

Institute of Islamic Studies in
the Humanities



Justice and Ethics

in the
Contemporary World



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وزارت علوم، تحقیقات و فناوری
معاونت فرهنگی و اجتماعی



دانشگاه فردوسی مشهد



بنیاد بین المللی حقوقی بنی بنی امام خمینی



Institute of Islamic Studies in
the Humanities



مجموعه مقالات کنفرانس بین المللی

عدالت و اخلاق

در مکتب اهل بیت (ع) با تأکید بر سیره امام رضا (ع)

۲۶، ۲۷ فروردین ۱۳۹۶

ISBN:978-600-93811-7-3



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International Conference on Justice and Ethics



**Justice and Ethics in the
Contemporary World
ICJECA 2017**

**Edited by
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Jirga System in FATA-Pakistan (A Forum to Dispense Justice): Guidance from the Teachings of Ahl al-Bayt

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Abstract

Jirga (informal judicial setup) in its unique form is practiced in the northern tribal areas of Pakistan, bordering Afghanistan, known as Fata. It comprises of elders from various local tribes, coordinated by leading personalities known as Maliks. Pakistani federal government in the past had granted autonomy to the region. The majority of the tribes are Sunni Muslims, while Shia tribes also exist in a sizable minority. The construction of the tribal society adheres to a mixture of cultural and religious norms, at times making it difficult to separate the two. Following the emergence of the Taliban, the centuries old Jirga system lost its construction and effectiveness under the rigid rule of the Taliban. With start of the military operation in the last decade against the Taliban leading to its decline and possible overthrow, a vacuum has been created, which has become a foundation of a debate in Pakistan, regarding the future set-up, in these tribal areas. In this situation, we believe the current environment of rebuilding created after the evacuation of the Taliban from this area provides a constructive setting for the new system, which should be influenced by the teachings and examples of the family of the Holy Prophet (PBUH)—Ahl Al-Bayt. Through this restructuring of Jirga system, many deficiencies within the cultural traits of the tribal system can also be addressed and the foundation of a healthy society on the principles of justice, equality and fair play can be established.

Keywords: Pakistan, FATA, Jirga, Islam, Ahl al-Bayt, Al-Qaeda, The Taliban.

Introduction

This paper examines a plausible bond between the tribal customs/set-up and the influence/impact of the teachings of Ahl al-Bayt. In this context, our research is divided to two main segments. The first part will deal with the structure of Pakistan's Federally Administrated Tribal Area (FATA) society, explaining its socio-cultural patterns and political dynamics. The second portion of this research will focus on the teachings of Ahl al-Bayt, emphasizing their established principles, for justice in society. Keeping in view these teachings and guidance, an effort would be made to make a distinction between the spirit of justice as preached by Ahl al-Bayt and the traditional justice system in the shape of *Jirga* practiced in the FATA area. This research was conducted with the knowledge that culture and religion are so mixed up that it is not possible to distinguish one from the other. In conclusion, we will argue that the noble teachings of the family of Holy Prophet can become a guiding principle in the daily lives of the tribes, and they can also provide guidance for the decision-making body namely *Jirga*. This emphasis comes from especially the sermons of Imam Ali, Hazrat Zainab (daughter of Imam Ali), and Imam Ali al-Ridha.

Jirga is a unique system, practiced in the northern tribal areas of Pakistan, known as FATA, bordering Afghanistan. *Jirga* comprises of elders from various local tribes, coordinated by leading personalities known as Maliks. This particular judicial system operates where the federal government has a limited control, although, its representatives known as 'Political Agents' provide a link between the two. FATA area of Pakistan is divided into seven administrative tribal agencies and six Frontier regions. The inhabitants of this area are nearly all Muslims. The majority of Muslims are followers of Sunni sect, while a sizable minority resides in Kurram and Orakzai agencies, which follow the teachings of Ahl al-Bayt. The inhabitants of these two agencies strongly disapproved of Talibanization of their area and fought against the extremists like the Al-Qaeda/Taliban. However, the centuries old socio-cultural norms remain a common feature of all shades of the tribal society. Despite a number of reforms by various governments, this area is still deprived of a proper judicial system. It is socially backward, economically under-developed and politically deprived. There have been instances, where the decisions of *Jirga* under tribal culture overlooked the rights provided by the Quran, Hadith, and practices of Ahl al-Bayt, resulting in violation of human and women rights. Such instances have raised various

