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FEDERALLY ADMINISTERED TRIBAL AREAS (FATA) OF PAKISTAN: FROM UNGOVERNED SPACE TO POLITICAL INTEGRATION

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Abstract

Since its assimilation into Pakistan in 1948, the FATA region has always been recognized as an integral part of the federation. However, the region consistently remained isolated from the national mainstream governance spectrum. Consequently, FATA is one of the least developed regions of the country and its governance issues are manifold. Successive governments have attempted various development strategies and reform packages, to reform and integrate the tribal region into the national mainland, but it did not bring any substantial improvements. Keeping in view the region's multidimensional governance and law and order issues, the government of Pakistan has merged FATA in the Khyber Pakhtunkhwa (KP) 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 begins by offering a brief history of FATA and the evolution of its administrative structure. It then discusses the successive Pakistani governments' reform strategies vis-à-vis the tribal regions. Finally, the paper critically analyses the FATA merger in the KP and explores its pros and cons.

Keywords

Northern Frontier, British Colonialism, Post-Colonial State. FATA Reforms. Pashtunwali

1. Introduction

Since its coming into existence as an independent state in 1947, nation and state-building has always

been a challenge for Pakistan. The country lacks a unified governance structure and legal frameworks to govern the population and regulate the society.

It has largely undermined the central government's authority and legitimacy in the eyes of its population. The weaknesses within the basic design of the Pakistani state governance structure is one of the major reasons that block the road to national integration. This 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 territories that fall beyond the actual state control and where writ of the state is very weak, if not completely absent. Analysts have noted down that in these places, "The national, provincial and district governments have no significance presence and informal systems have been practicing state-like activities" (Lamb & Hameed, 2012). The rise and strength of Tehrek-i-Nifaz-i-Shariat-i-Mohammadi (TNSM) in the Malakand region of Khyber Pakhtunkhwa, insurgency in Baluchistan, and the strong hold of militants in some pockets of the FATA region are the cases at hand. Among the ungoverned areas, the FATA region has been more problematic. Although, the FATA region has always been recognized as an integral part of the federation, but it consistently remained secluded from the mainland governance spectrum. Over the decades, the region has been devoid of formal governance structure and an outdated tribal governance system governed the tribal society. Successive Pakistani regimes continued to administer this region through a peculiar system of administration and anomalous legal frameworks, inherited from the British colonialists, which were

significantly different from the one that is applicable in rest of the country (Wazir, 2016). Similarly, these areas remained neglected in terms of development and the delivery of basic civic facilities to its population. The fragile and conventional system of administration gradually translated into governance vacuum in these areas. It paved the way for non-state actors to step in the vacuum and gradually established their sways in the tribal society. Consequently, it caused havoc to the tribal regions in particular and the country in general. Keeping in view the poor governance and associated issues in these areas, there have been consistent calls from the international community and human rights organisations, to introduce reforms in FATA and integrate it into the national mainstream. In this regard, successive Pakistani federal governments have attempted various development strategies and reform packages, but none of them proved substantial to transform these areas. However, the federal government could no longer absolve itself from the situation in the tribal regions. The Pakistan Muslim League Nawaz (PML-N), after coming into power in 2013, resumed the FATA reformation process and resolved to take some pragmatic reform steps. For this purpose, a committee was constituted to provide policy reforms and suggestions about the likely future status of FATA. The committee after consultations with different stakeholders and exploring different available options recommended the merger of FATA in KP. As a result of this resolve, the government has merged FATA region in the KP in 2018, aiming to introduce political, economic, legal, and

administrative reforms in these areas and to bring it at par with the rest of the country.

1.1 Research Questions

The quest of this research is guided by three major questions which are,

- 1- Why does FATA region need integration into the national mainstream?
- 2- What reform strategies have already been employed by the successive Pakistani regimes and why those reforms proved unsubstantial for transformation of the region?
- 3- How far the merger scheme is a viable option, and will it help in meaningfully integrating FATA into the national mainstream?

2. Research Methodology

This study is mainly a qualitative research, only secondary quantitative figures are used where available. As an in-depth understanding of the region and its history were the main concern of this study therefore, qualitative methods suited this research the most. 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.

2.1. The Central Argument

Based on the genesis of the FATA history and past reform attempts, we argue 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 political, legal,

administrative, social, security, and economic aspects of reforms. The merger scheme can be an important aspect 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 at par with the rest of the country.

