

# **Pukhtu:** The Pukhtun Code of Life

Dr. Sultan-I-Rome



<http://www.valleyswat.net>

*Pukhtuns* inhabit the North-West Frontier Province of Pakistan as a major ethnic group of the populace. Most parts of the land they occupy remained independent, and without a centralized government of its own for most of its known history. It is due to the geographical nature of the land, being mostly hilly, that it is not easily accessible and it is difficult to maintain a hold and firm control over it, in the absence of advanced means of communication and other required things, which were not found in the earlier times. Then question arises that in the absence of a centralized authority, control and formal government and governmental machinery, what regulated and ruled the lives and actions of the *Pukhtuns*; and what maintained peace and ensured security in their tribal and semi cephalous society. The answer, however, is not difficult to find.

Despite the fact that the society remained tribal and individualistic to some extent, the lives and actions of the people had been regulated and ruled by unwritten but well-defined and well-known customs, norms, codes and rules called *Pukhtu* also written as *Pashto* and *Pakhtu*, which is also the name of the language of the people. It is a commonly known saying that *Pukhtu* is not only a language but is also the code, which governs the lives of those who speak it.-The term '*Pukhtunwali*' is also used for '*Pukhtu*'. To an outsider and a casual observer the society might have seemed disorderly, but it was, in fact, a well knit and regulated one.

Salma Shaheen, referring to a researcher's observation, states that *Pukhtu* is not a language only. It is the constitution of the life of the *Pukhtuns* as well. *Pukhtu* or *Pukhtunwali* is the name of a specific culture and civilization. *Pukhtu* is such a collection of ethics and behaviours ignoring which or a slight deviation from which is ouster from *Pukhtu*, and if it is observed deeply the entire life of the *Pukhtuns* passes in saying that '*daa Pukhtu dah*' (it is *Pukhtu*) and '*daa Pukhtu nah dah*' (it is not *Pukhtu*). To lay an extra or misplaced step in between the '*dah*' (is) and the '*nah dah* (is not) is ousting from *Pukhtu* and the constitution of *Pukhtunwali*. ' And according to Muhammad Nawaz Tair, *Pukhtunwali* is the name of that code of conduct and national custom, which have been adopted by the *Pukhtuns* since long and under which they live till this time.<sup>2</sup> Whereas according to Ashruf Altaf Husain:

As a matter of fact, among Pathans "*Pakhto*' (plural of '*Pakhtoon*' [sic]) is the name given to the valour, sense of honour and *lex non scripta* of the nation .... The word '*Pakhto*' stands for hospitality, generosity, bravery, truthfulness, straightforwardness, keeping of a promise, patronage of the weak, giving of shelter to all including enemies, moral courage in claiming one's rights, sacrificing one's life for personal as well as national honour, dying in the name of religion, and a number of other desirable attitudes and worthy traditions. To say that one is not a true '*Pakhtoon*' implies that one is devoid of all these virtues and is, therefore, regarded a term of abuse.<sup>3</sup>

A *Pukhtu tapah*<sup>4</sup> says that:

*Pa Pukhtu ting Pukhtun walaar day*

*Bey Pukhtu nah mani Pukhtun merah Pukhtunah*

Trans: The *Pukhtun* stands firmly on *Pukhtu*

The *Pukhtun* wife does not accept a *Pukhtun* husband who has no *Pukhtu*

Even children, whether male or female, must know the main elements and commandments of *Pukhtu*. Ghani Khan says that: When a law is bred into the very fiber of a race it becomes a custom and persists long after the need is gone and the occasion forgotten. For man gives to his children not only the shape of his own nose and the cranks in his character, he also

teaches them his fears and forebodings, his songs and curses. He moulds his child as nearly as he can to his own shape.<sup>5</sup>

Addressing the English and comparing the English law (made for the *Pukhtuns*) and *Pukhtuns*' own custom and traditions, he says that "there is absolutely no difference between your law and his customs in object and purpose."<sup>6</sup> Nevertheless, "your laws are as stupid to him as his customs are to you."<sup>7</sup> The codes and rules of *Pukhtu*, developed in the course of time, are naturally internalized by the children. Addressing the English, Ghani Khan elaborates that:

You call it law and keep it in big books. He calls it custom and keeps it in his wife's treasure chest. You have to be either a judge or a criminal to know your law. He knows his customs before he knows how to eat. It is bred in him. It is mixed in his bones and works in his liver. He does not have to go to a learned man in a wig to know the law against which he sinned. He knows it as soon as he does it. He is his own judge and jailer. His ancestors have seen to it that it is so."<sup>8</sup>

The components of *Pukhtu* are simple but well-defined principles, which not only guide but also regulate and govern the lives and actions of the *Pukhtuns*: males or females, adults or children alike. James W. Spain observes that:

"Nonetheless, there are important traditional and social factors which guide community life and in many cases influence or even determine the actions of individuals. These mores vary considerably in different parts of the Pathan area, and codification of them is virtually impossible. However, certain of them are almost universal, and some knowledge of these is essential to an understanding of what the Pathan is and how he got that way."<sup>9</sup>

In this paper an attempt has been made to deal with some components and commandments of *Pukhtu* - termed in English 'The Pukhtun Code of Life', 'The Way of the Pathans' -or the unwritten constitution of the *Pukhtuns*.

### ***Badal:***

*Badal* is one of the greatest, if not the greatest of all, commandments of *Pukhtu*. Although *badal* means revenge, as stated by Denzil Ibbetson<sup>10</sup> and others<sup>11</sup>, it has other meanings and uses as well. It is also used for assisting others for their assistance in any work or any way; to return some one else work(s), deed(s), and favour(s) etc. (In the same coin or preferably in the better one) he had rendered to some one. In *Pukhtu*, *badal* is regarded the foremost obligation as well as liability in all cases of its meaning, and a person who does not care for it or ignores it, is not considered a true *Pukhtun*.

