

UNDERSTANDING FATA

Attitudes Towards Governance,
Religion & Society in Pakistan's Federally Administered Tribal Areas



NAVEED AHMAD SHINWARI

DEDICATED
TO THE BRAVE &
RESILIENT PUKHTOON TRIBES
OF THE DURAND LINE

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in Pakistan's Federally Administered Tribal Areas**

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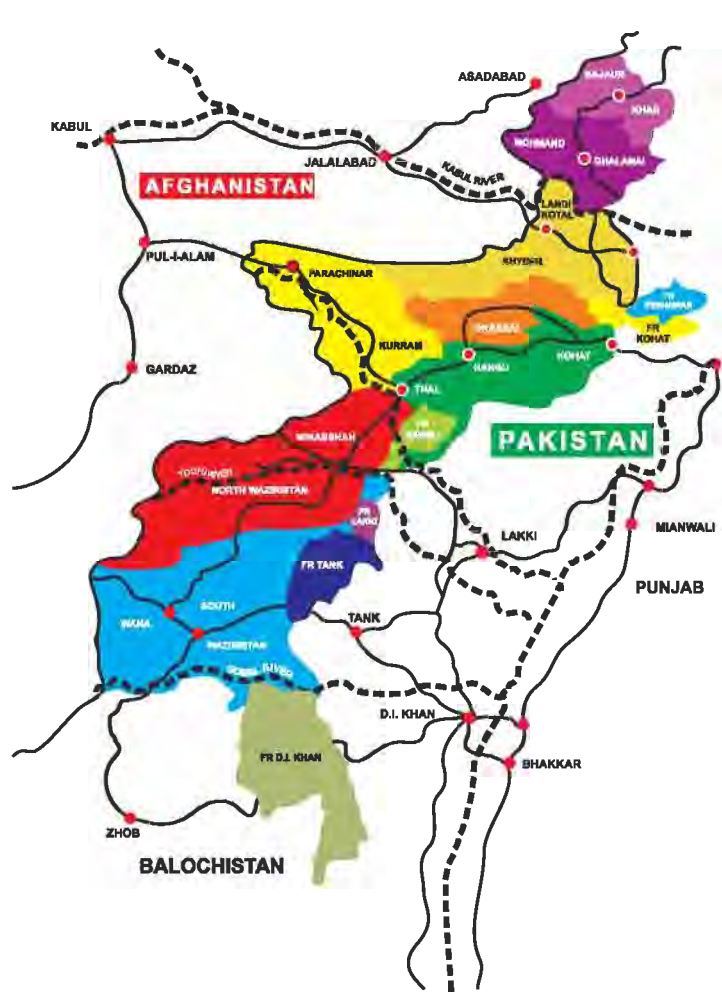
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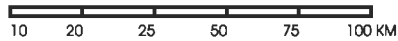
Naveed Ahmad Shinwari



LEGEND

- WANA, WAZIRISTAN, SOUTH
- THAL, HANGU, KOHAT
- FR TANK, FR LAKE
- PARACHINAR, KURRAM
- KHYBER, LANDI KOTAL
- NORTH WAZIRISTAN, MIRINSHAH
- FR BANNU
- ORAKZAI
- MOHMAND, GHALANAI
- BAJAUR, KHAR
- FR D.I.KHAN

- Roads
- Rivers
- Stations



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Naveed Ahmad Shinwari





Introduction

The Federally Administered Tribal Areas (FATA) has always been a mysterious borderland.

Much written about, it is surprisingly misunderstood. All too often journalists, writers and policymakers turn back to the romantic prose produced by successive generations of travellers, adventurers and historians. Such books can tell you something about the FATA. They can explain the powerful current of political freedom that has always run through this society, why tribal identities remain strong, and why economic resources remain sparse. These books also speak volumes about the area's irregular celebrity. When bad things happen, the Frontier fascinates the world. When wars are won or Soviets finally vanquished, attention falls elsewhere.

Kinship matters in the FATA. This tribal society has complex inter-clan linkages that unite families, clans and tribes in a web of kinship. They are both distinctive and important.

Knowledge also matters. People across the FATA know their own minds. Whether literate or illiterate, they have views. This research study is one of the first attempts to provide insight into those views, drawn not from the prejudices of the FATA's many intermediaries, or from officials who work on the FATA, but from the views of 1050 FATA residents.

We hope it is the beginning of a conversation about the future of the FATA; A conversation that includes people from the FATA itself, regardless of their status; and a conversation that includes policymakers in Peshawar, Islamabad, Kabul, Washington and London.

Because the only viable future for the FATA will be one that takes into account people's views on religion, politics, society and governance.

This is the first attempt at such work. It is necessarily provisional - this first exercise will not provide all the answers (and indeed, the answers may change over time). But it does underline an important principle: that the people of the FATA be encouraged to speak for themselves, to speak up, and be listened to.

HEADLINE FINDING:

Our polling of 1,050 FATA residents demonstrates a desire for change and continuity. Change in the FATA should respect tribal culture and religious sentiment.

Key findings

- 39 percent want the Frontier Crimes Regulations that enforce a collective approach to justice across the FATA amended, while 31 percent want to abolish it. Only 7 percent want it left as it is. However, there is no clarity on what should replace it, and little support for Pakistani law.
- Local people back the Jirga, or tribal assembly, but want genuinely local rather than government-run Jirgas.
- There is a strong desire for elected politics in the FATA, instead of an all-powerful Political Agent. Elected representatives also need to be given real power.
- Half those polled want the political parties to be allowed to formally contest elections in the FATA, but some 44 percent are reluctant.
- There is a desire for constitutional reform in the FATA – but no clarity on exactly what its status should be (whether merger with the North West Frontier Province, minor changes to its current status, or the establishment of a separate Federal Province).
- While there is strong support for better female access to health and education (85 percent), there is a marked reluctance to empower women more generally. 67 percent supported honour killings.
- There are mixed views on the cause of “Talibanisation”, although nearly half consider illiteracy to be a major factor, with the Afghan conflict, poor governance, poverty and unemployment also cited. People expressed a strong desire for more jobs.
- 17 percent of those polled support armed Jihad, while some 57 percent of the population think Jihad is about learning the Quran, not fighting, and 24 percent think it is about peaceful resistance. Only 3.6 percent consider the Taliban to be terrorists.
- Over 50 percent of those polled believe that Islamic law, Sharia, brings peace in the FATA.
- Given the prevailing insecurity across the Tribal Areas, 83 percent say that carrying firearms provides security.



EXECUTIVE SUMMARY

CONTEXT AND HISTORY

Geography and Composition

The FATA is located along Pakistan's north-western Himalayan zone and south-western Sulaiman Mountains and runs as a narrow tract along the river Indus. It consists of seven semi-autonomous agencies or administrative units – Khyber, Mohmand, Bajaur, Kurram, Aurakzai, North Waziristan and South Waziristan. Additionally, the FATA includes 'frontier regions' that adjoin the districts of Peshawar, Kohat, Bannu, Lakki Marwat, Tank and Dera Ismail Khan. The FATA consists of an area of 27224 sq kilometres and has a population of around 3.17 million people belonging to different Pukhtoon or Pushtun tribes.

Historical Evolution

The borderland tribes between Pakistan and Afghanistan have a long history of invasions. The Indus Valley has always been an inviting route for visiting armies – mostly those heading into India, but also those heading into Afghanistan. The course of their evolution has been influenced by several civilisations: the Aryan migrations; the Achaemenian Empire; the invasion of Alexander the Great; the occupation of the region by Sassanian, Kushan and Hun rulers; the Arabs, the Turks, the Mughals, and even the Sikhs have ranged over the area during this long span of history.

The tribes of the central section of the frontier, living between the Kabul and the Gomal rivers, were, however, harder to control on account of their intensely democratic organization. During the 'Great Game' period, the tribal area served as a buffer zone between India and Central Asia, yet the tribes living in the hilly tracks maintained their identity through the tribal code, the Pukhtoonwali. The 1400 miles (2500 KM) long Durand Line, drawn in 1893 by the British colonial rulers of India, geographically divided the Pushtun tribes in the region between Afghanistan and what became Pakistan's tribal areas.

The area has therefore been strategically important for centuries – and keenly so during the 'Great Game' as Britain and Russia vied to dominate Afghanistan during the 19th century. Pakistan inherited the area from British rulers without bringing any fundamental changes to the governance system, which is largely indirect. Instead of ruling the FATA directly, the government uses a system of political agents – almost miniature

colonial governors – who control most aspects of life in each tribal agency.

Socio-economic condition of the FATA

The FATA is the most economically backward area of Pakistan and some 60% of the population live below the national poverty line¹. Per capita income is as little as half of the national per capita income, whereas per capita public development expenditure is reportedly one third of the national average². Natural resources are under-exploited in the FATA and the majority of the local population depends on agriculture, transport, arms manufacturing and trade, drug trafficking, cross border trade (or so called smuggling) and shop-keeping. Employment opportunities are non-existent and entire families often depend on a single person's income. In the absence of any employment opportunities, the temptation for young people is to get involved in other activities – including crime and religious extremism – is strong.

Only 17.42% percent of people in the FATA are estimated to be literate, of which less than 3% are female. Health indicators are poor, although accurate information is hard to come by given how remote the region is and how little the government has reached into parts of the FATA. A significant proportion of the health facilities in FATA are dormant or used by local elites for residential or entertainment purposes. In the absence of roads, healthcare facilities and adequate communication, people often resort to traditional treatments or are at the mercy of "quacks".

Land records are not available or maintained in the area, except for a couple of agencies. The FATA is cultivated by different irrigation sources, the most common sources being canals, tube wells, wells, rivers, streams, and lift irrigation schemes.

The development policy of the local administration in the FATA is largely based on distributing resources through tribal elders, or Maliks. This has led to accusations that ordinary people are cut out of a spoils system that encourages cronyism in the FATA³.

Tribal Structure and Society

Each tribe is comprised of various clans (or Khels), sub-clans and then extended family. Although these clans differ in name, tribal society is based on many characteristics, which are relatively uniform and united. It is based on its inter-clan linkages which unite families, clans and tribes in a web of

¹ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 9

²ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 9

³Afrasyab Khan Khatak, Provincial President ANP and former Chairperson HRCPC, speech delivered at National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007

kinship. The family structure is the most complex feature of tribal society and underpinned by family honour, property and intra-family relationships often characterised by strong emotions. Household structures are similar and mostly take the shape of fortresses. Each family is represented by a male head, often a grandfather with several sons and grandsons. In this context, the Pukhtoon speaking people constitute a very real cultural and social entity. Pukhtoonwali, an informal set of rules that guide the Pukhtoon way of life, is considered to be important in Pukhtoon society. It stresses the value of honour, hospitality and revenge.

The Role of Women in Tribal Society

A conservative social set-up, coupled with the policy approach taken by successive governments, has kept the people of the FATA somewhat backward. Superstitious beliefs and customs have gained roots in tribal culture. In tribal society the culture is strongly influenced by religious belief, particularly when it comes to honour. Often driven by local custom rather than a proper reading of religion, the victims of this honour culture are often women, who lose out. Women in the FATA are vulnerable to economic, social and psychological poverty. They often lack wealth and even basic education.

The majority of respondents believed that women should be allowed to get an education and access to better healthcare. But they were also against the idea of women working, or increasing their power.

The custom of Swara⁴ is considered very much against Islam, but considered legitimate according to the tribal customs.

Again the majority of the respondents voted against the custom of Walwar and considered it as unIslamic while, on the other hand, the majority of participants, including a significant portion of the women respondents, supported honour killing. Respondents clearly identified the main female grievances in the region, showing that there is awareness at least of the problems women face in the FATA.

This study recommends that more primary, middle and high schools should be established for girls and at least one female college be set up in each agency. A separate university for women should be established for the FATA. Stipends and other benefits should be awarded to female students for encouragement, perhaps with a promise to pay back this investment by working in the FATA for a set period. The

government should take steps to improve the investment and employment environment, so that women can put their education to good use. Special seats should be reserved for women in Senate, National Assembly and Agency/FATA Councils. Workshops, seminars and focus studies should be organised in the Agencies to improve awareness of women's issues.

The Talibanization of Tribal Society

Since the people of the FATA share the same ethnicity and religion with the people of Afghanistan living along the Durand Line, the people of the FATA have always remained vulnerable to the effects of events in Afghanistan. The Soviet occupation in Afghanistan followed by civil war and finally the US-led intervention into Afghanistan following the 9/11 attacks in US have had a significant impact on the FATA. Local people took part in all these conflicts side-by-side with their Afghan brothers. The Pakistan establishment, with the financial and political backup from US, encouraged mobilisation for Jihad. The clergy played a decisive role in encouraging the people of the FATA towards jihad, which has contributed to radicalisation in the area.

The survey has conflicting results on radicalisation. Local society is divided, and conflict is the chief result. This is true not only in the FATA, but also in other parts of NWFP and Pakistan. Heavily armed with sophisticated weaponry and religious zeal, tribal society seems to have the potential to resist the writ of the government, as exhibited in North and South Waziristan. This is now spilling over very rapidly to other parts of the FATA and to 'settled districts' of NWFP. The recent reports of closing barber shops and music centres in the FATA and parts of NWFP are evidence of the fact that Pukhtoon society is rapidly heading towards Talibanisation.

This research study recommends local security solutions to the problems of militancy in the FATA, rather than the Pakistan Army. For employment generation, the government should establish industrial zones. As indigenous conflict prevention tool, tribal/Wolasi Jirga should be promoted and strengthened and the government should initiate the implementation of proper judicial system in accordance with tribal customs and traditions. Education and the participation of local people in developmental schemes, instead of solely elites, should be encouraged.

⁴In Pukhtoon Jirga Swara used as a decree in resolving a conflict, which involves murder (s). To avoid Qesas or Badal (revenge) the Jirga decides to compensate the victim's family by penalising the offender with money or the offender is required to give hand of his daughter or sister to the victim's brother or son or relative, whatsoever. The aim behind this arrangement is to turn the enmity into family ties. In such a manner feuds are most of the times resolved however, women become the victims of such verdicts.



The Possession of Firearms

In Pukhtoon society a weapon is considered as a status symbol and high quality, expensive weapons endow the owner with prestige in the FATA. In the absence of any security measures from the government side, and set alongside the complex rules of Pukhtoon social behaviour, it is inevitable that the tribesmen will keep weapons for their self-defence. The Afghan war embedded this practice, and spread more weapons across the FATA ensures it will continue.

The overall results of the survey on the presence and use of firearms shows that the people of the FATA firmly believe that they need firearms for the protection of their lives and their honour from their fellow tribesmen. In short, they believe that weapons provide greater security.

Finally, a majority of the respondents believed that a better system of security reduces the demand for firearms. This is very encouraging and leads us to hope for a better future if alternative, local security solutions could be found.

This research study recommends that the government should curb the supply and demand of firearms by regulating the firearms trade. Local 'grey markets' of firearms production in the tribal areas, which is a source of non-stop proliferation of firearms in Pakistan, should also be regularized.

The Future of Tribal Youth

A lack of proper educational and employment opportunities have provided space for the promotion of extremist ideologies that have fuelled terrorism and sectarianism in the FATA. The Jihadi organizations and criminal gangs have very astutely targeted the youth of the FATA and exploited this. In the FATA particularly, this environment was already set due to a dated governance system, which neither allowed institutions to flourish nor encouraged human development. This has contributed to the FATA's existing economic development and law and order situation.

The majority of young people waste their time, and are not employed. Sport and gossip are main activities, while jobs are hard to find. And sport is viewed as a negative. Respondents blame the government for the lack of jobs. According to the survey, the unemployed youth get involved in drug abuse, domestic violence and other criminal activities. This is depressing news and the government and civil society need to

be engaged. In the absence of any educational and employment opportunities there is a high probability that young people in the FATA will become easy prey for extremists.

The government of Pakistan should create employment opportunities for the people of the FATA. Investment in skills and scholarships will bear fruit. A separate engineering college, medical university and women's university was recommended by the participants. The government should increase the volume and scale of scholarships for talented youth.

FATA Administration

The Indian Independence Act of the 3rd of June 1947 abrogated the special treaties. Pakistan opted not to base troops in the FATA region after 200 Malikis, during a grand Jirga, signed an instrument of accession with Mohammad Ali Jinnah, the first Governor General of Pakistan, in return for continued allowances and subsidies. On the 14th August 1947, when Pakistan was created as a sovereign Muslim state, it also retained the FATA's semi-autonomous status, with the Governor General assuming direct administrative jurisdiction. The constitution of 1973 of Pakistan provides the FATA with its special status and bestows upon the President of Pakistan the Executive Powers for the administration of FATA affairs, which are exercised through the Governor of the NWFP.

The Political Agent (PA) - a federal civil bureaucrat, who represents the Governor of NWFP, runs the local administration in each agency. The Political Agent performs several functions at the same time; he acts as an executive, a judge, and revenue collector and the Chairman of the Agency Councillors.

The Pakistani National parliament has nothing to do with legislation for the FATA and Article 247 of the Constitution empowers the President of Pakistan to promulgate ordinances for the FATA. Since the FATA is a part of Pakistan therefore, the constitution of Pakistan protects the fundamental rights of the citizens of Pakistan, however, the Supreme Court, which guarantees fundamental rights does not have jurisdiction in the FATA.

This research study recommends that Articles 246 and 247 in the constitution of Pakistan should be amended to bring about a change according to the aspirations of elected representatives from the FATA, which shall also be in consonance with Islam and the customs and traditions of Tribal people. Basic fundamental rights enshrined in the constitution of Pakistan should be

extended to the people of the FATA. Representatives of the FATA in parliament should be given the powers and rights to legislate for the FATA keeping in view its special status. To check the unbridled powers of the political administration, jurisdiction of the Judiciary should be extended up to the FATA. The FATA should also be given representation in the provincial assembly of NWFP.

Frontier Crimes Regulations (FCR)

The British rulers wanted to integrate its system with the local tribal system by introducing FCR, however, the marriage of both has never been possible. The FATA's judicial and administrative systems are enshrined in the FCR of 1901, which was introduced by the British Indian rulers.

This legal framework is a mixture of traditional customs and norms with executive direction. The FCR is regarded as a "Black Law" or a "Draconian Law" and seen as a suppressive set of rules which violate basic human rights if judged by international human rights standards. Indeed, the British devised this as an instrument for subjugating and disciplining the Pukhtoon tribes along the Durand Line but it is generally believed that Pakistan does not have any justification for retaining the FCR after 60 years of its independence. People also say that had FCR been an effective tool the Pakistani government would have implemented it in Islamabad or other areas of Pakistan.

The overall survey results suggest that majority of the sample respondents are strongly against the current form of the FCR. The majority of sample respondents recommended that it should be amended or abolished. The FCR is perceived as suppressive tool in the hands of the political administration. It is also evident that the justice system under FCR is not trusted very much and that the respondents endorsed the Wolasi jirga system, which, according to them, provides proper justice to all the parties involved. While some of the respondents believed that in the given environment FCR is still needed. When analysing the entire data, the FCR is rejected by the respondents however, they are still confused which system of regulation should replace FCR.

This research study recommends that amendments in FCR should mainly address the human rights issues of the FATA people and the word "Crimes" from FCR should be removed as it conveys a very wrong impression of the people of the FATA. Section 40 and 44 of the FCR should be amended and the Political Agent's Judicial and Executive powers should be

separated. A bailing system should be introduced in the FCR and amendments in Articles of 'territorial and collective responsibilities' should be initiated. The national legislature should also make an amendment in the constitution of Pakistan by extending the jurisdictions of the superior courts to the FATA for the protection of human rights of the local populace.

The Institution of Jirga: The Contemporary Justice System

A Jirga constitutes a very important element of the Pukhtoon tribal society, and has been rooted in its culture for more than a thousand years. This understanding of Jirga is strongly reflected in the rituals and processes of the Pukhtoon traditional tribal jirga where people gather and sit and talk in a large circle in order to resolve disputes, criminal cases and decisions are made on consensus about important social issues according to the dictates of Pukhtoonwali. The Jirga decisions are firmly implemented and honoured by the local communities.

Jirga can be convened at the local (Maraka), the tribal (Wolasi) and Grand National Assembly (Loya Jirga) levels. The Jirga is not legally institutionalised in the 'settled areas' of the Pukhtoon population and the modern legal system has replaced the centuries old Pukhtoon Jirga institution, however, Jirga is institutionalised in the tribal set-up of the FATA under the FCR and constitutes the main justice system in the FATA. Although the Jirgas constituted under the FCR are different to the traditional jirga (Wolasi Jirga).

Under the FCR Jirga, the Political Agent enjoys the powers of District Magistrate [judge] and to determine the guilt or innocence of an accused arrested for any charge, the Political Agent constitutes a Jirga with the consent of the accused to investigate the allegation and provide their verdict based on Rewaj and, in some cases, Islamic Sharia. Although Islamic Sharia is rarely applied during such proceedings, while Rewaj dominates such decisions.

The survey results regarding the Jirga system show that the Wolasi jirga is very much dominated by local 'Riwaj' tribal customs and it is widely believed that the Wolasi Jirga provides justice more so than the Sarkari or FCR Jirga. Indeed, the survey results show that respondents feel the Wolasi Jirga is more credible than the FCR Jirga, and is more consistent and impartial. However, it has also been revealed that the majority feel that the Jirga members extract monetary gains.

The statistics also show that in almost all parts of the FATA,





women do not sit in the Jirga proceedings, although in the Mohmand agency women do sit in Jirga proceedings. Cases of women are both referred and represented by male relatives in Jirgas. The statistics also show that a considerable percentage of sample respondents were not in favour of women's involvement in the Jirga, while we have also seen a substantial number of respondents endorsing the involvement of women in Jirgas, which is very positive and encouraging given the very conservative social fabric of the FATA.

The sample respondents also believed that the Wolasi Jirga maintains law and order situation in the tribal areas and can best serve the purpose of conflict resolution and prevention.

The survey also found that a considerable number of sample respondents rejected the idea of the Pakistani Penal code being extended into the FATA region, while it is also surprising to record that a substantial percentage of respondents were in favour of the extension of the Pakistan Penal Code.

The research study recommends that the government of Pakistan should bring reforms and changes in the overall justice system of the FATA in consultation with local tribes' aspirations, which will help in bridging the gap between the government and people's perceptions. The contemporary Jirga laws should be reformed with an element of modernity and globalisation, female empowerment and women's role in the Jirga proceedings should be incorporated so as to avoid any violation of human rights. The Jirga institution should be given some yardsticks through which the Jirga proceedings would be able to reach to some decisions in complex situations. These yardsticks should also ensure the transparency, effectiveness, and efficiency of the traditional Jirga system. Besides, the Islamic Shariat laws can also be incorporated in the Jirga laws, as Islamic Shairta is a law and can be best practised during the transition phase. As stated earlier, the judicial and executive powers of the Political Agent should be separated and curtailed to a level so that the Jirga decisions and proceedings are not influenced. FCR and Jirga system are to be kept functional during a transition phase with major amendments; however, ultimately both should be replaced with modern legal justice systems.

Political Institutions and the Political Parties Act

The governance system in the FATA denies the mass participation through political parties and exercises state's control through a dependable local elite (Maliks). Before the

introduction of Adult Franchise, an electoral college of around 35,000 Maliks and elders would cast their votes during the general elections, which were under the influence of Political Administration. Only in 1996, Benazir's civilian government introduced adult franchise in the FATA, but the Political Parties Act is yet to be extended to the FATA. It is very surprising to see that the parliament members from the FATA do not legislate for the FATA but they can make laws for the entire country.

The survey results show that half of the respondents seem to be interested in having the Political Parties Act introduced in the FATA, which, according to some of the respondents, would not only promote peace and security, but also improve the governance system and will ultimately lead to improvement in the lives of the tribal people. It can also be observed from the statistics that many people do support political parties although the majority still appears reluctant to support the political parties. We have also deduced from the statistics that those who do not support the political parties system are mainly those with low levels of education or are illiterate and or have less political awareness.

This research study recommends that political reforms should be initiated which would ensure socio-economic development of the local population of the FATA. The right of association and the right of expression should be extended to the people of the FATA. The participants and the speakers overwhelmingly recommended that the Political Parties Act should be extended through a Presidential Ordinance after due consultation with the local tribes of the FATA. After the transition, the said Act can be extended through a parliamentary Act.

Local Government Plan

The need for the formalisation of local self-government was long over due in the FATA however, it was only in 2002 that the Local Government Regulations for the FATA were signed by President General Pervez Musharraf. As per the plan, 70% of the agency councillors were elected, whereas some of them were selected by the Political Agent and among the 397 agency Councillors, there are only 19 women seats. The Political Agent, who act as the Chairman of the Agency Councillors, does not involve the Agency Councillors in the decision making process. This reduces the effectiveness of Agency Councillors in addressing the issues of poverty, bad governance, poor record of human rights and the poor law and order situation in the respective areas. The authoritative Political Agent does not allow the local leadership to grow and take decisions on their own.

The statistics show that a significant portion of respondents do not have a clear idea of what the functions of Agency Councillors should be. This is mainly due to the fact that the local government plan is very new to the people of the FATA. They did however, want to see the local government body being fully elected, a change which will give them some credibility as well as powers to oversee the development of their respective areas. Some of the sample respondents also wanted to make the PA responsible to the local government.

This research study recommends that Agency Council members should be elected on the basis of adult franchise. It shall consist of five members from each agency and five members from six Frontier Regions, totalling the number to forty people. Agency Council should be an independent institution, which should have the authority over developmental schemes, annual budget and its review, FATA Secretariat and FATA development authority shall be under its jurisdiction. All the decisions of the council shall be binding on the Governor of NWFP. The President of Pakistan in consultation with the elected Agency Council through its Jirga shall promulgate all ordinances.

Afghan Refugees' Impact

In response to Soviet occupation in 1979, the Afghan refugees fled to its neighbouring countries. The majority of the Afghan refugees took refuge in Pakistan's FATA, NWFP and Balochistan areas. During this period Pakistan supported the Afghan cause of Jihad with money and material. Common perceptions suggest that the three decades long Afghan crisis was responsible for a colossal amount of the weapons in tribal society, drugs, the smuggling of goods, a declining law and order situation, domestic political pressure, pressure on the economy, unemployment, and human trafficking, which clearly affected the social fabric of Pakistan, especially Pukhtoon society of the FATA and the NWFP. This has paved ways for the Talibanization of tribal society, as those tribesmen who fought a long and brutal Jihad against the Russians, then joined forces with Taliban in fighting the other warlords during the subsequent civil war and now resisting the NATO forces in Afghanistan by helping Afghan Taliban.

The general feelings of participants toward Afghan refugees were largely negative. Recent events in Pakistan and Afghanistan show that the Afghan crisis has badly damaged the social and economic fabric of the tribal society.

The research study demands the Afghan refugees' safe and respectable repatriation, which should be initiated on an emergency basis.

Drug Trafficking

The FATA is believed to be the source of drug trafficking and opium cultivation. Hundreds of small scale heroin factories are allegedly operating in these areas which supply heroin to the rest of the country, as well as to the outside world.

The FATA is also used as a destination for drugs trafficked from Afghanistan. To stop the cultivation of opium the government of Pakistan has taken several steps, including the initiation of several developmental projects in the most affected areas of the FATA, however, little has been achieved so far.

Due to the absence of any laws, a lack of developmental and economic opportunities, corrupt officials, misappropriation of funds, and a lack of awareness about the ill-effects of drugs on human society, the government has been unable to curtail the drug trafficking in the FATA.

The survey statistics suggest that the cultivation of opium and the trade in drugs is commonly perceived as illegal, immoral and against both the tribal system and Islamic injunctions. However, still there is an element of support for such activities although the majority considers such acts as being against all norms and rules.

It is very encouraging to see such trends, which indicate that people do believe in eradicating the menace of drug trafficking from the tribal society. This also suggests that tribal society is against drug trafficking and the evidence contests the notion that the entire tribal society is full of drug traffickers and smugglers.

TRANSITION PHASE

The overall results show that the people of the FATA do not want sudden change. Rather, they want gradual changes in the overall system of governance.

On this basis, the research suggests that any reform process should begin with a transitional phase, during which the current system continues but with certain key reforms implemented (these might include specific changes to the FCR and the





extension of the political parties act, for example). Given local preferences, early changes should be made to the administrative and judicial system.

Ultimately, after this transition phase a full modern governance system may prove possible. This would include a modern justice system, administration, revenue system, etc, which would ensure the complete writ of government.

What does come out from the workshops and polling is a strong desire for rapid social development. This should be initiated urgently. How the \$2 billion allocated to the FATA is spent over the coming years will be critical. Local people will look for results.

Given the importance of local views, tribal stakeholders need to be represented in processes of reform and development. One way to do this would be to set up various Commissions in each Agency, which could conduct consultations and gather opinions, recommending policy changes along the way.

Above all, the government and local administration, along with major foreign powers like the United States, United Kingdom and the European Union, need to listen to what the people of the FATA have to say. Local people have views, and these views will shape what is possible across the FATA.

PART 1



CHAPTER 1

The Borderlands

Chapter 1 - The Borderlands

The tribes that inhabit the hills of the borderlands between Pakistan and Afghanistan have a long history and they have endured several invasions of the Indus Valley. The course of their evolution has been influenced by several civilisations: the Aryan migrations; the Achaemenian Empire; the invasion of Alexander the Great; the occupation of the region by Sassanian, Kushan and Hun rulers; the Arabs, the Turks, the Mughals, and even the Sikhs have ranged over the area during this long span of history⁵.

The tribes of the central section of the frontier, living between the Kabul and the Gomal rivers, were, however, harder to control on account of their intensely democratic organization⁶. During the period in which the 'Great Game' was being played, the tribal area served as a buffer zone between India and Central Asia, yet the tribes living in the hilly tracks maintained their identity through the tribal code, the Pukhtoonwali⁷.

Before the arrival of the British, there had been no special agency for dealing with the Pukhtoon tribes⁸. In 1901, the North Western section of the borderland, which is now Pakistan's North West Frontier Province (NWFP), was placed directly under the rule of the Governor General of India through the chief commissioner of the Punjab province, who acted as his agent. In the same year, the NWFP was divided into two separate areas that were subject to differing legal-administrative statuses i.e. the "settled areas" and "tribal areas". After the creation of Pakistan as a separate sovereign state, Pakistan retained this system of governance in the FATA, allocating responsibility for the region to the administration of the Governor of the NWFP who acted as the agent of the Governor General and the President⁹.

The 1973 constitution bestows upon the President of Pakistan

the Executive Powers for the administration of FATA affairs which are exercised through the Governor of the NWFP¹⁰. The constitution of 1973 guarantees the basic rights of the people of Pakistan, including the residents of the FATA, however, the Supreme Court has no jurisdiction in the FATA to preserve and safeguard their basic rights. This leaves both the executive authority of the governor and the political administration unchecked and unquestioned and indeed, the whole system revolves around one individual, the 'Political Agent'¹¹, who acts as the executive officer, a judicial magistrate and a collector of revenue at the same time. In the case of Frontier Regions the deputy commissioners of the adjoining districts serve as the agents of the Governor of NWFP.

The FATA region was the focus of attention during the Soviet-Afghan war from 1979-89 and then again during the civil war in Afghanistan. These conflicts resulted in the emergence of an empowered Taliban movement in the mid 90s which eventually consolidated control over almost 80% of Afghanistan's territory. The 9/11 terrorist attack by Al-Qaeda led the US forces and its allies to attack Afghanistan. Pakistan, as the front-line state in the war on terror, deployed its forces for the first time in the history of the FATA to prevent Al-Qaeda and the Taliban from establishing a sanctuary in the tribal belt¹². Due to its proximity with Afghanistan, many believe that the Taliban in Afghanistan receive backup from their sympathizers in the FATA, which causes trouble for the International Security Assistance Force (ISAF) and NATO forces in Afghanistan. Since March 2004, the Pakistani Army has been operating in the North and South Waziristan Agencies and has deployed around 80,000 troops to stop the cross border movement, hunt foreign militants in these areas and control the local Taliban. However, the Pakistan Army has suffered great losses and been forced to opt for a policy of appeasement towards the FATA-based militants. This resulted in the signing of peace agreements, first in South Waziristan in April 2004, and then in North Waziristan in September 2006¹³.

Poverty, illiteracy, lack of resources and opportunities and exclusion from the mainstream political process are the factors that provide an ideal scenario for extremism and militancy to take roots in a society. The political vacuum paves the way for

⁵S. Iftikhar Hussain "Some Major Pukhtoon Tribes Along the Pak-Afghan Border", Area Study Centre, University of Peshawar, Revised edition 2005

⁶Dr. Azmat Hayat Khan "The Durand Line, Its Geo Strategic Importance", Area Study Centre, University of Peshawar, Third Edition 2005

⁷Pukhtoonwali is a code of a Pukhtoon's life, around which a Pukhtoon guides his life on the basis three main principles i.e. Badal (revenge – an eye for an eye), Melmastia (hospitality and protection to guest) and Nanawati (going in). These terms are more defined and explained in the coming chapters.

⁸S. Iftikhar Hussain "Some Major Pukhtoon Tribes Along the Pak-Afghan Border", Area Study Centre, University of Peshawar, Revised edition 2005

⁹The 1956 constitution of Pakistan abolished the position of governor general and replaced it by the president as head of state – quoted from ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006

¹⁰Article 247 (5) of the 1973 constitution states that the "President may make regulations for peace and good governance of the FATA". Article 247 (6) notes that the "President may by order direct that whole or any part shall cease to be tribal area with the consultation of a tribal jirga".

¹¹During the British Colonial system, the term 'Political Officer' term was used this was later changed to 'Political Agent'.

¹²Pakistan's Tribal Areas: Appeasing the Militants – ICG Asia Report No. 25 – 11 December 2006

¹³UN Secretary Council mission to Afghanistan – quoted in ICG's report entitled "Pakistan's Tribal Areas: Appeasing the Militants" - Asia Report No. 25 – 11 December 2006





obscurantist elements to fill the gap and exercise authority that would otherwise belong to the state. This is exactly what has happened in the FATA. Decades rather than years of poverty and exclusion from the mainstream processes of socio-political and economic development have alienated the people of the FATA. On top of this, a sustained period of exposure to obscurantist teachings coupled with a renewed faith in tribal practices in the shape of Talibanization, have further marred any chances for the creation of a sane and civilized society in the FATA. Although the damage already done is serious, it is not irreparable.

As we can see, the impact of the revival of ancient tribal codes, compounded by a Taliban-like interpretation of Islam has been so forceful that it currently forms the core of the collective psyche in the region and is reflected in the mindsets of locals. Religious, political and social dissent is unacceptable; a total disregard for the rights of others (especially when the victim is a woman) and a general tendency to resist change have become the defining features of this society.

During the early months of 2000, the Government of Pakistan initiated the Local Government Plan. It consisted of three tiers of democratic institutions – the union administration (lowest tier), Tehsil government (middle tier) and district government. The same plan was introduced in the FATA at the end of 2004 through the election and nomination of agency councillors. However, it lacks a tiered structure and consists of only one level, that of the district government¹⁴. Among the 397 agency Councillors half were elected and half were nominated by the local political administration. Only 19 seats were allocated for women and this token representation of women reflects the local prejudices and the general state of affairs in that area. These councillors have not been provided with the powers enjoyed by their counterparts in settled areas of Pakistan. This reduces their effectiveness in addressing the issues of poverty reduction, governance, human rights and law and order situation in their respective areas. The Political Agent of each Agency is also the Chairman of the Agency Councillors whereas the Assistant Director of Local Government and Rural Development is also the Secretary of the Councillors' Council.

1.1 FATA Agencies¹⁵

The Federally Administered Tribal Areas (FATA) are located along Pakistan's north-western Himalaya zone and south-

western Sulaiman Mountains and runs as a narrow tract along the river Indus with the parallel lines almost north to south. It consists of seven semi-autonomous agencies or administrative units – Khyber, Mohmand, Bajaur, Kurram, Aurakzai, North Waziristan and South Waziristan. Additionally, the FATA includes 'frontier regions' that adjoin the districts of Peshawar, Kohat, Bannu, Lakki Marwat, Tank and Dera Ismail Khan. This tangled mass constitutes an area of 27224 sq kilometres and is inhabited by around 3.17 million¹⁶ people belonging to different Pukhtoon or Pushtun tribes. The 1400 miles (2500 KM) long Durand Line, which was drawn in 1893 by the British colonial rulers of India, geographically divides the Pushtun tribes in the region between Afghanistan and the FATA of Pakistan. The FATA has remained strategically important since the times of "the Great Game" for imperial domination that took place in the 19th century.

Khyber Agency

The British rulers first established the Khyber Agency in 1879. Though initially there was to be a Political Officer acting as the Administrative Head of the Khyber Agency (Political Agent's Officer, Khyber Agency), in actual fact in 1902 a full-fledged Political Agency was assigned here¹⁷. It draws its name from historic Khyber Pass and covers an area of 2576 sq. km. The famous Torkham border links the Khyber agency with Afghanistan's Nangarhar province. It has an estimated population of 546730 and is comprised of people from Afridis, Shinwaris, Mulagooris and Shalmanis tribes.

Kurram Agency

This Agency was created in 1892, a year before the demarcation of the Durand Line. It covers an area of 2296 sq. km and has a population of 448,310. It is inhabited by several tribes, the major tribal composition being the Turi, Bangash, Parachinari and Masozai - both Sunni and Shia sects. The Kurram Agency borders Afghanistan's Nangarhar province in the North West and Paktia province in the South West.

South Waziristan Agency

Two more agencies were created along the Pak-Afghan border in 1895 through the division of what became known as Waziristan¹⁸. South Waziristan, the largest of all tribal agencies at 6,620 sq. km and is inhabited by a population of around

¹⁴Pakistan's Tribal Areas: Appeasing the Militants -- ICG Asia Report No. 25 -- 11 December 2006

¹⁵ UN Secretary Council mission to Afghanistan -- quoted in ICGs report entitled "Pakistan's Tribal Areas: Appeasing the Militants" - Asia Report No. 25 -- 11 December 2006

¹⁶ Unofficial Reports estimate the population of FATA from 5 to 7 million.

¹⁷ S. Iftikhar Hussain "Some Major Pukhtoon Tribes Along the Pak-Afghan Border", Area Study Centre, University of Peshawar, Revised edition 2005

¹⁸ S. Iftikhar Hussain "Some Major Pukhtoon Tribes Along the Pak-Afghan Border", Area Study Centre, University of Peshawar, Revised edition 2005

429,841 persons. The major tribal composition is derived from the Mehsud and Ahmadzai Waziris tribes. South Waziristan borders with Afghanistan's Paktia and Khost provinces to the west, Pakistan's Balochistan province to the South, Pakistan's Dera Ismail Khan district to east and the FATA agency of North Waziristan to the north.

North Waziristan Agency

Created in 1895 along with South Waziristan, the North Waziristan Agency is the second largest agency in size, covering an area of 4,707 sq. km. It has a population of 361,246 people mainly from the Utmanzai Waziri, Dawa, Saidgai, Kharasin and Gurbaz tribes. The North Waziristan Agency borders the Paktia and Khost provinces of Afghanistan.