2.2. Theoretical Framework

Territories, within their national domain of state, falling beyond the central government's actual control are generally described as "ungoverned spaces (Patrick, 2006). They are considered "a potential security threat to the world peace" (Prinz, 2015). Along with other issues, a general perception exists that these areas have provided a favorable environment for non-state actors to organise and perform indiscriminate activities. In this conjunction, a case in point is the FATA region of Pakistan. Over the years, this region remained beyond the actual central government authority. According to an estimate, during the years of 2007-2008, only 37 percent of the territory in FATA remained under the central government's regular control (The Express Tribune, 2021). Marten (2012) concludes, "The dominance of weapons culture, unique tribal governance system, tough geographical features, ethnic tensions and the presence of militants all these direct to deduce that FATA is an ungoverned region". 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 state-building and the integration of these areas

into the national mainstream. When it comes to the reformation and integration of FATA region into the national mainstream Pakistan, successive governments have attempted different reforms strategies, however, none of them succeeded to achieve its desired results. This leads to a central question such as; why successive integration attempts failed and what should be done to successfully integrate the FATA region into the national mainstream? In this backdrop, Claude Ake's (1967) theory of "Political Integration and Political Stability: A Hypothesis" is applied as theoretical framework for this study. It fulfils the theoretical understanding as it provides a better solution to the problem of integrating the peripheral areas of a state like Pakistan. The process of political integration is defined as "How to construct a single sound political society from a fusion of traditional societies; how to develop cultural homogeneity and values harmony; and how to extort respect and attachment to the claims of the state" (Ake, 1967). The author states that the drive for successful integration highly depends on strong social communication among the civic community. It can be developed through social mobilization in society. Social mobilization is defined 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" (Deutsch, 1961). The author 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 the author 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).

3. Historical Context

The dwellers of FATA region are mostly 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 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" (Caroe, 1964). Colonel Brazier Creagh of the Indian Army shares the similar viewpoint and says, "When we went to the frontier it was called *Yaghistan*. It was a forbidden land, and no Englishman had ever been there before... It was impossible to go (inside); and if you did your bones would be left there" (Haroon, 2007). Over the millenniums, these areas had never experienced any semblance of organised 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 nonaggression and non-interference in the tribal affairs, generally known as 'close border policy' (Rakisits, 2013). Advocates of the close border policy suggested to hold a defensive position along the immediate boundaries 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, the Durand Line was established between British India and Afghanistan in November 1893, to fix the limits of their respective rule (Shah, 2013). These new 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 North Waziristan and South 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 of the

colonial administrative system, 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 criminality in the tribal society and the application of laws, the British realised 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 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. The British government did not invest serious military or diplomatic efforts in assimilating the tribal areas

or bringing them under the central control of the British Indian administration. 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. As a result of the British colonial power departure from India, Pakistan and India emerged as two independent states. The Indian Independence Act of 1947 abrogated all the treaties that had tied the different dominions of the subcontinent with the British government (Spain, 1963). Thus, it left these dominions independent, and its people were then free to decide about their future destinies, either as part of Pakistan or India. In this process, the fate of tribal areas was decided when the tribesmen from FATA expressed their popular resolve to join Pakistan (Ali, 1990). To further cement these understanding, about 30 instruments of accession were subsequently signed between the government of Pakistan and about 200 tribal *maliks* (tribal elders) (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. Keeping in view the economic and other administrative constraints of Pakistan after independence, it was decided to keep these areas under the direct control and responsibility of the federal government 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 federation in

1948, three more tribal agencies were created namely Mohmand in 1951, Bajaur in 1973, Aurakzai in 1973 and added to list of tribal agencies (Khyber, Kurram, South Waziristan, North Waziristan), created by the British. The adjacent regions of Peshawar, Banuu, Kohat, Tank, D.I Khan, and Laki Marwat were recognised as Frontier Regions (FRs) and added in the dominion of these agencies. Thus, the combination of these seven tribal agencies and six FR regions constituted what were generally known as the Federally Administered Tribal Areas (FATA) of Pakistan. For administration of the FATA region, the Pakistani state almost followed the British footsteps. The administrative and legal frameworks, inherited from the British administrators, were heavily relied upon and the special 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, 2012). These understandings were also recognised 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, 2017). 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 no act of Parliament was applicable to FATA or any part of it, unless directed by the President (Hayat, 2009). Article

247 (7) stated that neither the Supreme Court nor any provincial high court has jurisdiction in the tribal areas unless it is conferred on to these courts by the Parliament through an amendment in the constitution (Hayat, 2009). Constitutionally, these regions remained under the direct executive authority of the President of Pakistan. 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, 2012). The Governor of KP province acted as the President's agent to exercise 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.

