Mainstreaming the Federally Administered Tribal Areas of Pakistan: Historical Dynamics, Prospective Advantages and Challenges^{*}

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Abstract

Historically, the present-day northwestern Federally Administered Tribal Areas (FATA) of Pakistan have been ruled under the 1901 Frontier Crimes Regulations (FCR). After partition of British India in 1947, the tribal areas acceded to Pakistan; and the latter continued with the same colonial era isolationist special governance system. The Cold War politics and post-9/11 Afghan war turned this area into an ideological and operational base for domestic, regional and global terrorism and militancy. This precarious security environment compelled Pakistan carry counterinsurgency military operations. Lately, to achieve enduring peace, the debate on FATA's merger has taken on momentum resulting in milestone constitutional developments. This article is an attempt to explore how this significant tribal region evolved over time into a strategic vulnerability for Pakistan leading to a sociopolitical movement for its integration, with a focus on the advantages and challenges of this objective.

Keywords: Tribal Areas, Political Integration, Identity, 9/11, Afghanistan War, Terrorism, Governance.

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Introduction

since 1901, the Federally Administered Tribal Areas (FATA) of Pakistan have been governed under the Frontier Crimes Regulations (FCR), adopted as a colonial legacy after 1947. Over the years, this special governance system has given rise to complex security, political and socioeconomic problems in the region. Since the 1980s, the region has been experiencing mounting extremism and terrorism. In the post-9/11 period, these issues have grown more complicated.

In this context, a political and intellectual debate on FATA mainstreaming¹ started almost a decade ago. The most important development in this direction took place in December 2014 when the agenda of FATA reforms was included in the 20-point counterterrorism National Action Plan (NAP) of Pakistan. Consequently, a six-member FATA Reforms Committee (FRC) was constituted in November 2015 to work out concrete proposals for mainstreaming of FATA. After consultations with the people of FATA and other stakeholders, the FRC came up with a comprehensive report, which was vetted and approved by the government as a 24-point reform package. The Committee identified various factors, such as the lack of constitutional rights and deterioration of the security situation, for the existing predicament of FATA, and also highlighted socioeconomic underdevelopment as the underlying problem. For FATA mainstreaming, the Committee put forward a five-year transition plan comprising of legal, political, administrative and developmental measures, along with a ten-year socioeconomic uplift plan. Towards implementation of the FRC recommendations, several steps have already been taken, including extension of jurisdiction of the Supreme Court and the Peshawar High Court to FATA, adoption of the 31st Amendment Act, 2018, which seeks FATA's integration with the Khyber Pakhtunkhwa (KPK) province, and replacement of FCR with the FATA Interim Governance Regulation.

Most of the scholarly literature focuses on FATA from a security viewpoint. Derek Gregory categorised the region among the borderlands characterised as ambiguous spaces or grey zones which became a target of

¹ The term 'mainstreaming' has been used interchangeably with 'integration' and 'merger' as appropriate in the article.

the United States' (US) changing modern war.² Madiha Tahir identified the perception gap between the ground reality in FATA shaped by drones, troops and fighters and the image of the tribal territory as 'wild' held in world capitals.³ Naseemullah argued that FATA's political order remained intact despite the fact that signs of the current insurgency always existed, indicating that marginalisation of the political agents' hybrid governance system led to the onset of the post-9/11 insurgency in the region.⁴ Taj contested the widely held view that the US drone strikes in FATA resulted in extensive civilian casualties and were unpopular arguing that it was based on misinformation.⁵ Shaw and Akhtar established a logical link of the US drone warfare in FATA to an ambiguous FATA-state relationship and deadly law-technology interaction.⁶ Put together, these studies reveal that the ambiguous politico-legal status of these tribal areas led to difficult security challenges in the region.

Making use of the foregoing argument, this article examines how the initiatives for FATA mainstreaming would potentially address the security and the underlying political and socioeconomic trials and tribulations of the tribal belt. It draws on the *Theory of Political Integration* authored by Claude Ake, who argues that the process of political integration involves 'the progressive development among members of a political system of a deep and unambiguous sense of identity with the state and other members of the civic body.' Ake contends that a successful drive for integration in a political system needs

Derek Gregory, "The Everywhere War," *The Geographical Journal* 177, no. 3 (2011): 238-250, https://doi.org/10.1111/j.1475-4959.2011.00426.x.

Madiha Tahir, "The Ground was always in Play," *Public Culture* 29, no. 1 (2017): 5-16, https://doi.org/10.1215/08992363-3644373.

⁴ Adnan Naseemullah, "Shades of Sovereignty: Explaining Political Order and Disorder in Pakistan's Northwest," *Studies in Comparative International Development* 49, no. 4 (2014): 501-522, doi: 10.1007/s12116-014-9157-z.

⁵ Farhat Taj, "The Year of the Drone Misinformation," *Small Wars and Insurgencies* 21, no. 3 (2010): 529-535, https://doi.org/10.1080/09592318.2010.505486.

⁶ Ian Graham Ronald Shaw and Majed Akhtar, "The Unbearable Humanness of Drone Warfare in FATA, Pakistan," *Antipode* 44, no.4 (2012): 1490-1509, https://doi.org/10.1111/j.1467-8330.2011.00940.x.

Claude Ake, "Political Integration and Political Stability: A Hypothesis," World Politics 19, no. 3 (1967): 486-499 (487), https://doi.org/10.2307/2009789.

to be authoritarian, consensual, 'identific' and paternal.⁸ Authoritarianism means that the government should be strong and decisive in dealing with any reaction from certain vested interests and overcome the resulting political instability. Consensual underscores the political value of collective responsibility of the ruling elite to address social differences vis-à-vis political integration. 'Identific' demands the elite to identify with the masses and adopt politics of a 'populistic' tone. Paternal means the leaders should 'father' the social transformation through innovation, motivation and confidence-building.

From the above theory, the argument follows that FATA mainstreaming needs to be an inevitable objective in order to deliver its people from the decades-old instability resulting from the lack of its political and socioeconomic integration into mainstream Pakistan. More generally, this integration needs to be seen and accepted as part of the continuing project of national integration in Pakistan. Second, the drive for mainstreaming needs to be comprehensive covering political, legal, security and socioeconomic dimensions. Third, the ruling elite will have to demonstrate Ake's four characteristics, and be both authoritarian and paternal, as well as 'identific' and consensual.