Mohmand Agency

The Mohmand Agency was created in 1951, four years after creation of Pakistan as sovereign state in 1947. It covers an area of 2,296 sq. km. and its population is estimated to be around 334,453. The major tribes inhabiting the area are the Mohmand, Safi and Uthmankhel tribes. The Mohmand Agency shares a border with the Bajaur Agency to the north, the Dir district to its east, the district of Peshawar to its southeast and Afghanistan to the west.

Bajaur Agency

Bajaur Agency, the smallest in size at 1290 sq. km, was created in 1973. It has a population of 595,227 persons with tribal composition drawing from the Uthmankhel and Tarkani tribes. Bajaur shares a border with Afghanistan's Kunar province to the north west; Pakistan's Dir district to its north east and the Mohmand agency to its west.

Aurakzai Agency

The Aurakzai Agency is the only tribal agency that does not share a border with Afghanistan. Created in 1973, it covers an area of 1538 sq. km and has a population of 225,441 persons. It is bound in the north by the Khyber Agency; in the east by the Frontier Region (FR) Kohat; in the south by both FR Kohat and the Hangu districts; and in the west by the Kurram Agency. The major tribal groups are the Aurakzai and the Bangash – both Shia and Sunni sects.

⁹FR stands for "Frontier Region"

FR Peshawar¹⁹ (Tribal Area Adjoining Peshawar District)

FR Peshawar covers a total area of 261 sq. km, with a population of around 53,841. The Afridi tribe is the only major tribe inhabiting FR Peshawar. It is bounded on the north and west by the Peshawar District, on the south by Tribal Areas Adjoining the Kohat District, and on the east by the Nowshera District.

FR Kohat (Tribal Area Adjoining Kohat District)

FR Kohat covers a total area of 446 sq. km and has a population of around 88,456. The Afridi tribe is the only major tribe inhabiting FR Kohat. It is bounded on the north by FR Peshawar, on the east by the Nowshera District, on the south by the Kohat District and on the west by the Aurakzai Agency.

FR Bannu (Tribal Area Adjoining Bannu District)

FR Bannu covers a total area of 745 sq. km and has a population of around 195,933. The Wazir tribe is the only major tribe inhabiting FR Bannu. It is bounded to the north by the Karak District, on the east by Bannu District, on the south by FR Lakki Marwat and on the west by the North Waziristan Agency.

FR Lakki Marwat (Tribal Area Adjoining Lakki Marwat District)

FR Lakki Marwat covers a total area of 132 sq. km and has a population of around 69,877. The Bhattani tribe is the only major tribe inhabiting FR Lakki Marwat. It is bounded on the north by the Karak District, on the east by the Bannu District, and on the west by the North Waziristan Agency.

FR Tank (Tribal Area Adjoining Tank District)

FR Tank covers an area of 1,221 square kilometres and has a population of around 27,212. The Bhattani tribe is the only major tribe inhabiting FR Tank. It is bounded on the north, south and west by the South Waziristan Agency, on the north-east by the Lakki Marwat District and on the south-east by the Tank District.

FR D.I. Khan (Tribal Area Adjoining Dera Ismail Khan District)

FR D.I. Khan covers a total area of 2,008 sq. km and has a population of around 38,990. The Ustran and Sherani are the major tribes inhabiting FR D.I. Khan. It is bounded on the north by the South Waziristan Agency, on the east by the Kulachi Tehsil of D.I Khan District, on the south by D.G. Khan Districts and on the west by the Zhob District.





1.2 The Origins of the Pukhtoos

Before further assessment of the history of these regions, it is important to develop an understanding of the origins of the people living on the borderlands. The people living in the FATA region are predominantly Pukhtoos²⁰, and speak Pukhtu. The origins of the Pukhtoos are not yet understood by historians and genealogists, despite their untiring efforts. With the death of Alexander in 323 B.C., the bright lantern that provided illumination on a brief period of the early history the North-West Frontier scene was extinguished and subsequent historical details have to be laborious reconstructed, mainly from coins and inscriptions. Indeed historical documentation is limited to occasional glimpses shed by the fragmentary records generated from the work of envoys and geographers²¹.

Nonetheless, two conflicting theories have been developed to account for the origins of the Pukhuns. One group of historians and ethnologists claims that Pukhuns are the descendants of "Qais, the thirty-seventh Lineal descendant of Saul of Israel"²². Qais was a saintly warrior who lived near Ghur in Afghanistan in the seventh century. He converted to Islam and received blessing from the Holy Prophet Mohammad (PBUH). After his death, his descendents moved to Qandahar. Qais had three sons, namely Sarbani, Ghilzai and Ghurghusht, which became the three great branches of the Pukhtoon race. Pukhtoos generally believe in this theory and speak of themselves as "Bani Israel"²³.

There is also a large group of historians and ethnologists who believe that Pukhuns are the descendants of the Aryans who laid the foundations of this new culture circa 1500 B.C.²⁴. Most of the modern researchers of this theory agree on the birth place of the Aryans as lying in between the Pamirs and Oxus, which is known as Bakhtar²⁵. The Dravidians, the residents of the area, were subjugated by the Aryans or fled the area, migrating to other parts of India. At that time, the Aryans gradually settled in parts of India, Afghanistan and Iran. It is also believed that the Aryans established themselves in three areas of what is now Pakistan, with one group living in Bakhtar that is believed to be the ancestors of the Pukhtoos. They settled in Balkh, Hirat, Kabul and Gandhara.

1.3 A History of the Borderlands

To provide a clearer understanding of the FATA's contemporary history, it is also important to look into the pages of its earlier history in order to appreciate the context of the tribal Pukhtoon's evolutionary struggle against a series of invaders, beginning with Alexander the Great then moving through the British Imperial control of India and, finally, to the contemporary role of Pakistan. The present frontier is not a product of a chance growth but has evolved through centuries of political struggle between the empires of India and those of western and Central Asia²⁶. This has meant that the frontier regions have never been stabilised but rather suffered from a series of invasions from the north, east and the west, which have resulted in the region being passed from the hands of one empire to another. Indeed, based on established records it is apparent that the territory that currently makes up Afghanistan and the North West Frontier of Pakistan have seen perhaps more invasions in the course of their history than any other country in Asia or indeed the world²⁷. Over the course of history, the area has been part of India, then Persia, then again India, then Afghanistan and finally, British India. Although part of these empires, the geography of the region has meant that for long periods of time the line of the Indus, or the escarpment of the mountains west of it, has represented the boundary of these constantly shifting kingdoms²⁸.

The first event of its kind in the recorded history of the region was when Alexander the Great invaded India across the frontier in 323 B.C. He conquered Afghanistan and then advanced towards India through the western part of the sub-continent (today's FATA of Pakistan). Initially he faced tough resistance from the freedom loving Pukhtoon tribes however, Alexander's Army ultimately subdued the Pukhtoon tribes and this region remained part of the Macedonian Empire governed by General Seleucus, along with Afghanistan and Iran. Subsequently, Ashok the Great ruled the present-day Afghanistan, including parts of the present-day western Pakistan in 250 B.C.

Later, the region endured the Muslim invasions from Central Asia and Afghanistan in the ninth and tenth centuries AD when these areas were under the control of Hindu Rajputs. Raja Jaypal was the last one to extend his rule over the territories of Afghanistan and was defeated by Mehmud Ghaznavi in

²⁰There are several different spellings of this name, including Pushtuns, Pakhtuns, Pukhtuns and Pathans, these variations reflect the accents used by authors and commentators when using the term.

²¹Sir Olaf Caroe 'The Pathans' - 1983

²²James W. Spain 'The Pathan Borderland' - 1963

²³Bani Israel is Arabic phrase and means 'Children of Israel'

²⁴Sher Muhammad Mohmand 'FATA A Socio-cultural and Geo-Political History'

²⁵Sher Muhammad Mohmand 'FATA A Socio-cultural and Geo-Political History'

²⁶Dr. Azmat Hayat Khan, 'The Durand Line - Its Geo-Strategic Importance -- 2005 -- page 41

²⁷Sir Olaf Caroe 'The Pathans' - 1983 - page 25

²⁸Sir Olaf Caroe 'The Pathans' - 1983 - page 25

Stanley Lane -- Poole, Mediaeval India under Muhammedan Rule (A.D. 712 - 1764)

Peshawar. Mehmud Ghaznavi followed the route from Central Asia through Khyber Pass and invaded India on seventeen occasions between 1000 and 1026 AD although he never consolidated his empire in India²⁹. In 1186, Mohammad Ghori from Afghanistan attacked Punjab and Benares and defeated the Rajputs laying the Muslim Foundations in India. The same route was followed first by Chengez Khan (Genghis Khan) in 1212 AD when Sultan Altutmish reigned over India, and then in 1398 by Amir Timur Lane who wrought enormous destruction before his return. In 1526, Zaheeruddin Babar, the first Mughal emperor, came from Afghanistan and defeated Sultan Ibrahim Lodhi in the battle of Panipat and laid the foundations of the Mughal Empire in the Indian Sub-continent, which lasted till 1764³⁰. The Mughal Empire began to erode with the death of the last powerful Mughal Emperor, Aurangzeb Alamgir, in 1707. Erosion worsened under his weak successors who were unequal to the task of holding the empire together. Between 1707 and 1857, when the British formally took over the government of India after the mutiny, the empire of the Mughals continued to disintegrate³¹.

In 1826, Dost Mohammad of the Mohammadzai family assumed the throne of Kabul. According to Fraser-Tytler, in 1837 as part of his struggle to regain the territories lost to the Sikhs and to liberate his fellow men from the Sikh yoke³², Dost Mohammad sent troops under the leadership of his eldest son, Mohammad Akbar Khan, through the Khyber to attack the Sikhs³³. Aided by tribesmen, Akbar's army defeated the Sikhs under Hari Singh outside the walls of Jamrud³⁴.

The first Afghan war was a result of the lack of cooperation from the British towards Amir Dost Mohammad in his struggle to capture Hirat from the Persians. Whereas the British would not cooperate, the Russians promised Amir Dost Mohammed that they would help him in capturing Hirat and regain the territories of Peshawar from the Sikhs, which belonged to Afghanistan four years earlier (before the first Afghan War). However, Afghanistan served as a buffer zone between British India and the Russians during the times of 'The Great Game' and in order to keep the Russians away from the Indian border, the British had always followed a 'forward policy'. To counter the Tsarists designs, the British formed an alliance with the Sikhs and the deposed Shah Shuja³⁵, in opposition to Dost Mohammad. In

exchange, Shah Shuja was promised the throne of Kabul while the possession of Peshawar was to be awarded to the Sikhs. In a short time, the allied forces captured Kabul and the surrounding areas and Shah Shuja was made Amir of Afghanistan. However, his reign as Amir was short-lived, as by January 1841, the British along with Shah Shuja, had been driven completely from the country³⁶. In 1843, Dost Mohammad returned from his exile and regained the control of his country but Dost Mohammad never again cooperated with British India in relieving the pressure of the hill tribes on the Frontier.

The Second Afghan War of 1878 – 1880 was fought under the command of Brigadier General Sir Neville Chamberlain. By that time British India had annexed most of the remaining independent parts of India, and the subcontinent had effectively assumed the geographical and administrative form it maintained until winning its independence before partition in 1947³⁷. The Second Afghan War, like the first, was considered a fiasco by many on the British side; however from the perspective of the borderlands, the most important result of the Second Afghan War was that the British were now in possession of the Khyber, the Kurram and the Bolan Passes³⁸.

Both the Amir³⁹ and the Government of India were desirous of setting the border between Afghanistan and what was then India, therefore on 12 December 1893 an Agreement was signed by Sir M. Durand and Amir Abdurehman. The fixing of the Durand Line was one significant result of the second Afghan war, which brought the Khyber Pass and the highlands around Quetta definitively within the Indian sphere⁴⁰. The line was later called Durand Line. Since 1947, when Pakistan emerged as a sovereign state, the issue of the Durand Line has been a source of contention between Afghanistan and Pakistan. Although the issue was never raised during the Afghan Jihad against Soviet occupation or during the time of the Taliban regime in Afghanistan, Afghanistan still claims the area comprising NWFP and has recently submitted its plea to the United Nations Secretary General after the Pakistani government's decision to fence and mined the border with Afghanistan.

The Tribal Areas were a continuous source of trouble for British Indian stability. To check this, the British formulated a policy comprised of persuasion, control and armed interventions in



²⁹Stanley Lane – Poole, *Medieval India under Muhammedan Rule (A.D. 712 – 1764)*

³⁰Dr. Azmat Hayat Khan, "The Durand Line – its Geo-Strategic Importance – 2005 – page 48

³¹Dr. Azmat Hayat Khan, "The Durand Line – its Geo-Strategic Importance – 2005 – page 48

³²Michael Barthorp, *Afghan Wars and the North-West Frontier 1839-1947*, page 18

³³Michael Barthorp, *Afghan Wars and the North-West Frontier 1839-1947*, page 18

³⁴Shah Shuja, the deposed Amir of Afghanistan: 1802 – 1809, and from 1939 until murdered in 1842 – he lived in India for 30 years after his return to Afghanistan before his death.

³⁵James W. Spain, "The Pathan Borderland" – 1963 – page 129

³⁶James W. Spain, "The Pathan Borderland" – 1963 – page 132

³⁷James W. Spain, "The Pathan Borderland" – 1963 – page 136

³⁸The title 'Amir' means King of Afghanistan

³⁹Sir Oslaf Caroe "The Pathans", 1983

⁴⁰Michael Barthorp, *Afghan Wars and the North-West Frontier 1839 – 1947*, page 187



these areas. Between 1849 and 1939, there were around 58 military campaigns sent to the Frontier tribal region by the British⁴¹. In return for tribal subjugation under colonial rule, the tribal areas along the Durand Line were given semi-autonomous status with allowances and subsidies granted to the tribal Malik and elders, something formalised through various agreements and treaties. One such arrangement was the introduction of the Frontier Crimes Regulations (FCR) by the colonial government in 1848; this was applied in six occupied Frontier districts housing the Pukhtoons. Initially, the ordinary civil and criminal law in force in British India was extended to such districts; however, the rate of conviction under the ordinary criminal law was too low⁴². This led the British administration to devise special law for the Pukhtoon region and the first FCR of 1871 was enacted, this was revised in 1873 and then again in 1876 with minor modifications⁴³. With the passage of time both the substantive and the geographical scope of the regulation was extended and new acts and offences were added whereas the territories it was applied expanded, and by 1901, the FCR was promulgated completely in the Tribal Areas. The FCR is regarded as a “Black Law” or a “Draconian Law” and remains a suppressive set of rules which, if judged by international human rights standards and principles, violates basic human rights. Indeed, the British devised these regulations as an instrument for subjugating and disciplining the free natured Pukhtoon tribes along the Durand Line. In the recent days, the FCR has remained a focus of criticism by human rights activists as well as people of the FATA.

1.4 FATA Administration

The Tribal areas are those lands that were considered tribal prior to the inauguration of the constitution and laws of Pakistan; as such the laws of Pakistan are not applicable to the FATA where the writ of the Supreme Court does not extend⁴⁴. The Indian Independence Act of the 3rd of June 1947 abrogated the special treaties. Pakistan opted not to base troops in the region after 200 Maliks, during a grand Jirga, signed an instrument of accession with Mohammad Ali Jinnah, the first Governor General of Pakistan, in return for continued allowances and subsidies. On the 14th August 1947, when Pakistan was

created as a sovereign Muslim state, it also retained the FATA's semi-autonomous status, with the Governor General assuming direct administrative jurisdiction. Except for minor changes, the 1956, 1962 and 1973 constitutions of Pakistan retained the same arrangements, as the governor general, and then the President of Pakistan, assumed the administrative jurisdiction of the FATA through the NWFP Governor acting as his agent.

Article 246 defines the FATA areas and Article 247 defines the administration of the tribal area. Article 247 clause (1) states:

*“Subject to the Constitution, the executive authority of the Federation shall extend to the Federally Administered Tribal Areas, and the executive authority of a Province shall extend to the Provincially Administered Tribal Areas therein”.*⁴⁵

The overall administrative and political control of the FATA falls under the federal ministry of states and frontier regions (SAFRON), which is answerable to the elected prime minister and national assembly. However, it is virtually irrelevant in policy implementation and execution in the FATA and acts mainly as a conduit for routing federal funds⁴⁶ whereas the executive authority rests with the president and is exercised through the provincial governor. Under clause (2) of Article 247:

*“The President may, from time to time, give such directions to the Governor of a Province relating to the whole or any part of a Tribal Area within the Province as he may deem necessary, and the Governor shall, in the exercise of his functions under this Article, comply with such directions”.*⁴⁷

The local administration in each agency is run by the Political Agent (PA) - a federal civil bureaucrat- each sub-division (Tehsil) is headed by his Assistant Political Agents. The PA performs several functions at the same time; he acts as an executive, a judge, and revenue collector. He also heads the Agency Council and overseas development projects and all line departments come under his authority. He also maintains law and order and ensures peace in the tribal areas through khassadars, levies⁴⁸ and paramilitary forces. Other significant actors include the Malik and the Lungi holders⁴⁹, who play a vital role in

⁴¹Constitutional Status of FCR – paper presented by Dr. Faqir Hussain, Secretary Law and Justice Commission of Pakistan – Report of the Consultation Proceedings on the FCR Regulations 1901, organized by Human Rights Commission of Pakistan (HRCF) and TRDF – October 2004

⁴² Constitutional Status of FCR – paper presented by Dr. Faqir Hussain, Secretary Law and Justice Commission of Pakistan – Report of the Consultation Proceedings on the FCR Regulations 1901, organized by Human Rights Commission of Pakistan (HRCF) and TRDF – October 2004

⁴³ Advocate Qazi Jamil, former Attorney General of Pakistan, constitutional expert, former General Secretary HRCF, presentation during the National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007

⁴⁴ Pakistan Constitution of 1973

⁴⁵ ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 4

⁴⁶ Pakistan Constitution of 1973

⁴⁷ Khassadars or (Tribal Badraggas) or levies are appointed by the political agents. They serve several functions such as protecting strategic roads and other government utilities, performing guard duties, export duty and protection of various installations as well as acting as bodyguard guides. Indeed, this force was introduced during the British times for the purpose of escorting the British officials and local scouts from one place to another in the tribal areas. In the local language these people were known as “Tribal Badraggas”, and bear the responsibilities for the law and order on behalf of their tribes

⁴⁸ A Malik or Lungi Holder is the representative of the clan or sub-clan who is recognised by the government as a person commanding influence in the tribe. Malik is hereditary whereas Lungi Holders are those selected by the Political Agent with the consent of the Governor of the NWFP. Malik and Lungi Holders are also collectively responsible for maintaining the law and order of their respective tribes and areas.

maintaining the status quo that emerged from the colonial period of Indian sub-continent in the tribal areas. These Maliks and Lungi holders are paid with allowances and subsidies to ensure they remain loyal to the Political Agents. The Political Agent grants Maliki or Lungi status with the consent of the Governor and can withdraw, suspend or cancel the position when he deems the individual is not serving his purpose⁵⁰. The political powers of the Political Agent remain intact and the booty is still shared by the PA with the tribal Maliks as was the case before the independence of Pakistan.

The Political Agent of an Agency also serves as the Chairman of the Agency Councillors who select around 30% of the agency councillors. These councillors have not been provided with the powers enjoyed by their counterparts in settled areas of Pakistan and this has reduced their effectiveness in addressing the issues of poverty reduction, governance, human rights, and the law and order situation in their respective areas.

The FATA's regulation system is based on the Frontier Crime Regulations (FCR). Under this system, the Political agent enjoys the power of District Magistrate while the three Assistant Political Agents are vested with the power of Additional Assistant Magistrate. To determine the guilt or innocence of an accused arrested for any charge, the Political Agent constitutes a Jirga with the consent of the accused to investigate the allegation and provide their verdict based on Rewaj⁵¹ and, in some cases, Islamic Sharia although Islamic Sharia is rarely applied during such proceedings while Rewaj dominates such decisions.

The Political Parties Act of Pakistan has not been extended to the FATA and the adult franchise system was introduced only in the 1997 general elections. Before the adult franchise system around 35,000 tribal Maliks and elders would vote, thus electing the FATA representatives of the Lower House i.e. the National Assembly. Since the FATA comes under Federal system however, it does not have any representation in the provincial legislative assembly of North-West Frontier Province, although eight seats are allocated in the Upper House (Senate) for FATA representatives. Under the constitutional arrangements no act passed by parliament is applicable to the FATA region. Under clause (3) of Article 247:

"No act of 1[Majlis-e-Shoora (Parliament)] shall apply to any Federally Administered Tribal Area or to any part thereof, unless the President so directs, and no Act of 1[Majlis-e-Shoora (Parliament)] or a Provincially Administered Tribal Area, or to any part thereof, unless the Governor of the Province in which the Tribal Area is situate, with the approval of the President, so directs; and in giving such a direction with respect to any law, the President or, as the case may be, the Governor, may direct that the law shall, in its application to a Tribal Area, or to a specified part thereof, have effect subject to such exceptions and modifications as may be specified in the direction."⁵²

This is a cause of frustration, as Engr. Zaman Khan Dawar has stated "Representatives from FATA in the parliament are helpless and without any powers to make legislations for FATA"⁵³. The ordinances and regulations that are imposed by the government are done so without consultation with, and the consent of, the people of the FATA⁵⁴ and unfortunately there exists no institutionalised mechanism for giving effective say to the tribesmen in decision making at provincial level, despite the fact that almost all the important decisions in respect to the FATA are made and implemented by the Political Agent to the President/Governor of the NWFP.⁵⁵

The constitution of Pakistan protects the fundamental rights of the citizens of Pakistan. Since the FATA is a part of Pakistan the same rights are extended to the FATA region. However, the Supreme Court, which guarantees fundamental rights does not have jurisdiction in the FATA and Clause (7) of Article 247 negates such protection, stating:

"Neither the Supreme Court nor a High Court shall exercise any jurisdiction under the Constitution in relation to a Tribal Area, unless 1[Majlis-e-Shoora (Parliament)] by law otherwise provides"⁵⁶

1.5 Socio-Economic Conditions

Covering a total area of 184825 hectares, according to the 1998 Census report, the FATA are the most economically backward areas of Pakistan and some 60% of the population lives below the national poverty line.⁵⁷ Per capita income is as little as half of

⁵⁰Advocate Qazi Jamil, former Attorney General of Pakistan, constitutional expert, former General Secretary HRCP, presentation during the National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007

⁵¹Rewaj means local culture

⁵²Pakistan Constitution of 1973

⁵³Interview with Engr. Zaman Khan Dawar, retired Chief Engineer WAPDA and belongs to North Waziristan Agency – dated January 11, 2007

⁵⁴Interview with Advocate Qasim Mehsood, member FATA reforms Committee and belongs to South Waziristan agency, dated January 11, 2007


⁵⁵Sang e Marjaan Khan, un-published article 2002, and views expressed during interview on 10 May 2007

⁵⁶Pakistan Constitution of 1973

⁵⁷ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 9

⁵⁸ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 9





the national per capita income, whereas per capita public development expenditure is reportedly one third of the national average.⁵⁸ These problems are exacerbated by other telling indicators:

Communications and transport indicators

According to the Pakistan Census Report 1998, the communication inventory of the FATA comprises of Roads, Telephones and Post offices; there is a total of 4427.30 Km of roads, 2499.70 of which is the 'High Type' while 1927.60 Km is of Low Type. The number of Telegraphs offices is 6 while number of Telephone Exchanges in the whole of the FATA is 46.

Education Indicators

The percentage of literate persons in the FATA is estimated to be 17.42% of which less than 3% are female. According to the FATA Census report of 1998, there are 2567 primary schools, 278 middle schools, 201 high schools and 9 colleges, which teach intermediate and degree level. All the nine colleges are for males and there are none for women.

Health Indicators

In Health sector, there are 41 hospitals, 190 dispensaries, 5 Rural Health Units (RHCs), 6 T.B Clinics, 16 Mother and Child Health (MCH) centres, 167 Basic Health Units (BHUs), 5 Leprosy Centres and 3 Sub Health Centres. Private Doctors also practice in the area and provide additional medical facilities. However, in the absence of roads and adequate communication people often resort to traditional treatments or are at all mercy of "quacks".⁵⁹

Land productivity

Land records are not available or maintained in the area, except for the North Waziristan and Kurram Agencies. Only the records of lands under Military compensation are maintained by the agency Patwari.⁶⁰ The FATA is cultivated by different irrigation sources, the most common sources being the Canals, Tube Wells, Wells, Rivers, Streams, Lift irrigation schemes etc.

Sources of Income

Natural resources are under exploited in the FATA and the

majority of the local population depends on agriculture, transport, arms manufacturing and trade, drug trafficking, cross border trade (or so called smuggling) and shop keeping. Employment opportunities are non-existent and entire families often depend on a single person's income.⁶¹ In the absence of any employment opportunity, most of the youth gets involved in non-productive activities leading to crimes and domestic violence.⁶²

Development policy

The development policy of the local administration in the FATA is based on the biased distribution of resources. The privileged are provided with developmental incentives while those who are enduring grievances and raising their voices against the suppressive system of governance are ignored and kept under-developed.

In the aftermath of 9/11, the FATA came into the limelight and the Musharraf government announced a US\$ 16.5 million developmental package in conjunction with the beginnings of military operations in the FATA, especially North and South Waziristan, aimed at hunting the foreign militants and curbing the activities and presence of Al-Qaeda operatives. Western countries, especially the US, are also coming forward and making commitments to develop the tribal region with roads, hospitals, educational institutions, and the creation of industrial zones. The US has recently pledged US\$ 750 million to develop infrastructure and human resources in order to get rid of the Taliban phenomenon. However, the government estimates it needs to create 100,000 jobs⁶³ and, as with the flawed system of governance and lack of accountability in the administration in the FATA, they have not and there is little to ensure such changes will occur.

1.6 Tribal Structure and Society

Each tribe is comprised of various clans (or Khels), sub-clans and then extended family. Although these clans differ in name, tribal society is based on many characteristics which are relatively uniform and cohesion. It is based on its inter-clan linkages, which unite families, clans and tribes in a web of kinship. The family structure is the most complex feature of tribal society and underpinned by family honour, property and intra-family relationships characterised by love and hate.

⁵⁸Census Report 1998

⁵⁹Lowest revenue officer or village registrar.

⁶⁰Interview with Engr. Toor Gul Chamkani, historian/columnist and member FATA reform, dated 5 November 2006

⁶¹Views of Col. Amanullah Khan Aurakzai (Rtd), Focused Group Discussion for Aurakzai Agency, dated 27 November 2006

⁶²ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants - 11 December 2006 - page 10 - citation from "Economic Initiative for the Federally Administered Tribal Areas", undated policy memo made available to Crises Group.

⁶³Maliks mean headmen/chiefs

⁶⁴Lungi mean turban

Each family is headed by a patriarch, who is well respected and his decisions are obeyed by the entire family. Then Maliks⁶⁴ and Lungi⁶⁵ holders head each of the sub-clans. Maliks are hereditary although sometimes the Political Agent grants this title with the consent of the Governor. The title of Lungi holder is a lower rank and is granted by Political Agents. Maliks and Lungi holders are responsible for maintaining peace in their areas and providing valuable information about their areas to the Political Administration. In the case of any conflicts, they become responsible and accountable to the political administration. The political administration pays allowances and subsidies to these Maliks and Lungi holders for their services.

Household structures are alike and mostly take the shape of fortresses. These fortress-like houses often comprise of 10 to 15 sub-houses within one enclosure which may house one extended family. Each such family is represented by a head, which may be the grandfather of several sons and grandsons. In this context, the Pukhtoon speaking people constitutes a very real cultural and social entity.⁶⁶ James W. Spain in his book, *The Pathan Borderland*, writes,

*“The Pathan is above all an individualist, despite the rigid behaviour standards prescribed by clan membership. Nonetheless, there are important traditional and social factors which guide community life and in many cases influence or even determine the action of individuals. These mores vary considerably in different parts of the Pathan area, and codification of them is virtually impossible. However, certain of them are almost universal, and some knowledge of these is essential to an understanding of what the Pathan is and how he got that way.”*⁶⁷

This un-codified set of rules, which guides the Pukhtoon way of life, is called the Pukhtoonwali.

1.7 The Pukhtoonwali

Pukhtoons, living in the hilly areas on both sides of the Durand Line, have preserved their centuries old culture and traditions. Pukhtoons are men of guns, through which they protect their honour. Pukhtoonwali -the code of honour and an unwritten constitution- that they strictly observe and quote with pride, guides their lives. Pukhtoonwali is their dearest value, which conducts and controls their routine lives, behaviour and attitudes. There are three main obligations of Pukhtoonwali for a Pukhtoon which are elaborated upon in the following lines.

Nanawati

There is considerable confusion regarding Nanawati, not only among English writers, but also among writers from settled districts of NWFP, because they have mixed the term with Milmastya, which is one of the other features of Pukhtoonwali. Nanawati, which means 'begging for pardon or protection', is not only practised in tribal areas, but is also practised in other Pukhtoon areas of the NWFP, Balochistan and Afghanistan. However, with the passage of time the spirit of Nanawati has faded and the authentic practise remains only in the remote areas of Pukhtoons, especially the FATA. When a person realizes he has been in the wrong in killing, injuring or insulting another person, he goes to the Hujra, house or mosque of the aggrieved family and throws himself at their mercy, confessing his faults and begging pardon of the person or family whose sense of honour he had injured.⁶⁸ On such occasions the offender brings sheep or goats, his family women, and the Qur'an, just to show his modesty.

Milmastya

Milmastya, which means or open-handed hospitality and protection to all who may, or may not, demand it, is the greatest obligation of the Pukhtoonwali. Sometimes, protection and hospitality may even be extended to an enemy as long as the enemy remains in the host community. The guest is provided with escorts, which are called Badraga. During the Colonial period, the status of Badraga became formalised and local escorts became known as levies. According to the spirit of the term Milmastya, the guest is never to be hurt both because of the significance of the obligation under Milmastya but also because of the obligation of Badal (revenge – see below), which would automatically be placed upon the host. There are numerous incidents where hosts, regardless of whether their guests were strangers or enemies, died or injured themselves when undertaking their obligations under Milmastya. James W. Spain in his book, *The Pathan Borderland*, writes about a British Administrator on the Frontiers who was confused in his official reports, “For gold, they will do almost anything, except betray a guest” adding “Any person who can make his way into there dwellings will not only be safe, but will be kindly received”.⁶⁹

Badal

The term Badal means revenge and, under the Pukhtoonwali, Pukhtoons are obligated to seek revenge if they feel they have been wronged, regardless of the consequences. Initially, Badal is often individually orientated and undertaken only by the victim

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⁶⁴James W. Spain "The Pathan Borderland" - 1963

⁶⁵James W. Spain "The Pathan Borderland" - 1963 - page 63

⁶⁶S. Ifthikhar Hussain "Some Major Pukhtoon Tribes Along the Pak-Afghan Border", Area Study Centre, University of Peshawar, Revised edition 2005



or, in case of a murder, by the victim's family against an individual understood to have committed the hurt or insult. However, since the Pukhtoos are martial and tribal, individual feuds tend to escalate to the level of families, intra-clan and even inter-clan hostility. Such feuds can last for years and sometimes for decades. Sir Wylly writes in his book about the blood feuds of tribesmen in the following manner:

"The Pathans enlists freely into our services – there are at present moment something like eleven thousand Pathans in the Indian Army, and probably the recruiting among the tribesmen was never brisker than during the operations in Tirah of 1897-98. One thing, however, the Pathan recruit does not give up, "but brings with him to his regiment, keeps through his service, must have leave to look after, will resign promotion to gratify, and looks forward to retiring to thoroughly enjoy – and that is – his cherished feud,"⁷⁰

Hujra

The Hujra is the traditional area used as a male social centre, where the unmarried sleep and visitors are also housed and served with food and tea. It is rooted in Pukhtoon culture and civilization and considered as a mark of prestige. The social centre consists of open ground covered with a Chopan roof⁷¹ and a couple of rooms. Traditionally, village folk singers sing Tapa⁷² in winter nights and during festivities using musical instruments like Rabab and Mangey⁷³ although contemporarily one can find a television set and radio in the Hujras. A Hujra may belong to a rich man of a village who happens to be a Malik or Khan however; Hujra may be the combined property of a village. In the Hujra, issues related to civil affairs of all kinds are discussed and resolved through Jirga.⁷⁴ Marriage parties, funerals, and other rituals are also all celebrated in a Hujra. Hujras are also used for raising war parties, or Lakhkars⁷⁵ when needed. Finally, the Hujra is the place where warring tribes or clans agree truces or, Tigah⁷⁶ in order to stop further bloodshed.

⁷⁰James W. Spain, "The Pathan Borderland" page 65-66 - 1963

⁷¹Sir Wylly, "The Borderland, the Country of the Pathans – page 10-11 – published in 1912

⁷²Chopan - wooden truss roofed with mud and hay, having pillars but no wall.

⁷³Kind of poem in Pukhtu poetry

⁷⁴Rabbab is a musical instrument of Pukhtu. Mange is a water pot and serves as a drum or 'tabla'.

⁷⁵Jirga is an indigenous conflict prevention/resolution tool to resolve personal, family, tribal feuds in a very speedy manner and cost very little as compared to the modern justice system.

⁷⁶Lakhkar is a Pukhtu word which means militia or 'group of armed men' or 'war party' formed for some purpose of fighting against a common enemy or towards a common objective. Lakhkar could be of any size in number and melts down when the purpose or mission is accomplished.

⁷⁷Tigah or Teega or Tija: In Pukhtoon culture Tigah defined as a truce between two warring parties following the decision taken by a Jirga with the consent of both the parties.



CHAPTER 2

Research Background

Chapter 2 - Research Background

2.1 Introduction

Successive Pakistani governments have provided little support for the FATA in terms of developing a modern system of governance complete with the requisite institutions. Indeed, it was only in the 1997 Pakistani general election that the people of the FATA were granted individual adult franchise necessary to vote, but even the Political Parties Act was not extended to the tribal areas. This prevailing situation in the FATA has denied the local population opportunities to enjoy improved service delivery (access to education, basic health services information) and develop an understanding of the benefits of development and good governance. Rather, the political situation has actually perpetuated an ultra conservative outlook and a reluctance to change their traditions and customs, some of which permit and, in some cases, even condone the violation of human rights, especially the abuse of women's rights, in the name of culture and honour. The loopholes in the Administrative Infrastructure of the FATA compound these problems and often allow the local inhabitants to take the law into their own hands to settle scores amongst themselves, as well as with the Government.

Concerns amongst some quarters on these issues have generated interest in looking for new ways to address the longstanding problems of the status of tribal areas, an issue which not only impacts the NWFP, but Pakistani society at large. However, little activity has been initiated so far to bring any reforms in the area. The efforts of some civil society organizations that have advocated and lobbied for reforms in the existing structure are laudable; however, the point of view of the common tribesmen and women has rarely been taken into consideration.

In order to better understand the attitudes of the common people of the FATA towards various issues related to the region and, accordingly, identify any appropriate steps that could bring a positive change in their lives, the Community Appraisal & Motivation Programme (CAMP) conducted a sample survey and series of focused group discussions in seven tribal agencies of the FATA. These were supplemented by consultative dialogues carried out at various levels in Pakistan.

2.2 Objectives of the Survey

The primary objectives of the survey are:

- To identify and analyse the perception, attitude, and knowledge of the local tribal society regarding various aspects of governance system and social structure.
- To identify and analyse the opinions of the tribal society on possible solutions to their problems, with particular emphases on reforms in the existing governance system.

The secondary objective of the research is:

- To identify the socio-economic profile of the tribal society of the FATA.

2.3 Research Methods


This paper is based on both qualitative and quantitative primary and secondary data accrued through multiple methods of data collection. Primary data acquisition was achieved through the development and implementation of a questionnaire and supplemented by a series of focused group discussions and consultative dialogues. These primary data collection methods were enhanced through a process of secondary data collection using historical books, newspapers, websites search, reports, articles, journals, etc. More details of the methods used are outlined below.

Sample Survey

A comprehensive questionnaire (see appendix I) was developed following a process of consultation within CAMP focused on the research objectives. This development process included a pilot pre-test of the survey before the initiation of the main investigation which enabled the necessary changes to the survey to be made in response to feedback received from the survey team during pre-testing. A total of 114 questions were included in the questionnaire, although a large number, this was necessary in order to cover the broad range of issues being dealt with in this study. Moreover, the questions in the questionnaire were placed in a random order so as to sustain the participants' attention.

A sample size of 1050 respondents -150 in each of the agencies- was considered an appropriate number to provide the required information. Of these 1050 respondents there were





232 women (22.1%) and 818 men (77.9%). The large size of the sample was intended to more accurately reflect the target group and avoid the acute generalisations that would be inherent in a smaller sample.

Training of Enumerators/investigators

A team of six field investigators headed by a Statistical Package for the Social Sciences (SPSS) data analyst were appointed to collect and organisation data derived from the survey method. In order to mitigate gender bias in the survey, among the six members team, two of the investigators were females which may have also facilitated access to women in the male dominated tribal culture. One week of training was provided for the field investigators.

Field Research

The field research process was organized with the help of local contacts. This was particularly important, as the state of law and order in the currently volatile environment of the FATA would not have allowed the field team to implement the survey without the support of local contacts.

Monitoring

The project coordinator and the project director were responsible for monitoring the entire survey process.

Database Development and Analysis

A database was developed using MS Access software and all the raw data was organised before entry into the database. This database was then converted for use in SPSS-12 software to facilitate statistical analysis through, inter alia, cross-tabulation, comparison of means, comparison of correlation and crosschecks regarding the validity of the data.

Focused Group Discussions

The organization of focused group discussions as the second research tool, helped in documenting the views of all sections of the tribal society. Since almost all the participants had political, social, technical and religious background information and assumed respectable positions within their circles, therefore, a significant opportunity to express their viewpoints was provided to them and this facilitated the articulation of their informed perspective on various issues related to the plight of the FATA

region.

A total of 277 participants, approximately 40 per discussion, participated in these focused group discussions which covered various themes and topics pertaining to, inter alia, the constitutional status of the FATA; the FCR; the various Presidential Ordinances/regulations and their impact on the Governance system of the FATA; the implications of the FATA's present social, political, economic and administrative set up; pace of development and participation of tribal people in future opportunities; the FATA's current law and order situation; an in-depth analysis of present government's decisions in the aftermath of 9/11; and the inclusion of tribal women in the decisions making process and its impact.

Consultative Dialogue

The field survey and focused group discussions were followed by a series of consultative dialogues in which the status of governance in the FATA and its constitutional standing was discussed. Three such dialogues were organized at the local, provincial and national level. These events were attended by participants with a range of relevant background and experience, including representatives of the government and eminent speakers with political, tribal, religious and technical backgrounds.

Secondary Data

An understanding of the context -the historical background of the people and the area as well as facts about the governance system of the FATA, its constitutional standing and the political impact of the FATA on the politics of Pakistan- was developed through secondary sources. For this purpose, various books, newspapers, reports, articles, journals, etc. were consulted as reference material.

