officer of Farāh province who also belonged to the Nurzi was present at this Jirga, it was clear from the very beginning that the problem would be solved by 'doing Pashto', i.e. the tribal way and without addressing official institutions.

The customary legal norms of the Pashtuns have never been codified in written form. They were transmitted orally and consequently particular norms and customs may vary in some details from tribe to tribe and from region to region. Variation mainly concerns the computation of the amount of blood money to be paid but not the mechanism of conflict resolution.⁷⁹ Here the main types of

⁷⁷ Muhammad Gul Muhmand, *Də musawade pə daul lumrai pašto sind* ['A draft of the first Pashto dictionary'], (Kābul, Matba'a-yi umumiya-i Kabul 1316/1937), pp. 210-211.

⁷⁸ See Hikmati (ed.), *Də paštano tolaniz-iqtisādi jurāšht*, pp. 235-284.

⁷⁹ Some examples for variation among the Taṇi and Ahmadzai tribes are given below. For more details see Steul, *Paschtunwali*, 185 ff. and Hikmati (ed.), *Də*

conflicts and principles of dispute resolution will be described.

6.2 Typology of conflicts

Crimes which offend the whole community are differentiated from crimes which offend only a particular group of persons such as, for example, the members of a lineage or clan. Each type of crimes gives rise to other sanctions and different groups are authorised to impose and exercise the sanctions.⁸⁰

Actions which threaten the whole community are subject to sanctions to be imposed by the community, i.e. by a Jirga. For example, in cases when somebody has refused to participate in tasks which are to be performed as relief by community members (*ashar*), when somebody has cleared tribal woodlands without permission, or when somebody has exceeded the maximum of the bride price which had been established for a region, a Jirga is convened and the offender is forced to give off some animals or some money as punishment for his behaviour. In the case of gross violations, the house of the offender can be burned down or his land confiscated and distributed among other tribesmen.⁸¹ This means that this person is de facto expelled from the community.

Attempts on somebody's life or physical integrity, assaults on a person, adultery or other attempts on a female's sexual integrity as well as property offences and attempts to exploit a person or group are actions which are directed against a particular person or against a particular group of persons. Consequently, in the first instance, the offended person or group of persons is responsible for imposing and exercising sanctions. Taking revenge is the usual response in these cases and in the customary legal system, revenge is regarded a legitimate sanction for such actions.

paštano ʔolaniz-iqtisādi juṛašt, pp. 176 ff. (both for the tribes of Khost), Haqmal, 'Ijtīmā'i masāyil' (for the Taṇi tribe), Waziri, 'Də waziristān də barmali də xalko uləš narkhuna' (for the Waziri tribe), Khādim, *Paštunwali*, pp. 50 ff. (for the Afridi tribe).

⁸⁰ In that respect customary legal norms in various parts of the world are more or less identical. Cf. Heiderich Barnim, *Genese und Funktion der Rache (Gleichzeitig ein Beitrag zum Problem der Universalrechtsinstitute)*, (Köln, Universität zu Köln 1972), pp. 12 ff.

⁸¹ See Hikmati (ed.), *Də paštano ʔolaniz-iqtisādi juṛašt*, pp. 235ff.

6.3 Dispute settlement

Revenge does not necessarily involve bloodshed. Various habits and customs enable a blood feud cycle to be avoided and a conflict to be peacefully resolved. The most famous custom is a ritual of forgiveness called *nənanawāta* in Pashto which literally means 'entering [the house of the offended party]'. This ritual is performed in cases of attacks on a person's physical integrity (both killing and injury) when one of the feuding parties is too weak to take revenge or when bloodshed should be avoided for other reasons. The *nənanawāta* ritual is based on the concepts of hospitality (*melmastiyā*) and asylum (*panā kawəl*) according to which asylum must not even be refused to one's enemy. *Nənanawāta* means that the offender comes to the house of the opposing party to admit guilt. Sometimes a mullah is sent first to announce a *nənanawāta* ritual, at other times the offender appears in person without any advance announcement, then usually accompanied by a mullah, tribal elders, an elder woman or several women. In the past, a person who performed the *nənanawāta* ritual bound a cord around his neck and bore a tuft of grass in his mouth to show that he admits his guilt.⁸² A Pashtun is obliged to accept the *nənanawāta* ritual because a person who performs it repents and demonstrates devotion.