In case of revenge, whether of murder, beating, injury, and damage to honour etc. *badal* is considered liable and is taken without consideration for its consequences and costs. *Badal* is to be taken not only by the person who had received damages etc., in any shape, but also by other members of his family or even sub-tribe or tribe, not only from the particular culprit or aggressor but also from his other family members and even sometime sub-tribe or tribe. Thus it depends upon the nature of the act committed and also on that of the aggrieved person or family or tribe, how to react and take revenge or to accept compensation or even to forgive. However, in cases of murder generally that person is murdered in *badal* who is considered as the most influential and worthy in the family of the offender, called the *sar saray* (the leading figure), so as to give greater loss to the offender's family. There is no limit of time or place for *badal*. Hence a famous *Pukhtu* saying is that '*Pukhtun cheh sal kaalah pas badal wakhli no hum taadi kawi*', meaning that when the Pukhtun takes revenge after a hundred years, then too he makes a hurry.

Although *badal* in the case of revenge had its negative effects and impact because it causes unending bloodshed, which might continue even for centuries, and in which the innocents also lose lives and suffer in many ways, it no doubt had positive effects and impacts, which could not be underestimated. Having deterrent value *badal* helps in maintaining and ensuring peace, order and respect of human life and honour in absence of organized government and governmental machinery, law enforcing agencies and courts. Because it compels a person to think, time and again, over the would-be consequences, not only for himself but also for his other family members, his tribe or even his offsprings after him, before committing a murder, fighting or quarrelling with someone, insulting someone and so forth. Thus, although *badal* has somewhat demerits, it plays positive role and greatly contributes to security and safety of life, property, honour, prestige etc.; and obstruct the way of Might is Right. Because a crime, murder, injury etc., though might be committed in privacy and will remain hidden for the time being, will, nevertheless, come to the surface or will be detected and unearthed anyway and perhaps - after a long time. And whenever it does not remain secret anymore, the *badal* becomes obligatory in the case of one party and liability in 'the case of other. Hence *badal* is a restraining force, a tool of check and balance, and the surety bond that any wrong will not go unpunished. Moreover, *badal* is considered a right and the one who does not take *badal* is looked down upon, and is also liable to *pighur*.

In other forms and uses, such as assistance in a work, favour, giving some thing on *badal* and so forth, too, *badal* has great significance both in regulating the lives and works of the people and also in coordinating and facilitating them. In this respect it results cooperation and unity among the people, development, contribution and assistance, making the communal life easy, and so forth. In this respect too reciprocating *badal* is obligatory, and the one who does not reciprocate *badal* is not honoured and esteemed. In all its forms it is tried and also esteemed to reciprocate *badal* not in equal form and terms but at least in a little bit more.

It is to be noted that *badal* had been and is still presented in such a way that demonizes it and hence is considered a curse. The positive aspects and contribution of *badal*, which in fact dominates its negative effects, in case of revenge and its other meanings and uses has been ignored by those who have written upon the topic.<sup>12</sup>

## ***Melmastya***

Another important component of Pukhtu is *melmastya* meaning hospitality. *Melmastya* is an obligation, which could not be avoided. In *melmastya* the guests are served with food and provided with boarding and lodging if required or asked for. *Melmastya* is not only offered to guests who are relatives, friends and acquaintances of the host but also to strangers and those who ask for it. James W. Spain observes that *melmastya*

"is exercised by the tribesmen to a degree frequently embarrassing to the guest - whether he be foreigner who knows he will never be in a position to return it, or fellow-tribesman who may fear that he will not be in a position to return it adequately when the occasion demands."<sup>13</sup>

A point to be noted in the statement is about the return of *melmastya*. It is expected of the guest of today to be a host of tomorrow for the host of today. Hence a Pukhtu saying is that "*Pukhtun khpalah dodai da bal pah koor khwri* meaning that Pukhtun eats his own food at other's home. If a person does not behave in the expected manner he is not considered true Pukhtun and generally is looked down upon. The guests have been mainly of two types, i.e. who have to reciprocate the *melmastya*, and those who are not likely to return it tomorrow. The guests who are not known and are poor wayfarers are called *Khudayi melmanah* meaning the guests served for Almighty's sake.

James W. Spain though states that "the lavishness of the hospitality varies according to the circumstances of the host. A poor villager will offer tea and stew up a few pieces of goat-meat. A wealthy chief will place his house and retainers at the guest's disposal and feast him with a whole sheep"<sup>14</sup> but also contend that "*melastia*, it must be confessed, is more a matter of personal prestige and self-aggrandisement than of charity or brotherly love."<sup>15</sup> It is noteworthy that an important thing counted in *melmastya* is the warmth with which the guest is received and the manner in which he is served, and not the foodstuff served. That is why there are a number of *Pukhtu* sayings in this respect. One of the sayings states not to look at the foodstuff I offer but see the warmth and joy in my eyes; and another one says that the delicious foodstuff served with a frowns on the forehead of the host is not worthy to have.

Another thing connected with *melmastya* is protection of the guest. If the guest had enmity or he needs protection due to some other reason, his protection is regarded responsibility of the host till the time he remains guest with him or in the limits of his house or in his territorial limits.. The 'protection of a guest is considered obligatory to such an extent by the Pukhtuns that a "British administrator, who had' no good opinion about the Pukhtuns, had stated in his report that "for gold, they will do almost anything except betray a guest." <sup>16</sup> James W. Spain observes that:

On occasions, protection may be extended into a wider sphere by proclaiming the visitor the guest of a particular chieftain or clan as long as he remains within the Pathan community. This is traditionally symbolized by giving of a possession of the sponsoring chieftain, perhaps a dagger or a garment, which the guest wears as a symbol of the protection he is under. . . . Violence or hurt of any kind is almost never offered to a bonafide guest, regardless of how poor or distasteful he may be - both because of the high regard in which the obligation of *melmastia* is held and because of the obligation to take *badal* which would automatically be placed upon the host.<sup>17</sup>

The significant aspect of *melmastya* is that it was due to *melmastya* that the *Pukhtuns* did not have to bother about their food and boarding etc., at the time of their journey or going outside of their homes, in the absence of modern means of communication and hotels etc. They had only to go for food to the nearby or roadside settlement at the time of meal or at night both for food and stay, and receive the needed things and also the protection.

