THE INFORMAL JUSTICE SYSTEM OF PAKISTAN: A CASE STUDY OF DISTRICT BAJAUR`S JIRGA SYSTEM

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NIJAT ULLAH

Dedication

I dedicate this research of mine to my mentor, my loving mother

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ABSTRACT

Jirga plays a vital role in the social and legal fabric in various regions of Pakistan including District Bajaur of Khyber Pukhtoonkhwa. This research aims to dig into the significance of the working of Jirga system, shedding light on the diverse forms and procedural aspects within the tribal district Bajaur. This study will give us a deeper understanding of how Jirga plays a role in resolving conflicts, preserving culture and governance of the concerned area. A Jirga follows a well-defined procedure, which is the extract of centuries old traditions and customs of pushtoons, led by either the tribal elders 'Malaks' or by religious scholars, ensuring fair, just and impartial deliberation. The parties in dispute presents their case before the members of the Jirga, and after thorough examination of all the evidence and witnesses they reach into a decision which is binding upon both the parties. Jirga helps in the resolution of different conflicts such as land disputes, inheritance issues, criminal offences and family conflicts. Jirga mainly relays on customary laws, cultural values and traditional norms in the conciliation of the opposing groups and they try to the best of their ability to bring harmony and peace in the society. The informal nature of the Jirga allows individuals to express their concerns more openly, giving them a sense of ownership in the end decision. Another reason for its wide acceptance is that it is cost friendly and a speedy process. Jirgas are also used to make rules and regulations for the administration of affairs of society and to either make a tradition or rule out any custom or tradition. Jirga also helps in ensuring the unity of tribes living in Bajaur by focusing more on solidarity of tribes than on individual interest. After the FATA merger with Khyber Pukhtoonkhwa people of Bajaur have an option of going to the judicial system of the country.

RESEARCH STATEMENT

The Jirga system is an ancient and multifarious form of Alternative Dispute Resolution, for not only the pushtoon culture but globally, and has played an important role in the past but has continued to lose its mainstream appeal in most areas, especially in district Bajaur of Khyber pukhtoonkhwa, because of malpractice and informal nature of the system. Therefore this research is sought to find out better solution of administration of justice