2.4 Constraints and Challenges during the Data Collection Process

Due to the ongoing law and order situation in parts of the FATA, the field investigators could not travel to North and South Waziristan Agencies. The timing of our survey in Bajuar Agency was also affected by the bombing of a madrasa in October 2006 by Pakistan security forces killing 82 people and leaving many injured. This significantly affected the survey and the team had to leave the Bajuar Agency with only half of the work completed. To cope with this setback and to complete required

work in stipulated timeframe, a new strategy was adopted in which questionnaires were completed in Peshawar at different bus stations en route to and from the North Waziristan, South Waziristan and Bajuar Agencies. The field investigation team effectively convinced people from the three Agencies to participate and completed the required number of questionnaires. However this affected the representation of women in these agencies because cultural barriers meant that women could not be interviewed at bus stations.





CHAPTER 3

Survey Results

Chapter 3 - Survey Results

3.1 Socio-Economic Profile of the Sample

Age Group of the Respondents:

The age group of the respondents ranged from 18 years old to 56 and over. The largest category, which constitutes 29.7% of the total sample, was aged between 26 and 35 years old. Another major category was 18-25 year olds, which constituted 22.1% of the sample. The overall results show that the demographics of the sample were skewed towards the younger community in the region. Only 5.4% of the sample is 56 years old and above.

Table 1. Age Group of the Respondents

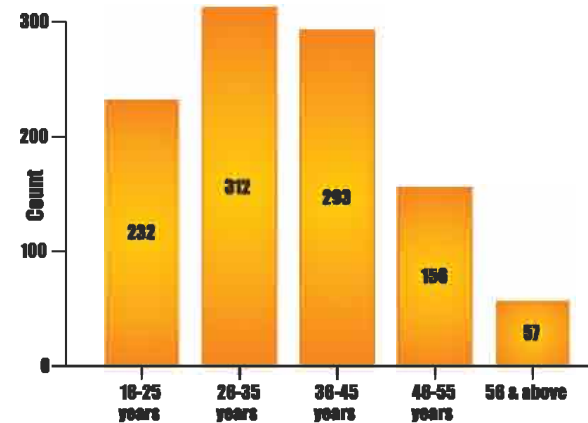
Age Group	Frequency	Percent
18-25 Years	232	22.1
26-35 Years	312	29.7
36-45 Years	293	27.9
46-55 Years	156	14.9
56 & Above	57	5.4
Total	1050	100.0

⁷"Middle" is the level of eighth grade educational attainment equivalent to 8 yrs of school

⁸"Metric" level is equivalent to education age 13-14.

⁹"Intermediate" is equivalent to A level of Cambridge education

Fig 1. Age Group of Respondents



Education Level of the Respondents

35.5% of the sample fell into the category 'illiterate' thus representing those that neither read nor write. However, adding together those with some level of education from primary to post graduate, then the majority of the sample constitutes those with some education, i.e. 63.2%. We have also identified that there is only 1.3% of the sample represented by Madrasa graduates.

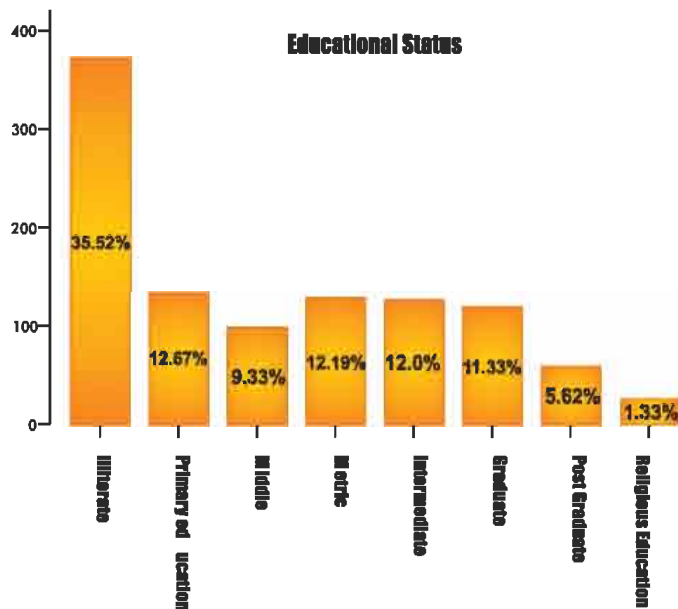
Table 2. Education Level of the Respondents

Education	Frequency	Percent
Illiterate	373	35.5
Primary	133	12.7
Middle ⁷	98	9.3
Metric ⁸	128	12.2
Intermediate ⁹	126	12.0
Graduate	119	11.3
Post Graduate	59	5.6
Madrasa/Religious Education	14	1.3
Total	1050	100.0





Fig 2. Education Level of the Respondents



Occupational Status of the Respondents

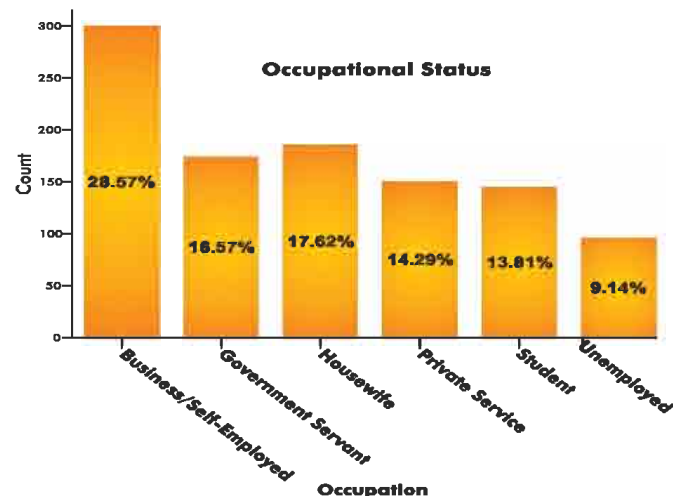
Due to the lack of employment opportunities in the FATA region, a large proportion of the sample, 28.6%, represented the group Business/Self-Employed (small-scale), while Government servant represents 16.6% of the sample. Since women were

Table 3. Occupational Status of the Respondents

Occupation	Frequency	Percent
Business/SelfEmployed	300	28.6
Government Servant	174	16.6
Housewife	185	17.6
Private Service	150	14.3
Student	145	13.8
Unemployed	96	9.1
Total	1050	100.0

also interviewed therefore, 17.6% of the women among the represented 22.1% of the sample are housewives. Private servants also constitute 14.3% of the sample; whereas 9.1% of the respondents were unemployed.

Fig 3. Occupational Status of the Respondents



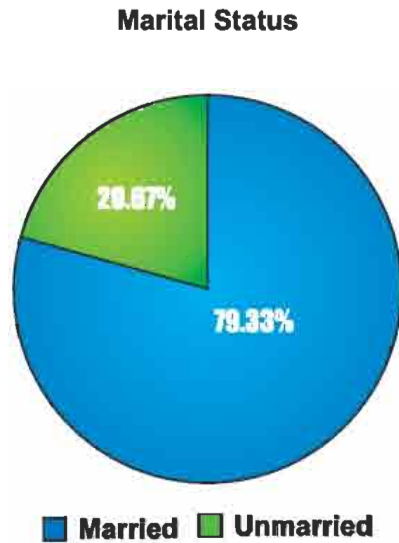
Marital Status of the Respondents

The statistics reveal that majority of the sample, 79.3%, are married while 20.7% were unmarried. This also represents the custom of early marriage in tribal society.

Table 4. Marital Status of the Respondents

Marital Status	Frequency	Percent
Married	833	79.3
Unmarried	217	20.7
Total	1050	100.0

Fig 4. Marital Status of the Respondents



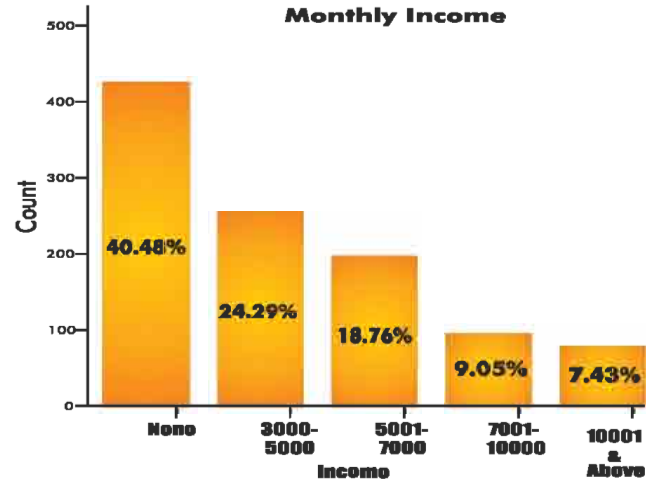
Monthly Income of the Respondents

The below figure and table below shows that 40.5% of the sample have no income of their own. 24.3% of the sample earns Rs. 3000-5000 a month, 18.8% of the sample earns Rs. 5001-7000 a month, 9.0% earns Rs. 7001-10000 a month, while only 7.4% of the sample earns Rs. 10001 and above.

Table 5. Monthly Income of the Respondents

Income	Frequency	Percent
None	425	40.5
3000-5000	255	24.3
5001-7000	197	18.8
7001-10000	95	9.0
10001 & Above	78	7.4
Total	1050	100.0

Fig 5. Monthly Income of the Respondents



Family Income of the Sample

The survey also documented the family income of the sample; this is significant given the nature of the extended family system in the tribal society in which they share income and losses as a family. The survey results reveal that just over half of the sample, 52.6%, has a combined family monthly income of Rs. 10001 and above, which is the highest level of income. We can also see that 1.2% of the respondents have no income at all.

Table 6. Family Income of the Sample

Family Income	Frequency	Percent
10001 & Above	552	52.6
7001-1000	220	21.0
5001-7000	153	14.6
3000 5000	112	10.7
None	13	1.2





Fig. 6 Family Income of the Sample

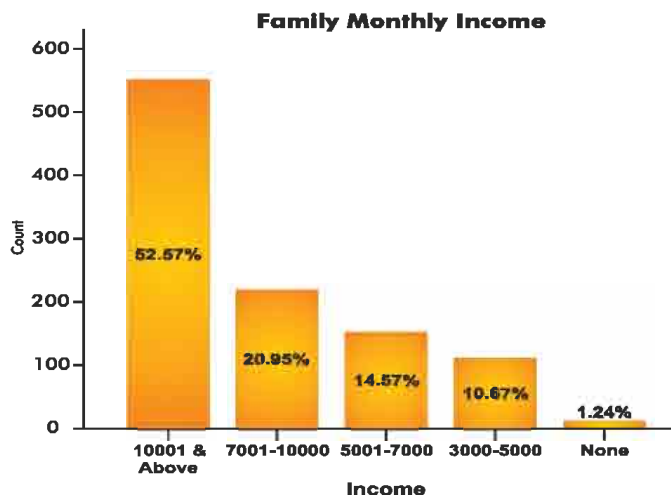
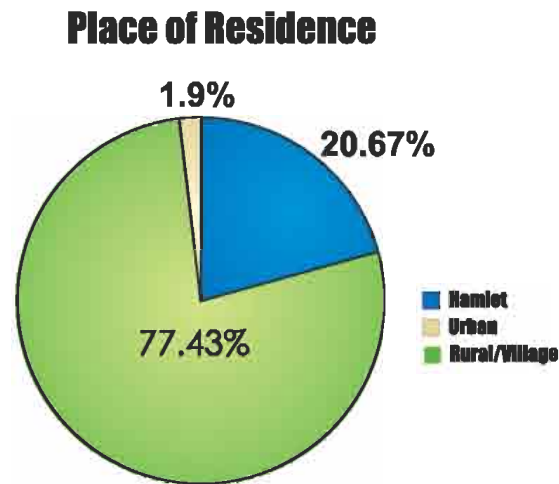


Fig 7. Dwelling of the Respondents



Dwelling of the Respondents

A majority of the respondents lived in rural areas and hamlets, which constitutes a total of 98.1% of the total sample, while only 1.9% lived in urban centres in the tribal areas.

Table 7. Dwelling of the Respondents

Place of Residence	Frequency	Percent
Hamlet	217	20.7
Rural/Village	813	77.4
Urban	20	1.9
Total	1050	100.0

Information Sources of the Sample

To better understand the sources from which the participants found out information, a multiple choice, multiple response⁹⁰ question on what sources of information were used to form opinions, was asked. The most popular category, selected by 703 participants, was radio, whereas 557 of the responses selected Pakistani TV as their main source of information. The Pakistani press, was the third most popular source of information and selected by 540 of the sample respondents. Friends and family members could also be considered as a significant source of information. Books, internet, films, colleagues were used as sources of information but to a much lesser extent.

⁹⁰Participants were allowed to select more than one answer.

Fig 8. Sources of information used by the sample

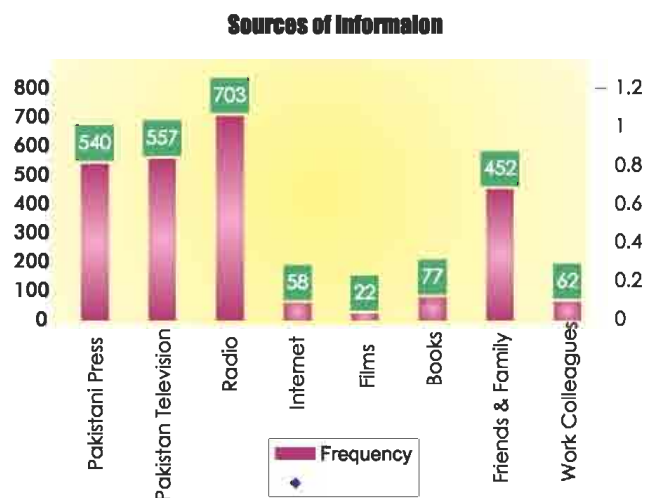


Table 8. Sources of information used by the sample

Information Source	Frequency
Pakistani Press	540
Pakistan Television	557
Radio	703
Internet	58
Films	22
Books	77
Friends & Family	452
Work Colleagues	62

3.2 The Role of Women in Tribal Society

Centuries old customs and traditions, coupled with the negligence of successive governments, have kept the people of the FATA somewhat backwards and superstitious beliefs and customs have found their way into tribal culture and strengthened their roots. In tribal society the culture has also been influenced by misinterpreted religious believe, particularly when it comes to their honour. The victims of such religious and cultural merger are mainly the unfortunate women of the tribal society who are not given their due status under the Pukhtoon code of honour. Women in the FATA are vulnerable to economic, social and psychological poverty. Economic poverty is due to lack of assets and low endowment of human capital. Social poverty derives from the inability of the society to accept women's equality and their economic, political and cultural rights, while psychological poverty is a product of the subjugation of women, under the dictates of customs and traditions, which deprives them of control over their own lives.

Both the secondary sources and the focused group discussions suggest that in the tribal set-up women are kept under-educated or uneducated. They are mainly dependent on male members of the family for economic reasons and cannot take decisions regarding their own lives. Indeed, women cannot use their right to vote during general elections, they have no say in the family matters and are not asked about their preference for marriage; rather women are sold to their husbands in the name of Walwar.⁸¹ Women are also used to resolve conflicts and are married to the sons and brothers of victim's as part of the tradition of Swara. Finally, women are killed in the name of honour. Yet for the paucity of rights, women play a vital part in FATA society fetching water and firewood from distant places, nurturing children and cooking and cleaning for the family. Nonetheless, these conditions make communication with women within the tribal regions more difficult and there are numerous aspects of women's lives in the region which need to be explored.

Nasir Hussain, the Executive Director of Tehrik Islah e Taleem (TIT) stated that "If we are talking about reforms then we should also consider reforming the status of women in tribal society"⁸². The suppressed tribal women need information about their rights, their legal status, children's health, basic nutritional information for their children, economic opportunities, involvement in local politics, methods of storing and protecting food and grains, power distribution at homes etc.⁸³ A feeling of empowerment needs to be evoked so that they can play a more



⁸¹Walwar (bride price) is a custom, of mixed origin, in which a bride is sold for an agreed price by her family to her husband.

⁸²Focused Group Discussion on 5 November 2006 at Parachinar, organized by CAMP, Kurram agency - FATA

⁸³Views of Mukaram Khan Aitf, Journalist / Reporter and Member Tribal Union of Journalist, expressed during a focused group discussion at Mohmand Agency, held in Mohmand agency on 19 November 2006



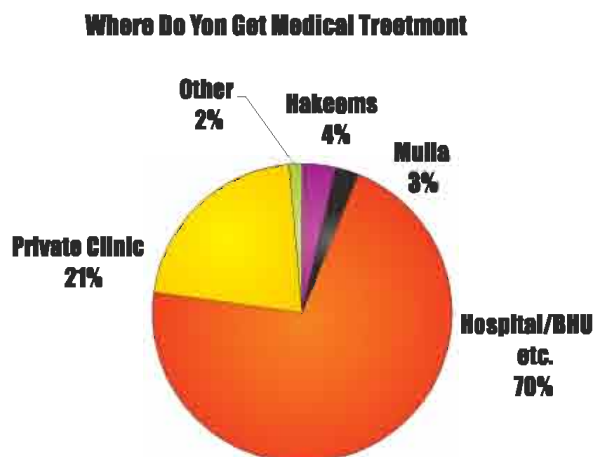
active role in the advancement of Pakistan as Pakistani citizens.⁸⁴

There also needs to be enhanced shares of inheritance for women and an increased role in the decision making process for mothers in selecting marriage partners for their daughters.⁸⁵ More generally, there is a need to allow tribal women more control over their lives and freedom of expression, this is happening in some cases. A college girl expressed that she considered both the veil and the confinement of women to be utterly unjust and considered Swara against Islam.⁸⁶ Thus there are women in the region who are willing to express opinions; however the condition of women in the region may not be conducive to advancing this. The following section examines some findings of the sample survey focused on the existing social fabric and practices.

Medical Treatment

According to a majority, 70%, of the respondents, the people of the FATA go to proper public health facilities for medical treatment while 21% of the respondents preferred private clinics as they believed that such clinics are better health providers compared to the public sector health facilities. Some 4% of the respondents replied that they take their patients to Hakeems (Muslim Physicians) and believed in herbal medicines, while 3% of the respondents said that they take patients to the Mullah for a spiritual method of treatment.

Fig 9. Medical Treatment in the FATA



⁸⁴Interview with Mrs. Sakina, a college student from Shalozan village in Kurram agency, dated 5 November 2006
⁸⁵Interview with a widow in Shalozan village, dated 5 November 2006
⁸⁶Interview with a college girl, Parachinar, Kurram agency, dated 8 November 2007

Table 9. Medical Treatment in the FATA

Response	Frequency	Percent
Hakeems	37	3.5
Mullah	28	2.7
Hospital/BHU etc.	746	71.1
Private Clinic	223	21.2
Other	16	1.5
Total	1050	100

The results show that a majority of the sample believe in the proper modern medical system however, the lack of such health facilities in the FATA compel them to rely on other sources, for instance private clinics, Hakeems, Mullahs etc.

In response to another subsequent question on whether the respondents take female patients to doctors or not, 100% respondents affirmed that they did. There is a general perception about the people of the FATA that they do not take sick or injured women to hospitals or clinics. However, we have received the very opposite response from the participants of the FATA study.

In response to subsequent questions, 92% of the respondents replied that they take female patients to both male and female doctors, while only 8% of the respondents replied that they prefer female doctors for female patients.

Fig 10. Female patients and Male & Female Doctors

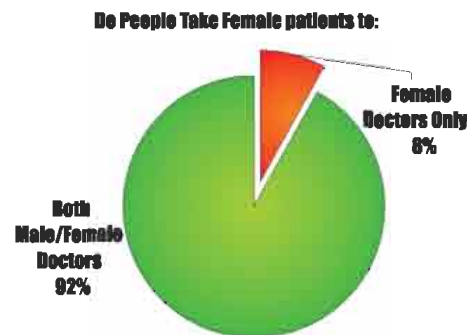


Table 10. Female patients and Male & Female Doctors

Response	Frequency	Percent
Female Doctors Only	84	8.0
Both Male/Female Doctors	966	92.0
Total	1050	100.0

Women and Work

There is also a very strong perception amongst some commentators that the people of the FATA do not allow women to work. The following survey results to some extent support this perception, however, there are still a considerable percentage of people that want women to work and contribute in the overall development of their areas. The respondents were asked whether women should work and whether there were any restrictions on fields in which they could work. 52% of respondents said they wouldn't allow women to work in any field, while 22% believed that they would allow women to work in all fields where women can contribute positively. Some 26% of respondents thought that women should work in selected fields, for instance, teaching, vocational centres, doctors, etc.

Fig 11. Women and Work

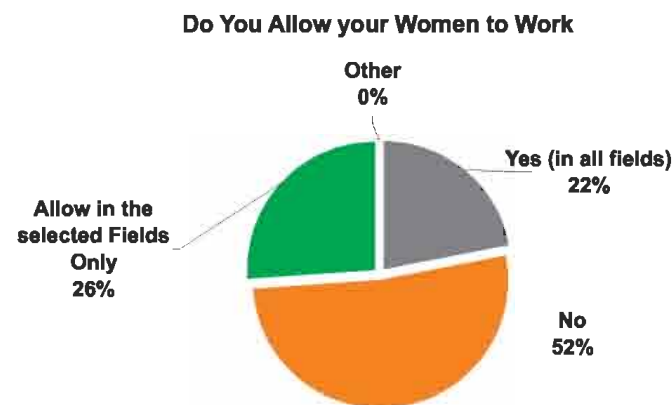


Table 11. Women and Work

Response	Frequency	Percent
Yes	230	21.9
No	545	51.9
Allow in the selected fields Only	273	26.0
Other	2	.2
Total	1050	100

In a subsequent question, the respondents were asked more specifically how best the role of women could be described in tribal society. 2.5% (26) of respondents replied that 'women should be able to do work men can do', 74.4% (781) of the respondents said that 'women should stay at home and look after the family and house', 23% (242) of participants believed that 'women should be allowed only to enter professions such as teaching and nursing, etc; and only 1 respondent did not have a answer.

The above results clearly indicate that participants perceived that tribal society was dominated by men with over half of the participants believing that women should not be allowed to work and should stay at home to look after family and undertake household chores.

Swara⁸⁷

In a Pukhtoon Jirga, Swara is the custom of forced marriage of daughters in order to resolve conflict generated through murder. In an attempt to assess the legality or illegality of the custom of Swara in tribal society asked whether participants felt Swara was legal under Islam, Tribal law and Pakistani law. We received the following responses from the participants: 641 respondents replied that the custom of Swara is illegal under Islam while only 6 respondents thought it is legal. Swara was then tested under the tribal laws, wherein 249 respondents replied that it is legal under tribal laws, while 99 believed that it is illegal. We then enquired as to the legality of the custom of Swara under Pakistani laws and only 55 replied that it is illegal, whereas none of the respondents said it is legal.



⁸⁷In Pukhtoon Jirga Swara used as a decree in resolving a conflict, which involves murder (s). To avoid Qisas or Bada'i (revenge) the Jirga decides to compensate the victim's family by penalising the offender with money or the offender is required to give hand of his daughter or sister to the victim's brother or son or relative, whatsoever. The aim behind this arrangement is to turn the enmity into family ties. In such a manner feuds are most of the times resolved however, women become the victims of such verdicts.



Fig 12. Legality of Swara

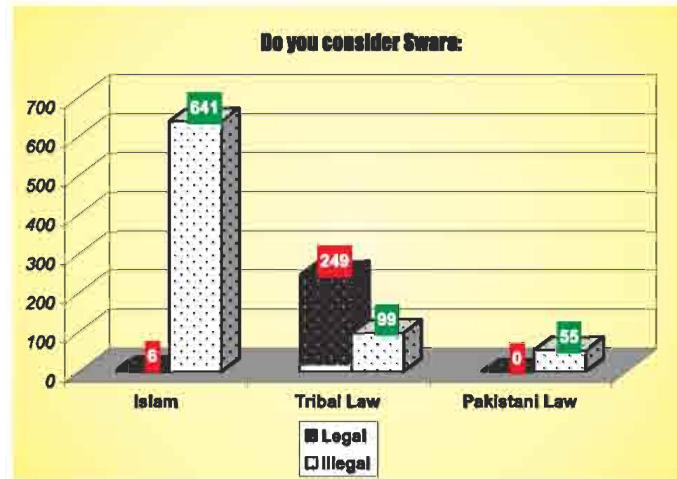


Table 12. Legality of Swara

Swara	According to			Total
	Islam	Tribal Law	Pakistani Law	
Legal	6	249	0	255
Illegal	641	99	55	795
Total	647	348	55	1050

Validation of Swara

67.52% of the sample believed that the custom of Swara is inhuman and 4.86% considered it as a criminal act. 25.14% of the respondents nonetheless defended the validity of Swara and contended that it is necessary to prevent bloodshed and resolve conflicts while 1.14% said that it is a tribal tradition that needs to be continued. Some 1.33% of the respondents did not know the answer or were reluctant to reply.

Fig 13. Validation of Swara

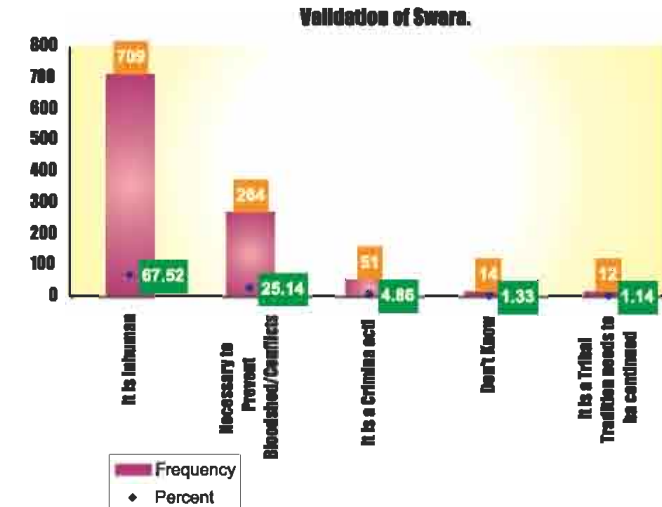


Table 13. Validation of Swara

Response	Frequency	Percent
Necessary to Prevent Bloodshed/Conflicts	264	25.1
Inhuman	709	67.5
Is Tribal Tradition to be Continued	12	1.1
Criminal	51	4.9
Don't Know	14	1.3
Total	1050	100.0

Validation of Swara

After cross tabulation the 25.14% (264) of the total sample of respondents who defended the validity of Swara, we found that out of 264 respondents, 67 were women, while 97 respondents were illiterate and large portion of them (90 respondents) belonged to the Mohmand agency. The largest age group of the respondents in this category were in the age group of 36-45 from which 91 participants supported Swara.

Validity of Walwar (Bride Price)

The respondents were asked whether taking a 'Walwar' or Bride

Price is legal or illegal under various laws and customs. The practice of Walwar, under Islamic Law, according to 530 respondents, is illegal, while only 14 respondents perceived that taking Walwar is legal under Islam. Walwar was then tested under Tribal Law and some 391 respondents replied that Walwar is legal, while 73 still believed that it is not legal. According to 39 respondents, the practice of Walwar is illegal under Pakistani laws, while only 3 said it was legal.

Fig 14. Validity of Walwar

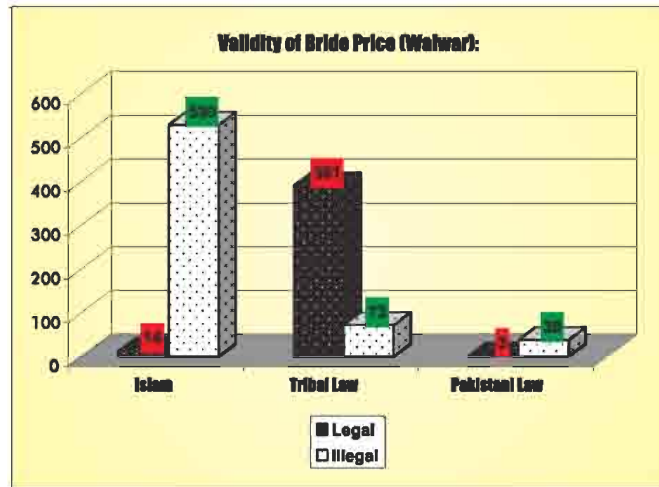


Table 14. Validity of Walwar

Bride Price	According to			Total
	Islam	Tribal Law	Pakistani Law	
Legal	14	391	3	408
Illegal	530	73	39	642
Total	544	464	42	1050

Validity of 'Honour Killing'

Hundreds of women are killed every year in the name of honour in Pakistan and the federally administered areas. The majority, 67.24%, of the respondents thought honour killing was 'right', while 29.43% of the respondents considered it 'wrong'. Some

3.24% did not know the answer.

Fig 15. Validity of 'Honour Killing'

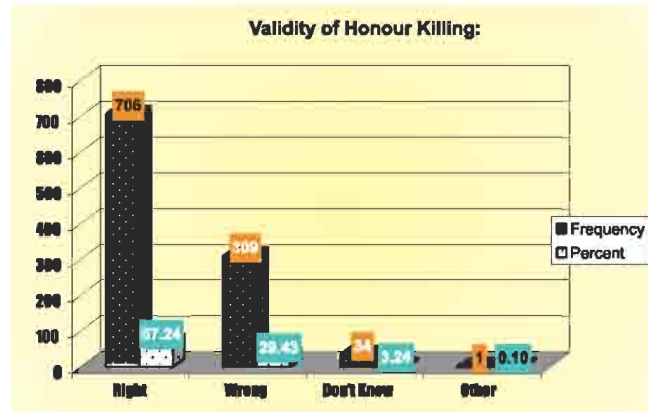


Table 15. Validity of 'Honour Killing'

Response	Frequency	Percent
Yes	706	67.24
No	309	29.43
Don't Know	34	3.24
Other	1	.09
Total	1050	100

After cross tabulation we found that those who defended honour killing as being right were from diverse educational backgrounds - from illiterate to some postgraduates. Surprisingly, out of 706 respondents who supported honour killing, 149 were women, and half (50.71%) of this category were in the age group of 18-35. Again we found that responses were almost equally received from all the seven tribal agencies with little difference in numbers.





Women's Education

Surprisingly, 84.95% of the respondents felt there was greater need for women's education, while only 14.57% believed that there was no need for women's education. We have seen in the previous results that respondents did not want women to work however, it seems they want to see women get education.

Fig 16. Need for women's education

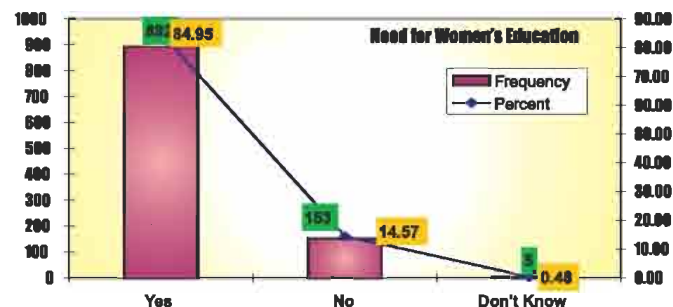


Table 16. The need for women's education

Response	Frequency	Percent
Yes	892	84.95
No	153	14.57
Don't Know	5	0.48
Total	1050	100

Major Problems for Women in the FATA

In response to an open ended question on the major problems faced by women in the FATA, it became clear that the lack of primary health care, the lack of educational opportunities and the lack of access to clean water are the major problems faced by the female community in the FATA. Other problems faced by women included very laborious work such as collecting woods, working in agricultural fields, and fetching and carrying water from distant areas. These tasks not only affect their health but also take up a major portion of their time which they could use in some other productive work.

Table 17. Major problems for Women in the FATA

Response	Frequency
Lack of Primary Health Care	561
Lack of Education	332
Access to clean drinking Water	200
Collecting Fire Woods takes too much of their time and energy	83
Working in The Field	76
They are not involved in the domestic decisions making process	73
Domestic Violence	44
They do not have property share	23
Early Age Marriages	22
Do not have access to vocational training centres	14
Transport Problem	7
Poverty	6
No madrasa for females	5
Work Load	1
Sanitation	1
Don't Know	25
Nil	141

Conclusion

The above survey results reflect some encouraging and interesting responses, as well as some conflicting statements from the sample. For instance, there is a general perception in the wider literature that the tribal people are very backward and keep women under strict conditions regarding wearing the veil and confinement to indoors. It is also interesting that the results show that 91% of the respondents take women to hospitals or private clinics to provide better health services to female members of their families. It is also interesting that the survey results indicate that a profound majority (92%) of women are taken to both male and female doctors.

The majority of the respondents also believed that women should be allowed to get an education while, on the other hand, over half of the respondents are against the idea to allow women to work and share responsibilities with their male counterparts. Moreover, a significant portion of those that allowed women to work (26%) felt this should be only in certain fields. The custom of Swara is considered very much against Islam, but considered legitimate according to the tribal customs by 249 respondents with only 99 participants contending it was illegal under tribal law. These confusing results are compounded by the fact that 709 respondents thought that Swara was 'inhuman'. Over half of the respondents (530) considered Walwar, or bride price, as Un-

Islamic with only 14 respondents suggesting it was legitimate practise under Islam. On the other hand 391 participants regarded the concept of Walwar as being legal under tribal law compared to a mere 73 who felt it was illegal under tribal law. More alarmingly, the majority of participants (706), including a significant portion of the women respondents, supported honour killing.

The main grievances endured by women in the region -as understood by both men and women- specifically a lack of primary health care, lack of education and lack of clean drinking water, indicate the recognition of participants concerning the sorry state of affairs of the women of the FATA. Comparing the results of the sample survey with the existing social set up of tribal society in which both the level of education among women and the domination of men are low and high respectively, the survey sends out encouraging signals. Through the sample survey, some people seemed to be openly supportive of women's development, to varying degrees, but also there is an element of confusion, particularly with regard to the legality of traditions vis-à-vis competing legal and normative influences in the region. A greater degree of clarity, particularly concerning the ambiguous nature of Pakistani law in the region could help resolve this situation. However it is likely that tribal society is unready for an abrupt change, but slow and gradual change may enable them to adapt to the new developments that are taking place around them.

3.3 The Talibanization of Tribal Society

Based on the focused discussion groups and the secondary literature it became clear that the tribal people are very religious and can be motivated by the rhetoric of Jihad. Indeed history suggests that since Pakistan's inception, the country's leaders have played upon religious sentiment as an instrument of strengthening Pakistan's identity.⁸⁵ Islamist groups have been sponsored and supported by the state machinery at different times in order to variously⁸⁶ influence politics or support the military's political dominance. The threats to national solidarity in Pakistan's formative years led her to adopt certain policies of survival, which made the country's reliance on Islam and Jihad essential. In the absence of a broad based movement like the one developed by the Congress party in India, the organizing

principle of religion was used in Pakistan and the state was constructed based on this principle for much of its existence.⁸⁰ The current phenomenon of Talibanization that is surfacing in the FATA is the by-product of Pakistan's official policy.⁹¹

People living along the Durand Line on the Pakistani side have always remained vulnerable to the effects of events in Afghanistan, as peoples on both sides of the line share the same ethnicity and religion.⁹² As previously noted, the tribal people were encouraged by the Pakistan military to help their Afghan brethren in fighting the Soviet forces in Afghanistan who occupied Afghans territory in 1979. Tribal people joined hands with their fellow Muslims and Pukhtoon brothers in waging a holy war against the Russians in Afghanistan. Some analysts and politicians believe that:

*"The Pukhtoon's Islamic identity and role was exaggerated by the rulers of Pakistan to destroy Afghan national identity and to suppress Pushtun political aspirations, which are the sinister designs to malign Pushtuns at global level"*⁹³

General Zia Ul-Haq went further than others in "Islamizing" Pakistan's legal and educational system, but his policy of Islamization was the extension of a more consistent state ideology, not an aberration.⁹⁴ The Talibanization of Pukhtoon tribal society is mainly due to both US and Pakistani support for the Jihadi elements in Afghanistan and the tribal areas.⁹⁵ Pukhtoons have always been used in the name of Jihad, whether inside or outside of our borders.⁹⁶ General Zia Ul-Haq, the Chief Marshal Administrator and the President of Pakistan, 1979 – 1988, generated pro-Jihadi elements to support the Afghan Jihad cause in resisting Soviet occupation. With the financial and technical support of Pakistan army [through US government], the Afghan Mujahideen established themselves in the FATA where they set-up hundreds of religious seminaries and a number of training camps.⁹⁷ In the religious seminaries young Afghan Mujahideen were motivated for Jihad in Afghanistan. Since Pakistani policy makers knew the ferocity of the Pukhtoons and their affinity with the Afghans, therefore, local tribesmen were also motivated and recruited for the Afghan and Kashmir Jihads. Money and weapons have played a significant role in militarising and Talibanising the local tribal



⁸⁵Hussain Haqqani, "Pakistan Between Mosque and Military", published in 2005 – page 2.

⁸⁶Hussain Haqqani, "Pakistan Between Mosque and Military", published in 2005 – page 3.

⁸⁷Khalid Aziz, "Causes of Rebellion in Waziristan", published by RIFORT on March 2007 – page 8.

⁸⁸Aftab Khan Khatak, Provincial President ANP and former Chairperson HRCP, speech delivered at National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

⁸⁹Views of Advocate Abdul Latif Afridi, President Peshawar High Court Bar Association, dated 14 December 2008.

⁹⁰Aftab Khan Khatak, Provincial President ANP and former Chairperson HRCP, speech delivered at National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

⁹¹Hussain Haqqani, "Pakistan Between Mosque and Military", published in 2005 – page 3.

⁹²Views of Shamsul Qamar Shams, journalist and writer, in focused group discussion held at Mohmand agency, dated November 19, 2006.

⁹³Views of Mr. Mukarram Khan Aili, journalist and poet, in focused group discussion held at Mohmand agency, dated November 2006.

⁹⁴Group work presentation in FATA Consultative Dialogue by Dr. Saïd Alam Mehsud, Central Vice President Pukhtoonhwa Milli Awami Party, dated 10 May 2007.

⁹⁵Interview with Engr. Zaman Khan Dewar, Convenor Fata Reform Committee and former Chief Engineer WAPDA, dated 11 January 2007.



society ever since.⁹⁸ The tribal society of the FATA had never been as heavily endowed with weapons as they have been since the Afghan crises.⁹⁹

The radicalisation of tribal society is mainly attributed to the religious leaders. “The intelligent Mullah” says Sang e Marjan Khan, the former Chief Secretary Northern Areas:

“...has deep roots in the tribal life and always remained a very motivating force behind gathering forces in waging Jihad against British Raaj, Indian forces in Kashmir, Russians forces in Afghanistan and now against the Pakistan security forces”¹⁰⁰

It is alleged that Al-Qaeda might have spent a large sum of money in tribal areas, especially North and South Waziristan agencies, to gain local support in helping the resurgence of the Taliban and Al-Qaeda in their fight against the Pakistani security forces as well as coalition forces in Afghanistan. It is alleged that in both the North and South Waziristan agencies the local tribes have given shelter to those foreigners who are responsible for attacks in Afghanistan. It is also alleged that during the times of Afghan Jihad against the Soviet forces, some of the foreigners [Arabs, Chechens, Uzbeks, etc] settled in the FATA region, especially North and South Waziristan Agencies. There are no accurate estimates available on the exact number of foreigners, locals and Afghan militants. However, some people believe that there are around 5000 foreigners and 7000 Punjabi militants in addition to local militants.¹⁰¹ These foreigners and their local allies have contributed significantly in infecting the FATA with extremist sentiments.

