

## MERGER OF FEDERALLY ADMINISTERED TRIBAL AREAS: TRACKING THE IMPLEMENTATION OF ADMINISTRATIVE AND JUDICIAL REFORMS

Muhammad Ilyas Khan

MS. Scholar, Department of Politics and IR International Islamic University Islamabad

[mrmuhammadilyaskhan@gmail.com](mailto:mrmuhammadilyaskhan@gmail.com)

Corresponding Author: \*  
Muhammad Ilyas Khan

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### ABSTRACT

This study examines the merger of the Federally Administered Tribal Areas (FATA) into Khyber Pakhtunkhwa (KP) following Pakistan's 25th Constitutional Amendment. It analyzes the administrative and judicial reforms replacing the Frontier Crimes Regulations with the Interim Regulation Act 2018. Using qualitative methods and data from official documents and scholarly sources, the research highlights improvements in governance, legal structures, and socio-economic development, especially in resource management and infrastructure. However, challenges remain in fully implementing reforms. The study recommends ongoing institutional capacity building, economic development programs, and improved judicial access to ensure successful integration and sustainable progress in the region.

**Key Words:** - FATA, Administrative, Judicial, Reforms, 25<sup>th</sup> Amendment

### INTRODUCTION

The Federally Administered Tribal Areas (FATA) has historically played a significant role in regional geopolitics due to their strategic location between British India and the Russian Empire. During the 19th century, both Russia and British India expanded their territorial influence and came into proximity in this region. Russia seized the Khoqand Khanate's territory between 1860 and 1870 and later turned the Khiva and Bukhara Emirates into protectorates through several military victories. With Russia now sharing a border with Afghanistan, the British perceived this as a significant threat to their control over India and their trade routes. Consequently, the British authorities made it their political priority to prevent Russian expansion into their domain (Toriya, 2014).

To counter the Russian influence, the British officially recognized Afghanistan as a buffer state between Russia and British India on May 26, 1879. Subsequently, the Secretary of the British India Government, Sir Mortimer Durand, and Afghan

ruler Abdur Rahman Khan signed the Durand Line Agreement. This agreement established a 2,640-kilometer boundary between British India and Afghanistan, which later became the border between Pakistan and Afghanistan after the partition of India in 1947 (Schons, 2011). However, the British administration, dissatisfied with the idea of the Soviet Union's influence in the region, created a separate buffer zone along the Afghan border. This arrangement, known as the Rawalpindi Anglo-Afghan Agreement, delineated the present-day Afghanistan-Pakistan border and reinforced British control over the tribal areas while acknowledging Afghanistan's sovereignty (Yousaf et al., 2018).

Before the partition of India, the British colonial administration followed a policy of non-interference in the internal affairs of the tribal communities inhabiting FATA. Instead, they sought to exert control through indirect rule, enacting draconian laws under the Frontier Crimes Regulations (FCR). These regulations granted extraordinary powers to

the British-appointed Political Agents (PAs), who held unchecked executive, judicial, and administrative authority over FATA's inhabitants. When Pakistan gained independence in 1947, the tribal leaders agreed to join Pakistan under the condition that the colonial administrative system, including the FCR, would be maintained (Sadiq et al., 2021).

FATA, which covered a total area of 27,200 square kilometers, was home to an estimated 4.8 million people. It comprised seven tribal agencies—South Waziristan, North Waziristan, Kurram, Orakzai, Khyber, Mohmand, and Bajaur—as well as six frontier regions—FR Peshawar, FR Kohat, FR Bannu, FR Lakki Marwat, FR Tank, and FR Dera Ismail Khan. The region was directly controlled by the federal government of Pakistan through the President, who exercised authority via the Governor of Khyber Pakhtunkhwa. The Political Agent (PA) was the chief administrator of each agency, functioning as an extension of the Governor's powers and wielding autocratic control over the residents of FATA. This system remained in place for seven decades, leaving FATA politically and legally isolated from the rest of Pakistan (Zubair, 2017).

According to the 1973 Constitution of Pakistan, FATA was granted representation in both houses of Parliament, with 12 seats in the National Assembly and 8 seats in the Senate. However, this representation was largely symbolic, as members of the National Assembly (MNAs) and Senators from FATA lacked the authority to legislate for their own region. Furthermore, the jurisdiction of Pakistan's Supreme Court and High Courts did not extend to FATA unless explicitly mandated by an act of Parliament, which was never enforced. Consequently, despite having constitutionally protected fundamental rights, the people of FATA were unable to exercise them due to the absence of judicial recourse (Zubair, 2017).

Over the years, the people of FATA, along with their parliamentary representatives, civil society organizations, and successive civilian governments, consistently advocated for the integration of FATA into Pakistan's legal and constitutional framework. The history of FATA's reforms demonstrates numerous efforts by Pakistani leaders to introduce political, administrative, and judicial changes in the region.

The first significant attempt at reform came in 1976 when Prime Minister Zulfikar Ali Bhutto initiated a series of legal, administrative, political, and economic reforms in FATA. In 1996, Prime Minister Benazir Bhutto extended the Adult Franchise Act, granting FATA residents the right to vote in general elections. During the early 2000s, under the administration of President Pervez Musharraf, Governor Khalil-ur-Rahman established the FCR Reform Committee in April 2005. This committee aimed to assess the impact of the FCR and propose amendments to make the legal system more just.

In 2006, a report on strengthening and rationalizing administration in FATA was published under the supervision of Sahibzada Imtiaz Ahmad. On January 7, 2008, the Cabinet Committee on FATA recommended amendments to the FCR, including the introduction of legal proceedings, the FATA Qaumi Jirga, jail interventions, and adult franchise expansion. The push for reforms continued, and in 2015, the government proposed constitutional amendments to incorporate FATA into Pakistan's mainstream governance framework.

The most decisive step in FATA's integration came on May 24, 2018, when the National Assembly of Pakistan passed the historic 25th Constitutional Amendment Bill, merging FATA with Khyber Pakhtunkhwa. This decision was subsequently ratified by the Senate on May 25, 2018, and by the Khyber Pakhtunkhwa Provincial Assembly on May 28, 2018, as the amendment directly affected the province's boundaries. Finally, on May 31, 2018, President Mamnoon Hussain signed the bill into law, officially abolishing the FCR and replacing it with the Interim Governance Regulation 2018 (Ullah & Hayat, 2018).

