

The FATA Conundrum: A Case Study of Pak-Afghan Border

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Abstract

Historically, the Federally Administered Tribal Area (FATA) of Pakistan has been of great strategic, geographical, economic and political importance, capturing the attention of the region as well as the international community at large. It has been most vulnerable to the events in neighbouring Afghanistan, particularly. Events such as, the Soviet invasion of Afghanistan in 1979, 9/11 and current unrest have played a detrimental role in the area. Additionally, overlapping and prolonged socio-ethnic, geographic and religious attachment of both Pakistan and Afghanistan, has been mostly dominated by the mistrust and policy of non-cooperation by both the states. The involvement of superpowers, regional players and their interests have further complicated the situation, which has led to the radicalization of the area. As a result, terrorism has been able to flourish in FATA in particular across the border and in the region as a whole. With changing regional dynamics in terms of FATA's merger in Khyber Pakhtunkhwa (KP) province of Pakistan in 2019, and rise of new terrorist groups like the Islamic State (IS) in

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Afghanistan, which poses a threat to the region, Pakistan and Afghanistan in particular it is imperative that both Pakistan and Afghanistan work collectively to secure their borders and the region from the escalating threat.

Key words: Transnational Terrorism, FATA Militancy, Administrative Measures.

Introduction

Since times immemorial, the areas that now constitute the Federally Administered Tribal Area (FATA) of Pakistan has been a region of great strategic, geographical, economic and political importance, capturing the attention of the region as well as the international community at large. Located next to Pakistan's Khyber Pakhtunkwa province on one side and straddling along the Pak – Afghan border in the west, FATA covers an area of 27,220 sq. km and is home to the *Pashtun* ethnic population comprising of about 5.002 million.²

FATA comprises of seven administrative areas, which are referred to as agencies; North and South Waziristan, Kurram, Orakzai, Bajaur, Mohmand, Khyber, and six smaller settled districts known as, frontier regions (FRs) (Kohat, Tank, LakkiMarwat, Bannu, Dera Ismail Khan, and Peshawar).

During the British rule over the Indian Sub-continent, FATA was a part of British India. It was administered through a set of laws

²"Physical Features and Climate," FATA Secretariat Website, available at: <http://fata.gov.pk> (Accessed on March 9, 2018).

known as the FCR of 1901.³ The British continued to administer FATA from New Delhi until they decided to end their rule and withdrew from the Sub-continent through the Partition Plan of June 3, 1947.⁴ The Indian Independence Act of 1947⁵ set the framework for the creation of two new independent states namely; India and Pakistan. Moreover, the people of the United India were also given a right to choose their future; whether they wanted to be a part of India or Pakistan as a part of the Partition Plan through referendums and plebiscites. One such referendum was also held in FATA. The *Loya Jirgah* (grand gathering) of the people decided in favour of Pakistan⁶ and thereby, FATA became part of Pakistan in August 1947.

On April 17, 1948, Quaid-i-Azam Mohammad Ali Jinnah, in his first official interaction with a group of tribesmen at the Governor House in Peshawar expressed his gratitude for the role the tribesmen played in the creation of Pakistan. He outlined his desire for the eventual political, social and economic uplift of FATA.

Jinnah stated that,

“Keeping in view your loyalty, help, assurance and declarations we ordered, as you know, the withdrawal of troops from Waziristan as a concrete and definite gesture on our part - that we treat you with absolute confidence and trust you as our Muslim brethren across the border. I am glad that there is full

³Olaf Kirkpatrick Caroe, *The Pathans, 550 B.C. – A.D. 1957*, (Karachi: OUP, 1992), 297.

⁴Ibid.

⁵Ian Talbot, *Pakistan: A New History*, (India: Sage, 2014), 138.

⁶James W. Spain, "The Pathan Borderlands," *Middle East Journal*, Vol. 15, no. 2 (1961), 165-77, available at: www.jstor.org/stable/4323347, (Accessed on September 10, 2019).

realization on your part that now the position is basically different. It is no longer a foreign Government as it was, but it is now a Muslim Government and Muslim rule that holds the reigns of this great independent sovereign State of Pakistan. Pakistan has no desire to unduly interfere with your internal freedom. On the contrary, Pakistan wants to help you and make you, as far as it lies in our power, self-reliant and self-sufficient and help in your educational, social and economic uplift, and not be left as you are dependent on annual doles, as has been the practice hitherto which meant that at the end of the year you were no better off than beggars asking for allowance, if possible a little more. You have also expressed your desire that the benefits, such as your allowances and khassa dari that you have had in the past and are receiving, should continue. Neither my Government nor I have any desire to modify the existing arrangements except in consultation with you so long as you remain loyal and faithful to Pakistan.”⁷

However, despite promises of self-reliance, self-sufficiency, educational, social and economic uplift, FATA continued to be one of the most backward regions of Pakistan, where policymakers and politicians alike, subjected the people to out-dated laws, denying them of their fundamental human, social, political and economic rights and opportunities, as enshrined in the constitution.

With the exception of a few minor amendments, Islamabad had continued to exercise the outdated British model of

⁷ M Rafique Afzal (ed.), "Selected speeches and statements of Quaid-i-Azam Mohammad Ali Jinnah(1911-34 and 1947-48)," (Lahore: Research Society of Pakistan, 1966), 148.

administration, including the Frontier Crimes Regulation (FCR). In short, FATA continued to operate under the same social, economic, political and legal system of administration prior to the creation of Pakistan.

