
**FEDERALLY ADMINISTERED TRIBAL AREAS (FATA) OF PAKISTAN:
FROM GENESIS TO MERGER**

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ABSTRACT

Constitutionally speaking, the FATA region has always been recognized as an integral part of the Pakistani federation. However, over the years, these areas remained secluded from the national mainstream socio-economic, legal, and political spectrum. Consequently, the region underwent extreme underdevelopment and has been facing serious governance and law and order issues. In order to reform and develop these areas, successive Pakistani governments have tried various reform strategies but those attempts did not bring any substantial improvements. In an attempt to deal with the multidimensional governance and law and order issues in the FATA region, the government of Pakistan has merged it in the Khyber Pakhtunkhwa (KP) province in 2018. This paper seeks to explore how the FATA region evolved from a lawless frontier to an administered polity and subsequently got merged in the KP. It sheds light on the successive Pakistani governments' reform strategies vis-à-vis the tribal region and discusses its loopholes. Finally, the paper critically analyses the FATA merger in the KP and explores its pros and cons.

Keywords: British Colonialism, FATA, Post-Colonial State, Governance, Reforms, Khyber Pakhtunkhwa, Merger.

INTRODUCTION

Since its inception in 1947, nation and state-building has always been a challenge for the Pakistani state. The country lacks a unified governance structure and legal frameworks to govern and regulate the Pakistani society. The weaknesses within the basic design of the

Pakistani state's governance structure is one of the major reasons that has breed instability and security issues in the society. It has largely undermined the central government's authority and legitimacy in the eyes of its population. It mainly contributes in blocking the road to national integration and challenges the idea of Pakistan as a unified nation-state with shared identities. It further impacts the ability of central government to govern some of the peripheral areas within the national domain and bringing them under the state control.

The country hosts some territories, within its national domain, that are experiencing serious governance and law and order issues. In these areas the central government's control is very weak and writ of the state is repeatedly challenged. The communal life in these areas has been regulated by informal system of governance instead of formal and legitimate administrative and managerial machineries of the state. Political analysts state that in these areas, "The provincial, national, and district administrations exercise minimal authority and informal systems have been in place that are practicing state-like activities" (Lamb & Hameed, 2012). The rise and strength of Tehrek-e-Nifaz-e-Shariat-e-Mohammadi (TNSM) in the Malakand region of Khyber Pakhtunkhwa (KP) during the years of 1994 and 2008, respectively, enduring insurgency in different parts of Baluchistan, and the strong hold of militants in the FATA region are some the cases that indicate that there are some pockets within the national domain of Pakistan that have been poorly governed and remained beyond the actual state control.

Among the poorly governed areas, the FATA region has been more problematic. Over the decades, the region has been devoid of formal governance structure and an outdated tribal governance system has been regulating the tribal society. Successive Pakistani regimes continued to administer this region through a peculiar system of administration and anomalous legal frameworks, introduced by the British colonial masters, which were considerably dissimilar from the one that is in practice in the mainstream of Pakistan (Wazir, 2016). Till its merger in KP province in 2018, the region enjoyed a semiautonomous status and remained outside the actual provincial and central governments control and authority. According to an estimate, during the years of 2008-2009, out of the total territory of FATA,

merely 37 per cent remained under the central government's actual control (*The Express Tribune*, 2021).

Keeping in view the fragile governance system in FATA, analysts have stated that this region has merely been weakly administered and not governed. While commenting on the governance and administrative issues in the FATA region, Yusufzai (2001) has rightly stated that "FATA region was not federally administered in any sense of the world". Similarly, Wazir (2013) has also pointed out that, "The tribal region has not been a case of misgovernance, but rather of an absence of governance". Against this backdrop, it may not be an overstatement to say that FATA has been the case of perfect social, economic, administrative, and political anomaly in the governance architect of the Pakistani federation. Such a sorry state of affairs gradually created governance vacuum in these areas which paved the way for the non-state actors, to step in and use it to their ends. Consequently, they non-state actors established their sways in these areas and caused various serious havocs to the frontier tribal regions in particular and the Pakistani society in general. Marten (2012) concludes that, "Since the FATA region was alternatively governed, home to militants and other outlaws, and holds the dominance of weapons culture, therefore, without a bit of exaggeration it can be perfectly called an ungoverned county".

In view of the poor governance and law and order issues in the FATA region, the international community and various human rights organizations consistently asked Islamabad to introduce meaningful reforms in the tribal areas and bring it in the national mainland life. Since the situation in the tribal region was continuously getting disturbed, the federal government could no longer absolve from its responsibilities in these areas. It resolved to introduce pragmatic reforms and bring the tribal region into the national mainstream. In this connection, in 2015, the Pakistan Muslim League Nawaz's (PML-N) administration constituted a committee, to suggest about reforms in the FATA region and its likely future status. The committee after much deliberations and consultations with different stakeholders came up with its key recommendations and finally concluded that the best option for reforming the tribal region is to merge it in the KP province. The government nodded in favor of this option and, in 2018, officially declared the merger of FATA region in the KP. As a result, the

decades-long special status of the tribal region got changed and the seven former tribal agencies namely Bajuar, Kurram, Mohmand, Orakzai, Khyber, North Waziristan and South Waziristan are now declared as part of the KP province and they are now to be called tribal districts.