Integrating FATA into Khyber Pakhtunkhwa marks a transformative moment in Pakistan's governance history. This study examines the historical context of FATA's administration, the implications of the 25th Amendment, and the challenges in ensuring effective governance and development in the region. The research will analyze the political, administrative, and legal aspects of FATA's merger while assessing its socio-economic impact. By exploring both past and present reforms, this study will provide insights into the successes and shortcomings of the integration process and offer recommendations for future policy interventions. This study examines the historical context,



governance structure, and legal status of FATA while analyzing the impact of the merger on political, administrative, and judicial reforms. By exploring both past and present reforms, the study aims to assess the implications of this integration for the region's residents.

### Literature Review

The Federally Administered Tribal Areas (FATA) have historically been a focal point of academic research due to their unique geopolitical positioning and the administrative challenges they have faced. Scholars have explored various aspects of FATA, including its political status, military operations, socio-economic conditions, and eventual merger with Khyber Pakhtunkhwa (KP). This literature review synthesizes key studies on FATA and highlights the research gap in administrative and legal reforms following the region's integration into KP.

Khan (2011) provides an in-depth analysis of FATA's political structure before its merger. They discuss how Political Agents, appointed by the central government, held autocratic control over each tribal agency. The traditional governance system relied on Malik's and the Jirga system, which acted as the primary mechanism for dispute resolution. This study emphasizes the lack of a formal judiciary, which contributed to the region's legal isolation.

Khan (2012) discusses military operations conducted in FATA since 2001, aimed at eliminating terrorist and insurgent networks. The study outlines the social and economic costs of these operations, including displacement, destruction of infrastructure, and loss of civilian lives. Similarly, Rehman and Khan (2012) examine how FATA's geopolitical significance influenced Pak-Afghan relations post-9/11. They highlight cross-border insurgencies and the challenges posed by Taliban movements across the Durand Line.

Shah et al. (2019) further explore governance challenges in mainstreaming FATA. They argue that despite legal integration, traditional tribal norms such as Pakhtoonwali and the Jirga system continue to influence governance. The study also critiques the effectiveness of the Interim Governance Regulation in addressing legal and administrative challenges.

Awan (2013) focuses on the state of education in FATA, highlighting high dropout rates, poverty, lack of parental involvement, and inadequate infrastructure. The research emphasizes the specific

challenges faced by female students due to cultural restrictions and societal norms.

Yousaf et al. (2018) provide a comprehensive analysis of FATA's economic system. They discuss the region's reliance on agriculture and trade with Afghanistan, as well as the untapped potential of natural resources such as marble, copper, and coal. The study underscores the importance of economic development for sustainable integration.

Latif (2017) examines the broader demand for new provinces in Pakistan, including FATA's transition into KP. The study suggests that governance failures and ethnic-linguistic divisions have fueled regional demands for administrative restructuring.

Ullah (2017) analyzes past, present, and future governance structures in FATA. The study discusses the introduction of the FATA Local Government Regulation 2002 and the challenges in implementing local governance reforms. Ullah argues that political interference and resistance from traditional power structures hindered the effectiveness of local governance initiatives.

Shah et al. (2021) assess the socio-political impact of FATA's merger, particularly in North Waziristan. Their study highlights improvements in health, education, and security following integration but also identifies persisting administrative challenges.

While existing literature extensively covers FATA's historical governance, military interventions, socio-economic conditions, and its eventual merger, there is a lack of research on the implementation of administrative and legal reforms post-merger. The primary research gap pertains to the challenges faced in fully integrating FATA into Pakistan's legal framework, ensuring judicial access, and establishing an efficient local governance system. Furthermore, the effectiveness of policy interventions in bridging the socio-economic disparities between FATA and the rest of Pakistan remains an area that requires further exploration.

This study aims to address these gaps by examining the administrative and legal reforms introduced after the 25th Constitutional Amendment and evaluating their impact on governance and development in the former tribal regions. By identifying key obstacles to reform implementation and proposing viable policy measures, this research seeks to contribute to a more comprehensive understanding of FATA's post-merger integration.

### Theoretical Framework

The theory of state-building has been selected as an alternative guiding framework for this study. State-building theory focuses on the processes through which political entities develop effective governance structures, legal institutions, and economic frameworks to establish order and stability. Unlike integration theory, which primarily deals with merging political units, state-building theory emphasizes constructing institutional legitimacy, administrative efficiency, and governance capacity (Fukuyama, 2004).

State-building is a process that entails:

- Establishing a centralized governance structure
- Developing rule-of-law institutions
- Ensuring security and stability
- Expanding economic infrastructure and social services
- Strengthening citizen-state relations

Applying this framework to FATA's merger, the transformation of the region from a semi-autonomous tribal structure to a fully integrated administrative unit represents a state-building effort rather than just political integration. The abolition of FATA's previous governance system and the extension of national legal frameworks signify a shift toward formal state authority and rule of law (Ghani & Lockhart, 2008).

Institutional development plays a crucial role in state-building. With FATA's integration, new administrative bodies such as the offices of Deputy Commissioner and Assistant Commissioner were established, a formal judicial system was introduced, and policing was restructured under the provincial government. These changes reflect an effort to strengthen governance mechanisms rather than merely merging political units.

Economically, the allocation of 3% of the Federal Divisible Pool for FATA's development aligns with state-building principles that emphasize resource allocation for infrastructure, education, and economic sustainability. The extension of political representation in the Khyber Pakhtunkhwa Assembly further ensures that governance remains inclusive and participatory.

From a **state-building perspective**, the merger of FATA into Khyber Pakhtunkhwa is not simply about political unification but about constructing effective institutions, securing political legitimacy, and fostering long-term stability. As state-building theory

suggests, the success of this transition depends on the government's ability to maintain security, uphold legal protections, and deliver essential public services (Rotberg, 2004).