Article 1 of the Constitution of the Islamic Republic of Pakistan, specifies that FATA is a 'special area' and is included among the territories of the country.⁸ The constitution further stipulates that the President of Pakistan is the Chief Executive for FATA, and is directly responsible for the tribal areas.⁹

Furthermore, FATA falls under the direct administration of the federal government which is also responsible for the region's finances and resources.¹⁰ Despite FATA's 'special' status, it is one of the most backward regions of Pakistan when one considers social indicators such as, health, education, life expectancy, and the availability of resources. Given that Pakistan as a whole has also struggled to advance on all these fronts. It is not surprising perhaps, that such a situation has persisted in FATA, which is an even more complicated issue due to its anachronistic administrative setup. Despite this acknowledgement, however, it remains the state's responsibility to ensure that a large region, with a sizable population is looked after, yet it continues to be amongst Pakistan's most neglected, underdeveloped, and impoverished regions, which has witnessed unprecedented turmoil and instability. According to the Bureau of Statistics Cell, 24 per cent of the overall population is

⁸"The Constitution of the Islamic Republic of Pakistan 1973," National Assembly of Pakistan, available at: <http://www.na.gov.pk>

⁹ Ibid.

¹⁰ Ibid.

literate.¹¹ Moreover, FATA suffers from extreme poverty. This is exemplified from the fact that while 73.7 per cent of the masses are poor, nearly 60 per cent of FATA's residents are living below the poverty line.¹²

Despite the promises of reforms and development, FATA has been ignored by successive governments alike. It is due to this neglect that the tribal areas became conducive for extremist elements that foster in unstable and lawless regions, for which the state is partially, if not completely responsible.

While state neglect has played a major role in the deteriorating state of affairs in FATA, events in the neighbouring Afghanistan (during and after the Soviet invasion, current instability due to US war) have had a devastating effect on the tribal belt as well. Furthermore, the international community's limited knowledge, and complete disregard for the area with the exception of unilateral military actions in the form of drones, has further eroded once peaceful nature of the area.

Over the past decade or so, the negative portrayal of FATA and its tribal way of life has been widely observed in the national, regional and international discourse. Perceptions regarding FATA's social and political structure have unfortunately remained limited and little has been done by the state to bring the area into the mainstream or initiate a dialogue on the future of the area.

¹¹"FATA Sustainable Development Plan 2007–2015," Civil Secretariat FATA Peshawar, available at: http://urban.unhabitat.org.pk/Portals/0/Portal_Contents/FATA/Landi%20Kotal/FATA%20Sustainable%20Dev%20Plan%202007-2015.pdf

¹² Raza Ahmad, "Towards State-Building in FATA", *Social Science and Policy Bulletin*, Vol. 2, no. 4(2011), available at: <https://lums.edu.pk/sites/default/files/research-publication/sspb-vol2-no4-spring2011.pdf>

Unfortunately, violence and military operations have been the only tools of contact employed which certainly have not delivered. They rather exasperated the situation further leading to mistrust and lawlessness. As a reactionary consequence, the local tribesmen, more than before, strongly held on their traditional ways of life. As a result, there was wide scale resentment amongst the people of FATA towards the state of Pakistan as compared to the inclination towards militant groups and extremist ideologies.

The border region of Pakistan and Afghanistan has always been vital to the international community and the region, since it has been the most vulnerable to events in the neighbouring states, particularly Afghanistan. Events in Afghanistan, such as the Soviet military invasion in 1979, 9/11/2001, leading to the US military intervention and the current unrest in Afghanistan have all played a detrimental role in the area. The involvement of superpowers as well as regional players and their often-conflicting interests have also further complicated the situation, leading to the consolidation of the militant/terrorist outfits in the region. As a result, a number of terrorist/militant groups from the region have also formed alliances. The transnational terrorism in the region also got the impetus as a whole and FATA in particular.

It is important to highlight that since Pakistan's independence; FATA has never really been a major cause of disturbance. Even during the days of the Soviet invasion and its withdrawal, FATA remained relatively stable. However, after the US military intervention in Afghanistan as a result of 9/11/2001, FATA suffered heavily. While the consequences of the US war were felt throughout Pakistan, FATA suffered the brunt of it. As a result, the tribal areas once again regained the attention of the state, region and international community.

1979 Soviet Invasion - And its impact on FATA

FATA's transformation from a relatively stable and peaceful area to what many have referred to as a 'no man's land', a region ungovernable and lacking in civilization, and what the U.S. administration termed as 'one of the most dangerous places in the world,'¹³ did not happen abruptly. Rather, it is the consequence of a number of internal and external factors over the past 73 years. While FATA has always been affected by events in the neighbouring Afghanistan in one way or another, including the Soviet invasion of Afghanistan in 1979 and its aftermath, the real change in FATA was witnessed after 9/11. Originally, FATA's decline began after the US military intervention in 2001, which began to alter the dynamics of FATA for the worse.

Despite administrative and political problems, FATA has been one of the most peaceful areas of Pakistan since 1947. Even when the war against the Soviet Union in Afghanistan was in progress and later during the Afghan civil war, it remained stable generally. During this time, the *Pashtuns* of the Tribal belt were exposed to the militant interpretation of Islam, where men from all parts of the Muslim world flocked to FATA, to become a part of the foreign sponsored *Jihad* campaign against the Soviets.