Following pressure from Washington, Pakistan's military regime decided to withdraw its support for the Taliban in Afghanistan and took part in the so-called 'war on terror' as a frontline state, a decision that created dissent in the general masses, but particularly in the tribal belt. The reaction to General Musharraf's policy U-turn on Taliban and the US attack on Afghanistan was seen in the 2002 general elections when Mutahida Majlis e Amal (MMA), the coalition of six religious parties, won 20% of the seats in the national legislative assembly, with 11.10% of the total vote share. The MMA formed a government in NWFP and became part of a coalition government in Balochistan – both provinces share borders with Afghanistan. Within the

discussion groups and broader literature, several factors were identified as contributing to the rise of religious parties in Pakistan in the 2002 general elections. Anti-Americanism was undoubtedly one factor – and candidates in the NWFP used this theme most effectively, as it is probable that the local population was sensitive to the fate of the Pushtuns in Afghanistan¹⁰² who are staunch Muslims.

These factors contributed to the evolution of the so called 'local Taliban' phenomenon in the South and North Waziristan Agencies. Money from Al-Qaeda, as stated earlier, has also played a vital role in fuelling the insurgency in the FATA, especially in the North and South Waziristan agencies.¹⁰³ International events in the Islamic world have also undoubtedly contributed to the militarising or Talibanising of the tribal society.¹⁰⁴

Over the course of the research process, it was argued by some that the absence of any modern system of governance brought to the tribal society lawlessness, corruption, insecurity, extremism, religious intolerance and sectarian division which have destroyed the very fabric and existence of the tribal society.¹⁰⁵ This happened in the FATA, where the government of Pakistan continues with the century old colonial system of governance, which is obsolete and inhuman.¹⁰⁶ The majority of the local tribal people are not happy with the existing system of administration and justice systems¹⁰⁷ and people are raising their voices in favour of reforms in the governance system of the FATA.¹⁰⁸ The following section provides a detailed breakdown of responses to the CAMP survey on this issue.

Governance under Religious Parties (at federal level)

The question, 'Do you think the religious parties could create a more just and peaceful society if they ran the government?' was asked in the context of central government, with the intention of identifying the respondents' perceptions towards religious parties. It was very surprising to find out that 628 (59.8%) respondents, which constitute a majority, replied that religious parties would have never created a just and peaceful environment had they been given a chance to form a

⁹⁸Views of Abdul Latif Afridi, former member National Assembly and leader of Awami National Party, in a Focused Group Discussion organized by CAMP in Jamrud, Khyber agency, dated December 14, 2006

⁹⁹CAMP's Interview with Sang e Marjan Khan, former Chief Secretary Northern Areas, who belongs to South Waziristan and remained as political agent in various agencies of FATA – 9 May 2007

¹⁰⁰Views expressed by the participants during in the FATA level consultative dialogue, organized by CAMP from 9 – 10 May 2007 in Peshawar

¹⁰¹Frederic Grun "Islam, Militarianism and the 2007-2008 Elections in Pakistan" – Carnegie Papers – Number 70 August 2006 – page 5

¹⁰²Interview with Dr. Saïd Aalam Mehsud, Central Vice President, Pulhtoon Khwa Milli Awami Party, dated 9 May 2007

¹⁰³Interview with Dr. Ijaz Khan, Professor Department of International Relation, University of Peshawar, dated 5 June 2007

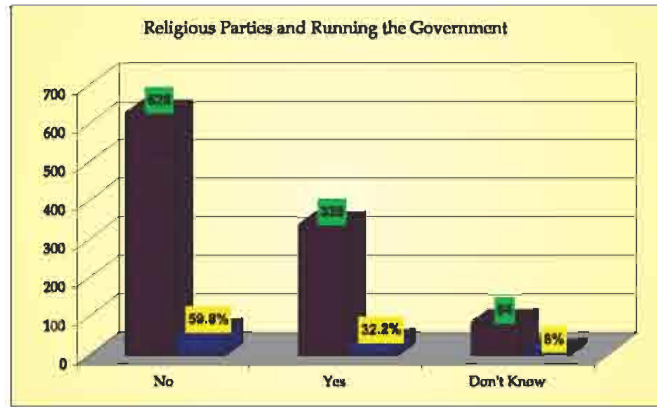
¹⁰⁴Interview with Sardar Khan, Amir Jumet – e – Islami, Bajaur agency-FATA, dated 9 May 2007

¹⁰⁵Interview with Sheikh Janzada, former President Awami National Party, Bajaur Agency, dated 10 May 2007

¹⁰⁶Views of Engr. Toor Gul Chamkani, writer and member FATA Reforms Committee, in focused group discussion organized by CAMP, dated 5 November 2006

¹⁰⁷Views of Engr. Toor Gul Chamkani, writer and member FATA Reforms Committee, in focused group discussion organized by CAMP, dated 5 November 2006

Fig 17. Attitudes to Governance under Religious Parties



government. Whereas, 338 (32.2%) of the respondents replied that the religious parties would have created a just and peaceful environment if they had run the government. Some 84 respondents did not want to comment.

After cross tabulation of the 338 respondents who replied in YES, we found that 188 respondents, numerically the largest age category, were in the age group of 18 – 35, while 58 participants who replied YES were women.

Table 18. Attitudes to Governance under Religious Parties

Response	Frequency	Percent
Yes	338	32.19
No	628	59.81
Don't Know	84	8.0
Total	1050	100

Peace through Religious Parties

The question “Do you think religious organizations have brought peace in your area by implementing Islamic Sharia?” was formed in relation to the situation in the North and South Waziristan Agencies and some other areas of the FATA. The majority, 562, 53.5% of the respondents replied that Islamic Shariat laws introduced by Religious parties brought peace in

their areas, while 262 believed that it didn't. A large number of respondents [226] did not want to comment on the question and remained silent.

Fig 18. Peace through Religious Parties

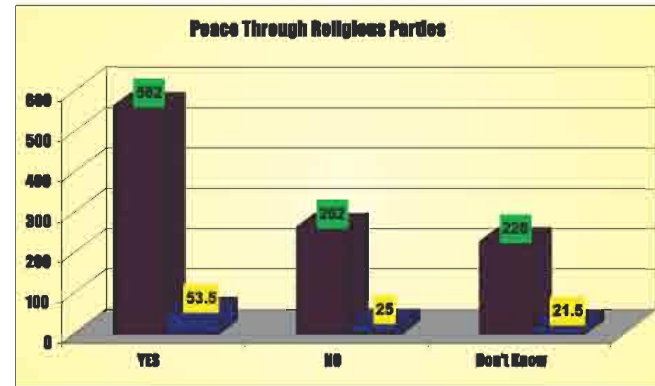


Table 19. Peace through religious Parties

Response	Frequency	Percent
Yes	562	53.5
No	262	25.0
Don't Know	226	21.5
Total	1050	100

Upon cross tabulation of the responses, those who did not believe the implementation of Sharia had brought peace (262), we found that just over a third, 35.88%, were illiterate. The majority of this group belong to Kurram, Mohmand and Khyber agencies, which are considered comparatively developed areas where education ratio is slightly higher when compared to other parts of the FATA. Responses from both the North and South Waziristan agencies constitute only 8% of those who did not feel that the implementation of Sharia had brought peace.

Crack Down on Religious Institutions by Government

The question “Do you think that the government was right to





order a crack down on religious institutions?" asked in reference to the action of the Pakistani government in the FATA. The overwhelming majority, 90.3%, of the respondents replied that General Musharraf's crack down on the religious institutions was not justified, while 53 respondents which constitutes 5% of the total sample, replied that the government was right to crack down on the religious institutions.

Fig 19. Crack Down on Religious Institutions by Government

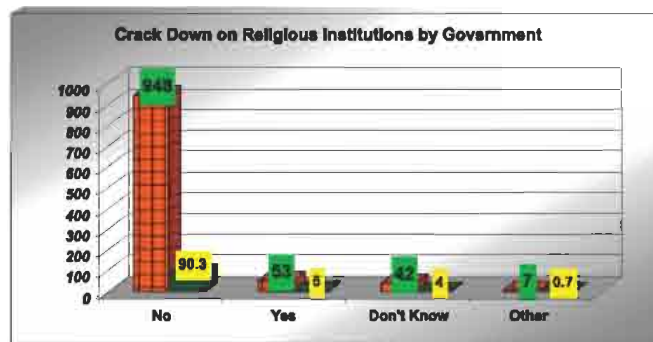


Table 20. Crack Down on Religious Institutions by Government

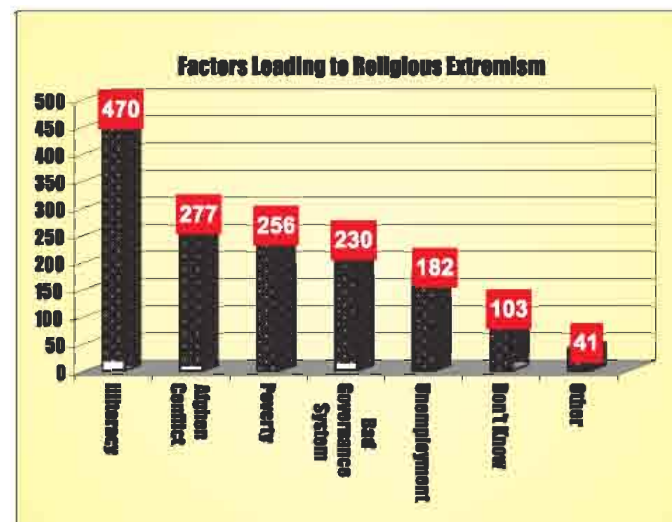
Response	Frequency	Percent
Yes	53	5.0
No	948	90.3
Don't Know	42	4.0
Other	7	0.7
Total	1050	100

Upon cross tabulation of those respondents who chose 'YES' a large segment of them were in the age group of 36 – 45. Among the 53 respondents who responded with a yes, 64.16% belonged to Kurram agency, which is considered to be moderate when compared to the other tribal agencies.

Factors Leading to Religious Extremism

In the context of the FATA, respondents' perceptions of the factors leading to religious extremism were also documented. 470 respondents thought 'illiteracy' was the main factor

Fig 20. Factors leading to Religious Extremism



responsible for the current religious extremism, while 277 participants believed that religious extremism has been increased due to the Afghan conflict. Some 256 participants believed that widespread 'poverty' is the main source of religious extremism, 230 respondents blamed the poor governance system of the FATA, while 182 blamed unemployment. Some 103 participants either didn't know or did not want to comment on the subject.

Table 21. Factors Leading to Religious Extremism

Response	Frequency	Percent
Afghan Conflict	277	26.4
Bad Governance Structure	230	21.9
Poverty	256	24.4
Illiteracy	470	44.8
Unemployment	182	17.3
Don't Know	103	9.8
Other	41	4

Preferred Type of Jihad

The recent row over Islamic extremism and militancy in the tribal belt of Pakistan, particularly the Waziristans, has led to the belief that the people living along the Durand Line only believe in violence, however, we received a very different response from the participants. The most preferred type of Jihad, according to 57.4% respondents, which constitutes a small majority, believe that, Jihad means learning the Qur'an and modern sciences and 24.1% thought that Jihad is the name of peaceful resistance to oppression. Only 17.2% of the respondents believed that Jihad means armed resistance. The first two statements represent peaceful and positive conceptualisations of Jihad and provide an indication of the attitudes of over 81% of the locals.

Fig 21. Preferred type of Jihad

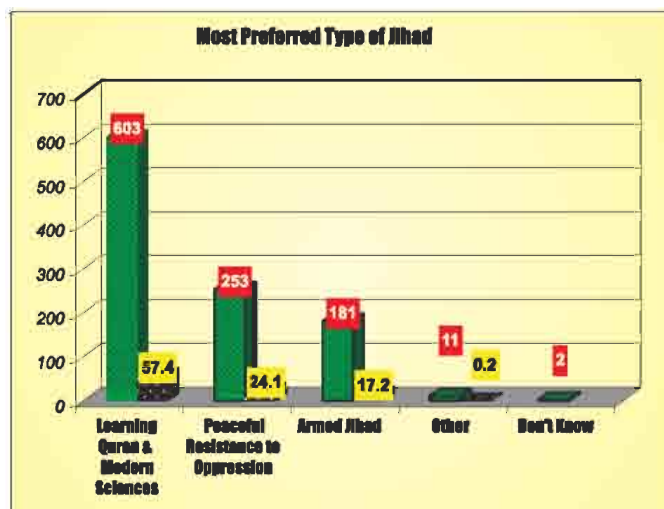


Table 22. Preferred type of Jihad

Response	Frequency	Percent
Learning Quran & Modern Sciences	603	57.43
Peaceful Resistance to Oppression	253	24.11
Armed Jihad	181	17.24
Don't Know	2	0.09
Other	11	1.04
Total	1050	100

Upon cross tabulation of those who fell into the category 'Armed Jihad', surprisingly we found that out of 181 respondents, 45 were women. 39.23% of those in the 'armed Jihad' category were illiterate and just under half (49%) inhabited the North or South Waziristan agencies.

Participation in Tableeghi Ijtimah (religious missions)

In response to the question "Do you attend Tableeghi Ijtimah?" 59% a total of the respondents replied that they do not participate in the Tableeghi Ijtimah, while 41% (421) replied that they do.

Fig. 22 Participation in Tableeghi Ijtimah

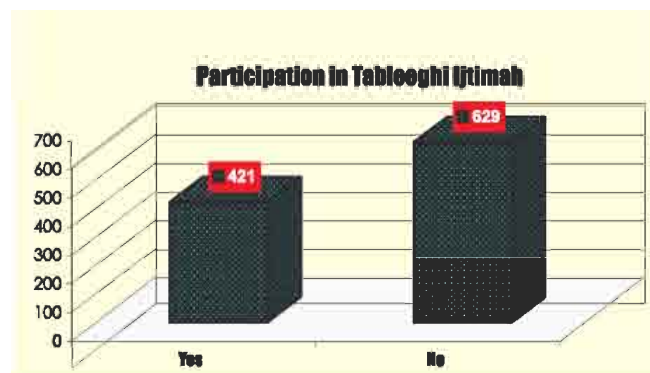


Table 23. Participation in Tableeghi Ijtimah

Response	Frequency
Yes	629
No	421
Total	1050

Meaning of Talibanization

In response to an open-ended question on "what is Talibanization?" we found the following diverse responses from the respondents. 20.5% of the sample perceived that the Taliban are Madrassa students, 16.3% believed that the Taliban are trying to introduce Islamic Shariah in the tribal areas, while 8.7% considered the Taliban as being Jihadis. The largest single





group of the sample, consisting of 20.6% of participants, did not know the answer or were reluctant to respond.

Table 24. Perceptions of Talibanization

Response	Frequency	Percent
Followers of Taliban	1	0.1
Intelligence Agency's Fabricated Plan	38	3.6
Islamisation	2	0.2
Jihadi	91	8.7
Local Peace Keepers	31	3
Madrassa Students	215	20.5
Movement For Introduction of Islamic Shariah		16.3
Religious Scholars	51	4.9
Westernised Perception	53	5
Don't Know	216	20.6
Killing people in the name of Islam and Jihad		0.1
Political Game	68	6.4
Religious Extremists	74	7
Terrorists	38	3.6
Total	1050	100

Conclusion

The responses to this section of the questionnaire are indicative of the somewhat divided nature of tribes people in the region and the disparate understandings of the concept of Talibanization. Although nearly 60% of participants do not have faith in religious parties to 'create a more just and peaceful society', over half of the felt that Islamic Shariat brought peace to their areas and the vast majority rejected Musharraf's military crackdown in the tribal areas. Although the later points may be indicative of a degree of Islamic radicalism, this has to be understood in the context of areas such as the Waziristans where the security situation may have been improved through the imposition of Islamic Sharia in an area where the government had failed to impose any semblance of control.

This mitigating factor is further reinforced by the fact that the majority of respondents interpreted Jihad as meaning either

'Learning Qur'an & Modern Sciences' or 'Peaceful Resistance to Oppression' with only 17% of participants equating Jihad to armed resistance. In terms of the participants understanding of the factors that contribute to radicalisation, it was interesting to note that many of the issues identified in the introduction were highlighted by participants thus although illiteracy was identified by just under half of respondents, a significant minority posited the Afghan Conflict, Bad Governance Structure, Poverty, and Unemployment were factors leading to religious extremism. This multiple factor understanding evident in the survey concurs with that of the discussion groups and wider secondary material on this issue.

Finally conceptualisations of the Taliban vary significantly amongst the participants with the largest single grouping unsure of what followers of the Taliban were or unwilling to respond. The second largest grouping which only constitutes a minority felt the Taliban were Madrassa students with the third largest grouping positing the Taliban were a movement for the introduction of the Shariah.

3.4 The Possession of Firearms

According to some estimates, there are more than 20 million small arms in Pakistan in civilian hands. The tribal region has its fair share of that 20 million, and is awash with weapons small arms and light weapons. The possession of firearms is a common feature of Pukhtoon tribal society. An ordinary Pukhtoon from the hill tribes of the Durand Line views his weapon as both an ornament and item of personal apparel. For this reason 'a household stove may be kept cold, but the barrel of a gun is kept warm'.

H.C. Wyllie in his book, *The Borderland – the Country of the Pathans* states:

"No book dealing with the military relations, now and in the past, of the Indian Government and the frontier tribes, can be said to be complete, which does not contain some allusion to the armament of these men".¹⁰⁹

He maintains:

"In the matter of small arms we have not invariably possessed the conspicuous superiority which might have been expected of a highly-civilised nation warring against semi-savage people".¹¹⁰

¹⁰⁹ H.C Wyllie *The Borderland – The Country of the Pathans* – Published in 1912 – page 475
¹¹⁰ H.C Wyllie *The Borderland – The Country of the Pathans* – Published in 1912 – page 475

In Pukhtoon society a weapon is also considered as a status symbol and high quality, expensive weapons endow the owner with prestige in the FATA. Indeed although tribal people keep weapons for their self-defense, it is a symbol of power¹¹⁵ and shows their capacity to protect their families, clans and tribes. To appreciate the role of weapons in tribal society it is important to study the mindset of a tribesman. The use and possession of weapons in tribal society is governed by complex rules of social behaviour that reinforce the institutions that maintain the society's identity and cohesion. Modern weapons are now an ordinary feature of tribal life and it would be quite difficult to provide exact data on the number and types of firearms however, there is a general observation that each adult tribal man possesses more than one firearm. This is supported by the fact that each family possesses its own stockpile of small arms and light weapons for their security and to keep themselves honourable within FATA culture. This is mainly due to the freedom loving nature of the Pukhtoon tribes and the absence of any law enforcement agencies in the area.

Before the introduction of firearms, tribal people would carry swords and daggers. However, during the early years of 20th century firearms were smuggled between Muscat and Afghanistan and found their way into the hands of tribal people. Those weapons were used against British Indian forces in several skirmishes. The proliferation of firearms generated momentum during the Soviet-Afghan war, which was followed by a long and brutal civil war. Weapons were provided to the tribal people by the establishment to encourage them to fight in the name of Islam and Jihad.¹¹² This way, Kalashnikov culture was first introduced to the FATA during the Afghan crises and the Pukhtoons of the Durand Line were heavily weaponized in the name of Jihad.¹¹³ According to Senator Hameedullah Khan Afridi, "the Afghan Jihad is the single most important factor in the proliferation of modern weaponry in the tribal society."¹¹⁴ The Reagan Government's Afghan policy emphasized arming multiple resistance groups known collectively as Mujahideen in order to draw the Soviet Union into a costly and damaging war for control of Afghanistan.¹¹⁵ The US funnelled some 2 billion dollars worth of weapons to the Mujahideen through Pakistan's Inter Services Intelligence (ISI). The ISI however also used its role in the arms pipeline for its own purposes and appropriated between 50 – 70% of the military resources intended for

Mujahideen.¹¹⁶ Those diverted weapons were sold on the black market, and ultimately found their way into the hands of civilians and non-state armed groups (NSAGs). In turn, the abundance of firearms has contributed significantly to creating the current law and order -or lack of- situation in the FATA¹¹⁷

Local production in the tribal region is also a significant factor in the weaponization of tribal society. Since the Pakistan Arms Act does not extend to the FATA, therefore, the production of arms is neither legal nor illegal. However, such production remains a 'Grey Market' trades. Dara Adam Khel, the main town of Frontier Region Kohat with an estimated population of 100,000 souls, is an area with worldwide notoriety, producing every kind of weapons through reverse engineering.¹¹⁸ There are five major tribes¹¹⁹ that inhabit the area and run the business over 90%¹²⁰ of which are weapons orientated. Indeed, of the estimated 2657 arms related businesses, 80% serve as small arms manufacturing units and 20% function as arms retailing shops.¹²¹ The most common firearms produced are the 0.44 bore rifle, the 0.30 bore pistol, the 0.12 bore rifle, the 0.222 bore rifle, the AK 47 assault rifle and the Mekarov pistol. During the Afghan jihad against Soviet Union, the businesses of Dara Adam Khel flourished. Notably, the Dara bazaar once again appears to have been reinvigorated during the current crises in Afghanistan. The subsequent section examines the survey results and assesses how the respondents perceive the crime rate, types of crimes and other queries related to firearms possession, production and use.

Most Common Crimes in the FATA

The response to a multiple-choice question designed to identify the most common types of crimes in the FATA, was a mixed one. A significant section of the respondents, 399, believed that 'murder' is the most common crime in the FATA, while 286 thought 'robbery' was very common. Some 35 respondents said that 'decoity'¹²² is very common in the FATA region, while 13 respondents choose 'kidnapping for ransom' as the most common crime. 3 respondents said that 'car theft' is very common while only 1 respondent said that enmities, or feuds, are common. The second largest group of respondents selected the 'other' option and replied that no crime occurs in the FATA. It is a common belief in the FATA region that the crime rate across



¹¹⁵Views of Engr. Saeed Khan in focused group discussion held at Mohmand agency dated 19 November 2006

¹¹⁶Views of Malik Muzafar Syal in focused group discussion held on 19 November 2006

¹¹⁷Views of Mukarram Khan Ailif, Journalist and writer Malik, in focused group discussion held on 19 November 2006

¹¹⁸Views of Senator Hameedullah Khan Afridi in focused group discussion held in Khyber agency, dated 14 December 2006

¹¹⁹Selama Malik, "A Situation Analysis of SALW in Pakistan and Its Impact on Security", published by CAMP in February 2005 – page 12

¹²⁰Selama Malik, "A Situation Analysis of SALW in Pakistan and Its Impact on Security", published by CAMP in February 2005 – page 15

¹²¹Views of Senator Hameedullah Khan Afridi in focused group discussion held in Khyber agency, dated 14 December 2006

¹²²Reverse Engineering is a process whereby producers receive weapons and take them apart and reproduce the component parts and reassemble them to form a gun

¹²³Akhour Wali, Zarghun Khaili, Tour Chapar, Sherski, Bostli Khaili

¹²⁴Out of 2844 business, 2657 are arms related. See CAMP Research in Dara Adam Khel, April 2007

¹²⁵CAMP Research in Dara Adam Khel, April 2007

¹²⁶Decoity is a kind of robbery but it involves multiple armed robbers. They may be ten, or more than 30 armed men.



the whole of the FATA is as low as that of a single police station in Peshawar. It has however been observed that under-reporting may be the reason for the perception of a low crime rate.

Fig. 23. The most common types of crime (based on perceptions of participants)

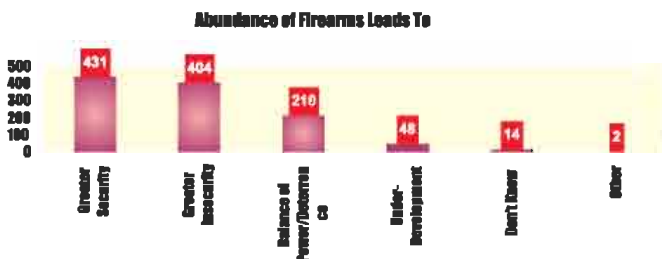


Table 25. The most common types of crime (based on perceptions of participants)

Response	Frequency
Greater Security	431
Greater Insecurity	404
Balance of Power/Deterrence	210
Under-Development	48
Don't Know	14
Other	2

Use of Firearms in Crimes

A slim majority of the respondents, 53%, believed that firearms are used in crimes, while only 1% replied that firearms are not used in crimes. It is not very surprising that 46% did not want to comment on this question. There is a general feeling among the tribesmen that the government is going to conduct an operation to disarm all the tribes and in this context there was a marked reluctant to comment on this question. This feeling is mainly because of the Pakistan Army's military operation in Waziristan agencies to counter the cross border movement and to safeguard the 900 checkpoints.

Fig. 24 Use of Firearms in Crimes

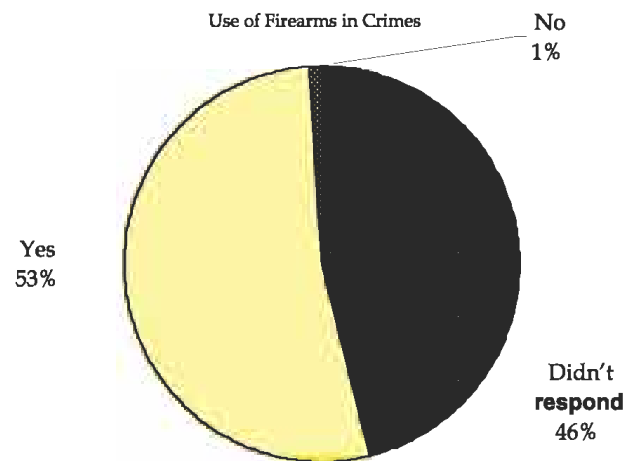


Table 26. Use of Firearms in Crimes

Most Common Crimes	Frequency	Percentage
Didn't responded	484	46
Yes	553	52.7
No	13	1.2
Total	1050	100

Common Types of Firearms in the FATA

There is a general perception that all types of weapons are available in the FATA -from a revolver to rocket launcher- and that one can get a weapon from a local firearms shop without any difficulty. In this regard the respondents were also asked about the common types of firearms in FATA and we received a very long list of the types and models, the most common among them, according to 535 respondents, is the 'AK 47'. Some 473 respondents believed that 'pistol' (of all kinds and make) is the most common type of firearm, while 187 believed that 'light machine gun' was the most common category. Other types of weapons mentioned included rifles, rocket launchers, heavy machine guns, 7 mm rifles, '303 rifles', 8 mm rifles and M-16 assault rifles.

Fig 25. Common types of Firearms in the FATA

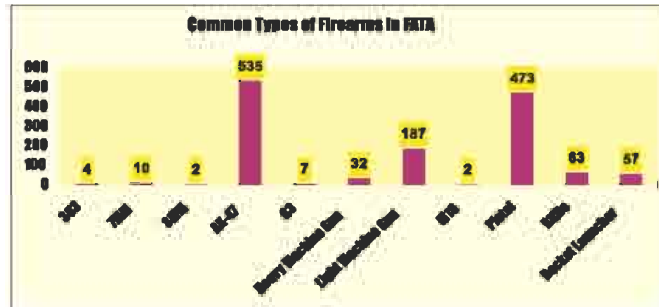


Table 27. Common types of Firearms in the FATA

Firearms possessed	Frequency
303	4
7 MM	10
8 MM	2
AK-47	535
G3	7
Heavy Machine Gun	32
Light Machine Gun	187
M16	2
Pistol	473
Rifle	63
Rocket Launcher	57

Sources of Firearms

Using an open ended question it was possible to get an idea of the general perceptions about the source of firearms in the FATA region. A solid majority, 88.57%, of the respondents believed that firearms proliferated from across the border from Afghanistan, while only 1.52% thought the Dara Adam Khel, the notorious local firearms production Bazaar, was the main source of proliferation. 95 respondents did not know the answer or were reluctant to respond to the question. Some of the respondents also mentioned Ekka Ghund market [which is located in Mohmand Agency] and one participant suggested Bara [which is one of the sub-divisions of Khyber Agency]. Only 3 respondents believed that the source of firearms was local

production in many areas of the FATA.

Fig. 26 Sources of Firearms

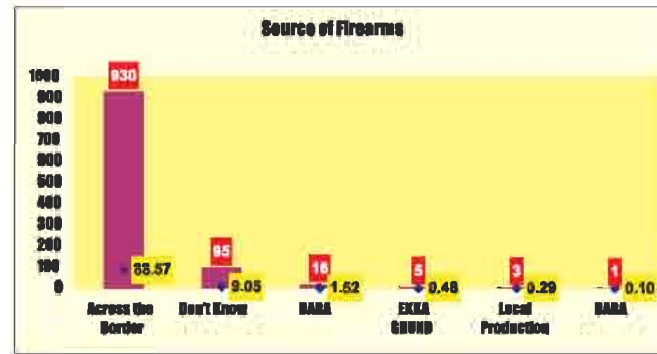


Table 28 Sources of Firearms

Source of These Weapons	Frequency
Across the Border	930
Don't Know	95
DARA BAZAAR	16
EKKA GHUND	5
Local Production	3
BARA BAZAAR	1
Total	1050

Local Production of Firearms

Although a large percentage of participants in the FATA felt the sources of firearms was across the border, there is nonetheless a general perception in Pakistan that firearms are produced locally in various parts of the FATA. This is to some extent true, but only in the case of the Dara Adam Khel Bazaar. During the survey we could only see a few firearm shops in other parts of the FATA. We confirmed this with our respondents and 90.4% believed that there were no shops in their respective areas that produced or sold firearms. Only 1.6% replied YES, and this was on the basis that they had seen a few firearms shops in a couple of agencies. The survey was not conducted in the Dara Adam Khel area, where there are hundreds of firearms retail shops





and manufacturing units. 84 respondents (8%) did not respond to this question, as they were reluctant to share their comments.

Fig 27. Local Productions of Firearms

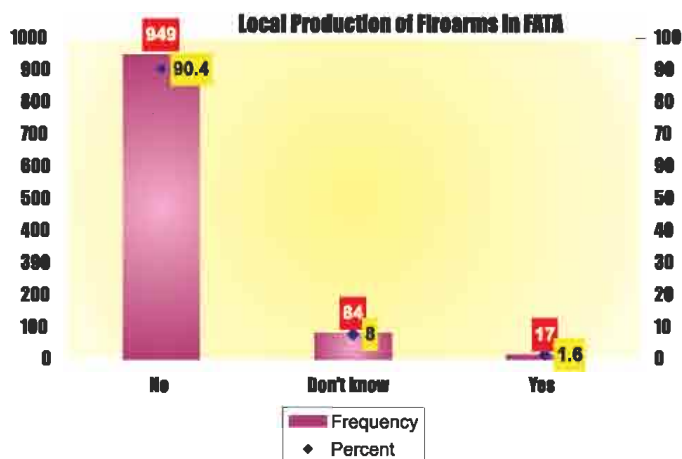


Table 29. Local Production of Firearms

Response	Frequency	Percent
No	949	90.4
Don't know	84	8
Yes	17	1.6
Total	1050	100

Those who were aware of the firearms production units in their areas were asked about the type of weaponry produced in these businesses. According to the respondents, AK 47s, pistols of all kinds, light machine guns and rifles of all kinds were the major types of weapons that are produced in tribal agencies of the FATA.

Types of Firearms Available in Shops in the FATA

Regarding perceptions of the availability of various types of firearms in the shops of the FATA, it is alarming. The Pakistan Arms Act does not apply to these areas and as such, no

mechanisms are available to regulate these shops.

In response to a multiple choice question, 1002 respondents believed that the AK-47 is available in high numbers in almost every shop in the FATA, while 659 respondents thought pistols were the second most available firearm in these shops. The graph provides more detail and is self explanatory, however, it is important to point out that besides Small Arms, one can get ammunition and light weapons – the most common among them are rocket launchers, heavy machine guns, or 'Dashakas'.

Fig 28. Types of Firearms Available in shops in the FATA.



Table 30. Types of Firearms Available in shops in the FATA.

Firearms Available in Shops in FATA	Frequency
AK 47	1002
Pistols	659
Light Machine Gun	204
Rifles [of all kinds]	73
Rocket Launchers	48
7 MM Rifle	36
G3 Rifle	29
303'	21
8 MM Rifle	11
Heavy Machine Gun	6
M16	5
12 Bore Rifle	3
Mortar	2

Security in the FATA

In response to the multiple-choice question "You feel more secured because of...?" 979 respondents, which constitutes strong majority, replied that they feel more secure because of the centuries old 'tribal customs and traditions', whereas 267

replied that they feel more secure because they possess firearms/weapons. One of the elements of the 'tribal customs and traditions' is the possession of weapon to protect one's honour, however we put this question separately so as to have a clearer understanding of the meaning of responses. This response, which favours customs over weapons as a source of security is interesting, as was the fact they did not trust the government institutions to provide them with more secured environment.

Fig 29. Security in the FATA



Table 31. Security in the FATA

Response	Frequency	Percent
Tribal Customs and Traditions	949	61.2
Possessing Arms/Weapons	267	25.4
The Current Status of FATA	30	2.9
Other	25	2.4
Don't Know	15	1.4

Easy Access to Firearms

The question, "Easy access to firearms has been due to..." was also a multiple-choice question and intended to map the small arms and light weapons (SALW) problem in the FATA region. Some 744 respondents, which constitutes majority, believed that the presence of an abundance of firearms in the FATA was the result of trafficking across the border from Afghanistan, while 332 respondents believed that it was due to the Pukhtoon 'local culture'. It is true that local culture is mainly responsible for such

an abundance of firearms in the tribal society but the Afghan conflict exacerbated the abundance of firearms. Some of the respondents, 74 in number, believed that the presence of firearms is due to the 'absence of rule of law and weak governance system', which has created an environment conducive to the weaponisation of the local tribal areas. Only 15 respondents thought that it was because of the local manufacturing of firearms, which militarised the local society. However it has been observed that most of the tribal people chose to acquire export quality firearms and not locally manufactured weapons. It has also been observed that locally produced firearms usually find their ways into other areas of Pakistan.

Fig. 30. Reasons for Easy Access to Firearms

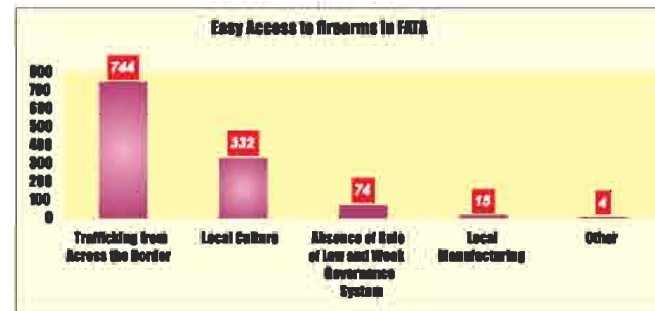


Table 32 Reasons for Easy Access to Firearms

Response	Frequency
Trafficking from Across the Border	744
Local Culture	332
Absence of Rule of Law and Weak Governance System	74
Local Manufacturing	15
Other	4

A cross tabulation of those respondents who chose 'Absence of Rule of Law and Weak Governance System', as the main reason for easy access to firearms, the largest category comprised of 19 out of 71 respondents were from the Kurram agency, which is considered a moderate tribal agency when compared to other tribal areas. 29 of a total of 74 respondents who chose this option were women, while 32 were illiterate.





Trade in Firearms

To document the general perception of the tribal society regarding the legality or illegality of trade in firearms, a three part question was asked in which respondents were questioned whether they believe the trade in arms was legal according to Pakistani Law, Tribal Law and Islam. The responses were mixed and it remains difficult to judge how the firearms trade is perceived in relation to various legal systems operating in the FATA. We also know that Pakistan Arms Act is not extended to the FATA region; therefore, technically, the FATA region becomes a 'grey market' for trade in firearms, which means that the trade in small arms is neither legal nor illegal. Nonetheless, 128 respondents considered the firearms trade as being un-Islamic while 61 participants felt it was not contrary Islam. 395 respondents believed that it is legal to trade arms under 'tribal law' while 122 respondents thought it was against tribal law. 341 respondents posited that the trade in firearms is illegal according to Pakistani laws; while only 3 respondents replied that it is legal under Pakistani law.

Fig. 31 Trade in Firearms

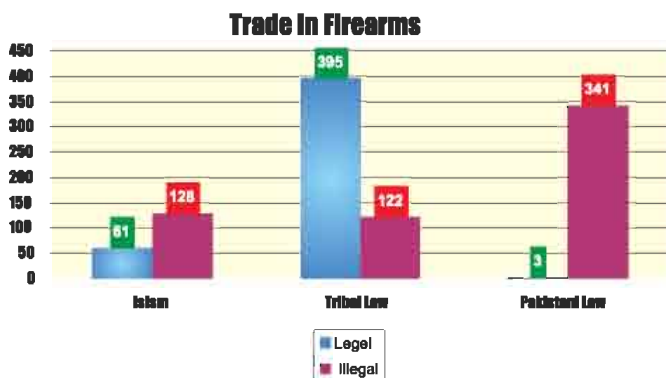


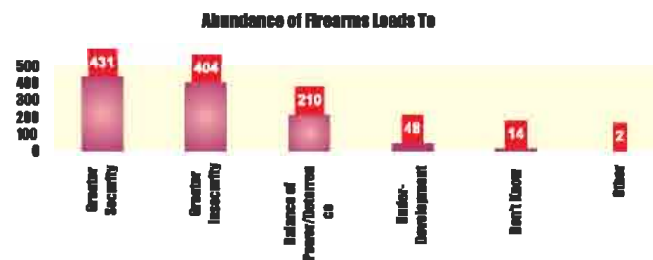
Table 33. Trade in Firearms

According to				
Trade in Firearms	Islam	Tribal Law	Pakistani Law	Total
Legal	61	395	3	459
Illegal	128	122	341	591
Total	189	517	344	1050

Abundance of Firearms

Respondents were given another series of questions designed to identify their perceptions of the impact of the abundance of firearms in their society. 431 respondents believed that the abundance of firearms in tribal society provided 'greater security' in the sense that it would act to balance power and prevented enemies and/or criminals from offending a family or a person which -as everyone knows- requires the victim of such aggression to retaliate. Therefore to avoid such retaliations people think twice before they take any action involving the use of weapons. Whereas, the second largest group of 404 respondents rejected this notion and believed that the abundance of firearms leads to 'greater insecurity'. Some 48 respondents also thought that this leads to underdevelopment as development never happens in conflict ridden zones where there is an abundance of firearms. 14 respondents did not know the answer, which is a considerably small portion of the sample.

Fig. 32. Consequences of an Abundance of Firearms



After cross tabulation we found that among the 431 respondents who chose the option 'abundance of firearms leads to security', 155 were women, while 191 out of the 431 were illiterate. We also cross tabulated the option 'greater insecurity' and found that only 30 respondents were women, while 374 were men. In this category, 114 of the respondents were illiterate, whereas 317 out of 404 respondents, which constitute a 78.46% majority of the total category, were in the age group 18 – 45.