This theoretical framework provides the foundation for analyzing the administrative and legal reforms introduced post-merger and assessing their impact on governance, socio-economic development, and institutional effectiveness in former FATA territories.

### Research Methodology

This qualitative study employs a historical and descriptive research design to examine the administrative and legal reforms following the merger of FATA into Khyber Pakhtunkhwa. Legal reforms are defined as legislative changes and their implementation, while administrative reforms refer to structural changes and their application post-merger. Data collection includes primary sources such as official documents and interviews, alongside secondary sources like books, journals, and online resources. Ethical considerations are prioritized, ensuring honesty, integrity, confidentiality, informed consent, anonymity, and courtesy throughout the research process to uphold the highest ethical standards and achieve the study's objectives.

### Historical Efforts towards Reform

The quest for reform in the Federally Administered Tribal Areas (FATA) has been a long and complex journey, marked by various governmental attempts to address the unique challenges faced by the region. Since Pakistan's independence, successive governments have recognized the need for legal and administrative reforms in FATA, yet these efforts have often fallen short of their objectives.

One of the earliest significant attempts at reform was initiated by Prime Minister Zulfikar Ali Bhutto in 1976, who established a committee to integrate FATA with Khyber Pakhtunkhwa. This committee, led by Gen. (Rtd) Naseerullah Khan Babar, aimed to create a framework for development and integration, but its efforts were interrupted by the military coup in 1977. Despite this setback, Bhutto's administration made strides in improving employment opportunities for tribesmen and enhancing infrastructure, including health and education facilities.



In 1996, Prime Minister Benazir Bhutto extended the Adult Franchise Act to FATA, allowing adult citizens to vote, although the political landscape remained dominated by local Malik's who often did not represent the broader populace. The political environment continued to be restrictive, with political parties banned from operating in the region, which limited the political engagement of the local population (Ullah and Hayat, 2017).

The Frontier Crimes Regulation (FCR) of 1901, which governed FATA, was another significant barrier to reform. This colonial-era law denied basic rights to the residents of FATA, including the right to appeal and legal representation. Articles 246 and 247 of the 1973 Constitution further entrenched FATA's unique status, placing it under the direct jurisdiction of the President of Pakistan and limiting legislative powers.

In 2005, President Pervez Musharraf announced a series of reforms aimed at local governance in FATA, establishing Agency Councils to give the people a voice in development projects. However, these councils often operated under the influence of the political administration, limiting their effectiveness (Khan, 2024).

The Pakistan People's Party (PPP) government from 2008 to 2012 revisited the reform agenda, leading to the establishment of the FCR Reforms Committee, which proposed significant changes to the FCR. The 2011 amendments to the FCR introduced some protections for women and minors, but critics argued that the fundamental structure of the law remained largely unchanged (Hussain, 2012).

### **The 2018 and 2019 Constitutional Amendments**

The culmination of historical reform efforts came with the constitutional amendments of 2018, which enabled the merger of FATA with Khyber Pakhtunkhwa. This landmark decision was driven by the recognition that the existing legal framework was inadequate for addressing the needs of FATA's residents. The amendments aimed to integrate FATA into the constitutional and legal framework of Pakistan, thereby extending the same rights and protections enjoyed by citizens in other provinces.

The 25th Amendment to the Constitution of Pakistan, passed in May 2018, abolished the FCR and merged FATA with Khyber Pakhtunkhwa. This amendment was significant as it not only removed the colonial-era laws that had governed FATA for over a century but also extended the jurisdiction of

the Supreme Court and High Courts to the region. The amendment aimed to ensure that the residents of FATA would have access to the same legal rights and protections as other Pakistani citizens, including the right to a fair trial and legal representation (Ullah and Hayat, 2018).

In 2019, further amendments were made to solidify the integration process. These amendments included provisions for the establishment of local government systems in the merged areas, ensuring that the people of FATA would have a voice in their governance. The amendments also aimed to address socio-economic disparities by allocating resources for development projects in the region (Anwar and Khan, 2017).

### **Opposition and Support for the Merger**

The merger of FATA with Khyber Pakhtunkhwa was met with a mix of support and opposition from various stakeholders, including political parties, local leaders, and communities. Supporters of the merger argued that it was a necessary step towards ensuring the political and legal rights of FATA's residents. They believed that integration would provide access to better governance, development opportunities, and representation in the national and provincial assemblies.

Local leaders and community members expressed hope that the merger would lead to improved infrastructure, education, and healthcare services. Many viewed the merger as a chance to break free from the restrictive FCR and the political dominance of local Malik's, who had historically controlled the political landscape in FATA (Ullah and Hayat, 2018). However, there were also concerns regarding the merger. Some local leaders feared that the integration process might lead to the erosion of traditional customs and practices.

### **Implications of Administrative and Judicial Reforms**

The Implementation of the 25<sup>th</sup> Amendment of Pakistan which is Former FATA into Khyber Pakhtunkhwa is a significant step by Pakistan's government, creating a new era for the region. This Implementation has brought Administrative and Judicial as well as diamond-holding opportunities for residents. The government's decision will lead to infrastructure development and increased potential for growth. The Khyber Pakhtunkhwa newly merged districts residents will enjoy constitutional rights,

and their cases will be registered without restriction. The state must focus on the Administrative and Judicial system, infrastructure development, and the restoration of distressed or displaced sections of society.

### **Transformation of Administrative and Governance Structures**

Due to continuous conflict that led to unhappiness and extremist ideology, the former FATA region of Pakistan faced social security challenges. Recently, the decision was made to remove dark and severe laws from FCR in order to create a more effective system. May 2018 brought the implementation of the Temporary Regulatory Act, which will remain in force until the end of FCR (Wasim, 2018). But the Peshawar High Court disapproved of the Act, claiming that FATA had been integrated into Khyber Pakhtunkhwa and that the Peshawar High Court's authority included these regions. The Supreme Court upheld the Peshawar High Court's decision, holding that the 25th Constitutional Amendment banned the application of two laws in specific places. It required the government six months to set up a legal system in these regions (Noor et al., 2018).

