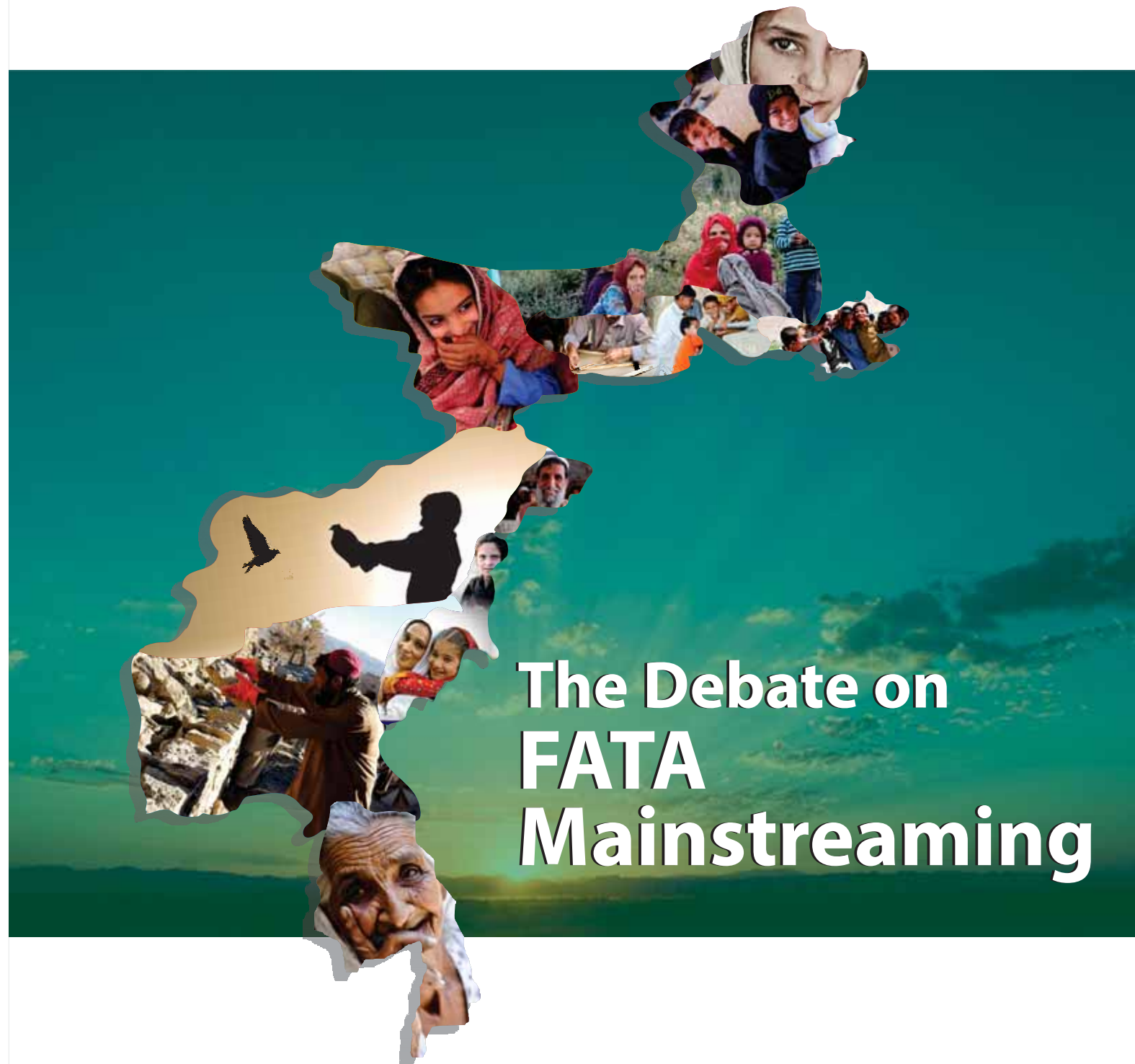


# DEVELOPMENT ADVOCATE PAKISTAN

Volume 2, Issue 3  
October 2015



The Debate on  
FATA  
Mainstreaming

**DEVELOPMENT ADVOCATE**  
**PAKISTAN**



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# DEVELOPMENT ADVOCATE PAKISTAN

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*Development Advocate Pakistan* provides a platform for the exchange of ideas on key development issues and challenges in Pakistan. Focusing on a specific development theme in each edition, this quarterly publication fosters public discourse and presents varying perspectives from civil society, academia, government and development partners. The publication makes an explicit effort to include the voices of women and youth in the ongoing discourse. A combination of analysis and public opinion articles promote and inform debate on development ideas while presenting up-to-date information.

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## Integration of FATA: now is the time

The Federally Administered Tribal Areas (FATA) are at the forefront of public attention and this time mostly for good reasons. The ongoing military operation has delivered against violent groups contributing to a substantial reduction of violence in the country during the last year – up to 50 percent according to data from the Pakistan Institute for Conflict and Security Studies. Internal displacement caused by the operation swelled to 302 thousand families but, since then 36 percent have returned home and more are expected soon. The Government's Sustainable Return and Rehabilitation Strategy, aimed at increasing investments in the areas of returns, is now well underway and development partners have mobilized. Importantly, there are serious proposals for consideration from different sectors including the executive, the military and parliamentarians related to integrating FATA into the rest of Pakistan, recognizing that any development investment will be meaningful for the people of FATA only if accompanied by decisive administrative, governance, legal and constitutional reforms. Consensus on all those fronts is critical for stability in Pakistan and the region, and a precondition for sustainable human development

The extension of established governance systems and constitutional provisions applicable in the rest of Pakistan to FATA, is a development and human right imperative. Many believe the Frontier Crimes Regulation (FCR) contravenes the basic rights of the citizens of Pakistan enshrined in the Constitution. The FCR poses, at times, a challenge to the application of international law and conventions related to the access to justice, civil participation and economic development which Pakistan adheres to. The Peshawar High Court in its April 2014 judgement observed that denial of fundamental rights to the people of FATA, which are available to other citizens, has allowed the tribal areas to become a most dangerous territory. The Court also raised concerns over the inadequate regulatory mechanisms to check the use of power by the FATA administration, which may also lead not only to poor development performance but, also denial of basic rights. The Court also advised the Federal Government to submit a reference in the Parliament for suitable amendments to the Constitution to protect fundamental human rights in FATA.

The current legal system was introduced by the British in late 19th Century but for entirely different reasons. The elected representatives from FATA can legislate for everyone except the people who elect them. The Political Agent has unbridled executive and judiciary powers. Under the "collective responsibility" provision of the FCR, people are held responsible for the crimes committed by someone else.

The current status of FATA benefits considerably a few individuals to the detriment of the people of FATA and the country. It does not provide an enabling environment for human development which in turn makes it extremely difficult to stabilize in the medium to long term. FATA significantly lags on social and economic indicators when compared to the rest of the country. The Human Development Index for FATA is a mere 0.216 as compared to Punjab's 0.705 and 0.891 for Islamabad. The net primary enrolment rates in FATA are well below the national average. The expected years of schooling in FATA is 6.7 years compared to the national average of 9.4 years and the living standard index for FATA is just 27.7 compared to the national average of 71. The Gender Parity Index in primary education in FATA is the

lowest across the country. Tragically, anemic economic development and a lack of employment opportunities for youth is encouraging radicalization and may be a catalyst for recruitment into violent groups.

Recent global studies show that countries with weak governance structures which are also plagued by violence have not met any Millennium Development Goal at all. Such fragile countries have experienced 20 times more poverty than those with established governance systems. While debates on the constitutional status of FATA are extremely important and must continue, there are also comparatively straight forward opportunities upon which to capitalize. These include the introduction of the local government system which can build on the recently introduced municipal committees, the gradual extension of the country's formal justice system – both formal and alternate dispute resolution - and reforms to the administration systems including the civilian law enforcement agencies. The civil society of FATA, including the lawyers, have so far played a critical role in raising voice for the rights of the people of FATA. They must be supported and strengthened to continue playing this crucial role.

The improvement in the security situation and the consensus among different stakeholders on the urgent need for FATA mainstreaming has afforded a momentous opening for the country and must not be wasted. The current efforts, which must continue to be fully led and owned by Pakistani leaders and institutions, especially those by the High Level Committee and the proposed bill in the National Assembly, are an opportunity to make long overdue decisions to include FATA formally into the national polity and serve the country's development interests. This issue of DAP on FATA is an effort in this regard as it brings together the analysis and views of the government and Pakistanis on FATA's development and mainstreaming.



## FATA in perspective: A Situational Analysis

### Introduction to FATA

The Federally Administered Tribal Areas (FATA) is spread over an area of 27,220 square kilometers, including a 600-km border with Afghanistan (the Durand Line). FATA is a unique administrative region of Pakistan and is challenged by complex security, political, administrative and economic issues.

The administrative set ups of Khyber, Khurram, North and South Waziristan date back to the time of British rule, while that of the other three agencies - Mohmand, Orakzai and Bajaur - and Frontier Regions were established after independence in 1947. The autonomous status of FATA was accepted by Pakistan on its independence through the famous 'Instrument of Accession' signed by Mr. Mohammad Ali Jinnah at the Bannu Tribal Jirga in January 1948<sup>1</sup>. The same was enshrined in the three constitutions of Pakistan. Under Article 247 of the 1973 Constitution, FATA comes under the executive authority of the Federation. Administratively, FATA enjoys a unique position whereby it is governed at the grassroots level through tribal representatives known as Maliks (tribal and village elders) and lungi (a piece of cloth that you wrap around your waist like a long skirt) holders.

This area is composed of 11 major tribes and several sub-tribes such as Utman Khel, Tarkan, Mohmand, Safi, Afridi, Orakzai, Turi, Bangash, Dawar, Shelmani, Shinwari, Mulagori, Parachinar, Masozai, Saidgai, Mehsud, Waziris, Bhattani, Kharasin, Gurbaz, Ustrana, Utmanzai, Ahmadzai and Shirani. The people of this area are largely Muslims, dotted with a very small population of Sikhs and Hindus. The language of all the tribes is Pashto, with different dialects spoken in the south and north.

The current unofficial estimated population of FATA is more than seven million<sup>2</sup> (3.1 million at the time of the 1998 census). In the colonial discourse, this area was variously termed as 'Yaghistan' (no

man's land), 'Ilaqa Ghair' (the area under no law) or 'Qabaili Ilaqa' (tribal territory). In recent times, this area has been termed by US President Barack Obama as the 'most dangerous place on earth'<sup>3</sup>.

FATA's antiquated governance system put in place by the British in the late 19th

Century, coupled with its geographical location has become the hotbed of religious extremism and militancy and poses a major challenge not only to the local community and regional countries but, also to international peace.



Map Source: Understanding FATA Volume - V ([http://www.understandingfata.org/en/?page\\_id=22](http://www.understandingfata.org/en/?page_id=22))

1. <http://pakistanpaedia.com/provinces/fata/fata.html>  
 2. Local Government in FATA, Past Failures, Current Challenges and Future Prospects, FATA Research Centre, April 2014  
 3. <http://www.whitehouse.gov/the-press-office/remarks-president-a-new-strategy-afghanistan-and-pakistan>

### Constitutional status

FATA maintained its special status in the first Constitution of Pakistan adopted in March 1956. In the 1962 Constitution, Article 223 kept tribal areas outside the jurisdiction of central and provincial laws on the excuse of peculiar conditions and problems of the tribal areas. Special powers of legislation were given to the Governor of Khyber Pakhtunkhwa (KP). The Governor, with the approval of the President, was empowered to make, repeal and amend any regulations for the whole or any part of the area.

Articles 246 and 247 of the 1973 Constitution maintained the same special status for FATA. The Article 246 defines the areas to be part of FATA whereas Article 247 assigns administrative and legislative control of these tribal areas to the federal government. The President of Pakistan directly administers FATA through the Governor of KP who is then represented by the Political Agent (PA) for each Agency. The right to vote for every adult male and female over the age of 21, was denied to the tribal people under the President's Order No. 1 of 1975 called the "Preparation of Electoral Rolls (FATA) Order, 1975." By this order, only Maliks and lungi holders were registered as voters by the PA and not the people. Many believed that the PA usually used to confer the status to his favourites with the formal consent of the Commissioner.

Adult franchise denied to tribesmen was finally introduced in 1996 to elect National Assembly members. Until 2011, elections were still not held on party basis and political parties were not sanctioned to operate. It was only in 2011, that the Political Parties Order was extended to FATA.

In short, the current governance system is fundamentally based on FATA's peculiar constitutional standing, and is a continuation of the colonial governance system to manage the tribal belt. The Ministry of State and Frontier Regions (SAFRON) in Islamabad reports to the Prime Minister of Pakistan and looks after the development activities and other interventions in the area introduced/directed by the Prime Minister of Pakistan. The Governor of KP acts as agent to the President, representing the federal government and administering the tribal areas through the FATA Secretariat, which was established in 2002.

### Socio-economic conditions

FATA is the poorest region of Pakistan in terms of its socioeconomic indicators. Agriculture and livestock is the mainstay of the local economy. However, FATA is deficient in food supply. A few agencies of FATA are rich in minerals. Huge deposits of marble in different colours are found in Mohmand, Khyber, Bajaur, Orakzai and Kurram Agencies<sup>4</sup>. However, despite their availability, these resources are mostly

untapped. A large portion of the tribal population is engaged in the transport business and around 60 percent of the employed men work either abroad, within or outside KP (MICS 2007).

Poor and inadequate communication infrastructure and its lack of integration with the rest of Pakistan adds to the backwardness of FATA as most valleys remain inaccessible. Lack of required health and educational facilities is also attributable to insufficient means of communication. Like all other social sectors, the education sector is in extremely poor condition. Middle and higher education facilities are severely lacking. In order to develop any small/medium industry, electricity is the basic source of power; in most areas of FATA the same is not available.

The informal economy is thriving in the tribal areas. This is based on drug trafficking, gun running and smuggling. This economy enriches militants, drug barons, mafia bosses and big smugglers at the cost of common tribesmen and the national exchequer<sup>5</sup>.

It is worth noting that although average poverty is very high, some sections of society are financially well placed. This has resulted in very prominent socio-economic inequalities between various income groups i.e. the Maliks and common people. FATA falls far behind the rest of the country in most socio-economic indicators<sup>6</sup>.

Indicators	Federally Administered Tribal Areas	Pakistan
Expected Years of Schooling	6.7	9.4
Mean Years of Schooling	1.8	4.3
Immunization Ratio	15.7	82.0
Satisfaction with Health Facility	7.5	72.0
Living Standard Index	27.7	71.0

4. FATA Vision 2020: Strategic Framework and Investment Programme  
 5. Search for peace in the troubled FATA region of Pakistan – the governance perspective. MPhil thesis by Colonel Riaz Ahmed.  
 6. Pakistan MDG 2013

## Issues and challenges

### Weak institutions

FATA lacks sufficient infrastructure to support the requisite capacity for development. Shortage of doctors, school teachers and other technically skilled human resource creates functional/operational problems for the completion and maintenance of facilities. Due to the lack of skilled human force, the public and private sector institutions are either weak or nonexistent.

Institutions are also weak due to governance and transparency issues. There is virtually no competition in contracting. The PA is the government's planner and initiator of all development projects. As the accountability mechanisms are weak, the development work is generally a tool for money making and political bribery.

Public institutions, particularly the judicial systems, are dependent on *jirgas*<sup>7</sup>. PAs must either accept '*jirga*' decision or, refer the matter to a new one.

The absence of a local government system has further worsened accountability and transparency in the public administration. In 2002, General Musharraf extended the FATA Local Government Regulations into FATA. In 2004, local-tier leaders such as agency *nazim* (mayor), tehsil *nazim* and councillor were elected. However, this regulation could not be implemented fully. There have also been serious complaints by the general public and civil society against the elections process of councillors.

All executive and judicial powers are entrusted into the institution of political management at the agency level. At the provincial level, the FATA Secretariat and government hold sway over development budgets. Given the concentration of powers in limited hands, institutions in FATA have not grown the way they have in other regions of Pakistan.

### Findings of a Consultation on Local Government System – conducted by FATA Reforms Commission

- Many tribesmen argue that FATA Local Government Regulation should be named as FATA Local Self Government, stressing that the tribesmen should have elected local governments.
- The FCR shall be amended to create rooms for local government bodies in FATA.
- Elections to the local government should be held on party basis, exercising adult franchise.
- These elections should be held for all administrative layers starting from khel or union council all the way up to the agency council. The khel or union council, framed on basis of khel, sub-tribes and tribes, should be re-named as khel or union jirga and tehsil council, and agency council should be re-named as tehsil jirga and agency jirga respectively.
- The councillors should be elected on the basis of kandi, a small tribal village comprising 2000-3000 people. All councillors and naib nazims should work as an electoral college for election of the agency nazim. Women should also be given due representation.
- Tenure of the local government bodies should be increased from four to five years.
- All the local bodies elected heads should be accountable to their committees.
- Complete powers should be given to local government bodies, which should be free from government interference. The Governor too should act upon the reports of these local councils.

### Civic and political participation

The pressing current and immediate challenges faced by the people of FATA are numerous, but many merit particular mention. Until 1996, the tribal people did not have the right to vote. An electoral college of around 35,000 Maliks, lungi holders and elders were allowed to vote. It was only in the 1997 elections that the people of FATA got the right to elect their representatives. FATA has now 12 representatives in the National Legislative Assembly and eight members in the Senate of Pakistan.

The Political Parties Act was recently extended to FATA in 2011. Unfortunately, it was too little and too late in terms of local political empowerment. Traditional governance systems in FATA have been eroded with the waning of authority of the political administration and Maliks, due to the Taliban insurgency, resulting in a governance vacuum.

Therefore, the major challenge is to introduce and enforce such a political/governance system in FATA, which is in accordance with the aspirations of tribal people as well as the established principles of governance in today's world. It is time for integrating or mainstreaming FATA with the rest of Pakistan. The common tribal people can no longer be kept alienated from mainstream politics.

### Legal Framework

The legal system in FATA is defined in the Frontier Crimes Regulations (FCR) and most laws concerning the criminal justice system in the rest of Pakistan do not apply to FATA. All civil and criminal cases in FATA are decided in line with the FCR.

Each agency is administered by a PA who performs the roles of an executive, judge, revenue collector and chairman of the agencies' councillors. The tribes are governed through their Maliks. The Malik position is either hereditary, a title granted by the PA with the consent of the Governor or selected by the tribes, or even elected. The PAs provide money, infrastructure support and other incentives to Maliks for maintaining law and order in their areas through jirgas.

FATA is divided into two administrative categories: protected areas are the regions under the direct control of the government and administered by a PA through FCR. Unprotected areas (almost 70 percent of the entire FATA) are administered indirectly through Maliks and FCR is applied indirectly through Maliks/tribes under the collective punishment clause of FCR. The PA/government sanctioned jirgas/local councils settle most disputes, and only major disputes are referred to the PA. Jirga/council members are selected by the PA and the FCR does not require the PA to abide by the tribal councils' decisions<sup>8</sup>.

### Reforms and Interventions

In 1947, the Governor General of Pakistan, Muhammad Ali Jinnah issued orders which set the foundation for the merger of FATA with Pakistan. The orders/notifications formally replaced Britain with Pakistan, resulting into tribal elders making fresh commitments towards Pakistan.

In 1962, the then military ruler, General Ayub Khan, enacted the 1962 Constitution. Under this, Article 223 retained FATA as an "excluded area". Initially, the jurisdiction of the Supreme Court was not denied to FATA, but a constitutional amendment later denied that jurisdiction. The Governor of West Pakistan got special powers of legislation for FATA.