This article was developed using secondary qualitative data from books, research articles, government documents, think-tank reports, newspapers as well as primary data from interviews of a few parliamentarians from FATA and KPK. A review of the data led to the identification and interpretation of the patterns and themes presented here. However, it needs to be admitted that the article does not include any direct survey or interviews of the tribal people on the subject of FATA mainstreaming; rather, the authors relied on government and non-governmental reports.

Historical Background

The Anglo-Russian 'Great Game' played out in late Nineteenth and early Twentieth Century in quest of territorial expansion influenced global geopolitics. The complex entente between these two major imperial

⁸ Ibid., 486.

powers vitally transformed the world map, particularly Central and South Asia. The rivalry between Britain, which controlled much of South Asia, and Russia, which ruled Central Asia, soon turned Afghanistan into a flashpoint. Afghanistan faced Britain to the east and Russia to the north, both desirous of controlling this strategically important country to safeguard their interests. Britain viewed Russia's outreach to Central Asia as a serious threat to its rule in the subcontinent, assuming that the then-Union's overreach to Afghanistan would eventually end up gaining control of India. Britain then was more concerned about colonial rule in India than any other colonial occupation and, therefore, undertook a proactive approach against the Soviet Union viewing Afghanistan as a forward defence position. 9

The Indian Empire, described by Paul Scott as 'the jewel in the British crown,' was considered a symbol of power and prestige for the British Empire, and thus, represented its imperial superiority amongst other European imperial powers. Therefore, Russia's incursions in Central Asia framed British India's defence as the central pillar of the latter's imperial policy throughout the 'Great Game' period (1856-1907). Implementing a forward policy towards Central Asia and Afghanistan, the former Soviet Union reached the Amu Darya/Oxus River (modern day line of division between Central Asia and Afghanistan) without meeting great resistance from the militarily weak and politically unstable Khanates. While the Soviet Union was conquering Central Asia, British officials realised that any Russian attack on Afghanistan would be a precursor to invading the subcontinent. In pursuit of a forward defence policy, the British extended India's northwestern frontier towards Afghanistan to the Durand Line. 11

In pursuit of the 'Great Game', Britain fought three major wars against the tribal people of Afghanistan to gain territorial control, but

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⁹ A strategic concept which calls for containing or repulsing military aggression as close to the original line of contact as possible so as to defend the entire territory of a nation or alliance.

Paul Scott, *The Jewel in the Crown*, The Raj Quartet, vol. 1 (Chicago: University of Chicago Press, 1966), 21.

¹¹ Named after the British diplomat Sir Henry Mortimer Durand who negotiated and signed the delineation agreement with the Amir of Afghanistan.

could not succeed. 12 After failure to control Afghanistan through coercion, Britain took up the strategy of offering monetary subsidies to influence the Afghan political elite, and thus, counter any Russian influence in the country. However, the Panjdeh crisis of 1885 emerged as a critical moment when Soviet Union's occupation of Afghan territory brought the two rivals to the brink of war. 13 The incident further aggravated the fear that Soviet Union's occupation would serve as the gateway to India. This apprehension gave the necessary impetus to Britain to demarcate a border between Afghanistan and northwestern India. Consequently, in 1893, the Durand Line was effectuated as the British India-Afghanistan border, ¹⁴ and hence, the respective spheres of influence between the two sides were determined.

Even before border delimitation, the colonial masters had come to the conclusion that special legislative and administrative measures were needed to rule the tribesmen whom the British considered the 'wildest and most turbulent race on earth.' Sir Richard Temple, then-Secretary to the Chief Commissioner of Punjab, remarked:

> Now these tribes are savages, noble savages perhaps and not without some tincture of virtue and generosity, but still absolutely barbarians nevertheless.16

Unscrupulous British tribal policy finally resulted in promulgation of a peculiar set of laws called the 'Frontier Crimes Regulations', widely known by its acronym FCR, in the tribal areas in 1901. The FCR were an idiosyncratic system which intended to establish an astringent control over the intricate tribal dynamics. The British learnt, through decades-long dealing with uncompromising tribal people living in rugged terrain, that

¹² Gregory Fremont-Barnes, *The Anglo-Afghan Wars 1839-1919*, Essential Histories (New York: Bloomsbury Publishing PLC, 2009), 90.

¹³ Historical Dictionary of the British Empire, eds. James S. Olson and Robert Shadle (Westport: Greenwood Press, 1996), 861.

¹⁴ Salman Bangash, The Frontier Tribal Belt: Genesis and Purpose under the Raj (Karachi: Oxford University Press, 2016), 185.

¹⁵ Harold Carmichael Wylly, From the Black Mountain to Waziristan (London: Macmillan and Co., 1912), https://archive.org/stream/fromblackmounta00wyllgoog#page/n294. 16 Ibid.

the only way to exercise influence on the periphery was to handle them by means of coercive and intimidating laws. For this reason, the tribal belt became subject to extremely oppressive FCR with the cooption of tribal chiefs and political agents who remained more loyal to the British interests than that of their fellow tribesmen.

The notorious FCR bore a close similarity with South Africa's system of apartheid as it segregated the tribesmen from the rest of the colonial population by imposing uncivilised, exploitative and draconian laws on them. It intended to overpower the tribesmen through collective fines, blockades, punitive expeditions and the policy of 'collective tribal territorial responsibility' with an aim to protect the strategic interests of British India. In addition, Britain's forward defence strategy entailed a frontier policy which led to the formation of North-West Frontier Province (NWFP) in 1901. Soon after its creation, the NWFP was placed directly under the control of the Governor-General with a Chief Commissioner as the agent in-charge.

By 1907, Anglo-Russian diplomacy led to a convention which declared Afghanistan a buffer state to keep the country neutral between the respective spheres of influence of the two imperial powers. Their mutual agreement on the policy of non-interference in Afghanistan also brought an end to the 'Great Game.' Still, the British remained apprehensive about the Soviet Union's designs, and decided to set the tribal region as another buffer zone within the Indian border with Afghanistan to build a strong bulwark against any likely attack, and thus, maximise the subcontinent's defence west of the Indus. Subsequently, Afghanistan and British India reached an armistice at the end of the third and last Anglo-Afghan war (May-August 1919). This Anglo-Afghan Treaty or Treaty of Rawalpindi led to the return of Afghanistan's complete sovereignty as well as mutual acceptance of the status of Durand Line, 18 the line which divides modern day Pakistan and Afghanistan.