questions on the legitimacy of this traditional judicial set-up. Today, many people from FATA are employed either in settled urban areas of other provinces or in foreign countries, introducing the new value system. Nevertheless, they still tend to practice centuries old cultural norms, mixed with religious tenets, devoid of any sign of enlightenment and change. Recognizing the fact that the Jirga system in FATA is not a new phenomenon as it has been operational since 1901, a major change in this system was observed after the arrival of the Taliban ideology. After that, the balance of power shifted to those who exhibited extreme views. Since 2008, Pakistan military launched various operations in FATA to evacuate the strategically important area from the militants.¹ After the dislodging of the militants and consequent power void, the environment is disposed to the introduction of new administrative and judicial reforms, established on the teachings and principles of Ahl al-Bayt. Evaluating the situation, we have realized that it is an ideal moment for federal government to restructure the framework and jurisdiction of centuries old Jirga system on the teachings of the Prophet's family to ensure justice, equality, peace and humanity in this deprived area.

Tribal Society of FATA-Composition and Structure

FATA occupies 32000 square kilometers of land and is home to approximately 4.453 million people. It is divided into seven administrative tribal agencies (Bajaur, Mohmand, Khyber, Orakzai, Kurram, North and South Waziristan) and six frontier regions (Peshwar, Kohat, Bannu, Lakki, Tank and D.I. Khan). In this area, a majority of Sunni Muslims reside, whereas Shia tribes like Turi, Ali Khel and Bangesh are located in Kurram and Orakzai agencies. For centuries, the people of FATA have conducted their daily affairs within a tribal system, which was not disturbed even by the British colonizers. The British rulers were of the opinion that to effectively control this traditional society, the native customs and traditions have to remain in place. Therefore, without disturbing the traditional set-up, they introduced an indirect administrative system, known as Frontier Crimes Regulation (FCR)² which in

1. The name of military operations in FATA are Sher Dil-2008 in Bajur, Sirat-Mustaqeem-2008 in Khyber, Rah-e-Najat-2009 in South Waziristan, Brekhna-2009 in Mohammad, Zarb-Azb-2014 in North Waziristan.

2. There were exceptions to the FCR, when compare to the rest of judicial system in Pakistan. For example, the basic ingredients of law which are right to appeal, appoint an attorney and present an argument were absent.

fact was an agreement between the British rulers and the tribes to regulate governance of this area. At the present time, this area is governed by local chieftains known as Maliks. They are hereditary elders of their tribes, playing an intermediary role between the tribe and the Political Agent or agency administrator appointed by the federal government of Pakistan. This unique system provided a local structure in which people voluntarily surrendered decision making to their tribal heads, making decisions on their behalf. For centuries, the coordination between Maliks and Political Agents has been a dominant force in dealing with executive, judicial and revenue related matters of this area. The role of these two important offices can be further understood by Lt. Gen. (r) Ali Mohammad Jan Orakzi, who for significant number of years, was directly involved in the development process in the area. Orakzai expresses:

The system of political agents may be described as the “carrot and the stick” system. The carrot being development activities and the Frontier Corps working directly under the political administration, functioning as the stick. In addition, there are Khasadar, locally recruited from the tribes, and Levies to maintain law and order in the area. The institution of Maliks (tribal elders) has been there and still remains FATA has been mishandled, administratively and politically, since the very beginning but more so in the recent years. There are several questions about the role of Maliks and political agents and those who are supposed to take care of a higher position. It was indeed unfortunate to note that a governor in NWFP was appointed (now an ambassador in Turkey) who did not even know the language of the local people. The development potential, including that of the mineral sector, has also been ignored (Orzaki, 2009).

Unfortunately, seventy years after independence, the legal and political system of FATA is still working as per the principles laid down by the British, without any major modification. No efficiently administrative or judicial decision has been taken to bring peace and prosperity to the lives of the inhabitants of this area. Nevertheless, some attempts were made to modify the current situation, which are neither enough nor in correspondence with the requirements of twenty first century and the mainstream structures of the Pakistani socio-political system. Table 1 explains the phases of such judicial/administrative reforms.