One of the most important interventions was the Pakistan Army Act, 1952. This act was extended to FATA in 1965. Under this Act, the military's action cannot be challenged in any court.

The Administration of the Basic Democracies (Tribal Areas) Regulation, 1967 is also an important regulation. This act was extended to FATA in 1967. However, local leaders/representatives elected under this regulation were to work under the PA and thus did not hold much real authority.

In 1970, Prime Minister Zulfikar Ali Bhutto brought FATA development under FATA Development Corporation, known as FATA DC. Since its inception, the FATA DC has left good marks on the uplift of FATA,

carrying out development work there.

The Agriculture Development Bank Ordinance, 1961 (IV of 1961) was extended to FATA in 1975. Due to this ordinance, only a few agricultural banks are operating in some parts of FATA. The Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961) was also extended to FATA in 1975. This ordinance aimed to give loans to tribesmen for establishing industries or industrial zones in FATA. This ordinance, however, has not been implemented.

The Code of Criminal Procedure (Amendment) Ordinance, 1979 was extended to FATA in 1979. The CCP is a general law dealing with criminal cases across the country. In FATA, preference is given to Frontier Crimes Regulations (FCR), a special code through which FATA is adjudicated. The CCP is consulted only when FCR does not provide clear rules for a particular matter. The CCP guides special courts set up by PAs or assistant PAs.

The most recent governance and political reforms in FATA started in 1996 when the people of FATA were given the right to vote.

FATA became a centre of global attention in 2001, as many Taliban fighters and others took refuge in the area. In June 2002, General Musharraf sent troops to the tribal areas to confront the militants. Since then, the Pakistan military has been engaged in the tribal areas against militants. In 2002, General Musharraf extended FATA Local Government

Regulations into FATA. In 2004, local-tier leaders such as agency nazim (mayor), tehsil nazim and councillor were elected. However, this regulation could not be implemented. The general public and civil society dubbed the election as a "selection" process on the behest of government authorities.

In 2008, the President of Pakistan extended the National Disaster Management Ordinance to FATA. In August the same year, FATA Disaster Management Authority was established followed by National Disaster Management Authority (NDMA) in October 2008.

On 14 August 2009, the then president of Pakistan Mr. Asif Ali Zardari announced the FATA Reforms Package, but did not notify them. Two years later, on 12 August 2011, Mr. Zardari signed two decrees approving amendments to the FCR and extension of the Political Parties Ordinance (PPO) 2002 to FATA, allowing the political parties to contest elections. However the elected FATA parliamentarians still could not legislate for FATA.

On 16th May 2014, the Governor of KP notified the FRC with the mandate to steer the reforms initiatives and processes. The commission is headed by a former Provincial Chief Secretary and consists of three members. It will advise the Governor of KP for reforms to improve governance and bring sustainable improvements in the lives of FATA people.



7. The jirga is an assembly of tribal elders called for various purposes, whether for waging war or to decide for peace. In accordance with the rules, political agent has to refer invariably every case to jirga and considers objections, if any, of the parties to the nomination of members of jirga.  
8. Policy brief, FATA Governance Reforms, Issues, and Way Forward, CGPA, Oct. 2014.

The following table provides a summary of the various reforms introduced with their status and impact:

Status of Reforms and Policies in FATA					
S.no.	What reforms/policies/ initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
1)	<b>Indian Independence Act, 1947</b>	The Parliament of the United Kingdom presented this act, which was given royal assent on 18 July 1947.	The Act abrogated all the treaties and agreements between British India and "any persons having authority of tribal areas".	The Act simply discharged Britain and its Indian authority of any responsibility towards the tribal areas. The new state of Pakistan soon entered into fresh contracts with the areas via its elders who, least bothered about the area's uplift, wanted to sustain their perks and privileges in the state of Pakistan, as they did under British India.	Section 7, Chapter 30, Indian Independence Act, 1947 ( <a href="http://www.legislation.gov.uk/ukpga/Geo6/10-11/30">http://www.legislation.gov.uk/ukpga/Geo6/10-11/30</a> )
2)	<b>Governor General's orders/notifications for tribal areas, 1947</b>	Governor General of Pakistan, Muhammad Ali Jinnah, issued orders/ notifications on 15 August 1947.	The Governor General issued a number of orders and notifications that "acquire legal jurisdiction in the tribal areas". Three months later, in November 1947, all PAs secured agreements in favour of Pakistan.	The orders/notifications formally replaced Britain with Pakistan, resulting into tribal elders making fresh commitments towards Pakistan.	The issues were later discussed by Governor General in his speech: "The Frontier Policy of Pakistan", Jinnah's Address to the Tribal Jirga at Government House, Peshawar, 17 April 1948
3)	<b>Establishment of the West Pakistan Act, 1955;</b> followed by <b>Governor General's Order No. 17 of 1955, Special Areas Sub-Section (5)</b>	The Government of Pakistan revised agreements for tribal areas in 1951-52.	The agreements gave the government greater control of tribal areas.	Greater control of the government over tribal areas left the tribal chieftans happy as they continued to receive lungi allowances (privileges).	Government of Pakistan, Revised Agreement with the Tribal People, Peshawar, 1947
4)	<b>Establishment of the West Pakistan Act, 1955;</b>	The government of Muhammad Ali Bogra launched the One Unit program on 14 October 1955.	The program consolidated present-day Pakistan as one of the two units or provinces of the then-Pakistan. The two parts were known as West and East Pakistan. Simultaneously, tribal areas were made part of the West Pakistan province.	Till the abrogation of the One Unit Program in 1968, tribal areas remained a part of West Pakistan. During this time, the Governor of West Pakistan acted as the agent of the President, over the tribal areas.	Establishment of the West Pakistan Act, 1955; and Governor General's Order No. 17 of 1955, Special Areas Sub-Section (5); cited in a research study on FATA, <a href="http://prri.hcc.gov.pk/Chapters/1987-4.pdf">http://prri.hcc.gov.pk/Chapters/1987-4.pdf</a>
5)	<b>The Regulation of Mines and Oilfields and Mineral Development (Government Control Act, 1948)</b>	The Act, in place since 1948, was extended to tribal areas in 1956 when one unit was formed.	This Act deals with provisions related to mines, oil fields and mineral development.	The Act was beneficial for the powerful influentials of the area, who exploited the natural resources and usurped their gains. The Act can only be effectively implemented if the government eliminates this one-sided power of the PAs and influentials.	Interview, Ejaz Mohmand (President, FATA Lawyers' Forum), 22 September 2014; Law can be accessed at: <a href="http://legaladvicapk.com/regulation-of-mines-and-oil-fields-and-mineral-development-government-control-act-1948-3776.html">http://legaladvicapk.com/regulation-of-mines-and-oil-fields-and-mineral-development-government-control-act-1948-3776.html</a>
6)	<b>The Constitution of the Republic of Pakistan, 1962</b>	Then military ruler, General Ayub Khan, enacted the 1962 Constitution.	Article 223 retained FATA as an "excluded area". Initially, the jurisdiction of the Supreme Court was not denied to FATA, but a constitutional amendment later denied that jurisdiction.	FATA continued to be treated as a territory distinct from the rest of Pakistan. However, the introduction of Basic Democracies (BD), a lower-level administrative system implemented throughout the country as well as FATA, by General Ayub Khan, opened a glimmer of hope for the FATA locals. Nevertheless, court jurisdiction should be extended to FATA and a proper administrative setup should be installed.	Kamran Arif and Muhammad Raza, "Implications for the Reform Process in Pakistan's Federally-Administered Tribal Areas", August 2014: <a href="http://www.slideshare.net/fata-news/peshawar-high-court-fata-judgment-analysis?redirected_from=sav_e_on_embed">http://www.slideshare.net/fata-news/peshawar-high-court-fata-judgment-analysis?redirected_from=sav_e_on_embed</a>
7)	<b>The West Pakistan Anti-Corruption Establishment Ordinance, 1961</b>	The Governor of West Pakistan, upon the President's instruction, promulgated this ordinance in 1961.	This Act ordinance calls for a special agency investigating certain corruption offences by public servants in West Pakistan.	The inactivity of anti-corruption institutions in FATA is a testimony to the ineffectiveness of this Act. For it to be effectively implemented, an audit exercise of all institutions in FATA, including the political administration, needs to be conducted.	Full text of the Ordinance: <a href="http://www.khyberpakhtunkhwa.gov.pk/Gov/Details.php?id=132">http://www.khyberpakhtunkhwa.gov.pk/Gov/Details.php?id=132</a>
8)	<b>The West Pakistan Motor Vehicles Ordinance, 1965</b>	The Governor of West Pakistan, upon the President's instruction, promulgated this ordinance in 1965.	This ordinance deals with "motor vehicles in the Province of West Pakistan".	The Act can only be effective once the Excise department in FATA is active.	For full text, see: "The West Pakistan Motor Vehicles Ordinance, 1965", <a href="http://punjablaws.gov.pk/laws/189.html">http://punjablaws.gov.pk/laws/189.html</a>
9)	<b>The Companies Act, 1913</b>	This act was extended to FATA in 1965.	Although the Companies Act, consolidating laws relating to companies and other associations and to secure growth of capital enterprise, is implemented in FATA, no visible change could be seen on ground.	The failure of the Act has negatively impacted upon the economic aspect of FATA, with militants' networks now attracting jobless youth.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fataa.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fataa.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>

## Status of Reforms and Policies in FATA

S.no.	What reforms/policies/ initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
10)	<b>The Passport Act, 1913</b>	This act was extended to FATA in 1965.	The Act has been implemented and is operational across FATA.	The Act has been implemented in true spirits and has been extremely useful for the people.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
11)	<b>The Official Secrets Act, 1923</b>	This act was extended to FATA in 1964.	The Act calls upon preserving secrecy mostly by government departments, has been implemented in FATA.	Although this Act has been effectively implemented, many are still unaware of its existence.	"The Official Secrets Act: 1 Act No. XIX of 1923", FIA, <a href="http://www.fia.gov.pk/law/Offences/3.pdf">http://www.fia.gov.pk/law/Offences/3.pdf</a>
12)	<b>The Trade Marks Act, 1940</b>	This act was extended to FATA in 1965.	This Act, dealing with "registration and more effective protection of Trade Marks" has been implemented in FATA.	The implementation of the Companies Act would have set a code of business ethics, as well as a precedent, for this Act to be honoured and effectively applied.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
13)	<b>The Pakistan Army Act, 1952</b>	This act was extended to FATA in 1965.	This Act, calling upon holding the law enforcement agencies' institutional norms, is implemented and functional in FATA.	The Act is important for FATA as far as the restoration of peace is concerned. It states brutal punishment for anyone committing any sort of terrorist activity against Pakistan, especially against its law enforcement agencies. It is effective in so far as the protection of law enforcement agencies is concerned.	Full text: "The Pakistan Army Act, 1952", <a href="http://www.refworld.org/pdfid/4c3f1fe12.pdf">http://www.refworld.org/pdfid/4c3f1fe12.pdf</a>

14)	<b>The Pakistan (Control of Entry) Act, 1952</b>	This act was extended to FATA in 1965.	This Act, implemented in FATA, is to try foreigners visiting FATA without valid documents.	The in-effectivity of this Act lies in the fact that Afghan foreigners without valid documents are still tried under the Foreign Act. Hence, this Act exists on paper only.	Full text: "The Pakistan (Control of Entry) Act, 1952", <a href="http://legaladvicepk.com/pakistan-control-of-entry-act-1952-1714.html">http://legaladvicepk.com/pakistan-control-of-entry-act-1952-1714.html</a>
15)	<b>The Public Debt Act, 1944</b>	This act was extended to FATA in 1965.	This Act, concerning public debt, is limited to papers in its implementation in FATA.	Poor living standards of the tribesmen as well as their lack of knowledge, renders it difficult for them to acquire debts. As a result, this Act exists on paper only.	Full text: "The Public Debt Act, 1944", <a href="http://www.sbp.org.pk/publications/Public_Debt_Act.pdf">http://www.sbp.org.pk/publications/Public_Debt_Act.pdf</a>
16)	<b>The Explosive Act, 1884</b>	This act was extended to FATA in 1965.	This Act, aiming to bar explosives, has been implemented in FATA.	The Act has been implemented and is fruitful.	Full text: "The Explosives' Act, 1884", <a href="http://nasirlawsonline.com/laws/explosiv.htm">http://nasirlawsonline.com/laws/explosiv.htm</a>
17)	<b>The Post Office Act, 1898</b>	This act was extended to FATA in 1965.	This Act, pertaining to post office, has been implemented in FATA without any utility.	Before moving onto such acts of peace, the government needs to address bigger issues, such as the restoration and stabilization of the region.	Full text: "The Post Office Act, 1898", <a href="http://nasirlawsonline.com/laws/postoffice.htm">http://nasirlawsonline.com/laws/postoffice.htm</a>
18)	<b>The Wireless Telegraphy Act, 1933</b>	This act was extended to FATA in 1965.	This Act, pertaining to wireless telegraphy, has been implemented but stays dysfunctional.	This Act can only be successful provided tribesmen have access to information tools, to begin with.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industry/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
19)	<b>The Petroleum Act, 1934</b>	This act was extended to FATA in 1965	This Act, concerning petroleum business, has been implemented in FATA and most local people are unaware of it.	Because of the failure in implementing this Act, the buying, selling and management of petroleum is still not smooth in FATA. Also, the applicability of this Act for FATA needs to be assessed.	Full text: "Petroleum Act, 1934", Pakistan Law Code, Ministry of Law, Justice and Human Rights, <a href="http://molaw.biz.z.pk/bodyin.php?cod=684">http://molaw.biz.z.pk/bodyin.php?cod=684</a>



## Status of Reforms and Policies in FATA

S.no.	What reforms/policies/ initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
20)	<b>The Administration of Basic Democracies (Tribal Areas) Regulation, 1967</b>	This act was extended to FATA in 1967.	The Regulation, dealing with the basic democracy system, was implemented in FATA.	The local leaders/representatives who are elected under this regulation are powerless and work under the PA. Such a system cannot promote democratic culture in FATA.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
21)	<b>The Members of the Electoral College (Functions of Local Government in Tribal Areas) Regulation, 1967</b>	This act was extended to FATA in 1967.	The Regulation, aiming to promote local bodies' polls, has been implemented in FATA; however, full implementation is still awaited.	This regulation, if properly implemented, will enhance living standards in FATA. Representatives elected under this Act can contribute towards the uplift of FATA.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
22)	<b>The Cooperative Societies Act, 1925 (Sind Act VII of 1925)</b>	This act was extended to FATA in 1970.	This Act authorizes the government to register organizations like civil societies.	The Act needs to be properly implemented across FATA to facilitate residents in registering their civil society organizations.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
23)	<b>FATA Development Corporation (FATA DC)</b>	Then Prime Minister Zulfikar Ali Bhutto brought FATA Development Corporation, known as FATA DC, in 1970.	Since its inception, FATA DC has left good marks on the uplift of FATA, carrying out development work in FATA.	The FATA DC brought some pleasant changes in the living standards of tribesmen, which renders this Act as a success.	Interview, Zahir Shah Safi (lawyer, Peshawar High Court), 20 September 2014; "Defunct Fata Development Corporation: Fate of 400

					employees hangs in balance", Dawn, 23 March 2011, <a href="http://www.dawn.com/news/615393/defunct-fata-development-corporation-fate-of-400-employees-hangs-in-balance">http://www.dawn.com/news/615393/defunct-fata-development-corporation-fate-of-400-employees-hangs-in-balance</a>
24)	<b>The Peshawar District and Tribal Areas (Settlement of Disputes) Regulation, 1971 (MLR No, 93)</b>	This act was extended to FATA in 1971.	The regulation has been implemented to resolve border disputes in settled and tribal areas.	The failure of this Act lies in the fact that disputes are still left unresolved. The government needs to work earnestly in creating a proper mechanism for dispute resolution in FATA.	Cited in "Pakistan 1973", Jurist, <a href="http://jurist.org/documents/constitutions/Pakistan_2012.php">http://jurist.org/documents/constitutions/Pakistan_2012.php</a>
25)	<b>The Constitution of the Islamic Republic of Pakistan, 1973</b>	Pakistan's newly-elected constituent assembly passed the landmark constitution in 1973.	Although hailed as the consensus constitution, it did not do much to change the administrative shackles around FATA. Article 247, for instance, bars parliamentarians, including those from FATA, to formulate laws for FATA. The President, through the Governor of KP (then NWFP), exercises ultimate say over FATA.	The Constitution treats FATA as a distinct entity, separate from other parts of the country. The passing of a Bill in the Senate in September 2014, which referred to an extension of court jurisdiction to FATA, was a positive step in the right direction.	The Constitution of the Islamic Republic of Pakistan, <a href="http://www.pakistan.org/bakistani/constitution/">http://www.pakistan.org/bakistani/constitution/</a>
26)	<b>The Delimitation of Constituencies Act. 1974 (XXXIV) of 1974</b>	This act was passed in 1974 and extended to FATA the same year.	This Act, aimed at drawing delimitation constituencies, has been implemented in FATA, but the Act has lost its utility amid lack of any census since 1998.	A constituency is made on the basis of population and funds are allotted accordingly. However, owing to an inaccurate population database of FATA, this Act remains ineffectively implemented.	Full text: The Delimitation of Constituencies Act, 1974, <a href="http://nasilaw.site.com/laws/dca1974.htm">http://nasilaw.site.com/laws/dca1974.htm</a>
27)	<b>The Suppression of Terrorism Activities (Special Courts) Act, 1975 (XV of 1975)</b>	This act was extended to FATA in 1975.	This act, dealing with curbing terrorist activities, has been implemented in FATA, but the act does not seem to have completely put an end to terrorism.	This Act is implemented in the sense that the army and security forces, though active, but are insufficient in curbing terrorism in the area. Hence, the government needs to form an elite force for the same purpose.	Full text: Suppression Of Terrorist Activities (Special Courts) Act, 1975, <a href="http://www.maw.law.org.pk/pdflaw/SUPPRESSIOIN%20OF%20TERRORIST%20ACTIVITIES.pdf">http://www.maw.law.org.pk/pdflaw/SUPPRESSIOIN%20OF%20TERRORIST%20ACTIVITIES.pdf</a>