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¹⁷ Gulman S. Afridi, "FCR's Collective Responsibility," *Dawn*, January 1, 2012, https://www.dawn.com/news/684791.

Anglo-Afghan Treaty. Treaty Series No. 19, UK-Afghanistan, November 22, 1921, https://bit.ly/2saS8R9.

Pakistan's FATA Policy

With its creation in 1947, Pakistan inherited the most chaotic and difficult North-West Frontier region with FCR as the governance system. Maintaining the age-old colonial practice, it granted special legal-administrative status to the region. The only precondition set by the tribesmen to join Pakistan was that their *Rewaj* (custom) be respected, which they had been following for centuries as a legal tool for dispute resolution through the *Jirga* (semi-formal council of elders). The *Rewaj* Act, incorporated in the FCR, comprised of four key tenets – *nang* (honour), *melmastia* (hospitality), *badal* (revenge), and *nanawati* (asylum).

The nascent state's discourse on the tribal people was clearly defined in Quaid-i-Azam's historical address to the tribal *Jirga* at the Government House, Peshawar on April 17, 1948. The address remains a valuable guideline for Pakistan's frontier policy even today. In his speech, the Quaid emphasised Pakistan's two-pronged policy towards the tribal region - non-interference and support for self-reliance and self-sufficiency. Unfortunately, Jinnah's early demise resulted in abandonment of his vision of socioeconomic uplift of the tribal belt. Successive governments failed to pay much needed heed to this geostrategic gateway to Afghanistan and Central Asia. Over decades, many changes occurred in the political nature and system of Pakistan, but the status of the tribal region remained untouched such that the country persistently failed to revamp Britain's colonial legacy.

The tribal territory of Pakistan comprises an area of 27,200 square kilometres, with a population of around five million inhabitants, according to Pakistan's sixth population census of 2017. The administrative system of the tribal areas under British colonial rule comprised of five agencies - Khyber, Kurram, Bajaur, North Waziristan and South Waziristan. Later, two more agencies, Mohmand and Orakzai, were integrated into the tribal

¹⁹ Ministry of Information & Broadcasting, GoP, *Quaid-i-Azam Mohammad Ali Jinnah: Speeches and Statements 1947-48* (Government of Pakistan, 1989), 239.

Pakistan Bureau of Statistics, GoP, "Block Wise Provisional Summary Results of 6th Population & Housing Census-2017 [As on January 3, 2018]" (Government of Pakistan, 2017), http://www.pbscensus.gov.pk/.

structure in 1951 and 1973 respectively, increasing the total number of agencies to seven. The adjoining six Frontiers Regions (FR) - Bannu, Dera Ismail Khan, Kohat, Lakki Marwat, Peshawar and Tank - represent the administrative and geographic divide between the tribal agencies and the settled districts of the NWFP province, renamed Khyber Pakhtunkhwa (KPK) in 2010 [Figure 1].

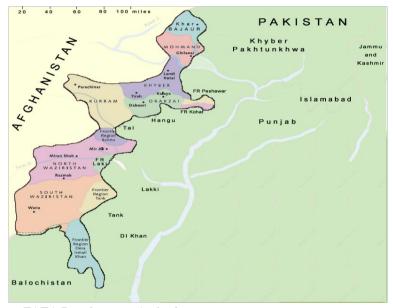


Figure 1: Map of FATA

Source: FATA Development Authority.

The 1973 Constitution categorised the tribal areas as the 'Provincially Administered Tribal Areas (PATA)' and the 'Federally Administered Tribal Areas (FATA).' The seven agencies, along with the adjoining frontier regions, became a federal subject under the direct control of the President of Pakistan whose executive power, in this case, was exercised by the NWFP/KPK Governor. Articles 246 and 247 of the

1973 Constitution defined this peculiar governance system of FATA.²¹ Administratively, each tribal agency was governed by a political agent, usually a bureaucrat, who had almost absolute political, executive and judicial powers as representative of the President. The region remained outside the judicial system of Pakistan, and disputes were settled through a *Jirga*.

Historically, Pakistan failed to bring FATA under the mainstream politico-legal system. It has been neither a province nor part of any province - a sui generis entity - which is still struggling to obtain a normal constitutional status. In other words, its tribal people have been experiencing a system which ensured neither a stake in their own country nor any certainty about and control over their own future. FATA's management under a rudimentary system reflects a phenomenon of one country with dual laws for citizens as was the case under the British Raj.

While the tribal code or *Rewaj* Act incorporated in the FCR gave an impression of reverence for tribal sentiments, it was exploitative and oppressive in spirit. Article 8 of the Constitution of Pakistan states, 'any law or any custom or usage having the force of law, in so far as it is inconsistent with the fundamental rights be void.'22 Paradoxically, the FCR denied basic rights to the tribal people such as appeal (the right to request a change in a conviction in any court), Wakeel (the right to legal representation/lawyer) and *Daleel* (the right to present reasoned evidence). This denotes that Pakistan has been following an Equal-but-Separate policy towards FATA. Legally, articles 1 and 2 of the 1973 Constitution declared FATA as the country's territorial part, but Article 247 placed it under the direct executive authority of the President, and thus, assigned it a separate legal status.²³ Politically, adult franchise was first introduced in FATA in 1996 and the Political Parties Act was extended to the region as late as 2011. Ironically, parliamentarians from FATA did not have legislative or representation powers for their own region until the 31st Amendment Act, 2018 was passed by the Parliament of Pakistan in May

²³ Ibid., 3, 148.

²¹ National Assembly of Pakistan, GoP, *The Constitution of the Islamic Republic of Pakistan: As modified upto the 30th March 2017* (Government of Pakistan, 2017), 143-145, http://www.na.gov.pk/uploads/documents/1508233533_124.pdf.

²² Ibid., 6.

2018. Due to the state's ambiguous policy, FATA has suffered not only socioeconomic deprivation, but also an identity crisis.

The Soviet-Afghan War and FATA

The Soviet Union's military intervention in Afghanistan in December 1979 brought the forgotten and deprived FATA into the limelight. By virtue of its geographical proximity, it assumed crucial importance in the course of the protracted war in Afghanistan. FATA's instrumental use in launching guerilla warfare against the Soviet forces in Afghanistan²⁴ adversely affected its social fabric and security, as well as the international image of Pakistan in the years to come.