A Political Agent, with absolute kingship over each agency, supervised the governance structure of the former FATA. The authority was transferred to a Deputy Commissioner (DC), and each agency was given district status. FATA residents now have direct access to government power through integration, with no restrictions and without needing permission from Malik's or the PA. More than 450 million rupees were set up for the construction of police stations, and more than 29,000 local police units were merged into the Khyber Pakhtunkhwa police. Following the merger of the FATA territory with Khyber Pakhtunkhwa, the combined population was 5.53 million (18.9%) and 2.3%, respectively (Khan, 2020).

### **Holding of Local, Provisional, and Central Government Elections**

The 25th Amendment integrated the tribal territories under the jurisdiction of the Khyber Pakhtunkhwa provincial government by implementing administrative reforms of FATA with Khyber Pakhtunkhwa. A five-year period for the administrative and legal integration of FATA's multiple departments with Khyber Pakhtunkhwa is

provided in the government's reform plan. In addition to its current representation in the National Assembly, the region of FATA also gained new seats and representation in the Khyber Pakhtunkhwa Provincial Assembly and elected its provincial representatives in the 2018 general elections (Ali, 2018). Khyber Pakhtunkhwa currently has forty-five seats in the National Assembly ("Khyber Pakhtunkhwa (45) - National Assembly of Pakistan", (n, d.). So adding the 12 FATA seats will increase its representation to 58 out of 266 directly elected seats in the National Assembly ("National Assembly of Pakistan", n, d.).

But FATA also loses its separate Senate members, and is now represented by senators whose seats have been allocated to Khyber Pakhtunkhwa and who oversee the larger, merged province. As a result of the merger and the creation of additional constituencies using the results of the 2017 According to the national census, there are now more members in the Khyber Pakhtunkhwa Provincial Assembly. In line with the new FATA Local Government Regulations, local party-based elections will also be held in FATA as part of the reform process. This will facilitate the transfer of power to the local level, ultimately empowering the people of FATA, established the state's entire authority, and helped ensure that the reforms are implemented successfully. The creation of new districts and subdivisions as part of the merger resulted in changes to Khyber Pakhtunkhwa administrative units. Khyber Pakhtunkhwa now consists of twenty-six districts. The seven tribal agencies may initially be transformed into new Khyber Pakhtunkhwa districts, according to officials. The low number of people and the need for improved governance and administration could, however, lead to a future redrawing of the borders (Babakhel, 2016). The formal Khyber Pakhtunkhwa government already employs over 52,000 people in various Formal FATA agencies, meaning that the FATA administration is significantly dependent on it. Likewise, the approximately seven hundred personnel of the Formal FATA Secretariat—regarded as the center of affairs for Formal FATA—are also members of the provincial service cadre (Ali, 2018). However if the FATA tribal agencies are not brought up to speed with the Khyber Pakhtunkhwa districts, synchronization would not be simple. The political balance of power in the province could change as a result of FATA's creation into Khyber Pakhtunkhwa.



While Pashtuns constitute the majority of the population in Khyber Pakhtunkhwa, the province is also home to several smaller ethnic groups.

### Installations of the Police System

The Pakistani government takes out administrative reforms through the Ex-FATA, or 25th Amendment to the Pakistani Constitution. Law and order in the tribal districts of EX-FATA is up to the Levies and Khasadar forces. The Khyber Pakhtunkhwa administration has put the recently combined tribal territories of the old FATA under a regular civilian policing system. The Khasadar and Levies were merged into the armed reserve of the Khyber Pakhtunkhwa Police in the spring of 2019. The Khyber Pakhtunkhwa police department has been expanded by integrating the tribal areas, with 130 posts, 13 police lines, and 95 police stations built in the former tribal agency (Khan, 2018). It is expected that the establishment of the police force will bring about improved law and order, more incentives and benefits for security personnel, and a new era of prosperity and peace in the tribal territories (Zuberi, 2019).

Levies and Khasadars were by no means contemporary policing organizations, as is well-known; therefore their merger with Pakhtunkhwa's regular police will present an important hurdle to crime registration, investigation, prosecution, and punishment of offenders in the NMD. In addition, the new police force lacks resources, training, and knowledge of the Weberian model of bureaucracy, which emphasizes hierarchy, efficiency, and merit. People lose trust in law enforcement authorities when there is widespread corruption.

### Implementations of Pattwarkhana (Revenue Department)

One of the divisive problems that the tribal districts carried over from before the 25th Amendment was implemented is land conflicts, which have been continuously escalating into bloodshed because of the government's inaction. These conflicts fall into three general categories: 1) amongst people, 2) amongst tribes, and 3) between the residents and the government. In the meantime, the violence and the tribal society's advancement are hindered by the government's lack of interest in creating a land record (Sahill and Siddique, 2020). With a population of more than five million and an area of 27,220 sq km, the former FATA lacks an official

land registry that is accessible to the general public. The creation of a readily accessible online land record system based on a Geographic Information System (GIS) was one of the recommendations made by the FATA reform committee, considering the importance of land records. Apart from a successful pilot project in the villages of Alamsher and Dingela in the Kurram district, where land records were made available online, the process of digitizing land records has not yet been initiated in the merged districts since the official merger of FATA into Khyber Pakhtunkhwa in May 2018. ("Direct Request CEACR Adopted", 2019).

It has been over three years since the establishment of a proper revenue agency. 2019 saw the extension of land-laws to the combined districts, giving the deputy commissioner and an extra district commissioner more authority. Political Tehsildars were given the responsibility of collecting the taxes. Although the Khyber Pakhtunkhwa revenue department's 2020 land distribution plan is posted on their official website, there are currently no concrete measures in the plan. Unlawful land acquisition by government entities, such as the National Logistics Cell's claims to villagers' land near the boundary between Torkham and Angoor Ada, is another land-related problem that can lead to tension and violence between the government and the locals. Locals verbally (informally) acknowledge one another's land ownership even though there is no obvious official record; nevertheless, disputes over who owns what land escalate and result in violence that claims lives (as in the case of the Karkanra dispute in South Waziristan and the conflicts between Sherjan and Sago Kallay over shamilat in Kurram). Local participation and engagement can facilitate the amicable resolution of multi-reason disputes of this sort, but government commitment is necessary ("Pakistan Land Registration in Merged Areas", n, d). In the merged newly districts of Khyber Pakhtunkhwa, land reforms, also known as land registry and land distribution, are crucial for fostering social and economic development, upholding human rights, and fostering peace. Without proper documentation and land allocation, we cannot expect development and a higher quality of life.