## Status of Reforms and Policies in FATA

S.no.	What reforms/policies/initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
28)	<b>The Agriculture Development Bank Ordinance, 1961 (IV of 1961)</b>	This act was extended to FATA in 1975.	This ordinance has been partially implemented in FATA; agricultural banks are operative only in some parts.	This Act has been implemented, however, the government should initiate a larger network of agricultural banks in FATA so as to provide easy accessibility of services to farmers.	"The Federally Administered Tribal Areas (Application of Laws) Regulation, 1975", <a href="http://nasirlawsonline.com/laws/fata.htm">http://nasirlawsonline.com/laws/fata.htm</a>
29)	<b>The Industrial Development Bank of Pakistan Ordinance, 1961 (XXXI of 1961)</b>	This act was extended to FATA in 1975.	This ordinance, aiming to give loans to tribesmen for establishing industries or industrial zones in FATA, has been implemented, though ineffective, in FATA.	The ineffective implementation of this Act has led to an increase in militant networks, owing to a paucity of employment opportunities for the youth, as a result of which they gravitate towards these networks. If properly implemented, this Act can yield foreign investment in the area.	Banking Companies Ordinance, 1962 (LVI of 1962) <a href="http://www.bu.edu/bucfip/file/s/2012/01/Banking-Companies-Ordinance-of-1962-and-Rules-of-1963-consumer-protection-related.pdf">http://www.bu.edu/bucfip/file/s/2012/01/Banking-Companies-Ordinance-of-1962-and-Rules-of-1963-consumer-protection-related.pdf</a>
30)	<b>The Banking Companies Ordinance, 1962 (LVII of 1962)</b>	This act was extended to FATA in 1975.	This ordinance deals with loans to the tribesmen.	The ordinance is not truly implemented which is why it has not yielded any good results.	"The Federally Administered Tribal Areas (Application of Laws) Regulation, 1975", <a href="http://nasirlawsonline.com/laws/fata.htm">http://nasirlawsonline.com/laws/fata.htm</a>
31)	<b>The House Building Finance Corporation Act, 1952 (XVIII of 1952)</b>	This act was extended to FATA in 1975.	This act aims at giving loans to the tribesmen for building or constructing houses. It has been implemented in FATA but not convincingly.	Owing to extremely difficult rules set by the government in acquiring a loan, this act is not effective, even in settled areas.	See HBFC's company profile page: "House Building Finance Company Limited", <a href="http://www.hbfc.com/company_profile.html">http://www.hbfc.com/company_profile.html</a> ; "The Federally Administered Tribal Areas (Application of Laws) Regulation, 1975", <a href="http://nasirlawsonline.com/laws/fata.htm">http://nasirlawsonline.com/laws/fata.htm</a>
32)	<b>The Foreign Exchange Regulation Act, (VII of 1947)</b>	This act was extended to FATA in 1975.	This act, aiming at regulating currency flow, has been implemented in FATA, to a limited capacity.	Many tribal people working abroad, who send money back home do not follow this regulation, relying instead on other means, which results in a loss to the national exchequer. Hence, this Act remains only on paper.	For full text, see: The Foreign Exchange Regulation Act, 1947, <a href="http://www.fia.gov.pk/law/Offences/6.pdf">http://www.fia.gov.pk/law/Offences/6.pdf</a>

33)	<b>The Insurance Act, 1938 ( IV of 1938)</b>	This act was extended to FATA in 1975.	The Insurance Act deals with the insurance of human lives and property in FATA. This Act has been implemented but is next to invisible in a volatile region.	To implement this act, the government should first bring normalcy in the area, reduce militants' hold and win the trust of the tribesmen.	For full text, see: The Insurance Act, 1938, <a href="http://www.secp.gov.pk/corporatelaws/pdf/InsuranceAct1938.pdf">http://www.secp.gov.pk/corporatelaws/pdf/InsuranceAct1938.pdf</a>
34)	<b>Extension of Laws to FATA in Respect of People Finance Corporation 1977</b>	This act was extended to FATA in 1976.	This law sets rules for private corporations and banks etc. in FATA.	The act has not been implemented in FATA properly.	List of laws extended to FATA, see: "Feasibility Study of Regulatory Regime for Industry, Commerce & Trade in FATA", April 2011, CAMP and FATA Development Authority, page 35 – 49, <a href="http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf">http://fatada.gov.pk/Docs/Industries/RegulatoryRegimeForIndustryCommerceTradeinFATA.pdf</a>
35)	<b>The Code of Criminal Procedure (Amendment) Ordinance, 1979</b>	This act was extended to FATA in 1979.	The CCP is a general law dealing with criminal cases across the country. In FATA, preference is given to the FCR, a special code through which FATA is adjudicated. The CCP would be consulted only when rules are missing in the FCR. In that case, the code guides special courts set up by PAs or assistant PAs.	This code, if effectively implemented, will mitigate the impact of the FCR, bringing FATA further in line with the rest of the country.	"What are tribal areas in the eyes of law?", 20 August 2013, <a href="http://www.thepleaders.com/2013/08/what-are-tribal-areas-in-eyes-of-law_3076.html">http://www.thepleaders.com/2013/08/what-are-tribal-areas-in-eyes-of-law_3076.html</a>
36)	<b>Adult Franchise Act, 1996</b>	President Farooq Ahmad Khan Leghari extended the Adult Franchise Act to FATA in 1996.	Before this act was implemented, only a few influential could vote from FATA in the general elections. With this act, all voting-age tribal people could vote in elections. In the very first General Elections in 1997, after this act was passed, a total 298 contesters took part in the polls and the turnout was recorded at 33.69 percent.	This Act promoted a democratic culture in FATA, with tribesmen of voting age actively voting ever since.	Asmatullah Khan Wazir and Muhammad Zaheer Khan, "Mainstreaming FATA through Legal and Political Reforms", Tigah Journal, 2014, FATA Resource Center; interview, Abdul Latif Afridi (ex-parliamentarian/ex-president, Peshawar High Court Bar Association ex-president), 22 September, 2014

## Status of Reforms and Policies in FATA

S.no.	What reforms/ policies/ initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
37)	<b>FATA Local Government Elections Regulations, 2002</b>	Military ruler General Pervez Musharraf extended FATA Local Government Elections Regulations to FATA in 2002.	The regulations, aimed at setting up local governments in FATA, could not properly be implemented. Some reports suggest that then Governor, Syed Iftikhar Hussain Shah and his successor commander Khalil-ur-Rahman created hurdles in its implementation.	This regulation did not take root in the tribal terrain. It gave key powers to PAs, thereby depriving locals of having their say in decisions relating to FATA.	The Federally-Administered Tribal Areas Local Government Regulation, 2002, <a href="http://www.slideshare.net/fata-news/2002-fata-local-government-regulation">http://www.slideshare.net/fata-news/2002-fata-local-government-regulation</a> ; Interview, FATA tribal elders, 20 September, 2014
38)	<b>Political Parties Order (PPO), 2002</b>	In 2002, military ruler General Pervez Musharraf amended the Political Parties Order (1962) with Political Parties Order (2002).	Article 1 of the order excludes FATA from the PPO's application.	The tribesmen welcomed the extension of the PPO and simultaneously demanded its extension to FATA.	Full text of the PPO: <a href="http://www.civiceducation.org/wp-content/uploads/2010/08/Political-Parties-Order.pdf">http://www.civiceducation.org/wp-content/uploads/2010/08/Political-Parties-Order.pdf</a>
39)	<b>Establishment of FATA Secretariat</b>	General Pervez Musharraf constituted a separate secretariat for FATA in 2002.	The purpose of this separate secretariat was to expedite and closely supervise the uplift projects in FATA. In 2006, this secretariat was renamed as FATA secretariat.	Tribesmen were left out of all decision making processes and institutions. They dubbed these reforms, made by Musharraf, as a one-man show.	"Administrative System", Federally Administered Tribal Areas (fata.gov.pk), <a href="http://fata.gov.pk/Global.php?id=29&amp;fid=2&amp;pid=25&amp;mid=13">http://fata.gov.pk/Global.php?id=29&amp;fid=2&amp;pid=25&amp;mid=13</a>
40)	<b>FATA Reforms Committee, 2000</b>	A reforms committee headed by Dr. Mumtaz Bangash, suggested reforms on FATA.	The 12-member committee recommended, among other things, that powers be delegated to lower levels in FATA.	As a result of this Act, local government setups were introduced in FATA in 2001.	Mumtaz Bangash, FATA Reforms Committee Report on the Introduction of the Local Government Plan, 2000
41)	<b>FCR Reforms Committee, 2005 (aka Mian Ajmal Committee)</b>	A Reforms Committee headed by Justice (Retired) Mian Muhammad Ajmal suggested reforms to the FCR.	The committee comprising of political elders, retired bureaucrats, and other officials, suggested reformative measures in the FCR.	The implementation mechanism on FCR reforms is weak, because of insecurity and a status quo reluctant to shed power. Moreover, FATA's constitutional status remains a topic of debate.	Interview, Justice (R) Mian Muhammad Ajmal (ex-chief justice, Peshawar High Court; head, FCR Reforms Committee), 19 September, 2012

42)	<b>Prime Minister Gilani's maiden speech in the Parliament</b>	Prime Minister Yusuf Raza Gilani, in his first speech to the parliament in 2008, vowed to make changes in the FCR.	Prime Minister Gilani said that the FCR will be brought in line with human rights.	Even though the ultimate authority on FATA is the president, not the prime minister, his speech showed the intent of the government-of-the-day in reforming FATA, illustrated by the reforms introduced later under presidential authority. The Prime Minister eventually formed a committee looking into reforming FCR.	Press Release, "Political activities allowed in Tribal Areas, FCR reformed", Press Information Department, PR No. 82, <a href="http://pid.gov.pk/press12-08-2011.htm">http://pid.gov.pk/press12-08-2011.htm</a>
43)	<b>Cabinet Committee on FCR, 2008</b>	In April 2008, Prime Minister Yusuf Raza Gilani tasked Law Minister Farooq H. Naik to suggest proposals on reforming laws on FATA.	The Cabinet Committee on FCR recommended changes in the FCR.	Farooq H. Naik's committee was one more initiative aimed at reforming FATA, depicting that the process has been gradual but change-oriented. These changes were ultimately made part of the FATA Reforms package announced in late 2009.	"Govt. to provide speedy justice to people of FATA: Naek", Associated Press of Pakistan, 29 June 2008, <a href="http://www.app.com.pk/en./index.php?option=com_content&amp;task=view&amp;id=43458">http://www.app.com.pk/en./index.php?option=com_content&amp;task=view&amp;id=43458</a> ; Press Release, "Political activities allowed in Tribal Areas, FCR reformed", Press Information Department, PR No. 82, <a href="http://pid.gov.pk/press12-08-2011.htm">http://pid.gov.pk/press12-08-2011.htm</a>
44)	<b>FATA Reforms Package, 2011, comprising of amendments in FCR and extension of PPO to FATA</b>	President Asif Ali Zardari announced the FATA reforms package on 14 August 2009, but did not issue a notification then. Two years later, in a grand ceremony in Islamabad largely attended by FATA leaders, President Zardari approved the long-awaited reforms.	These reforms sought amendment in the FCR and extension of the Political Parties Order (PPO), 2002 to the tribal areas. The amendments, among other things, barred the administration from arresting women, children, or seniors above 65, for a crime committed by their relatives. Likewise, political parties were allowed to canvas for votes in FATA.	Most of the reforms in FCR do not exist on ground. As for the PPO, for the first time in 2013, political parties contested elections in FATA.	News report, "Major changes made in FCR: Fata people get political rights", Dawn, 12 August, 2011

S.no.	What reforms/policies/initiatives have been introduced so far?	When and by whom?	What is the status of implementation?	Remarks	Reference/Source
45)	<b>Extension of FATA National Disaster Management Ordinance 2007 (Ord. No. LIII of 2007) to FATA; Extension of FATA Disaster Management Commission 2007 (Ord. No. LIII of 2007) to FATA; Extension of FATA National Disaster Management Authority 2007 (Ord. No. LIII of 2007) to FATA.</b>	The President of Pakistan extended FATA National Disaster Management Ordinance to FATA on 3 March 2008. Some months later, in August, FATA Disaster Management Authority was extended to FATA; in October, NDMA was extended there.	NDMA, the country's disaster-management body, works for the Internally Displaced Persons. However, the NDMA's relief activities are less than the expected work it could have done.	The government could win hearts of the tribal people by serving them in an exemplary way through NDMA and similar institutions. However, the institution's failure demanded that a proper audit mechanism be charted for NDMA to ensure transparency and efficiency.	"Extension of Laws to FATA and PATA NWFP/Balochistan 2007-2010", States and Frontier Regions Division, Government of Pakistan, <a href="http://www.slideshare.net/fata/news/safron-extension-of-laws-to-fata-20072010">http://www.slideshare.net/fata/news/safron-extension-of-laws-to-fata-20072010</a>
46)	<b>FRC, 2014</b>	With assumption of office, Governor of KP, Sardar Mehtab Khan Abbasi, formed a new commission to expedite work on reform process in FATA. The commission is headed by former Provincial Chief Secretary, Mr. Ijaz Qureshi.	This commission, looking at the strategic reforms/policies for the next 25 years, is working on development, infrastructure, health and education etc. The commission comprised of a former bureaucrat, academician and former army officer, has to come up with its recommendations in 10 months.	Today's work on FATA is to go beyond political reforms; even changes in the FCR will not be embraced by the tribesmen. The government should seriously consider withdrawing military from the area, strengthening civil society, and promoting democratic culture in FATA.	Interview, Justice (R) Mian Muhammad Ajmal (ex-chief justice, Peshawar High Court), 19 September, 2012; Zulfikar Ali, "Another commission formed on Fata reforms", Dawn, 20 May, 2014
47)	<b>Prime Minister's Committee on FATA Reform, 2015</b>	The committee was formed in November 2015 by the Prime Minister of Pakistan Mian Nawaz Sharif, appointing Sartaj Aziz as its Chair.	The committee will look into analyzing past recommendations and proposing the way forward.	The committee will be holding consultations with all stakeholders before preparing and presenting its recommendations.	Notification issued by the Prime Minister's office on November 8, 2015

# Analysis of Key Recommendations for FATA Reform

by **Ayaz Wazir**, Former Ambassador of Pakistan

The year 2014 saw a series of 11 recommendations put forth by the Political Parties Joint Committee on FATA Reforms. These included several sweeping assertions and generalized statements. Among others, recommendations stated that peace in FATA should be guaranteed. Ironically, committee members could not reach a consensus on how to restore peace in FATA-whether to do it through peaceful means or through the use of force. So they settled for the words, 'Guaranteeing of peace in FATA' by the government, without specifying the mechanism behind this momentous change. The list was a mere reiteration of what was already on the table and to date, is limited to paper.

The 1973 Constitution saw the insertion of Article 247 (7), according to which all power was allotted to the President of Pakistan for deciding the affairs of the region. All parties consented to this openly, apart from Pakistan Tehreek-e-Insaf (PTI) and Pakhtunkhwa Milli Awami Party (PkMAP). The irony was that even FATA Parliamentarians are barred from discussing this clause in the Parliament. While they legislate for the rest of the

country, they are dictated to have no say in the affairs of their own region!

This consequence could have easily been avoided had the political parties not consented. However, it appears that the majority of the political parties do not harbour much interest in the region. They are aloof to the true realities at the ground level and have no desire to be actively involved in any sort of development. They are 'outsiders' to the region and that explains their torpidity. To merely 'demonstrate' movement, they produced a set of 11 recommendations. In the aftermath that ensued, severe criticism was received as a response to the recommendations. The FATA Joint Political Parties Committee members thereafter, congregated in a 'meeting of solutions' that did not yield any solid results. The actual solution lies in combating the problem from its roots. If the decision is to be revised or amended, the parties have to revisit the Parliament and pass a unanimous resolution on amendment. Unless a legal and official stance is taken, the future of FATA will continue to mimic its past. Unfortunately, this has not been witnessed so far and the stances of the

political parties remain stagnant with no report of any follow up activity.

In the race to emerge as the savior of FATA, several other organizations, such as the Zulfikar Ali Bhutto Foundation and the FATA Reforms Commission, have proposed a number of recommendations over the past year. It is interesting how all institutions believe that the solution for FATA lies in mere 'lip-service'. However, these recommendations have also been limited to paper.

Where then, does the solution lie? For one, political parties need to realize that the solution of FATA lies in the empowerment of the people of FATA, through a referendum. Whether it is merging FATA with Khyber Pakhtunkhwa or making it a separate province or appointing a designated governor/administrator for region, the fate should be vested in the hands of the true policy makers of the region-the people of FATA. Political parties need to support and offer assistance in this regard if they truly imbibe intentions for a just system of governance and administration in the region.

## SUMMARY OF REFORM PROPOSALS BY DIFFERENT STAKEHOLDERS

### FATA Reforms Commission (FRC)

- Peace and Security be maintained through strengthening of civil/armed forces, building of new FC wings for border security and management, establishment of a FATA Coordination Cell in the FATA Secretariat and establishment of an Agency Security and Intelligence Committee.
- Temporary Displaced Persons (TDPs) should be rehabilitated and provided for.
- Court Jurisdiction be extended to FATA.
- Establishment of a representative Council for Constitutional Reforms in FATA.
- Expansion of the existing FATA Tribunal along with abolishment of the existing appellate process of appeal to the Commissioner by the complainant.
- Introduction of an Additional PA (Judiciary) post in each Agency.
- Establishment of a Local Government system.
- Setting up of a Governor's Advisory Council in order to overcome the disconnect between the Governor Khyber Pakhtunkhwa, FATA Secretariat and FATA locals.
- Quick-Impact Projects should be initiated for socio-economic development.

### Political Parties Joint Committee on FATA Reforms

- Peace in FATA should be guaranteed.
- Article 247 of the Constitution should be amended: fundamental rights should be guaranteed for all tribal citizens and legislative power be shifted from the President to Parliament.
- Local bodies elections should be held in FATA.
- A comprehensive package should be developed and infrastructure development initiated, with special focus on health, education and employment.
- The future status of FATA should be decided by its people.
- Pakistan Electronic Media Regulatory Authority (PEMRA) jurisdiction should be extended.
- The Jirga system should be made more democratic and independent.
- Actions in Aid of Civil Power Regulation should be abolished.
- Executive and judicial powers should be separated.
- Citizens should not be deprived of property; inheritance law should be extended.
- Civil armed forces (khasadar/levies) should be strengthened and professionalized.

### FATA Parliamentarians (22nd Amendment Bill)

- Article 1 Sub Article(2) clause(c) of the Constitution shall be omitted.
- Article 246 clause(b) of the Constitution shall be amended to include Tribal Areas adjoining districts (of Peshawar, Kohat, Bannu, Lakki Marwat, Dera Ismail Khan and Tank), and several agencies (Bajaur, Orakzai, Mohmand, Khyber, Kurram, North Waziristan and South waziristan) in the Provincially Administered Tribal Areas (PATA).
- Article 246 clause(c) of the Constitution shall be omitted.
- Article 247 of the Constitution shall be omitted and substituted with:
  - a. Executive authority of the province shall extend to the PATA.
  - b. The President may, from time to time, give such directions to the Governor of a Province relating to the whole or any part of a Tribal Area within the Province.
  - c. No Act of Majlis-e-Shoora (Parliament) or an Act of Provincial Assembly shall apply to the PATA or any part thereof unless the Governor of the Province in which the Tribal Area is situated, with the approval of the President, so directs.
  - d. The Governor of a Province, with prior approval of the President with respect to any matter within the legislative competence of the Provincial Assembly, may make regulations for peace and good governance of a Provincially Administered Tribal Area or any part thereof.
  - e. The Supreme and High Court shall exercise jurisdiction under the Constitution in relation to a Tribal Area as may be provided by law.
- Ensuring fundamental rights and equal treatment for the people of FATA.
- Bringing FATA into the mainstream.

## Mainstreaming FATA for its people



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Article 1(c) of the Constitution of Pakistan<sup>1</sup> considers FATA as part of the territories of the country. However, realities are very different as the region is home to the draconian Frontier Crimes Regulation (FCR) set by the British Empire, who developed FATA as a buffer zone against the Russian empire in the 19th century. The system of Political Agents (PAs) thrives in the region and was meant to keep the society of the area frozen in history and stagnant in any political activity, in addition to halting the possible ingress of communism from the erstwhile Soviet Union, while also politically cutting off the Pashtuns of the area under British control, from the Pashtuns living on the western side of the Durand Line. Along with the FCR, the region lacks a judicial forum with the Supreme and High Courts being barred from jurisdiction. It is ironic, that while Article 8<sup>2</sup> states that any law which is inconsistent or in derogation of fundamental rights is to be considered null and void, FATA lives in a completely contradictory scenario with the people of the region unable to even attain basic fundamental rights. The exclusion of present day FATA from full constitutional

rule can be traced back to The Government of India Act 1935 passed by the British Parliament. The 1935 Act allowed the government of that time to shape a special administrative framework for such areas, that conveniently allowed them to hide behind the constitutional principle of the trichotomy of power under which out of the three organs of state-legislature, executive and judiciary-no organ could interfere in the constitutionally defined powers of another organ.