The Afghan war opened the door of generous international assistance to Pakistan. Simultaneously, US dollars and Gulf oil money flowed in the impoverished tribal areas. The region and its people soon became instrumental in pursuing the US' strategic objective of defeating the Soviets, hence, becoming a pivot of the revitalised US-Pakistan relationship. This made Pakistan a *de facto* rentier state²⁵ gaining the US' assistance for serving the strategic interests of the super power. Tribal territory was used as a training ground and launching pad for the war in Afghanistan.²⁶ A large number of Arab fighters were brought to Pakistan under this collaboration to fight against the Soviets.²⁷ Approximately 5000 Saudis, 3000 Yemenis, 2000 Egyptians, 2800 Algerians, 400 Tunisians, 370 Iraqis, 200 Libyans and some from Jordan were involved.²⁸ They were accompanied by tens of thousands of Pakistani *madrassa* (religious school) students to fight against the Soviet troops through Pakistan's western border. Resultantly, the tribal areas were converted into a

²⁷ Ibid., 129-130.

²⁴ Hassan Abbas, Pakistan's Drift into Extremism: Allah, The Army and America's War on Terror (New York: Routledge, 2015), 220.

Ahmed Rashid, *Taliban*, *Militant Islam*, *Oil and Fundamentalism in Central Asia*, 1st ed. (New Haven: Yale University Press, 2000), 130.

²⁶ Ibid.

²⁸ Muhammad Amir Rana, Safdar Sial and Abdul Basit, *Dynamics of Taliban Insurgency in FATA*, 1st ed. (Islamabad: Pakistan Institute for Peace Studies, 2010), 13.

strategic shield in pursuit of the US' strategic agenda, and became home to a legion of local and foreign militants.

The most fatal repercussion of the Afghan war for Pakistan was FATA's entanglement in extremism and terrorism. Soon after Soviet Union's defeat in 1989, the US left Afghanistan without any roadmap for handling the militants who fought a decade long war for them against the Soviets. Not only was Pakistan left alone to deal with the Afghan disarray, but was also penalised under the 1985 Pressler Amendment²⁹ in sheer disregard of the cooperation it had extended to the US. Hillary Clinton, then-US Secretary of State, confessed that the people whom they fought in Afghanistan after 9/11 were hired by the US under the Reagan administration to defeat the Soviet Union. She implicitly conceded that the US abandonment of Pakistan, to deal with the situation along the border, had serious implications.³⁰

In the 1980s and 1990s, the Durand Line as the Pak-Afghan border was accessible to the militants to increase their influence in Pakistan's unruly tribal territory, and gradually turn it into an ideological base. According to Ahmed Rashid:

The Taliban were not providing strategic depth to Pakistan, but Pakistan was providing strategic depth to the Taliban.³¹

Consequently, the tribal people developed a tendency towards fundamentalism and extremism, and thus, FATA ended up serving as a breeding ground and sanctuary for terrorists.

The US War on Terror and FATA

FATA met the worst fate after the US launched a global campaign against terrorism in response to the 9/11 terrorist attacks. Pakistan succumbed to

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²⁹ The amendment required annual presidential certification that Pakistan did not possess a nuclear device in order to get US assistance. This was enforced from 1985-89, and in 1990, the US imposed military and economic sanctions on Pakistan.

^{30 &}quot;US Created Taliban and Abandoned Pakistan, Says Hillary," Dawn, April 25, 2009, https://www.dawn.com/news/847153; and "Hillary Clinton Speaks out about US Links with Taliban," Sahibul-Asr Media, Youtube, December 28, 2011, https://www.youtube.com/watch?v=e7be-5Oodzo.

³¹ Rashid, Taliban: Militant Islam, Oil and Fundamentalism in Central Asia, 187.

Washington's pressure and agreed to extend multilateral cooperation to the US-led operations in Afghanistan. The decision caused resentment among Pashtuns, particularly in FATA, due to their historical, ethnic, sociocultural and ideological connections with the Afghan Pashtuns. Meanwhile, a large number of Taliban and Al-Qaeda militants fleeing the US bombardment crossed over the porous Pak-Afghan border into FATA. Here, these militants along with local ideological partners, raised radical militant outfits to fight on both sides of the border³² as they turned hostile to Pakistan because of its cooperation with the US in the War on Terror. As a result, FATA became an even stronger ideological and operational base for regional and global *jihadist* militancy. This brought the region once again into the spotlight of global politics with the US declaring it 'the most dangerous place in the battle against terrorism.'³³

In this precarious situation, it was the innocent tribal people who suffered the most. They bore the brunt of not only the Taliban and Al-Qaeda insurgency/terrorism, but also Pakistan's military operations (discussed in the next part) in the shape of human casualties, internal displacement and destruction of social and physical infrastructure. As if this was not enough, the US launched a war of drones in Pakistan's tribal areas from 2004 onwards causing collateral damage and civilian casualties. According to the London-based *The Bureau of Investigative Journalism*, 430 confirmed drone strikes in FATA since 2004 killed 2,515-4,026 people, including 424-969 civilians and 172-207 children.³⁴

FATA became a base for launching terrorist attacks in major cities of Pakistan with the emergence of Tehreek-e-Taliban Pakistan (TTP) in December 2007 as an umbrella terrorist organisation of different Taliban groups. The TTP appeared as a fierce terrorist body wreaking havoc in

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³² Philip Walker, "The World's Most Dangerous Borders: Thirteen Places you do not Want to be Struck at," *Foreign Policy*, June 24, 2011,

https://foreignpolicy.com/2011/06/24/the-worlds-most-dangerous-borders/.

Molly Kinder and Wren Elhai, "Effective Aid in the Most Dangerous Place in the World for Americans," *Center for Global Development Blog*, May 3, 2010, https://www.cgdev.org/blog/effective-aid-most-dangerous-place-world-americans.

³⁴ "Drone Strikes in Pakistan," Drone War: Pakistan Project, *The Bureau of Investigative Journalism*, accessed July 5, 2018,

https://www.thebureauinvestigates.com/projects/drone-war/pakistan.