Domestically, referred to as "*ilaqa ghair*" (territory that doesn't belong to any one), FATA had a reputation for being the hub of stolen vehicles and abducted individuals, who could only be recovered through the intervention of tribal leaders or the political

¹³"Remarks by the President on A New Strategy For Afghanistan And Pakistan," *The White House*, March 27, 2019, available at: http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-on-a-New-Strategy-for-Afghanistan-and-Pakistan

agent.¹⁴ Often fugitives would seek refuge in FATA, under the local tradition of hospitality, and smuggled goods could be found in abundance.¹⁵ Hence, while crime and smuggling of goods may have been rampant, issues of militancy or terrorism did not exist.

About one-fourth of a total of five million Afghan refugees lived together with the local inhabitants of the tribal areas who brought with them the culture of drugs and Kalashnikovs.¹⁶ While the culture of drugs and weapons put huge social, economic and ideological pressures on the local inhabitants, it still did not give rise to terrorism in FATA or terrorist groups as such. The locals remained more peace loving and accommodated foreign nationals as a gesture of their culture.

On the other hand, sponsored by the US, Saudi Arabia and Gulf countries in the eighties, numerous religious seminaries, *madrassas* and mosques mushroomed throughout the *Pashtun* belt and particularly in the tribal areas. Several graduates from these *madrassas* grew up to become a part of the *Mujahideen* to fight the Soviets in Afghanistan. These *Mujahideen* later became a part of international militant outfits such as *Al Qaeda*. However, despite the presence of foreigners and the fact that FATA's territory served as a training ground for the global *jihad* against the Soviets, the area remained stable and its inhabitants peaceful. In the meanwhile, the traditional *Malik* system in FATA remained intact since it was widely considered respectful. On the local front, not

¹⁴ Babar Sattar, "The Two wars," *The News*, September 27, 2008, available at: <https://www.thenews.com.pk/print/87193-indian-minister-slams-police-over-killing-14-protesters>

¹⁵ Ibid.

¹⁶ Ronald Shaw, Ian Graham and Majed Akhter, "The unbearable humanness of drone warfare in FATA, Pakistan," *Antipode*, Vol. 44, no. 4 (2012), 1490-1509.

only did the local *Maliks* enjoy respect amongst the masses, they played a key role in the decision making.¹⁷

In short, while the Afghan war had its impact on Pakistan as a whole and on the tribal areas, it did not alter the tribal way of life, nor its tribal elders and the system of *Maliks* remained relevant and supreme.

US intervention in Afghanistan 2001 and its impact on FATA

The more significant change in FATA was observed after the U.S. military intervention in Afghanistan in 2001, that transformed FATA into a safe haven for hostile individuals and militant groups.

After the ouster of the Afghan Taliban in 2001 a number of *Al Qaeda* and *Taliban* leaders took refuge in FATA. While the Afghan Taliban had no interest in staying in FATA and in fact, only used it as a base for its resistance against US international troops in Afghanistan, *Al Qaeda* on the other hand, begun to preach and implement its extremist agenda. Many *Al-Qaeda* members sought refuge with local residents, who were reciprocated with huge sums of money to anyone willing to join *Al-Qaeda's* cause. *Al-Qaeda*, with the support from certain locals, mostly self-proclaimed *Mullahs* (religious teachers), who later on became to form what is known as the *Tehrik-i-Taliban Pakistan* (TTP), welcomed the group.

Al-Qaeda and later on the TTP and its affiliated groups successfully took advantage of the poor state of affairs in FATA which suffered due to the neglect and isolation from the state. Its limited authority, weak institutions and rule of law, illiteracy and immense poverty exasperated the situation. By using religion, these

¹⁷ N C Asthana and Anjali Nirmal, *Urban Terrorism: Myths and Realities*, (Pointer, Jaipur, 2009).

groups began to gain, and ultimately won support of the masses which led to the establishment of parallel government institutions.

As a result, the state of affairs in FATA began to deteriorate, with a marked increase in political and social instability, violence, casualties and wide scale displacement. It also brought about a major decline in the tribal system and tribal elders by replacing it with new elite - the *Mullah*.

Before the US intervention in Afghanistan, the traditional *Malik* system in FATA was intact. However, after the US intervention, a major decline in the influence and authority of the *Malik* system was seen along with the rise of the TTP in the region.¹⁸ The rise of the *Mullahs* over the *Maliks* led to the domination of religion over the tribal system of FATA. This completely altered the social and political fabric of FATA and challenged the traditional cultural norms that had existed for centuries.

Resultantly, the TTP took control of the area and through sheer force and coercion, the manipulation of religion started. Initially, the TTP gained popularity amongst the masses because of the use of Islam as an operating force. It introduced the concept of speedy justice which gained them support from the locals. Soon after, the TTP took control of the local villages with the help of heavy weaponization of the region and began to promote its version of *Sharia Law*. It enforced strict dress codes and physical grooming for women and men. It, however, soon began to fizzle out. Once the group began to question the tribal way of life and undermined the tribesmen there was widespread opposition from within FATA against the militants. The tribal elders not only started

¹⁸ Sartaj Khan, "Changing Pashtun Society," *The News*, January 14, 2010, available at: www.thenews.com.pk/daily_detail.asp?id=218558

questioning the policies of the TTP but also stood against them which led to the targeting of the tribal elders, their families and property by the militants. As a result, hundreds of tribesmen and *Maliks* were killed by various militant groups.¹⁹

From 2001 to 2010 more than 1000 tribal leaders were killed.²⁰ As a result, the *Pashtun Wali* (Pashtun way of life) came under threat, so much so that it had begun to slowly erode.