This study aims to find answers to three key questions which are: Why does FATA need integration into the national mainstream? What reform strategies have already been employed and why those reforms proved unsubstantial for transformation of the region? How far the merger scheme is a rational option, and will it play a significant role in reforming the FATA region and meaningfully integrating it into the national mainstream?

As an in-depth understanding of the region and its history were the main concern of this study, therefore, qualitative methods have been applied. To address the above-mentioned questions, the historical-descriptive and explanatory research techniques are adopted to analyze the subject under discussion and draw the conclusions.

The central argument of this research paper is that based on the genesis of the FATA history and past reform attempts, we argue that the merger scheme is good omen and a first practical step ever employed to reform the FATA region, but it is by no means to say that the mainstreaming project is complete now. The full-scale mainstreaming is complex phenomenon that entails administrative, legal, political, social, economic, and security aspects of transformations. The merger plan can be an important facet of mainstreaming, but, it should not be misunderstood as the full-scale mainstreaming. Further practical and consistent reforms are needed to substantially transform these areas and to bring them in the national mainland life.

THEORETICAL FRAMEWORK

Territories, within the national domain of a state, falling beyond the central government's actual control are generally described as "ungoverned spaces" (Patrick, 2006). They are generally assumed "a possible grave threat to peace in the world" (Prinz, 2015). Terrorism, drug and human trafficking, violation of basic human rights, and organized crimes are some of the major issues that are generally associated with the ungoverned or poorly governed spaces in the

world. Scholars around the world have given different titles to these spaces. Korteweg (2008) labels it as, “Terrorist black holes” whereas Kittner (2007) tags it as, “Terrorist safe havens”. The major concern is that these spaces possibly provide an encouraging setting for the non-state actors and other outlaws to use it for their organizational and operational activities (Kittner, 2007).

Now the question is how to eliminate such spaces from the world and how to reduce the chances of its usage by the non-state actors. Literature on policy solutions generally suggests that the best way to eliminate these spaces is state-building and politically integrating it in the domain of national mainstream. However, it must be admitted that the integration of these areas in the mainland is not as easy as it seems to be. The major reason is that generally the peripheral areas of a state are highly traditional societies. It follows their own customs and system of administration to run the affairs of the society. So, what is the best possible way to smoothly integrate these societies in the national mainstream? Ake (1967) attempts to answer this question in his work, “Political Integration and Political Stability: A Hypothesis”. In this work he provides a healthier way-out to the puzzle of assimilating the peripheral areas of a state into its mainland life.

Ake acknowledges that the drive for integration is not a smooth process and can generate tensions and alienations among the community. “Those whose power status is challenged in the process may seek to destroy the new order. Those compelled to leave their folk cultures may be feeling lonely, insecure, and perhaps prone to distrust the meaning of their new life” (Ake, 1967). This leads him to a central question such as; what kind of political system is most suitable for carrying out this process? He provides an answer to this question and argues that the drive for integrating the peripheral areas of a state can only be successful when a political system is authoritarian, consensual, identific, and paternal. If any of these characteristics are absent, the drive for integration will increase instability instead of stability (Ake, 1967). He further states that the drive for successful integration also highly depends on strong social communication among the civic community. It can be developed through social mobilization in society. Deutsch (1961) defines social mobilization as “The process in which major clusters of old social, economic, and psychological

commitments are broken down and community members are receptive to new patterns of socialization”.

HISTORICAL BACKGROUND

The inhabitants of FATA areas are predominantly Pashtuns, which is a highly segmented ethnic group in the world (Nilsson, 2009). It puts together more than a dozen major tribes, sub-tribes and hundreds of clans. It is exactly unknown that when and from where these tribes came and inhabited these territories, but some historians have branded them as Aryans by origin (Cheema, 2017).

Throughout the history the tribal region has maintained its semi-independent status. The people of this region have always strongly resisted external interference in the tribal affairs and defended their homeland against external aggressions. Therefore, this region won different misnomers like *Yaghistan* (the land of rebels), *Ilaqa-i-Ghair* (un-administered area), and its people were generally profiled as savages, barbarians, and wild (Haroon, 2007). The British officials also admitted the fact of difficulty in controlling the tribal areas. In this connection, Caroe (1964) states, “Beyond the administered borders of India it was a belt of no-man’s-land. It enjoyed a factual independence and acknowledged neither the Kabul nor Calcutta’s authority”.

Over the millenniums, these areas had never experienced any semblance of organized life and remained devoid of a formal governance and administrative system. Although, there was not a complete chaos, but it was run by an alternative system, comprised of tribal traditions and customs. The tribesmen used to regulate their inter-tribe and intra-tribe relations according to these traditions, which were not in written form and had its roots in the age-old tribal mores; *Rewaj* (customary law) and *Pashtunwali* (Pashtun way of life). *Pashtunwali* is generally described as an unwritten constitution of the Pashtun, which regulates the society and guides everyday life of the community (Yousaf, 2019). The *Jirga* system (council of elders) is one of the cornerstones of *Pashtunwali*. *Jirga* is an assembly of tribal elders who are called upon to decide both intra-tribe and inter-tribe disputes and whose decisions are usually accepted by parties to a conflict (Spain, 1962).