Owing to hostile relations between Pakistan and Afghanistan, as well as the polarization of a cold war, the status quo in FATA was jealously guarded by the Pakistani ruling establishment. During the 1980s, FATA was used as a launching pad for the anti-Soviet war in Afghanistan, readily supported in the cause by Western powers as well as the Arab states. As its name states, FATA has been for centuries 'administered' and not governed: its geographic location termed as strategic space, holds more value than the people who abide there. Even in this modern age of democracy, these people continue to be victims of an identity crisis with limited or zero freedom, owing to a lack of governance in the area. FATA parliamentarians cannot legislate for their own region and all decisions are left solely in the hands of the President despite the fact that the 18th Amendment prompted the President to take all action on the advice of the Cabinet and the Prime Minister. District courts are headed by PAs and even the 'appellate forums' are manned by bureaucrats completely outside the jurisdiction of the High or Supreme Courts. In August 2011, the Political Parties Act was extended to FATA but in the absence of other fundamental rights and judicial forums, political process continue to be largely ineffective. Prior to the introduction of this act, most political parties donned a de-facto presence in the region.

Post 2003 saw a wave of militant and terrorist insurgency in the region, with the invasion of Al-Qaeda and other terrorist outfits. Several civilians were massacred in the waves of terrorism that ensued and numerous IDPs were housed by FATA. Even

at this point, FATA was given no more importance than a mere 'strategic location' and the militants ultimately expanded their wings into Khyber Pakhtunkhwa and emerged in de-facto FATA pockets in settled districts adjacent to the tribal areas. Although military operations in North Waziristan have improved the situation but, the conflict is far from over.

Owing to a ban on political parties and their activities, movements for reforms emerged late in the region. In the 1970s, the organization 'Tehreek Ittehad-e-Qabail' (Movement for the Unity of Tribes) demanded reforms and the lifting of the FCR. However, this movement was harshly suppressed by the seven political agencies and the six frontier regions as it was a threat to their colonial rule over the area. The 1973 Constitution had provided for FATA representation in the National Assembly of Pakistan but the members from the area were to be elected by a limited electoral collage of tribal chieftains and not on the basis of adult franchise. It was only in the 1997 general elections that tribal Pashtuns were granted the right of 'one man (woman) one vote' to elect their MNAs. Local government elections were also refused to be held on the non-convincing grounds of conducive security environment. However, in recent times, political activism has been witnessed in the region with the emergence of the 11 recommendations put forth by the political parties. FATA parliamentarians have also recently demanded that the region be merged into Khyber Pakhtunkhwa. FATA has also come under the international lens owing to the prevailing war on terrorism. A nascent civil society is emerging in the area consisting of lawyers, journalists, teachers and students who are yearning to bring an end to colonial structures and empower the locals as equal citizens of Pakistan. The strongest resistance to reforms comes from the stockholders of the black economy who thrive on political and judicial vacuum. These include civil servants, local commanders of LEAs and different mafias fueled by abundant amounts of money, coming from drug trade, commodities' smuggling, gun running and unaudited funds of political

agents.

A sustainable constitutional and legal solution for FATA will be to integrate it into Khyber Pakhtunkhwa. Most of the Tribal Agencies have developed socio-economic integration with adjacent districts like Bajour with Dir District, Momand with Charsada, Khyber with Peshawar and so on. The six Frontier regions have lived under district administration for a very long time. Khyber Pakhtunkhwa also houses a large number of FATA population without any discrimination-these people can be the bridge for future integration. Furthermore, both the regions are very well connected through a series of major passes that can boost economic integration and create easy accessibility. The civil service structure will also not require any modifications in a case of merger with a majority of Khyber Pakhtunkhwa civil servants already working in FATA. Peshawar is already a recognized administrative and political capital for the people of FATA who might be faced with a complicated situation on the agreement of a new capital. Another huge supportive mechanism for the merger is that history has already witnessed such a precedent earlier thereby proving that a merger is a possibility. It occurred in 1955, when FATA was merged into the One Unit of West Pakistan created by the political elites of West Pakistan to counter the population strength of then East Pakistan. This new merger should surely be easier to undertake as opposed to the previous one.

However, a constitutional step as immense as this, needs to live by two preconditions: first, the people of FATA should be incorporated into the decision making process and second, all political parties along with the Establishment, should declare a package for full and proper representation of the people of FATA in the Khyber Pakhtunkhwa Assembly, their share in the development funds and the allocation of certain percentage of berths in the provincial cabinet for a certain period, so that the FATA people are able to come at par with the rest of the province in terms of gaining their rights and achieving socio economic development.



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### References:

- Article 1: (1) Pakistan shall be a Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.  
<sup>1</sup>(2) The territories of Pakistan shall comprise:  
 (a) the Provinces of Balochistan, the Khyber Pakhtunkhwa, the Punjab and Sindh;  
 (b) the Islamabad Capital Territory, hereinafter referred to as the Federal Capital;  
 (c) the Federally Administered Tribal Areas;  
 (d) such States and territories as are or may be included in Pakistan, whether by accession or otherwise.
- Article 8: Laws inconsistent with or in derogation of Fundamental Rights to be void.-  
 (1) Any law, or any custom or usage having the force of law, in so far as it is inconsistent with the rights conferred by this Chapter, shall, to the extent of such inconsistency, be void.  
 (2) The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void.

## Recommendations of the FATA Reforms Commission (FRC): A Summary



**Ejaz Ahmad Qureshi**

Chairman  
FATA Reforms Commission

### Background

Keeping in view the geo-strategic importance of Federally Administered Tribal Areas (FATA) and the inadequacy of the existing governance structure in FATA to govern and enforce the writ of the State, there is full unanimity that FATA needs to be reformed and integrated with the rest of the country under a comprehensive, phase-wise and carefully drawn reforms agenda catering to the ground realities presently prevalent in FATA. With these contextual imperatives and to counter the pervasive under development in FATA, the Honourable Governor Khyber Pakhtunkhwa believes in the importance of bringing political, socio-economic and legal reforms to FATA, through pragmatic, comprehensive and workable reforms backed by broad consensus and in line with the aspirations of the people of FATA. To meet the objective, the Governor established a FATA Reforms Commission (FRC), as an apex body exclusively responsible for framing and steering the reforms initiatives and processes for implementation in FATA, in May 2014.

The members of the Commission held long interactive meetings with each segment in the FATA society and important stakeholders included, but not limited to, FATA Parliamentarians, professionals, FATA Elders/Maliks and representative groups from Youth, Ulema, civil society, political

parties and FATA civil administration and security forces' officials. Different recent reports on FATA Reforms were also reviewed for distilling useful proposals and insights. With the continuous support and guidance of the Governor and devotion of the Commission' members, the Commission proposed various reform initiatives in prioritized areas as identified by the stakeholders, including the institutional framework for government institutions working in FATA.

It is essential to underscore at the outset, that recommendations covered in FRC's Interim Report are transitional in nature. The Commission felt it necessary to have a phase wise approach with respect to reforms in FATA; and hence not recommending any abrupt replacement of the entire system, especially given the present precarious situation in the region. The proposed reforms agenda aims to pave the way towards building consensus on the contentious reforms issue in FATA, such as the future status of FATA.

### Summary of FRC's Recommendations

The Commission's report covers several strategic areas, as prioritized and identified by the stakeholders, including peace and security, temporarily displaced persons, justice system and legal framework in FATA, local governance system in FATA through the Agency Council, Governor's Advisory Council, quick impact projects for socio-economic revival and the institutional framework:

#### 1. Peace and Security:

Post 9/11 saw the region suffer tremendously at the hands of militant activities. There remained no resort except to hold military operations to curb this menace. All stakeholders are in agreement when it comes to restoring peace in FATA, as without this, no amount of reforms can sustain.

For restoring peace and for the maintenance of law and order in FATA, the Commission proposed hiring 500 fresh levies at each Agency level and 200 at each FR level. The Commission also recommended building up of new FC wings for border security and

management and supporting the political administration in maintaining law and order in FATA. Equipping and capacity building of all levy forces through regular training in investigation, prosecution and quick response was also recommended. Most importantly, the Commission proposed an institutional setup in the form of a Coordination Cell in the FATA Secretariat for institutionalizing the levies' capacity building in FATA on a regular basis under the auspices of retired military or police officers. Similarly, for better coordination in the maintenance of law and order in each Agency, the Commission proposed the establishment of an Agency Security and Intelligence Committee under the Political Agent (PA), comprising of FC Commandant, Agency Inter-Services intelligence (ISI), MI and Intelligence Bureau (IB) heads along with a representative from the Army. At the macro level, the existing Apex Committee, headed by the Governor Khyber Pakhtunkhwa, is recommended to be further expanded to include the Inspector General of Frontier Corps (IGFC), Khyber Pakhtunkhwa ISI head, Khyber Pakhtunkhwa MI head, Khyber Pakhtunkhwa IB head, Additional Chief Secretary FATA and Chief Secretary Khyber Pakhtunkhwa as its Secretary, so that it is a fully empowered body.

#### 2. Temporarily Displaced Persons (TDPs):

With almost a quarter of the population of FATA displaced from their homes, the commission felt that the issue of TDPs required immediate attention.

To deal with the issue of TDPs, the Commission proposed the provision of immediate funding by the Federal Government until their safe return and rehabilitation. For the long run, a revolving fund of PKR 10 billion was proposed by the Commission to be maintained in the FATA Disaster Management Authority (FDMA). The Federal Government bears the responsibility to provide and replenish the fund on a regular basis. The Commission also proposed an institutional restructuring of the FDMA parallel to the model of the Khyber Pakhtunkhwa Provincial Disaster Management Authority

(PDMA). For this, the Commission recommended a committee, comprising of concerned officials and experts, to thoroughly review the existing structure and propose recommendations for a reorganization of the FDMA. Furthermore, it was also suggested that a proper plan covering rehabilitation and an assessment of the reconstruction of damaged infrastructure be chalked by the FATA Secretariat. Again, the Federal Government should be the funding source.

#### 3. Justice System and Legal Framework in FATA:

There was unanimous agreement across the committee that the current justice and legal system in FATA required revision. Suggestions included extending the authority of the Superior Courts of Pakistan, to more traditional views of streamlining the local Jirga system. With respect to the Frontier Crimes Regulation (FCR), two different opinions emerged, ranging from its complete abolishment to maintaining the existing system with major reforms. However, the Commission felt that the future of the FCR and access to superior judiciary in FATA were linked with the future status of FATA and therefore any decision regarding this should be taken by the people of FATA. In order to aid the people, the Commission recommended the establishment of a representative Council for Constitutional Reforms in FATA, where the voices of the locals would be heard.

As for the justice system in FATA, the Commission recommended the expansion of the existing FATA Tribunal along with abolishment of the existing appellate process of appeal to the Commissioner by the complainant. The Tribunal should be headed by a retired High Court Judge and should be assisted by other members from the legal fraternity, a retired civil servant having served in FATA and a person of knowledge and integrity from the civil society. Moreover, an Additional PA (Judiciary) post was recommended in each Agency to cater to all judicial matters within the Agency. This setup was recommended for an interim period, beyond which an independent judicial hierarchy may be put in place headed by judicial officers independent of the PA.

#### 4. Local Govt. System in FATA:

There exists a paucity of an institutional framework at the Agency level, that

involves the locals in identifying their development needs and ensures transparency in implementing these development initiatives. With the aim of establishing a local governance system in FATA, the Commission proposed an Agency Council/FR Council to serve as a platform for local participation. This would result in a building of trust between the state and the citizens.

The proposed Agency Council would be a decision making body regarding all development schemes in the Agency and manage the 'Agency Fund'. The Council would comprise of local representatives, members of Parliament from the concerned Agency/FR and other nominated members.

The Prime Minister recently constituted a committee in November 2015, for providing recommendations for FATA reform. In the past, there have been several committees formed with a similar purpose. Some of these included the FATA Reforms Commission (2014), the FATA Reforms Committee (2000), the FCR Reforms Committee (2005) and the Cabinet Committee on FCR (2008).

#### 5. Governor's Advisory Council:

The proposed Governor's Advisory Council was meant to enable a representative form of governance in FATA. Such an institutional setup would help in overcoming the existing disconnect between the Governor Khyber Pakhtunkhwa, FATA Secretariat and FATA locals.

This Council will be headed by the Governor and comprise of each Agency Council/FR Council representatives, Federal Secretaries of SAFRON, Finance, Interior, Planning, Development and Reform, Chief Secretary Khyber Pakhtunkhwa and Additional Chief Secretary FATA (Secretary of Governor's Council). Other members would include experts, including women, and a minority member from FATA. The mandate of the Governor's Council will be to act as an advisory body to the Governor on FATA.

The current proposed structure of the Governor's Council is for an interim period of two years. After the expansion of the local governance system in FATA, the

composition of the Governor's Council shall be transformed, under which majority of the Council members (90 percent) would be elected members whilst the remaining 10 percent would be nominated by the Governor Khyber Pakhtunkhwa.

#### 6. Socio-Economic Development and Quick Impact Projects:

It has been widely acknowledged that all efforts for peace and recovery in post conflict FATA would not be long lasting if not supplemented with efforts for reinvigorating the economic activities in the region. Given the region's unique development and geopolitical challenges, sustained reforms and financial commitments for economic recovery in FATA would be required as well.

With respect to socio-economic development, the Commission proposed several initiatives such as 'Quick Impact Projects' (QIPs) in different areas, which included the establishment of FATA University, the holding of a detailed census in FATA and provision of easy access to microfinance and agriculture credit, to name a few. The Commission felt that in order to supplement the on-going efforts of peace and security, rehabilitation and economic recovery in FATA, reinvigorating subsistence farming and non-farming commercial and trade activities in FATA, including reconstruction of local markets and public infrastructure through labour intensive projects, are essential.

#### 7. Institutional Framework:

A good governance system is marked by public representation, accountability and transparency. It involves efficiently managed public institutions and resources. A review of the existing institutional framework in FATA highlights the need for a reformation of the current governance system. Thus, the Commission recommended an appropriate institutional framework to address the administrative and governance related weaknesses in FATA. The underlying objective is to enhance the organizational efficiency through leaner structures and to develop cost effective institutional set ups in order to gain greater value for the public's money in public service delivery at the grass root level in FATA.

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## The state of Human Rights in FATA: the socio-economic perspective

**Muhammad Uthmani**

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The Federally Administered Tribal Areas (FATA) have faced the brunt of militant attacks and subsequently the US-led Pakistan's war against the growing militancy in the region. Owing to the growing internal militancy, the Pakistan military launched several armed operations in all tribal agencies and the settled district of Swat in the Malakand division. These operations resulted in civilian casualties and forced thousands of people to vacate their homes and leave their assets unmanned. Shops and markets were looted and bulldozed by army tanks. This resulted in huge economic losses to the tribesmen who were already in tatters with more than 70 percent<sup>1</sup> of the population living below the poverty line.

### Overview of the socio-economic indicators

In August 2014, a damage need assessment survey carried out under the supervision of the FATA FDMA revealed that over 60,000 houses had been damaged in Orakzai, Khyber, South Waziristan and Kurram agencies, while an estimated 150,000 families displaced by military operations in the NWA and Khyber Agency are still languishing in makeshift camps at Bannu.<sup>1</sup>

Conditions for doing business in FATA are not favorable. The economy of FATA is undocumented. Businesses that run in FATA are not registered with any government authority in any form, hence enjoy no government patronage. Credit facility, as available to businesses elsewhere in the country, is not available to FATA. In the absence of a legal framework in FATA as opposed to the rest of the country, commercial banks operating in FATA do not advance loans to the locals owing to the absence of the land revenue

act, which makes it impossible for banks to ensure collateral for advances. Law and order situation particularly after 9/11 has aggravated the situation further. Tens of thousands of people, especially those who had businesses in FATA, have vacated the area and migrated towards settled areas of the country. Resultantly, a large number of business entities have closed down, adding to the already increasing proportions of structural unemployment in the region. The statutory regime regulating industrial activity elsewhere in Pakistan does not apply to the tribal areas. The industry is not subject to direct taxes or regulation. In this sense, at least, FATA's industrial sector is the ultimate free-market environment. In the absence of adequate legal cover, investment is a risky business.<sup>2</sup>

There are a few livelihood opportunities available to the people. The local economy is chiefly pastoral, with agriculture practiced in a few fertile valleys. Most households are engaged in primary-level activities, such as, subsistence agriculture and livestock rearing, or small-scale business conducted locally. Others are involved in trade within the tribal belt or with down-country markets. Women take an active part in agricultural activities, collect fuel wood and fetch water, besides attending to household work and family duties.<sup>2</sup> A large portion of the tribal population is engaged in the transport business and around 33,046 registered workers of FATA are working abroad<sup>3</sup>.

Unlike the rest of Pakistan, the socio-economic indicators for FATA are not published periodically. Primary data sources ignore FATA from their sample stating security reasons as the hindrance in carrying out the survey. Secondary sources cite some statistics: According to the ALIF AILAN Pakistan District Education Rankings 2015 and the Annual Stats of Education Report 2014 (ASER-Pakistan), the education score in FATA has increased by 15 percent but, despite this huge increase, FATA still lies at the bottom end of the spectrum when compared to other provinces and regions.

Despite the fact that there has been an

improvement in the socio-economic indicators of Pakistan as a whole and of Khyber Pakhtunkhwa, the stats for FATA depict a different story. For example, consider the stats below, according to which, in the national census of 1998, the literacy rate of Khyber Pakhtunkhwa is 18 percent higher than that of FATA.

**Table 1: Selected development indicators for Pakistan, Khyber Pakhtunkhwa and FATA**

Indicator	Pakistan	Khyber Pakhtunkhwa	FATA
Literacy ratio (both sexes, %)	43.92	35.41	17.42
Male literacy ratio (%)	54.81	51.39	29.51
Female literacy ratio (%)	32.02	18.82	3.00

Source: Survey enumeration of industries, Service Sector Entities, Labor Force and Identifying Constraints in FATA, October 2010 by FDA

Comparing these stats with those given in table 2, the literacy rate in Khyber Pakhtunkhwa has increased from 35.41 percent in 1998 to 52 percent in 2012-13. However, for FATA, it has increased only by approximately six percent. Ironically, the breakdown of literacy rate depicts that the literacy rate of women has not changed much, which speaks volumes about gender disparities in the region. FATA is also lagging behind in the achievement of several MDG indicators, when compared to other regions:

The availability of up-to-date statistics on FATA remains a big constraint. FATA is the only administrative region of Pakistan for which Pakistan Social and Living Measurement Survey (PSLM) data is largely unavailable.