Table 1: Phases and Features of Legal and Judicial Reforms in FATA-1947-2013

Phases of Legal/Judicial Reforms	Features of Legal/Judicial Reforms
1947-1970	<ul style="list-style-type: none"> • Higher and lower courts of Pakistan cannot be extended to the tribal regions. Political agent solves the criminal cases and he can also refer the case to the local Jirga headed by the local Maliks and the tribal elites. However, the decision of local Jirga can be appealed to PA who is the supreme authority and his decision cannot be challenged. • Under the FCR, the Tribal can be penalized two or more than two times for the same crime. • The prisoners will remain in jail even after the completion of their term if they are unable to give the amount of bail to the political agent.
1970-1990	<ul style="list-style-type: none"> • Minor amendments were made in FCR. For example, the word “centrally” was substituted with “federal” in the Constitution of 1973, which did not alter the system of governance. • In 1970s, Pakistan People’s Party government introduced administrative and economic reforms. For example, on administrative front, FATA development administration was brought under the new federal minister of State and Frontier regions (SAFRON) and developed the FATA development corporation. While for economic development of this region, roads, school and colleges were constructed. • In 1980s, Islamic radicalization was injected in the region with the assistance of US and Saudi Arabia to promote the proxy war against the USSR. The lack of developmental policies, the basic human right deprivation and the interest of Pakistan army in utilizing the strategic importance of this region for the proxy war in Afghanistan made FATA a breeding ground for militants.
1990-2013	<ul style="list-style-type: none"> • Fata Tribunal was established in 1997. Its prime function was to hear the cases against the decisions of PA, whose decisions in civil and criminal cases were considered as a final verdict. • In 2011, Fata Tribunal was further strengthened by giving it the power to review the decisions, orders, and sentences made by a <i>political agent</i> or commissioner. • Through 2011 reforms, it was specified that the membership FATA Tribunal must consist of a chairman who has been a civil servant and should be at least BPS-21 having the experience of tribal administration and two other members out of whom one should be qualified enough to be a high court judge and should be familiar with the local traditions and the other should be civil servant at BPS-20. The reforms also provided the FATA Tribunal with the power to review its own decisions by request of any individual. Another significant impact of 2011 amendment is that the citizens in FATA now have two mechanisms at their disposal as they can contest the actions and decisions of the political administration and may file an appeal with the commissioner within 30 days and with FATA Tribunal within 90 days. • In 2013, the authority of federal ombudsman was extended to Fata, which brought this area under the jurisdiction of higher judiciary for the first time in the history of Pakistan. Under this mechanism, the locals in the tribal areas can approach the office of federal ombudsman against the FATA Secretariat and its subsidiary organizations working under it. The ombudsman can resolve complaints and assist in providing judicial relief to the tribal people and investigate the maladministration of administrative system in FATA.

Reference: Asmatullah Khan Wazir & Muhammad Zaheer Khan, “Mainstreaming FATA through Legal and Political Reforms”, frc.org.pk/wp-content/uploads/2014/01/Research-Paper-2.pdf

From Table 1, it can be asserted that there has been a significant delay in the judicial reforms in FATA region. From 1947 to 1970, this socio-economically under-privileged tribal society has been deprived of their legal and political rights as the Political Agents and Mailks remained the most influential figures in the dispensation of justice, in civil and criminal conflicts, with no right of appeal against their decisions to the higher courts. During the first Pakistan People's Party rule (1973-77), some minor amendments were made in the administrative domain, as well as in the judicial sphere. However, the focus of these reforms was on infrastructural developments like building roads, schools and hospitals in this area. In General Zia-ul-Haq's rule (1977-88), the meager gains from 1973 constitution were even compromised, because of the radicalization of this area. According to Professor Syed Farooq Hasnat, in normal circumstances, before the arrival of the militants in the region, criminal cases were resolved through centuries-old understanding known as *Rewaj*, while administrative/political disputes were dealt by *Jirga* (council of tribal elders). These arrangements were accepted by the British colonial rulers and later successive Pakistani governments, at least before 2001 (Hasnat, 2011, p. 149).

The Table further indicates that two sets of reforms were introduced in 1998 and 2011, which played important role in providing some administrative, legal and judicial facilities to the people of this area. Apart from the mentioned aspects of reforms in these years, FATA people were first provided a right to vote through Adult Franchise Act in 1996-1997. Secondly, in 2002, a secretariat was established. Thirdly by a Political Party Order in 2011, political parties were allowed to pursue their political agendas in this tribal society. It is important to mention that currently, the control of Political Agents and Maliks over legal, administrative and judicial matters of this area is restricted though they are still respected, obeyed and involved in resolving various socio-political matters of these areas, which were/are under the control of the Taliban.