3.1. Why does FATA Region Need Integration in the National Mainstream?

As a result of persistent neglects and isolation from the national mainstream, the FATA region displays some of the lowest social, political,

economic and development indicators in the country. According to a report by United Nations Development Program (2016), these lands have the highest incidence of poverty, 73.7 percent in the country and majority of its residence are impoverished in terms of education, health and other standards of living. It is estimated that per capita income in these areas is below \$ 200, while the national per capita income is \$500 (Rakisits, 2018). Only 33 percent of children fewer than two years are fully immunized, while the national figure is 76 percent (Shah, 2018). The unemployment rate also remains much higher than the rest of the country, with 7.1 percent adults and 11.8 percent of the youth remaining unemployed (FATA Secretariat, 2015). According to the Pakistan Social and Living Measurement (PSLM) survey statistics of 2016-17, the literacy rate in FATA stood at 24 percent, in comparison to a national literacy rate of 58 percent (Yahya, *et al.*, 2017). Similarly, over the decades, these regions also remained isolated from the national mainstream political life. For a long period of time political activities of any kind were not permissible in these regions and elections were usually hold on non-party basis till the extension of Political Parties Order (PPO) in August 2011 (Taj, 2012). Being a federal subject, these regions were not given any representation in the provincial legislature. Although, this region was given representation in the national parliament, but it was insignificant because it could not legislate laws 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 remained intact to govern the society.

3.2. FATA Reforms History

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 Ijaz Khan (2008) summarises 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. After coming into power, the Pakistan People's Party (PPP) administration under Zulfikar Ali 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, 2011). 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, this idea could not be materialized due to the military coup 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 1996 the federal government introduced the Adult Franchise in the FATA 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 now representatives from these regions to the National Assembly could be directly elected by the people and not through few tribal *maliks* (Aziz, 2017). The introduction of adult franchise, however, was not accompanied by the government's permission for political parties to operate and launch their political campaigns in the tribal areas (Khan, 2011). Similarly, the adult franchise did not increase self-governance of these regions, because this region was not a province or part of another province, and therefore could not elect its representatives to a provincial assembly. 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 public had no confidence in the nominated office bearers. 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 promote a more innovative, fast moving, and participatory approach in implementing projects in minerals, industries, skills development, small dams, township development and tourism 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 pragmatic history of FATA reforms can be traced back to the years of 2009-2011, when the Pakistan People's Party (PPP) government took the lead and resolved to introduce some practical political, judicial and administrative reforms. As a result of this resolve, on 12th of August 2011, Asif Ali Zardari, then President of Pakistan, signed two important regulations, namely the Extension of Political Parties Order (PPO 2000) to these areas and certain amendments in the FCR (Zia, 2009).

Subsequently, political parties were allowed to conduct political activities in the FATA region. The FCR amendments extended legal protection to women, minors under 16 and the elders above 65 and exempted them from the collective territorial responsibility clause of the FCR, introduced the concepts of bail and appeals, and abolished the practice of arresting the whole tribe for the act of an individual from the same tribes (Dawn, 2011). However, it is ironic that during the course of these reforms, the Action in Aid Civil Power Regulation was promulgated on 27 June 2011. Under the banner of this regulation, the federal government of Pakistan authorized its military to conduct operations as Action in Aid to the Civil Power in any part of the tribal areas, to suppress violent activities originated in the tribal society since February 1, 2008 (Zia, 2009). The introduction of this regulation largely smashed the expectations, attached with these reforms, and dumped the optimism to open a new era of reforms and transformation in FATA. After critically analysing 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, Ijaz 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 the likely future status of the tribal areas.