In this backdrop, the British colonial power arrived in the subcontinent. When the British forces ousted the Sikhs in 1848 and established its sway in major parts of the subcontinent, their next task was how to deal with the frontier tribal region. Keeping in view the history of these areas and the tribesmen resistances to external interference in their tribal affairs, controlling and taming these areas was a major cause of concern for the British administrators.

How to devise a viable policy towards the tribal areas that could best serve their colonial interest was caught by controversies and differences of opinions among the British policy makers. In the first place the British declared their policy as noninterference and nonaggression in the tribal region internal affairs, commonly known as 'close border policy' (Rakisits, 2018). Advocates of the close border policy suggested to hold a shielding position alongside the close by borders of the British Indian Empire and opposed further advancement towards the border tribal regions. The given logic was that it could lead to unnecessary military expenditures and administrative commitments and could ignite tribal hostilities.

However, keeping in mind the geostrategic importance of these areas, the British could not afford long detachment from this region. That time, the Tsarist Russia was expanding its sphere of influence in different regions of the world. At the start of the nineteenth century more than 2,000 miles separated the Russian and British empires' sphere of influence in Asia, but at the ending months this distance had shrunk to a few hundred miles (Lindholm, 1996). The southward movement of Russians and the imaginary fear of invasion on India, via the tribal mountainous passes, changed the British tribal policy from non-interventionism to expansionism, which is known as 'Forward Policy' (Hauner, 1984). Advocates of the forward policy believed that the only possible way to halt the Russian southward moves was to get the likely invasion routes in advance and create protective buffer zones (Titus, 1998). Consequently, the British moved into the tribal territories and brought the important routes and passages under their control.

The forward policy also suggested demarcating the frontiers between Afghanistan and British India, to define each dominions sphere of influence and the responsibility of administering it. For this purpose, the British concluded the Treaty of Gandamak with the Amir

of Afghanistan in 1879 and secured certain tribal areas and passes connected to it (Baha, 1978). Afterwards, to further fix the limits and sphere of their respective rule, the Durand Line was recognized amongst the British administrators and Afghan rulers in November 1893 (Shah, 2013). These arrangements removed the frontier tribes entirely from any sort of direct Afghan authoritative influence and responsibility (Haroon, 2007). Later on, they demarcated these areas from the main core governance spectrum and gave it the status of semi-autonomous administrative units, later called Tribal Agencies. As a result, the Khyber agency was created in 1878, Kurram in 1892, and the South Waziristan and North Waziristan agencies in 1895, respectively (Kureshi, 2014).

Consequently, the British recognized the tribal areas as special zones and indirectly controlled them through a peculiar administrative system and legal frameworks. The institution of Political Agent (s), Maliki system, and the Frontier Crimes Regulation (FCR) were the three pillars on which the total foundation of the tribal areas administration under the British rule was based upon. The PA (s) was entrusted with extensive legislative, executive, and judicial powers, to regulate intra-tribe and inter-tribe relationships, suppressing crimes in the tribal society and to secure the loyalties of the tribesmen to the British government (Caroe, 1964). To assist the PA (s) for smooth running of the tribal administration, the British recruited *maliks* (tribal elders) from each tribe. The *maliks* mainly exploited the age-old *Jirga* system (council of elders), while managing the internal affairs of the tribal society, its relations with the political administration, and resolving the inter-tribe and intra-tribe disputes (Yousaf, 2019).

When it comes to controlling criminality in the tribal society and the application of laws, the British realized that the application of ordinary civil and criminal laws would not control these people. Therefore, to deter them from any kind of disturbances, disproportionate punishments would be required. As a result, the Frontier Crimes Regulation (FCR) was enacted on 24th of April 1901 (Baha, 1978). It was a kind of legislative instrument that attempted to provide legal and administrative frameworks for the tribal territories, defined punishment for crimes, and stated the powers and functions of various institutions and individuals.

It can be safely argued that all these policies and measures were directed to serve their colonial interests and did not aim the socio-economic and political development of this region. However, it is pertinent to mention here that whatever policies were applied and what kind of administrative system was followed in the tribal areas, whether bad or good, but at least it transformed these areas from chaos to a kind of order and laid the foundation of the existing administrative set up in these areas.

When the British withdrew from the subcontinent, India and Pakistan came into being as two autonomous states. The Indian Independence Act of 1947 nullified all the agreements that had tangled the different regions of the subcontinent with the British Indian administration (Spain, 1962). The new arrangements left the population from these regions free but they were living in a kind of vacuum. In order to find their permanent identity and to have a place for living they had to decide and choose either the Indian or Pakistani block as their mother land. For this purpose, referendums were held in different dominions and people were given a free hand to decide about their future destinies. During the course of these arrangements the people from the frontier regions resolved to join the Pakistani block (Ali, 1990). To further cement these understanding more or less 32 mechanisms of consent were successively sign up between the representatives of the tribal population, generally known as tribal *maliks*, and representatives from the Pakistani government (Khan, 2005).