### ***Badragah/Jalab:***

Another commandment of *Pukhtu* that is also mainly related with *melmastya* is called *badragah* and also *jalab*, which means an escort. James W. Spain states that "a formal escort or guarantee of safe conduct to a stranger, emissary, or even enemy, is called *badragga*."<sup>18</sup> Besides for the safe conduct the persons to whom *badragah* is given, it is also to escort friends or other guests so as to give them honour. A *tapah* illustrates the first purpose of *badragah*, which says that:

*Pah gudar sah balaa lagaygi*

*Cheh kashar rooryi badragah warsarah zena*

Trans: What tragedy befalls upon the *gudar*<sup>19</sup>

That her younger brother goes with her in *badragah* (escort)

## **Jargah:**

*Jargah* means: consultative assembly; forum; council; council of the tribal chiefs. It is also spelled out as *jirga*, *jirgah* and *jarga*. It has been the forum and assembly where issues of common interest have been discussed and decided. Unlike the modern Western democracy, the decisions are not made by majority votes but by consensus or in other words unanimously after the deliberations. As such, the binding force of these decisions is greatly strong. It was due to institution of *jargah* that in absence of a central authority, government, governmental departments and machinery both the personal and communal disputes were settled and the common and communal matters were conducted and dispensed in *Pukhtu*. This age-old institution still functions successfully in many ways.

Under the age-old institution of *jargah*, the people or stakeholders assemble and discuss the issue freely when there is any problem or issue of common interest. All the attendants are at liberty and have the right to express their viewpoints and put forward their opinions without any restriction, hindrance or taboo. The important point is that the decisions are not majority imposed but are made by consensus or unanimously after the deliberations, as mentioned earlier. Besides other authorities the statements of the official *Report on the Administration on the Border of the North-West Frontier Province for the year 1938-39* endorses that in the *jirgahs* mere majority is not sufficient for-decision making, but consensus and unanimity is required. The report under the title 'The Tribal Constitution' states that:

" . . . each tribe has a tribal '*jirgah*', or representative body of persons with an acknowledged position in the tribe. . . . where every man considers himself a member of the tribal *jirgah* and where the political officer's task is not completed until he has convinced the last man of a *jirgah* numbering anything up to three thousand. . . . In Waziristan . . . almost every head of a household considers himself a member of the tribal *jirga* and has no intention of obeying the *jirga's* decision unless he happens to agree with it."<sup>20</sup>

It depends on the nature of the problem and issue in question that who has to attend the *jargah*. Generally the common people do not participate in the proceedings of the *jargahs*. Only the elders or representatives of the families, members of religious families and religious figures of note and influence, and the persons having some degree of influence have to participate in the *jargahs* on the ward and village levels. The leading of them participate, as their representatives, in the *jargahs* on the segment and tribal levels. McMahon and Ramsay

observe, in respect of the tribes of Dir, Swat and Bajawar together with the Utman-Khel and Sam Ranizai, which also on the whole applies to other Pukhtun tribes and localities, that:

"The power is entirely in the hands of the land (*daftar*) owning Pathans (*Pukhtana*). The *fakir* or artisan classes, cultivating tenants (*kashtkars*), soldiery (*mallatars*), musicians (*doms*), etc., are without the franchise, their position being practically that of serfs. . . . The management of all matters relating to a village rests with the village council or *Jirga*. Each village is represented in the *Jirga* of its *Khel*, each *Khel* in that of the sub-division, and each sub-division in the *Jirga* of the whole tribe."<sup>21</sup>

Besides each tribe and sub-tribes have their chiefs called *Malak* and *Khan*. They act as chiefs of the whole tribe and sub-tribes or section and sub-sections but they seldom have been more than their leaders in war and their agents in dealings with others. They possess influence rather than power and the real power have rested with the *jargah*.<sup>22</sup>

*Jargah* has other meanings, functions, composition, and uses in different contexts. In these contexts *jargahs* have to conciliate the opposing and inimical parties, to cool down

tempers, to strive for amity, to effect settlements, to mediate between parties, to bring normalcy in cases of tension and disputes, and so forth. And in such situations and cases the meaning, formation, composition, and functions of *jargah* vary on case to case basis.

James W. Spain has written, in 1950s, about the composition, powers, and functions etc. of *jargah*. These apply to *jargahs* of earlier times as well, of which some points are given herewith so as to make some facets of the *jargah* clearer. He states that in its simplest form, a *jargah* is merely an assembly. All community business, both public and private is practically subjected to its jurisdiction. It has exercised executive, judicial, and legislative functions, and also frequently acted as an instrument for arbitration or conciliation. In the past, Mughal ambassadors, Sikh generals, British administrators, unrepentant tribesmen, Pakistani politicians, and American celebrities have stood before *jargahs* during the years. The *jargah* is essentially a round-table conference never headed by a chairman or presiding officer. The persons whose interests are at stake have the right to attend and speak. Decisions are necessarily unanimous and solemnized by a prayer.

In case of failure in achieving the unanimous decisions, the *jargah* have to break up. There is always a moderator in a *jargah* usually a leading figure sitting a little forward in the formation. He encourages and applauds all the views but his aim should always be reaching at compromise. There has been seldom any voting in a *jargah*. In a *jargah* there are some arm bearing members guaranteeing the safe conduct of affairs. Keeping in view the volatile nature and heavy armament of the Pukhtuns, this is truly a triumph of tradition over instinct. The traditional penalty for defiance of *jargah* is setting the culprit's house ablaze. A subtle point, which had been frequently obscured by the semi-judicial role of the *jargah*, is that its function has to peacefully settle a volatile situation instead of judging right and wrong, determining guilt, or passing sentence.

While effecting a proper settlement, the *jargah* members take into account the requirements of *Pukhtu*, the circumstances in the particular situation, and the character of the individuals concerned. Decisions are usually very simple. When complex disputes over property or intertribal feuds are involved, settlement has been more complicated, and recourse is usually made to the *Shariat*.<sup>23</sup>

Thus, it is the institution and system of *jargah* which meets the need of solving and deciding common, communal, tribal and inter-tribal problems, issues and disputes etc. as well as personal, domestic, inimical affairs between families, and so forth.