By 2008, the situation in FATA had completely changed. The locals who had once welcomed and supported the *Mullah* now opposed them. The resentment was so evident that in the election of 2008, FATA's masses did not support the *Muttahida Majlis-e-Amal (MMA)*, which was a combination of many religious political parties who had won the previous election by a landslide victory.²¹

Militants Groups in FATA

The *Tehrik-e-Taliban Pakistan (TTP)* comprised of 27 factions of different militant groups united under the leadership of Baitullah Mehsud in 2004. Mehsud had taken over from Nek Mohammad, a local Afghan Taliban sympathizer, killed by a drone strike in North Waziristan.²² While the group was formally not active, in December 2007, the TTP formally announced its existence with 27 subordinate groups, who pledged allegiance to TTP. The sole objective of TTP was to unite small militant factions of FATA under one umbrella

¹⁹ Kimberly Marten, Thomas H. Johnson and M. Chris Mason, "Misunderstanding Pakistan's Federally Administered Tribal Area," *International Security*, Vol. 33, no. 3 (Winter, 2008/2009), 180-189.

²⁰ Naveed Shinwari, "Understanding FATA," *Survey Findings*, Vol. III(2009), 36.

²¹ Joshua White, "Pakistan New Frontier," *Wall Street Journal Asia*, March 4, 2008.

²² Muhammad Amir Rana & Rohan Gunaratna, *Al-Qaeda fights back inside Pakistani Tribal Areas*, (Islamabad: Pakistan Institute for Peace, 2007), 93.

and wage a war against Pakistan due to its involvement in supporting the US War on Terror (WoT) in Afghanistan.

Apart from opposing the WoT, the TTP also called for the implementation of *Shariah* within Pakistan. Initially, the TTP won the confidence of the masses in FATA by delivering on the weak points of the area, such as fragile and ineffective governance, justice system, and poverty. Due to lack of political governance, absence of law and order, the tribesmen in FATA were impressed by the quick and speedy justice system of TTP which they exercised while following their own interpretation of Islam. Hence, the people of FATA initially welcomed the TTP. This helped them in establishing a parallel system of governance in FATA. Although, internet cafes, music and video stores were shut down forcefully, the *Taliban* introduced and enforced law and order which resulted in low crime in the area.

Nevertheless, once the TTP had established a firm foothold in the tribal belt of Pakistan they began to indulge in criminal activities which included kidnapping, forcing people to participate in *jihad*, waging militant attacks on the security forces, and killing locals including tribesmen who opposed their agenda. The TTP also gradually started challenging the authority of the tribesmen and began to promote their interpretation of *Shariah*. This was strictly opposed by the tribesmen. Resultantly, various tribes in FATA formed tribal *lashkars* on the call of their elders and started taking action against the TTP.²³ This eventually forced the government and the Pakistani military to take action against the TTP by undertaking a number of operations against the group. Since 2007, a total of 12 military operations have been conducted, the first one

²³Rahimullah Yusufzai et.al, "A Who's Who of the Insurgency in Pakistan's North-West Frontier Province: Part Two—FATA excluding North and South Waziristan," *Terrorism Monitor*, Vol. 7, no. 4(2009), 1-4.

being *Rah-e-Haq*. Out of the 12 conducted operations, *Zarb-e-Azb* and *Radd ul Fasaad* have been the most successful.

As a result of the military operations, not only the military was able to target local terrorist groups like the TTP, fragments of transnational militant organizations operating in FATA, like the East Turkestan Islamic Movement (ETIM) were also eliminated. This was endorsed by the then Foreign Minister of Pakistan Khawaja Muhammad Asif, who acknowledged the success of these military operations in countering terrorism.²⁴

Outsourcing of the Pak-Afghan Border Region to Militant Groups

The contention revolving around the Pak-Afghan border and its maladministration continues to be amongst other things, a key irritant in the Pak-Afghan bilateral relationship. Although, both states willingly downplayed the controversy surrounding the border yet, Kabul's non- recognition of the border, increase in insecurity, violence and militancy in Pakistan, along with cross-border attacks, all resulted in favour of Pakistan's requirement for an effectively managed and regulated Pak-Afghan border.

Since 2001, both countries have been victims of insecurity and violence, as a consequence of the illegal and unrestricted movement of militants across the border. In fact, 2012-2013 witnessed a steady rise in cross border attacks and militancy along the porous border.

Although, Pak-Afghan border is recognised as an accepted boundary by the international community as an international

²⁴“All Uighur militants eliminated from Pakistani territory: Khawaja Asif, "Dawn, October 18, 2015, available at: <https://www.dawn.com/news/1213920>

border, yet Kabul has traditionally rejected the legal status of this line. Apart from Kabul, militant outfits on both sides of the border such as, the Afghan Taliban, the *Haqqani* network and now the *Tehreek-i-Taliban* Pakistan (TTP) and its off shoots have refused to recognize the border.