Table 34. Consequences of an Abundance of Firearms

Response	Frequency
Greater Security	431
Greater Insecurity	404
Balance of Power/Deterrence	210
Under-Development	48
Don't Know	14
Other	2

Carrying Firearms

The perception of carrying weapons was also documented. 867 respondents believed that carrying weapons provided 'security' and conveyed a message to potential adversaries and thus created a balance of power situation, whereas 378 respondents believed that it's a 'tradition' to carry a gun. Some 68 respondents thought that carrying firearms is a 'status symbol'. These responses give the impression that tribal men see many positive aspects in carrying a weapon. However, some of the respondents were against this practice and 33 respondents said that it 'promotes violence and crimes' in a society while 10 respondents replied that it provided insecurity.

Fig. 33 Carrying Firearms



Table 35. Carrying Firearms

Response	Frequency
Is a Tradition	387
Is a Status Symbol	68
Provides Security	803
Provides Insecurity	10
Maintains Law & Order Through Balance of Power	64
Promotes Violence & Crimes	33

We cross tabulated the last two options we found that among 33 respondents who believed that carrying weapons promotes violence & crimes, 6 were women and the majority were literate (88%). Among those 10 respondents who believed that carrying weapons provided insecurity, 4 were women and only 2 respondents were illiterate.

Presence of Firearms at Home and Women's Security

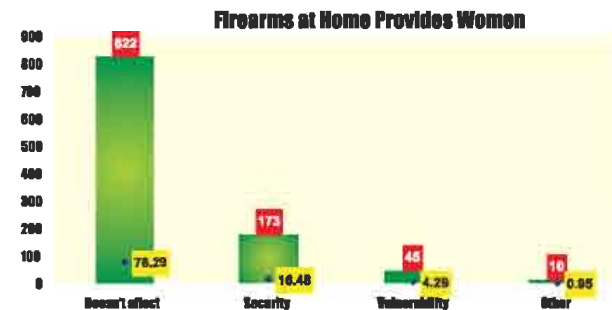
In response to the question, "The availability of firearms at home provides women...", 822 (78.29%) respondents replied that the presence of firearms at home does not affect women at all, while 173 respondents believed that it provides them security. However, 45 respondents thought that women became vulnerable in the presence of firearms at home. Around 10 respondents chose 'other'. This is very strange as 22.1% of the respondents were women and most of them were ignorant of the fact that keeping firearms at home would invite more insecurity for them rather than giving them security.

Table 36. The presence of firearms at home and women's security.

Response	Frequency	Percent
Doesn't affect	822	78.29
Security	173	16.48
Vulnerability	45	4.29
Other	10	0.95
Total	1050	100.00

Fig 34. The Presence of Firearms at Home and Women's Security

Before cross tabulation, we grouped the first two options i.e. the





presences of firearms in homes 'does not affect' women security and the presence of firearms in homes provides 'security' to women. The total of both the options was 995, which constitutes 94.76% of the total sample. It is surprising to note that among the 995 respondents, 222 were women, which is 95.69% of the total female sample.

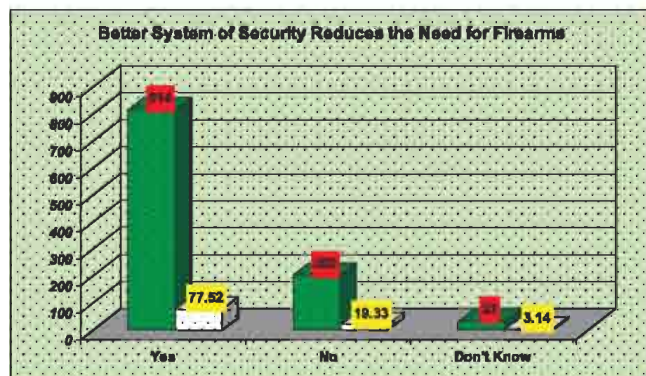
Better System of Security and the Need for Firearms

On some occasions in previous questions, the respondents replied that firearms are part of their culture and provide greater security to them. When asked whether a better system of security would reduce the need for firearms, 77.52%, believed that it would, which seems to be very encouraging. Some 19.33% believed that a better system of security would not affect the need for firearms. 33 respondents (3.14%), either did not know the answer, or were reluctant to give their comments.

Table 37. Better System of Security and the Need for Firearms

Response	Frequency	Percent
Yes	814	77.52
No	203	19.33
Don't Know	33	3.14
Total	1050	100

Fig. 35 Better System of Security and the Need for Firearms



Conclusion

The wider literature and focused discussion groups suggest that Pukhtoon society is highly weaponized due to its freedom loving nature and a lack of trust in the modern judicial system in the settled districts of NWFP. Since there is neither a modern judicial system nor a modern governance structure, which could provide human security to the people of the FATA, therefore, the local people rely mainly on their own system of defense. This is evidenced by the fact that 803 participants felt that carrying firearms provided security and 431 participants felt that an abundance of firearms leads to security, although this latter point is mitigated by the fact that 404 participants felt that an abundance of firearms leads to greater insecurity.

It also becomes apparent that the majority believe that the abundance of firearms is due to trafficking across the border from the Afghan conflict when billions of US dollars worth of firearms crossed the border and found their way into the hands of tribal people and other parts of Pakistan. Although firearms are produced in certain regions of the FATA the profound majority of participants were not aware of firearms production taking place in the FATA although this is likely due to the fact that production is largely located in one area of the FATA. In terms of legality, both the legal status of firearms production and trade is ambiguous because of the situation with regard to Pakistani Laws, nonetheless, the majority of participants felt the trade in firearms was illegal under Pakistani laws yet legal under tribal law. This is despite the perception that these weapons are understood by over half the respondents as being used in the most common types of crime which are understood to be murder, robbery, kidnapping for ransom and sectarian violence.

The most common type of firearm possessed by the local tribes is the AK-47 assault rifle, although there are many other types of weapons available and possessed by the local tribes.

Firearms undermine human rights and impede development. Women and children are more vulnerable to weapons, particularly as 90% of the victims of firearms are civilians, and among them 80% are women and children. Although this evidence suggests that the presence of firearms brings insecurity to women, it seems the FATA women were ignorant of this fact. This creates a need for security sector reforms along with a proper governance system in the FATA, which could allow the government to demobilize and demilitarize the local tribes. The government should also curb the supply and demand of firearms by regulating the firearms trade. Local 'grey markets' of firearms production in the tribal areas, which is a source of non-stop proliferation of firearms in Pakistan, should also be

regulated. At the same time, there is also a need for awareness and to educate the people on the ill-effects of weapons and the impact of firearms on the society.

3.5 The Future of Tribal Youth

The focused discussion groups and the wider literature suggests that a lack of proper educational and employment opportunities have provided space for the promotion of extremist ideologies that have fuelled terrorism and sectarianism in the FATA. This in turn has impeded development in the tribal society. Due to poverty and the lack of entertainment, the youth of the FATA have little to do.¹²³ The tribal system is mainly responsible for this, as it has left the area lagging behind compared to other parts of Pakistan.¹²⁴ The Jihadi organizations and criminal gangs have very astutely targeted the youth of the FATA and exploited this boredom.¹²⁵ In the current circumstances, the youth of the tribal areas and remote areas of the NWFP have found themselves in an environment where there is no entertainment, a lack of educational opportunities, a lack of employment and no other recreational activities which could divert their attention away from negative and criminal acts to positive and fruitful activities which could build their careers.¹²⁶ In the FATA particularly, this environment was already set due to outmoded governance system, which neither allowed institutions to flourish nor encouraged human development. This clearly detracts from FATA's existing economic development and law and order situation.

The Afghan conflict is understood to have greatly affected the youth of the FATA. When the Soviet Union invaded Afghanistan, Pakistan construed it as a great opportunity to support religious extremists and hardliners in order to counter the Soviet Union, India and other nationalists.¹²⁷ During this period, the youth of the FATA was recruited at an early age in the war against the Soviets and were trained in camps, inside the FATA, to become holy warriors (Jihadis). After the Soviet withdrawal, the west left Afghanistan on its own paving the way for Iran and Pakistan to play power games.¹²⁸ In such games it was again the youth that was targeted by the so called jihadi organizations and young people have been taken away from schools and colleges and trained in camps to become holy warriors and suicide bombers and used in Afghanistan against western forces and/or against

Pakistani security and law enforcement agencies. The most affected age group is those aged between 13 and 21.

This problem was exacerbated when the Pakistani military entered the tribal areas for the first time in 2003.¹²⁹ The Pakistani military operation was opposed widely, not only by the people of the FATA, but also by the people of Pakistan, and the youth of the FATA, feeling alienated, and found solace and guidance in the Taliban, who are considered to be the fighters of Islam.¹³⁰ This has created a sympathetic environment in the tribal areas for the Taliban – a situation that is being exploited by the Taliban leaders.¹³¹ This has not only affected the remote areas of the FATA and the NWFP, recently we have seen the impact in the very heart of Pakistan – Islamabad – where a small band of Taliban associated with the Lal Mosque and Madrassa Hifsa have challenged the writ of the government.¹³² Media reports show that the extent of youth involvement in extremism and radicalism is spilling over very rapidly. The following section examines the findings of the sample survey on youth activities in the FATA.

Tribal Youth

In response to a multiple choice question, the majority of the respondents, 692, believed that tribal youth spends time sitting in Hujras, an activity that is frowned upon in tribal culture as being idle and unproductive. 440 respondents thought that the youth of the FATA spent their time in sports, which is also believed to be a non-productive activity in the tribal society. Some 182 respondents believed that youth attended Tablighi Ijtima.

We have received a couple of responses that believed that youth is engaged in some positive activities. However, in such a state of despair in tribal society as a whole, how can one expect the youth to be more positive where they don't see their dreams as being able to come true and have no trust left in the government, which could have provided them with a better, productive environment and opportunities for their careers.



¹²³Interview with Shamsul Qamar Shams, Journalist, Mohmand Agency-FATA, dated 19 November 2006

¹²⁴Engr. Toor Gul Chamkani, writer and Member FATA Reforms Committee, dated 5 November 2006

¹²⁵Afrazayab Khan Khatak, President Awami National Party (ANP), spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club

¹²⁶Engr. Toor Gul Chamkani, writer and member FATA Reforms Committee, spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club

¹²⁷Dr. Ijaz Khan, Professor Department of International Relations, University of Peshawar, spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club

¹²⁸Dr. Ijaz Khan, Professor Department of International Relations, University of Peshawar, spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club

¹²⁹David Montoro "Why the Taliban appeal to Pakistan youth", published in The Christian Science Monitor, dated June 16, 2006 – <http://www.csmonitor.com/2006/0616/p07s02-wsc.html>

¹³⁰Abdul Latif Afridi, Ex- Member Parliament from Khyber Agency-FATA and President High Court Bar Association, spoke during the focused group discussion organized by CAMP in Khyber agency, dated 14 Dec. 2006

¹³¹Afrazayab Khan Khatak, President Awami National Party (ANP), spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club

¹³²Afrazayab Khan Khatak, President Awami National Party (ANP), spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club



Fig 36. Perceptions of Preferred pastimes of youth

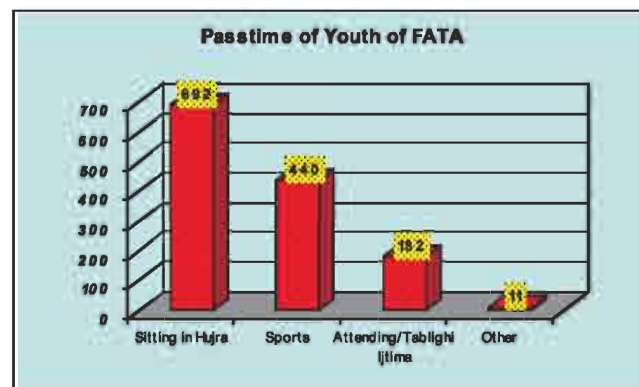


Table 38. Perceptions of Preferred pastimes of youth

Response	Frequency
Sitting in Hujra	692
Sports	440
Attending/Tablighi Ijtima	182
Other	11

Youth Activities in Hujra

In response to a multiple choice question, mainly focused on finding out what activities young people do in the Hujra, a majority of the respondents (880), thought that the youth were busy gossiping. Some 472 respondents believed that the youth were wasting their time in playing games (sport) in the Hujra, while 177 respondents believed that the young people were only watching TV or video movies. It should be noted here that playing games and watching videos or TV are considered very negative acts by tribal society and the respondents believed that youth must engage themselves in studies and to pursue their careers.

Fig. 37. Youth Activities in Hujra

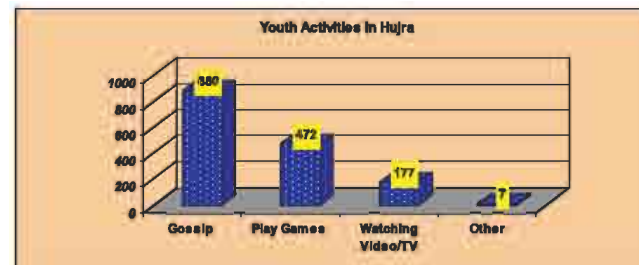


Table 39. Youth Activities in Hujra

Response	Frequency
Sitting in Hujra	692
Sports	440
Attending/Tablighi Ijtima	182
Other	11

Unemployed Youth

In response to a multiple-choice question, the most selected category, chosen by 454 respondents indicated that they thought the unemployed youth were involved in 'drug abuse' while 441 respondents believed that the unemployed youth was involved in acts of 'domestic violence'. 151 respondents believed that unemployed young people are involved in 'criminal activities' and 81 chose 'arms and drug trade', while only 6 respondents said that the unemployed youth were involved in anti-state activities. In the 'other' category we received a diverse range of responses.

Fig 38. Unemployed Youth Activities

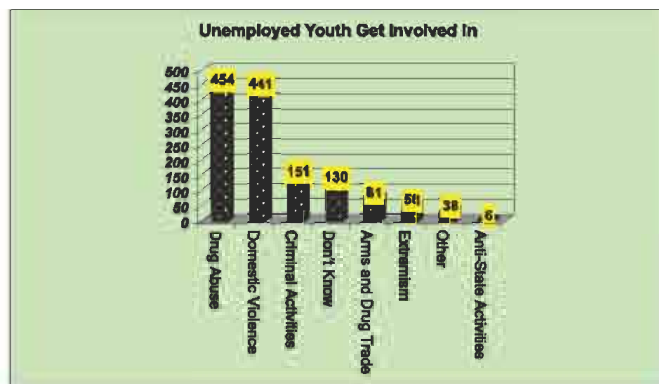


Table 40 Unemployed Youth Activities

Response	Frequency
Drug Abuse	454
Arms and Drug Trade	81
Extermisim	56
Criminal Activities	151
Domestic Violence	441
Don't Know	130
Other	38

Conclusion

After analysing the overall survey results, the understanding of the participant's points to a shocking scenario with the majority of the youth believed to be wasting their precious time engaged in non-productive activities. The perceptions of the majority of respondents were that young people in the FATA appeared to be wasting their time on gossiping and un-productive sporting activities. As mentioned above, sport is considered as a negative activity in the tribal areas. The perceptions in the survey results combined with a broader understanding derived from focused discussion groups and the wider literature, suggest that majority of the respondents believed that youth are unemployed, as the government have not provided any

employment opportunities in the FATA region. According to the survey results, these unemployed young people are believed to be involved in primarily drug abuse and 'domestic violence' with a smaller portion involved in other criminal activities. The results of the sample survey do not provide very encouraging indications about the state of affairs of young people in the FATA.

This is a very tricky situation and needs immediate attention by the government and civil society organizations. In the absence of any educational and employment opportunities there is a high probability that the youth of the area will become easy prey to the criminals and other extremists elements.

3.6 Frontier Crimes Regulations (FCR)

The FATA's judicial system is enshrined in the Frontier Crimes Regulations (FCR) of 1901, a hybrid colonial-era legal framework that mixes traditional customs and norms with executive direction.¹³³ From the views evident in the wider literature and the discussion forums, the FCR is variously regarded as a "Black Law" or a "Draconian Law" and seen as a suppressive set of rules which violate basic human rights if judged by international human rights standards and principles.¹³⁴ Indeed, the British Indians devised this as an instrument for subjugating and disciplining the free natured Pukhtoon tribes along the Durand Line.¹³⁵ In recent days, the FCR has become a focus of criticism by human rights activists as well as the people of the FATA.

The Tribal Areas were a continuous source of trouble and threat for British Indian stability. To check this, the British formulated the policy of persuasion, control and armed interventions in these areas.¹³⁶ In return for tribal consent to colonial rule, the FATA was given a semi-autonomous status with allowances and subsidies for the tribal Maliks and elders who signed various agreements and treaties. One such arrangement was the introduction of the FCR in the six occupied Frontier districts housing the Pukhtoons by the colonial government in 1848 – initially, the ordinary civil and criminal law, in force in British India, was extended to such districts; however, the rate of convictions under the ordinary criminal law was too low.¹³⁷ This led the British administration to devise a special law for the Pakhtoon region and the first FCR of 1871, was enacted. This was subsequently revised and re-enacted in 1873 and then in again 1876 with minor modifications.¹³⁸ With the passage of time



¹³³International Crisis Group "Pakistan's Tribal Areas: Assessing the Militants, Asia Report No 125 – 11 December (reprinted by Francis Taylor-Randall, "Post-Colonial Pluralism: Human Rights and the Administration of Criminal Justice in the Federally Administered Tribal Areas of Pakistan", Singapore Journal of Comparative and International Law).
¹³⁴Ahmad Khan Khattak, Provincial President Awami National Party (ANP) and former Chairperson Human Rights Commission of Pakistan, spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club.
¹³⁵Interview with Saig e Marjan Khan Mehsud, former Political Agent FATA, former Chief Secretary Northern Areas and member of FATA Reforms Committee, 1, dated 10 May 2007, Peshawar.
¹³⁶Dr. Ijaz Khan, Professor Department of International Relations, University of Peshawar, spoke at the FATA Reforms Consultative Dialogue, organized by CAMP on 5 June 2007 at Peshawar Press Club.
¹³⁷Constitutional Status of FCR – paper presented by Dr. Faqir Hussain, Secretary Law and Justice Commission of Pakistan – Report of the Consultation Proceedings on the FCR Regulations 1901, organized by Human Rights Commission of Pakistan (HRCOP) and TRDF – October 2004.
¹³⁸Constitutional Status of FCR – paper presented by Dr. Faqir Hussain, Secretary Law and Justice Commission of Pakistan – Report of the Consultation Proceedings on the FCR Regulations 1901, organized by Human Rights Commission of Pakistan (HRCOP) and TRDF – October 2004.



the scope of the regulation extended through the addition of new acts and offences. Its purview was also expanded in 1901, when finally the FCR was promulgated throughout the Tribal Areas.

The Indian Independence Act of 3 June 1947 abrogated all the special treaties. Pakistan opted not to base troops in the region after 200 Malikhs, during a grand Jirga, signed an instrument of accession with Mohammad Ali Jinnah, the first Governor General of Pakistan, in return for continued allowances and subsidies. On 14th August 1947, when Pakistan was created as a sovereign Muslim state, it also retained the FATA's semi-autonomous status, with the Governor General assuming direct administrative jurisdiction. With very few changes the 1956, 1962 and 1973 constitutions of Pakistan retained the same arrangements, as the governor general, and then the president of Pakistan, assumed administrative jurisdiction through the NWFP Governor as his agent.¹³⁹ The overall administrative and political control of the FATA falls under the federal ministry of states and frontier regions (SAFRON), which is answerable to the elected prime minister and national assembly, it is however virtually irrelevant in policy implementation or execution in the FATA and acts mainly as a conduit for routing federal funds.¹⁴⁰ While, as mentioned earlier, the executive authority rests with the president and is exercised through the provincial governor.

Through FCR, the Political agent enjoys the power of District Magistrate while the three Assistant Political Agents are vested with the power of Additional Assistant Magistrates. To determine the guilt or innocence of an accused arrested for any charge, the Political Agent constitutes a Jirga with the consent of accused to enquire into the allegation and give their verdict based on Rewaj¹⁴¹ and Islamic Sharia. Islamic Sharia is rarely applied during such proceedings while Rewaj dominates such decisions.

Farhatullah Babar, during his presentation at the National Consultation Dialogue on the Status of the FATA, states, "The parliament, despite being the law making authority, can not make laws for the FATA" he added:

"... and it was told in the Senate three years back that improvements and amendments in FCR were on the way but

the Human Rights Committee of the Senate was not given copy of the recommendations".¹⁴²

"Israel and Pakistan", Mr. Babar added:

"...are the only two countries in the world where the property of the dissenters and offenders can be abolished and it is in FATA where the Political Administration through the infamous FCR can punish – a girl of only three years was sentenced to Jail by the PA".¹⁴³

Pakistan's constitution prescribes fundamental rights that extend to the whole of Pakistan, including the FATA. However, the enforcement of these rights can only be extended to the FATA through the Supreme Court and the High Court under Article 184 (3) and Article 199, respectively.¹⁴⁴ It simply takes a piece of legislation to extend such fundamental rights to the FATA, but this is not being done for obvious reasons.¹⁴⁵

Judging by the standards of the international principles of human rights, the norms practiced in civilized states and the fundamental rights guaranteed in the Constitution of Pakistan, the FCR fails in comparison.¹⁴⁶ Many clauses of the FCR have been declared by the High Court as ultra vires against the interests of the local people and there are genuine complaints from the people of the FATA against FCR.¹⁴⁷

Talking about the justice system under FCR, Dr. Faqir Hussain stated:

"FCR is violative to the basic ideals of the justice system i.e. a person arrested under it was not considered innocent unless proven guilty – the due process of law to prove a person guilty is not followed under FCR".¹⁴⁸

Since fundamental rights are not guaranteed under FCR, therefore, freedom of expression is also restricted, "FCR is an infamous law that political administration wielded, brandished and used to the maximum effect to stifle the voice of reason and prevent truth from reaching the outside world" stated Ibrahim Shinwari.¹⁴⁹ This is a particular problem regarding journalists

¹³⁹Constitution of Pakistan.

¹⁴⁰ICG Asia Report No 125, entitled Pakistan's Tribal Areas: Appeasing the Militants – 11 December 2006 – page 4

¹⁴¹Rewaj means local culture.

¹⁴²Farhatullah Khan Babar, Former Senator, during his presentation at the National Consultation Dialogue on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

¹⁴³Farhatullah Khan Babar, Former Senator, during his presentation at the National Consultation Dialogue on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

¹⁴⁴Constitution of Pakistan.

¹⁴⁵Presentation of Advocate Qazi Jamil, former Attorney General of Pakistan and General Secretary of HRCP, during National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

¹⁴⁶Dr. Faqir Hussain, "Constitutional Status of FCR", Report of the Consultation Proceedings on the FCR 1901, by HRCP, dated October 2004.

¹⁴⁷Presentation of Advocate Qazi Jamil, former Attorney General of Pakistan and General Secretary of HRCP, during National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007.

¹⁴⁸Dr. Mumtaz Bangash, Convenor FATA Reforms Committee and Professor Area Study Center, University of Peshawar, "Constitutional Status of FCR", Report of the Consultation Proceedings on the FCR 1901, by HRCP, dated October 2004.

¹⁴⁹Ibrahim Shinwari, Senior Correspondent The DAWN and member Tribal Union of Journalists, Khyber agency, in his presentation titled "Press Under FCR", in Consultation Proceedings on "FCR 1901" organized by HRCP in October 2004, Islamabad.

and the political administration will have to stop hounding journalists.¹⁵⁰

There is no justification, neither logic nor reason, for retaining the FCR after 60 years of independence.¹⁵¹ Moreover, as Engr. Toor Gul stated “If FCR was good then why it was not implemented in Islamabad”.¹⁵² The British wanted to fit its system with the local tribal system, however, but the marriage of both has never been possible yet there has never been an attempt to bring improvements in the existing system.¹⁵³ This would however require governing institutions in the FATA and with the FCR system very much centralised under the Political Administration, no other proper institutions exist to improve the FCR and adapt them within the cultural context of the FATA.¹⁵⁴ Keeping in view the above arguments let us now examine the sample survey results in the following pages.

Perceptions about the Meaning of the FCR

It is believed that the general public of Pakistan are unaware of their simple laws and rights however, it was observed that majority of people in the FATA are somehow aware of the legal system in forces in the region as they confront such regulations on a day to day basis and take good care to avoid those acts which may not only put them in legal trouble, but being collective punishment upon whole family or clan.

In response to the multiple choice question, “What does FCR mean to you?” over half of the respondents (580) replied that the FCR is the ‘unchecked power of the Political Agent’, while 101 participants supported the Anti-FCR slogan and replied that it condones human rights violations. 277 people did not know the answer, or did not want to comment on this. There were 71 respondents that supported the FCR and said it preserved tribal customs and traditions, while 41 participants believed it meant non-intervention in tribal affairs. In this case, the majority of the responses of participants support the statement that people of the FATA are somehow aware of the negative implications of the FCR.

Fig. 39 Perceptions of the FCR

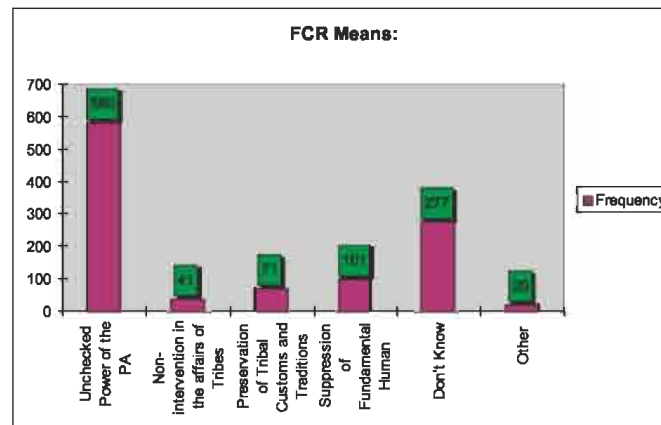


Table 41. Perceptions of the FCR

Response	Frequency
Unchecked Powers of the PA	580
Non-intervention in the affairs of Tribes	41
Preservation of Tribal Customs and Traditions	71
Suppression of Fundamental Human Rights	101
Don't Know	277
Other	20

Collective Territorial Responsibility

Sections 21 – 24 of the FCR of 1901 deal with issue of ‘collective territorial responsibility’. These are particularly problematic clauses which have empowered the political agent to punish an entire tribe or clan for crimes committed on its territory by imposing fines, arresting individuals, seizing and even demolishing property, and blockades. Legal experts, analysts and human rights activists have critically examined these articles and some other sections/clauses of the FCR. However to know how local tribal society perceives the ‘Territorial Responsibility’ section of the FCR we posited the multiple

¹⁵⁰Ibrahim Shinwari, Senior Correspondent The DAWN and member Tribal Union of Journalists, Khyber agency, in his presentation titled “Press Under FCR”, in Consultation Proceedings on “FCR 1901” organized by HRCP in October 2004, Islamabad.

¹⁵¹Interview with Engr. Toor Gul Chamkani, writer/journalist and member FATA Reforms Committee, dated 10 May 2007

¹⁵²Interview with Engr. Toor Gul Chamkani, writer/journalist and member FATA Reforms Committee, dated 10 May 2007

¹⁵³Presentation by Tipu Mohabat Khan, Special Secretary Home, NWFP, during National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007

¹⁵⁴Presentation by Tipu Mohabat Khan, Special Secretary Home, NWFP, during National Consultation on the Status of FATA, organized by CAMP in Islamabad, dated 18 July 2007



choice question, "In your opinion collective territorial responsibility is..?" We received the following response.

The majority, 87% (922) of the total sample, believed that the 'territorial responsibility' regulations of the FCR are oppressive, while only 8% (79) still believe that sections 21-24 were good and effective. Only 5% (49) of the respondents did not know or did not want to respond to the question.

Fig 40. Collective Territorial Responsibility

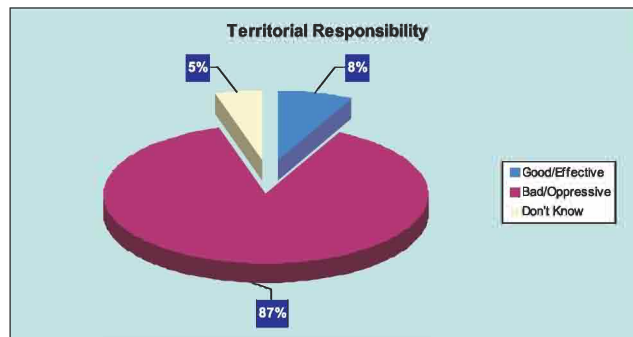


Table 42. Collective Territorial Responsibility

Response	Frequency	Percent
Good/Effective	79	7.5
Bad/Effective	922	87.8
Don't Know	49	4.7
Total	1050	100

After cross tabulation we found that among those 79 respondents who responded in favour of 'territorial responsibility', 48.10% were illiterate and 32 among the 70 respondents were women.

Law & Order through FCR

Inter-tribal and intra-tribal feuds in the tribal societies of the FATA are very common and resolved through an indigenous conflict prevention and resolution mechanism, the Jirga. Law

and order, in the FATA region, has always remained a big question for the policy makers who have shown little attention towards the rectification of these pending issues.

In response to the multiple choice question "Law and Order in tribal areas can be better maintained through...", Just under half, 44.7% (469), of respondents favoured the Islamic Shariat which, according to them, would be best for maintaining the law and order situation in the FATA, while 36.2% (380) believed that the Ulasi or Wolasi Jirga can effectively maintain the law and order situation in the FATA. A small minority of 12.8% (134) of the respondents favoured Pakistani laws being introduced in the FATA region and only 3.2% (34) supported FCR and still believe that FCR is the best tool to regulate tribal people and maintain law and order. The proportion of the respondents favouring FCR is tiny and unlikely to be able to influence the majority who favour an alternative to FCR. There was also a small group 3.1% (33) of people that did not know the answer and remained undecided.

Fig 41. Law and Order through the FCR

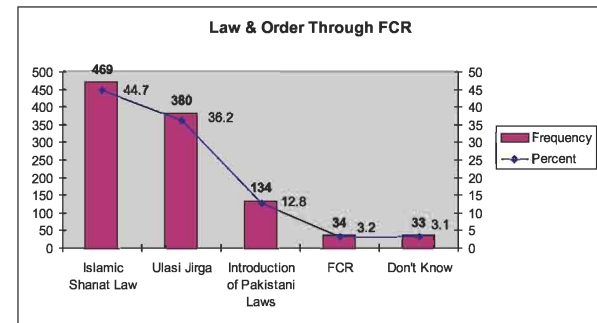


Table 43. Law and Order through the FCR

Response	Frequency	Percent
Islamic Shariat Law	469	44.7
FCR	34	3.2
Ulasi Jirga	380	36.2
Introduction of Pakistani Laws	134	12.8
Don't Know	33	3.1
Total	1050	100

Security in the FATA

In response to a multiple choice question on achieving security in the FATA, 979 respondents, which constitutes an overwhelming majority, responded that the existing tribal customs and traditions provide security to the people of the FATA, while 267 respondents believed that the possession of weapons provide security, which, in their understanding, is the best option because it means they can defend themselves in the tribal environment. Only 30 respondents favoured the existing status of the FATA [under FCR] and believed in maintaining the status quo. This trend shows that people in the FATA are desperate to see a change in their circumstances while they still want to continue with their old customs and traditions.

Fig 42. Security in the FATA

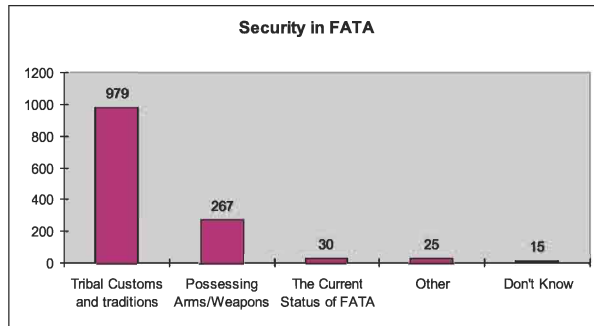


Table 44. Security in the FATA

Response	Frequency
Tribal Customs and Traditions	979
Possessing Arms/Weapons	267
The Current Status of FATA	30
Other	25
Don't Know	15

Special Status of the FATA

The respondents were asked what the special status of the FATA meant to them. 38% (396) of respondents viewed the special status of the FATA as meaning the autonomy of tribal culture and traditions. But 28% (296) believed that the special status of the FATA gives powers to the Political Agent to oppress

the local tribes through FCR. 11% (112) of respondents felt the special status of the FATA meant the absence of the rule of law

Fig 43. Meaning of the 'special status' of the FATA

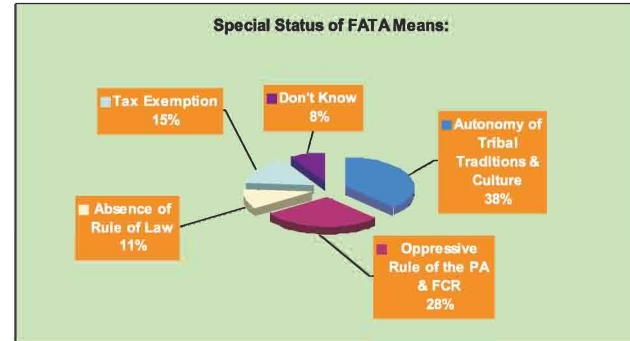


Table 45. Meaning of the 'special status' of the FATA

Response	Frequency	Percent
Autonomy of Tribal Traditions & Culture	396	37.7
Oppressive Rule of the PA & FCR	295	28.1
Absence of Rule of Law	112	10.7
Tax Exemption	160	15.2
Don't Know	87	8.3
Total	1050	100

We conducted a cross tabulation of those responses which related the special status of the FATA to the absence of rule of law. Among the 112 respondents, 33 were women and the majority (68) of respondents were literate. From the same group of 112, the majority (87) of the respondents were from the age group of 18–45.

The FCR Position

In response to another multiple choice question on whether participants "want FCR to be..." 412 (39.2%) of the respondents replied that they want the FCR to be amended, while 324 (30.9%) believed that FCR should be abolished. 74 (7%) participants still favoured the status quo and did not want any changes in the FCR. A considerable number of the respondents i.e. 240 (22.9%), did not know the answer or did not want to comment.



Fig 44. Positions on the FCR

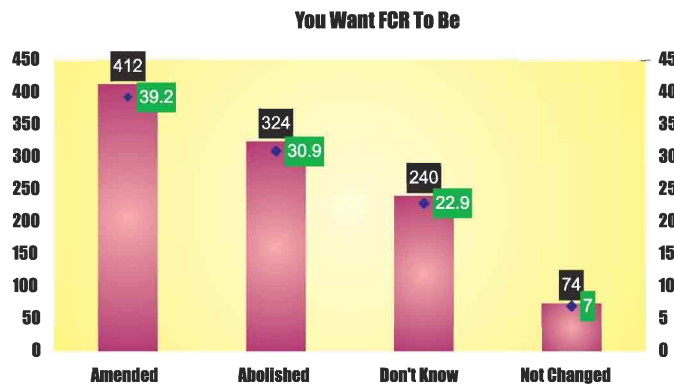


Table 46. Positions on the FCR

Response	Frequency	Percent
Amended	412	39.2
Abolished	324	30.9
Don't Know	240	22.9
Not Changed	74	7

After cross tabulation of the 74 (7%) of respondents who wanted to maintain the status quo we found that 69 out of 74 respondents were men, and 57 out of 74 were from the age group of 18-45.

Combining those who wish to keep the FCR in some form or another it becomes clear that the majority tilts in favour of FCR, which clearly demonstrates the mindset of the tribal people, many of whom are still either confused or clearly believe that the replacement of the FCR would mean the introduction or extension of Pakistani laws in the tribal society. This is what the tribal people do not want to see in their areas and prefer to support the Wolasi Jirga institution where they believe they can get justice and can settle their issues of any kind, amicably.

Conclusion

The overall survey results suggest that many of the sample respondents are against the current form of the FCR and consider it variously as a means of maintaining the unchecked power of the PA (580) or a means of suppressing human rights (101). The majority of sample respondents recommended that it should be either amended (412) or abolished (324). Indeed, it is evident that the justice system under FCR is not trusted very much, with only 3.2% advocating the FCR as the best means of maintaining law and order. This compares to just under half of the respondents (44.7%) endorsing Islamic Shariat Law and over a third (36.2%) endorsing the Wolasi jirga system as the best means to maintain law and order. When analysing the entire data, one could conclude the FCR is rejected by the respondents, and certainly component parts such as the collective territorial responsibility section are considered by a profound majority to be oppressive. However this is little cohesive agreement on what would be the best model to follow, although the discussion groups and wider reading suggests that there is confusion vis-à-vis alternative systems of regulation that could replace the FCR, something further indicated in the subsequent section.

3.7 The Institution of Jirga: The Contemporary Justice System

Jirga is originally a Pukhtu word, which, in its common usage, refers to the gathering of few or more people for consultation.¹⁵⁵ A Jirga constitutes a very important element of the Pukhtoon tribal society, and has been rooted in its culture for more than a thousand years. This understanding of Jirga is strongly reflected in the rituals and processes of the Pashtun traditional tribal jirga where people gather and sit and talk in a large circle in order to resolve disputes and make collective decisions about important social issues.¹⁵⁶ In the process male members of the community (Spingiris¹⁵⁷ and/or Maliks) constitute Jirga mechanism where all sizes of disputes are resolved and decisions are made about important social issues according to the dictates of Pukhtoonwali, while, the Jirga rules by 'consensus'. However, Jirga is very much different from the Faisino process of the Sindh province and the 'Punchayat' of the Punjab province where only few people make decision that are not based on consensus. Jirga decisions are firmly implemented and honoured by the local communities. Jirga is very much democratic in nature as every individual adult male has a direct say in shaping the course of things around him.¹⁵⁸ The Jirga is

¹⁵⁵Ali Wardak, University of Glamorgan, UK, writes in his research paper titled "Jirga – A Traditional Mechanism of Conflict Resolution in Afghanistan

¹⁵⁶Ali Wardak, University of Glamorgan, UK, writes in his research paper titled "Jirga – A Traditional Mechanism of Conflict Resolution in Afghanistan

¹⁵⁷White bearded elder men having knowledge and experience of communal and social matters

¹⁵⁸Hasan M. Yousafzai and Ali Gohar "Towards Understanding Pukhtoon Jirga"- page 18

also practiced in Pukhtoon areas now influenced by modern justice system where it is used for resolving inter-family, inter-personal and civil disputes within the private sphere of the extended family level as well as at the tribal level. Jirga can be convened at the local (Maraka), the tribal (Wolasi) and Grand National Assembly (Loya Jirga) levels.