After coming into power in 2013, the PML-N government resumed the FATA reform process and resolved to take practical reform steps. In November 2015 Muhammad Nawaz Sharif, then Prime Minister of Pakistan, constituted the FATA Reforms Committee 2015, to suggest policy reforms and the likely future status of FATA. This committee, after thorough homework and consultations with different stakeholders, produced a report in August 2016 and came up with its key recommendations. Keeping in view the close ethnic, social, cultural, economic, and administrative linkages between the two regions, the committee recommended the integration of FATA in the KP province. Subsequently, on 31st of May 2018, the 25th Constitutional Amendment was made in the 1973 Constitution of Pakistan and finally the fate of FATA was decided by merging it in the KP (Firdous, 2018). The merger scheme is a major step of its kind ever employed to reform the tribal areas. It is good omen and offer optimism to hope for opening a new era of transformation in the tribal areas. The proponents of merger scheme have hailed the latest set of reforms and have termed it as unique and unprecedented. It is unique in a sense that for the first time FATA reforms got Presidential assent and are backed by practical constitutional amendments (Wasim, 2018). Similarly, it is a fundamental break from the past, as it changed the decades-old status of the tribal regions. When compare to the previous reform steps, the merger scheme is a major reform compact and must be appreciated. However, it is not that much substantial to call it culmination of the FATA



Figure 1: Khyber Pakhtunkhwa Province Map

3.3. FATA Merger in the KP Province: A Critical Analysis

mainstreaming. If one critically analyses the merger scheme, it will bring to the forefront some loopholes and grey areas. The abrupt decision of merger and hustling in introducing and passing the amendments bill without detailed deliberations and genuine consultation with the key stakeholders, the tribal people, have led to various questions and ambiguities in the minds of many. The opponents of merger have criticized it on various grounds. They say that the merger scheme may look good on paper, but the litmus test for success of the merger would be its implementation. It must be admitted that the proposed reforms package is in the pipeline and is yet to be materialized properly. They argue the tribal regions were already merged with the KP, in a sense that these regions remained dependent on the province for health, education, administration and economy. The critics say that, in view of the poor governance and low development indicators of FATA, the current reforms are too little and look like old wine in new bottles (Khan, 2018). The piecemeal merger and insufficient arrangements cannot help in meaningfully transform the FATA region and can even lead to further issues and complexities. The historical experiences show that administering FATA from Peshawar has always been problematic. Although, the region has been mainly administered by bureaucrats from the KP, but after passing of more than seventy years these areas have seen no governance improvements and remained extremely underdeveloped (Wazir, 2016). The administrative arrangements, currently in place in the newly born tribal districts, are also confusing.

Although, FATA has been merged in the KP but still it is being governed through an Interim Governance Regulations 2018 (Khan, 2018). This is the most confusing and controversial aspect of the latest reforms. It is said that this Act will remain in place in the post-merger period and continue to work until the proposed reforms are implemented and the region mainstreaming process is completed. Now the question is that how long it will take to complete the full-fledged mainstreaming and during this process what would be the status of customary laws and other such regulations, currently in place in the tribal regions? In this backdrop, critics state that the current arrangements are insufficient and temporary in nature. In the post-merger period, the KP province is supposed to take the lead and accept the additional administrative responsibilities of administering the newly born seven tribal districts. It is pertinent to mention here that the KP province is already overwhelmed by its administrative affairs and lack the resources to meet its requirements. The additional burden of administering the tribal districts will further add to its frustrations. Given this reality on ground an analyst states that, "It would not have taken more than a week of the officials to complete the files work about the merge scheme and merging certain departments of FATA and KP. However, its management will be a testing task" (Firdous, 2017). The tribal people have their suspicious about the utility and benefits of these reforms for their region. A researcher noted down the tribal people's concern that, "KP is a poor province that looks to international donors and the federal

government to meet its own needs. There are some districts in the province (KP) that are worse-off than some tribal areas. If it cannot manage itself, how will it manage us” (Khan, 2018). Hence, the general perception is that both the mainland KP and the FATA region would suffer because overnight KP has become a bigger province, having more area and population to feed but limited resources at its disposal. Similarly, the newly declared tribal districts include some exceptionally underdeveloped and conflict-ravaged areas. It needs complete repair and efficient managerial mechanism. It is pertinent to mention that KP already hosts some far reach areas that remained beyond the actual government control and where governance is a major issue. Given this reality on ground, the general concern is that “If the KP government cannot efficiently administer some of its far reaches areas then how it would be possible for Peshawar, the capital of KP, to administer and govern the far-flung parts of the newly created tribal districts (Wazir, 2016). It is worried that the merger scheme can lead to further complexities and governance problems for the KP. Analysts have warned of its consequences and state that such a situation can lead to a worst kind of scenario, the one we observed in the Malakand region of KP, when the region was abruptly merged in the mainland Pakistan in 1969, without any preparation and proper arrangements (Babakhel, 2018). In view of the piecemeal merger, confused administrative arrangements and issues involved in the merger, the opponents of merger advocate the idea of a separate province for FATA. They state that the scheme may have its