Intentionally or unintentionally, Islamabad and Kabul have outsourced the security of the Pak-Afghan border to militant groups whose actions and agendas have been extremely detrimental to the security and stability of both countries.²⁵ Until December 2016,²⁶ the undocumented and unmonitored movement of about 60,000 people would take place daily across the porous Pak- Afghan border,²⁷ with majority of the movement (90 per cent) from Afghanistan into Pakistan.²⁸ Hence, this open movement gave space to insurgents/militant groups to operate freely across the border under the garb of trade by making use of the transit trade routes between the two states. They are privileged by Afghan-Pakistan Transit Trade Agreement (APTTA).²⁹ Under the agreement,

²⁵ Paul Cruickshank, "The Militant Pipeline: Between the Afghanistan-Pakistan Border Region and the West," *Counterterrorism Strategy Initiative Policy Paper*, New America Foundation, February 2010, available at:

www.newamerica.net/sites/newamerica.net/files/policydocs/cruickshank.pdf

²⁶ From January 1, 2017, all those (Pakistani and Afghan citizens) crossing the Pak-Afghan border would require valid travel documents (passport and Visa) to travel to Afghanistan and vice versa, with the exception of residents of Landikotal who would continue to travel to Afghanistan under the easement rights as their 'rahdari' (permit).

²⁷ "China to fund Pak-Afghan border crossings modernisation," *The News*, February 13, 2019, available at: <https://www.thenews.com.pk/print/431511-china-to-fund-pak-afghan-border-crossings-modernisation>

²⁸ Amina Khan, "Pakistan-Afghan Border," *Strategic Studies*, Vol.37, no.3(2017), 22-40 July 21, 2017, available at: http://issi.org.pk/wp-content/uploads/2017/07/IB_Amina_and_Faria_dated_21-7-2017.pdf

²⁹ Vivian Chiu Cochran, "A Crossroad to Economic Triumph or Terrorism: The Afghanistan-Pakistan Transit Trade Agreement," *Global Security Studies*, Vol. 4, no.1 (2013), available at: <http://globalsecuritystudies.com/Cochran%20APTTA%20.pdf>

Pak-Afghan trade follows a significant route covering key areas like FATA, Torkham, Peshawar, Karachi, Quetta, Chaman/Spin Boldak.³⁰ As a result, a number of local (TTP and its offshoots) as well as foreign terrorist groups openly operated along this route till the launch of operation *Zarb-e-Azb* in 2014.³¹

Moreover, the alleged refuge given by Afghanistan to members of the TTP and off shoot groups like the *Jamaat-ul-Ahrar (JuA)* has been a serious issue of concern for Pakistan. Since the Afghan National Security Forces assumed control of security from US/NATO forces in 2014,³² certain Afghan provinces namely, Nangarhar,³³ Nuristan, Kunar,³⁴ Paktika and Gardaiz have become the TTP/JUA launching pads for cross border attacks into Pakistan.³⁵ They targeted Pakistan's check posts throughout FATA, Dir and Chitral are amongst a few.³⁶ Apart from attacking check posts, the TTP/JUA were also responsible for attacks on the Pakistan's Air Force base Badaber in Peshawar, in September 2015 and Army Public School (APS) attack in December 2015, which killed 140 children. In February 2017, the JUA along with the TTP carried out

³⁰ Ibid.

³¹ Saima Ghazanfar, "Operation Zarb-e-Azb: Two years of success," *The Nation*, September 26, 2016, available at: <https://nation.com.pk/06-Sep-2016/operation-zarb-e-azb-two-years-of-success>

³² "ISAF's mission in Afghanistan (2001-2014)," *NATO Archives*, Sep 1, 2015, available at: https://www.nato.int/cps/en/natolive/topics_69366.htm

³³ "Pakistan army pounds more border hideouts," *Dawn*, February 19, 2017, available at: <https://www.dawn.com/news/1315660>

³⁴ Jon Boone, "Pakistani Taliban selects hardliner Mullah Fazlullah as new leader," *The Guardian*, November 8, 2013, available at: <http://www.theguardian.com/world/2013/nov/07/pakistani-taliban-mullah-fazlullah-leader-malala-yousafzai>

³⁵ Ammarah Rabbani, "Prospects of Hostilities on Western Border for Pakistan," *The Conflict Monitoring Center (2012)*, available at: <http://www.cmc.pk.net/wp-content/uploads/2013/01/cba-complete-report.pdf>

³⁶ Ibid.

a string of suicide bombings across the country, killing scores of people.³⁷

As a result of increasing militancy in Pakistan, not only Pakistan undertook a number of military operations in FATA, (Operation *Rah-e- Haq* 2007, Operation *Sher Dil* 2008, Operation Black Thunderstorm 2009, Operation *Raah-e-Raast* 2009, Operation *Rah-e-Nijat* 2009, Operation Brekhna 2009, Operation *Zarb-e-Azb* 2014, Operation Khyber 4, 2017, and Operation *Raddul Fassad* in 2017), it also proposed several border management initiatives. These included fencing, installation of surveillance measures, construction of additional gates and border posts. These proposals were however, opposed by Kabul. Although, the Pakistani military initiated several operations in different parts of FATA, operations *Zarb-e-Azb* and *Radd ul- Fasaad* proved to be more successful as a result of which TTP hideouts in FATA were destroyed. Its leadership was also forced to seek refuge in Afghanistan. Since then, the group has been operating in Afghanistan against Pakistan.