Like their predecessors, the Pakistani administrators were facing the similar problem of how to deal with the tribal areas and what would be its future administrative settings. In view of the administrative limitations and economic constraints of the newly-born Pakistani state and the sensitive nature of the tribal border regions, it was decided to keep continue with the semi-autonomous status of these areas. As far as its governance was concerned, it was the federal government that has the responsibility to look after its administration and other managerial needs. There was a demand from some quarters to merge these areas with the adjacent KP (then NWFP) province but the federal government did not pay any heed to this demand and left the decision about the future status of this region pending till a suitable time (Cheema, 2017). After the annexation of these areas into the

Pakistani federation in 1948, three more tribal agencies were created namely Mohmand in 1951, Bajaur in 1973, Aurakzai in 1973 and added to list of four tribal agencies (Kurram, Khyber, North Waziristan, South Waziristan) already created by the British during their rule in the subcontinent. The adjacent regions of Peshawar, Banuu, Kohat, Tank, D.I Khan, and Laki Marwat were recognized as Frontier Regions (FRs) and added in the dominion of these agencies. Thus, the combination of six FR regions and the seven tribal agencies set up a dominion what was generally known as the Federally Administered Tribal Areas (henceforth FATA) of Pakistan.

When it comes to the administration of FATA, the Pakistani state almost followed the British footsteps. The administrative and legal frameworks, inherited from the British administrators, were heavily relied upon and the semi-independent status of the tribal areas was kept intact. These arrangements were given official sanctions and legal covers even in the country's constitutions. The 1956 Constitution of Pakistan used the terms "Excluded Areas" and "Special Areas" for the tribal regions (Wazir, 2016). These understandings were also recognized by the 1973 constitution of the country. Article 1(C) of the said constitution declared these regions as an integral part of the federation (Babakhel, 2018). Articles 247-246 of the said constitution prescribed the exceptional manner and method of administration of these areas and provided the framework for the relationship between the tribal areas and the Government of Pakistan. Article 247(3) clearly stated that not at all any act of the Parliament or any part of it could be applied in the FATA region, unless directed by the President of Pakistan (Hayat, 2009). Similarly, article 247(7) of the constitution stated that the higher courts of the country have no jurisdictions in FATA unless it is conferred on to these courts by the Parliament through an amendment in the constitution (Hayat, 2009).

Constitutionally, the FATA region remained under the direct administrative authority of the Pakistani President. Article 145 of the 1973 Constitution of Pakistan empowers the President to direct the governor of a province to act as his agent in areas in the federation which are not part of any province (Wazir, 2016). The KP province Governor acted as the President agent in exercising the state executive authority in FATA. The Governor used to appoint the political agents. They had to manage inter-tribe and intra-tribe relations, managed

disputes over boundaries or natural resources, and regulated the agencies' trade of natural resources with each other or settled areas of KP (Khan, 2011). To further assist the PA in smoothly running the tribal areas' administration, the institution of *maliki* system was retained and further institutionalized. Similarly, instead of extending the regular formal laws of the country, the Pakistani state continued with FCR as legal frameworks for the FATA region. Thus, these regions remained part and parcel of the country, but its administrative, legal and political systems have been anomalous when compare to the one operating in rest of the country.

Why does FATA Need Integration in the National Mainstream?

As a result of prolonged neglect and isolation from the national mainstream, the FATA region displays the lowermost economic, health, social, and development indicators in the federation of Pakistan. The 2016 report by the United Nations Development Program states that the poverty ratio in these lands is 73.7 percent. It is estimated that per capita income in these areas is below \$ 200 (Rakisits, 2018). Merely 31 percent of kids are vaccinated against different diseases (Shah, 2018). Furthermore, 6.2 percent adults and 12.7 percent of the youth are jobless (FATA Secretariat, 2015). According to a survey report of 2016-2017 the literacy rate in FATA region stood at 24 percent, (Yahya *et al.*, 2017).

Alongside poor socio-economic and development indicators, the FATA region also remained deprived and neglected in terms of political activities and proper administrative machineries. Over the years' political activities of any kind were not permissible in these regions and the tribal people could not exercise their political rights enshrined in the constitution of Pakistan. For example, the mainstream political parties of the country were not allowed to carry out any kind of political events in these areas and elections were usually held on non-party basis. It was only in August 2011 when the Political Parties Order (PPO) was extended in these areas and political parties were allowed to carry out political activities and organize election campaigns (Wazir, 2016). Being a federal subject these regions were not given representation in any provincial legislature. The FATA region was given representation in the national parliament, but it was insignificant because it could not legislate for the tribal territories.

Such a sorry state of conditions could also be seen from the viewpoint of administration and governance structure in these regions. It remained deprived of formal regular mechanisms of governance and the age-old ultraconservative tribal governance structure continued to govern and regulate the tribal society.

History of FATA Reforms

Over the years, the FATA region did not attract much attention from the Pakistani policymakers. Although, some initiatives were undertaken but the nature of these steps were such that could not be called genuine reforms. It did not improve governance in these areas and had little impact on the lives of its population. Professor Khan (2008) summarizes the successive government's reforms and development policies in these areas, from 1948 till 1970, as, "These were negligible and did not bring any improvements and progressions in the tribal region. It only revived the already existing system and strengthened the federal governments' control in these areas".