Considering the political, legal and judicial system of FATA over number of years, it is important to understand the socio-cultural dynamics of this area, which form a basis for other such activities. Although, religion and culture have been a dominant feature of this tribal society but these characteristics even underwent a drastic change after the radicalization of this area. However, we must admit that there is a thin line between religious norms and local culture, making it difficult to separate the two. This mixing

has been a dominant feature of FATA society. The cultural practices prevalent in this society revolve around the pre-Islamic unwritten Pashtun code of ethics known as Pashtunwali, in which every Pashtun takes pride. Explaining this term further, Robert M. Cassidy (2012) writes:

Pashtunwali is an unwritten but widely practiced code of values and percepts that seems profoundly foreign when compared to a Westerner's norms and mores. The code's core tenets include tolerance, independence, self-respect, hospitality, respect, forgiveness, justice honor, and revenge. The code is the self-enforcing "sum total of the tribes' collective expectations of their members to conform to the norms and customs that ensure the groups survival as a socio-cultural entity" (p. 10).

These characteristics as mentioned above, underwent a radical change with the arrival of Afghan Taliban after 9/11, subsequently replaced by the local militant groups known as Tehrik-i-Taliban Pakistan (TTP). After the Talibanization of the area, the religious and tribal codes of conduct overlapped in such a way that they took on a new meaning and interpretation of religion as,

A specific form of Islamic extremist subculture certainly shaped their views, as did a skewed understanding of the tribal code of Pashtun society-Pashtunwali. The Taliban mindset stands on two major foundations—in particular their combination: Deobandi Islam and pashtunwali (Cornell, 2006, p. 277).

The already conservative society with fragile economic prospects, poor representation in politics and disintegrated infrastructures was prone to be lured to the new version of Islam practiced by the Taliban, which disturbed their already problematic governance system. Consequently, a power vacuum was created in the area, where the old system had collapsed, while the provisional administrative set-up, implemented by the Taliban was eradicated through a series of Pakistani military operations. The main objective of the Pakistani federal government has not only been to dislodge the Taliban physically but also to wipe out its ideologues and teachings in their established Madrassas. In this environment, the establishment of a new judicial set-up has become inevitable. New norms are required so that not only justice is provided to the people but they are also able to establish permanent structures, through which they can conduct their daily lives and meet the needs of the future generations.

Guidance of Ahl al-Bayt and Reconstruction of FATA Institutions

The word “Ahl al-Bayt” is an Arabic word, which connotes “people of the house” or “family of the house”, meaning the Family or House of Prophet Muhammad (PBUH). When the term is further translated then it refers to Hazrat Fatima (daughter of the Prophet), Imam Ali (cousin and son in-law of the Prophet), Imam Hasan and Imam Hussain (grandchildren of the Prophet), and the Infallibles (Imam Zain-ul-Abidin, Imam Muhammad Baqar, Imam Jaffar Sadiq, Imam Musa Kazim, Imam Ali b. Musa al-Ridha, Imam Muhammad Taqi, Imam Ali Naqi, Imam Hasan Askari and Imam Mehdi). In spite of the interpretative differences between Shia and Sunni schools of thought, the mainstream of the Sunni Islam expresses admiration for Ahl al-Bayt and adheres to their teachings, established on the principle of justice and equality. This view is further explained by Najam Haider:

Sunni scholars acknowledge the importance of the ahl al-Bayt and transmit most of the traditions described. . . . Many even share Shii interpretations of ambiguous Quranic verses. Popular Sunni devotional practices also accord the Prophet’s family (and descendants) a particular reverence (Hiadar, 2014, pp. 37-38).

In other words, mainstream *Sunni* scholars as well as their followers regard the family of the Prophet (PBUH) and their teachings having a special status in the Islamic discourse.