FATA, KPK and Punjab targeting both civilians and security personnel. Acts of terrorism surged from 2007 onwards, and declined only after the launch of a military offensive in North Waziristan in June 2014. The Global Terrorism Index (GTI) ranked Pakistan 2nd-4th worst hit by terrorism from 2007-16, however, the 2017 GTI ranked the country at 5th position.³⁵ Pakistan suffered 62,421 fatalities during 2003-17,³⁶ and incurred an economic loss of USD 126.79 billion during 2001-17.³⁷ Despite this toll, the US has been reiterating that the tribal territory of Pakistan is used as a base by militants for launching terrorist attacks in Afghanistan to support the Afghan Taliban. As a result, Pakistan has been under the US' 'do more' diplomatic pressure.³⁸ Pakistan began a large-scale counter-militancy military campaign in 2008:

Once TTP began organising itself and linked up with malcontents across FATA and in the adjoining frontier regions - as well as in Swat, Dir and Chitral - the Pakistan government's only possible response was to send in the army. For the first time since independence, the army moved into FATA in force.³⁹

Notable military operations included Operation *Sher Dil* in 2008 (Bajaur), Operation *Rah-e-Rast* in 2009 (Swat), Operation *Rah-e-Nijat* in 2009-10 (South Waziristan) and Operation *Zarb-e-Azb* during 2014-18 (North Waziristan). These operations led to the largest humanitarian crises in recent times in the shape of Internally Displaced Persons (IDPs). The Peshawar school massacre committed by TTP in December 2014, which killed 149 people, including 132 schoolchildren, proved a watershed moment in Pakistan's counterterrorism efforts. This tragic incident led to the expedition and intensification of the *Zarb-e-Azb* military campaign

³⁵ IEP, Global Terrorism Index reports (Sydney: Institute for Economics and Peace), http://economicsandpeace.org/reports/.

³⁶ "Pakistan Lost over 50,000 Civilians in War on Terror," *Express Tribune*, January 3, 2018, https://tribune.com.pk/story/1599831/1-pakistan-lost-50000-civilians-war-terror/.

³⁷ Finance Division, GoP, *Pakistan Economic Survey 2017-18* (Government of Pakistan, 2018), 248.

³⁸ Hassan Abbas, The Taliban Revival: Violence and Extremism on the Pak-Afghanistan Frontiers (Great Briton: Gomer Press Ltd, 2014), 221.

³⁹ Shuja Nawaz, "The Pakistan Army and its Role in FATA," *CTC Sentinel* 2, no.1 (2009), https://ctc.usma.edu/app/uploads/2010/06/Vol2Iss1-Art7.pdf.

against terrorism, which was significant as it was militarily comprehensive, politically consensual and geographically targeted at North Waziristan – the stronghold of TTP and base of terrorism across the country. In addition, Pakistan adopted the National Action Plan (NAP)⁴⁰ in December 2014 which called for various administrative counterterrorism measures, including 'administrative and development reforms in FATA.⁴¹

FATA's Current Situation

While FATA always figured prominently in the strategic calculus of both colonial and post-colonial governments, its socioeconomic and political development remained seriously ignored. Post-9/11 led to the creation of a new form of militancy under the TTP, and the military operations caused massive destruction of the already scant infrastructure and traditional sociopolitical fabric of the region. Therefore, despite significant gains in improvement of the security situation and political status of the region, FATA's current situation as a whole remains weak.

Although the operations against the militants in North and South Waziristan since the summer of 2014 have led to an improved security situation, attainment of sustainable peace remains a challenge. According to a think-tank, FATA witnessed a decline of 177 per cent in violent incidents, including both terrorism and counterterrorism, during January-March 2018 compared to the same period in the previous year. However, there is a fear of militants' comeback once the heavily deployed military is withdrawn. Therefore, it is essential to create modern civilian security structures to maintain law and order in the tribal areas. This demands a transition from the traditional levies system to a modern police system.

⁴⁰ As Pakistan remained focused on military means to counter terrorism, NAP was considered vital, realising the urgency of administrative measures in combination with military action.

⁴¹ National Counter Terrorism Authority, GoP, "National Action Plan, 2014" (Government of Pakistan, 2014), https://nacta.gov.pk/nap-2014/.

⁴² Irfan U Din and Mansur Khan Mahsud, FATA Security Report: First Quarter 2018 (Islamabad: FATA Research Centre, 2018), 1.

Till May 2018, when the 31st Constitutional Amendment was adopted, FATA's political system lacked genuine representation because it fell directly under the rule of the President of Pakistan, and its representatives to the Parliament remained deprived of any say in legislative and governance affairs of their region. The lack of genuine political process and representation in FATA has hindered debate, pluralistic viewpoints and counternarrative, giving room to militant philosophies to thrive. This is likely to change following the May 2018 parliamentary legislation on FATA integration with KPK. 43 Potentially. the politico-legal initiatives towards FATA-KPK merger, and the ensuing political changes would give birth to a representative and an inclusive political process and system in the region. As an important breakthrough, the FATA Interim Governance Regulation, 2018 has replaced the draconian FCR as an instrument of governance until the merger is complete. 44 Nevertheless, the interim regulation is being criticised as a continuation of the FCR because it keeps the old system intact with cosmetic changes and fails to omit the concept of collective punishment in letter and spirit. 45 Here one needs to be mindful of Ake's contention that:

The politically disintegrative effects of social mobilization are minimal in the context of a political system that is authoritarian, paternal, 'identific,' and consensual.⁴⁶

In other words, the ruling elite should demonstrate strong political will, collective responsibility, people-centric approach and great vision to devise a balanced governance system for FATA. Any new system should

⁴³ Riazul Haq, "NA Passes 'Historic' FATA, K-P Merger Bill," *Express Tribune*, May 24, 2018, https://tribune.com.pk/story/1717822/1-imran-khan-likely-attend-na-session-k-p-fata-merger/.

^{44 &}quot;President Signs FATA Interim Governance Regulation, 2018," *Nation*, May 29, 2018, https://nation.com.pk/29-May-2018/president-signs-fata-interim-governance-regulation-2018.

⁴⁵ Ismail Khan, "Mainstreaming FATA with Interim Governance Law," *Dawn*, May 31, 2018, https://www.dawn.com/news/1411061; and Iftikhar Firdous, "Interim Rules for FATA Mere Eyewash," *Express Tribune*, May 14, 2018, https://tribune.com.pk/story/1709349/1-interim-rules-fata-mere-eyewash/.

⁴⁶ Ake, "Political Integration and Political Stability: A Hypothesis," 488.

have the capacity to adapt the traditional administrative practices of FATA to a modern and progressive governance system.