Hassam M. Yousafzai & Ali Gohar in their book, *Towards Understanding Pukhtoon Jirga*, write about the remedial and compensatory jurisdiction of Jirga in the following manner:

*“One of the distinctive differences between the tribal legal system and the government or Anglo-Saxon Legal system is the emphasis on the victim. In the Jirga system, the victim is the focus of any proceeding taken against the offender, whereas in the formal legal system, the state adopts the role of the victim in the proceedings against the offender. The actual victim of the offence is not duly represented in the proceedings and the needs of the victims, including physical rehabilitation, are ignored by the formal legal system. Jirga keeps the focus of all proceedings on the victim and his or her needs.”*¹⁵⁹

The Jirga passes its judgement after due investigation of the matter. No effort is spared to reconcile the disputing parties.¹⁶⁰ The people sitting in circle act as witnesses to the entire process and listen to the arguments of the Jirgamaars¹⁶¹ who represent disputing parties and hold a Waak¹⁶² to decide and give a verdict according to the evidence and arguments of both the parties. If one of the parties is not satisfied with the verdict and feels that the Jirga has not done justice, they can quote precedents and rules (Narkh) to plead their point and try to overturn the decision.¹⁶³ However, the Jirga seeks to obtain the approval and acceptance of the parties before announcing a verdict, even in arbitration cases.¹⁶⁴ Once the verdict is announced both the parties are bound to obey the decision of the Jirga and the implementation of the sentence is crucial for the Jirga's credibility. The community or tribe is responsible to for implementing the Jirga's decisions and there is no way out for any party to escape the punishment of the Jirga.¹⁶⁵

The Jirga is not legally institutionalised in the 'settled areas' of the Pukhtoon population and the modern legal system has replaced the centuries old Pukhtoon Jirga institution, however, Pukhtoons in these areas still practice Jirga as a means of resolving their civil and criminal matters. In response to a sample survey in the district Peshawar, 82% of the respondents voted for the Jirga and said that they resolve most of their conflicts through the traditional Jirga.¹⁶⁶

Tribal society is neither a jumble of out-laws nor a lawless society – it is actually quite an organized society with well established customary laws which are not completely flawless, yet are neither prima-facie unjust nor opposed to reason.

The Jirga is institutionalised in the tribal set-up of the FATA under the FCR. In the FCR, the role of the Jirga constitutes the main justice system in the FATA¹⁶⁷ although the Jirgas constituted under the FCR are different to the traditional jirga (Wolasi Jirga). There are several disadvantages the FCR model of the Jirga: it can only forward recommendations which are not binding on the political agent; it does not appreciate the basic norms of justice as understood in the Western context; and sometime the Jirga members have preconceived designs; sometimes the composition of Jirga members are not sufficient for particular dispute; and, finally, Jirga members are vulnerable to becoming partisan, especially when their clans or sub-clans are involved.¹⁶⁸

The Wolasi Jirga is widely trusted and endorsed by the majority of the local population.¹⁶⁹ This traditional Jirga model is better than the normal courts for various reasons: the Jirga members have information about the event; the members are aware of the tradition; the proceedings are informal; and it is a cheap source of justice.¹⁷⁰ The following section examines the response of the sample survey attitudes towards the Jirga institution in the FATA.

Influences on Jirga decision making

As stated earlier, in the FATA region there are two major types of



¹⁵⁹Hassam M. Yousafzai and Ali Gohar, "Towards Understanding Pukhtoon Jirga", page 45, published in June 2005

¹⁶⁰Hassam M. Yousafzai and Ali Gohar "Towards Understanding Pukhtoon Jirga" – page 21

¹⁶¹Interveners – during the proceedings of Jirga

¹⁶²In Pukhtu the term 'Waak' is used for authority. According to the spirit of the Jirga Jirgamaar should follow the principles of Pukhtoonwali and if he sees that his opponent is on the right or 'Haq' then he will agree and will decide in favour of opponent. This is very different from the judicial system where the lawyer has to defend his client no matter what.

¹⁶³Hassam M. Yousafzai and Ali Gohar "Towards Understanding Pukhtoon Jirga" – page 21

¹⁶⁴Hassam M. Yousafzai and Ali Gohar "Towards Understanding Pukhtoon Jirga" – page 21

¹⁶⁵Naveed Ahmad Shinwari and Salma Malik, "A Situation Analysis of Small Arms and Light Weapons (SALW) and Its Impact on Security", dated February 2005 – page 70

¹⁶⁶Interview with Sang e Marjan Khan Mehsud, former Political Agent FATA, former Chief Secretary Northern Areas and member of FATA Reforms Committee, dated 10 May 2007, Peshawar

¹⁶⁷Dr. Mumtaz Bangash, Convenor FATA Reforms Committee and Professor Area Study Center, University of Peshawar, "Constitutional Status of FCR", Report of the Consultation Proceedings on the FCR 1901, by HRCP, dated October 2004

¹⁶⁸Dr. Mumtaz Bangash, Convenor FATA Reforms Committee and Professor Area Study Center, University of Peshawar, "Constitutional Status of FCR", Report of the Consultation Proceedings on the FCR 1901, by HRCP, dated October 2004

¹⁶⁹Views recorded during all the six focused group discussions organized by CAMP FATA from 5 November 2006 to 18 January 2007

¹⁷⁰Dr. Mumtaz Bangash, Convenor FATA Reforms Committee and Professor Area Study Center, University of Peshawar, "Constitutional Status of FCR", Report of the Consultation Proceedings on the FCR 1901, by HRCP, dated October 2004



Jirga institutionalised i.e. The Sarkari Jirga or (FCR Jirga model) and the Wolasi Jirga (also known as the Ulasi or Qaumi jirga). When a major offence or incident occurs, the local communities report the issue either to the local elders or the political administration, or both. The local elders react according to the nature and intensity of the issue, and sit together for consultation, where decisions are taken according to the local Rewaj¹⁷¹ and Islamic Law. However as we can see from the response to the multiple choice questions “the jirga decides according to...” the majority of the respondents i.e. 64%, replied that local Rewaj dominates the decisions of a Jirga. Well-informed people of tribal society who are actually involved in such Jirga proceedings also supported this statement during the focused group discussions. Only 12% replied that Islamic Law dominates the decisions of the Jirga; although a substantial percentage of respondents i.e. 23% believed that the Jirga decides according to both Islamic laws and local Rewaj. Just 4 respondents did not know the answer.

Fig 45. Influences on Jirga decision making

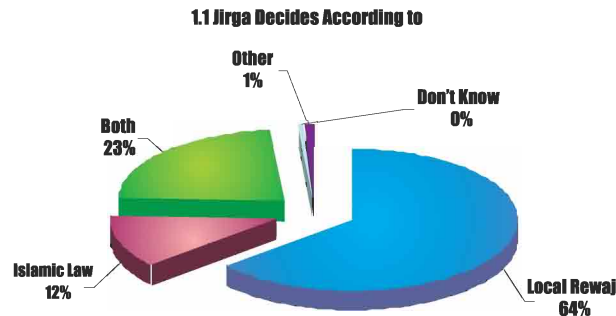


Table 47. Influences on Jirga decision making

Jirga Decide according to	Frequency	Percent
Local Rewaj	668	63.6
Islamic Law	124	11.8
Both	244	23.2
Don't Know	4	0.4
Other	10	1
Total	1050	100

¹⁷¹Rewaj means customs and traditions

Type of Jirga that Provides Justice

It was important to understand the perceptions of the local people regarding the types of Jirga that they have confidence in, as this would reflect the strengths and weaknesses of the local political administrative affairs. To achieve this we posed the multiple choice question “In your opinion what type of Jirga provides justice?” A majority of the respondents i.e. 68% were in favour of the Wolasi Jirga (or Ulasi/Qaumi Jirga) while only 6 % favoured the Sarkari or FCR Jirga. We also observed some 12 % of the respondents who did not support any model of Jirga and around 6% of the respondents seemed to be supportive of both.

Fig 46. Types of Jirga that provide justice

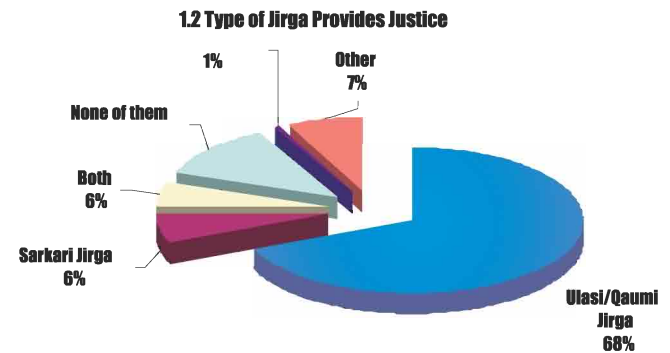


Table 48. Types of Jirga that Provides Justice

Type of Jirga	Frequency	Percent
Ulasi/Qaumi Jirga	721	68.7
Sarkari Jirga (FCR Jirga)	66	6.3
Both	60	5.7
None of them	125	11.9
Don't Know	6	0.5
Other	72	6.9
Total	1050	100

Credibility of Wolasi or Ulasi/Qaumi Jirga

Generally, tribal people believe in the Wolasi Jirga system rather than FCR Jirga, which, they believe, favours the rich and privileged of the Political Administration. This statement was supported in the focused group discussions where a majority of the participants favoured the Wolasi Jirga and believed that this model was truly representative of the local tribes. This statement was also tested through a question put to the survey sample. According to the results, 80% of the respondents replied in favour of Wolasi Jirga and believed that this model provides justice to the aggrieved, while only 15% felt that the Wolasi Jirga could not provide justice.

Fig 47. Wolasi Jirga Credibility

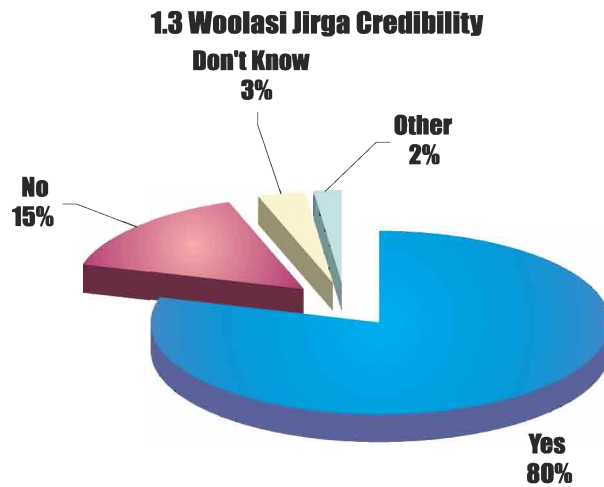


Table 49. Wolasi Jirga Credibility

Wolasi Jirga Provides Justic	Frequency	Percent
Yes	835	79.52
No	160	15.24
Don't Know	35	3.33
Other	20	1.91
Total	1050	100

Upon cross tabulation, we came to the conclusion that those who did not believe the Wolasi Jirga provided justice, largely belonged to the educated classes with 102 out of 160 of the negative respondents falling into the 'educated group' against the Jirga justice system. 33.75% were women among the 'no' group and a profound majority i.e. 138 out of 160, were in the age group of 18–45.

Credibility of Sarkari (FCR) Jirga

In response to the straightforward question, 'Do you think Sarkari Jirga provides justice to the aggrieved?' 73% respondents believed that Sarkari Jirga does not provide justice to the aggrieved, while 13% of the total sample supported the Sarkari Jirga as a model for providing justice. 14% of the respondents were undecided or were reluctant to respond.

Fig 48. Credibility of the Sakari (FCR) Jirga

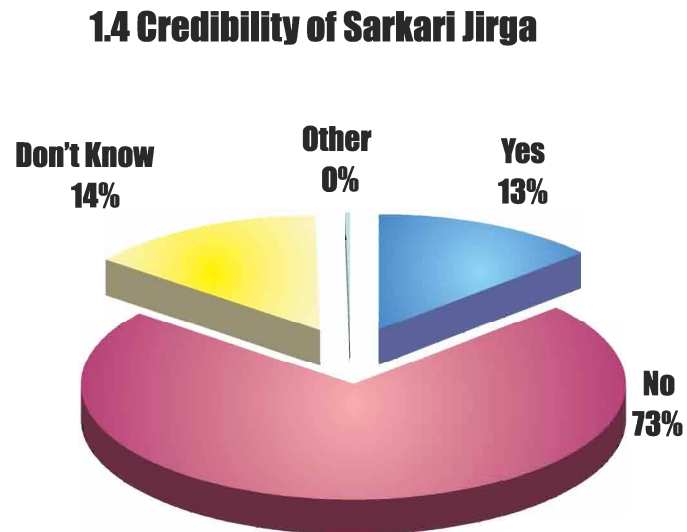


Table 50. Credibility of the Sakari (FCR) Jirga

Sarkari Jirga Provides Justice	Frequency	Percent
Yes	141	13.4
No	757	72.1
Don't Know	149	14.2
Other	3	0.3
Total	1050	100

Impartiality of the Jirga

Here impartiality refers to both Sarkari and Wolasi Jirgas. There is a general belief in Pakistan that the rich dominate poor and, as such, Jirgas are dominated by the rich. In this context, we asked participants whether they believe that, "In case of difference in social status of the disputants, does Jirga remain impartial?" In response to this question 44.9% believed that Jirga never remained impartial and always give its verdict in favour of the rich [in the case of a rich party against a comparatively poor person]. However, 51.2%, just over half of the respondents, still believe in the impartiality of the Jirga and perceive that the Jirga makes decisions in accordance with its true spirit and essence. Only 3.9% respondents were undecided or reluctant to respond.

Fig 49. Impartiality of the Jirga

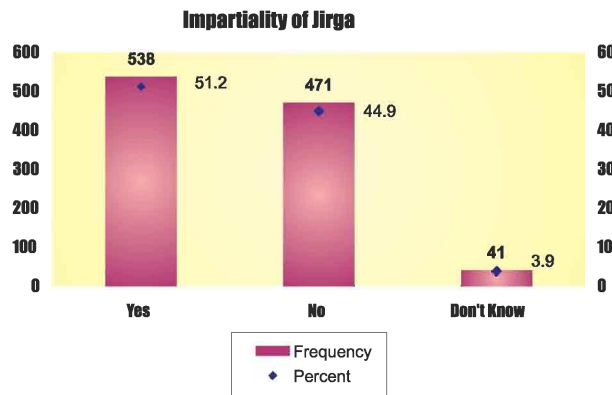


Table 51. Impartiality of the Jirga

Jirga Remain Impartial	Frequency	Percent
Yes	538	51.2
No	471	44.9
Don't Know	41	3.9
Total	1050	100

Consistency of the Jirga Decisions

According to the survey findings, 53.1% respondents believed that Jirgas' decisions are consistent and provide justice to the victims; however, 46.1% replied that decisions are not consistent, while 0.76% did not know the answer or were reluctant to respond. The survey findings have shown considerable doubts on the consistency of the decisions taken by the Jirga in the FATA region. The new dynamics and monetary elements have polluted the institution of the Jirga which was once trusted without doubt. While tribal people still believe that if the Jirga is not influenced by the local political administration, it always dispenses justice.

Fig 50. Consistency of the Jirga Decisions

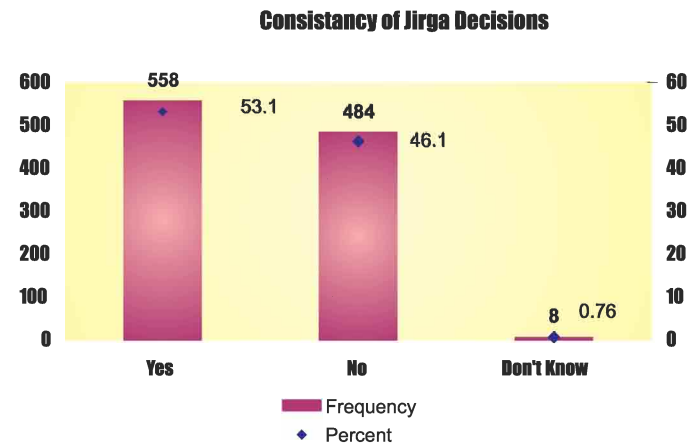


Table 52. Consistency of the Jirga Decisions

Jirga Decisions Consistent	Frequency	Percent
Yes	553	53.1
No	484	46.1
Don't Know	8	0.76
Total	1050	99.96

Monetary Gains Involved in Jirga

Doubts over the consistency of the Jirga decisions are mainly because of an element of corruption, which has polluted the Jirga institution in recent times, according to the general feelings of tribal society. According to the tribal people, in the past Jirga members would not extract monetary gains, but now the local communities are exhibiting a different opinion about this issue. The response to the question "Do members of the Jirga extract monetary gains?" is clearly indicated in the graph below, which shows that 57.05% of the respondents believe that members of the Jirga get money from both the parties. However, 41.43% of the respondents replied 'no', while 1.52% did not reply.

Fig 51. Monetary Gains Involved in Jirga

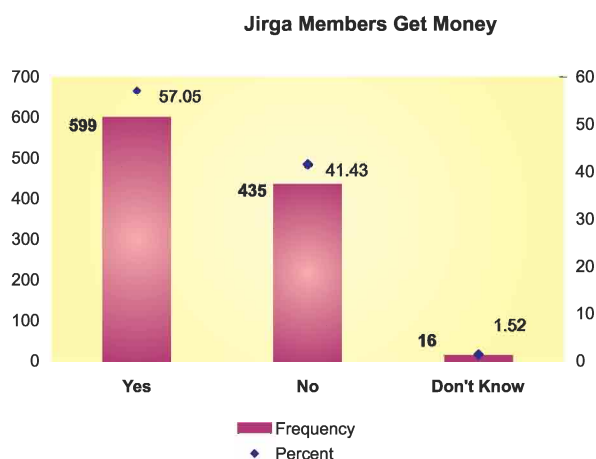


Table 53. Monetary Gains Involved in Jirga

Monetary Gains	Frequency	Percent
Yes	599	57.05
No	435	41.43
Don't Know	16	1.52
Total	1050	100

In a subsequent question, the respondents were asked their opinions on who pays the members of the Jirga. In response to this question, a majority of the respondents, i.e. 79.8%, perceive that both the parties pay the Jirga members who are appointed by both the parties. While 16.4% of the respondents believe that only the aggrieved person pays the Jirga members. Through another subsequent question we enquired as to whether Jirga members were customarily paid in the past for such proceedings. The majority i.e. 62.1%, of respondents answered YES suggesting the Jirga were paid in the past. However 24% still believe that Jirga members were never paid in the past by any of the parties to the dispute.

Women's Involvement in Jirga Proceedings

In Pukhtoon culture, women are not allowed to sit in the Jirga proceedings. During the survey we asked the respondents, which included women, whether women were allowed to sit in the Jirga. 97.9% replied in NO, however, we have also received some responses, which confirm that women do sit in Jirga proceedings but as a 'Party'. Upon cross-tabulation we found that it is only in Mohmand Agency that 24 of the respondents replied that women are allowed to sit in Jirgas as a 'Party'. Out of these 24 respondents 14 were women.



Fig 52. Women's Involvement in Jirga Proceedings

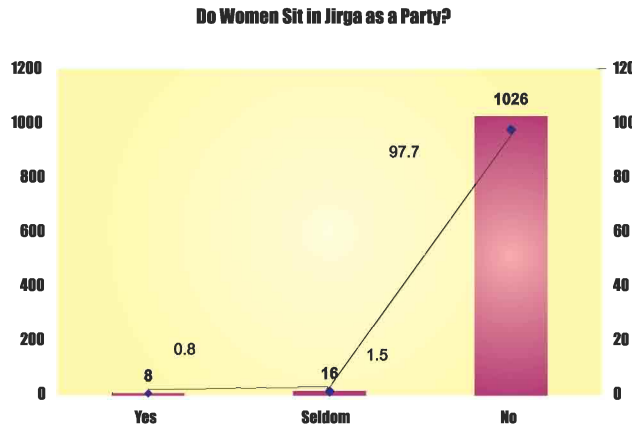


Table 54. Women's Involvement in Jirga Proceedings

Women Sit in Jirga as a Party	Frequency	Percent
Yes	8	0.8
No	16	1.5
Seldom	1026	97.7
Total	1050	100

Since these 24 respondents replied positively, they were again asked through another subsequent question whether the Jirga considered a woman's evidences or not. 13 respondents replied 'yes', 9 replied 'no' and 2 were undecided. This gives a clear picture how women are denied access to, and engagement with, the contemporary justice system in the FATA region.

Should Women Sit in the Jirga

The respondents were asked whether they would like to allow women in the proceedings of the Jirga as a member and as a party. The response was very clear, 91.0% of the respondents replied NO, while only 6.8% were in favour of women's involvement in the Jirga system. Only 2.3% of the respondents did not respond. Upon cross-tabulation, the majority of those

respondents that replied 'no' were from the low level income groups and had low levels of education background.

Fig. 53 Should Women Sit in the Jirga

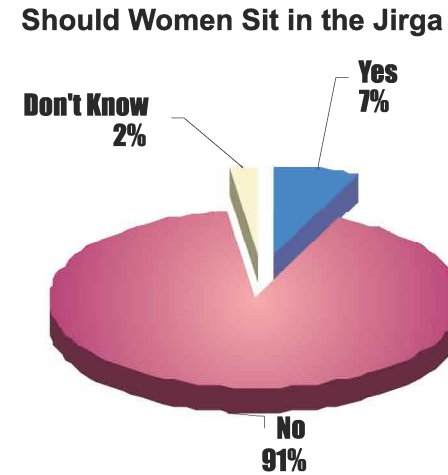


Table 55. Should Women Sit in Jirga

Response	Frequency	Percent
Yes	71	6.76
No	955	90.95
Don't Know	24	2.29
Total	1050	100

After cross tabulation of those respondents who believed that women should sit in the Jirga proceedings, we found that 30 out of 71 respondents were women and 27 were totally illiterate. Surprisingly, 12 respondents belonged to the South Waziristan agency, which is considered the most backward and the least developed agency in the FATA.

Female Victims and the Jirga

In response to another question enquiring who refers the cases

of aggrieved women to the Jirga, 97.4% responded that male relatives of women victims refer and represent women relatives in cases dealt with through the Jirga proceedings. This is mainly because women are not allowed to sit in Jirga proceedings, as Jirga is overwhelmingly a male oriented institution in the tribal society.

Fig. 54 Female Victims and the Jirga

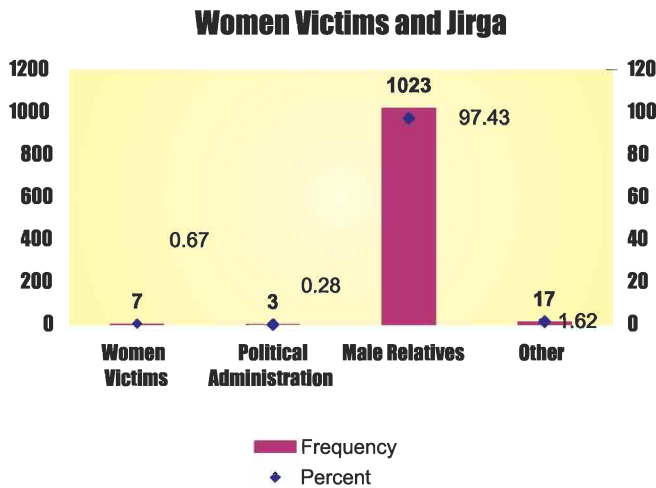


Table 56. Female Victims and the Jirga

Women Victims and Jirga	Frequency	Percent
Women Victims	7	0.67
Political Administration	3	0.28
Male Relatives	1023	97.43
Other	17	1.62
Total	1050	100

Pros and Cons of Jirga

In response to a multiple-choice question designed to investigate the pros and cons of the Jirga as the contemporary

system of justice and reconciliation, we received the following responses indicated in the graph below. The graph shows the largest single response espoused by 625 participants, was in favour of the Jirga's ability to deliver speedy justice; 611 respondents believed that the Jirga delivered justice [in its true spirit]; 257 respondents believed that the Jirga is cost effective, while 107 respondents believed that the Jirga remained impartial. Some of the respondents were critical of Jirga and responded differently: 140 respondents believed that the Jirga is always manipulated by those with influence, and 34 participants believed that the Jirga violates human rights, whereas 10 people believed that the Jirga remains partial. 44 respondents were undecided.

Fig 55. Pros and Cons of Jirga

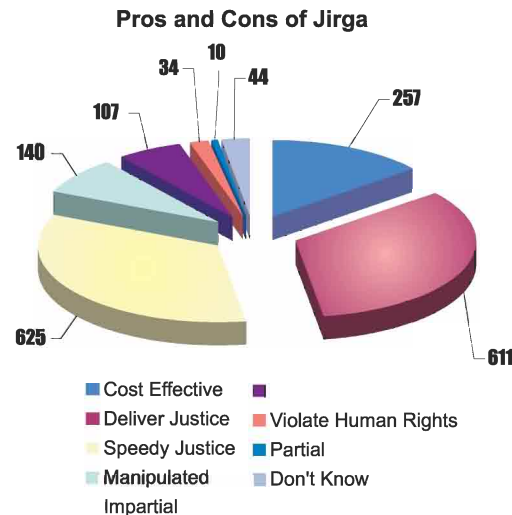


Table 57. Pros and Cons of Jirga

Is the Jirga	Frequency
Cost Effective	257
Deliver Justice	611
Speedy Justice	625
Manipulated	140
Impartial	107
Violate Human Rights	34
Partial	10
Don't Know	44

Preference in Cases of Murders

As stated before, the Jirga is the best way to resolve conflicts and to stop more bloodshed in the tribal system. In cases of murder, the Jirga tries its level best to compensate the victims by giving them various choices, depending upon the circumstances and nature of the case. To develop a better understanding of this issue, we posited the following multiple choice question to the participants, "To resolve cases of blood feud/murder, what is preferable?" We gave the respondents four options, with an additional choice of 'Other'. The respondent was allowed to select one or more than one choice.

A clear majority of the respondents totalling 882 replied in favour of Badal [revenge or 'an eye for an eye']; 258 respondents choose 'Monetary Compensation'; while 121 replied in favour of 'Swara' the custom of forced marriage of daughters in order to resolve conflict generated through murder. Only 12 respondents believed that the offender should be imprisoned. 37 respondents responded differently and selected 'other' option. Under the option 'other', it was found that 20 respondents felt the offender should be expelled from the area, 5 replied that such cases should be tried according to Islamic Shariat Laws, while 12 respondents believed that they would forgive such offenders. Since the majority of the respondents replied in favour of Badal, which is an important obligation of Pukhtoonwali, it shows how it is some times extremely difficult for the Jirga members to reach a result other than Badal.

Fig 56. Preferred punishment in cases of Murder

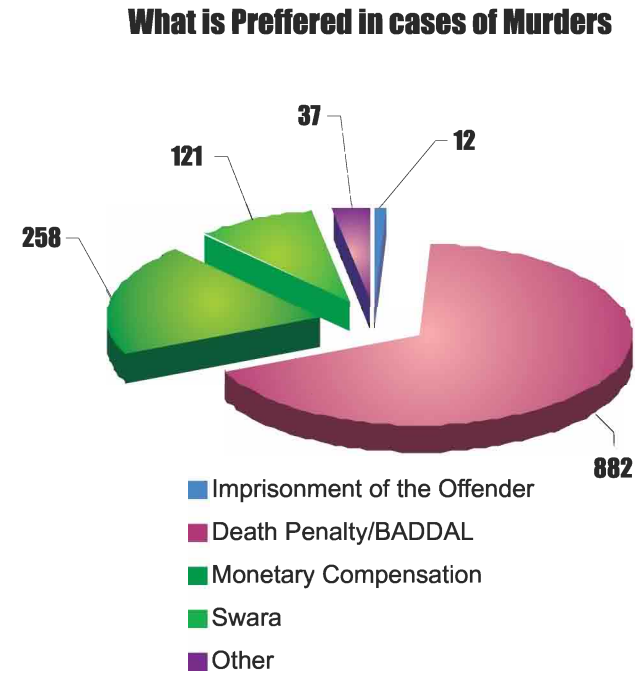


Table 58. Preferred punishment in cases of Murder

Women Victims and Jirga	Frequency
Imprisonment of the Offender	12
Death Penalty/Badal	882
Monetary Compensation	258
Swara	121
Other	37

After cross tabulation of those that preferred Swara for resolving cases of murder, surprisingly, among 121 respondents 40 were

women, while majority of respondents belonged to the Mohmand (41) and the Aurakzai (39) agencies. 47 respondents were illiterate among the group of 121.

Maintenance of Law and Order

45% of the respondents believed that the solution to the currently grave situation of law and order was the introduction of Islamic/Shariat Laws in the FATA, while 36% still believed that Ulasi/Wolasi Jirga was the only solution to maintaining law and order in these areas. 13% of the respondents favoured Pakistani Laws being extended to the FATA regions. Only 3% still favoured the notorious FCR, while 3% were undecided. After cross tabulation we found that 'Islamic/Shariat Laws' option was mostly chosen by respondents from the North and South Waziristan agencies, which significantly raised the percentage opting in favour of this choice.

Fig 57. Maintenance of Law and Order

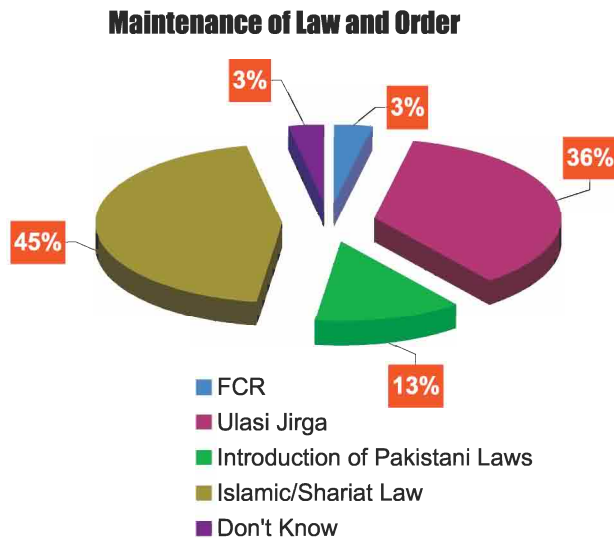


Table 59. Maintenance of Law and Order

Maintenance of Law and Order Through	Frequency	Percen
FCR	34	3.2
Ulasi/Wolasi Jirga	380	36.2
Introduction of Pakistani Laws	134	12.8
Islamic/Shariat Law	469	44.7
Don't Know	33	3.1
Total	1050	100

After cross tabulation, it became clear that the 134 respondents who believed that law and order could be maintained through introduction of Pakistani laws, we found that majority (95 out of 134 respondents) were literate, while 41 were women and a majority (107 out of 134) belonged to the 18 – 45 age group. This suggests the younger generation may be more willing to see the FATA moving towards a more mainstream system of law and order.

Extension of Criminal and Civil Laws in the FATA

The President of Pakistan maintains peace and governance in the FATA through special ordinances, and the Governor of NWFP theoretically acts as the President's Agent to implement those ordinances. However, criminal and civil laws have never been introduced in the FATA; as such the area is out of the jurisdiction of both the High Court and the Supreme Court of Pakistan.

In response to a question asking whether the respondents would like to see the introduction of normal criminal and civil laws in their tribal areas, 71% of the respondents said NO, 25% said YES, while 4% were still undecided. This trend further reflects the participants' support for the Jirga system, as they argued that Pukhtoon tribes have jealously guard their customary laws and practices for a long time, and would resist attempts to replace the Jirga system.



Fig 58. Extension of Criminal and Civil Laws into the FATA

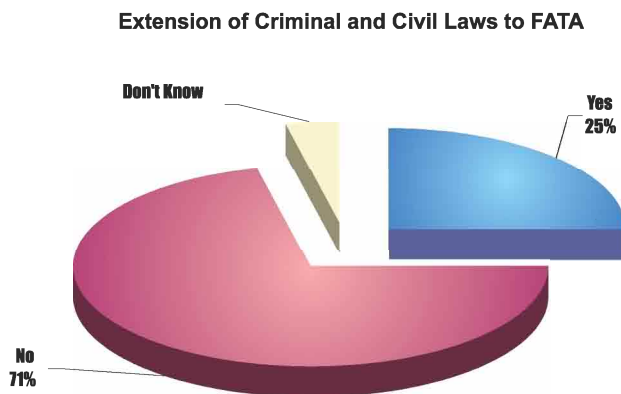


Table 60. Extension of Modern Criminal and Civil Laws to the FATA

Extension of Modern Criminal and Civil Laws to the FATA	Frequency	Percent
Yes	262	25
No	751	71.5
Don't Know	37	3.5
Total	1050	100

After cross tabulation of 262 respondents who welcomed the introduction of Pakistani laws in the FATA, we found that majority (68.32%) belonged to literate class of the group, while 51 were women and 80% of the respondents were from the young generation made up of the 18-45 age groups.

Need for Codified Laws

Since there is always room for improvement in relation to the systems of justice, something the tribal society of the FATA region also recognised, participants were asked whether they want to see the Jirga laws codified. The response was mix, 39% said YES, and 38% replied NO, while 23% did not know the answer. This clear divide between the respondents clarifies their confusion about any codified rules and regulations concerning the Jirga laws.

Fig 59. Need for Codified Laws

Need for Codified Jirga Law?

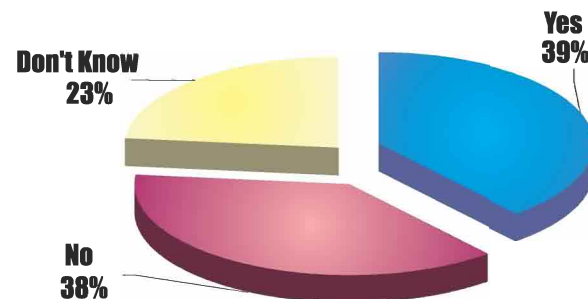


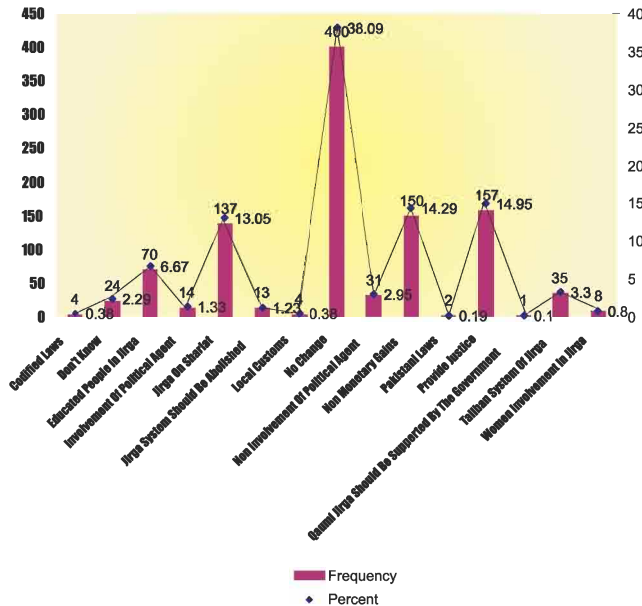
Table 61. Need for Codified Laws

Response	Frequency	Percent
Yes	408	38.9
No	396	37.7
Don't Know	246	23.4
Total	1050	100

Changes Suggested in Jirga Laws

The perceptions of the respondents in relation to changes in the Jirga laws were tested with the help of another question asking what changes they want to see in the Jirga system. The responses received very much favour the contemporary Jirga system. For instance, 400 (38.2%) respondents replied that they don't want changes in the existing Jirga system and 157 (14.9%) wanted to see the same Jirga system, which provides justice to the people. 150 (14.2%) respondents wanted the Jirga members not to take monetary benefits from the Jirgas. Again 137 (13%) respondents wanted to include Shariat laws in the existing Jirga system, while 70 (6.7%) respondents favoured the inclusion of educated people in Jirga.

Fig 60. Changes suggested in Jirga System



Out of 1050 respondents, only 13 wanted to abolish the existing Jirga system in the tribal areas. These 13 could have also chosen the option i.e. 'Pakistani Laws', but only 2 respondents favoured this option, which shows how reluctant the local tribal communities are to replace the Jirga system with Pakistani laws. Again we have seen some support from 35 respondents (3.3%) opting for a Taliban type of justice system, and we found

that all of them belonged to North (16 respondents) and South Waziristan (19 respondents) agencies of the FATA where the society has already allegedly been Talibanized.

Table 62. Changes Suggested in the Jirga

Changes Suggested in the Jirga	Frequency	Percent
Should be Codified Laws	4	0.38
Don't Know	24	2.29
Educated People should represent Jirga	70	6.67
Involvement of Political Agent	14	1.33
Jirga on Shariat	137	13.05
Jirga System Should Be Abolished	13	1.23
Local Customs	4	0.38
No Change	400	38.09
Non Involvement of Political Agent	31	2.95
Jirga members should not gain monetary benefits	150	14.29
Pakistani Laws should replace Jirga	2	0.19
Qaumi Jirga Should Be Supported By The Government	1	0.1
Taliban System of Jirga should replace the existing Jirga	35	3.3
Women should be involved in Jirga	8	0.8
Total	1050	100

Conclusion

The survey results regarding the Jirga system show that the Wolasi jirga is perceived by the majority as being influenced mainly by local 'Riwaj' tribal customs and it is widely believed that the Wolasi Jirga provides justice more so than the Sarkari or FCR Jirga. Indeed, the survey results show that respondents feel the Wolasi Jirga is more credible than the FCR Jirga. However the Jirga system generally faced a mixed response in terms of impartiality and consistency with just under half of the participants expressing that they felt the Jirga system (both Wolasi and Sakari models) was neither impartial nor consistent. It has also been revealed that a slight majority feel that the Jirga members extract monetary gains for their services.

Nonetheless for all these problems a significant minority of participants did feel that the Wolasi Jirga was the best means for maintaining law and order and appeared to be preferable to the FCR system dealt with in the previous section or the extension of Pakistani criminal and civil laws – an idea widely rejected. However, further reinforcing the arguments in the previous sections, Islamic Sharia was supported by just under half of the participants and again received the most support as a means to maintain law and order.





The statistics also show that in almost all parts of the FATA, women do not sit in the Jirga proceedings, although in the Mohmand agency women do sit in Jirga proceedings. Cases of women are both referred and represented by male relatives in Jirgas. The statistics also show that a considerable percentage of sample respondents were not in favour of women's involvement in the Jirga, while we have also seen a substantial number of respondents endorsing the involvement of women in Jirgas, which is very positive and encouraging given the very conservative social fabric of the FATA.

3.8 Political Institutions and the Political Parties Act

The British colonial system in the FATA was premised on the denial of mass participation through political parties and the exercise of state control through dependable local elite.¹⁷² As stated before, Pakistan retained this system without many changes. Under the FCR system, the state still denies the people of the FATA their fundamental rights of political association and assembly. As one commentator noted in the focus group meeting, "Tribal people are democratically well aware; but it is an irony of fate that they are deprived of their right of expression and freedom of speech."¹⁷³ Neither the Supreme Court nor the High Court have jurisdiction over the FATA areas to safeguard and ensure these rights to the people of the FATA. In 1996, Benazir's civilian government introduced adult franchise in the FATA, but the political parties act was not extended in the FATA. Before the introduction of Adult Franchise, an electoral college of around 35,000 Maliks and elders would cast their votes during the general elections, which were under the influence of Political Administration. Almost all political parties have their local chapters and representatives in the FATA, but during elections the candidates are required to contest elections on non-party basis. The parliament members from the FATA exert little or no authority in the parliament and always follow the directives of the ruling party, as one participant in the group discussions suggested, "It is pointless to elect members for National Assembly from the FATA, when they have no say in policy making and constitutional matters".¹⁷⁴ Or as another participant stated, "The federal government has consistently kept the FATA representatives of Parliament completely out of the business in our constituencies and we have virtually no representation in the federal cabinet".¹⁷⁵ In short, since the FATA is federally administered, it has no representation in the provincial parliament. The subsequent section examines what our sample survey results show about the introduction of the Political Parties Act in the FATA.