Securing FATA

FATA has suffered greatly due to several incidents in neighbouring Afghanistan. While success has been achieved in eliminating TTP's safe havens in FATA, the fact that the TTP, JUA as well as affiliated insurgent groups have set up bases across the border in Afghanistan, along with the alleged refuge given to them by Afghanistan, is a major cause of concern. In 2016 alone, more than

³⁷ Amina Khan, "Pak-Afghan Relations After the Devastating Terror Attacks in Pakistan," *Issue Brief*, February 23, 2017, available at: http://issi.org.pk/wp-content/uploads/2017/02/Final_IB_Amina_dated_23-1-2017.pdf

50 cross border attacks took place, with 29 of them in the Bajaur agency which borders Afghanistan's Kunar province.³⁸

As a consequence of growing insecurity and violence across the Pak-Afghan border, Islamabad has been advocating for effective border management. Despite repeated efforts for joint border initiatives, Kabul has been less forthcoming. Instead, it has accused Pakistan of promoting cross border terrorism as well as pushing global terrorist networks into Afghanistan.³⁹

With little or no compliance from Kabul, Pakistan for the first time, since its establishment and developing its bilateral ties with Afghanistan, began to implement various border measures on its side of the border, to prevent militants crossing into Pakistan and vice versa. These included the construction of numerous infrastructures (new posts, gates, and forts),⁴⁰ satellite surveillance,⁴¹ and legal movement of masses across the border from both sides. Pakistan enforced new border rules for masses crossing the Pak-Afghan border from January 1, 2017, which entailed valid travel documents i.e. passport and visa. However, residents of Landikotal were exempted under their '*rahdari*' cards (easement permit).⁴² Since late 2016, Pakistan has spent more than

³⁸Amina Khan, "FATA: A Situational Analysis," *Issue Brief*, June 05, 2017, available at: http://issi.org.pk/wp-content/uploads/2017/06/IB_Amina_dated_05-6-2017.pdf

³⁹"Pakistan 'pushing a major series of global terrorist networks' onto Afghanistan: Ghani" *Express Tribune*, March 21, 2015

⁴⁰Shahabullah Yousafzai, "Pakistan Army 'has satellite proof' of Afghan involvement in cross-border terrorism," *Express Tribune*, May 19, 2017, available at: <https://tribune.com.pk/story/1413533/pak-army-satellite-proof-afghan-involvement/>

⁴¹Ibid.

⁴²Ashrafuddin Pirzada, "Many Pakistanis return from Afghanistan as visa restriction deadline ends," *The News*, January 1, 2017, available at: <https://www.thenews.com.pk/print/175974-Many-Pakistanis-return-from-Afghanistan-as-visa-restriction-deadline-ends>

Rs. 67.3 billion in an effort to stop infiltration of terrorists operating in Afghanistan and securing vital installations on its side of the border.⁴³

Since their implementation, these new border initiatives have played a significant role in securing Pakistan's side of the border as terrorist hideouts in FATA have been eliminated⁴⁴ and the threat of insecurity and violence in Pakistan has significantly reduced.⁴⁵ This is exemplified from the fact that the year 2016 witnessed a 45 per cent reduction in the number of militancy casualties, continuing the trend from 2014 due to the military operations launched by Pakistan against terrorist outfits.⁴⁶

With the exception of the Mohmand Agency, the overall security situation in FATA in 2016 witnessed a drastic improvement. While the state of affairs in Mohmand agency remain volatile as the area is moving towards becoming a 'militancy density zone', militant related acts dropped from 691 in 2015 to 479 in 2016.⁴⁷

⁴³ Shahbaz Rana, "Pakistan spent Rs67bn on border control alone," *Express Tribune*, January 4, 2018, available at: <https://tribune.com.pk/story/1600130/1-pakistan-spent-rs67b-border-control-alone/>

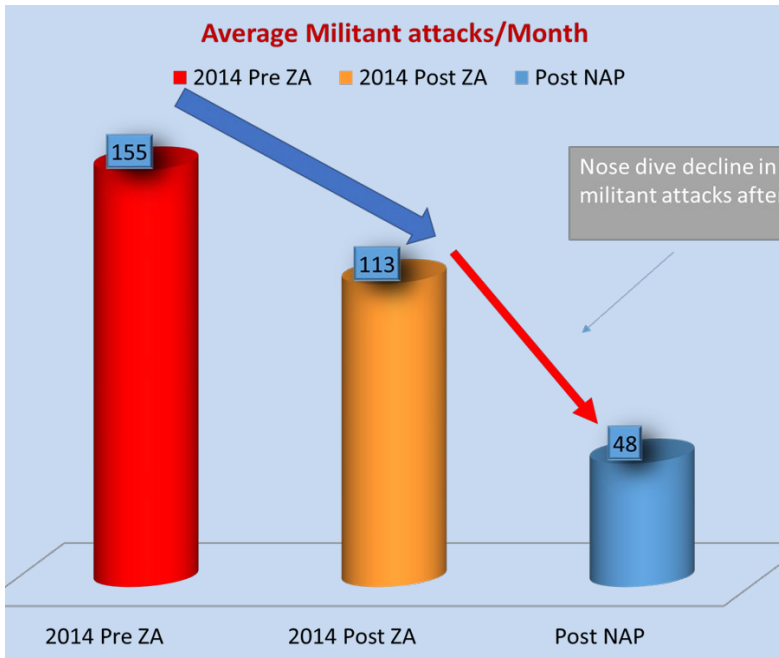
⁴⁴ Marhherita Stancati and Habib Khan Totakhil, "Militants Driven from Pakistan Flock to Afghan Towns," *Wall Street Journal*, January 28, 2015, available at: <https://www.wsj.com/articles/militants-driven-from-pakistan-flock-to-afghan-towns-1422490098>