Economically, FATA relies on agriculture (crops, vegetables and fruit), livestock, fishery, mining, small businesses like shops and formal (legal) and informal (illegal) trade with Afghanistan. Agriculture is a major source of income, but only 8 per cent of FATA's total land is cultivated. The region possesses a number of minerals such as marble, limestone, coal and chromite, but mining remains far below the potential. Communication, transportation and energy infrastructure is either non-existent or insufficient and shabby. Provision of the basic services, particularly education and health, is alarmingly low. Overall literacy rate in FATA is 33.3 per cent compared to the national average of 58 per cent, while female literacy is only 7.8 per cent. According to a survey, there exists one healthcare facility for every 4,200 persons, while only one doctor is available for every 7,800 persons. Around 60 per cent of FATA's population lives below the poverty line, and between 60-80 per cent are unemployed.

⁴⁷ Yasir Kamal, Sector Study on Demand Driven Competency Based Training in Potential Sectors of Federally Administered Tribal Areas (FATA), report (Bonn: Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH [German Corporation for International Cooperation], 2017), 8-9.

^{48 &}quot;About FATA," fata.gov, https://fata.gov.pk/#.

⁴⁹ Kamal, Sector Study on Demand Driven Competency Based Training in Potential Sectors of Federally Administered Tribal Areas (FATA), 9.

⁵⁰ Crisis Prevention and Recovery Unit, UNDP Pakistan, Federally Administered Tribal Areas Transition and Recovery Programme: Results Report (2015-2016) (Islamabad: United Nations Development Program, 2017), 2,

http://www.pk.undp.org/content/dam/pakistan/docs/CPRU/FATA%20Transition%20&%20Recovery%20Programme/FTRP%20Result%20Report%202016-17.pdf.

Imtiaz Ali, *Mainstreaming Pakistan's Federally Administered Tribal Areas: Reform Initiatives and Roadblocks*, report no. 421 (Washington, D.C.: United States Institute of Peace, 2018), 3, https://www.usip.org/sites/default/files/2018-03/sr-421-mainstreaming-pakistan-federally-administered-tribal-areas.pdf.

⁵² Amna Ejaz Rafi, "FATA's Mainstreaming" (Islamabad: Islamabad Policy Research Institute, 2017), http://www.ipripak.org/fatas-mainstreaming/.

Debate on FATA Mainstreaming

The current debate over FATA reforms is centred on the findings and recommendations of the FRC. After consultations with tribal *Maliks*, elders, concerned political leaders, civil society, traders, media and youth, the FRC presented the following four options for FATA mainstreaming:⁵³

- Maintain *status quo*, make necessary judicial and administrative reforms and focus on socioeconomic development.
- Establish a FATA Council akin to the Gilgit-Baltistan model.
- Make FATA a separate province.
- Integrate FATA with the province of KPK.

The FRC found wide-ranging consensus in favour of FATA's integration with the neighbouring KPK province. According to a study conducted by the FATA Research Centre, 68 per cent of FATA's people favoured the abolition of FCR, while 74 per cent endorse their region's integration with KPK.⁵⁴ Politically, all parties supported the option of integration, except the Jamiat-e-Ulema Islam-F (JUI-F) and the Pakhtunkhwa Milli Awami Party (PkMAP). The former supports FATA as a separate province; while the latter emphasises *status quo* or referendum in case of any change.⁵⁵

The FATA-KPK merger is an apt policy option for a number of reasons. First, the KPK has a well-established social and administrative infrastructure which can easily be extended to FATA because of the existing political, socioeconomic and geographical linkages. For example, FATA is already heavily dependent on the province for administrative workforce and facilities as well as social services such as education and health. Second, FATA has an ethnic, cultural and social cohesion with

http://www.safron.gov.pk/safron/userfiles1/file/Report%20of%20the%20Committee%20on%20FATA%20Reforms%202016%20final.pdf.

55 Asif Mahsud, "The KP-FATA Merger Debate," *Daily Times*, April 27, 2018, https://dailytimes.com.pk/232807/the-kp-fata-merger-debate/.

⁵³ Ministry of States & Frontier Regions, GoP, Report of the Committee on FATA Reforms 2016 (Government of Pakistan, 2016), 29,

⁵⁴ Muhammad Anwar, "The Anticipated Benefits of FATA Reforms," *Express Tribune*, March 3, 2017, https://tribune.com.pk/story/1345416/anticipated-benefits-fata-reforms/.

KPK, particularly with the adjacent provincial districts. Third, FATA and KPK are geographically interconnected for socioeconomic interactions. Peshawar serves as a geopolitical centre for all the seven tribal agencies. Fourth, FATA needs to come out of its longstanding isolation syndrome and the integration would potentially open up the region to business, communication, development, and hence, change. Finally, FATA as a separate province may not be a viable option due to the lack of human resources, experience and institutional infrastructure required to run a new province.

Strategic Advantages

Despite the crucial importance of the frontier region for Pakistan's defence and stability, it has not been given due attention for decades. There is no denying that the tough and under-sourced region bears an enormous significance for Pakistan in the way it was a strategic necessity for the British India against the Russian empire. The prevailing initiative of FATA's merger with KPK provides a much awaited opportunity for extending the writ of the state to the hitherto neglected tribal territory.

The ambiguous constitutional status of FATA, and the resultant question of sovereignty, has been exploited by the US to launch drone strikes in the region. This campaign is not only a violation of Pakistan's territorial sovereignty, but also counterproductive, resulting in increased extremism and erosion of democratic norms. The timely merger of FATA with KPK will help Pakistan address the issue of territorial sovereignty. This would, in return, diminish the sense of fear, helplessness and consequent extremism among the people of FATA. In addition, the merger would substantially secure the Pak-Afghan border and deny the space to Afghanistan for its historical stand on the Durand Line issue.

Any account on threats to Pakistan's stability remains incomplete without taking into account India's offensive designs. The Indian factor has become a grave geopolitical concern for Pakistan following the revelations made by Kulbhushan Jadhav, an Indian spy in Pakistan's custody. The captive confessed an unprecedented Indian campaign of subversive activities in Balochistan, Karachi and FATA primarily to

sabotage the China-Pakistan Economic Corridor (CPEC), which is seen as a game-changer for Pakistan. The renowned Indian journalist Praveen Swami wrote in India's national magazine *Frontline* that since 2013, India has been secretly building up 'a covert action programme against Pakistan', and that it resulted in an 'unprecedented success.' She added that it was previously being led by the National Security Advisor Ajit Doval, and now by Anil Dhasmana of the Research and Analysis Wing (RAW).⁵⁶ In this context, the ungoverned frontier region offers a manipulative opportunity to India to achieve its ominous anti-Pakistan designs. FATA's constitutional merger and successful implementation of the ensuing reforms and development package would potentially deny hostile states the means and space for intrigue.