When the *nənanawāta* ritual is being performed the offender gives the so-called blood money (*khunbahā*) to the family of the victim. The blood money is a compensation for the inflicted damage and it is paid out to avoid further revenge. The amount of the blood money varies depending on the damage. The basic unit is established according to the average bride price (*walwar*) which is currently paid in a particular region. If a male has been killed the blood money to be paid consists of two bride prices. This unit is called one *khun* (literally 'blood') or one *nek* (literally 'good', 'good man') in some regions. The rationale behind it is that the blood money enables the family of the victim to marry a girl who can give birth to a son. Due to the ideology of patrilineal descent, this son would be a member of the victim's patrilineal

⁸² This used to be the most humiliating form of *nənanawāta* because a person demonstrates that even in his own eyes he is not a *turyālai*. No detailed information is available about when this type of *nənanawāna* was performed. Khādim describes it as a contemporary custom and his data belong to the 1950s (see Khādim, *Paštunwali*, p. 40). Willy Steul, who gathered his material in the late 1970s in Khost province, reports that some informants remember this type of *nənanawāta* 'but they were unable to state particulars' (Willy Steul, *Paschtunwali*, p. 163).

descent group and a replacement for the killed person. For that reason, the blood money always depends on the average bride price.

If a woman has been killed, the blood money is half of that amount, i.e. $\frac{1}{2}$ *khun* which is equal to one average bride price. In the case of injury, different amounts of blood money are established for every body part. For example, if somebody has lost eyesight in both eyes the blood money is 1 *khun*, if one eye has been blinded it is $\frac{1}{2}$ *khun*. If somebody has lost a leg the blood money is $\frac{1}{2}$ *khun*. The same must be paid when somebody lost his leg or cannot use it anymore after being wounded. If somebody's leg has been wounded but still can be used the blood money is $\frac{1}{4}$ *khun*.⁸³ The amount of blood money which was to be paid for killing and injuries among the Ahmadzai tribe according to data presented by Qiyāmuḍḍin Khādim, is given in Figure 1. Furthermore, a certain amount of money needs to be paid by the offender or his relatives to compensate for moral damage (*sharm*).

The amount of the blood money is raised in cases where the victim was an honoured elder like a *spinzhirai* or belonged to the dignitaries. The amount of the blood money is also raised in the case that the victim was unarmed and defenceless when he was killed or injured, in the case where the victim was mutilated after being killed or in the case that the killer took possession of the victim's weapon.

Since the amount of blood money to be paid is always established in proportion to the average bride price, the offender's family can also give one or several marriageable girls to the victim's family instead of paying money. For example, if somebody has been murdered and the offender's family gives one girl to the victim's family, the amount of money which remains to be paid is reduced to $\frac{1}{2}$ *khun*. Revenge and blood feuds are disputes which are carried out between patrilineal descent groups. Hence, dispute settlement is aimed at re-establishing the primary balance between these patrilineal descent groups.

After the *nānawāta* ritual has been accepted by the victim's family and the blood money has been paid to them, the blood feud must be stopped. No further revenge can be taken because the previous balance between the disputing families or clans has been re-established. Any other behaviour would be dishonouring.

Figure 1: The blood money of the Ahmadzai tribe⁸⁴

Killing		
Premeditated murder		2 <i>khun</i>
Manslaughter		1 <i>khun</i>
Injuries		
<i>Spin</i> – 'white [visible] body parts'		
Eye	1 eye	$\frac{1}{2}$ <i>khun</i>
	Both eyes	1 <i>khun</i>
Nose		$\frac{1}{2}$ <i>khun</i>
Ears	1 ear	$\frac{1}{2}$ <i>khun</i>
	Both ears	1 <i>khun</i>
Tongue		1 <i>khun</i>
Teeth	Every visible tooth	one tenth of a <i>khun</i>
	Every non-visible tooth	Special blood money
Legs	One leg	$\frac{1}{2}$ <i>khun</i>
	Both legs	1 <i>khun</i>
	The blood money can differ in the case that only the part below the knee was lost.	
Arms and hands	One arm / hand	$\frac{1}{2}$ <i>khun</i>
	Both arms / hands	1 <i>khun</i>
	The blood money can differ in the case when only the part below the elbow was lost. Furthermore the blood money can differ depending on whether the right arm or hand or the left one was lost.	
Fingers	Thumb or all four bearing fingers on one hand	1 <i>khun</i>
	Thumbs or all four bearing fingers on both hands	2 <i>khun</i>
<i>Tor</i> – 'black [invisible] body parts'		
Genitals	Injury or cutting off before the death	2 <i>khun</i>
	Desecration or cutting off after the death	1 <i>khun</i> in addition to the blood money to be paid for killing