**Table 2: MDG Indicators: a comparison**

Indicator	Target	FATA	Sindh	Balochistan	Punjab	Khyber Pakhtunkhwa
Proportion of population below minimum level of dietary energy consumption	13	32.6	40	49.7	36.4	27.1
Net primary enrolment ratio	100	31	52	45	62	54
Literacy rate (percent)	88	24	60	44	62	52
GPI primary education	1.00	0.60	0.89	0.58	0.95	0.91
GPI secondary education	1.00	0.60	0.84	0.41	0.85	0.59
Under 5 mortality rate (deaths per 1000 live births)	52	104	112	158	104	75
Proportion of fully immunized children 12-23 months	>90	80	74	53	89	76
Maternal mortality ratio	140	290	345	758	227	275
Proportion of population with access to improved water sources	93	68	90	69	92	82

Pakistan MDG Report. Available at <http://www.undp.org/content/dam/pakistan/docs/MDGs/MDG2013Report/UNDP-Report13.pdf>  
FATA Data: FATA Secretariat  
Rest of Pakistan: Pakistan Social and Living Measurement Survey 2012-13

### Economic development and human rights

The Frontier Crimes Regulation (FCR) has been linked to the overall low economic development of FATA because it provides unlimited authority to the Political Agent (PA) to seize the property of an individual, family or an entire tribe for a crime committed by one person belonging to the family, tribe or nearby village. The clauses of collective punishment and collective responsibility clubbed with the deprivation of appeal against the decision of the PA in any court of law, has kept the human right conditions of FATA at an extreme level of poverty. The employment

opportunities generated by the authorities are negligible and that is why the tribal labor force is employed in the settled regions of the country and in the Middle East to make their ends meet. Hence, the FCR and the corruptive governance and administrative institutions are major reasons to blame for human rights violations and economic failure in the region.

According to the *HRC Report 2013*,<sup>4</sup> "The security forces' operations in the region preceded expulsion of the residents from the area (FATA) and there were some reports that after the military cleared an

area of militants, the displaced persons were asked to commit that on their return they would raise private militias to keep the Taliban out of their regions." It further stated that, "the local economy had collapsed and the region that was known just a few years earlier for sending fruits and vegetables to the rest of the country now depended for almost everything on supplies from other parts of Pakistan. The seven tribal districts of FATA suffered 293 attacks in the year 2013 under review, killing 425 people and injuring 932." Table 3 depicts a picture of the human rights violations in the region.

**Table 3: Human Rights Violations in FATA**

	Type of violence	Nature of abuse
01	Attacks (civilians)	234 casualties and 389 injured
02	Attacks on polio workers	45 workers and guards killed
03	Drone attacks	114 killed
04	Displacements (IDPs)	As many as 3.5 million IDPs since 2008 from Bajaur, North Waziristan, South Waziristan, Mohmand and Khyber Agency

Source: Human Rights Commission of Pakistan, 2014, FDMA (These numbers can be much bigger provided media is allowed access in to FATA).

Thus, from human rights abuses to economic deprivation to total media blackout from the ground realities of FATA, the hub of all problems in FATA is the administrative system implemented through the black law, FCR. The system silences anyone who dare raise a voice

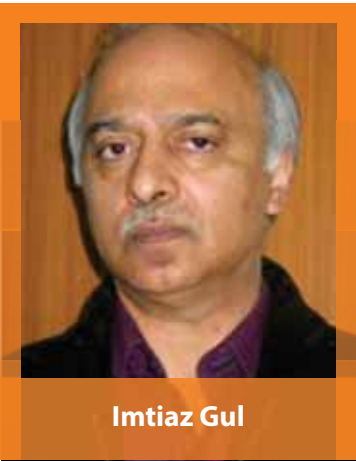
against this law. Recently, FATA parliamentarians have also proposed the 22nd constitutional amendment which seeks complete abolishment of the FCR and proposes a merger with Khyber Pakhtunkhwa. Cleverly, beneficiaries of the FCR have proposed FATA be a separate

province or adopt a system like that of Gilgit Baltistan, which is geographically, politically and economically not viable for FATA. Merging with Khyber Pakhtunkhwa is the only plausible solution at this point and one that seems to ensure prosperity for the region.

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## Reforms in FATA: A Pragmatic Proposition or a Slippery Slope?<sup>1</sup>



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### Down the Rabbit Hole

In December 2006, the then military dictator General Pervez Musharraf convened a major gathering to discuss Pakistan's Federally Administered Tribal Areas (FATA). The attendees included officials from the FATA Secretariat<sup>2</sup>, Political Agents (PAs), representatives of the Ministry of States and Frontier Regions (SAFRON)<sup>3</sup>, the Governor of Khyber Pakhtunkhwa, notable elders and politicians from the region, along with representatives of the military establishment. The President's intent was to put all FATA stakeholders in one room, and determine the future of FATA. For nearly three days, fiery speeches, ambitious plans and reform proposals bounced back and forth between the political and military elite, whereas the only common thread by sycophantic bureaucrats and Maliks was unanimous and unconditional praise for General Musharraf for taking the initiative.

However, the enthusiasm gave way to caution on the third day, when participants warned against tinkering with the system currently governing FATA. Despite days of deliberation, the gathering failed to agree upon possible reforms for FATA. One of the conference attendees, a PA, while recalling his experience, did not

express even a shred of optimism regarding reforms in FATA, citing the military's hesitation for change in wake of the ongoing insurgency in the region.

The military's "interest" in FATA was also evident when a 27-member Committee on Constitutional Reforms, in 2009, deliberated extensively and climaxed with amendments to 101 articles of the federal constitution. However, none of these applied to Part XII: Miscellaneous – Chapter III: Tribal Areas, especially Article 246 – which geographically defines "Tribal Areas", "Provincially Administered Tribal Areas" and "Federally Administered Tribal Areas" – and article 247 – which gives the President sweeping powers, and excludes these areas from any parliamentary legislation, or legal jurisdiction from the Supreme Court or any High Court – were simply missing from the suggested list.

Representatives from the Awami National Party (ANP) and Pakistan People's Party (PPP) were of the view that the military opposed any discussion on FATA. Jamiat Ulema-e-Islam (JUI-F) members remained vague when asked about the future shape of FATA<sup>4</sup>. Even though nearly all notables agree on the need for reforms in FATA, no one has come up with a substantial solution and thus, laid the entire blame for inaction on FATA's fate at the military's doorstep. Military officials divulged that the parliamentarians "asked us for our opinion and we told them that the timing was not right" – the military left it to the will of the parliamentarians to do whatever they pleased with FATA.

This attitude from both sides resulted in the literal exclusion of FATA from the deliberations for the 18th constitutional amendment<sup>5</sup>. This, again, highlighted the fact that the military alone could not have been blamed for FATA's deprivation.

### A Matter of Regulations

In order to understand the political economy of the region, it is important to first take a look at the history and nature of FATA's current status as well as the Frontier Crimes Regulation<sup>6</sup> (FCR) – a British Regulation introduced more than a hundred years ago to tame the then

lawless Pashtun tribes and was persisted with by the Pakistani ruling elite.

The FCR, formed in 1901, was an evolution of the Murderous Outrages Regulation of 1867, which gave British rulers, historically unable to establish their writ in the tribal region, powers to prosecute individuals for heinous crimes such as murder. In 1947, Pakistan not only adopted the FCR but added the clause that would allow for an individual's arrest without even specifying the crime. Since then, the FCR is almost universally seen as a system of oppression, outdated, ill-advised, and draconic. Over time, the regulation has been amended several times, but almost never to the benefit of the people of FATA.

The FCR originally contained 64 sections, most of them ill-intended. Although revised in 2011 down to 52 sections, they still contain draconian sections such as 21-30, 32, 34 and 40. Sections 21-30, also known as the Collective Responsibility clause, allows a tribe to be punished for the actions of one of their members. Section 34 allows for homes and property of the tribesmen to be demolished, if, for instance, the state wishes to acquire that land. Section 32 allows for entire settlements to be razed to ground. Section 40, perhaps the most abused of all, allows the administration to detain a person, potentially for years, on mere suspicion without any substantial evidence. This also implies that there is no provision for the accused to appeal and prove his innocence under the FCR.

The FCR is also credited with the rise of militancy in FATA which many naively believe infected the rest of the country.

Professor Ijaz Khan of Peshawar University believes that as a tool to impose rule of law and improve service delivery in the justice sector, the FCR only became weaker than it already was after 9/11. When the Taliban fled Afghanistan, many of them settled down in FATA along with Al-Qaeda and IMU<sup>7</sup> fighters owing to a pre-existing security vacuum due to poor governance, lack of development, with no judicial or administrative system working for the welfare of the people, illiteracy, and anti-

state angst, all of which helped the militants make this region their safe haven. The FCR is also completely silent on women, and affords them no rights.

Understandably, the continuation of the FCR and the lack of progress on the status of FATA only widened the gulf between the residents of FATA and the federation.

FATA is the only region in Pakistan where the Parliament cannot legislate, and the apex courts cannot adjudicate. Article 1(c) of the federal constitution, for instance, would also have to be amended as it defines the Federally Administered Tribal Areas (FATA) as part of the Republic's territories in addition to the four provinces of Balochistan, Khyber Pakhtunkhwa, Punjab, Sindh and the Islamabad Capital Territory.

Interestingly, a five-member bench headed by a former chief justice of the Peshawar High Court (PHC) in a judgment on April 7, 2014, advised the federal Parliament to make amendments to Article 247 (7) of the constitution.

The Article reads that, "neither the Supreme Court nor a High Court shall exercise any jurisdiction under the constitution in relation to a tribal area, unless Majlis-e-Shoora (Parliament) by law otherwise provides."

In its judgment, the Court observed that denial of fundamental rights to the people of FATA has pushed tribal areas to become "the most dangerous spot". The Court stressed that the Constitution has guaranteed fundamental rights to the people of FATA, yet they "are at the mercy of one person, the Political Agent." The Court also observed that under the FCR, citizens have no right to legal representation, to present reasoned evidence or exercise the right of appeal.

The area is administered by the Governor (as a representative of the president) of Khyber Pakhtunkhwa, under the supervision of SAFRON in Islamabad. Oddly, the 12 members in the National Assembly and eight in the Senate from FATA can vote and legislate on bills in any part of the country, but the constituents they represent. They have no technical or political power under article 247 of the constitution. The real power rests with the PA.

### Politically Economical

John Dalberg-Acton, the English Catholic historian, writer and politician once said, "Power tends to corrupt, and absolute power corrupts absolutely." In Pakistan, nowhere is this more evident than in the

case of PAs governing the tribal areas. PAs are a) the symbol of the state's authority, b) the tribal people's advocate, and c) the liaison between the people and the government. The PA serves in three official capacities, a) the titular office, b) district magistrate, and c) sessions judge. He can even impose curfew, reject bail, and hold someone in confinement indefinitely.

Near universally, the PA's role is viewed as corrupt officials armed with boundless power. Facilitated and powered by the roughly 35,000 or so Maliks (title-holders/representatives of tribes), the FCR is often used as a fulcrum to exact political vengeance. The elite and the rich can easily leverage the FCR as a mechanism to escape punishment (a vote of confidence from four Maliks can prevent detention), and as a tool to eliminate competition, punish enemies, or clear the playing field. It is easy to see how this oppressive and unjust system can be exploited by those with resources and power, and abhorred by youth and the lowest rungs of the socio-economic strata.

The anecdote at the top suggests that the military establishment is adamantly and historically opposed to changes in the status of FATA. They present a formidable blockade against progress on FCR reforms. The Maliks (who could potentially play a crucial role in improving conditions) in FATA, and the elite, including the ministers, the businessmen and other affluent individuals and entities that enjoy a life of luxury and privilege without consequence, also oppose reforms in the region. Finally, the FATA Secretariat is a key stakeholder. The Secretariat under the governor, including the seven PA's, and their respective staffs (essentially a smattering of super-empowered bureaucrats in Islamabad and Peshawar), have a huge monetary stake in the status quo. The most powerful and vocal of these hail from Khyber and Bajaur Agencies, Bannu (North Waziristan) and D. I. Khan (South Waziristan).

### Current Progress

The push for reforms in FATA is not something new. The meeting in 2006 and the constitutional reforms in 2009, are just two examples. In 2010, the Political Parties Joint Committee on FATA Reforms proposed 11 reforms for FATA. These were chided for being invariably chained to government interests. In August 2011, then President Asif Ali Zardari passed a Presidential Order to amend the FCR. Although minimal in its scope, it is still recognized as the most practical and significant change in the regulation since its inception.

Years later, in May 2014, the Center for Research and Security Studies (CRSS) took an initiative to publicly campaign for FATA, this time through a 20-episode series of TV shows and 60 radio shows, involving about 50 notables such as FATA MPs, businessmen, civil society members and representatives from mainstream political parties. Ironically, all these discussions yielded a fragmented picture; most of the youth – students, civil society, and younger parliamentarians vociferously advocated for the abolition of FATA's current status. Most of the parliamentarians and businessmen, however, pleaded for a phased, incremental change to the status of FATA through an extension of the writ of the Peshawar High Court and the local government elections. Even some of the officials argued that touching FATA in existing circumstances was a dangerous proposition. This mirrors the political economy dichotomy in the previous sections.

More recently, in September 2015, nearly three months after the FATA Reforms Commission's report, sources indicate that a "step-by-step procedure for merging tribal areas into settled districts" is underway. To precipitate this, Bajaur and Mohmand Agencies from FATA will be merged into Provincially Administered Tribal Areas (PATA). The estimated time for this transition is 8-10 months, and it will serve as a stepping stone for other areas to be brought into Pakistan-common. On September 9th, the 22nd Constitutional Amendment Bill was presented in the National Assembly by FATA lawmakers, proposing amendments to Articles 246/247 to grant full citizenship rights to the tribesmen, extend the reach of apex courts to the region, and the merger of FATA into KP.

### The Way Forward

*Moong Qabail*, a series of media programs conducted by CRSS on FATA reforms, brought forth a range of suggested solutions and ideas on how to manage this century-old problem in the tribal areas. The series publically and empirically confirmed the sentiment that the people of FATA hold FCR responsible for the ills being suffered, and that it was time it was repealed, reformed, or abolished altogether. The status quo simply cannot continue. The people in FATA may hold the green passport, but the constitution's Article 247 and the FCR deprives them of fundamental human rights and civil liberties, even though they are afforded to citizens in all other parts of the country. These Federally "Alienated" Tribal Areas are denied their right to life, security, justice and expression.



## The Proposed 22nd Constitutional Amendment and Mainstreaming FATA

The proposed abolition of the FCR or comprehensive changes to it in line with the fundamental rights presents three options for the status of FATA. FATA could be merged into KP, become its own province, or FATA could run with its own Governor with a Central Council, as well as agency and tehsil councils. The 22nd Constitutional Amendment proposes the first of these. Failing this, a plethora of issues need to be managed. These include the influence of the PA's, the separation of administration and judiciary, the FATA council, holding local body elections, representation of women, development, education and health facilities and the influence of the government within the ambit of the judiciary.

As it stands, two things seem to be happening simultaneously: the ginger first step of merging two agencies into PATA,

and doing away with FCR altogether, and merging FATA into the KP province. Both these developments present a glimmer of hope for the people, who, according to a former governor General (ret'd) Ali Mohammad Jan Orakzai, "have been treated as caged monkeys" and have remained subjugated by over a century of bad governance, archaic policies, and dated regulations. But it must be said that neither recent development is official, nor expected soon. Most of the older FATA MPs believe in a gradual shift from the current status to a macro mainstreaming of FATA.

However, the pull of the forces of status quo is simply stronger than those who favour comprehensive reform, whereby the law of the land could be extended to FATA and could be thus mainstreamed. Merging Orakzai, Khyber and Bajaur into districts Peshawar and Swat respectively

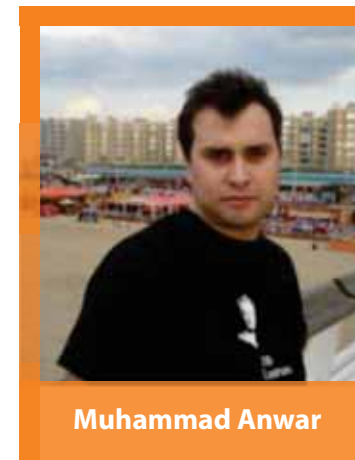
could probably be the first steps to mainstreaming these FATA agencies. To turn the tide, a series of mechanisms will need to be deployed to help mitigate the powerful political economy that so vehemently resists any attempt at change. Given political will at the highest level, the deeply entrenched vested interests mentioned above can be displaced. That can happen only when the President surrenders his powers under Article 247 to the parliament, followed by the ruling party actively pursuing change of status of FATA. For this, mainstream political parties shall have to blunt the arguments often peddled by the mighty forces of status quo i.e. bureaucrats, Maliks, the security establishment and those who play second fiddle to these forces.



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3. SAFRON is a federal ministry in Pakistan, currently headed by Lt. Gen.(R) Abdul Qadir Baloch, which is responsible for dealing with issue of the tribal areas, including FATA.
4. Author's interviews with politicians and army representatives.
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The 22nd Constitutional Amendment bill was submitted in the national assembly on September 9, 2015. The bill will have huge implications for the governance of the tribal areas in Pakistan.

For the first time in the history of Pakistan, a group of 19 FATA parliamentarians have come together in efforts to mainstream FATA. According to the 22nd constitutional bill proposed by this group, FATA should be made a part of the tribal areas in Khyber Pakhtunkhwa and superior courts' jurisdiction be extended to FATA. The latter, proposed by Senator Farhatullah Babar, as mentioned in his interview on page no. 43, has already been approved by the Senate Standing Committee on Law and Justice<sup>1</sup>, though yet to be presented for voting in the Senate. However, under article 239 (4), a two-thirds majority in the KP assembly as well as a two-third majority in the Parliament is required for the passing of the amendment.

This bill will have two major positive implications for the region. First, by extending courts' jurisdiction, the area may be cleansed of the Frontier Crimes Regulation (FCR). Article 184 and Article 199 of the Constitution empowers the Supreme Court and High Courts to work for the protection of fundamental rights of the citizens. The FCR continues to violate several fundamental human rights through provisions such as collective

responsibility. There have been several attempts to streamline governance in FATA, such as through the introduction of a FATA Tribunal in 2011 as an appellate body over the judicial powers of the Political Agents (PAs). However, the PAs remained the sole decision makers with respect to the agencies falling under their jurisdiction. The FATA tribunal cannot and should not be an alternate for the judicial courts to ensure protection of human rights in FATA.

Second, the amendment will ensure provincial representation for FATA. Merging FATA with KP will ensure seats for FATA representatives in the KP provincial assembly. Pakistan has a federal structure and keeping FATA directly under the administrative control of federation has never made sense. It will have implications for the National Finance Commission (NFC) award as well. FATA is being funded through the federal share in the NFC award and the funding channel is the Ministry of States and Frontier Regions (SAFRON). After the inclusion of FATA in KP, there will arise the need for an increase in the share of KP in the NFC award. It will also empower the provincial government to move summaries to the President through the governor of KP for extending provincial laws to these tribal areas.

However, this amendment does not address many lacunas in the prevailing governance structure of tribal areas. It does not empower the Parliament as well as the KP and Balochistan provincial assemblies to legislate for tribal areas. The President and governors of KP and Balochistan will continue to hold legislative powers with respect to the tribal area. This amendment also does not address the critical issue of democratic representation faced by citizens of tribal areas. Including FATA in KP without addressing this issue, will have serious implications on the KP provincial assembly to legislate. If FATA is included in KP-PATA (Provincially Administered Tribal Areas), the KP tribal areas will constitute hardly 50 percent representation in the KP assembly. Every law passed by the KP assembly will then not be applicable to almost half of the province even if the law blatantly states

that, 'the Act shall come into force at once'. As a result, the President and the governor of KP will still possess the authority to extend laws enacted by the KP assembly to PATA. History bears witness to the fact that several laws enacted by the KP assembly were never extended to PATA. An example is the Khyber Pakhtunkhwa Right to Information Act 2013<sup>2</sup>.