The first major reforms and development initiatives were undertaken during the era of 1970s. The Pakistan People's Party (PPP) administration under the leadership of Z.A Bhutto, then Prime Minister of Pakistan, took some initiatives to give a kind of relief to the tribal areas. He extended the quota system in the tribal regions and its inhabitants were bestowed with the opportunity of allocations in educational institutions and other federal jobs (Khan, 2008). Similarly, these people were given a kind of recognition as normal citizens of the country, by providing the National Identity Cards and issuing of Passports (Yusufzai, 2014). As a result of these initiatives, the tribesmen were allowed to work in different parts of the country and traveling abroad for overseas employment. Bhutto also initiated some efforts to introduce governance reforms in these regions. For this purpose, a committee was constituted to suggest governance reforms and recommend a framework about the future status of these regions (Akhter, 2017). However, these initiatives could not be materialized owing to the military takeover by General Zia- ul- Haq in July 1977.

In the political history of Pakistan, the era of 1990s is commonly referred to as Pakistan's "decade of democracy" (Lamb & Hameed, 2012). In the year of 1996 the central government of Pakistan announced the Adult Franchise in the tribal region. This step was the

first of its kind to politically empower the tribal residents. The right to vote was given to these people and unlike the past now representatives from these regions to the National Assembly could be directly elected by the tribal population and by few tribal *maliks* (Aziz, 2017). The announcement of the adult franchise, however, was an insignificant move because the mainstream political parties of the country were not allowed to carry out any kind of political activities in the tribal areas (Khan, 2011).

In 2002, the General Pervez Musharraf military regime extended the Local Government Regulation 2002 to the tribal regions, aiming to improve governance and political empower the tribal population. However, this move proved ineffective to bring any substantial changes, as the political atmosphere in these areas was not conducive to efficiently respond to these initiatives. Another reason was that the general tribal community did not trust the designated office holders. They were generally viewed as titular leaders, as all the powers were enjoyed by the PA (Aziz, 2017). During this period, the government established the FATA Secretariat. Four years later, in 2006, FATA Secretariat was restructured as Civil Secretariat FATA (Aziz, 2017). The Secretariat was responsible for looking after different development activities in the tribal regions like health, education, security, and the well-being of the people. Likewise, a semi-autonomous body named FATA Development Authority (FDA) was established in 2006. It was established as a specialized organization to stimulate a more advanced and participatory approach in implementing projects in skills development, industries, minerals, small dams, tourism, and township development in the tribal region (Khan, 2008). However, in the absence of any regular and efficient legal and governance mechanisms, these departments (Secretariats) failed to design well-planned comprehensive strategies and boosting development in these regions.

The credit of some pragmatic reforms in the FATA region goes to the PPP administration. During the years of 2009-2011 the PPP government under the leadership of Asif Ali Zardari, the President of Pakistan, resolved to introduce some practical political, judicial and administrative reforms in the tribal areas. As a result of this resolve, the PPO-2000 was extended to FATA and some major amendments were made in the FCR of 1901 (Zia, 2009). These reform initiatives

were unique of its kind and were highly appreciated by the tribal population. The extension of PPO allowed the mainstream parties political to carry out political activities in the tribal region. The FCR amendments extended legal protection to women, minors under 16 and the elders above 65 and exempted them from one of the inhuman clauses of FCR, generally known as collective responsibility. It means arresting the whole tribe for the act of an individual from the same tribe (Dawn, 2011).

After critically analyzing the successive governments' development strategies and reform initiatives, from 1960s to 2011, it can be safely argued that all these initiatives were ad hoc based, uncoordinated, insufficient, and inconsistent. It was just an illusion, as most of these were neither backed by the constitutional amendments nor powered by the executive order of the President (Shinwari, 2015). While commenting on the grey areas in the past reform initiatives, Khan (2008) has rightly stated that, "Without amendments in Article 247 of the constitution, which prohibited the higher courts jurisdictions and restricted the national legislature to legislate for the tribal lands, reform packages and other such initiatives looked like joking with the tribal people". Similarly, all the previous reforms attempts were very modest in nature and none of them touched upon a comprehensive strategy. It failed to suggest rational policy reforms to alter the outdated tribal governance structures, designing an alternative formal governance system, and suggesting about the realistic prospective standing of the tribal areas.

FATA Merger in the KP: A Critical Analysis

After prolonged isolation from the national mainstream socio-political life the FATA region has finally been merged in the KP province. It is an attempt to transform these areas socially, politically, economically, and legally. When compare to the previous reform packages, the merger plan is a major reform step ever employed with regard to reformation in the tribal region. The most important aspect of this reform strategy is that it has changed the decades-long special status of these areas, which has historically blocked the road of reforms and transformation in these areas. The latest reform package offers optimism to hope for change and progression in the coming days.

Many in Pakistani have highly greeted the merger plan and a lot of expectations are associated with it. The supporters of merger have termed it as unique and unprecedented. It is unique because these are the first practical reforms that are backed by concrete constitutional amendments and are sanctioned by the President of Pakistan, who has been the real executive authority for the tribal areas. For example, the 25th amendment in the 1973 constitution of the country was mainly introduced concerning reforms and changing in the status of FATA region (Wasim, 2018).