First and foremost, land reforms protect people's ownership rights over their property. Individual land ownership is scarce because families and tribes own the majority of the land. Second, people would be

able to buy or sell land, launch businesses like markets, hotels, and industries, raise cattle, and engage in other forms of agri-production like growing crops. Long-term economic prosperity in the area may result from this increasing economic activity in the area. First and foremost, land reforms protect people's ownership rights over their property. Individual land ownership is scarce because families and tribes own the majority of the land. Second, people would be able to form and sell businesses, buy and sell land, and engage in agri-production by growing crops, raising livestock, and operating hotels and industries (Zeb, 2021).

Due to the resolution of current social divisions resulting from land disputes, there may be a significant societal impact. Land disputes between families or tribes can be resolved by a reasonable allocation of land. It has been noted in the Waziristan district that a portion of the tribal population left their areas during the post-military operation phase. Their homes were destroyed during the fighting, and because of the growth of the family, rebuilding now needs a bigger space. The distribution of land will allow displaced families to rebuild on their ancestral grounds. It is now the responsibility of both tribal elders and the government to initiate and oversee the land distribution process, ensuring it reaches individuals to facilitate the return of displaced tribesmen. This return will help re-establish social cohesion and strengthen social relations that have deteriorated over decades of displacement. Additionally, private entities will establish social services such as education and health facilities to foster competition and improve access to these services, alongside government institutions.

International law and Pakistan's constitution both protect the freedom to own land. People will be able to maintain their right to own property due to land reforms. Due to the current land pattern, women living in the merged districts are disadvantaged and are unable to pass on or claim their right to land. It is vital to distribute land and create a land record in order to support the women in the community. Without a revenue bureau and land records, the courts (created subsequent to the merger) are unable to defend private property rights. Land conflicts cannot be brought before the courts since the latter demand documentary proof, which the parties do not have. It is unknown how many people have been killed over land disputes, but there are land disputes

in every town, tribe, and even family, some of which have developed into violent warfare. Land reform will lessen violent incidents in the merged districts, which have been unstable for decades. Since the government did not intervene to mediate and resolve the conflict, its role in addressing such issues is now being questioned. It is quite sad that the government is hesitant to create land records or provide the necessary documentation to enable the settlement of land-based conflicts. The elders concerned in dispute settlement should receive the document that is now in the possession of the government. The police, the local government, and the elders must all aggressively carry out their tasks in order to put an end to the violent disagreements. The revenue department system should be properly extended to all merged districts in order to guarantee land records. From there, work on land documentation and the creation of GIS-based land records can begin. As evidenced by the Mines and Mineral Act, which unfortunately denied the locals access to the resources on land they had owned for centuries, the social and political leadership of the respected districts ought to be enlisted to manage the process smoothly. A state-centric strategy where decisions are made from above without local input should be replaced with a public-centric strategy. The accessible land records from the British era could be consulted to guarantee a smooth allocation of land. The claim of the parties in the dispute over Karkanra (located in the Wana subdivision) is that records from the British era aid in the resolution of land-based conflicts. Reforms pertaining to land allocation and wisdom from the tribe may be made easier. Priority efforts from the government and the tribe political and traditional elders are necessary in light of the potential for land reforms (Zeb, 2021).

The undocumented land and collective ownership nikat of the land in the NMDs provide one of the courts with one of their biggest obstacles. In most cases, property is the primary source of conflict inside families as well as between tribes; nonetheless, the courts rely on the facts and or documentation. Undocumented land poses a significant obstacle for courts in resolving land-related conflicts, potentially hindering the formal judicial system's ability to function effectively. To resolve some of the land-related concerns, the land settlement would be crucial. A further issue is the substantial backlog of litigation in the federal and provincial courts, which



will increase as citizens of the combined districts begin filing lawsuits.

### **Integration of Former FATA Administration with Khyber Pakhtunkhwa Government**

The formal judicial system's authority was extended to the NMDs by the 25th Amendment to the Constitution. In February 2019, after the Peshawar High Court posted 28 judicial officers of the district judiciary, regular courts began operating in the former EX-FATA. These officers have worked in Timergara (Dir Lower District), South Waziristan in Tank District, Kurram, Orakzai in Hangu District, North Waziristan, Bannu, Mohmand, Charsadda, Khyber, and Peshawar, most recently beginning to serve as judicial officers in District Bajaur.

Despite the implementation of the new system, it faces 18 different issues. None of the promises made to people who used to live in EX-FATA have been actualized. It cannot be denied that the power brokers in Pakistan acted hurriedly to combine EX-FATA with Khyber Pakhtunkhwa, even ignoring the committee's initial 10-year plan. It was made very clear that the merger would take ten years, with the first five years being used to "prepare EX-FATA for the restoration of a durable peace" (Turk, 2021). The federal government pledged to safeguard the development package for the ensuing ten years. Furthermore, it was promised that EX-FATA would receive 3% of the National Finance Commission's share (Raza, 2017). However, the majority of these grandiose promises remain unfulfilled.

Overall, the merger was a positive move, but the rapid implementation within just thirteen days and the unfulfilled promises will seriously erode public confidence in the new system. A significant portion of the population—especially those who supported the conservatism of the archaic approach—opposed the FCR's repeal. They presented legitimate arguments; however, the antiquated and primitive legal framework had acted as a barrier to mainstreaming EX-FATA and introducing significant growth in the area. This resistance stems from several factors, such as the locals' lack of knowledge about current laws, their legal and constitutional rights, and their fear of government actions. The tribesmen's resistance to adapting to the newly implemented legal system may present the government with several difficulties, some of which are outlined below.