### PATA

The Provincially Administered Tribal Areas (PATA) are administrative subdivisions designated in Article 246(b) of the Constitution of Pakistan. PATA includes the following tribal areas and territories:

#### In Khyber-Pakhtunkhwa:

- Chitral District
- Upper Dir District
- Lower Dir District
- Swat District
- Buner District
- Shangla District
- Kohistan District
- Kala Dhaka District
- Malakand and Tribal Area adjoining Mansehra District (Battagram, Allai and Upper Tanawalormer) and former Amb state.

#### In Balochistan:

- Zhob District
- Killa Saifullah District
- Musakhel District
- Sherani District
- Loralai District
- Barkhan District
- Kohlu District
- Dera Bugti District
- Dalbandin Tehsil of Chagai District

Moreover, it appears that FATA parliamentarians are hesitant in shifting decision making powers from the President to the parliament and provincial assemblies, in order to avoid taxation. FATA and PATA are currently exempted from direct taxes. However, if these areas come under the direct legislative ambit of the parliament and provincial assemblies, such exemptions will have to vanish. After the 18th Constitutional Amendment, taxes on services and many other taxes were

devolved to provinces as revenue sources for supporting devolved departments (see 'Harnessing General Sales Tax on Services' by Dr. Pervez Tahir, Development Advocate Pakistan, Volume 2, Issue 1, p.17). For KP, having such large areas without taxation will be hard to sustain.

Finally, the 22nd Amendment bill will also trigger amendments in the following articles of the Constitution:

- Amending article 1, section 2, for exempting FATA from the territories of Pakistan, as it will become a part of KP;
- Amending article 55, to include MNAs from FATA into KP;
- Amending article 59, composition of Senate members will be readdressed;
- Amending article 106 for increasing the number of seats of the KP assembly so representation from FATA can be ensured, and;
- Exempting the name 'FATA' from Article 155, Section 1 (complaints as to interference with water supplies).

Time will tell if the revised governance structure post the 22nd amendment will bear fruit for the region. But it is an action in the right direction.



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1. Text of the bill is available on [http://www.senate.gov.pk/uploads/documents/1407838467\\_584.pdf](http://www.senate.gov.pk/uploads/documents/1407838467_584.pdf)
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## The promise that is FATA



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In the past decade or so, the Federally Administrated Tribal Areas (FATA) have been flashing on news screens across the globe for all the wrong reasons. Caught in a gigantic battle between anti-state elements and the State of Pakistan, this region has been nothing but tumultuous in the recent past. With massive displacement spanning over half a decade, the people of FATA have suffered untold miseries. The situation has, however, taken a turn for the better in the past year. The constant exertion against militants has started paying dividends and there is finally light at the end of the tunnel. The confidence of the policy makers regarding successes against anti-state elements, resulted in a phased return, which started in March 2015 and close to 60,000 families have already gone back to their areas of origin, as this paper is being written.

**Table 1: Estimated IDPs return by phase 4 & 5 (31 December 2016)**

Agency	Families	Duration (months)
South Waziristan	49,467	3
North Waziristan	40,867	5
Kurram	20,970	3
Orakzai	17,384	2
<b>TOTAL</b>	<b>128,688</b>	

FATA is returning to normalcy after a turbulent decade. There is consensus amongst all stakeholders that this might be the right time to introduce reforms and direct the region onto a path of sustained growth and improved governance structures. The FATA Sustainable Return and Rehabilitation Strategy (R&R) provides a broad framework, in line with the government's policies. This article focuses on the component of reforms.

The reforms, as envisaged in the Strategy, revolve around the rule of law, municipal and administrative functions. The purpose is to provide a platform for the larger constitutional reforms, as and when they take shape. Similarly, in order to provide focus and sustained convergence, a limited but important menu is chosen for implementation in the next two years. A very important aspect of this Strategy is that it has not been made conditional to

**TABLE 2: Focus areas of R&R strategy**

Focus Areas	Total Estimated Budget (US\$ million)	Budget breakdown (US\$ million)
Rehabilitating Physical Infrastructure	60	<ul style="list-style-type: none"> <li>• Rubble removal – 2</li> <li>• Education – 13</li> <li>• Health – 8</li> <li>• Water – 8</li> <li>• Energy – 6</li> <li>• Communications – 7</li> <li>• Irrigation – 10</li> <li>• Housing – 3</li> <li>• DRR – 3</li> </ul>
Strengthening Law and Order	15	<ul style="list-style-type: none"> <li>• Rehabilitation of infrastructure – 6</li> <li>• Training for law enforcement agencies – 1.5</li> <li>• Equipment – 3</li> <li>• Awareness training in mines and unexploded ordinances – 0.5</li> <li>• Access to justice – 4</li> </ul>
Expanding Government Service Delivery	8	<ul style="list-style-type: none"> <li>• Rehabilitation capacity assessment and governance plan – 0.3</li> <li>• Human resource system – 2.7</li> <li>• Equipment – 2</li> <li>• IT system – 0.5</li> <li>• Grievances redress – 0.5</li> <li>• Rehabilitation and reconstruction coordination cells – 2</li> </ul>
Reactivating and Strengthening the Economy	27	<ul style="list-style-type: none"> <li>• Skills training – 6</li> <li>• Grants for micro-entrepreneurs and small business – 8</li> <li>• Business development and employability devices – 3</li> <li>• Agricultural extension centers – 3</li> <li>• Livestock extension centers – 3</li> <li>• Markets/commerce and trade support services – 2</li> <li>• Industry support services – 2</li> </ul>
Strengthening Social Cohesion and Peace Building	10	<ul style="list-style-type: none"> <li>• Social mobilization – 2</li> <li>• Community grants for social cohesion – 6.5</li> <li>• Communication and outreach campaigns – 0.5</li> <li>• Citizen-led peace building initiatives – 1</li> </ul>
<b>TOTAL</b>	<b>120</b>	

## The State of Human Rights in FATA: A constitutional and judicial case study

the receipt of external support. Therefore, work has already begun on almost all aspects of the reform agenda.

The first and foremost area for reforms is the justice system. A literature review of the earlier reports on FATA suggests that almost 80 percent of the recommendations pertain to this particular area of governance. FATA is one region where the "Social Contract" with the citizen is still different from the one, which is in vogue in the rest of the country, or for that matter, globally. Based on age-old agreements which individual tribes inked with various governments, the tribes took many of the functions of the state upon themselves. This necessitated certain legal instruments, which are different from the regular law and the process associated with it. It is in this context that one hears various terms like territorial responsibility, collective responsibility, Nikkat (grandfather rights), Jirga, Riwayat etc. It is, however, felt that a time has arrived where the Social Contract needs to be revisited, and it should gradually be brought to a definition which is in-sync with elsewhere. For this purpose, changes in the judicial structure, role of Levies and the judicial process are important.

It is in this backdrop that the Governor Khyber Pakhtunkhwa recently announced the establishment of the Office of Additional Political Agent Judicial. The purpose is to separate the administrative and judicial roles of the Political Agent (PA). In order to support this office, a prosecution service will be introduced at all levels of courts in FATA, as well as at the appellate courts. While the budgets as well as positions for a prosecution service are already approved, the federal government has been approached for the creation of the Office of Additional Political Agent Judicial, along with the requisite budget.

In order to support the reformed judicial structure, there is also a need to restructure Levies and Khassadars; the two civilian law-enforcing arms of the government. As per government policy, Levies shall be strengthened into a vibrant policing force that is able to ensure law enforcement and houses expertise in several skill areas including investigation and forensics. For this purpose, a supervisory structure is being introduced for providing it better leadership. Similarly, a plan to train Levy personnel in investigation, forensics, report writing, traffic management, information technology, human resources and other such skills, was planned to roll out in October. Purpose built buildings, which could serve as police stations, will also be constructed at 57 different locations

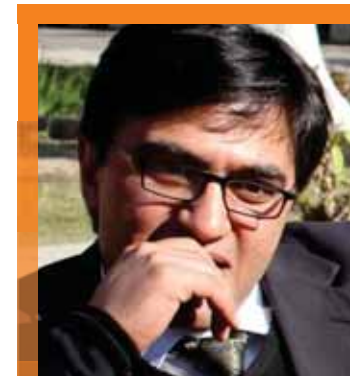
across FATA. The first batch of seven such buildings has been approved and work will start on these once funds are made available.

Provision of Municipal functions has been picked as the second area of reform. It is understood that this entails the infrastructure component, wherein basic infrastructure including machinery, will be provided to the urban areas of FATA. It is, however, the legal part which is of interest for this paper. With the establishment of the Municipal Committee Khar Bajaur Agency, plans are afoot to establish such committees in Bara, Jamrud, Darra Adamkhel, and Wana in the next phase. This will be increased to a total of 23 urban areas in a phased manner. The basic advantage is, of course, the provision of basic civic amenities to the residents of these urban areas. However, there is another aspect of equal importance. Based on a tribal tradition, wherein an area could be excluded from the territorial responsibility of a particular tribe allowing the political administration to take direct cognizance, these urban areas shall be designated as "protected territories," where a direct cognizance by the state against crimes (against person as well as property) can be taken. FATA Secretariat has started working on a list of laws which could be extended to these areas in one go, thus starting the process of mainstreaming FATA gradually.

The last area of focus shall be the administrative reforms. In order to improve the quality of construction, the FATA Secretariat has already completed the pre-qualification of consultants who shall be engaged for design and construction supervision of the infrastructure projects. Similarly, an in-house renationalization exercise has started to gradually close all those facilities which were constructed in violation of the approved criteria or where the quantum and extent of services delivery is below an approved threshold. Likewise, a well-equipped FATA Analysis and Strategy Team (FAST) has been put in place to get a better analysis of the law and order situation in the region. The actual game changer in this realm is the decision to proceed with the settlement of land and development of the 'Record of Rights' in FATA. It is fully acknowledged now, that determination of individual ownership is a key to long-term economic development and that this is the ripe time to start the process. For this purpose, all the command areas of those dams, which were completed or are in the process of completion, shall be chosen in the first phase. At the same time, some of the urban areas, which were alluded to earlier, will also be picked for the purpose.

For this purpose, allocations have been made in the Annual Development Plan for the creation of a Project Management Unit (PMU).

FATA is embarking on a road which has better things to tell. The interest of international development partners is also encouraging. UNDP has already partnered with the FATA Secretariat for supervising the implementation of the R&R Strategy. Similarly, it is also providing for steering the reforms in the realm of rule of law. It is expected that other partners will also join hands with us in order to achieve this difficult yet, possible goal.



Sangeen Khan

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High Court

Fundamental human rights are inherent to human beings and are thus regarded as inalienable. As citizens of Pakistan, the people of FATA are entitled to similar rights. Pakistan, as a UN member state having ratified the Universal Declaration of Human Rights (UDHR), and being a signatory to the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Social, Economic and Cultural Rights (ICESCR) and Convention Against Torture and other cruel, inhuman and degrading treatment (CAT), is under an international obligation to fully respect and protect fundamental rights of all its citizens.

Of more authoritative significance is the Constitution of Pakistan that gives explicit recognition and takes responsibility for the protection of certain fundamental rights. Chapter one of the Constitution guarantees the security of person, safeguards against arrest and detention, protection against forced labour, slavery etc., and protection against retrospective punishment, double punishment or self-incrimination. It further guarantees the dignity of man, freedom of movement, assembly and association, right to indulge in business or trade, to exercise freedom of speech, religion, and right to acquire and hold property. It also provides for safeguards against taxation on religious grounds, safeguards against discrimination in services and non-discrimination in respect of access to public places; guarantees citizens the right to education and enunciates the principle of the equality of the citizens as a fundamental right. Besides these individual rights, the constitution also recognizes and

protects rights of communities as to their language, script and culture. Through the eighteenth Constitutional amendment bill, three important fundamental rights were also introduced: the right to a fair trial (Article 10 A), right to information (Article 19-A) and the right to education (Article 25), made part of the constitutionally guaranteed rights.

To ensure further protection of these rights, Article 4 of the Constitution provides that every individual shall be treated in accordance with the law. To avoid any inhibitions or curtailment of these rights under the garb of law, Article 8 of the Constitution explicitly prohibits the enactment of any law which takes away or abridges the fundamental rights and declares that any law which is inconsistent with the rights guaranteed in the Constitution shall be void to the extent of such inconsistency.

Equality and non-discrimination are the cross-cutting principles at the heart of all international human rights regimes, and so of the fundamental rights as enunciated in the Constitution of Pakistan. People inhibiting FATA are entitled to equal enjoyment and protection of their rights and cannot be curtailed or infringed on any pretext whatsoever. Furthermore, since FATA is an integral part of Pakistan with its inhabitants enjoying equal status of citizenship under Pakistani citizenship laws, there exists no legal or moral justification for any discrimination in the entitlement and protection of their fundamental rights by the state. Superior judiciary of Pakistan has, in its various judicial pronouncements, invariably upheld this principle time and again.

Yet, the sad fact is that they remain deprived of their rights owing to the exclusion of FATA from the constitutional order of the state which is based on the cherished principle of the trichotomy of powers between the Executive, Legislature and the Judiciary.

Article 247 of the Constitution excludes FATA from the constitutional order and vests all constitutional powers in the federal executive organ of the state (See Table 1).

Consequences of such exclusion go to the heart of the tragedy in FATA which has denuded its inhabitants from all the rights that they otherwise possess. First, and of more paramount concern, is the bar against the jurisdiction of higher judiciary in the

tribal areas. The Constitution vests duties and powers in the Supreme Court and the respective High Courts, under Article 184 and 199 respectively, for the protection of fundamental rights of citizens. Thus, there are no remedies available to them to agitate the infringement of their rights.

Second, the tribesmen are deprived from their right to political participation and legislation through the chosen representatives. Although the Constitution provides representation to FATA in the National Assembly as well as in the Senate of Pakistan, however, such representation means little in view of the exclusion of the parliament's powers to legislate on FATA. On the contrary, the President is empowered to make regulations for peace and good governance in the area.

As a corollary to the above, FATA is also deprived from various tiers of governance and representative rule as available to the citizens of other federating units, that is, the federal government, the provincial government and the local government.

On the sub-constitutional level, FATA is governed through the archaic FCR enacted during the colonial era. The regulation provides a mechanism for the administration of justice and the general executive administration, vesting both these powers in the executive officer designated as the Political Agent (PA).

On the judicial side, the FCR is a procedural as well as a substantive law in as much as it creates certain offences. Frequently dubbed as the "black law", "un-Islamic", and "unconstitutional" by academic and judicial authorities, the late Justice Cornelius declared it, "obnoxious to all recognized modern principles governing the dispensation of justice."

In contravention to the constitutional command that requires an independent judiciary, free from any executive influence and interference, the PA – an executive officer of the federal government, performs judicial functions and adjudicates upon disputes of civil and criminal nature under the FCR. To the exclusion of any other court, the PA, after taking cognizance of civil (Section 8) and criminal disputes (Section 11) makes a reference to his handpicked Jirga or council of elders for monitoring and evaluation. This reference to the council of elders is in the

**Table 1: EXCLUSION OF FATA FROM THE CONSTITUTIONAL ORDER**

	Article 247	Consequences
Sub-article 1	Direct executive control and management of the area by the federal government.	Inhabitants of the area deprived from multiple tiers of governance and entitlement to resources allocation under the constitution.
Sub-article 3	No law enacted by Parliament can be applied to FATA unless directed by the President with such amendments and modifications as the president may deem fit.	Circumventing powers of parliament to make any law for FATA and thus violating the right of people to be ruled through their chosen representatives.
Sub-article 5	President is empowered to make regulations for peace and good governance.	Unlike other areas of Pakistan which are governed through 'rule of law' based representative institutions exposed to judicial and parliamentary scrutiny, FATA is governed through an unaccountable system.
Sub-article 6	President has the exclusive powers to decide whether any area making part of and ruled through the administrative system under the FCR will remain as it is or status of the tribal territory be changed. President is only required to convene a Jirga for ascertaining the views of the people for the purpose. There are no rules or mechanism available that may ensure the representative status of such Jirga.	To ascertain public views on a matter of public importance, the Constitution of Pakistan provides for conducting a referendum under Article 48(6). Article 247(6) denies this mechanism to tribal people. Unlike FATA, any change in the territorial limits of the federating units requires an amendment in the constitution and such an amendment cannot be introduced unless the provincial assembly of the province affected by such an alteration passes a resolution with two-thirds majority in support of the alteration.
Sub-article 7	Neither the Supreme Court nor High Court shall exercise any jurisdiction in relation to the tribal areas.	Under the Constitution, fundamental rights can only be enforced through invoking the jurisdiction of the Supreme Court and High Courts. Exclusion of the jurisdiction of the Supreme Court and a High Court essentially deprives the tribal people from all their fundamental rights guaranteed by the constitution.

nature of trial.

Proceedings in the Jirga or the council of elders are not regulated by any law and bear no concept of the standard of proof required for reaching a just conclusion. In order to reach a conclusion, the only requirement for the council of elders, in a civil case is "findings in accordance with "Rewaj," while for a criminal case, the council of elders determines the "finding of guilt or innocence" after "holding necessary inquiry and hearing the parties and witnesses". The council of elders then transmits its report to the PA. Findings of the Jirga are, however, not binding on the PA who can remand the case back to the council of elders for further inquiries and findings, in case of dissatisfaction. In the absence of formal rules of adjudication by the council of elders coupled with the arbitrary powers of the PA to maneuver the process of adjudication according to his own whims, creates enough space for unfair capricious decisions in matters involving rights and lives.

In the first ever substantive reforms process, the right of appeal and review were introduced in the FCR (Section 50 and 55-A) but these amendments fell short of introducing accepted norms and standards for the safe administration of justice. The appellate authority, in its criminal appellate jurisdiction, is specifically barred to set aside the findings on any question of fact by a council of elders. Similarly, in its civil jurisdiction, the appellate authority cannot vary or set aside any decision or decree unless it is of opinion that there has been a material irregularity in the proceedings or they have been so conducted in a manner as to occasion a miscarriage of justice or is

otherwise contrary to the good conscience or morality. Powers of the FATA Tribunal at the revisional stage are at best equivalent to, if not restricted than, the appellate authorities.

Thus, the venues of appeal and revision are meaningless as the process for trial through the Jirga council is absolutely relieved from all rules of law, legal technicalities and legal form. In the absence of formal rules and procedures regulating the conduct of trial coupled with the bar on the appellate and review jurisdiction to vary or set aside the finding of facts accepted at the trial stage, there is no yardstick to ascertain material irregularity, defect in the proceedings and miscarriage of justice for the appellate and review jurisdictions.

Besides the lack of appropriate procedural mechanism for the administration of justice, the trial as well as the appellate forum fails to pass the constitutional muster. PAs and assistant PAs are employees of the federal government exercising executive authority of the government for administration of the area, law enforcement and maintenance of peace with concomitant judicial functions. The court of commissioner is also an executive office performing judicial functions at the appellate level. The three membered FATA Tribunal headed by a retired civil servant of BPS-21 also fails to meet the standards and requirements of a judicial forum as has been recently held by the Peshawar High Court.

Given this, the inhabitants of FATA are deprived of appropriate legal forums for determination of their civil rights and obligations and have no venue for their right to free and fair trial whilst facing a criminal

charge. This bluntly militates against the fundamental right to a fair trial as enunciated in Article 10-A of the Constitution.

