HYBRID JUSTICE IN AFGHANISTAN: Challenges of State-building and Post-Conflict Rule of Law

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Abstract:
One of the fundamental functions of any state is to maintain monopoly over legitimate use of violence and provide order and security for its citizens, yet the state of Afghanistan fails to do so. Public trust in formal rule of law institutions thus continues to decline, and citizens instead rely heavily on traditional justice institutions. This dissertation explores the consequences of such reliance on informal justice institutions in relation to the construction of post-Taliban state institutions and to human rights protection in Afghanistan. Drawing on three years of qualitative and public opinion field research (2011-2014) and employing an historical institutionalist approach, the dissertation explores the emergence of hybrid justice mechanisms in the Southern and Eastern regions of Afghanistan. Because these mechanisms promote grassroots participation in the new regime, they contribute not only to state-building and post-conflict rule of law but also serve as an effective mechanism for restorative justice and political reconciliation. The Afghan case thus illuminate the challenge of balancing the imperatives of peace, justice, tradition and modernity within transitional justice and democratization theory and practice.