Introduction of Political Parties Act

In response to a multiple choice question enquiring what participants felt the 'Introduction of the political parties act would do, a large group of the respondents, totalling 331 participants, replied that introduction of the Political Parties Act would improve the governance system of the FATA; 275 said that it will promote religious tolerance; and 34 replied that it would reduce sectarianism and extremism. 270 participants responded that they still believe that the Act will disrupt the existing social fabric. A substantial number of respondents, i.e. 224, were still undecided and did not reply.

Fig 61. Introduction of the Political Parties Act

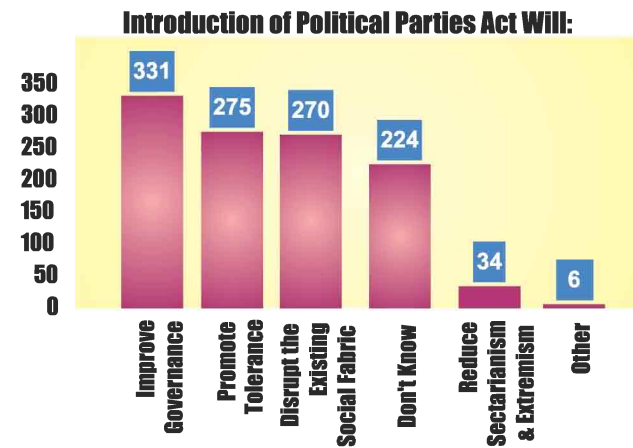


Table 63. Introduction of the Political Parties Act

Improve Governance	331
Promote Tolerance	275
Disrupt the Existing Social Fabric	270
Don't Know	224
Reduce Sectarianism & Extremism	34
Other	6

¹⁷²Pakistan's Tribal Areas: Appeasing the Militants, International Crises Group (ICG) Asia Report No. 125 - 11 December 2006

¹⁷³Views of Senator Hameedullah Jan Afridi from Khyber Agency, in a focused group discussion organized by CAMP in Jamrud, Khyber agency, dated 14 December 2006

¹⁷⁴Views of Mr. Siraj Hussain, educationist, in focused group discussion organized by CAMP in Kurram Agency, FATA, dated 5 November 2007

¹⁷⁵Views of Senator Hameedullah Jan Afridi from Khyber Agency, in a focused group discussion organized by CAMP in Jamrud, Khyber agency, dated 14 December 2006

Introduction of Adult Franchise

In another subsequent and related multiple choice question, respondents were asked how they felt the introduction of adult franchise had impacted upon the FATA. Just under half of the responses (472), agreed that this has improved the governance system in the FATA, 339 responses posited that it has promoted peace and tolerance, while 92 responses were against this and believed that it has disrupted the existing social fabric of the region. A small number believed that it has reduced sectarianism and extremism in the FATA. 225 people were undecided.

Fig. 62. Impact of Adult Franchise

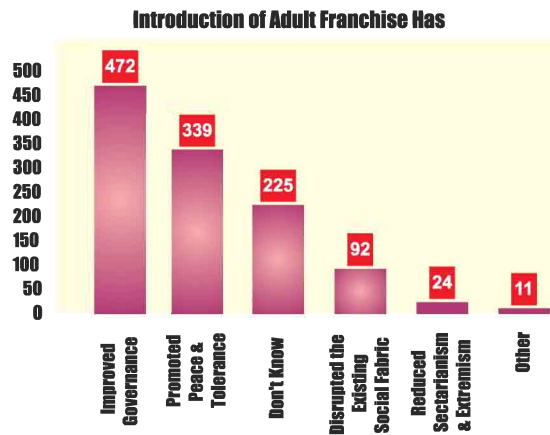


Table 64. Impact of Adult Franchise

Response	Frequency
Improved Governance	472
Promoted Peace & Tolerance	339
Don't Know	225
Disrupted the Existing Social Fabric	92
Reduced Sectarianism & Extremism	24
Other	11

Women and Vote Casting

In the Pukhtoon dominated rural areas of NWFP, the male community does not allow women to vote during elections. A small portion of the female community, especially in urban centres, casts vote. In the FATA region, as stated before, adult franchise was a very new concept in tribal society when it was introduced in the 1997 general elections. Whilst this idea has to some extent been assimilated, the idea of women casting votes in the FATA is more challenging than in the rural areas of the NWFP. We wanted to know the general perceptions of the percentage of women that cast votes in tribal areas and asked the question, "Do women cast vote in your area?" the respondents replied according to their own experiences. 79% of the respondents replied NO, leaving only 21% that said women cast votes in their respective areas. Society is very conservative in the FATA compared to other rural areas of NWFP, and as such, the percentage of women casting vote in the FATA is still a very encouraging development keeping in view that adult franchise was recently introduced.

Fig 63. Women Casting Votes

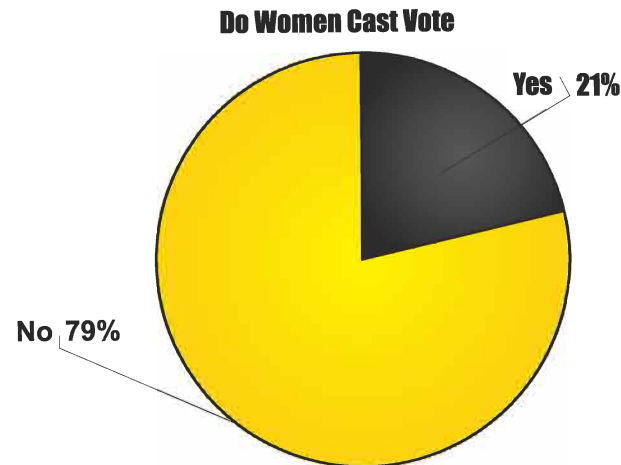


Table 65. Women Casting Votes

Response	Frequency	Percent
Yes	230	1.9
No	820	78.1
Total	1050	100

After cross tabulation of those respondents who said that women cast vote in their locality during elections, we found that 59 out of 230 respondents were women, while a large number of these respondents were educated people of the tribal society and only 59 out of 230 were illiterate.

Preventing Women from Vote Casting

To understand why a majority of women were not casting votes we asked the question, "In cases where women do not cast their votes, who prevents them from casting votes?" The majority of the respondents (85%) replied that the family elders prevent women from casting votes, while 6% of the respondents said that election candidates prevent women from casting votes. To avoid any conflicts, sometimes candidates in Pukhtoon areas mutually agree that women's votes will not be counted in the final results. Some of the respondents (1%) replied that religious leaders in their sermons forbade the people to allow women to cast vote because to them, it is Un-Islamic and against Pukhtoon culture. In the other category some of the respondents believed that there is no tradition of women voting, some said women were not interested, while others replied that the majority of women in the community might not have National Identity Cards.

Fig 64. Who Prevents Women from Voting

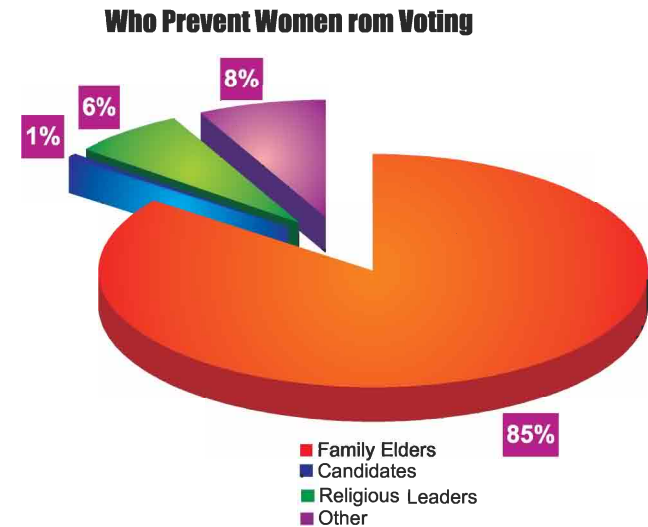


Table 66. Who Prevents Women from Voting

Response	Percent
Family Elders	85%
Candidates	1%
Religious Leaders	6%
Other	8%

Supporting a Specific Political Party in the FATA

In response to a question asking whether or not people have any affiliation with a specific party, 59% of the respondents replied in NO, however, 41% replied that they have affiliations with a specific party. This shows some of the local people's interest in democracy and the democratisation of their society.

Fig 65. Support for a specific party

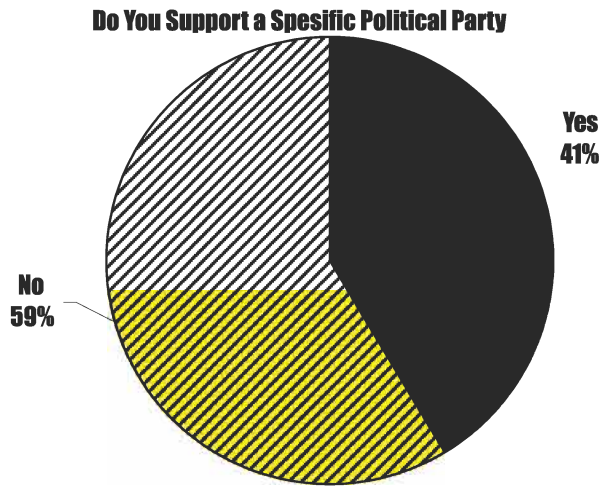


Table 67. Support for a Specific Party

Response	Frequency	Percent
Yes	434	41.3
No	616	58.7
Total	1050	100

Do you want the Extension of the Political Parties Act to the FATA

In response to a subsequent question enquiring whether the respondents want the Political Parties Act to be extended to the FATA, 50% replied in YES, while 44% were against the extension of the Act. This mixed result shows their confusion and reluctance evident in the 44% is likely to reflect concerns that the Act will be followed by other laws of the state, which the people of the FATA are not familiar with and which they fear will,

ultimately, replace the old traditional Jirga institution. Around 6% of the respondents were undecided or did not respond to the question.

Fig. 66. Extension of the Political Parties Act

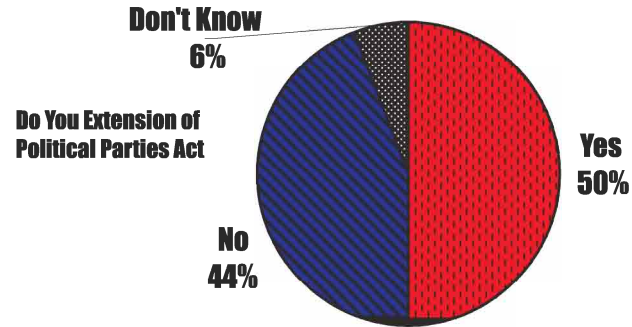


Table 68. Extension of the Political Parties Act

Response	Frequency	Percent
Yes	524	49.9
No	465	44.3
Don't Know	61	5.8
Total	1050	100

Conclusion

The survey results show that half of the respondents seem to be interested in having the Political Parties Act introduced in the FATA, which, according to these respondents, would either promote peace and security (275) or improve the system of governance (331) although 224 participants were unsure (or unwilling to respond) and 270 felt this would disrupt the existing social fabric of the FATA. It can also be observed from the statistics that 41% of people questioned do support political parties although the majority still appears reluctant to support



the political parties.

It is also interesting to note that the majority of women do not cast votes in the FATA, with 85% of participants suggesting that it was the family elders who prevented women from voting and a further 6% suggesting religious leaders discouraged women from voting. This is somewhat predictable given the male dominated nature of tribal culture and may take time to resolve. In this context, the 21% of women that do cast votes provides some hope for the future.

3.9 Local Government Plan

The tradition of self-government is not alien to the tribesmen; from time immemorial they have had informal, yet permanent, social institutions like the Jirgas.¹⁷⁶ However, the need for the formalisation of local self-government was long over due in the FATA.

In 2000, the Government of Pakistan initiated the Local Government Plan, but the Local Government Regulations for the FATA was only signed in 2002 by President General Pervez Musharraf. This envisaged three tiers of democratic institutions - at Union council, Tehsil and district levels. Due to local resistance in the FATA the regulations were only implemented at the end of 2004. 70% of the agency councillors were elected, whereas some of them were selected by the Political Agent, as per the plan.¹⁷⁷ Among the 397 agency Councillors, there are only 19 women seats – this symbolic representation of women reflects the local prejudices and the general state of affairs in that area.

These councillors have NOT been provided with the powers enjoyed by their counterparts in settled areas of Pakistan.¹⁷⁸ The focused discussion groups and wider literature strongly suggests that this reduces their effectiveness in addressing the issues of poverty, bad governance, poor record of human rights and the poor law and order situation in the respective areas. The powerful Political Agent would never allow the local leadership grow and take decisions on their own.¹⁷⁹ Through the survey we have also recorded the perceptions of the sample of respondents and found the following results:

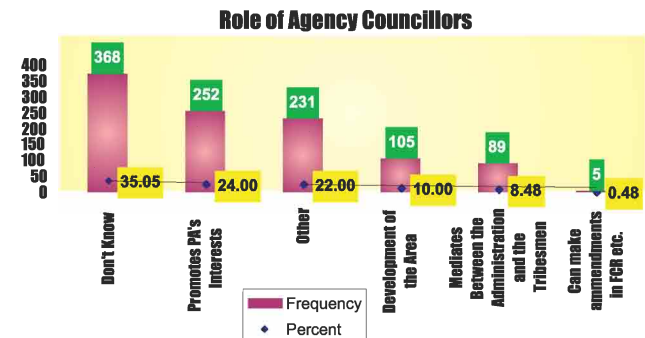
Role of Agency Councillors

It is observed that the agency councillors have little say in the supra-agency development plan and can only make suggestions, which the Political Agent may, or may not, incorporate in the action plan. This is indicative of the sorry state of affairs faced by the agency councillors.

In response to the question, what role do the agency councillors play in the development of their areas, some 35.05% of the respondents did not know what the role of an agency councillor was, whereas 24% believed that the agency councillors were promoting the PA's interests, only 10% perceived that agency councillor's role was in the development of their areas. Some 8.48% believed that councillors mediate between the PA and tribes, while some diverse responses were received in 'other' category. Only 0.48% believed that agency councillors could amend the FCR. Upon further investigation into the 'other' category, we found that 21.8% believed that agency councillors do not have any role to play, while 0.1% believed that they take money from people, and another 0.1% said agency councillors resolve people's problems.

The majority of the responses go against the institution of agency council and it has yet to establish its credibility as an independent and functional institution with all the requisite powers and duties.

Fig 67. Role of Agency Councillors



¹⁷⁶Report of the FATA Reforms Committee, 2000

¹⁷⁷Views of Senator Hameedulah Jan Afridi from Khyber Agency, in a focused group discussion organized by CAMP in Jamrud, Khyber agency, dated 14 December 2006

¹⁷⁸Views of Mr. Muzaffar Khan, tribal Malik of Kurram agency in a focused group discussion organized by CAMP in Kurram agency, dated 5 November 2006

¹⁷⁹Views of Engr. Ghani Gul of South Waziristan agency, in a focused group discussion organized by CAMP, dated 11 January 2007

Table 69. Role of Agency Council

Role of Agency Council	Frequency
Development of the Area	105
Mediates Between the Administration and the Tribesmen	89
Promotes PA's Interests	252
Amends FCR etc.	5
Don't Know	368
Other	231

Do You Want the Agency Council to Be

In response to a subsequent question on what participants wanted the agency council to be, 73% respondents, which constitutes solid majority, favoured the agency council as fully elected body, while 26% of the respondents, which represents a significant minority, did not know the answer. Only 0.8% believed that it should be partially elected, while 0.4% said that it should be fully nominated body - as in nomination by the political agent.

Fig 68. Preferences for the agency council

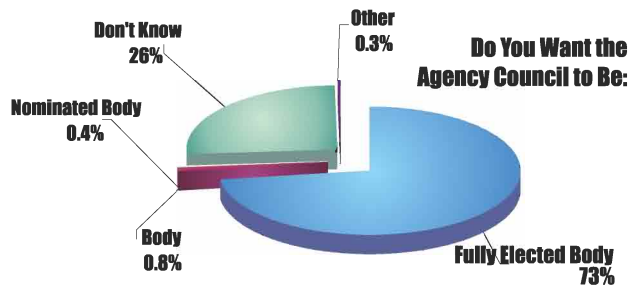


Table 70. Preferences for the Agency Council

Response	Frequency	Percent
Fully Elected Body	765	72.9
Partially Elected Body	7	0.7
Nominated Body	5	0.5
Don't Know	269	25.6
Other	4	0.4
Total	1050	100

After cross tabulation of 26% of the sample who did not know, or were reluctant to answer the question, we found that a majority (162 out of 269) were women, while 140 were illiterate.

Functions of the Agency Council Should Be

To another question asking the respondents what functions the agency council should perform, 533 (50.8%) respondents, just over half, replied that the agency council should oversee the developmental activities of the agency, while 217 (19.2%) thought that PA should be accountable to the agency council. Some 98 (9.3%) believed that agency council should also legislate for their respective agencies. The second highest percentage of the respondents, which was 19.90% (209), did not know the answer.

Fig 69. Functions of the Agency Council

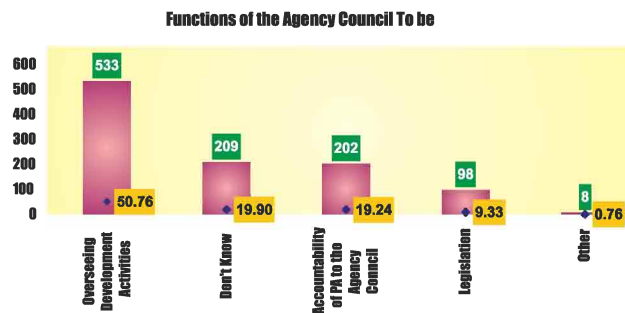


Table 71. Functions of the Agency Council

Functions of Agency Council	Percent
Overseeing Development Activities	533
Don't Know	209
Accountability of PA to the Agency Council	202
Legislation	98
Other	8
Total	1050

After cross tabulation of 209 (19.90%) respondents who did not know or were reluctant to respond to the question, we found that 124 out of 209 participants were women, which constitutes a statistically significant majority of the group, while 110 respondents were illiterate.

Conclusion

The statistics show that a significant portion of respondents do not have a clear idea of what the functions of the Agency Councilors should be. This is mainly due to the fact that the local government plan is very new to the people of the FATA. The majority did however, want to see the local government body being fully elected, a change which will possibly give them more credibility. Over half of respondents further believed that the functions of the agency council should be in overseeing the development of their respective areas, although some of the sample respondents also wanted to make the PA responsible to the local government.

3.10 Afghan Refugees' Impact

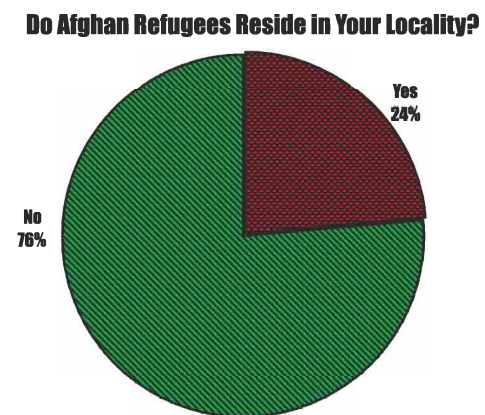
Due to its proximity with Afghanistan, the FATA has never been immune to the impacts of events in Afghanistan.¹⁸⁰ When Afghanistan was occupied by Soviet Union in 1979, the government of Pakistan received a huge influx of Afghan refugees who settled in the NWFP and Balochistan provinces. During this period, Pakistan supported the Afghan Mujahideen with money and material. The resources were provided by the

United States of America for its covert war against Soviet Union. Weapons worth of billions of US \$ were transferred to Afghanistan through Pakistan. During the shipment of those weapons, a significant quantity were stolen and sold to the arms dealers, ultimately finding their way into the hands of civilians. Some reports suggest that there are around 20 million small arms and light weapons circulating in the country as a consequence of the Afghan crises. Common perceptions also suggest that the Afghan crisis was responsible for a colossal amount of the weapons in tribal society, as well as in other parts of Pakistan. Drugs, the smuggling of goods, a declining law and order situation, domestic political pressure, pressure on the economy, unemployment, and human trafficking are the main ill-effects of the Afghan crises along with the presence of Afghan refugees in tribal society.¹⁸¹ Further research suggests that this has also paved ways for the Talibanization of tribal society, as those tribesmen who fought a long and brutal Jihad against the Russians, then joined forces with Taliban in fighting the other war lords during the subsequent civil war.¹⁸² It is in this context that we can now review the perceptions of participants towards the presence of Afghan refugees.

Information about Afghan Refugees Presence in the FATA

The statistics reveal that 24% of the sample believed that Afghan refugees are still living in their localities, while 76% of the sample informed the survey team that there are no Afghans residing in their localities.

Fig 70. Afghan Refugee presence



¹⁸⁰Interview with Sang e Marjaan Khan Mehsud (of South Waziristan Agency), former Political Agent and former Chief Secretary Northern Areas, dated 10 May 2007, Peshawar

¹⁸¹Interview with Qasim Mehsud (South Waziristan Agency), member FATA and FCR Reforms, dated 11 January 2007, Peshawar

¹⁸²Interview with Engr. Toor Gul Chamkani of Kurram Agency, writer and journalist and member FATA Reforms Committee, dated 4 July 2007

Table 72. Afghan Refugee Presence

Response	Frequency	Percent
Yes	249	23.7
No	801	76.3
Total	1050	100

Impact of Afghan Refugees Presence

A multiple choice question was directed at participants to record their perceptions of the impact of the Afghan refugee presence in Pakistan, particularly in the FATA. The statistics show that 529 respondents believed that the presence of Afghan refugees brought a weapons culture; 466 felt this had promoted drug trafficking; 213 respondents thought it had promoted intolerance; 137 believed it brought extremism and sectarianism; and 59 respondents believed that the presence of Afghan refugees promoted human trafficking. The statistics also show some positive affects caused by the presence of Afghan refugees. For instance, 167 respondents believed that Afghan refugees provided cheap labour, 31 believed that it helped in the growth of economic activity, while 7 respondents believed that it has promoted Pukhtu language. Some 79 respondents still did not know the answer or were not willing to respond.

Fig 71. Effects of the presence of Afghan Refugees

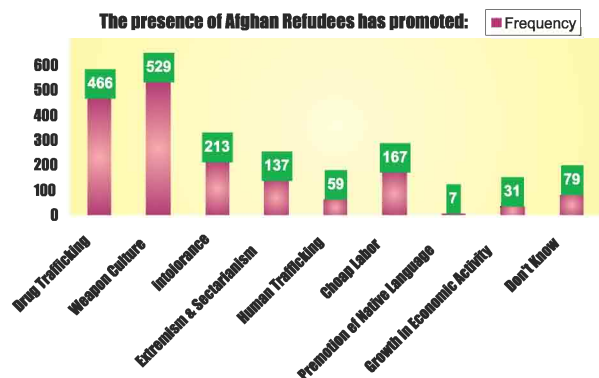


Table 73. Effects of the Presence of Afghan refugees

Response	Frequency
Drug Trafficking	466
Weapon Culture	529
Intolerance	213
Extremism & Sectarianism	137
Human Trafficking	59
Cheap Labour	167
Promotion of Native Language	7
Growth in Economic Activity	31
Don't Know	79

The Impact of the Afghan Conflict on the FATA

Information about the impact of Afghan conflict on the FATA was derived through the multiple choice question, "What are the impacts of Afghan conflict on your area?" 475 respondents thought that the impact of Afghan conflict was drugs and weapons, 408 respondents believed that the Afghan conflict brought insecurity to the FATA, 220 respondents said that the influx of refugees was the major impact, while some 140 respondents said it caused the deterioration of the local economy. Only 12 respondents believed that the Afghan conflict promoted religious extremism in the FATA, while 158 did not know the answer to the question.



Fig 72. Impact of the Afghan Conflict

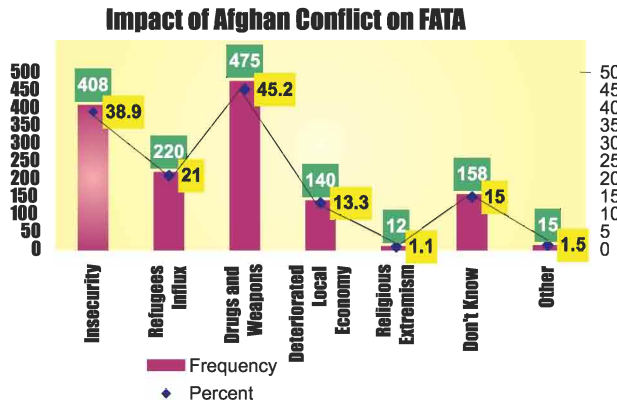


Table 74. Impact of the Afghan Conflict

Response	Frequency
Insecurity	408
Refugees Influx	220
Drugs and Weapons	475
Deteriorated Local Economy	140
Religious Extremism	12
Don't Know	158
Other	15

Conclusion

The general feelings of participants toward Afghan refugees were largely negative and, although refugees were seen as bringing economic benefits, on the whole refugees were associated with the promotion of negative changes in the region, primarily the promotion of weapons culture (529

participants), Drug trafficking (466 respondents) and intolerance (213 participants). When this perception is combined with the views expressed in the focused group discussions and wider literature it becomes clear just how the Afghan crisis has badly damaged the social fabric of society. People of the FATA as well as common Pakistanis it seems, are demanding the Afghan refugees' safe and respectable repatriation and this should be initiated on emergency basis.

3.11 Drug Trafficking

The FATA is believed to be the source of drug trafficking and opium cultivation. Hundreds of small scale heroin factories are allegedly operating in these areas which supply heroin to the rest of the country, as well as to the outside world. The FATA is also used as a destination for drugs trafficked from Afghanistan. To stop the cultivation of opium the government of Pakistan has taken several steps, including the initiation of several developmental projects in the most affected areas of the FATA, however, little has been achieved so far. The US government has been supporting such initiatives for more than a decade and has poured a lot of money into combating drug trafficking. The money which was meant for the development of the FATA region, was, however, mismanaged and went into the pockets of corrupt officials in government departments. Due to the absence of any laws, a lack of developmental and economic opportunities, corrupt officials, misappropriation of funds, and a lack of awareness about the ill-effects of drugs on human society, the government has been unable to curtail the drug trafficking in the FATA. The subsequent section details the survey results regarding drug trafficking in the FATA.

Cultivation of Opium

In the recent past, there was a general perception among the tribesmen that opium could be used for medicines and that its cultivation and sale was not illegal or un-Islamic. Specific laws do not extend to these areas therefore, technically, the cultivation of opium, like the production of firearms, is not illegal. This does not mean that the cultivation of opium becomes legal in the absence of any law.

According to our survey results, 371 respondents believed that opium cultivation is forbidden in Islam, only 25 replied that this is not forbidden in Islam. Around 211 respondents believed that the cultivation of opium is forbidden according to the tribal laws, while 99 participants thought it is not forbidden under the tribal laws. Some 344 replied that opium cultivation is forbidden

according to Pakistani laws, none of the respondents said it was legal under Pakistani law.

Fig 73. Cultivation of Opium

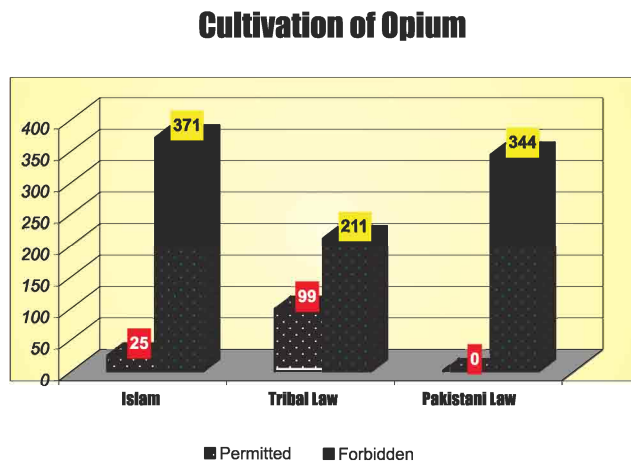


Table 75. Cultivation of Opium

Cultivation of Opium	According			Total
	Islam	Tribal Law	Pakistani Law	
Permitted	25	99	0	124
Forbidden	371	211	344	926
Total	396	310	344	1050

Trade in Drugs

We asked our respondents whether trade in drugs is legal or illegal according to various laws. 593 participants replied that trade in drugs is forbidden under Islam; while only 2 said it is not. 134 respondents believed that the trade in drugs is forbidden under tribal laws whereas 70 said it is not. 978 respondents said that trade in drugs is against Pakistani law, while 72 believed that it is not. As no such law is extended to these areas, within the tribal territory trade in drugs is, technically, not against the state's law.

Fig 74. Trade In Drugs

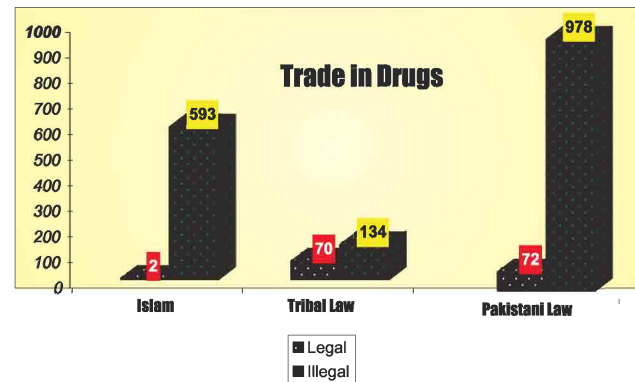


Table 76. Trade in Drugs

Trade In Drugs	According			Total
	Islam	Tribal Law	Pakistani Law	
Legal	2	70	72	124
Illegal	593	134	978	926
Total	396	310	344	1050

Conclusion

The above statistics suggest that the cultivation of opium and the trade in drugs is commonly perceived as illegal and against both the tribal system and Islamic injunctions. This also suggests that tribal society is against drug trafficking and the evidence contests the notion that the entire tribal society is full of drug traffickers and smugglers. However, there remains an element of support for such activities which will persist unless alternative arrangements for the gainful employment of people and the wider development of the FATA. Nonetheless, it is very encouraging to see such trends, which indicate that the majority recognise the illegitimate nature of the trade and cultivation of drugs.



PART 2



CHAPTER 4

Fata Reforms Strategy Recommendations

CHAPTER 04 - FATA REFORMS STRATEGY RECOMMENDATIONS

4.1 Introduction

Whether it is social development or any governance related agenda, the people of the FATA have never been consulted or taken on board by any government in the last sixty years of independence of Pakistan. During the process of this research, CAMP vigorously consulted the people of the FATA. Various methods of consultations were adopted to get the local aspirations. A survey through a structured questionnaire in the entire FATA region, organization of focused group discussions in each tribal agency and finally organization of dialogues at FATA, provincial and national levels. This had provided the people of the FATA, including women folk, with an opportunity to air their grievances and propose changes, which could reflect their due demands according to their culture and traditions. Throughout the process it was kept into consideration that every strata of the tribal society is taken on board and given an opportunity to record their view points.

People from other regions of the country have assorted perceptions on FATA society and it was imperative to record their views as well. Dialogues at provincial and national levels also provided an opportunity to the stakeholders of Pakistan to file their views on the prevailing situation of the FATA, its impact on the overall Pakistan society and the need to bring change in its social and governance system.

Following the field survey and focused group discussions in seven agencies of the FATA, the first FATA Consultative Dialogue was organized in Peshawar from 9 – 10 May 2007, which brought together representatives from the FATA, including civil society organizations [NGOs and media], government officials, tribal elites [Maliks and elders], youth, religious clerics, politicians, etc. Equal representation was given to the entire FATA region and all the segment of the tribal society was given an opportunity to contribute in the process of consultations. Groups were formed and every group was given a task to deliberate and discuss various issues of the FATA and inked down their recommendations.

The second dialogue was organized in Peshawar on 5 June 2007 where various stakeholders of North Western Frontier Province (NWFP) were given representation. The last of the series, National Consultation, was organized in Islamabad on

18 July 2007, where FATA, NWFP and the rest of Pakistan were given representation.

During these focused group discussions and dialogues, distinguished speakers and participants shared information on:

FATA Status under the Pakistan Constitution and its impact on the governance and tribal social life; Frontier Crimes Regulations (FCR) – its application and implications on the social and tribal justice system, with particular emphasis on human rights; FCR utility in the pre and post 9/11 scenario and its effectiveness in maintaining the law & order in the FATA; FATA role in the politics of Pakistan and its implications (on the FATA in particular and Pakistan in general) and the FATA – its systemic Issues. The participants also explored how to bring positive change in the lives of the people of the FATA through social reforms.

This chapter analyses the results of survey findings, focused group discussions and consultative dialogues and finally provide strategy recommendations on social and governance reforms in the FATA. This report is not an exhaustive account of all the issues discussed but rather examines several key areas where the government of Pakistan and other international actors can play their due role.

Analysis of Governance Issues of the FATA and Recommendations for Reforms:

4.2.1 Frontier Crimes Regulations (FCR)

“Some amendments wanted to the FCR – but no clear preferences”

The background information on FCR has been provided in section 3.6 of the first part of report. In the following paragraphs we will examine the discussions and survey results on FCR, which will help us to draw recommendations for reforms in FCR.

The dominant group of the participants of the focused group discussions and consultative dialogues termed the FCR as 'Black law', 'Draconian Law', and 'inhuman' and called for the complete removal of FCR from the FATA. The participants noted that the government of Pakistan made a big mistake to continue with the British colonial system in the FATA after independence of Pakistan.

The participants noted that in the wake of 9/11 FCR became the





real obstacle in maintaining law and order in the FATA. Participants also believed that the low development indicators in the FATA is mainly because of the century old system of FCR. Participants argued that if FCR was effective and useful the government of Pakistan would have implemented it in other settled districts of Pakistan. The participants repeatedly called for complete replacement of FCR from the FATA and demanded proper system of governance, which is practiced in other parts of Pakistan.

There was also another group of participants that believed FCR not to be abolished completely but should be amended. The participants viewed that few amendments would make the FCR more practical and according to the local environment, which will truly regulate the entire FATA governance system. The same group also believed that the FATA does not have any other replacement of FCR and rejected the modern justice system practiced in settled districts of Pakistan, which is very expensive, time consuming and does not represents the true nature of the tribal society.

There was a small portion of the participants in focused group discussions and dialogues that viewed that FCR with its existing features should be kept functional, as they believed that it has become a part and parcel of tribal society and is capable to regulate these free tribes of the FATA.

The speakers explained that many clauses of FCR have been declared by High Court as ultra vires and against the interest of the local people. There are genuine complaints of the local people against FCR. They are oppressed by the tyranny of black laws and Maliks. Had it not been for the spread of education they would have been still in absolute darkness. Educated young people are free of crippling influence of feudalism in the tribal society. They are holding important posts in Pakistan.

Voices from the FATA

“FCR is a shame for us. It is not a law at all; it shall be removed from FATA.”

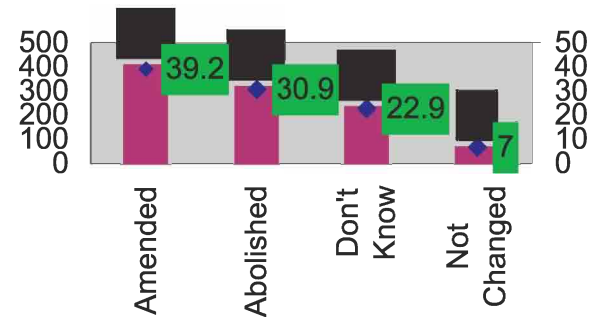
“FCR indeed is inhuman system but at the same time we don't accept Pakistani system of governance, however, FCR is better than Pakistani system of governance.”

“ FCR implemented in 1901 in certain parts of Indo-Pakistan but it sounds biased because it specifically meant for Pathans and Baluchis”

“Under FCR the political administration can hold any one in detention for an indefinite period”

“Tribal people do not enjoy fundamental rights under FCR”

People of FATA Want FCR To Be



The survey results also favoured the amendments in FCR. In response to a question in the survey on the future of FCR, majority [39.2%] viewed that FCR should be amended; while 30.9% believed that it should be completely abolished. 22.9% still don't know and 7% still want the status quo.

In the FATA governance organism, FCR provides Jirga with the legal and institutional backup. If we suggest the removal and replacement of FCR then the Jirga institution becomes questionable, as Jirga alone does not provide any yard stick to the local tribes to resolve complex issues. Analysis of the focused group discussions and consultative dialogues results show that majority of the participants want amendments in FCR and not replacement.

The common perception gathered through survey has also been analysed. The overall survey results suggest that majority of the sample respondents are against the current form of the FCR and consider it as an inhuman set of rules, which violates all the principles of human rights. The majority of sample respondents recommended that it should be amended or abolished. It is also evident that the justice system under FCR is not trusted very much and that the respondents endorsed the Wolasi Jirga system, which, according to them, provides proper justice to all the parties involved. While some of the respondents believed that in the given environment FCR is still needed. When analysing the entire data, the FCR is rejected by the respondents however, they are still confused which system of regulation should replace FCR.

Recommendations:

1. Amendments in FCR should mainly address the human rights issues of the FATA people;
2. The word “Crimes” from FCR should be removed as it conveys a very wrong impression of the people of the FATA.
3. Section 40 and 44 of the FCR should be amended.
4. Amendments in the powers of Political Agent - separation of Judiciary from Executive.
5. Bailing system should be introduced in the FCR.
6. Amendments in FCR Articles of 'territorial and collective responsibilities' should be initiated.
7. The national legislature should also make an amendment in the constitution by extending the jurisdictions of the superior courts to the FATA for the protection of human rights of the local populace.

4.2.2 Jirga: The Retributive Justice System

“Tribal Jirgas, not government ones. No strong enthusiasm for Pakistani law.”

Background information on the institution of Jirga has been provided in section 3.7 of the first part of the report, however, the following paragraphs will examine the outcomes of the dialogues and survey for recommendations.

Under the FCR, Political Agent (PA) or Assistant Political Agent (APA) constitute a Jirga who are required to give its findings as to the guilt or innocence of the accused in a criminal or a civil dispute. The Jirga is expected to inquire by its own methods to differentiate facts from fictions and present its own solution to the problem/dispute.¹⁶³

In July 2001 report, the FATA–Reforms Committee criticises the FCR Jirga in its report in the following manner;

“The myth that Jirga is a cheap source of substantive justice is open to severe criticism. It is not possible to subscribe to the view that the trial under these laws is less expensive. The view, that existing laws in ordinary courts in settled areas are too technical and cumbersome, therefore, dilatory, whereas, the procedures under the FCR is simple, so, for that reason justice is quick. Unfortunately, the bureaucratic lethargy to constitute a Jirga, passing an order of reference for Jirga’s deliberations, sending back proposals of the Jirga to PA’s office, if he agrees to what the Jirga has recommended well and good, otherwise the

Voices from the FATA

“Sarkari Jirga is always based on injustice even then we respect Jirga as an old institution, however, we prefer Wolasi Jirga instead of Sarkari [FCR] Jirga”.