The abolition of FCR, the extension of the jurisdiction of the lower and higher courts of the country to the newly-born tribal districts, and representation of tribal population in the KP assembly are some the pros of the latest reform package. The latest set of reforms is also aiming to develop the infrastructure and community life in the tribal region. For this purpose, an amount of PKR 121 billion per annum is planned to be spent in these areas (Bukhari, 2017). These are more or less the features that fundamentally make the merger and other associated reforms package qualitatively different from the previous reform initiatives. Although the latest arrangements are exceptional and must be appreciated but it is not to say that the merger plan is completely spotless. There are some grey areas in the latest reform package that worries many in the academia, public circles, and those who oppose the merger plan. The rush in the decision of merging the tribal areas in the KP without exhaustive homework and deliberations with the key stakeholders, especially the tribal people, has given rise to different questions and doubts.

Those who oppose the merger plan have disapproved it on different grounds. They say that the merger arrangements are as such not a big achievement, as the FATA region was already merged in the KP, in a sense that historically the region stayed dependent on the province for economic activities, logistics, administration, and education etc. However, the past experience demonstrates that managing the affairs of the tribal region from the capital of the province (Peshawar) has always been challenging and less effective. Hence, the fragmentary merger and associated activities are not that much substantial to call it genuine reforms and looking old wine in the new bottles (Khan, 2018). This point of the critics is very much valid and appealing to mind. The reason is that historically the

administration of the FATA region was mainly run by officials from KP but these areas did not see any improvements in terms of governance and development. In fact, FATA is among the least developed regions of Pakistan.

The managerial system, presently working in the newly-born tribal districts in the wake of merger, is also very puzzling. The FATA region got combined in the KP and the former seven tribal agencies are now officially declared the tribal districts of KP, but instead of governing these districts with the regular laws and administrative machineries of the province an interim regulation namely the Interim Governance Regulations-2018 is currently managing the affairs of the tribal region (Khan, 2018). It is estimated that in the post-merger the Interim-Act will regulate the tribal society until the said reform package is completely implemented and the merger process is finished. This aspect of the merger plan confuses many and has led to uncertainties in the minds of many. In view of such confused administrative arrangements in the newly-born tribal districts critics have stated that the merger scheme looks like a temporary arrangement and not something that can be called genuine reforms and culminating point of the mainstreaming project.

In the wake of FATA merger plan the KP province has to take care of the administration and other managerial affairs of the seven tribal districts. Since the province is already overburdened by its managerial tasks and is facing commanding problems in some of its far flung areas, the additional burden of administration of the tribal districts is really challenging. Similarly, the administration of the tribal districts cannot go without sufficient resources. It is pertinent mentioning here that the province is already lacking the adequate resources to meet its needs and is in a constant tug of war with Islamabad for the allocation of proper funds in the province. Now the question is that will the KP province be in a position to properly take care of the tribal districts while having fewer resources. In view of these realities on ground, the answer is that it can only add in the frustrations of KP and can even lead to further problems and complexities. An analyst elaborates this as, "The files work and other documentation with regard to FATA merger into KP was an easy thing to do and it may have taken a week or less of the officials,

however, the real testing task would be its proper implementation” (Firdous, 2018).

Keeping in view the past experiences and the prevailing objective conditions, there is uncertainties among the tribal population and they are not expecting any positive change in the tribal region in terms of administration and development. A scholar elaborates the tribal population distress as, “KP is a deprived area that stares to transnational contributors and Islamabad for resources to encounter its multiple managerial needs. Furthermore, there are already some quarters in the province that are more impoverished than some pockets in the tribal region. If the province is facing difficulties in managing its own affairs, how will it be possible to adjust to the additional responsibilities of the seven tribal districts” (Khan, 2018). The general major cause of concern is that the combination of the two regions (FATA and KP) has turned the KP province into a bigger administrative unit while the resources at her disposal are in scarcity. Therefore, it is worried that the disadvantages of the merger are overwhelming its advantages and resultantly both the regions would suffer in so many respects.

Similarly, the newly-declared tribal districts include some exceptionally ungoverned and conflict-ravaged areas. It needs an efficient and workable managerial mechanism. It is worth mentioning here that the province includes some far reach areas that remained beyond the actual government control and where governing the society has been a major issue. It is worried that the extension of the government authority and establishing the writ of the state in the far flung areas of the tribal districts would be a big challenge for the KP administrators and any mishandling can create further complexities and different problems (Wazir, 2016). Analysts have warned of its consequences and state that the prevailing situation is much more similar to the one that we saw when the Swat Princely State and its adjacent areas were abruptly merged in the mainland KP during the year of 1969 (Babakhel, 2018).

The Swat region’s merger was done without proper homework and preparation with regard to future administration and governance of the merged areas. Although the region was merged in the mainland Pakistan but it was governed through the Provincially Administered Tribal Areas (PATA) regulation (Rome, 2008). However, the general

public was not satisfied with the regulation, as it was a mixture of traditional and regular laws and hardly understandable for the common masses. Subsequently, it led to governance nightmare in these areas. The general population dissatisfaction with the governance mechanism of that time gradually led to a kind of governance vacuum in these areas. The vacuum was carefully cashed by the non-state actors to their ends. For example, Maulana Sufi Mohammad (Pioneer of the TNSM) took advantage of the dissatisfaction of the general population and used the situation to his ends. The activities of TNSM and subsequent developments ultimately resulted into successive waves of militancy in the swat region and its adjacent areas during the years of 1994, 2008-2009, respectively.