## ***Nang:***

*Nang* means honour, but the English word honour does not give the meaning and sense the *Pukhtu* word *nang* has. Being an important component of *Pukhtu*, *nang* has played vital role in the lives of the *Pukhtuns* in various shapes, but its foremost important role is in preserving the national honour and independence. It is *nang* that has compelled the *Pukhtuns* to take up arms for the protection of the homeland and national honour, when they are at stake; and also to retain personal, family's, beloved's, friends', sub-tribe's and tribe's esteem. It is required of a *Pukhtun* to be *nangyaalay*, meaning to possess *nang*, and to behave in a manner that is required of him in different circumstances and occasions. Khushal Khan Khattak says that:

*Pah jahaan da nangyaali di daa dwah kaarah  
Yaa bah ukhri kakarai yaa bah kaamraan shi*<sup>24</sup>

Trans: A *nangyaalay* has two obligations in the world  
Either to lose his life or to emerge successful

A *nangyaalay* is honoured and esteemed. Whereas ignoring and keeping aside *nang* is regarded *beynangi*, and is looked down upon. A person who has no *nang* is considered worthless. A *tapah* says that:

*Bey nangah zway mey pakaar ruth dey*  
*Kah pah didan pasey yey randah pah stargu shamah*

Trans: I do not want a son, who has no *nang*

Although I may lose my eyesight in looking forward for one to see

Another similar *tapah* says:

*Khudaayah bey nangah zway raa mah krey*  
*Kah pah didan pasey yeh randah pah stargu shamah*

Trans: Dear God! Don't give me a son, who has no *nang*

Although I may lose my eyesight in looking forward for one to see

And another *tapah* says that:

*Pah Hindustan dey saley joor shah*  
*Da bey nangai awaaz dey raa mah shah mayanah*

Trans: It would be far better to die and be buried in India

Than the news of your ignominy reaching me

The above quoted and such other verses and *tapahs* show how *nang* is regarded as playing a very important role in the lives of Pukhtuns.

### ***Riwaj:***

*Riwaj* in this context means custom and customary law. In *Pukhtu*, *riwaj* governs the conduct, lives and behaviour of the *Pukhtuns* to a greater extent. It has more in use than the Islamic law. For example: no marriage under common law has been recognized; the eldest son receives greater share in the property of the father in inheritance called '*da masharai hisah*' and '*mashari*'; the daughters do not inherit; a widow is only entitled to maintenance until her death or remarriage. (These days the enacted laws are followed and enforced in courts of law in the settled areas of the North-West Frontier Province of Pakistan).

It is required of every *Pukhtun* to abide by *riwaj* meaning to observe the norms and values of the society in any case or in other words to 'do in Rome, what the Romans do.' Although *riwaj* varies from tribe to tribe or from locality to locality, in respect of various matters, abiding by *riwaj* is considered obligatory. That is why a *Pukhtu* saying is that '*da kali uzah khu da narkhah yi mah uzah*' meaning that leave the village if you are not happy in it but abide by its prevalent custom whether you like it or not.

### ***Tor:***

*Tor* literally means black but in this context it means the adultery and illicit relations, which do not, any more, remain secret. The male is called '*tor shaway*' and the female '*torah shaway*'. *Tor* is regarded as a great crime in the *Pukhtun* society and those falling a prey to *tor* are liable to death in the hands of the family of the female involved in the affair. Hence under *tor*

death had been prescribed for adultery and also for elopement: in *Pukhtu* called '*tnatiz takhtidal*' and '*matizah tlal*'. While stating that "this ancient principle" of death for adultery and elopement "is active and living in the blood of the Pathan even today", Ghani Khan states the reason for doing so, in the following words:

The Pathan is short of girls and generous of emotions. He must breed well if he is to breed fighters. The potential mother of the man of tomorrow is the greatest treasure of the tribe and is guarded jealously. This primitive custom is also useful for weeding out the over-sexed. It is a subtle system of selective breeding. But does the Pathan realize any of these things when he lifts his rifle to shoot the culprit? He does not. He is mad with anger. He must shoot, there is no alternative. If he does not, his neighbours will look down upon him, his father will sneer at him, his sister will avoid his eyes, his wife will be insolent and his friends will cut him dead. It is easier to be misunderstood by a judge who does not speak his language and be hanged by a law that does not understand his life. He does his duty by his people. He will play true to his blood even if he breaks his heart and neck in the bargain. He will walk to the gallows with proud steps with his hands covered with the blood of his wife or sister. And the admiring eyes of his people will follow him as they always do those who pay with their life for a principle.<sup>25</sup>

The effects and consequences of murdering the adulterers, and also the *badal* in case of revenge, could not be underestimated. In Ghani Khan's words:

This very custom when given a chance to act alone works perfectly. In the tribal area where nearly four million people live [in 1940s] without law courts, policemen, judges and hangmen, you seldom hear of adultery or murder. Elopements are rare. For the risk is great and the price heavy for rare lips and beautiful eyes.<sup>26</sup>

Nevertheless, in *Pukhtu*, too, there is also the chance and provision of escape from the consequent murder in case of *tor*, in the shape of marriage of the culprits involved. But though the hunt slackens in this way, the male is "made to pay damages in the form of giving, away two or three girls to the family from which he stole one."<sup>27</sup> The protection to the female involved in the affair and married under this provision to the male involved, get married to the male provided that she must be retained as wife by the male. If "he deceives her or deserts her" "he won't live long" because not only "the whole tribe of the girl will hunt him down" but "his own will refuse to protect him." As "custom does not allow protection to the breakers of custom, he stands alone and must pay the price. Even his friends will avoid the funeral." Though "it is hard and brutal, but it works." Because "after all you cannot use a dog leash to tame a wolf."<sup>28</sup>

### ***Toi:***

*Toi* literally means spilled. *Toi* has significant role in *Pukhtu*. *Toi* has its root and relation with the affairs of *badal* and *tor*. It is evident from the above discussion in respect of *badal* and *tor* that, besides other means of settling the issue of murder, the foremost is *badal*. *Pukhtu* not only recognise *badal* an obligation but a right of the family whose member fall a prey to murder. A seemingly negative aspect of the right of *badal* is that it paralyses the weak not to resort to murder in case of a powerful wrongdoer, because of the would-be reprisal or of the fear that he would not sustain himself. Thus it, on the one hand, gives a free hand to the powerful and restrains the weak to protect his interest, honour and life on the other hand.