⁴⁵ "Military operations helped reduce violence in Pakistan: US defence intel chief," *Express Tribune*, February 11, 2016, available at: <https://tribune.com.pk/story/1044791/military-operations-helped-reduce-violence-in-pakistan-us-defence-intel-chief/>

⁴⁶ "Violence in Pakistan drops 45 percent in 2016," *The News*, January 3, 2017, available at: <https://www.thenews.com.pk/latest/176485-Violence-in-Pakistan-drops-45-percent-in-2016>

⁴⁷ Qadeer Tanoli, "5,700 people killed in terror attacks in FATA during last six years," *Express Tribune*, May 28, 2017, available at: <https://tribune.com.pk/story/1421599/5700-people-killed-terror-attacks-fata-last-six-years/>

As a result of the success of military operations, the repatriation



Source: National Counter Terrorism Authority (NACTA)

of Temporarily Displaced Persons (TDPs) had a success rate of 80%.⁴⁸ Continuing with the positive trend, the year 2017, also witnessed a reduction with 21 per cent fewer casualties from militancy related violence.⁴⁹ Moreover, 2019 saw a 31 per cent reduction in terrorism and terrorist activities in Pakistan.⁵⁰

The success in curbing terrorist activities and the threat of terrorism in Pakistan has been primarily due to the military

⁴⁸ Ibid.

⁴⁹ "Violence drops for third straight year: report," *Dawn*, March 7, 2018, available at: <https://www.dawn.com/news/1393772>

⁵⁰ "Pakistan saw 31% reduction in terrorism in 2019, report," *Express Tribune*, December 31, 2019, available at: <https://tribune.com.pk/story/2127740/1-pakistan-saw-31-reduction-terrorism-2019-report/>

operations conducted by the Pakistani Army as well as the new border measures implemented at the border.

However, military success has come at a heavy cost. Since 2006 more than 7,000 people including paramilitary forces have been killed in terror related violence in FATA alone.⁵¹ Despite the military successes, the threat of terrorism continues to persist in the Mohmand Agency. Therefore, stringent security measures need to be adopted in order to completely curb the threat.

Institutional stability and reforms in FATA

1971-77

It is pertinent to note here that FATA observed institutional stability in different phases. The most prominent phase was during the rule of Pakistan Peoples Party under the leadership of Zulfikar Ali Bhutto (1971-77). He was able to extend the rule of law to FATA, with the help of the constitution of 1973 and developed FATA Development Corporation (FATADC). The extension of Federal government authority to FATA since the recent past has played a vital role in the social reforms in the area. The social reforms include the construction of road networks, health facilities, schools and colleges, economic reforms and special quotas in the federal jobs and civil service of Pakistan. All these efforts were made to bring FATA in the mainstream.

1996-97

The second phase of the reforms to mainstream FATA was observed in 1996-97 during the tenure of former President Farooq Ahmed Leghari. Mr. Leghari being the President and the Chief Executive of FATA made an amendment in the constitution and granted the power of right to vote to the people of FATA. The

⁵¹Qadeer Tanoli, Ibid.

amendment was called Adult Franchise Act. Before this particular amendment the right to vote or to contest elections in the region was in the hand of powerful tribal elites.

1998-2008

Former President General Pervaiz Musharraf during his tenure tried to implement reforms in the form of forming local government in FATA. At the same time, it was during his tenure, the FATA region observed the worst instability and turmoil in the area. This happened with the tragic events of September 11, 2001, and after the US attack on Afghanistan. Such incidents changed FATA into a war-torn society and for the first time FATA witnessed violence, terrorism and disintegration of the society. The post 9/11/2001 decisions about FATA such as sending army into the tribal areas, regional political tensions and pressures from the US left negative impact on Pakistan.

2009

After coming to power, Pakistan Peoples Party focused on the uplifting of FATA by announcing a reform package in 2009. The reform package included extension of the Political Parties Act, judicial reforms, limiting the powers of a political agent, political and administrative reforms, and right to appeal in the cases under Frontier Crimes Regulation (FCR), in addition to the special exemption of the cases related to women and children. The reforms also included the formation of Appellate Tribunal for the FATA region. All these reforms were highly appreciated by both the people of FATA and political parties of the country. Proposing reforms for the FATA was never an issue for any government. The problem always arises in the implementation of reforms in their true spirit. Lack of political will to implement these reforms and the fragile security and political situation, coupled with energy crises in the country, put the issue out of sight.

Once again in March 2011, all major political parties of Pakistan, Muslim League Nawaz, *Jamaat-i-Islami*, Pakistan People's Party, *Muttahida Qaumi Movement*, Awami National Party, *Pakhtunkhwa Milli Awami Party* and PPP-Sherpao unanimously agreed on the implementation of Political Parties Act of 2002. These political parties joined together under the banner of the Political Parties joint Committee on FATA Reforms.

Reforms of 2015

Former Prime Minister Nawaz Sharif formed the FATA Reforms Committee in November 2015, "to propose a concrete way forward for the political mainstreaming of FATA areas."⁵² Primary focus of the six member's body was to "draft administrative and political reforms for FATA." As a result, the committee conducted in-depth discussions with relevant stakeholders in FATA. They finally came up with a set of recommendations for the mainstreaming of FATA.