The religious paradigm of Pakistan in general and FATA region in particular, as mentioned before was/is disturbed after the introduction of sectarian elements, which undermined the humanitarian principles of Ahl al-Bayt by misinterpreting religion and ignoring the contextual inferences of Quranic verses. One of these sects is TTP which is a so-called Sunni terrorist organization, and used to be based in the tribal region of Pakistan before the military operation by the army. After the Talibanization of this area, the socio-cultural code of conduct of tribal society was replaced by bigotry, hatred and extremism. These features not only disturbed the centuries old tribal Jirga system but also tampered with the traditional religious practices, by injecting an extremist interpretation of religion into socio-cultural affairs. Commenting on the increased role of such elements, Professor Muhammad Akbar Malik explains that

during the increasing ‘Talibanization’ in both North and South Waziristan, the tribal Maliks (Chiefs) lost considerable power to the local clerics who

mobilized the local people for jihad in Afghanistan and against the Pakistani Army. Many Maliks were killed and replaced with clerics permanently altering the social fabric in some parts of FATA. Even after Pakistani military operations inside the FATA, many of the Maliks are reluctant to return (Malik, 2013, pp. 106-107).

Under such circumstances, Maliks and Jirgas both lost their importance. It is important to mention that before 9/11, the Jirga was held in open places, and Mosques were prohibited for such political gatherings. However, this situation changed after 9/11 as Malik's status was taken over by the Taliban-appointed clerics, who exercised their influence over socio-political activities, as well. This replaced the role of Maliks with the Mullah. Its influence on Jirga system is further explained by A.Z Halali (2010) below:

The tribal leaders who used to conduct political meetings in the hujra as a counterweight to the mosque are no more in existence. Mullah has received prestigious position and the traditional role of the mosque has changed and now it has dual function, working as hujra and religious ceremony. Before the Afghan war, jirga was normally held in the open place but after the culture of jihad, jirga meetings were used to be held inside madrassas and addressed by mullahs In fact, the state policy is responsible to legitimize religious clergy in the society because ruling elites used religion as a tool for "survival of the fittest" and ultimately mullahs emerged as arbitrators between the tribes and the state and became an alternative leadership. So, Pakhtun society socially has been reshaped around the culture of religion and they have replaced all the traditional values and have been able to change the power structure of society... Mullahs capitalized on the local anger and used general lawlessness to challenge the writ of government and state legitimacy and became an alternative moral authority. Thus, the Taliban of Pakistan have taken advantage of the judicial gap and prevailing injustice in different parts (Bajaur, Malakand, Swat and Waziristan) of the society and have established substitute centers for administrative and judicial justice to settle the disputes, displacing the tribal jirgas and the elders. Moreover, the Taliban leadership has successfully built power bases within the society, particularly among the new young tribals and also have established link with criminals and subversive segments of the society. As a result, a huge amount has been used to establish "official" mujahideen groups and after the end of the Afghan war these groups mutated out of state control (pp. 26-27).

This injection of extremism by the Al-Qaeda/Taliban in the tribal society of FATA was severely resisted by Kurram and Orakzai agencies, where the majority of Shia tribes like Turi, Ali Khel and Bangesh resides. As regards the resistance of Orakzai agency against Talibansation, the retired Brigadier Asad Munir, explains that after 2007, when TTP organized itself in Orakzai Agency, it kidnapped and murdered those tribal heads, who opposed the Talibaination of their areas. Even to dispense the control of these Talibans, Khel tribe organized an army to fight against them and successfully evacuated the area. Such a reaction was unexpected for the Taliban. Therefore, the Taliban under the leadership of Hakeemullah Mehsud, regrouped and through massive operation against the Khel tribe brutally murdered its leaders and took charge of this agency (Munir, 2010). The decisions during Taliban rule under the Jirga system set a unique example of brutality. Religion was misinterpreted in the pronouncement of various Jirga decisions. One of the major reasons of such kinds of verdicts was a concerted effort (of the Taliban) since the beginning, to undermine local jirgas, led by the elders, and supplant them with narrow religious organizations based on the Sharia, as they interpreted it. In certain Agencies, there was an attempt to make tribal society Shura-based and not jirga-based. In other words, a shift from a secular tribal society based on the much eulogized Pastunwali, interpreted by the elders through a republican jirga, to Sharia as defined by a self-elected shura primarily comprising of young mullahs (Chandran, 2011, p. 50).