Frequent violations of human rights emanates from the administrative regime under the FCR which is premised on the principle of minimum state intervention in the area, that is, the total or near total lack of a governance system. The resultant void is filled through shifting the burden of state to the clans and tribes of the respective areas. In absence of a police force and other paraphernalia required to deal with matters like crime control and maintenance of peace, FCR obligates the tribes to perform duties and functions of the government. This system is based on a mix of subsidies and a non-representative patronage system of Maliks appointed by the PA, working as intermediaries between the state and society.

Law and order, maintenance of peace and crime control is managed through the collective responsibility of the tribesmen. In case a person is accused of acting in an unfriendly, hostile or subversive manner to the state or to any other person within the settled area, the PA enjoys arbitrary powers under section 21 of the FCR to arrest and detain members of the tribe to which the accused person belongs, and can arrest the entire sub-section or even other sections of the tribe. He yields the authority to order attachment of their properties and can even debar their entry into settled areas.

Section 23 empowers the PA to impose fines on communities in case a criminal offence is committed within the territory of the tribe. In the event where murder, culpable homicide

or offence in the nature of fatal wounds to any person is committed, the entire tribe is deemed to have committed an offence under section 22 and the burden of proof stands shifted to the tribe to prove that they did not possess the opportunity to prevent the commission of offence or the arresting of offenders, and to further substantiate that they used all reasonable means to bring the perpetrator to justice.

These provisions bluntly violate the principles of individual criminal responsibility, creates guilt by association, authorizes disproportionate punishments, violates the tribesmen's right to be treated in accordance with the law (Article 4), offends the right of 'security of person' (article), right of safeguard against arrest and detention, in particular the right to be represented by a legal counsel (Article 10), the right of inviolability of the dignity of man (Article 14), the right to freedom of movement (Article 15) and the right to equal treatment sans discrimination (Article 25).

PAs, apprehending a breach of peace or commission of a wrongful act by a person, can require him/her to execute a bond for good behavior for a period of two years (Section 40). Such power, however, goes beyond individuals and the PA can require

families, clans and in some cases, even tribes, to execute such bonds (Section 41); failure of doing so may result imprisonment of up to two years (Section 44). Article 10 of the Constitution authorizes preventive detention of persons in extremely limited cases involving serious issues of integrity, security or defense of Pakistan or any part of the country or the external affairs, public order or maintenance of supplies or services, for a limited period of three months which can only be extended for the same periods by the appropriate review boards appointed by the Supreme Court and the respective High Courts, and are subject to judicial review by the Judiciary. These constitutional safeguards are, however, not available to the people in FATA. Such unbridled powers in the hands of the PAs with no appropriate judicial oversight results into widespread violations and abuses of fundamental rights in FATA. In addition, PAs are vested with powers to prohibit erection of buildings, direct removal of villages, order attachment and disposal of buildings (Section 31, 32), all raising complicated questions of the civil rights of communities with no impartial and independent avenue of redress available to them.

After amendments in the FCR in 2011 of introducing the right of bail and prohibition

against arrest and detention of children, women and aged citizens, meant little for the people in FATA. Benefits of these reforms, if any, were swiftly reversed through the introduction of another law: the Action In Aid of Civil Power Regulations, which authorized punishments and executions of persons and even children accused of terrorism related offences. Similarly, there are no proper laws available to women and children regulating matrimonial issues like dissolution of marriages, or custody of children, which results in frequent human rights violations. In the absence of proper legal regimes and judicial hierarchy coupled with the general preference of adherence to local customs under the FCR regime, females suffer the worst violations by falling prey to abhorable customs (See Table 2).

The state of Pakistan has an international obligation and constitutional duty to protect the fundamental rights of the FATA people. The administrative and judicial system under the FCR is beyond reformation. Respect and protection of fundamental rights for the FATA people can only be secured by bringing the area at par with the rest of country and including it in the constitutional order of the country.

**Table 2: ADMINISTRATIVE AND JUDICIAL SYSTEM UNDER THE FCR VIOLATING FUNDAMENTAL RIGHTS OF TRIBAL PEOPLE**

	Article 247	Consequences
Preamble/enactment of FCR	Frontier crimes regulation, 1901 is an order/regulation passed by the Executive and is not a law passed by legislature or any other democratically elected forum.	Violation of the right to be ruled through chosen representative, which is inherent to the constitution.
Section 4-5	Vests the executive, law enforcement and judicial powers in the executive officer of the government, the assistant political agent and political agent. There is no accountability or democratic oversight system in place to check the exercise of powers by these officials.	The judicial system provided by the FCR is against the command of the constitution which provides for a thoroughly independent judiciary (Article 2-A), Article 175 which stipulated a period of 14 years for progressive separation of judiciary from the executive, and Article 203 which vests powers of the superintendence of the subordinate courts in the respective high courts excluding any role for the executive in the judicial hierarchy.
Section 8-11	Provides for the resolution of civil and political disputes by the council of elders (jirga) appointed by the political agents.	This system of the administration of justice is against the command of the Constitution which provides for a thoroughly independent judicial forum for resolution of disputes and determination of the rights of people, and violates the fundamental right of the tribal people to a fair trial as envisaged under article 10-A of the constitution.
Section 21-22	Provides for collective responsibility of the clans and tribes.	System of collective responsibility of the tribes violates the right to be treated in accordance with the law (Article 4), offends the right of security of person (article), right of safeguard against arrest and detention, in particular the right to be represented by a legal counsel (Article 10), the right of inviolability of the dignity of man (Article 14), the right to freedom of movement (Article 15) and the right to equal treatment sans discrimination (Article 25).
Section 40, 41 and 44	Provides for requiring security from individuals, families and even clans and tribes, for the maintenance of peace and good behaviour, failure to execute security/bond entails punishment of up to two years.	Curtails the constitutional safeguards against arrest and detention as guaranteed in Article 10 of the Constitution.
Section 48 and 55	Provides for the appellate and revisional forums.	The judicial system defining the judicial mechanism for appeal and revision against the orders of the first instance court is also against the command of the constitution which provides for a thoroughly independent judicial forum (Article 2-A), Article 175 and Article 203.

## Human stories from FATA



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*Where there's a will,  
there's a way*

*Education is the dream of many but a limitation for most, with several parts of the world still fighting to acquire this basic right, as depicted in Sara Yaqoob's story*

Sara Yaqoob, a 19 year old talented Christian girl who topped the Government Girls Higher Secondary School Fsc examinations this year, but could not continue higher education due to poverty and the unavailability of a degree awarding college for girls in the region. From 2008 to 2015, militants have destroyed 82 Government schools in Khyber Agency, majority being girls' schools. However, Sara's passion for education was so immense that she fought for this right. With a little help from social media and a local scribe, Sara tweeted her case and her inability to pursue higher education owing to a paucity of financial resources.

Within a short while, Sara received immense support and was awarded a scholarship for pursuing higher education by the Governor of Khyber Pakhtunkhwa. She also received financial assistance from several other individuals and organizations and is well on her way to achieving her dreams. However, she remains concerned about the fate of other girls in the region, who face limited resources and no incentives to acquire education. She hopes that one day, the region will be home to several girls' education institutes, fully equipped with female teachers, and funds allocated for the purpose will rightfully be employed. She feels overjoyed to be a model for many girls in the region and urges families to be more encouraging of girls' education.

*Disclaimer: The story has been conducted and reported by Mr. Rahat Shinwari, as per conversation with the affected.*



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## Human stories from FATA



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*Light in the dark*

*A massive gap between destruction and development is badly impacting girls education in FATA*

"There are no rooms and the veranda is completely destroyed but this did not stop us from acquiring education. We have been attending classes regularly, although when natural conditions do not allow, we have no choice but to skip classes that day," asserts Sidra, a nine year old who is a student of grade two. Despite unsafe circumstances, she attends school daily for the sake of acquiring knowledge, along with her other class mates.

Militants destroyed the government girl's primary school at Hukam Khan Kalay village in Khyber Agency four years ago. There were up to 200 local tribal girls enrolled at this school, who are now relocated to broken walls, uneven floors and no furniture. Their desire for education compels them to find the best in the worst. Girls and teachers at the school say that several promises have been made by authorities for infrastructure and trainings. They look forward to the time when these promises will take shape and the region will provide free and accessible education under safe circumstances. They also believe that an end to corruptive practices will immensely improve the condition of education in the region.

*Disclaimer: The story has been conducted and reported by Mr. Rahat Shinwari, as per conversation with the affected.*



## Ajmal Khan Wazir

Convener and spokesperson, Political Parties Joint Committee on FATA Reforms  
Central Senior Vice President, PML (Q)

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

FATA is not really a name, according to me. While the name should be changed, it is pertinent to note that the question is not really about the name, but about the constitutional status of FATA. This status needs to be amended and revised in order to allow for any changes in the region.

**Do you think it is justified to keep a “special status” of FATA different than from the rest of the country even after 68 years of independence? Why?**

The 'special status' allotted to FATA needs to change. Again, only when the constitutional setup is modified, can the region witness any change. There are several opinions out there regarding how FATA can be modified in order to ensure it is treated just as the remainder of the country is. These include merging it with Khyber Pakhtunkhwa or making it an independent province or introducing a governing body built on the model of Gilgit Baltistan. However, what no one realizes is the 'how' aspect of such major structural changes. For instance, the Khyber Pakhtunkhwa government is already unable to take proper care of its current districts. How will it manage additional administration and functioning of a whole new region with so many districts? Such questions need to be properly planned out first before any reformation takes place.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

Flourishing militant activities in the region and corruptive practices of money pocketing by bureaucracy and officials are the major reasons to blame for under development in FATA. Currently, all power is concentrated in the hands of three people—the PA, the governor and the President. There is no check and balance and as a result there can be no accountability of resources allocated for development projects in the region.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

A 'Haqooq-e-FATA' package should be implemented, built along the guidelines of the Aghaz-e-Haqooq-e-Balochistan' package. This package should focus on four priority areas: education,

### say that again

*“...a 'Haqooq-e-FATA' package should be implemented, built along the guidelines of the Aghaz-e-Haqooq-e-Balochistan' package.”*

health, infrastructure and employment, and be implemented by the government. Unfortunately, if you look around, the work that the army is doing for the region is quite visible (such as Cadet College, construction of roads etc.) whereas, the government appears to be asleep when it comes to FATA. This package will give the government the opportunity to build trust with the people of FATA.

Moreover, the governance and constitutional structure should be revised, especially amendment in clauses three and seven of Article 247.

The international community should also become more involved in creating opportunities for skill training for the youth of FATA. Moreover, the international community and other donors should come together to create a fund of financial resources for youth education in the region. This will also help diminish the pest of militancy plaguing the region, as every family bears several children and owing to the inability to educate each one of them, many youth move into militant training as the only option for employment.

Finally, the people of the FATA should be completely involved in the decision making process through some sort of a referendum via the local Qaumi (tribal) Jirgas. They are the ones most affected and hence should be allowed full freedom to decide.



## Asad Afridi

Senior member, Political Parties Joint Committee on FATA reforms  
Provincial Political Training Secretary, Qaumi Watan Party  
FATA Zone Chairman

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

The name FATA does not do justice to the region or to the people abiding there. The Joint Political Parties Committee on FATA reforms would definitely like to propose a new name for the region. Previously, the region has also been termed as 'Qabaili (tribal) Pakhtunkhwa.' In relation to this, the best solution lies in making FATA a part of Khyber Pakhtunkhwa, which will automatically resolve the issue of a suitable name.

**Do you think it is justified to keep a “special status” of FATA different than from the rest of the country even after 68 years of independence? Why?**

This 'special status' was attributed to the region by the English Colonials, who had ulterior interests. Now, this status holds no justification whatsoever. When Article 1 of the 1973 Constitution clearly states FATA is a part of Pakistan, then why should it be given distinct treatment? With the demand of the FATA Parliamentarians to convert the region into Provincially Administered Tribal Areas (PATA), the issue of a 'special status' would automatically be resolved. This 'special status' is just in the interest of the civil bureaucracy, bearing no benefit for the locals. It needs to be eliminated.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

Poor governance, to begin with. Ineffective implementation of laws. Lack of implementation of laws. Corruptive money pocketing practices by the bureaucracy, Maliks and militants, all resulting in a usurping of economic resources for development. The solution lies in ensuring that laws that the rest of the country enjoys are also fully implemented in FATA, for example, the NAB ordinance should be extended and enacted to FATA as a means to end corruptive practices.

The region also has a separate secretariat! What could be more telling than this reality? Each province is meant to have a secretariat, not each region! This utter confusion in governance mechanisms needs to end. How can a region develop until and unless the authority governing a region is itself confused? Or in FATA's case, does not really exist!

### say that again

*“...militancy should be immediately eradicated, this is the very preliminary step in reforming the area.”*

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

Militancy should be immediately eradicated, this is the very preliminary step in reforming the area. FATA should be made into PATA and eventually, merging FATA into Khyber Pakhtunkhwa is the long term, plausible solution.



## Ayaz Wazir

Former Ambassador of Pakistan

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

Owing to its past association with the region, the word FATA is the identity flag for that area. The name bears personal sentiment of the people who call the region their home. However, this name should be amended as it does not carry the true flavor of the region or its people. This alteration should only be done with the consent of the regions' inhabitants and the new name should reflect their collective identity and the cultures of the land. When all individual agencies in FATA (such as Mohmand, Orakzai etc) bear names that are a reflection of their culture and people, then why should FATA be an exception?

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence? Why?**

The status of FATA should have been identified immediately after independence. With the continuation of the draconian Frontier Crimes Regulation (FCR) law since several years now, the people have become accustomed to an unfair style of life. FATA is 'administered' by individuals who are not locals and are not familiar with the design of the region. The FCR needs to be amended gradually and in the process, governance should be reformed such that FATA locals should emerge as the primary stakeholders in policy making for the region.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

The political process lacks representation from the locals in FATA. They have no say whatsoever in the systems that govern the region and are at the mercy of the alien administrators, for whom it is all a game of money. If the region needs to evolve and develop at all, the locals need to be incorporated in the systems and their voices must be heard and acknowledged.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

Short, medium and long term goals should all focus on resettling and rehabilitating the Internally Displaced Persons (IDPs). They are permanently displaced, not temporarily displaced. Sufficient resources should be provided to focus on building infrastructure and normalizing lifestyles for these people. Europe's Marshal Plan,

say that again

"...a referendum from the people of FATA should be the defining mechanism that fuels this decision."

which was the economic recovery plan implemented in Europe in 1948, is a good model to learn from. Again, FATA locals are essential components who need to be incorporated in the design of the recovery for it to be successful and sustainable.

More importantly, the IDPs should have a sense of belonging: they should be deemed citizens of Pakistan and all rights should be applicable to them. As for the possibilities of FATA being merged with Khyber Pakhtunkhwa or made a separate province, a referendum from the people of FATA should be the defining mechanism that fuels this decision. FATA's fate, in the long term, should belong to FATA's people, and no one else.



## Brig. (Retd.) Mahmood Shah

Former Secretary Security FATA, Security and Defense analyst

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

This area is being governed under a special law. Unless the system of governance is changed over time, and this law is altered, altering the name holds no significance.

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence? Why?**

First and foremost, the region does not encompass a strong governance and administrative system. It is this fault that needs to be corrected whilst involving relevant stakeholders in the process. It is after this, that the status of FATA should be corrected, which according to me, is unjust at the moment.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

I think historical neglect is to blame. Funding, which is mismanaged in addition to being corrupted, is not invested for purposes for which it is intended. Till such a system of governance remains where there is no accountability and transparency, the region will always be dwarfed with development. Development must be a sustained effort. The disease must be excised, not the symptoms. The true understanding of this area still goes beyond the understanding of the Federal Government. They do lip service, they play with words, and end up playing with the lives of the people in FATA.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

For the region to truly progress for the better, the vision needs to be long term. The system of administration requires a crucial uplift: during my tenure, a series of changes were proposed and implemented over five years. The area must be brought at par with the rest of the country and the people of FATA should be made stakeholders in the system of administration.



## Farid Khan Wazir

Ex-Federal Secretary Ministry of Human Rights Peshawar, Ex-Chief Secretary Northern Areas

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternative name?**

The name certainly does not reflect the true identity of the area or the people. This area has been inhabited for thousands of years by tribesmen numbering more than millions now. Instead, the area should be called 'Qabailistan'.

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence?**

This special status was granted by Quaid-E-Azam Mohammad Ali Jinnah and cannot be evoked without permission from the people of FATA.

**FATA is the most underdeveloped region of the country. In your opinion, what are the key factors for under development in FATA?**

Unfortunately, FATA has been neglected by all previous governments and deliberately kept underdeveloped. Though the key factors are low literacy rate (which is a general problem in Pakistan), other reasons include unclear policies by the Federal Government leading to utter neglect in service delivery sectors.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

FATA has always been painted as a dark monster, lawless territory and a no-mans land. It has deliberately been cut off from the rest of Pakistan. Outside powers are to blame for the unrest and the war on terrorism that the region is victim to. This area was a staging ground for Russia and now other foreign powers.

In the long-term, a 20 year Socio-Economic Development plan should be made which includes funds for education, health, infrastructure, rural development and mineral exploration. These factors, when looked into, will eventually result in lower unemployment rates. The Frontier Crimes Regulation (FCR), although an effective justice mechanism, needs to be amended as well, as it has been abused several times. The people of the region need to be empowered and FATA should be made a separate province, governed by an authority hailing from FATA who understands the land and its issues.



## Bushra Gohar

Senior Vice, President Awami National Party  
Member of the Standing Committees on Finance and Revenue and Interior and the Working Council of the Women Parliamentary Caucus

**FATA is a not a name but English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

FATA means Federally 'Alienated and Abandoned' Tribal Areas. It is an integral part of Khyber Pakhtunkhwa and should be merged in the province and fully mainstreamed.

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence? Why?**

What 'special status'? How can denying our citizens' fundamental rights and using them as cannon fodder for so called strategic interests be justified? The people of FATA live under the inhuman British Law, the Frontier Crimes Regulation (FCR), even after 68 years of independence. There is no justification for this! In fact, it is condemnable. The state's self-destructive strategic depth policies have destroyed several generations. FATA is viewed by Rawalpindi and Islamabad as merely a strategic space and its people as cannon fodder to be used for strategic interests. The political and tribal elite, military and civil bureaucracy have made billions by keeping FATA backward. It is no wonder that those with huge vested interests living outside FATA never tire of praising the FCR and in fact, claim that FATA locals desire to live under the inhuman FCR and tribal system by choice. If they believe the system is so good, they should extend it to the entire country. The British used FATA as a buffer zone and for strategic interests. Unfortunately, Pakistan has continued in the same tracks by assigning FATA the mere existence of a colony of Islamabad/Rawalpindi.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

The Constitution does not extend to FATA. It is strange that FATA's elected representatives in the parliament can legislate for the entire country except for the people they represent. Justice and fundamental human rights remain a remote dream for the locals, even in this day and age. Terrorism and terrorists are allowed to cultivate in FATA. Its social, political and economic fabric has been destroyed. Over 200 local leaders were targeted and killed to create a vacuum filled by the terrorists. Lives and livelihoods of the people have been destroyed and thousands of families displaced. Basic amenities are missing: hundreds of schools have been bombed, there is not a single university or a large hospital in the

### say that again

*"...articles 246 and 247 should be repealed and the superior judiciary's jurisdiction should be extended to FATA to bring FATA into the national mainstream."*

region. Locals have to travel all the way to Khyber Pakhtunkhwa for services that should be rightfully provided freely and in abundance by the state. There has been no accountability for the large number of lurking local and foreign terrorists who have operated from FATA for over a decade. There has been no accountability of the billions received under the garb of development. People of FATA are essentially victims of Pakistan's self-destructive policies and strategic regional interests.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

For short term, the status of FATA agencies should be changed to Provincially Administered Tribal Areas (PATA) and given due representation in the Khyber Pakhtunkhwa Provincial Assembly.