substance, but it is by no means to say that merger was the only available viable option and that nothing more could be thought of reforming the tribal areas and deciding its future fate. It is said that if the aim behind reforms and mainstreaming is to secure a long-lasting peace and development, then it can only be achieved by giving the FATA region a separate provincial status. According to Owais Ahmed Ghani, former Governor of KP, “If the intention behind mainstreaming is the political, economic, and social development of the FATA region and its residents, then the best way of doing that is not putting it under the KP province” (Khan, 2011). Similarly, Wazir (2010) states, “Nobody else can solve the tribal people problems. The real solution only lies in giving them a government of their own”. It is stated that a separate permanent status will give the tribal people a sense of ownership and confidence. Currently, they are in a swinging position and pessimism has engulfed them, as things are vague and there is no clarity of vision and strategy about the future of this region. Hence, the idea of creating the tribal regions as a separate province has its substance and will remain relevant in the future.

4. Conclusion

As a result of prolonged neglect and seclusion from the national mainstream, the FATA region reforms have become a complicated issue. The merger scheme is a good step when compare to the previous reform steps. At least it gives the promise of making FATA region complete part of the Pakistani federation with all administrative and legal state building structures. However, it is by no

means to say that with merger the FATA mainstreaming is completed. The full-fledged mainstreaming is a complex process that involves political, economic, social, legal, and security aspects of reforms. Merger is an important aspect of mainstreaming but not the total sum. More practical and consistent reform steps are needed to materialize the mainstreaming project and to declare the tribal areas as normalized part of the country. Majorities of tribal population have highly appreciated the merger scheme and they are now demanding for its smooth and true implementation. More than five years have passed that the merger scheme was officially announced but bulk of the proposed arrangements are either in the pipeline or going with a very slow pace. It has led to suspicions and uncertainties among the tribal population. The unrest in the tribal society is dangerous and may have its consequences. The disgusted folks may fall into the hands of those who are trying to sustain instability and insecurity in the tribal region.

5. Recommendations

1. The prolonged neglects and deprivations have seriously annoyed the tribal population. They do not trust the government and see its engagements in the tribal region with suspicious eyes. Therefore, the first task in the post-merger should be repairing the broken links between the state and society in the tribal region, and winning the battle of minds and hearts of the tribal local population.
2. The announcement of tangible development projects and rebuilding of destroyed infrastructure in the tribal region must occur on a priority basis. For this purpose, the governments must set aside the low level and non-productive developmental works in the rest of the country for at least two to three years and utilize maximum funds to develop the newly-born tribal districts.
3. Since many of the starting points for consolidating peace and promoting good governance in the newly-created tribal districts fall in the sphere of civil administration, therefore, swiftly setting up administrative and political infrastructure, such as functioning law enforcement agencies and courts system, must be established without any delay. It is imperative to ensure that the new arrangements are transparent, quick, based on the rule of law, and responsive to tribal public needs.
4. KP is a poor province and cannot efficiently administer the newly-born seven tribal districts on its own. It needs economic resources and moral support from Islamabad and other federating units of the federation to sustain the FATA mainstreaming process. Therefore, the provincial and federal governments, irrespective of their political differences and regional interests, should come forward and play their part in truly implementing the merger scheme and integrating the tribal region in the national mainstream.
5. Last but not the least, one of the major prerequisites for the successful implementation of the merger scheme is

securing a peaceful and stable environment in the tribal region. The inter-tribe clashes, the continuous attacks of militants on the civilians and security forces, and insecurity in Afghanistan are some of the main issues that are jeopardizing the prospects of peace and stability in the merged areas. The periodic military operations are insufficient to secure long-lasting peace in the tribal region. Therefore, to deal with the militant threat, communal disputes and any disturbing situation in the future, it is suggested that permanent military cantonments should be established in major parts of the tribal region.

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