The same situation is currently in place in the tribal districts. The already workable informal administrative system has been more or less abolished while the new alternative arrangements are yet on its way to take place in the tribal districts. The merger scheme has given new hopes to the tribal masses but till the delivery of basic rights and other civic facilities, the new arrangements are of no use for them. More than five years have passed, since the declaration of the merger scheme, but bulk of the proposed arrangements are either in pending position or going with a very slow pace. It has led to doubts and uncertainties among the tribal population. The undue delay in the transition from traditional administrative system to formal governance set up and growing unrest in the tribal society is very dangerous. It may have its consequences, if not tackled timely and efficiently.

CONCLUSION

The merger scheme is a good step when compare to the previous reform attempts. However, it is by no means to say that the FATA mainstreaming is completed. The full-fledged mainstreaming is a complex that involves social, economic, legal, security, and political aspects of reforms. The merger scheme can be an important aspect of FATA reforms but not the total sum. If the merger scheme is intended to genuinely governed the tribal region and develop it socially, politically and economically, then the current arrangements are too little and offers nothing new. For example, the newly-born tribal districts were used to be administered by officials from the KP but the historical experiences show that after the passing of more than seventy

years no substantial changes and development took place in the tribal region. Hence, it may not be wrong to assume that the current arrangements (KP-FATA merger) has just given legal cover and official sanctions to the already in place administrative mechanism in the tribal region.

More practical and consistent reform steps are needed to materialize the mainstreaming project and to declare the tribal region as normalized part of the Pakistani federation. The infrastructural development in the newly-born tribal districts, nurturing the key indicators of good governance, the extension of legal and economic regulatory frameworks to the newly-born tribal districts, securing a stable and peaceful environment, guaranteeing better rule of law, and the delivery of basic constitutional rights to the tribal population are some of the titanic tasks that require immediate response and bold steps from the current and upcoming governments.

Bringing genuine reforms and change into an area as volatile as the tribal region is challenging, but doing this will have its paramount significance for these areas and the country as a whole. The merger scheme has created a suitable environment, as vast majorities of tribal population, civil society organizations, and mainstream political pundits stand firmly behind the agenda that the only possible solution to problems in the tribal region is integration in the mainstream governance spectrum. It demands to be sensibly cashed and used as an opportunity for taking further practical and bold reform steps. Nothing would be more unfortunate, if this opportunity is marred by undue delays and apathies like the past. Any further stalling to reforms and mishandling the region problem can create new problems and complexities.

From the British period in the Indian-subcontinent till the merger scheme, the FATA region has seen various changeovers. This process has considerably damaged the region's informal tribal system of governance, while the formal system of governance and other associated arrangements are yet to take place in these areas. For example, after the merger FCR and other associated arrangements, which was the main tool of administering these areas, is abolished while the alternative formal administrative arrangements are yet on its way to start functioning in the newly-born tribal districts. It hints that the tribal society is currently observing a kind of governance

vacuum. This is a very dangerous scenario and its consequences would be unprecedented if not tackled immediately and effectively. Since the basic aim of the merger scheme is to efficiently administered the tribal region, therefore, the introduction of regular administrative machineries and the extension of formal legal frameworks in the newly-born tribal districts must immediately occur. Furthermore, it is imperative to ensure that the new arrangements are transparent, quick, accountable, based on the rule of law, and responsive to public wants.

REFERENCES

- Ake, C. (1967). Political Integration and Political Stability: A Hypothesis. *World Politics*, 19(3): 486-499.
- Akhter, Z. (2017). FATA's merger with Khyber Pakhtunkhwa. *Institute for Defense Studies and Analysis*, 3(1): 10-26.
- Aziz, S. (2017). History of FATA Reforms, *Pakistan Today*, March 8. Retrieved from: <https://www.pakistantoday.com.pk/2017/03/08/history-of-fata-reforms/>
- Babakhel, M. A. (2018). Before Merger, *Dawn*, April 19. Retrieved from: <https://www.dawn.com/news/18/04/19/before-merger.html>
- Baha, L. (1978). *N.W.F.P. Administration under the British Rule 1901-1919*. National Institute of Historical and Cultural Research, Pakistan.
- Bukhari, S. A. A. S. (2017). Bottlenecks in FATA's Mainstreaming. *Development Advocate Pakistan*, 4(2): 39-47.
- Caroe, O. (1964). *The Pathan: 550 B.C. — A.D. 1957*. New York: Oxford University Press.
- Cheema, A. (2017). Frontier Militia: Future of Militia under the 2017 Federally Administered Tribal Areas (FATA) Reforms. *ISSRA PAPERS*, 9(1): 45-62.
- Deutsch, K. W. (1961). Social Mobilization and Political Development. *American Political Science Review*, 55(3): 634-647.
- Firdous, I. (2018). No more Fata or Pata likely, *The Express Tribune*, May 24. Retrieved from: <https://tribune.com.pk/story/2018/05/24/1717660/no-fata-pata-likely.html>
- Haroon, S. (2007). *Frontier of Faith: Islam in the Indo-Afghan Borderland*. New York: Columbia University Press.
- Hauner, M. (1984). The Last Great Game. *Middle East Journal*, 38(1): 60-75.
- Hayat, M. (2009). Still 'Taming the Turbulent Frontier? The state in the Federally Administered Tribal Areas. *Journal of the Anthropology Society of Oxford*, 1(2): 180-206.
- Khan, D. A. (2018,). Why the most ambitious initiative to change Fata's status is put on hold, *Herald*, May 25. Retrieved from: <https://herald.dawn.com/news/1153875/why-the-most-ambitious-initiative-to-change-Fata's-status-is-put-on-hold>