While explaining the influence of Talibanism on the gross violation of human rights, we need to keep in mind that even before the Al-Qaeda, the jirga decisions were not completely in agreement with the universally accepted human rights standards. However, the brutality and inhuman decisions increased when the militant Taliban took over the control of this region as. Nazish Brohi (2016) comments on the role of Jirga:

Jirgas are not the only non-state actors to give fillip to violence against women. The misogyny of religious militants such as the Taliban is well documented, from prohibiting women's work and mobility, killing of women doctors and nurses, ban on schooling for girls and murder of women asserting themselves. The attacks on women in roles as diverse as teachers, local councilors and art performers, their brutality needs no reiteration Jirgas carry a particular local resonance because unlike the Taliban, they are an indigenous process evolved over generations, and

unlike the unilateral decisions of powerful individuals, Women, Violence and Jirgas Consensus and Impunity in Pakistan can claim local consent and participation, and can and do resort to culture and tradition as a legitimizing framework. Attributing precedents to culture is misleading because what is identified as culture is selective and internally contested; the argument sets up culture as an intractable, static, fixed and homogenizing entity whereas it is an evolving, fluid structure that adapts to people's lived realities (p. 8).

As the massive military operations were carried out in various agencies of FATA to dislodge the network of the Taliban, the federal government was expected to responsibly restructure the system of *Jirga* in accordance with the teachings of Ahl al-Bayt. Imam Ali in one of his sermons laid down the principles for judges, as cited in Nahj al-Balagha¹:

The judge should be a person who is regarded by the people as most suitable. The criteria of that judge should be on the basis of broadmindedness and that he should keep his temper in control, while dealing with the litigants. Moreover, the judge should be flexible enough to accept his own shortcomings and once the truth is established he should stick to it. Moreover, he should not be greedy. The judge should thoroughly investigate and not merely rely on common sense. The judge should not be in a hurry but rather rely on the established law and arguments. The judge should have patience to hear the complete argument of the parties, while making reference to related laws, as well. He should have extraordinary endurance while making investigations. Once the truth is revealed, he should not hesitate to instantly give his verdict. He should not be influenced by flattery, nor consider himself superior, at the prompt of others. People with such qualities are few, but nevertheless they are present (Nayer Alvi, p. 433).

The teachings and practical examples established by the family of the Holy Prophet (PBUH) are eternal, which provide a beacon of guidance and hope for all communities, including that of FATA. As hinted above, the societal structures of FATA need to be redesigned. Equilibrium and stability can only be achieved, if such structures adhere to the core principles of Islam, as presented by Ahl al-Bayt whose essence is comprised of justice and equality. It was stressed that nobody can infringe on the rights of

1. Nahj al-Balagha comprises of sermons, letters, tafsirs and narrations of Imam Ali. These were diligently compiled by Sharif Razi, who was a fourth century AH scholar. This important document is unanimously considered as a master piece of legal and religious foundation and principle.

another and when a disagreement or dispute arises, the matter should be referred to an impartial person or body such as a judge. According to Nahj al-Balagha, a judge or an arbiter must be accepted by the community at large, considering him the most suitable personality in the area. Secondly, it is expected from the adjudicator that he should possess patience and listen to the litigating parties with care, while not imposing his personal judgment. According to the instructions of Imam Ali, it is also incumbent on those in charge to verify the honesty and dependability of the judge through concrete evidence and not on the basis of hearsay evidence. Another important feature of such a system is that the truth should be safeguarded at all costs and once established, it should be revealed without hesitation. Moreover, a judge should not be influenced by flattery nor should he consider himself superior to others, even if a group of people desire so. According to the sayings of Imam Ali, which were strictly followed by the subsequent Imams, including Imam Ali al-Ridha, people with such extended qualities are not many, but nevertheless they can be located if properly searched for.

When we compare the teachings of Ahl al-Bayt regarding the prerequisites to establishing justice with the Jirga system particularly under the Taliban in FATA, we realize that not only did they ignore the established principles of Ahl al-Bayt but also adopted a path devoid of humanity, respect and equality. The Taliban enforced severe punishments for the under-privileged sections of these areas, disregarding evidence and defendant's rights. Unlike the Imams, they never behaved humbly and walked on the God's earth with pride and arrogance. Their draconian acts were numerous, like barring women from having education. The tribal women's already limited mobility was further restricted by the Taliban, which also deprived them of even visiting hospitals and dispensaries. This situation became worse, when women were not allowed to seek medical assistance and consultation from male doctors, as there was no female doctor available in the area. Commenting on the Taliban tyrannical rule and its effect on women, Shakil Ahmad (2012) writes,

the Taliban were against female education in District Swat an area under their control. They declared female education un-Islamic and opposed it violently by destroying educational infrastructure in the area. The interesting fact is that the Taliban even did not like the education for males. They were instead in favor of Madrassa schools which provide solely religious education. The Taliban banned female education in the name of

religion, but interestingly there is no such command in Islam which is against education or even female education (p. 43).