To do away with this negative aspect of *badal*, *Pukhtu* has the clause or regulation of *toi*. Under this clause the blood of the person who loses his life in unlawful or unrecognized acts and

works, is considered *toi* and hence could not be avenged. In case of *toi* the act of the murdered one is recognized as unlawful so his blood could not be avenged and thus the action of the murderer is lawful. For example the murder of the adulterer is obligation of the family members of the female involved, and the blood of the adulterer is considered a *toi*, and could not be avenged provided it was not a mere accusation or blame for justifying the murder but an established fact. In case it is unearthed that the plea of falling a prey of the murdered person to adultery was only a plea to justify the murder and hence not a fact the blood then would not be considered as *toi*. Similarly a person who is shot dead in a dacoity, burglary, theft on the spot, his blood is considered *toi*, no matter how influential and powerful he may be.

Like the other customs, norms, rules, regulations, codes and commandments of *Pukhtu*, the acts and works losing blood in which is considered and recognized *toi* is known to everyone, due to which *toi* had a great positive role and effects in minimizing the unwanted, immoral and unacceptable acts and behaviours. In case the situation is not clear that whether the blood is *toi* or not the concerned *jargah* has the right to declare the blood *toi*, in which case the *badal* would not be justified, or otherwise, in which case revenge would be justified.

### ***Panah:***

*Panah* means asylum and sanctuary. *Panah* is also an important commandment of *Pukhtu*. In *Pukhtu*, it is required of a person from whom *panah* or asylum is sought to provide it. *Panah* is regarded the right of the one who needs it and asks for and the obligation and duty of the one from whom it is sought. *Panah* not only can not be denied even to an arch-enemy but the person to whom *panah* is provided is protected and depended at all costs, till the time he remains in the *panah* -of the concerned person. Olaf Caroe rightly observes that "the denial of sanctuary is impossible for one who would observe *Pakhtu*; it cannot be refused even to an enemy who makes an approach according to *Nanawatai* [*nanawatey*]."<sup>29</sup>

While negating Caroe's, and Davies<sup>30</sup> reading of asylum and sanctuary for *nanawatey*, James Spain states that "this definition does not appear to be recognized among the Pathans themselves. The concepts of asylum and sanctuary are known and accepted as part of *melmastia*"<sup>31</sup>. It is worth mentioning that although *melmastya* and sanctuary and asylum had the same obligations and hence sanctuary and asylum seems as part of *melmastya* they are different. For sanctuary and asylum there is its own term namely *panah*. Hence in respect of sanctuary and . asylum the phrases *panah ghukhtal* (asking for asylum and sanctuary) and *panah warkawal* (providing sanctuary and asylum) is used whereas *melmastya* has its own phrases.

An attempt on a person in *panah* of someone else is regarded an act against the person who has given the *panah* and hence he has to oppose and fight the one who does not care for his *panah*. There had been the examples that in case of absence of the male members of a household the female have depended and protected the persons who sought *panah*. There are examples that enemies have been entertained and protected for long times, when they have sought *panah*, as long as they have been in the house and *panah* of his enemy; and when he has gone out of the *panah* afterwards he has been killed in *badal*.

Like other rules, regulations, codes and commandments of *Pukhtu*, it had been the obligation of *panah* that the westerners and their blind followers failed to understand properly and in true perspective. This failure on the part of the westerners not only created great troubles, difficulties and losses in the Northwest Frontier during the English rule in India, but also became one of the overt cause of the Americans and their allies' invasion of Afghanistan in 2001, at the Taliban's refusal to hand-over Usama bin Laden to the Americans, and consequently caused the fall of the Taliban rule. And it is due to such difficulties involved in abiding by or observing *Pukhtu* that a *tapah* says that:

*Pukhtu asaanah nah dah khalqah*

*Suk cheh Pukhtu kri pukhtai maatey garzawinah*

Trans: *Pukhtu* is not easy to be observed or abide by;

Those who abide by *Pukhtu* have their ribs broken

### ***Nanawatay:***

As stated earlier *badal* is one of the foremost codes, rules, regulations and commandments of *Pukhtu* and under *badal* beside other things, the wrong done or the murder committed is to be avenged. A negative aspect of this is that it leads to unending bloodshed. As stated earlier there are certain ways and means or codes of *Pukhtu* under which conciliation can be effected and the would-be bloodshed could be avoided in peaceful manner. One of such ways and means or rules of *Pukhtu* is *nanawatay*.

In case the guilty party or the one who did the wrong, wants to bring an end to the bloodshed and dispute in peaceful way before the *badal* is taken the party or individual has to go to the enemy, admit the guilt, express shame and unlikeness for, throw themselves/himself or the guilty one on the mercy of the enemy and seek pardon. This is known as *nanawatay*. It is a sort of repentance. To express more regret on the wrong done and to give great esteem to the aggrieved side, the party who resorts to *nanawatay* can also send or bring with them their women; the women could also be unveiled called *sartor sar*; can bring Holy Quran; and also have a rope in the neck called "*paray pah ghaarah tlal* (going with the rope in the neck).

If the aggrieved party accepts the repentance and agrees to renounce the right of *badal*, *nanawatay* is thus honoured, a *jargah* is held, conciliation effected, and the matter settles peacefully. Although *nanawatay*, "is surrender rather than sanctuary", as also stated by James W. Spain<sup>32</sup>, it is required of the aggrieved party to honour and accept it James Spain asserts that "it is a 'going in' or a 'giving in' to an enemy, carrying with it a connotation of great shame for the one who undertakes it and no obligation to accept it on the part of the one to whom it is offered."<sup>33</sup> No doubt "it is a 'going in' or a 'giving in' to an enemy." It does not carry a "connotation of great shame for the one who undertakes it." Moreover, it is certainly considered an obligation "on the part of the one to whom it is offered" to honour the *nanawatay*, and there is no doubt that "the honour of the party solicited . . . incur a stain"<sup>34</sup> if it fails to honour the *nanawatay*.

### ***Swarah:***

It is evident from the discussion on *badal* and *tor* that besides murder, for settling the score and protecting and keeping the honour, there are, also, other rules in *Pukhtu* to solve the issue peacefully and bring an end to the would-be bloodshed. In one of these rules, if the aggrieved party agrees to settle the issue amicably, the party who had done the wrong gives a girl in marriage to a male member of the aggrieved party. Betrothal and marriage of a girl of the party on the wrong with a male member of the aggrieved party, in such a manner, is called *swarah*.