⁸³ These data refer to the Tañi tribe of Paktia in the 1970ies. See Haqmal, 'Ijtimā'i masāyil', pp. 62 ff.

⁸⁴ See Khādim, *Paštunwali*, pp. 183 ff.

6.4 Mediation

Serious disputes can give rise to a blood feud cycle with numerous victims that would threaten the whole community. In such cases, a community might be well advised to bring the dispute to an end. For this purpose, the elders of a lineage, clan or tribe would persuade the feuding parties to lay down their arms and agree to peace talks. To make such efforts a success, they would appeal to the concept of *nang*, i.e. to the individual honour of the persons involved and to the honour of their lineage, clan or tribe. For peace negotiations, mediators (*dreyamgārai*, *miyandzgārai*) can be invited. Mediators must be respectable elders and they must be neutral. For that reason, it is usually tribal elders of other lineages or clans who are called up to arbitrate between the conflicting parties. Furthermore, the weapons of both conflicting parties can be confiscated by the community to prevent a new flare-up of hostilities for the time of the peace talks. This custom is called *baramta* in Pashto.⁸⁵ A ceasefire is an essential precondition for peace talks.

Peace negotiations are conducted at a *Jirga* to which the mediators and representatives of both conflicting parties are invited. In a society which is organised in patrilineal descent groups, peace cannot be made between individuals only, but must be realised between patrilineal descent groups. For that reason, both conflicting parties must send dignified representatives, usually their elders, to the *Jirga*. Such a *Jirga* is by no means a judicial hearing or a trial court, but a peacemaking institution. Hence, the question of guilt would not be discussed at all. The *Jirga* would find out how many members of the conflicting parties were killed. If the number of killed persons is equal in every party, peace can be concluded. If one party has more victims than the other, the other party must pay the corresponding amount of blood money. In some cases, the ritual of forgiveness (*nānawāta*) could also be part of the peacemaking process. In any case, the principal object of peacemaking is to re-establish the balance and equivalence between the disputing groups as it had existed before the outbreak of the dispute. Only in this situation can peace be concluded. The decision of a peacemaking *Jirga* is binding for all participants because a peacemaking *Jirga* can be held only if both conflicting parties have agreed to

mediation and peace negotiations. Acceptance of a *Jirga* decision is a question of honour.⁸⁶

Sometimes a *Jirga* is used as a trial court. This would happen when a right of ownership or usage right such as of pastures is in dispute. In this case, every conflicting party must testify under oath that according to patrilineal succession it is the legal heir of the object of dispute. It is believed that a false oath would evoke God's penalty. If, nevertheless, both parties swear to be the legal heir, the object of dispute will be divided between them.⁸⁷

All decisions of a *Jirga* that has been held for conflict management are made by consensus and they are therefore compromises. The quotation of precedents or if the event is quite unprecedented, references to similar events are very important for decision-making. The authority of a *Jirga* decision is based upon the appeal to *nanga*, i.e. acceptance is a matter of honour.

7 CONCLUDING REMARKS

In summary, it must be reiterated that Pashtunwali describes an ideal, namely the ideal of the Pashtun way of life, and that ideals never come up to reality. Actual behaviour can be guided by other values as well. In recent decades, Afghan society has been subject to fundamental change in almost every respect. The society of the Pashtun tribes is no longer the society that existed when most of the native accounts drawn on for this paper were written. At that time, many of the values of Pashtunwali were already less predominant in the milieu of urban Pashtuns in cities like Kabul than in most rural areas. Later, foreign aggressions and the civil war created a wartime experience which is almost without precedent in the history of Afghanistan. While the war was waged in Afghanistan, it was in fact an international conflict between superpowers which ended with the collapse of the Soviet Union and the Eastern bloc. Afghan mujahidin felt like global players in the new international order and the concept of *tura* seemed to promise a way to solve global conflicts. But the military power of the commanders undermined the traditional hierarchy of Pashtun society as well as the concept of equality. At the same time, numerous migrations brought millions of Pashtuns into a socio-economic environment which was organised in a fundamentally different way from their former village communities. Several

⁸⁵ Generally *baramta* describes all kinds of confiscation made to force somebody to clear his debt. See Khādim, *Paštunwali*, p. 39, 'Atāyi, *Dā paštani qabilo istilāhi qāmūs*, p. 21.