On the Contrary, when we see the practices of Ahl al-Bayt, we cannot forget the sermon of Hazrat Zainab (the daughter of Imam Ali) in the court of Yazid, in which she vehemently demonstrated her knowledge, wisdom and courage. She stated:

O son of the freed ones! Is it justice that you keep your women and slave-girls in seclusion but have made the helpless daughters of the Holy Prophet ride on swift camels and given them in the hands of their enemies so that they may take them from one city to another. Why shouldn't you be like this, although you have done what you wanted to do and have pulled out the roots of piety and virtue! You have shed the blood of the sons of the Holy Prophet and have hidden the brilliant stars on the earth from amongst the descendants of Abdul Muttalib under the clouds of oppression and injustice. Our blood is dripping from their hands and our flesh is falling down from their mouths. The sacred bodies of the martyrs have been placed at the disposal of the wolves and other carnivorous animals of the jungle. If you have gained something today by shedding blood, you will certainly be a loser on the Day of Judgment. On that day nothing but your deeds will count. On that day you will curse Ibn Marjana and he will curse you. On that day you and your followers will quarrel with one another by the side of the Divine scale of Justice (Chapter 32).

Not only did Hazrat Zainab lead the Muslim caravan but also presented an example of a strong Muslim lady by providing comfort, love and compassion to the fourteen *Masomeen* of Karbala. By disapproving of gender discrimination, she became an upholder of justice and ethical responsibility for women in an Islamic state. Hazrat Zainab's performance at Yazid's court along with her lifelong great sense of responsibility cast a lurid light on the bigotry, hatred and inhumanity of the Taliban, for whom Jirga was only one of the tools of implementing their version of justice. Comparing the Ahl al-Bayt's idea of justice with the Taliban's, we realize that there is a need to revisit the principles of Ahl al-Bayt, who throughout their lives have been struggling against injustice and cruelty to the level, where they did not even care about their own lives. Through their practices and teachings, they preached the genuine principles of Islam, where justice has a prime position. By following in his predecessor's footsteps, Imam Al-Rida throughout his life struggled for peace and harmony in the empire of

Abbasids. During his rule, Mamun-ur-Rashid, the Abbasid's Caliph, was continuously under pressure because of his decreased popularity and frequent uprisings. Even in this situation, Imam Ali al-Ridha accepted to be appointed as an heir to Mamun, hoping to end turmoil in the land. Throughout his life, he kept the teachings of Ahl al-Bayt as a beacon of hope. Through his sermons, he stressed on the principles of an Islamic society. Imam Ali al-Ridha is known to have said:

He who treats men and does not wrong them; tells them (about something) and does not tell them lies; promises them and does not break (his promise toward) them is a believer whose manhood is perfect, whose justice is manifest, love for him is obligatory (on men), and it is forbidden (on them) to backbite him.

The best deeds with Allah are: belief without doubt, invasion without stealing from war booty before it is distributed (ghulul), and proper hajj. The first to enter the Garden will be a martyr; a slave who worships his Lord well and is sincere to his master; and a chaste man who abstains from what is forbidden, has a family, and strives to secure the daily bread of his own family. The first to enter the Fire will be a domineering Imam (leader) who does not treat (his subjects) with justice; a possessor of wealth of property who does not pay the right against it; and a boastful, poor (person) (Sayings).

In these sayings, Imam not only highlighted the qualities of a ruler but also emphasized the criteria for a good Muslim. Here again, while comparing the teachings of Ahl al-Bayt with the prevalent conditions of the tribal areas of Pakistan, we observe that there is more emphasis on rituals neglecting the spiritual part of the religion. This contradiction is a major cause of disturbance in the tribal society of FATA.

Conclusion

We argued that Jirgas are a product of particular societies and their beliefs. If people fully understand the teachings of the Quran, Hadith and the House of Prophet (PBUH), with respect to the principles of justice and peace, they will definitely shape their institutions following their example. Here it is important to mention that Ahl al-Bayt's teachings are derived from the Quran and Hadith. Therefore, for an Islamic state, the construction of institutions including judiciary should also be based on these established

norms, which transcend all socio-cultural traditions. Moreover, it is both the responsibility of a state and the moral obligation of a society as a whole to stand by these principles, believing that justice is a collective responsibility, on which the Quran has repeatedly laid great stress.

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