### **Legal Status of Former FATA**

The federal structure of the Islamic Republic of Pakistan underwent significant changes in 2018. On May 31, 2018, the President of Pakistan signed the 25th Amendment to the Constitution, legally incorporating EX-FATA into Khyber Pakhtunkhwa. The tribal territories of Khyber Pakhtunkhwa were integrated with the settled areas through constitutional progress. Prior to the merger, the federal government administered the former FATA. Following the merger, Khyber Pakhtunkhwa gained direct responsibility over the tribal belt (Usman, 2022).

The systemic and political changes, driven by adjustments to the written constitution and the federal structure, have led to numerous outcomes. The shift in governance may significantly impact societies in the surrounding areas, tribal belts, and settled regions. There are various social and political repercussions from the FATA-Khyber Pakhtunkhwa merger, affecting sectors such as health, education, security, and social behavior (Sulman et al., 2021).

Tribal elders met in June 2021 and requested the restoration of the area's unique status. They expressed dissatisfaction with the merger, citing little to no improvement in people's lives even after three years. According to Dawn, tribal elders who opposed the merger of the former FATA with Khyber Pakhtunkhwa urged the federal government to reverse the decision and reinstate the region's independent status. During a Bajaur Qaumi Ittihad Jirga (conference) held in the Qazafi region, they voiced their demand. This was the second meeting of its kind by a group representing tribal elders in opposition to the merger (ANI, 2021).

### **Implementation of Reforms**

#### **Deployment of Police and Revenue System**

Following the 25th Amendment to the Pakistani Constitution, which integrated the Ex-FATA region into the national administrative framework, significant reforms have been introduced in the law enforcement system. Previously, maintaining law and order in these tribal districts was the responsibility of the Levies and Khasadar forces. However, the Khyber Pakhtunkhwa (KP) administration has now placed the formerly autonomous tribal regions under a structured civilian policing system. In 2019, the Levies and Khasadar forces were merged into the armed reserve of the Khyber Pakhtunkhwa Police, signifying a

major shift toward modern policing. The expansion of the KP police department, which now includes 130 posts, 13 police lines, and 95 newly established police stations in the former tribal agencies, marks a significant milestone in strengthening governance and security (Khan, 2018).

The introduction of a formal police force is expected to enhance law and order, provide improved incentives and benefits for security personnel, and usher in an era of stability and development in the tribal districts (Zuberi, 2019). However, integrating traditional law enforcement with modern policing presents a series of challenges. The Levies and Khasadar forces, which previously operated under a distinct tribal structure, were not equipped for contemporary policing standards. This transition poses critical challenges in crime registration, investigation, prosecution, and the effective penalization of offenders in the Newly Merged Districts (NMDs). Furthermore, the newly established police force faces significant constraints in resources, training, and familiarity with the Weberian model of bureaucracy, which emphasizes hierarchy, efficiency, and meritocracy. Widespread corruption further erodes public confidence in law enforcement institutions, underscoring the need for robust governance and systemic reforms.

One of the most contentious issues inherited by the tribal districts post-merger is land conflict, which has frequently escalated into violent disputes due to governmental inaction. These conflicts can be broadly categorized into three types: disputes between individuals, conflicts among tribes, and disputes between residents and the government. A major impediment to resolving these disputes is the absence of a comprehensive land record system. With a population exceeding five million and a total area of 27,220 square kilometers, the former FATA region still lacks an accessible and formalized land registry (Sahill & Siddique, 2020). Recognizing the importance of systematic land documentation, the FATA reform committee recommended the establishment of an online land record system based on Geographic Information System (GIS) technology. However, aside from a pilot project in Alamsher and Dingela villages in Kurram District, where land records were digitized, no significant steps have been taken toward implementing this system since FATA's merger with Khyber Pakhtunkhwa in May 2018 ("Direct Request CEACR Adopted," 2019).

Despite the extension of land laws to the merged districts in 2019, which granted the deputy commissioner and additional district commissioner greater authority over revenue collection, the establishment of a fully functional revenue department remains elusive. Political Tehsildars were tasked with tax collection, yet concrete measures for land distribution have not been realized. The Khyber Pakhtunkhwa Revenue Department's 2020 land distribution plan, though publicly available, lacks tangible implementation. Furthermore, illegal land acquisitions by government entities, such as the National Logistics Cell's claims over local lands near the Torkham-Angoor Ada border, have exacerbated tensions between the government and residents. Without an official land registry, land ownership is often determined informally through verbal agreements, leading to recurring conflicts and violent disputes, as seen in South Waziristan's Karkanra dispute and the Sherjan-Sago Kallay conflicts over shamilat ("Pakistan—Land Registration in Merged Areas," n.d.).

Land reforms, including systematic land registration and distribution, are critical for social and economic development, the protection of human rights, and long-term peace in the merged districts. Proper documentation is essential to secure ownership rights, as most land in the region is communally owned by families and tribes. Establishing an official land record system would enable individuals to buy and sell property, foster entrepreneurial activities, and promote investment in businesses such as markets, hotels, industries, and agricultural enterprises. This, in turn, would stimulate economic growth and enhance livelihoods (Zeb, 2021).

Resolving land disputes through transparent land allocation mechanisms would also yield significant social benefits. Family and tribal conflicts over land have historically fueled tensions, often resulting in bloodshed. In Waziristan, for instance, many tribal members were displaced following military operations, with their homes destroyed and their families expanding beyond available land resources. A structured land distribution initiative would enable displaced families to reclaim and rebuild their ancestral properties, restoring social cohesion and strengthening fractured community relations. Moreover, the involvement of private entities in establishing essential services such as schools and

healthcare facilities, alongside government initiatives, would further improve the quality of life. The right to own property is safeguarded under both international law and Pakistan's Constitution. However, women in the merged districts remain disadvantaged due to existing land ownership patterns, which prevent them from claiming or passing down land. Establishing a land record system and ensuring equitable land distribution would empower women, fostering gender inclusivity in property rights. Additionally, the newly established courts in the region struggle to adjudicate land disputes due to the absence of proper documentation. Courts require verifiable evidence to settle property conflicts, yet most parties lack the necessary records. Land reforms would significantly reduce violent disputes, which have plagued the region for decades. The government's hesitance to create a structured land registry or issue official documentation for conflict resolution is deeply concerning. The elders involved in dispute resolution should be granted access to these records to facilitate equitable settlements. The role of law enforcement, local government, and community elders is paramount in ensuring that land disputes are resolved effectively and justly.