- Khan, I. (2008). Challenges Facing Development in Pakistan's FATA. *The National Bureau of Asian Research*, 19(3): 13-20.
- Khan, I. (2018). Mainstreaming Fata with interim governance law, *Dawn*, May 31. Retrieved from: <https://www.dawn.com/news/2018/05/31/1411061mainstreaming-fata-with-interim-governance-law.html>
- Khan, S. (2011). FATA's Political Status: What are the Consequences and Options for Pakistan. *Strategic Insight*, 10(2): 35-46.
- Kittner, C. C. B.(2007). The Role of Safe Havens in Islamist Terrorism. *Terrorism and Political Violence*, 19(3): 307-329.
- Korteweg, R. (2008). Black Holes: On Terrorist Sanctuaries and Governmental Weakness. *Civil Wars*, 10(1): 60-71.
- Kureshi, S. T.(2014). Tribal tales, *The Friday Times*, April 4. Retrieved from: <https://www.thefridaytimes.com/tribal-tales/>
- Lindholm, C. (1996). *Frontier Perspectives: Essay in Comparative Anthropology*. New York: Oxford University Press.
- Marten, K. (2012). *Warlords: Strong-arm Brokers in Weak States*. New York: Cornell University Press.
- Multidimensional Poverty in Pakistan. Retrieved from: <https://www.pk.undp.org/content/pakistan/en/home/library/hivaid/Multidimensional-Poverty-inPakistan.html>
- Nilsson, C. K. H. (2009). Dealing with Terrorist Sanctuary in Pakistan's Federally Administered Tribal Areas. Master Thesis, University of Pennsylvania, USA.
- Patrick, S. M. (2006). Weak States and Global Threats: Fact of Fiction. *Washington Quarterly*, 29(2): 27-53.
- Prinz, J. (2015). Pak-Afghan border among global high-risk ungoverned spaces, *The Express Tribune*, October 19. Retrieved from: <https://tribune.com.pk/author/pak-afghan-border-among-the-global-risk.html>
- Rakisits, C. (2018). Pakistan's tribal areas are brought in from the cold, *South Asia Democratic Forum*, May 19. Retrieved from: <https://sadf.eu/wp-content/uploads/2018/06/122comment.n.122.rakisits.pdf>
- Rome, S. I. (2008) *Swat State (1915-1969): From Genesis to Merger*. Karachi: Oxford University Press.
- Shah, S. W. A. (2013). Fencing of the Durand Line and Its Impact. *Internationales Asienforum*, 44(1-2): 85-103.
- Shinwari, I. (2015). FCR reforms: nothing on the ground, *Dawn*, January 6. Retrieved from: <https://www.dawn.com/news/2015/01/06/fcr-reforms-nothing-on-the-ground.html>
- Spain, J. W. (1962). *The Way of the Pathans*. London: Robert Hale Publishers.
- Titus, P. (1998). Honor the Baloch, Buy the Pushtun: Stereotypes, Social Organization and History in Western Pakistan. *Modern Asian Studies*, 32(3): 657-687.

- Wasim, A. (2018). National Assembly green-lights Fata-KP merger by passing historic bill, *Dawn*, May 24. Retrieved from: <https://www.dawn.com/news/2018/05/24/national-assemble-green-lights-fata-kp-merger-bypassing-historic-bill>.
- Wazir, A. (2016). Fata: merger or provincial status, *The News*, April 19. Retrieved from: <https://www.thenews.com.pk/print/113716/fata-merger-or-provincial-status>.
- Yahya, H. Raziq., Shinwar, M., Paltzer, I., & Mateen, F. (2017). Socio-Economic Mainstreaming of FATA. *Development Advocate Pakistan*, 4(2): 16-25.
- Yousaf, F. (2019). Pakistan's Colonial Legacy: FCR and Postcolonial Governance in the Pashtun Tribal Frontier. *International Journal of Postcolonial Studies*, 21(2):172-187.
- Yusufzai, R. (2014). Counting FATA, *The News*, July 26. Retrieved from: <http://www.thenews.com.pk/2014/07/25Counting-Fata.html>
- Zia, S. I. (2009). Far-reaching FATA reforms unveiled, *Dawn*, August 14. Retrieved from: <https://www.dawn.com/news/2009/08/14-1244139/fata-reaching-fata-reforms-unveiled.html>.
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