The area has a long history of hosting and aiding many militant and extremist groups who have gained ideological roots and sympathies among the local people. Although the military operations have forced Taliban militants to retreat, they have a support base in the region for regrouping, recruiting and launching terrorist attacks after military withdrawal. FATA's mainstreaming would help curb the phenomenon of terrorism not only through administrative measures but also by addressing the root causes.

Sociopolitical and Economic Advantages

Majority of the FATA population, particularly youth, are dissatisfied with the existing sociopolitical infrastructures. The FRC unequivocally observed that the tribal people support the merger with the KPK province since it would not affect their identity and culture.⁵⁷ This support is obviously based on well-placed optimism that the merger will put an end to the multitude of FATA's troubles - denial of constitutional rights, social deprivations, economic underdevelopment and political manipulations.

The mainstreaming initiative aims at bringing the tribal region in parity with the rest of the country - constitutionally, politically,

⁵⁶ Praveen Swami, "India's Secret War," Frontline, February 16, 2018, http://www.frontline.in/the-nation/indias-secret-war/article10055129.ece.

Ministry of States & Frontier Regions, GoP, Report of the Committee on FATA Reforms 2016, 29-30.

administratively and economically. In this regard, the report of the FRC was a comprehensive document as it envisioned FATA mainstreaming from multiple angles. On the whole, recommendations of the report can be categorised into two plans: five-year transition to integration and ten-year prioritised development towards parity. The transition period would be focused on the rehabilitation of IDPs; introduction of judicial reforms; establishment of local government; reconstruction of infrastructure; and building the capacity of the law enforcement agencies. The realisation of these objectives has to begin with a change in the constitutional status of FATA.

In this regard, the landmark 31st Constitutional Amendment Bill was passed by the National Assembly and the Senate of Pakistan as well as the KPK Provincial Assembly in May 2018. The Amendment provides for merger of FATA with the province and extension of constitutional rights to the tribal region through abrogation of Article 247 and amendments in Articles 1 and 246.⁵⁹ Further, modifications to Articles 51 and 59 lead to reduction of the number of seats in both the National Assembly and the Senate and increase of seats in the KPK Provincial Assembly. Lastly, the Amendment promises that local bodies' elections in FATA would be held within a year after the July 2018 General Elections. The Amendment signifies a remarkable start of FATA mainstreaming as it does away with the ill-famed FCR by safeguarding the fundamental constitutional rights and heralding a progressive judicial system.

Along with the constitutional and administrative measures, amelioration of the socioeconomic conditions of the people of FATA lies at the heart of mainstreaming of the conflict-ridden region. To this end, the FRC has recommended a ten-year special development package. A special committee headed by the KPK Governor has identified the following sectors for intervention: urban development; agriculture; connectivity; governance; industrial development; energy and power;

⁵⁸ Syed Irfan Raza, "Cabinet Approves Steps for FATA's Merger with Khyber Pakhtunkhwa," *Dawn*, March 3, 2017, https://www.dawn.com/news/1318095.

⁵⁹ Amir Wasim, "National Assembly Green-lights FATA-KP Merger by Passing 'Historic' Bill," *Dawn*, May 24, 2018, https://www.dawn.com/news/1409710.

minerals development; local government; education and health.⁶⁰ It is planned that, in addition to PKR 21 billion (USD 162.23 million) under the Public Sector Development Programme (PSDP), the National Finance Commission (NFC) would provide 3 per cent of gross federal divisible pool annually for implementation of the development plan.⁶¹ Moreover, 30 per cent of this allocation would be channelled through the local bodies. Indeed, an effective implementation of the development plan would go a long way in bringing the tribal belt at par with other parts of the country, ending its segregation and addressing the root causes of terrorism and militancy in the region.

Security Challenges

Despite a significant improvement in the security landscape of Pakistan, the country continues to confront the threat of terrorism. FATA, regarded as the most vulnerable place in this respect, can potentially see its return. The region has been facing the worst repercussions of the volatile security situation in neighbouring Afghanistan, and it still remains vulnerable as an end to the Afghan conflict does not seem in the offing.

In recent years, regional geopolitical dynamics have been transforming, giving birth to new alignments in pursuit of regional domination. Presently, a number of regional and extra regional actors, notably Pakistan, India, Iran, Saudi Arabia, US, China and Russia, are involved in Afghanistan to pursue their respective designs. US-Pakistan relations are undergoing a change from engagement to estrangement. President Trump's blatant accusation of 'lies and deceit' and persistence of terrorist safe havens against Pakistan coupled with his coercive demand for 'Do More' have created tensions between the two 'disenchanted allies.' To put words into action, the Trump administration suspended

⁶⁰ Rehmat Mehsud, "Though FATA Development Plan has been Finalized, Mainstreaming of Tribal Belt 'a Distant Dream'," *Daily Times*, March 31, 2018, https://dailytimes.com.pk/221823/though-fata-development-plan-has-been-finalised-mainstreaming-of-tribal-belt-a-distant-dream/.

⁶¹ Raza, "Cabinet Approves Steps for FATA's Merger with Khyber Pakhtunkhwa."

USD 255 million in military aid to Pakistan.⁶² In this geopolitical scenario, Pakistan's poorly governed tribal belt may once again become victim of power games between the contesting actors.

Compared with the previous administrations, the Trump administration has undertaken a more ambitious policy towards Afghanistan. President Trump's South Asia strategy, announced in August 2017, outlines specific security goals with a promise to increase US troops and give India a greater role in Afghanistan. This indicates that US-India strategic convergence in Afghanistan is underway in pursuit of a common agenda. On account of growing US-Pakistan fissures, and enhancing Indian presence in Afghanistan, FATA mainstreaming is a strategic imperative.