*Swarah* had been generally misunderstood and also presented wrongly. The girl married in this way is generally termed, by those who fail to understand the practice properly, price of the blood, a scapegoat, and "a penalty for being a woman."<sup>35</sup> In fact it is misreading. It is worth mentioning that in the *Pukhtun* society it is the established and commonly recognised rule that the decision of marriage of a girl is made by the parents. It is a general practice and not limited to *swarah*. Although the consent of the girl is sought in its own way, the final decision

rests with the family members. There is no difference in the manner in which either of the kinds of marriages is arranged. Moreover, *swarah* literally means the female who is riding. As in absence of modern means of communication the people generally travelled by foot but the females of the well up families were brought to and from the houses of the father and the husband on horses etc. due to which if a bride afterwards showed lethargy and did not use to do domestic works she was often questioned that '*swarah raghalay ye sah*' meaning that are you come *swarah* (so nobly) due to which you do not work. It speaks that *swarah* is not a derogative or insulting term but is honourable and prestigious one.

The significant aspect of the marriage arranged in case of *swarah* is that in this way both the families cement their settlement by matrimonial relations. The marriage becomes a bond to the effect that both sides would not resort to bloodshed in future. The offsprings of the couple married in the *swarah* case become a source of further strengthening of the relations. *Swarah*, further, minimizes the chances of future bloodshed between the two families because in the Pukhtun society matrimonial relations are on the whole respected and maintained thus restraining the aggrieved family from resorting to murder. A girl married as *swarah* to a family member of her erstwhile enemies, may serve as guarantee of peace because planning revenge from such a house would not be possible: she may oppose it, or leak out the secret etc. if the planning become known to her. This factor, thus, works as force that restrains bloodshed between the families who not only settle the blood feud but also arrange *swarah* marriage. That is why *swarah* had not only a vital role in bringing bloodshed to an end; it had also turned enemies into relatives. And it also is a practice that both parties give their girls in marriage to each other in the settlement of the blood feud if the parties wish to further cement the peace and do away with the least chance of breaking the peace in future.

The most important point, which is generally ignored while criticising the *swarah* marriage, is that not only the girl's betrothal and marriage is decided by her family members and she has no say in it, but similar is the case with the boy. Moreover, not only in the *swarah* cases the marriages are arranged but it is the common and universal way of marriage in the *Pukhtun* society. In the *Pukhtun* society all marriages are arranged without seeking the expressed consent of the marrying parties. It, however, is observed that the male side is generally ignored and hue and cry is made for the female side only. It would not be improper to mention that those who are making hue and cry for the females not only fail to apprehend the issue in proper perspective but also suffer from prejudice and fall prey to gender imbalance in favour of the female.

Moreover, the statement of Dr. Sher Zaman Taizai that "the woman married as *swarah* "is mistreated all her life. She is never regarded as an equal. She is persecuted"<sup>36</sup> is a sweeping generalisation. There may be cases of such a nature but there also are cases that are vice versa. It depends upon the nature and behaviour of the family to whom the lady is married that how they treat the lady. If they mistreat the lady married as *swarah* they would also mistreat the other ladies married normally in their family. The Pukhtun society is not devoid of such families and individuals who mistreat their women and persecute them but this behaviour is not specific with *swarah* cases.

### ***Tigah:***

*Tigah* literally means a considerably big stone, but in the context of *Pukhtu* it had a different meaning and use. When a truce is arranged in a feud by a *jargah* or some one else and formal settlement yet not effected a stone is laid, which is called '*tigah keykhawdal*,' as a mark of the truce. It means that the people become aware of the truce and that the parties could not dare to violate the terms agreed upon. *Tigah* represents at least a temporary peace and eventually reaching permanent settlement.<sup>37</sup>

### ***Merat/Meratah:***

*Merat/meratah* though un-Islamic had been a recognised code of *Pukhtu*. A male having no male issue is called *merat* and a female *meratah*; and if there had been no issue at all then it is called '*pah nakhas merat/meratah*.' The female issue of *merat/meratah* has no right to inherit the property left by the deceased. The nearer male agnate relatives of the male concerned inherit the property. Not only is both the movable and immovable property of *merat* considered the right of the nearer male agnates but also the widow and the female unmarried issues.

### ***Ghag:***

*Ghag (Jagh)* is related with marital affairs. If a man had the wish that a particular girl be his bride but he or his family has yet not negotiated with the girl's family and it becomes known that a third person wants to negotiate for the betrothal of the girl, he has to declare that he has *ghag* literally a call meaning claim on the girl. It also is called *tak kawal*. In this way he at least gets "involved in the negotiations for the lady's hand in one way or another, even if it doesn't always get him the lady."<sup>38</sup> At declaring *ghag* or claim over the lady no other party negotiates till the time the negotiations fail between the party who claimed *ghag* and the girl's family. This thing also, sometimes, leads to murder and bloodshed, when either the girl's family refuses to honour the claim or another party do not regard the claim and resolve to marry the girl despite the *ghag* claim.

### ***Sharmala:***

A *sharmala* is the kind of *jargah* usually called for by the offender or his representatives for seeking a negotiated settlement of a quarrel or feud. Such a convoked *jargah* has to negotiate between the parties and effect settlement in dealing of which the offender may also agree upon compensation in some form or on giving a daughter in marriage<sup>39</sup> called *swarah*.

### ***Kalay Kalwighi:***

*Kalay kalwighi* is a significant aspect of *Pukhtu*. It is related to such things that are required in communal life for example participating in the betrothal, wedding, funerals and other affairs of sorrow and joy; to visit the sick person; to provide the required assistance to the fellow villagers. *Ashar ghubal* or to cooperate with and assist each other, in turn, in harvesting, thrashing, cutting grass, and such other personal works which can not be done individually or by one family members, is also a part of *kalay kalwighi*. The *Pukhtun* society is tribal and the people mainly live in villages, hence in the rural setup *kalay kalwighi* is an important code and commandment of *Pukhtu*.