As per long-term goals, the FCR should be abolished and the constitution extended to FATA. Local Government Law for FATA should be enacted and elections held as in the rest of the country. Dignified return, reconstruction and rehabilitation of the Internally Displaced Families should be a top priority. Business and homes destroyed in military operations should be reconstructed. Articles 246 and 247 should be repealed and the superior judiciary's jurisdiction should be extended to FATA to bring FATA into the national mainstream.



## Ejaz Ahmad Qureshi

Chairman, FATA Reforms Commission  
Former Chief Secretary, Khyber Pakhtunkhwa

**FATA is a not a name but English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

Deciding a name for the region should only be by the people of the region. The only caution to be observed is that the name should not be 'divisive'. The country is already divided on numerous fronts and the last thing we need is another feather in that cap.

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence? Why?**

Tribal areas harbour diverse sentiments as far as their status is concerned. The status of FATA should be declared by means of the governing mechanism of the Jirga. This Jirga should be a combination of political representatives and tribal representatives. The Jirga should hold dialogue with locals and various groups, develop a consensus and subsequently, a legislation be passed based on this.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

FATA has been long neglected in terms of development. It does not have any solid standing in terms of being an agro economy or an industrial economy. The region houses several minerals that once tapped, can boost the economy and pave way for development in FATA. Moreover, cross border incomes need to be made transparent and utilized for development initiatives in the region. Furthermore, the Federal Government should allocate development funds for the region, even if the region is eventually merged with Khyber Pakhtunkhwa.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc) to bring in sustainable development in FATA?**

For the short term, the local government system should oversee all development projects and Jirga should be empowered as the governing mechanism for the region until a census takes place and fresh elections are held.

In the long run, agency administration should be empowered: they should have a trained levy with the best police, traffic control and intelligence forces. The army and Frontier Corps should

### say that again

*"...jirga should be empowered as the governing mechanism for the region until a census takes place and fresh elections are held."*

monitor the border with Afghanistan as border encroachment is a major issue. Education infrastructure is also the need of the hour. Ten billion rupees is the immediate approximate amount that is required for all such changes, followed by another 15-20 billion eventually. In addition, a rehabilitation package for the Internally Displaced Persons (IDPs) also needs to be introduced.





## Shah Jee Gul Afridi

Parliamentary Head of lawmakers from FATA in the National Assembly

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

The name FATA is not true to the region. Ironically, how can one debate on the status of the region when even the local tribesmen and parliamentarians have no status. The reality is that the region does not need a name or identity: the tribesmen are an identity in themselves and that is sufficient as far as the question of identity is concerned.

Speaking on the topic, FATA parliamentarians recently submitted a bill with the aim of acquiring equal rights for the people of FATA in parallel to the ones that the rest of the citizens of Pakistan enjoy. Legislation is the first step. The name comes after.

**Do you think it is justified to keep a “special status” of FATA different than from the rest of the country even after 68 years of independence? Why?**

For the first time in the region's history, a group of FATA parliamentarians have gathered together to fight for the rights of the people of FATA. The group is in complete agreement on moving a bill in the parliament for the very same purpose. Owing to a few hurdles, we were unable to pass a bill demanding for an authoritative elected council for FATA. As a result, we decided to generate debate on merging FATA with Khyber Pakhtunkhwa, ultimately resulting in PATA-Provincially Administered Tribal Areas.

Our main purpose remains of acquiring elected executive councils for FATA, similar to the system in Gilgit Baltistan, with a few amendments. The government of Khyber Pakhtunkhwa has not responded on the matter and so the decision rests with the parliament now. We are prepared for criticism and amendments by the government and political parties and once the legal procedure is underway, we plan to reach out to the people of FATA and include them in this process deciding the future of their land.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

The war in Afghanistan is the primary reason. The situation in FATA was pleasant before the Russian invasion: trade activities thrived and the region was an economic hub. However, this was short lived with the invasion of the Afghan refugees. The region saw

### say that again

*“...there is no system of accountability in the region. Officials and Political Agents are corrupt and bribe is a common occurrence.”*

further deterioration post 9/11 when it was declared the 'war capital'. This wave of war and terrorism left a dent in all service delivery systems in FATA and also impacted upon governance. Tribal elders could no longer hold Jirgas. This left a huge gap between the old and new generation and fueled a lack of trust.

Second, there is no system of accountability in the region. Officials and Political Agents are corrupt and bribe is a common occurrence. A mafia currently dwains upon the unfortunate region of FATA.

**What are your key proposals (related to social and economic development, legal, constitutional, political etc) to bring in sustainable development in FATA?**

For medium-term goals, elected representatives of FATA should be allotted the authority to maintain a check and balance system, especially with regards to the sources of money and its utilization. The region also houses a huge income from border crossings, which needs to be monitored and legalized, thereby eliminating the mafia system. This income can prove critical for development investment in FATA.

In the long run, a system of local government should be introduced in the region with executive powers handed over to them. FATA parliamentarians also suggested the inclusion of women and minorities in the proposed elected councils. The entire purpose of passing the bill is to demand equal rights for the people of FATA.



## Farhatullah Babar

Senator and Former Head, FATA Reforms Commission

**FATA is a not a name but English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

The very name reflects that it is not. It is administered from Peshawar and Islamabad, by people who have had no local or historic context for the region. The locals are treated as 'aliens'. It is also sometimes referred to as a strategic area which implies that more importance is laid on the land and its geographical significance than the people who live there.

**Do you think it is justified to keep a “special status” of FATA different than from the rest of the country even after 68 years of independence? Why?**

On FATA bearing a 'special status' or being merged into Khyber Pakhtunkhwa or being made a separate province, all possibilities should be decided by the people of FATA. The Constitution provides the mechanism of a referendum in such a scenario. This issue must be decided in accordance with the wishes of the people of the tribal areas. Imposing an outsider's decision would be a travesty for the people of FATA who have been neglected for 68 years.

Until that happens, measures must be taken to ensure the fundamental rights of its people within their local governments and proper avenues of seeking justice should be provided. Whatever the status, the service delivery of justice, grievance addressing and their constitutional rights must be protected. Determining the status may take time, but this does not prevent us from extending fundamental human rights to the people of FATA as embedded in the Constitution.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

The carefree attitude of successive governments whereby the land is given precedence over the people is the factor to blame. Participatory governance is essential. Avenues of justice and fundamental rights should be ensured. The notion that political reforms in tribal areas will undermine national security should be dismissed. On the contrary, political and social reforms in tribal areas will enhance national security, not hamper it.

### say that again

*“...the service delivery of justice, grievance addressing and constitutional rights must be protected.”*

**What are your key proposals (related to social and economic development, legal, constitutional, political etc) to bring in sustainable development in FATA?**

Article 247 of the Constitution must be abolished, so as to allow the superior courts to extend their reach to the tribal areas. People's participation in their government through local bodies is critical. For economic development, they should be included in the NFC awards. A specific provision for FATA should be introduced to ensure this step.



## Rustam Shah Mohmand

Former Ambassador to Afghanistan, Former Commissioner for Afghan Refugees, Former Chief Secretary NWFP, Former Interior Secretary of Pakistan

**FATA is a not a name but an English acronym. Do you think it reflects the true identity of the region and the people who live there? Do you have a proposal for an alternate name for the area?**

Identity has never been an issue for the people of FATA as they identify themselves according to the individual agencies they live in. So modifying the name and questions of identity are irrelevant. FATA cannot be a single province, period. All agencies have their own identities and a mix of people from different regions are abiding within the same agency. When the nature of the region is multiple, then what need is there for one name?

**Do you think it is justified to keep a "special status" of FATA different than from the rest of the country even after 68 years of independence? Why?**

Following independence in 1947, the people of Peshawar were given the option of either becoming a part of Pakistan or staying independent. The Jirga (tribal leaders) expressed that they would like to become a part of Pakistan as long as the state would not interfere in their affairs and there would be no threat to their autonomy. Henceforth, these became the grounds defining the existence of the region with the country, with the Constitution of Pakistan underlying the special status of FATA. Recently, FATA parliamentarians have raised demands of merging FATA with Khyber Pakhtunkhwa or making it a separate province. The question remains that when a status is legally defined in the laws of the country, how can it simply be changed? If there is to be any modification in this status, then a referendum should decide the fate of FATA.

**FATA is the most under developed region of the country. In your opinion, what are the key factors for under development in FATA?**

The apathetic government is to be blamed for under development in FATA. If the government possesses the resources to construct a cadet college in an area such as Razmak, then surely, FATA should not be a problem as far as development and infrastructure is concerned. However, governments are occupied in the debate on territory and division and fail to realize that the real merger lies in socio-economic development of the region. The Federal Government should provide more support to the FATA region. It is high time that the focus be shifted to good governance.

*say that again*

*"...governments are occupied in the debate on territory and division and fail to realize that the real merger lies in socio-economic development of the region."*

**What are your key proposals (related to social and economic development, legal, constitutional, political etc.) to bring in sustainable development in FATA?**

Short, medium and long-term goals all require peace to be established in the region. Development projects, accessibility to quality services such as education and health, better infrastructure, ensuring safety and employment opportunities should be the focus of any plan made for FATA. The region has several mineral deposits that need to be tapped and utilized. Even government servants should be provided basic amenities and incentives so they are encouraged to serve in the area.

Sufficient funding, fair Political Agents and competent governors are requisite for all the above to take effect.

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## Human stories from FATA



## *Law of the land*

*Hard work does not always pay off as in the case of Maaz Shinwari, a hardworking 18 year old student whose degree was left hanging right before completion...*

In March 2015, Daud Shinwari had a verbal fight with a local levies personnel in Khyber Agency, FATA. The very next day, the personnel registered a complaint against him in the court of the Assistant Political Agent. The administration took immediate action and raided Daud's house. On being unable to locate him in the house, his younger brother Maaz was arrested in lieu of Daud as per the law of the land. Owing to being locked up, Maaz was unable to appear for his annual Matric examination, despite special requests put forth by his family and Principal, and was left with a wasted year of hard work.

After a month, Maaz Shinwari's brother Naveed filed an application for release on bail, but was rejected. The family also approached courts, however, the case is still in review and Maaz is still behind bars. Under Article 247, the Peshawar High Court holds no jurisdiction in FATA and hence the case is pending.

*Disclaimer: The story has been conducted and reported by Mr. Rahat Shinwari, as per conversation with the affected.*



## Gulalai Ismail

A young Pakistani human rights activist who is Chairperson of the NGO 'Aware Girls', recipient of the Commonwealth Youth Award 2015, 2013 Democracy Award and International Humanist Award 2014. She has been recognized among the 100 Leading Global Thinkers in 2013 by 'Foreign Policy' magazine.

### What are the key youth issues in FATA?

The key youth issues pertain to militant activity, a lack of freedom of expression, lack of employment and education. Owing to governance being concentrated in the hands of a few elite, justice is scarred and access to services and systems is limited, if at all. Jirga system is also a continuing problem thriving with support from the Frontier Cries Regulation (FCR). Owing to a lack of employment opportunities, a large majority of youth are being pulled into militant training and shipped off to different areas to indulge in related activities.

The education system is very deficient: militants are glorified as heroes in educational institutions and students are encouraged to emulate these 'glorified heroes'. Therefore, the curriculum needs to be questioned before addressing issues of enrollment and retention.

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

Scholarship schemes, income support schemes, introduction of a quota system, education infrastructure and teacher trainings need to be initiated immediately. The female youth need to be empowered in order for them to constructively contribute to the society.

However, all problems stem from weak governance. The need of the hour for FATA is a revised system of governance: as long as the FCR prevails, governance will continue to be weak. A democratic setup needs to come in place in FATA and free and fair trial should be practiced.

I dream of FATA becoming a place that offers security and peace to its inhabitants, where every step taken is not with fear or hesitation, where rights are protected and marginalized voices are heard.



## Muhammad Dawood

A young activist, Muhammad Dawood hails from the remote area of FATA and founded the Takal Welfare Organization to engage and lead the youth in development activities. He is an active member of the Young Nonprofit Professional Network and is involved with the Global Youth Coalition on HIV/Aids.

### What are the key youth issues in FATA?

The war on terrorism is by far the biggest pest that is eating the youth away. The youth are engaged in heavy numbers in militant activities and these winds of terrorism are also affecting the psychological fabric of the youth. The reason for such is the lack of education, employment and political empowerment. The youth find no potential opportunities of learning and hence the only guaranteed way of having a secure life that provides them with food and shelter is to become one with the militant groups.

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

Better educational facilities including a focus on developing infrastructure, teacher trainings, curriculum revision and skill development centers need to be established. The government should initiate all changes, NGOs have done enough. Local body elections need to be held although the Jirga system should remain as it is the only just system of governance present in the region. As long as the FCR prevails, nothing can change. The FATA Reforms Commission also appears to be bearing no fruit whatsoever.

I dream of FATA as an educated region. Having reached the pinnacle of problems, I believe the future is bright for FATA from this end on. Natural resources in FATA, such as the presence of marble in Mohmand Agency, need to be tapped. Whatever future FATA holds must be decided with the consent of the people of FATA.



## Muhammad Farooq

Founder of a civil society organization, the Khadim ul Khalaq Foundation, Muhammad Farooq is a youth activist working for youth, peace and education in FATA. He represented Pakistan in the world conference on youth in Sri Lanka in 2014. He was the youngest participant of the Legislative Fellowship Program in America and was recently nominated for the N-Peace Award 2015.

### What are the key youth issues in FATA?

On the surface, the most prevalent youth issues that plague FATA are illiteracy and unemployment. The cause for both of these lies in the ongoing war on terrorism and militant activities. Educational institutes have been destroyed and those that are left, are mostly non-functional. This has created a vacuum for militancy and extremism: the uneducated youth easily fall prey to militant groups. The war on terror has also multiplied the issue of unemployment: several youth migrate to the Middle East in search of greener pastures but have returned as IDPs and are now jobless owing to majority of markets destroyed.

There are several underlying problems faced by the youth as well. The constant atmosphere of fear and insecurity has caused severe psychological trauma and moral degradation. The use of drugs and weapons is becoming increasingly common in the youth as well.

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

The FCR needs to be abolished and FATA should be mainstreamed with the rest of the country. Article 247 needs to be amended and the status of FATA should be recognized by either making it a separate province or merging it with Khyber Pakhtunkhwa. Elected members of FATA should be given power over the political administration. Accountability of the political administration is the need of the hour; a pragmatic audit system is recommended to curb the powers of the political agent. Local government elections need to take place as per the formula of Khyber Pakhtunkhwa where a special quota is reserved for the youth, women and farmers.

Apart from this, better education facilities, establishment of skill development centers, scholarships and quotas for FATA students both at the national and international level, should be enacted. International and local organizations should also promote entrepreneurship opportunities and initiate student exchange programs. Sports and other entertainment activities for the youth should also be initiated by the government.

I dream of FATA as a peaceful place where citizens do not have to face insecurities each step of the way, where guns and bullets are replaced with pen and paper and failures and limitations with hopes and dreams.



## Shah Jehan Bangash

The Managing Director of the NGO 'Rural Empowerment' and Institutional Development (REPID), this young enthusiast is an Alumni of the State Department in FATA and has carried out livelihood projects, targeting women in poverty, in order to equip them with skills that would enable them to earn.

### What are the key youth issues in FATA?

Poor education facilities leading to a lack of peace are the major issues of concern in the youth. The youth engage in unlawful activities owing to a paucity of quality education and due to the prevalence of such unlawful activities, donors are hesitant in investing in FATA.

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

Citizens in FATA have no right to fair trial and have little safeguard against arbitrary arrest and detention. The FCR and Malik (local elders) judgment system in FATA is outdated and needs to change. Furthermore, provision of basic and moral education by the government and civil societies needs to be introduced. Sustainable development and mobilization of resources should be focus areas.

I dream of FATA as a place of the future, replete with positivity and technologically sound.

# Youth Voices



## Saba Ismail

Member of the International Steering Group of United Network of Young Peacebuilders 2013, Hurford Youth Fellow and civil society representative at the United Nations in 2010, the Executive Director of the NGO 'Aware Girls' works tirelessly for youth empowerment, especially in the FATA region.

### What are the key youth issues in FATA?

Violent extremism, lack of democracy and active citizenship are the key youth issues. The amount of human rights violations that state actors do is unbelievable. When they attack a household claiming that it has militants abiding inside, how can they be sure that the entire brood of people living in that house are all militants? There needs to be accountability and a check and balance of the authorities.

Several youth are used by organizations for their own ulterior motives. When the youth wish to raise their voice, especially young journalists, they are attacked. Even educational institutes are plagued by violent manipulations whereby the students are taught with the support of violent images and symbols pertaining to war. Can you believe that in Swabi district, there is an actual library named after Osama Bin Laden? When the youth are exposed to such conditions, how can they ever grow up to be normal?

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

Human rights violations need to be reported internationally. The international community needs to step up and exert pressure in this regard. Curriculums of madrassas and other educational institutions need to be revised and monitored. Political parties need to be more transparent in their actions. FATA should be established as a province or a part of Khyber Pakhtunkhwa. Systems and services should be accessible and affordable.

I dream of FATA as a land of human rights, where education flourishes and more importantly, freedom is not just a notion on paper.



## Tajdar Alam

A social activist and President of the youth led organization, Mashal Society and Young Chinar Falahi Committee community based welfare organization, Tajdar Alam has worked successfully on peace, drugs, education, health, sports and community development and is a certified British Council facilitator in the FATA region.

### What are the key youth issues in FATA?

Social grooming and career counselling are among the key youth issues. The youth have no platform with which to communicate with the outside world as the media is also allowed very limited movement in FATA.

There is also a lack of entertainment facilities for the youth as well as a lack of employment and internship opportunities. The youth of FATA are not allowed to be part of the decision making process at any level and this inhibiting freedom is a severe blow to the self-esteem of the youth.

### What is your vision for FATA: how would you like to see FATA as a place in the future and what reforms would you recommend for FATA?

Reforms in the FCR and local elections are the need of the hour. The Right To Information law should be implemented in FATA. Special development projects and national and international level scholarships should be initiated. Local people should be hand-picked on priority for organizations based in FATA, instead of recruiting people from other places. A youth assembly should be established in FATA as well so as to encourage youth participation and activism. A review of the employees in the FDA and FATA Secretariat needs to be done as presently, these bodies comprise more people from Khyber Pakhtunkhwa as opposed to FATA; this aspect should be reversed.

I dream of a FATA that is just and fair, where actions speak louder than words and systems are free from corruption and bribery.

# LANDIKOTAL PRESS CLUB

## Human stories from FATA



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## *At your mercy*

*Deprivation of basic necessities and fundamental human rights often leads to dire circumstances, as in the case of Masood Khan*

Arrested in a minor land dispute, Masood Khan, an active 40 year old citizen, lost his life in jail, where he suffered a severe case of diarrhea that was left untreated. His father, Akhtar Mir Shinwari demanded immediate investigation into his son's death and appealed to various governance forums for justice as well as assistance with raising Masood's family of seven, including six children and a wife.

Masood's cause of death was attributed to dehydration as a result of diarrhea. According to his father, he did not receive timely and adequate treatment while in prison, as a result of which his condition deteriorated so much so, that even after he was shifted to a main hospital in the region, his condition could not be stabilized.

His family continues to strive for justice.

*Disclaimer: The story has been conducted and reported by Mr. Rahat Shinwari, as per conversation with the affected.*