⁸⁶ For details see Steul, *Paschtunwali*, pp. 229 ff.

⁸⁷ For details see Steul, *Paschtunwali*, pp. 226 ff.

traditional values and rules of behaviour were put into question by the Taliban, their fundamentalist interpretation of Islamic law and a new art of warfare. Moreover, the civil war also changed the nature of relationships between the ethnic groups of Afghanistan. Other groups gained in military and political power during the war and in their eyes, the Pashtun tribes lost their traditional exceptional position within Afghan society. After 2001, a new political order and a new constitution were established with enormous foreign support. This new order, self-evidently, was crafted to respond to international expectations rather than traditional values as expressed, for example, in the concept of Pashtunwali. And besides all that, the rising level of education among the younger generation is bringing new values into awareness, while modern means of communication are enabling the people of Afghanistan to become part of the globalised world with its globalised discussion of values.

The question about the importance of Pashtunwali in modern Afghanistan cannot be answered in any general way.⁸⁸ The transformation of the formal and organisational aspects of tribal life is more obvious than changes within the system of values. Recently, a fundamental discussion of some of the changes within Pashtun tribal society, which had been caused by thirty years of conflict and the gradual collapse of the state, was presented by Thomas Ruttig in his paper 'How tribal are the Taliban?'⁸⁹ He argues quite rightly that might often trumps Pashtunwali and he cites many examples showing that the Jirga has lost much of its authority and that it has been replaced by the less egalitarian *shurā*, that intra-tribal cohesion has declined in strength, and that several factors stand in the way of a coherent and continuous tribal leadership. Thomas Ruttig does not confine himself to the formal aspects of political and social organisation. Concerning the Pashtunwali as the code of conduct of the Pashtuns, he argues that much of it had been mystified, both by Afghans

and foreign observers, and that much of what is told about it are idealised versions of a golden past.⁹⁰ This is true because Pashtunwali, by nature, is an idealised picture of the Pashtun way of life. The idea that in former times all behaviour fulfilled the demands of Pashtunwali is without a doubt an idealisation, but there is also no doubt that Pashtunwali itself presents ideals and that these ideals serve as values to be pursued as goals.

The ideal of the Pashtun way of life as presented by Pashtunwali includes values, norms, customs and habits which for a fairly long time have been held sacred by virtue of tradition and which by virtue of their imperative character are intended to determine the behaviour of the individual and of social groups in everyday life and in exceptional situations as well. Today, the value system of Pashtunwali competes with other systems of values which have gained influence in Afghanistan over the last few decades. Indeed, the values guiding the behaviour of individuals or groups are largely dependent on the demands of a particular situation. Attempts to fulfil the requirements of Pashtunwali may remain a compromise from case to case, yet among current competing value systems, the ideals of Pashtunwali still present an attractive and sometimes a binding option today.

⁸⁸ For a discussion of the effects of the civil war on some aspects of Pashtunwali see Glatzer, 'Zum Pashtunwali'. Gender issues were discussed from a legal point of view by Palwasha Kakar, 'Tribal Law of Pashtunwali and Women's Legislative Authority', published by the Harvard Law School in the Internet on <http://www.law.harvard.edu/programs/ilsp/research/kakar.pdf> (referred to on 8 December 2010).

⁸⁹ See Thomas Ruttig, 'How tribal are the Taliban? Afghanistan's largest insurgent movement between its tribal roots and Islamist ideology', *Afghanistan Analyst Network*, <http://www.aan-afghanistan.org/uploads/20100624TR-HowTribalAretheTaliban-FINAL.pdf>.

⁹⁰ Ibid, pp. 4, 7.

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