### ***Pat:***

To keep continued friendship, relations and links is called *pat*. *Pat* is greatly required in *Pukhtu*. Under *pat* it is required not to forsake a friend or relative or a person with whom one had some links or relations,, but with justifiable reason. The significance of *pat* in *Pukhtu* can be judged, from the evidences in the *Pukhtu* folklore, as in a *tapah*, which says that:

*Pukhtun pah pat baandey Pukhtun dey*

*Da pat nishaan tal bah uchat pah jahaan winah*

Trans: *Pukhtun* is *Pukhtun* on keeping *pat*  
The standard of *pat* will always fly high in the world

### ***Shariat:***

*Pukhtu* has *Shariat* or the Islamic law also among its codes, rules and folds. Being Muslims, following and observing *Shariat* is a must for the *Pukhtuns*. Though they abide by *Shariat* in a number of things, they also ignore and violate it in various things. For example they keep the *Ramazan* fasts with great zeal and look down upon those who do not keep the fasts, but violate *Shariat* in matter of inheritance, as also stated earlier, and observe *riwaj* in that case. Similarly *Shariat* has not been truly and properly observed in cases of revenge, adultery and so forth. On the one hand *Shariat* is a part of *Pukhtu* and on the other also such things that are contrary to *Shariat*, due to which *Pukhtu* suffers from opposites. That is why some people consider *Pukhtu* as purely Islamic<sup>40</sup> and to some others it is contrary to Islamic law.

From its careful observation and analysis it becomes evident that *Pukhtu* has, at a time, both Islamic and un-Islamic customs, codes, rules, regulations and commandments, and, on the whole, the people observe them as they are in *Pukhtu*. That is why a *Pukhtu* saying means that at one time the *Pukhtun* is a saint and at another moment he is a devil. Another *Pukhtu* saying is that '*Shariat khu manam khu khar khu qasam day ka warkram,*' meaning that although I acknowledge *Shariat* (according to which the ass is of the plaintiff) but I state on oath that I will not hand over the ass. It speaks that how much the *Pukhtuns* respect *Shariat* when its injunctions go against their own whims and interest. And another *Pukhtu* saying is that '*Mula gramawalam khu zah nah grameydam,*' meaning that the Mula reproved me but I can not to be reproved. That was why a *Pukhtu* saying states that '*da Pukhtun yawah khpah pa Jannat ki dah au balahpah Duzakh key*' meaning that the *Pukhtun* had his one foot in the Heaven and the other in the Hell.

Although in *Pukhtu*, *Shariat* is dominated by *riwaj* in many ways and a number of things, it, nevertheless, is not only one of the commandments of *Pukhtu*, but also had a vital role in many aspects and, hence, its significance in *Pukhtu* could not be underestimated.

### ***Amr-e Bil Maruf wa Nahi Anil Munkar:***

'*Amr-e bil maruf,*' meaning calling to righteousness, and '*nahi anil munkar,*' meaning restraining from the unwanted things and acts, has also its place in the codes of *Pukhtu*. This code and commandment also has its role in inducing the people, being Muslims, to abstain from unwanted acts and activities, to follow the Islamic teachings and to behave in the righteous manner. This has been the duty of the religious class and figures to call the people to righteousness and to induce them to give up the evil ways and unwanted acts both in personal and communal affairs. At occasions this code play vital role.

### ***Bongah, Bramatah, Butah:***

In the conventions of *Pukhtu* being the recognised guides to behaviour, *bongah*, *bramatah*, and *butah* are also generally recognised. It has been a sort of 'tit-for-tat.' If a person loss some property, usually animal, he has the right to resort to *bramatah* meaning to gain possession of similar or somewhat more piece of property of the thief or his clan so as to compel him to come to terms to return the property in exchange. Consequently an exchange has to take place. However, if the first injured-party is unable to recover the loss, either by force or through the *bramatah* system, it has then to recourse to paying cash ransom to the possessor, worth one-

fifth of the value of the property.<sup>41</sup> The hijacking or taking possession of the property for ransom is called *bongah* and the sum received in ransom by the thief or the hijacker etc. is called *butah*. *Butah* is also called to the sum or something else appropriated from someone by deceptive means.

### ***Tarburwali:***

The word *tarbur* is used both for cousin and enemy, and *tarburwali* for cousinhood and also for enmity. In the *Pukhtun* society the cousins depend on and protect each other, and take revenge in case of any kind of loss or dishonour incurred by some one else. But on the other hand they consider each other enemies being immediate rivals for family power and influence and also considering each other as equal and match. Thus in *Pukhtu cousins* are also regarded and acknowledged, as rivals. That is why a *Pukhtu* saying says that '*tarbur chey warukay yi nu luyawah yey au cheh loi shi nu dushman dey jangawah yey*' meaning that when a cousin is little play with him, but when grown up he is an enemy cause him fight with others. Another saying means that a cousin's teeth bite upon a cousin; and still another says that 'keep a cousin poor but use him'. Whereas another one refers to the lack of trust among the cousins by stating that '*tarbur kah dey khar shi hum latai prey mah arawah,*' meaning that if the cousin becomes your ass then too do not ride him, lest he may throw you down. Thus *tarburwali* is recognized code of *Pukhtu* in both its meanings, and it had its vital and established role in both the aspects.

### ***Hujrah:***

In the traditional society, the *hujrahs* are not personal but communal property of all the *Pukhtuns* in a block of a village or the whole village. They jointly hold the proprietorship rights and are collectively responsible for its maintenance. *Hujrahs* play vital role in *Pukhtu*, for these are not merely men houses but also served as the visitors and guest houses, focal points for community actions and opinions, the places for sleeping of the unmarried males, and so forth. These have been multi-purpose community centres. "It was from here that the marriage processions started and the bier was carried to the grave."<sup>42</sup>

To conclude, the aforementioned are not all but only the main and foremost norms, commandments, code, rules, regulations and components of *Pukhtu*. Although within the *Pukhtun* society the name *Pukhtu* is applied to a specific group it is expected and required of all the people, whether they belong to the particular segmentary *Pukhtun* group or not, to abide by the norms, values, rules, regulations, codes and components of *Pukhtu*, and those who do not abide by or not observe these are looked down upon and are not regarded true *Pukhtun*.<sup>43</sup>

It also is worth mentioning that those who have written in English on the subject, on the whole, had ignored the term '*Pukhtu*' and had only used *Pukhtunwali*. The basic and commonly used term is *Pukhtu* both for the language and the code of life or the way of the people. They, moreover, had dealt with and described it in the context of the present day Federally Administered Tribal Areas (FATA) only; and had mentioned only a few codes, rules or commandments of it. Besides, *Pukhtu* is not comprised of purely legal rules and regulations. It has been a combination of customs, values, norms, codes, rules, regulations and commandments. It covers all aspects of life from cradle to grave. Although *Pukhtu* has *Shariat* in its folds, it is subservient to *riwaj*, as also mentioned earlier. When there been conflict between the Islamic laws and *Pukhtu*, *Pukhtu* had the upper hand. However, in the course of time and with the spread of both modern and Islamic education some changes have taken place. The introduction and authority of the modern laws and governmental machinery also have its effects and impacts.