The salient features included, FATA's integration with Khyber Pakhtunkhwa, replacing the FCR with *Riwaj Act*, extending the jurisdiction of the Supreme Court of Pakistan and Peshawar High Court for FATA, and Party-based local government elections to be held soon after 2018 general elections. Other measures included up gradation and capacity building of the Frontier Corps (FC), the formal justice system, modern policing, establishing local government and starting full range of activities for economic and social development.⁵³

⁵² FATA reforms Committee Report, Ministry of SAFRON, August 2016, available at: <http://www.safron.gov.pk/safron/userfiles1/file/Report%20of%20the%20Committee%20on%20FATA%20Reforms%202016%20final.pdf>

⁵³ Imtiaz Ali, "Mainstreaming Pakistan's Federally Administered Tribal Areas, " *SPECIAL REPORT 421*, United States Institute of Peace, 2018, available at: <https://www.usip.org/publications/2018/03/mainstreaming-pakistans-federally-administered-tribal-areas>

In March 2018, in an unprecedented development the federal cabinet finally approved the FATA reforms committee and in May 2018 former President Mamnoon Hussain signed the conversion of the 25th Constitutional Amendment Bill into law enforcing FATA's merger with KP.⁵⁴ This was undoubtedly, a significant step towards the main streaming of FATA.

Since the announcement of FATA's merger with KP, matters pertaining to all divisions and departments of FATA administration have been slowly shifted to the KP provincial administration under the executive authority of the Chief Minister KPs. Previously, these powers were exercised by the Governor KPK. In this way, the fundamental rights of the people of former FATA are now guaranteed by the Constitution of Pakistan under the KPK province of which they were deprived in the past.

Apart from the administrative measures, the government also announced an amount of Rupees 100 billion annually for the overall development of the tribal areas over a period of 10 years. This will start from Bajaur and move towards other deprived districts within FATA. Moreover, the government also said that 3 per cent from the National Finance Commission Award will be dedicated for the tribal areas.⁵⁵

In addition to this, the government has also been trying to tap into the youth of FATA and has pledged Rupees 2 billion and soft loans for the development of youth of the tribal areas. This initiative will play an instrumental role in helping the youth many of

⁵⁴ Amir Wasim, "President signs KP-Fata merger bill into law," *Dawn*, May 31, 2018, available at: <https://www.dawn.com/news/1411156>

⁵⁵ "Govt plans to spend over Rs100 billion annually for development of tribal districts: PM," *Geo News*, March 18, 2019, available at: <https://www.geo.tv/latest/231362-govt-plans-to-spend-over-rs100-billion-annually-for-10-years-in-tribal-districts>

whom have only seen violence. Similarly, the government has also extended *Sehat* Cards for the people of former FATA which will provide the masses with medical insurance. This is a positive step towards an area which was a victim of war and terrorism for many decades.

While there is no doubt that some very positive steps have been taken, it is pivotal that the entire reforms process is extended to all parts of former FATA. While the process is on-going it should be ensured that the merger is implemented in letter and spirit.

It is essential that the state gains the trust and confidence of the people and ensures that they are treated like Pakistani citizens. This can only happen if promises and pledges of reform, development and inclusion are fulfilled.

Political reforms must be accompanied by social and economic opportunities for the people of the region so that they can own and decide their own paths as well. The people of FATA need to be re-assured and convinced that there is commitment and desire on part of the state to integrate and support them; otherwise there will be a sustained and justified resentment and doubts. After all, lack of will and determination to act on promises has been noticed in the past and has caused much damage to the region and to the country as a whole. Pakistan cannot afford to prolong this state of affairs any longer, since further neglect and isolation of these newly merged districts will not bode well for any plans of progress that the country makes. Indeed, reforms and development need to be a part of all such plans and visions for the future, and that too the immediate future. This is in the end, the responsibility of the government which has to ensure stability in the region in order to consolidate the gains made against terrorism.

The complete implementation of reforms thus needs to be prioritized. The future of the country depends on it.

Conclusion

FATA is possibly going through the most critical phase in its history and the ultimate test and solution for FATA will be its political, social and economic development. While the process is on-going, it is essential that pledges made for bringing reforms and development to FATA are implemented. Although in January 2019, the government had claimed that 95 per cent of the work on merging the two administrative units i.e. FATA and KP has been completed⁵⁶ yet, much more needs to be done on the ground. Realizing the need for speeding up the process, Prime Minister Imran Khan in December 2019, had set up task forces for the identification of impediments and facilitation of FATA's merger with KP and ordered the KP government to establish 'reform and implementation committees' for every tribal district of the newly-merged tribal areas.⁵⁷ While there is no doubt that immense hope and optimism has been generated, it is essential that on the national front, the incumbent government implements the FATA merger in order to bring stability to this highly neglected area once and for all. Moreover, the government must also focus on securing the newly merged districts of FATA from the unrest in Afghanistan. Regional dynamics have changed. There are now more players and new actors such as the alleged rise of the Islamic State of Iraq and Levant – Khorasan Province (ISKP) in Afghanistan, whose possible spillover effect has without a doubt, brought a new dimension to

⁵⁶ Rahimullah Yousafzai, "The Fata merger: What's happening now and what should happen next?," *Geo News* October 22, 2019, available at: <https://www.geo.tv/latest/225799-the-fata-merger-whats-happening-now-and-what-should-happen-next>

⁵⁷ Ibid.

the FATA region. Insurgent groups should not be allowed to take advantage of the unguarded crossing points across the border. Hence, in such a scenario it is imperative that Pakistan completes the merger process and continues to secure its side of the border. This will help address Afghan concerns regarding Pakistan's alleged interference, thwart the illegal movement of masses and militants, as well as secure FATA's future.