To address these challenges, the revenue department must be fully operationalized across all merged districts to ensure accurate land documentation. The establishment of GIS-based land records should be prioritized, drawing insights from historical British-era land records to facilitate seamless land allocation. The Karkanra land dispute in Wana, for instance, illustrates how historical records can aid in dispute resolution. Effective land reforms require a shift from a state-centric approach—where decisions are imposed from above—to a public-centric model that incorporates local input. Tribal wisdom, coupled with governmental commitment, is essential in implementing fair and sustainable land policies (Zeb, 2021).

The undocumented status of land and the communal ownership structure in the NMDs pose significant challenges for judicial proceedings. Property disputes are a primary source of conflict within families and between tribes, yet courts depend on documented evidence to make rulings. Without formalized land records, the judicial system's ability to function effectively is severely constrained. Addressing land-related concerns through a comprehensive land settlement initiative

is imperative. Additionally, the significant backlog of cases in federal and provincial courts is expected to rise as residents of merged districts begin filing property disputes. Implementing structured land reforms will be crucial in alleviating these legal challenges and fostering long-term stability in the region.

### **Holding of Local, Provisional, and Central Government Elections**

The 25th Amendment integrated the tribal territories under the jurisdiction of the Khyber Pakhtunkhwa provincial government, implementing administrative reforms to merge FATA with Khyber Pakhtunkhwa. The government's reform plan provided a five-year period for the administrative and legal integration of FATA's multiple departments into the provincial framework. In addition to its existing representation in the National Assembly, FATA gained new seats in the Khyber Pakhtunkhwa Provincial Assembly, allowing its residents to elect provincial representatives in the 2018 general elections (Ali, 2018). Currently, Khyber Pakhtunkhwa holds forty-five seats in the National Assembly ("Khyber Pakhtunkhwa (45) - National Assembly of Pakistan", n.d.). The addition of twelve FATA seats increases its representation to fifty-eight out of 266 directly elected seats in the National Assembly ("National Assembly of Pakistan", n.d.).

However, FATA lost its separate representation in the Senate and is now represented by senators from Khyber Pakhtunkhwa, who oversee the affairs of the newly merged province. The merger and the creation of additional constituencies, based on the results of the 2017 national census, increased the number of seats in the Khyber Pakhtunkhwa Provincial Assembly. Under the new FATA Local Government Regulations, local party-based elections are set to take place, enabling the transfer of power to the grassroots level. This reform aims to empower the people of FATA, establish the state's full authority, and ensure the successful implementation of integration policies.

As part of the administrative restructuring, the merger led to the formation of new districts and subdivisions, altering the administrative units within Khyber Pakhtunkhwa. The province now consists of twenty-six districts. Initially, the seven former tribal agencies were expected to be transformed into new districts of Khyber Pakhtunkhwa. However, given

the relatively low population density and the need for more effective governance, there may be future revisions to these district boundaries (Babakhel, 2016).

The formal Khyber Pakhtunkhwa government currently employs over 52,000 personnel in various capacities within the former FATA agencies, making the region significantly dependent on provincial administrative structures. Additionally, approximately 700 personnel of the former FATA Secretariat—previously the center of governance—are now part of the provincial service cadre (Ali, 2018). The synchronization of FATA with the rest of Khyber Pakhtunkhwa remains a complex process, as the political dynamics of the province shift with the merger. Although Pashtuns form the majority of the population in Khyber Pakhtunkhwa, the province is also home to various smaller ethnic groups, whose representation and administrative inclusion require careful consideration.

### **Installation of the Formal Judicial System in Newly Merged Districts**

The authority of the formal judicial system was extended to the Newly Merged Districts (NMDs) through the 25th Amendment to the Constitution. In February 2019, the Peshawar High Court appointed 28 judicial officers to serve in the district judiciary, thereby establishing regular courts in the former Ex-FATA region. These officers were initially posted in Timergara (Dir Lower District), South Waziristan (Tank District), Kurram, Orakzai (Hangu District), North Waziristan (Bannu), Mohmand (Charsadda), and Khyber (Peshawar). Most recently, a judicial officer was appointed to oversee district Bajaur. However, despite the formal establishment of the new judicial system, it faces multiple challenges.

A significant concern is the failure to actualize many of the promises made to the people of Ex-FATA. The power brokers in Pakistan hastily executed the merger with Khyber Pakhtunkhwa, disregarding the initial ten-year transition plan proposed by the reform committee. The plan originally outlined a phased integration over a decade, with the first five years dedicated to "preparing Ex-FATA for the restoration of a durable peace" (Turk, 2021). Additionally, the federal government pledged a developmental package for the region for the subsequent ten years, including a commitment that Ex-FATA would receive 3% of the National Finance

Commission's (NFC) allocation (Raza, 2017). However, many of these commitments remain unfulfilled, leading to growing public dissatisfaction and eroding confidence in the new system.

Despite the potential benefits of the merger, the rapid implementation—completed in just thirteen days—left many structural and administrative gaps. The abrupt transition has also fueled resistance among certain segments of the population, particularly those who favored the traditional legal framework. Many conservatives opposed the repeal of the Frontier Crimes Regulation (FCR), arguing that it provided a system more aligned with local traditions. However, while their concerns are valid, it is also evident that the outdated FCR system hindered the mainstreaming and socio-economic development of Ex-FATA.

The introduction of the formal judicial system presents several challenges, primarily due to a lack of awareness among local communities regarding contemporary laws, their constitutional rights, and legal procedures. Additionally, there exists a deep-seated mistrust of government institutions, which further complicates the transition. The reluctance of tribal communities to embrace the new legal system poses significant obstacles, necessitating targeted efforts from the government to facilitate a smoother integration. Addressing these challenges requires a multi-pronged approach, including public awareness campaigns, legal education programs, and the active involvement of tribal elders to bridge the gap between traditional practices and the modern judicial framework.