## Notes & References:

1. Salma Shaheen, *Ruhi Sandaray: (Tapay)* (Pashto), Vol. 2, With 'Peshlafz' by Muhammad Nawaz Tair (Peshawar: Pukhtu Academy, 1994), p. 21
2. Muhammad Nawaz Tair, *Tapah au Jwand* (Pashto) (Peshawar: Pukhtu Academy, 1980), p. 41
3. Muhammad Asif Khan, *The Story of Swat as told by the Founder Miangul Abdul Wadud Badshah Sahib to Muhammad Asif Khan*, With Preface, Introduction and Appendices by Muhammad Asif Khan, Trans. Preface and trans, by Ashruf Altaf Husain (Peshawar: Ferozsons Ltd., 1963), p. 27  

It is to be noted that *Pakhto* or *Pukhtu* had never been plural of *Pukhtun* or *Pakhtoon*, as stated by Ashruf Altaf Husain. Moreover, "to say that one is not a true *Pakhtoon*" is applied not only to the person who "is devoid of all these virtues" mentioned by Ashruf Altaf but at occasions also to those who is devoid of any or some of the virtues required by *Pukhtu*. Besides, instead of mentioning '*Pakhto*' as given by Ashruf Altaf Husain, James W. Spain had used the word *Pukhtunwali*. Spain, moreover, attribute the mentioned statement about *Pukhtu* to Miangul Abdul Wadud, the Ruler of Swat State (1917-1949), but it is Ashruf Altaf Husain's statement and footnote. For Spain's assertion see James W. Spain, *Pathans of the Later Day* (Karachi: Oxford University Press, 1995), pp. 40-41
4. *Tapah* is a genre of *Pukhtu* folk verse, whose saying can not be claimed by anyone and which is generally said by females.
5. Ghani Khan, *The Pathans: A Sketch*, (Islamabad: Pushto Adabi Society, 1990), p. 24
6. *Ibid.*,
7. *Ibid.*, p. 25
8. *Ibid.*,
9. James W. Spain, *The Pathan Borderland*, (Karachi: Indus Publications, 1985), p. 63
10. Dennzil Ibbetson, *Punjab Castes*, (Delhi: Low Price Publications, 1993), p. 58
11. For example see James W. Spain, *The Way of the Pathans*, (Karachi: Oxford University Press, 1994), p. 46; *idem*, *The Pathan Borderland*, p. 64; Syed Abdul Quddus, *The Pathans* (Lahore: Ferozsons (pvt.) Ltd., 1987), p. 67
12. For example see Spain, *The Pathan Borderland*, p. 64 and C. Collin Davies, *The Problem of the North-West Frontier, 1890-1908: With a Survey of Policy since 1849*, reprint (London: Curzon Press, 1975), p. 49 wherein only the revenge aspect of *badal* and that too only the negative one has been discussed. Also see Ibbetson, *Punjab Castes*, p. 58
13. Spain, *The Pathan Borderland*, p. 64
14. Spain, *The Way of the Pathans*, p. 47
15. *Ibid.*, p. 52
16. Spain, *The Pathan Borderland*, p. 65
17. *Ibid.*,
18. *Ibid.*,
19. The place of the river, stream etc. from where water is brought for domestic use
20. *Report on the Administration on the Border of the North-West Frontier Province for the year 1938-39* (Delhi: The Manager of Publications, 1940), pp. 11-13

21. A. H. McMahon, and A. D. G. Ramsay, *Report on the Tribes of Dir, Swat and Bajour together with the Utman-Khel and Sam Ranizai*, (Peshawar: Saeed Book Bank, 1981), p. 33
22. Ibbetson, *Punjab Castes*, p. 61
23. Spain, *The Pathan Borderland*, pp. 69-72
24. Khushal Khan Khattak, Kulyaat-e-Khushal Khan Khattak: Qasaaid, Rubaayat, Qitaat au Mutafrigaat (Pashto) (Peshawar: Azeem Publishing House, n.d.), p. 89
25. Khan, *The Pathans: A Sketch*, pp. 25-26
26. *Ibid.*, p. 26
27. *Ibid.*,
28. *Ibid.*,
29. Olaf Caroe, *The Pathans: 550 B.C.-A.D. 1957*, reprint (Karachi: Oxford University Press, 1976), p. 351
30. Misunderstanding *nanawatey* for asylum, Davies states that the Pathan code of honour imposes the obligation that "he must grant to all fugitives the right of asylum (*nanawatai*)" (Davies, *The Problem of the North-West Frontier*, p. 49)
31. Spain, *The Pathan Borderland*, p. 66
32. *Ibid.*, p. 67
33. *Ibid.*, p. 66
34. Caroe, *The Pathans*, p. 351
35. Gul Ayaz, "Swara: Stigma on Pukhtun Social Code" in *Statesman* (English Daily), Peshawar, 6<sup>th</sup> May 2002
36. *Ibid.*,
37. Also see Spain, *The Pathan Borderland*, p. 67
38. *Ibid.*,
39. *Ibid.*,
40. For example for the contention of Abdul Qadir (Founding Director of Pukhtu Academy, University of Peshawar) that Pukhtu is the second name of Islam see Preshan Khattak, *Pushtoon Koon?: (Tarikh, Tahqiq, Tanqid)* (Urdu) (Peshawar: Pashto Academy, 1984), pp. 135-36 and Tair, *Tapah au Jwand*, p. 42
41. Spain, *The Pathan Borderland*, p. 73
42. Makhdum Tasaduq Ahmad, *Social Organization of Yusufzai Swat: A Study in Social Change* (Lahore: University of Punjab, 1962), p. 27
43. Also see Khattak, *Pushtoon Koon?: (Tarikh, Tahqiq, Tanqid)*, pp. 176-91