Worsening Afghan Security Situation: Implications for FATA

Special Inspector General for Afghanistan Reconstruction (SIGAR), created in 2008, is mandated with oversight over the US funded reconstruction programmes, and hence, identification of problems regarding their administration. The 2018 SIGAR quarterly report to the US Congress provides a worrisome account of the security situation in Afghanistan. It states that the number of Afghan districts controlled or influenced by insurgents has been rising. In addition, the report highlights the recent clashes between Taliban and Islamic State Khorasan in Laghman province as an additional factor of instability in eastern Afghanistan. This bodes a dangerous development for Pakistan due to Laghman's proximity to Pakistan's tribal territory. Similarly, the UN Secretary General Antonio Guterres, in his report published in December 2017, termed Afghanistan's security situation as 'highly volatile' as conflict between the Afghan government and Taliban continues in most

⁶² Alyssa Ayres, "The Not-So-New 'New' South Asia Strategy," *Council on Foreign Relations Blog*, August 22, 2017, https://www.cfr.org/blog/not-so-new-new-south-asia-strategy.

⁶³ Ibid.

⁶⁴ SIGAR, *Quarterly Report to the United States Congress* (Arlington: Special Inspector General for Afghanistan Reconstruction, 2018), 84, https://www.sigar.mil/pdf/quarterlyreports/2018-01-30qr.pdf.

parts of the country.⁶⁵ According to the report, eastern and southern regions of Afghanistan have been experiencing the most instability, accounting for 56 per cent of all security incidents.⁶⁶ It is important to underline again that the unstable eastern and northeastern provinces of Afghanistan are adjacent to Pakistan's tribal areas.

Given that the security situation in Afghanistan deeply impacts Pakistan, particularly FATA, insurgents' ascendency in the Afghan areas adjacent to the tribal belt is a matter of concern. Achievements of Pakistan's security forces in the war against militancy and terrorism stand as a turning point in FATA's security situation. Nevertheless, Pakistan needs to be on guard in view of the worsening security situation in FATA's neighbouring Afghan regions.

Implementation Challenges

The subject of FATA reforms is not new. In the past, many committees were formed which brought out sound recommendations. The major challenge to FATA reforms has been an apathetic implementation resulting from the lack of an authoritarian, consensual, 'identific' and paternal approach. Although the current endeavour is comprehensive, determined, planned and consensual, it is not free of lacunas. First, composition of the FRC, which has been converted into the Implementation Committee on FATA reforms, lacks representation from the region concerned. Local representation would help build trust and shape positive perception regarding the purpose of the FATA merger and reforms. Second, an inconsistency exists in the strategy for implementation of FATA reforms in the sense that the process of FATA-KPK merger does not entail a specific role for the provincial government in the transition phase. Third, while the bureaucracy has a record and

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⁶⁵ United Nations General Assembly Security Council, The Situation in Afghanistan and its Implications for International Peace and Security: Report of the Secretary-General (New York: United Nations, 2018), 5,

 $https://unama.unmissions.org/sites/default/files/sg_report_on_afghanistan_27_february. pdf.$

pdf.

66 Ibid.

interest in resisting the transformation of FATA, 67 it has been given a key role in implementing its transition and development plan. In this regard, the Chief Operating Officer (COO), a grade-22 bureaucrat, will administer the FATA transition and development process under the supervision of the KPK Governor. Moreover, the FATA secretariat, political agent and FATA Development Authority (FDA) have been empowered to carry out the reforms. This indicates that the role of bureaucracy will be central to the success or failure of the FATA project. Fourth, the FRC itself considers the 'tribal mindset' a major hindrance to the smooth implementation of the reforms. This is particularly true in case of the proposed replacement of the FCR with a new Rewaj Act. While the new act omits the collective responsibility clause, and extends the jurisdiction of the Supreme Court and the Peshawar High Court to FATA, it retains the traditional Jirga system in combination with modern judicial system. It envisages that judges will refer both civil and criminal cases to Jirga to determine facts in accordance with Rewaj which will then weigh in their decrees. To create cohesion between these two separate and competing systems would be challenging, and failure would mean stagnation. Finally, while areas of intervention under the ten-year development plan have been identified, the bigger task is to work out a comprehensive plan for each area and ensure its implementation. Huge gaps exist between FATA's population and that of KPK in terms of socioeconomic development and orientation. Bridging these gaps will be a gigantic task. A case in point, for instance, even after two and a half decades of German reunification, gaps in terms of wealth, productivity, consumption and education existed between East and West Germany.⁶⁸

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⁶⁷ Afrasiab Khattak, "Pantomime of FATA Reforms," *Nation*, May 26, 2018, https://nation.com.pk/26-May-2018/pantomime-of-fata-reforms.

⁶⁸ Kate Connolly, "German Reunification 25 Years on: How Different are East and West Really," *Guardian*, October 2, 2015, https://www.theguardian.com/world/2015/oct/02/german-reunification-25-years-on-

how-different-are-east-and-west-really.

Conclusion

Today, more than ever, FATA stands at the crossroads of destiny given the multifaceted challenges it faces. For 70 years after freedom from colonialism, Pakistan's FATA policy remained more or less a colonial legacy, and the country until recently had never made a serious policy attempt to bring about major reforms to improve the socioeconomic conditions of the poverty-ridden region. This area has also been suffering from the worst spillover of the Afghan conflict, economic underdevelopment, drug trafficking and vicious circles of criminality. After 9/11, the region notoriously became known for terrorist sanctuaries, and as the most dangerous place in the world. Therefore, it needs an integration plan which is in Ake's words authoritarian and paternal, as well as 'identific' and consensual, into the mainstream sooner rather than later.

For mainstreaming of the tribal territory, a promising initiative has been taken by adopting recommendations for FATA reforms. To stabilise its highland frontiers and ensure territorial sovereignty over them, Pakistan has acceded to FATA-KPK merger under the 31st Constitutional Amendment as the most viable option. The key prerequisite for this goal is setting petty politics aside in favour of national interest. An effective implementation of the five-year transition plan, and the ten-year socioeconomic development plan is essential. The replacement of FCR with a new *Rewaj* Act and introduction of mainstream judicial system are already underway. These achievements indicate not only the determination on part of Pakistan's political and military leadership, but also capacity of the country's institutions to deliver. Optimistically, it appears that the dream of FATA mainstreaming would become a reality.

Optimism apart, this exercise is not without challenges, particularly security threats and Pakistan's poor record in policy implementation. An actualisation or failure of short, medium and long-term measures towards the merger and development will shape the future environment of the tribal areas. A forward-looking approach in this regard is an imperative to avoid resumption of a catastrophic situation in FATA.