### *Former FATA Merger: Addressing Administrative and Judicial Challenges*

#### **Administrative Challenges**

The merger of former FATA with Khyber Pakhtunkhwa (KP) necessitates a transition from the conventional tribal governance structure to a standardized administrative framework. The province of KP must now take the lead in governance and assume greater responsibilities in managing the newly merged districts. However, overseeing these areas effectively remains a significant challenge due to logistical and bureaucratic complexities.

Analysts argue that while the procedural aspects of the merger, such as departmental file work, could have been completed in a matter of weeks, its practical implementation is far more labor-intensive



(Firdous, 2017). The integration process requires the establishment of administrative institutions, allocation of resources, and deployment of trained personnel to ensure effective governance in these historically neglected regions.

### ***Judicial Challenges***

The judicial landscape in the newly merged districts presents formidable challenges. Traditionally, tribal communities have resolved disputes through the Jirga system, an informal and deeply rooted mechanism of justice. The general population is familiar with this system and finds it more accessible than the formal judicial framework.

With the merger, Pakistan's national laws—including the Qanoon-i-Shahadat Order (1984), the Pakistan Penal Code (PPC), the Code of Criminal Procedure (CCP), and the Civil Procedure Code (CPC)—have been extended to the region (Yadav, 2019). However, these legal statutes are complex, highly formalized, and require professional legal assistance, making them difficult for the local population to navigate.

Experts warn that the abrupt imposition of formal legal structures may lead to confusion and resistance among the residents. Many lack basic legal literacy and are unfamiliar with the procedural requirements of formal courts, including case filings, deadlines, and documentation. As Khattak (2017) notes, “many tribesmen are unable to spell their own names,” highlighting the significant gap in legal awareness.

The shift from the Jirga system to formal courts also raises concerns regarding accessibility, efficiency, and affordability. Tribal communities have traditionally relied on the Jirga for swift and cost-effective dispute resolution. In contrast, formal courts are often distant, expensive, and prone to delays. As Mohmand (2018) observes, “the Jirga system would usually address disputes in tribal regions inexpensively, informally, and on time—irrespective of how the police functioned or whether people had access to courthouses, which sometimes lay hundreds of kilometers away.”

This transition has generated mistrust among the local population, many of whom fear that the merger will merely replace the previous Political Agent (PA) system with an equally corrupt police force and bureaucratic judiciary. Overcoming these concerns requires sustained efforts to build trust, improve legal literacy, and ensure that judicial services are accessible and efficient.

### ***Addressing Gaps in Reforms***

Despite the significant strides made through the 25th Amendment and the subsequent integration of the former FATA into Khyber Pakhtunkhwa, several gaps remain in the implementation of reforms. The transition from a tribal governance structure to a formal legal, administrative, and policing system has encountered numerous challenges, including inadequate infrastructure, lack of awareness among the local population, and delays in fulfilling promised development initiatives. Addressing these gaps requires a comprehensive approach that prioritizes both short-term and long-term measures to ensure sustainable progress in the newly merged districts.

### ***Strengthening Institutional Capacity***

The newly established judicial and policing systems require substantial investment in human resources, infrastructure, and training programs. Capacity-building initiatives should focus on educating law enforcement and judicial officers on local customs, ensuring effective dispute resolution while maintaining legal integrity. Establishing additional courts and police stations in remote areas will help improve accessibility to justice and security services.

### ***Enhancing Public Awareness and Engagement***

Many residents of the merged districts remain unfamiliar with the formal legal and administrative systems. Awareness campaigns should be launched to educate citizens on their rights, legal procedures, and government services. Community engagement programs, including tribal elder consultations and local governance workshops, can facilitate smoother transitions and build trust in the new system.

### ***Accelerating Infrastructure and Development Projects***

The delayed allocation of promised funds, particularly the 3% share from the National Finance Commission (NFC), must be addressed to ensure the timely completion of infrastructure, healthcare, and educational projects. Digital land record systems should be expanded across all districts to prevent disputes and improve land ownership transparency. Investment in roads, electricity, and internet connectivity will further integrate the region with the rest of Pakistan and boost economic activities.

### ***Ensuring Effective Law and Order***

The merger of Levies and Khasadar forces into the Khyber Pakhtunkhwa Police must be supplemented with specialized training programs, modern equipment, and adequate funding to improve law enforcement efficiency. Anti-corruption measures should be strictly implemented to restore public trust in law enforcement and governance.

### ***Strengthening Local Governance and Political Participation***

The successful implementation of local government elections in the merged districts should be followed by measures to empower elected representatives with decision-making authority and financial resources. Greater political inclusion of the local population, particularly women and marginalized groups, will enhance the democratic process and ensure equitable representation.

### ***Addressing Land Disputes and Strengthening Revenue Systems***

The formalization of land records must be expedited to resolve ongoing disputes and prevent future conflicts. Establishing dedicated land settlement courts or tribunals can help address grievances efficiently. The revenue department should be fully operationalized in all merged districts to streamline taxation and property management.

### ***Conclusion***

The integration of the Federally Administered Tribal Areas (FATA) into Khyber Pakhtunkhwa in 2018 stands as a historic milestone in Pakistan's political and administrative landscape. This long-awaited reform offers a pathway to stability, economic development, and political empowerment for a region that had long been marginalized. The extension of constitutional rights, legal reforms, and enhanced political representation marks a transformative step in ensuring that the people of the former FATA have access to justice, governance, and socioeconomic opportunities.

However, while the merger presents significant opportunities, it also brings considerable challenges. Addressing historical grievances, ensuring equitable distribution of resources, and strengthening administrative capacities are essential for a smooth transition. Sustainable development requires effective governance, strategic investment in infrastructure, education, and healthcare, as well as

job creation to uplift the local population. Furthermore, balancing traditional tribal structures with modern governance mechanisms is crucial to fostering trust and cooperation.

To ensure the long-term success of this reform, a sustained commitment from the government, civil society, and local communities is necessary. Transparent policies, inclusive decision-making, and efficient resource allocation will be key to transforming the newly merged districts into a stable, prosperous, and empowered region. If implemented effectively, this merger can serve as a model for equitable governance, contributing to national stability and long-term development.

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