“Tribal elders are no longer capable, independent, and impartial in their decisions to deliver justice through Jirgas as they have been corrupted by government functionaries in the agency.”

“The existing system in FATA should not be touched as the conditions are not appropriate. Jirga system is a very strong traditional institution in tribal society and solves the problem in a limited time and resources as compared to the modern justice system”

“Old customs and traditions like Jirga in tribal areas are becoming obsolete, as they could not prevent sectarian violence, infiltration of Taliban in tribal areas and law and order situation”.

Jirga would be dissolve and a new one will be constituted. After the Executive approval the final award is given, and even more time is consumed in the revision process in the office of the Commissioner or the final review given by the tribunal. So, the claim made that it is the most effective system is not well founded. Therefore, it needs new orientation to ensure fair and speedy justice to the people of the area”¹⁶⁴

Furthermore, the Jirga procedures are highly informal, with disadvantages that go with that. The rules are unwritten; and there are no firm guidelines on how to make decisions in complex cases; as a result the Jirga process sometimes violates human rights.

The Jirgamaars could be socially qualified and acceptable but academically they may not have the proper qualifications to analyse facts of complex nature and give judgements, and therefore, they may commit mistakes which could even compound to the problems.

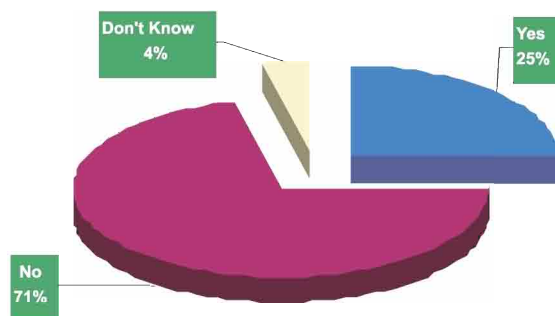
Majority of the participants of the dialogues and focused group discussions favoured the traditional customary laws [Wolasi Jirga] and rejected Jirgas under FCR. The participants noted that there are several disadvantages to the FCR model of the Jirga: it is inconsistent; it's recommendations are not binding on political agent; it does not appreciate the basic norms of justice as understood in the Western context; and sometime the Jirga members have preconceived designs; sometimes the composition of Jirga members are not sufficient for particular dispute; and, finally, Jirga members are vulnerable to becoming partisan, especially when their clans or sub-clans are involved. The participants argued that under FCR Jirga, the victims hardly get compensation.

On the other hand the participants repeatedly termed the modern legal system alien to the tribal society and pointed to its

¹⁶³ Report of the FATA –Reforms Committee, revised on July 7, 2001 – by Mumtaz A. Bangash, Convenor FATA Reforms Committee

¹⁶⁴ Report of the FATA –Reforms Committee, revised on July 7, 2001 – by Mumtaz A. Bangash, Convenor FATA Reforms Committee

Extension of Criminal and Civil Laws to FATA



several worrying signs. The participants viewed the modern legal system a very expensive one, time consuming, and does not provide compensation to the victim.

Some participants believed in the status quo and argued that the existing system is working well and is in accordance with the local environment and culture and if touched, will create confusion and chaos. They felt that the existing system has been in place for the last more than a century and is working well. The participants compared the FATA with settled districts of Pakistan, especially NWFP, and argued that the police system in settled areas is not effective and the crime ratio is much higher as compared to the FATA.

Some of the participants favoured the introduction and extension of modern justice system in the FATA and demanded that the superior courts jurisdictions be extended to the FATA. They raised concerns over the role of traditional Jirga, which violates basic human rights, especially women and children rights. They argued that such measures will bring with itself other components of modern governance system.

In response to a survey question on the extension of criminal and civil laws to the FATA, majority of the respondents [71%] opposed the extension of criminal and civil laws to the FATA, while only 25% supported the extension. Only 4% did not know the answer.

The survey results regarding the Jirga system show that the Wolasi Jirga is very much dominated by local Rewaj [tribal customs] and it is widely believed that the Wolasi Jirga provides justice more so than the Sarkari or FCR Jirga. Indeed, the

survey results show that respondents feel the Wolasi Jirga is more credible than the FCR Jirga, and is more consistent and impartial. However, it has also been revealed that the majority feel that the Jirga members extract monetary gains.

The statistics also show that in almost all parts of the FATA, women do not sit in the Jirga proceedings, although in the Mohmand agency women do sit in Jirga proceedings. Cases of women are both referred and represented by male relatives in Jirgas. The statistics also show that a considerable percentage of sample respondents were not in favour of women's involvement in the Jirga, while we have also seen a substantial number of respondents endorsing the involvement of women in Jirgas, which is very positive and encouraging given the very conservative social fabric of the FATA.

The sample respondents also believed that the Wolasi Jirga maintains law and order situation in the tribal areas and can best serve the purpose of conflict resolution and prevention.

The survey also found that a considerable number of sample respondents rejected the idea of the Pakistani Penal code being extended into the FATA region, while it is also surprising to record that a substantial percentage of respondents were in favour of the extension of the Pakistan Penal Code.

Recommendations:

1. The government of Pakistan should bring reforms and changes in the overall justice system in consultation with local tribes aspirations, which will help in bridging the gap between the government and people's perceptions.
2. During the transition period, the contemporary Jirga laws should be reformed with an element of modernity. Women need to become more involved.
3. During the same transition phase, the Jirga institution should be given some yardsticks through which the Jirga proceedings would be able to reach to some decisions in complex situations. These yard sticks should also ensure the transparency, effectiveness, and efficiency of the traditional Jirga system. Besides, the Islamic Shariat laws can also be incorporated in the Jirga laws, as Islamic Sharia is a law and can be best practised during the said transitory phase.
4. As stated earlier, the judicial and executive powers of the Political Agent should be separated and curtailed to a level so that the Jirga decisions and proceedings are

- not influenced.
- FCR and Jirga system are to be kept functional during a transition phase; however, ultimately both should be replaced with modern legal justice system. Local consent for this will be critical, though, and that consent is currently not there.

4.2.3 Political Administration

“Elected politics, please.”

Some factual information on Political Administration and governance hierarchy has been provided in section 3.6 in the first part of the report. During the dialogue process various issues, pertaining to the adverse effects of the Political Administration, were discussed and deliberation on various options were taken place.

The majority of the participants and speakers argued that the existing FATA set-up strongly affects the individual and collective lives of tribal people. They argued that the combination of executive and judicial powers made the Political Agent all powerful in deciding the fate of individuals and tribes, which is unacceptable to the tribal people. The participants and speakers felt that the combination of both functions in the same person/authority could be the root causes of many evils. The participants repeatedly called for separation of executive and judicial powers of the PA. The participants considered the separation of executive and judicial functions as a minimum requirement of justice.

The survey results on the common perception of the tribal people are overwhelmingly in favour of reforms in the structure of the Political Administration of the FATA. Majority of the survey results shows that the local people are having a great deal of reservations on political administration and have recognized its loopholes, which are perceived to be the sole cause of the horrific law and order, human rights situation, and development indicators.

Voices from the FATA

“Political Agent alone performs all functions, including Executive and Judicial powers that directly affect the individual and collective rights of the tribal people”

“People of FATA do not have the right to appeal even in this 21st century in the present system of governance, which is against all norms of a civilised society”

“Good governance will allow our society to flourish where we would be able to find solution to our problems”

Recommendations:

- The Political Agent office should be replaced with an elected representative of tribal people and the powers of the PA should be separated.
- In the presence of Jirga [in transition phase], the Jirga institutions should be delegated with the judicial powers.
- The executive functions should be performed by an elected representative of the tribal people – the Nazim of an agency.
- The Political Agent should report to the Nazim of the agency.

4.2.4 Political Parties Act

“Party politics is probably preferred.”

As stated in the section 3.8 in the first part of the report, every major national political party in Pakistan has its branches in the FATA but the Political Parties Act (PPA) does not extend to the FATA. General elections are held on non-political party bases, as the fundamental rights of the 1973 constitution of Pakistan do not extend to the FATA. However, in 1997 the right to vote was extended to the FATA people by the then Prime Minister Benazir Bhutto through a

Voices from the FATA

“We demand freedom of speech and expression and extension of Political Parties Act to FATA”.

“Political parties always exploited the problems of FATA for their own interests and when they are in power they don't bother and do not even think about any changes or development in FATA; but when they are in opposition they always come up with their so called recommendations for reforms in FATA”

“The Political Parties Act will provide us with a platform where we would be able to raise our voices for a just and peaceful society”

“Democracy and rule of law is an unfinished agenda in FATA”

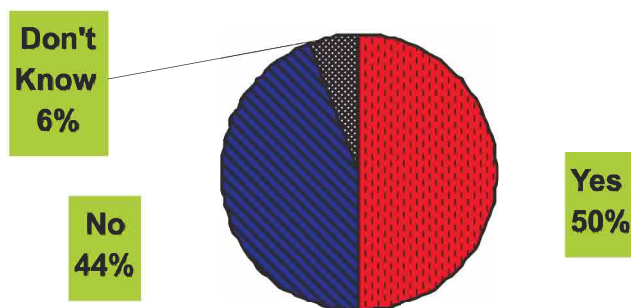
presidential order.

About half of those polled favoured the extension of PPA to the FATA. The participants in workshops were more strongly supportive of change, suggesting that the extension of political parties Act would improve the governance system, law and order situation and alleviate poverty.

Some participants argued that the political parties are usually corrupt, exploit situation and add to the problems and making



Do You Extension of Political Parties Act



situations more complex. The participants showed their concerns that political parties always raise their voices for FATA development when they are in opposition but when in power they change their priorities.

Recently, Pakistan People's Party submitted its proposal in the National Legislature for extension of Political Parties Act to the FATA, which is yet to be discussed and approved by the current government.

The participants pointed out that exclusion from the main political process has created a mistrust among the tribal masses, which gives them the feelings of disenfranchisement from the mainstream development. This has led to the situation where every stakeholder seem to be confused to find a lasting solution to the current law and order and the sorry state of affairs of the FATA region.

Results of the local common perception regarding extension of political parties act in the FATA has been discussed in details in the first part of the report, however, one relevant result is presented here for readers understanding of the local aspirations. In response to a question enquiring whether the respondents want the Political Parties Act to be extended to the FATA, 50% replied in YES, while 44% were against the extension of the Act. This mixed result shows their confusion and reluctance evident in the 44% is likely to reflect concerns that the Act will be followed by other laws of the state, which the people of the FATA are not familiar with and which they fear will, ultimately, replace the old traditional Jirga institution. Around 6% of the respondents were undecided or did not respond to the question.

The overall survey results show that half of the respondents seem to be interested in having the Political Parties Act introduced in the FATA, which, according to some of the respondents, would not only promote peace and security, but also improve the governance system and will ultimately lead to improvement in the lives of the tribal people. It can also be observed from the statistics that many people do support political parties although the majority still appears reluctant to support the political parties.

Recommendations:

1. Political reforms should be initiated which would ensure socio-economic development of the local population of the FATA.
2. At least during the transition period, the right of association and the right of expression should be extended to the people of the FATA.
3. The participants and the speakers overwhelmingly recommended that the Political Parties Act should be extended through a Presidential Ordinance after due consultation with the local tribes of the FATA. After the transition the Act can be extended through a parliamentary Act.

4.2.5 Local Government System

"Empower locally elected politicians."

In section 3.9 of the report, information on the background of Local Government system in the FATA has been provided. What emerged from our study? This section will elaborate on the dialogue discussions and will analyse the survey data for recommendations.

Throughout the consultation process, the participants unanimously favoured the Local Government system and viewed that the Devolution Plan, which was introduced in the rest of the country, should be replicated fully in the FATA. The speakers raised their concerns on the existing Local Government system in the FATA, which is viewed as weak, improper and does not represent truly the will of the general public in the FATA rather protects the interest of few. The participants also raised objections to how Agency Councillors are selected and suggested that ordinary people should vote to elect them, rather than a Malik/political agent selections process. The speakers explained how the local government

system works in the FATA, which resulted in exploitation of the resources coming from outside world without investment in the development of the region. The speakers and the participants raised their concerns on the fact that the local government system does not have funds and the Agency Councilors do not have powers or say in the Area Development Planning of their respective areas.

Female representation is minimal in the local government system of the FATA, which needs to be substantially increased. However, the majority of the participants expressed conservative views, arguing that women should stay away from politics and stay at home. Keeping in view the conservative frame of mind of the tribal society it is any change here will take some time, as the participants argued it is not the right time to involve women in the decision making process. However, there was a considerable number of participants that supported the development and empowerment of tribal women.

The participants called for independent Agency Council for each agency, which could be representative body of Tehsil and Union councils. They explained that each Union Council and Tehsil Council should be headed by a Nazim and Naib Nazim that ultimately represent their constituencies in Agency Council. The Agency Council should be given the powers and resources to take decisions for the development of their areas. Development interventions are desperately needed to meet the people's needs but these interventions should be long-term. The participants suggested that the agency council should be established on the same lines as practiced in other parts of Pakistan.

The overall survey statistics show a different scenario. Significant portion of respondents do not have a clear idea of what the functions of Agency Councilors should be. This is mainly due to the fact that the Local Government Plan is very

Voices from the FATA

"FATA has been deprived of the Devolution Plan, which has been practiced in settled areas"

"The Local Government Plan 2000 could have provided a unique opportunity to open a new chapter in the political history of FATA"

"The Devolution plan was expected to unleash the creative sprites of the people in the realm of institution building however, due to lack of will on the part of the government, it did not achieve its desired outcomes"

new to the people of the FATA. They did however, want to see the local government body being fully elected, a change which will give them some credibility as well as powers to oversee the development of their respective areas. Some of the sample respondents also wanted to make the PA responsible to the local government.

Recommendations:

1. Agency Council members shall be elected on the basis of adult franchise. It shall consist of five members from each agency and five members from six Frontier Regions, totaling the number to forty people.
2. Agency Council shall be an independent institution, developmental schemes, annual budget and its review, FATA Secretariat and FATA development authority shall be under its jurisdiction. All the decisions of the council shall be binding on Governor.
3. The President of Pakistan in consultation with the elected Agency Council through its Jirga shall promulgate all ordinances.

Constitutional Standing of the FATA

"Reform wanted, but no consensus on what reform"

A sizeable amount of information on constitutional standing of the FATA has been provided in the first part of the report. The following discussion will analyse the dialogue outcomes and analyse the survey data for recommendations.

Several presenters and participants raised their concerns on the clarity of the constitution on the FATA territories, governance, law making, etc. Participants stated that the FATA is part of Pakistan but still the writ of the government is maintained through old colonial system of governance. The speakers and participants expressed their concerns on the role of legislators from the FATA who could make laws for the rest of the country but not for the FATA. The participants objected on the treatment the government of Pakistan has meted with the people of the FATA by governing them through the notorious FCR. Laws of Pakistan are not laws of the FATA where the writ of Supreme Court of Pakistan does not extend. The speakers explained that the political powers of the Political Agent are still intact and the booty is still shared by the Political Agent with the tribal Maliks.

One speaker, having expertise in constitutional matters, stated





that the people of the FATA have recently attained the right to vote, but anomaly of their situation is that they represented in the central legislature of Pakistan where they make laws for the rest of the country but not for their own territory. The speaker explained that crime is committed against individual and not against state and resolved through traditional Jirga system. Hence wronged person is to avenge the deed himself. Fundamental rights as enshrined in the Constitution cannot be enforced in the FATA owing to lack of jurisdiction of superior courts. It simply takes a piece of legislation to extend such a remedy, which is not being done for obvious reasons. Vested interest in the FATA would like to continue with immunity they have enjoyed so far. Most of their doings are not justifiable by law. Tribal areas are pastures green enough for unscrupulous but sacred cow.

Voices from the FATA

“Geographically FATA is a part of Pakistan; but FATA has never been completely owned by Pakistani establishment”

“ People of FATA are deprived of their political, civic and human fundamental rights ”

“ According to article 247, all powers rest with the President of Pakistan and not with the members of parliament from FATA to make legislation for FATA ”

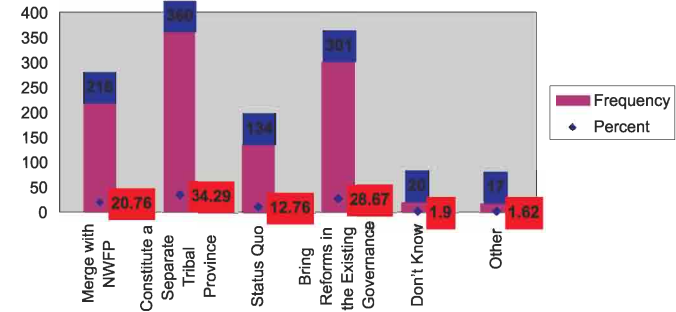
“Due to present constitutional status of FATA, judiciary of Pakistan cannot function in FATA”

“The Executive enjoys enormous powers due to absence of any constitutional checks and balances”

During the discussion some participants from the FATA viewed that the FATA should not be declared as a separate province, while also opposed the merger of the FATA with the NWFP. The participants also showed their concerns the status quo and suggested that gradual reforms and changes should be introduced so that the local people become familiar with the new systems of governance.

Some senior participants of the dialogue convincingly favoured the FATA Council, which constitute as a self-governing institution with most characteristics of the existing system of governance. The participants further suggested that the FATA Council should be headed by a Nazim and his government. Functions of the proposed FATA Council should be, as per the participants, legislative, development, Annual Development Plans and budgeting, implementation and monitoring.

Future Policy Options on the Status of FATA



In response to a question enquiring whether the respondents' perception on the future policy options on the status of the FATA, 34.29% replied that the FATA should constitute a separate federating unit, while 28.67 favoured reforms in the existing system. Around 20.76% favoured the merger of the FATA with the North Western Frontier Province (NWFP), while a minority of 12.76% still believed in the status quo and did not want any reforms in the existing system of governance.

Recommendations:

- Articles 246 and 247 in the constitution of Pakistan shall be amended to bring about a change according to the aspirations of elected representatives from the FATA, which shall also be in consonance with Islam and the customs and traditions of Tribal people.
- Fundamental rights enshrined in the constitution of Pakistan shall be extended to the people of the FATA.
- Representatives of the FATA in the parliament shall be given the right to legislate for the FATA keeping in view its special status.
- To check the unbridled powers of political administration, jurisdiction of Judiciary shall be extended up to the FATA.
- the FATA should also be given representation in the provincial assembly of NWFP.

4.3 Analysis of Social Issues of the FATA and Recommendations for Reforms:

4.3.1 The Role of Women in Tribal Society

“Support for better female access to health and education, but a marked resistance to wider empowerment of women in the FATA.”

Sufficient background information has been provided on the plight of women in the tribal society in the section 3.2 in the first part of the report, which portrays the sorry state of affairs of women under FCR as well as the suppressive treatment of tribal society towards women.

During consultations majority of the participants viewed the involvement of women as against the norms of the Pushtun tribal traditions and were reluctant to even talk about the issue during the discussion.

The participants did not favour the participation of women in the Jirga process and termed it against Islam as well as against the Pushtun traditions. They demanded that local culture and traditions should be honoured and no such actions should be taken which disturbs the social fabric of the tribal society. This group raised their concerns on the selection of female agency councillors and termed it unethical and against the traditions of tribal society. Some of the participants viewed that women should be confined to their houses to perform their domestic chores.

On the other hand there were participants in the focused group discussion and dialogues who supported the women empowerment idea. This group supported the selection and involvement of tribal women in the Agency Council and viewed

Voices from the FATA

“ No role has been assigned to women in the developmental process of FATA ”

“ We will not be able to flourish without women in any walk of life ”

“ Most of men even do not like to talk about women education and their rights ”

“ Educational situation of women in FATA is deplorable ”

“ Women and children suffer as much under FCR as the male members of the tribal society ”

“ Neither the rights given by the Islam nor the rights mentioned in the laws of Pakistan are guaranteed for women of FATA ”

that it would help in addressing the women problems through women representatives. They also favoured the endowment of due rights to tribal women and termed the inheritance rights to women as Islamic. They encouraged the tribal women participation in the political process but local culture and traditions should be honoured and no such actions should be taken which disturbs the social fabric of the tribal society.

While the survey results reflect some encouraging and interesting responses, as well as some conflicting statements from the sample. For instance, there is a general perception that the tribal people are very backward and keep women under strict conditions regarding wearing the veil and confinement to indoors. It is also interesting that the results show that 91% of the respondents take women to hospitals and private clinics to provide better health services to female members of their families. However, the survey results also show that these tribesmen prefer to take women to female doctors only.

The majority of the respondents believed that women should be allowed to get an education while, on the other hand, they are against the idea to allow women to work and share responsibilities with their male counterparts. The custom of Swara is considered very much against Islam, but considered legitimate according to the tribal customs. Again the majority of the respondents voted against the custom of Walwar and considered it as Un-Islamic while on the other hand the majority of participants, including a significant portion of the women respondents, supported honour killing. The main grievances endured by women in the region pointed out by the respondents indicate the recognition of participants concerning the sorry state of affairs of the women of the FATA.

Comparing the results of the sample survey with the existing social set up of tribal society in which both the level of education among women and the domination of men are low and high respectively, the survey sends out encouraging signals. Through the sample survey, people seemed to be openly supportive of women's development but also there is an element of confusion, which means that the tribal society is not ready for an abrupt change, but slow and gradual change may enable them to adapt to the new developments that are taking place around them.



Recommendations:

1. More primary, middle and high schools shall be established for girls
2. At least one women college for each agency and a saperata university shall be established for the FATA.
3. The government shall strive to create conduciva environment for investment and opportunities for employment, so that women folk is able to focus on education with pragmatic approach.
4. Stipends and other benefits shall be awarded to girl studants for encouragement.
5. Those women who are educatad and possess FATA domicla shall be made liable to serve in the FATA for specific time span.
6. Special seats shall be reserved for women in Senate, National Assembly and Agency/FATA Councils.
7. Awareness oriented workshops, seminars and focus studies for women education shall be organized on agency level to stimolata men folk, so that they provide timely opportunities for women to participata in uplift schemes.

4.3.2 Talibanisation

"Mixed views on Talibanisation and its causes"

In section 3.3 of the report, historical perspective has been provided for the readers to understand the root causes of Talibanisation of the tribal society in the FATA. The following paragraphs will examine the dialogue outcome and survey results for recommendations.

Majority of the participants blamed Pakistan and the US for Talibanisation of tribal society and correlated it with the Afghan crises. According to them the Taliban phenomenon is the impact of threa decades long Afghan crises, which provided conducive environmant for such elements to grow and spill over to other parts of

Voices from the FATA

" Unwise interference of the government in FATA "

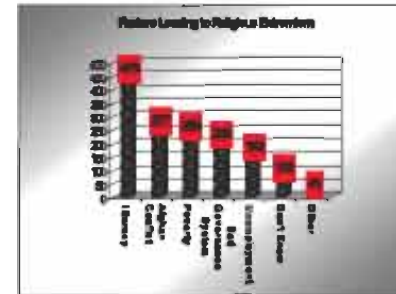
" Unwise decisions on the part of government while sidelining tribal customs and traditions "

" Open interference of internal and external secret agencies in FATA "

" Sense of deprivation and unemployment among youth "

" Inaccessibility of common man to political administration to seeking justice "

" Absence of checks and balances for political administration "



Pakistan. The participants viewed that the problem of Talibanisation was compounded with the Pakistan Army's decision to send troops to Waziristan agencies in 2004, which was a big blow for the local tribes, as they considered it the violation of promises made by Mr. Mohammad Ali Jinnah, the founder of Pakistan, that Pakistan would never send troops to the FATA for any such operations and that all matters, if any, would be resolved through negotiations and Jirges. However, the participants condemned the extremist elements and admitted that Talibanisation is spilling over to Pakistan finding its corridor through the FATA. Some of the participants argued that there are no Taliban in the FATA and that the FATA has turned into a battleground by the CIA and ISI.

The participants raised their concerns on the law and order situation and blamed the Afghan war, which brought the Kalashnikov culture along with other social problems.

In the context of the FATA, respondents' perceptions of factors leading to religious extremism were also documented. 470 respondents thought 'illiteracy' was the main factor responsible for the current religious extremism, while 277 participants believed that religious extremism has been increased due to the Afghan conflict. Some 256 participants believed that widespread 'poverty' is the main source of religious extremism, 230 respondents blamed the poor governance system of the FATA, while 182 blamed unemployment. Some 103 participants either don't know or did not want to comment on the subject.

The survey results clearly indicate the damage that three decades of conflict, first in the form of the Afghan-Soviet war and then the Afghan civil war, have brought to the tribal areas. The Jihad in Afghanistan has not only radicalised and Talibanised large sections of Pukhtoon society in Afghanistan, but it has also spilled over into the tribal society living on the Pakistani side of Durand Line.

The conflicting results of the survey suggest that the society is divided on several issues and that pro and anti extremists elements are undergoing a conflict of attitudes, which in turn creates physical conflicts within various zones, not only the FATA, but other parts of the NWFP and Pakistan. Heavily armed with sophisticated weaponry and religious zeal, tribal society seems to have the potential to resist the writ of the government, as exhibited in the North and South Waziristan Agencies. This is now spilling over very rapidly to other parts of the FATA and to 'settled districts' of NWFP. The recent reports of closure of barbershops and music centres in the FATA and parts of NWFP are evidence of the fact that Pukhtoon society is rapidly heading towards Talibanization.

Recommendations:

1. Strong preference for local security solutions in the FATA, rather than interventions by the Pakistan Army or Agencies.
2. Establishment of industrial zones for creating employment opportunities.
3. Promotion and strengthening of tribal/Wolasi Jirga, as indigenous conflict resolution tool.
4. Implementation of proper judicial system in accordance with tribal customs and traditions.
5. Promotion of education and participation of people in developmental schemes instead of privileged class.

4.3.3 Tribal Youth

“Jobs, please”

As explained earlier in section 3.5 in the first part of the report, FATA youth is vulnerable to social and economic problems, which helps the extremist elements to capitalise on this and use them in anti-state criminal acts. The participants believed that the youth of the FATA is talented but they do not have many opportunities. Let alone the quality of the education, the FATA does not even have adequate educational institutions as compared to

Voices from the FATA

“Youth is deprived of the employment opportunities and thus indulge in un-productive and sometime anti-state activities”

“Lack of awareness and education has put the tribal youth in a very dangerous situation where extremist elements have used them in terrorists acts”

its population. Several participants expressed their concerns about the future of tribal youth and viewed that the government should take some drastic steps to engage the FATA youth in productive actions.

The participants recognised the need for more educational institutions with an environment conducive to education and personnel development, which will enable the FATA youth to channelise its energies in productive actions.

After analysing the overall survey results, we come across a shocking scenario with the majority of the youth wasting their precious time engaged in non-productive activities. Those youth sitting in Hujras are wasting their time gossiping and un-productive sporting activities. As mentioned above, sport is considered as a negative activity in the tribal areas. The survey results show that majority of the respondents believed that youth are unemployed, as the government have not provided any employment opportunities in the FATA region. According to the survey results, the unemployed youth usually gets involved in drug abuse, domestic violence and other criminal activities. The results of the sample survey do not provide very encouraging indications about the state of affairs of young people in the FATA.

This is a very tricky situation and needs immediate attention by the government and civil society organizations. In the absence of any educational and employment opportunities there is a high probability that the youth of the area will become easy prey to the criminals and other extremists elements.

Recommendations:

1. The youth of FATA needs education and conducive environment where they can channelise their energies in productive endeavours.
2. The government of Pakistan should create employment opportunities for the people of the FATA.
3. Employable skills trainings, scholarships and stipend for talented youth, on-the-job trainings, internships programmes, recreational activities etc.
4. Separate engineering college, medical university and a separate women university was recommended by the participants.
5. The government should increase amount and number of scholarships and should provide with higher education opportunities for the talented youth of the FATA.



Possession of Firearms

"Given prevailing insecurity, we want our guns."

In section 3.4 of the first part of the report, detailed information on the firearms issue has been provided. Pukhtoon society is highly weaponized due to its freedom loving nature and a lack of trust in the modern judicial system in the settled districts of NWFP. Since there is neither a modern judicial system nor a modern governance structure, which could provide human security to the people of the FATA, therefore, the local people rely mainly on their own system of defence.

Carrying weapons in the hilly tribal areas is centuries old tradition and its use is governed by a very complex code of Pukhtoon society. There is also a general perception in the tribal areas that the abundance of firearms leads to greater security. Since the government writ is not fully established in the tribal belt and there exists no law enforcement mechanism, the local tribes have a legitimate argument for keeping weapons for their self-defence. This creates a need for security sector reforms along with a proper governance system in the FATA, which could allow the government to demobilize and demilitarise the local tribes.

During the focused group discussions and dialogues, participants were reluctant to discuss the issue of firearms and repeatedly expressed their concerns to the moderator of the consultations that the discussion on firearms shouldn't be opened. The reason for this reluctance was the sensitive situation prevailing in Muslim world and any effort directed towards disarmament is considered as favouring the American agenda. However, some important points were generated

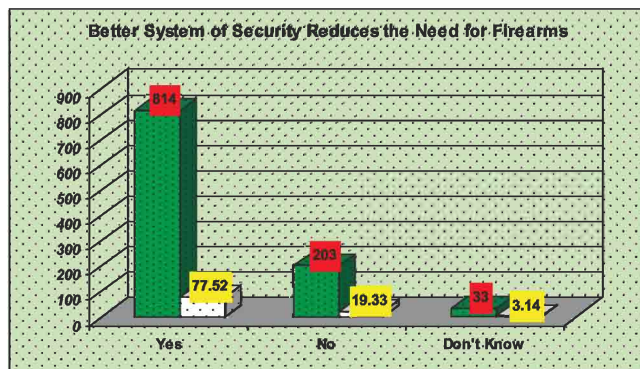
during the discussions. The participants viewed that carrying weapon is part of Pukhtoon culture and considered as an ornament of man. They viewed the presence of small arms in tribal society as deterrence and felt that small arms could provide better security to them.

As far as abundance of firearms is concerned, the participants argued that firearms were proliferated during the Soviet-Afghan when USA through ISI handed over billions of dollars worth weapons to Afghan Jihadies. However, those weapons found their way into the hands of Pakistan civilians, especially the FATA people, which has multiplied the tribal and family feuds. The participants termed the Afghan crises as the single most reason for the abundance of firearms in the tribal society.

On some occasions in survey, the respondents replied that firearms are part of their culture and provide greater security to them. When asked whether a better system of security would reduce the need for firearms, 77.52% believed that it would, which seems to be very encouraging. Some 19.33% believed that a better system of security would not affect the need for firearms. 33 respondents (3.14%), either did not know the answer, or were reluctant to give their comments.

The overall results of the survey on the presence and use of firearms shows that the people of the FATA firmly believe that they need firearms for the protection of their lives and their honour from their fellow tribesmen. In short, they believe that weapons provide greater security. It also becomes apparent that the majority believe that the abundance of firearms is due to the Afghan conflict when billions of US dollars worth of firearms crossed the border and found their way into the hands of tribal people and other parts of Pakistan.

These weapons have been used in the most common types of crime such as murder, robbery, kidnapping for ransom and sectarian violence. The most common type of firearm possessed by the local tribes is the AK-47 assault rifle, although there are other types of weapons available and possessed



Voices from the FATA

"The Afghan crisis gifted us with the culture of Kalashnikov, drugs and sectarianism"

"Carrying weapons is our centuries old culture, which gives us a sense of protection against our enemies"

"In the absence of any security sector, we have to rely on our own weapons"

by the local tribes. The local production of firearms in grey market areas in the FATA has contributed to the proliferation of firearms to other parts to Pakistan. Firearms undermine human rights and impede development. Women and children are more vulnerable to weapons, particularly as 90% of the victims of firearms are civilians, and among them 80% are women and children. Although this evidence suggests that the presence of firearms brings insecurity to women, it seems the FATA women were ignorant of this fact.

Recommendations:

1. An effective security system is required in the FATA that enjoys local support.
2. The government should also curb the supply and demand of firearms by regulating the firearms trade.
3. Local 'grey markets' of firearms production in the tribal areas, which is a source of non-stop proliferation of firearms in Pakistan, should also be regularized.
4. Through some survey results we have come to know that a majority of the respondents believed that a better system of security reduces the demand for firearms. This is very encouraging and leads us to hope for a better future for the new generations should they be provided with a better security system.
5. At the same time, there is also a need for awareness and to educate the people on the ill effects of weapons and the impact of firearms on the society.

4.4 CONCLUSION: CHANGE AND CONTINUITY

The overall results of the consultation and survey suggests that the people of the FATA do not want sudden change in the status of the FATA. Rather, they want gradual changes in the overall system of governance, which will help people get used to modern systems of government.

On this basis, the research suggests that any reform process should begin with a transitional phase, during which the current continues but with certain key reforms implemented (these might include specific changes to the FCR and the extension of the political parties act, for example). Given local preferences, early changes should be made to the administrative and judicial system.

Ultimately, after this transition phase a full modern governance system may prove possible. This would include a modern justice system, administration, revenue system, etc, which would

ensure the complete writ of government.

What does come out from the workshops and polling is a strong desire for rapid social development. This should be initiated urgently. How the \$2 billion allocated to the FATA is spent over the coming years will be critical. Local people will look for results.

Given the importance of local views, tribal stakeholders need to be represented in processes of reform and development. One way to do this would be to set up various Commissions in each Agency, which could conduct consultations and gather opinions, recommending policy changes along the way.

Above all, the government and local administration, along with major foreign powers like the United States, United Kingdom and the European Union, need to listen to what the people of the FATA have to say. Local people have views, and these views will shape what is possible across the FATA.



GLOSSARY

BARAMTA	Raid to seize persons or properties as indemnity for a wrong
HUJRA	Village guest house
JIHAD	Holy war
KHASSSEDAR	Tribal police man
LASHKAR	A Tribal Array, Army
LOONGEE	A cloth used as wrap
MALIK	A Headman
MELMASTIA	Hospitality
MUJAHIDIN	Islamic warriors
MUWAJIB	Allowances
NANAWATAI	Deputation
NANG	Personal honour and Pride
NIKAT	Hereditaments
PAKHTUNWALI	Pathan code
SALIS	an Arbitrator
SHAJRA	A tree, geological table
SWARA	Girl given in marriage to compose feud
TAPPA	A small tract of country
ULUS	A tribe
WESH	Distribution, usually of land

Bibliography

1. Dr. Azmat Hayat Khan, "The Durand Line", published in 2005
2. James W. Spain, "the Pathan Borderland", published in 1985
3. D. S. Richards, "the Savage Frontier", published 2003
4. Arnold Keppel, "Gun-Running And The Indian North West Frontier", published in 2000
5. Captain H. L. Nevill, "Campaigns on the North-West Frontier" published in 2003
6. Michael Barthorp, "Afghan Wars And The North-West Frontier" published in 2002
7. John H. Waller, "Beyond The Khyber Pass", published 2002
8. "A Dictionary of The Pathan Tribes on The North-West Frontier of India", General Staff Army Headquarters, India, published in 2004
9. Robert Nichols, "Colonial Reports on Pakistan's Frontier Tribal Areas" published in 2005
10. Sher Muhammad Mohmand, "FATA—A socio-culture and Geo-Political History"
11. Shams Mohmand, "Mohmand Qabayil", published in 2005
12. Ishfaq Ali, "Laws Extended to the Tribal Areas with Jirga Laws"
13. Lt.Gen. Sir George Macmunan, "The Romance of Indian Frontiers" published in 2000
14. Haseen Khan, "The Captives of Tirah" published in 2001
15. Engr. A. Qayum Afridi, "The Hill Tribes Along The Durand Line", published in 2003
16. Frederic Grare, "Pakistan and The Afghan Conflict 1979-1985" published in 2003
17. J. M. Ewart, "Story of The North West Frontier Province" published in 2000
18. Stanley Lane-Poole, "Mediaeval India" published in 1997
19. C. W. Aitchison, Treaties, Engagements And Sanads, relating to The North West Frontier Province
20. Phil Rees, "Dining With Terrorists" published in 2005
21. Hassan M. Yousafzai & Ali Gohar, "Towards Understanding Pukhtoon Jirga" published in 2005
22. Sir Olaf Caroe, "The Pathans" published in 1983



- 
23. H.C. Wylly, "The Borderland" published in 1998
 24. Husain Haqqani, "PAKISTAN Between Mosque And Military" published in 2005
 25. Peter Hopkirk, "The Great Game" published in 1994
 26. W.R.H. Merk, "The Mohmands" published in 1984
 27. H.A. Rose, "North-West Frontier Province" published in 2002
 28. Charles Gray Robertson, "AFGHANISTAN Kurum, Kabul & Kandahar" published in (2002)
 29. Dr. S. Iftikhar Hussain, "Some Major Pukhtoon Tribes Along The Pak-Afghan Border" published in 2005
 30. Khalid Aziz, "Causes of Rebellion in Waziristan" published in March, 2007
 31. International Crisis Group, "Pakistan's Tribal Areas: Appeasing the Militants" published in Dec 2006
 32. Human Rights Commission of Pakistan & Tribal Reforms & Development Forum, The Frontier Crimes Regulations 1901 (Oct 2004)
 33. (Edited by) Prof. Mumtaz A. Bangash, "Introduction of Local Government Plan 2000 in FATA" – written in 2000
 34. Rahimullah Yousafzai, "The Perils of Fighting Terrorism in Pakistan's Tribal Areas" published in July 2004
 35. Frederic Grare, "Islam, Militarism and The 2007-2008 Elections in Pakistan", Carnegie Papers, published in Aug 2006
 36. Frederic Grare, "Pakistan-Afghanistan Relations in the Post-9/11 Era" (Carnegie Papers - Oct 2006)
 37. Frederic Grare, "Pakistan: The Myth of an Islamist Peril", Policy Brief, Feb 2006)

APPENDICES

Serial No: _____

Date: ___/___/_____

Agency: _____

Appendix I

INTERVIEW SCHEDULE

Research Study on the Existing Social and Governance Status of FATA



INTERVIEW SCHEDULE

Social & Governance Indicators of FATA

Name of Field Investigator: ----- Date of Interview: -----

Name of Respondent (optional): ----- Agency -----

Tehsil ----- Address -----

Place of Interview -----

SECTION I: PERSONAL INFORMATION:

1) Gender

1.1 Male [] 1.2 Female []

2) Age Group

1.1 18-25 [] 1.2 26-35 [] 1.3 36-45 []
1.4 46-55 [] 1.5 56 year & above []

3) Educational Status

1.1 Illiterate [] 1.2 Primary [] 1.3 Middle []
1.4 Metric [] 1.5 Intermediate [] 1.6 Graduation []
1.7 Post Graduation [] 1.8 Madrassa/Religious education []

4) Occupational Status

1.1 Government Service [] 1.2 Private Service [] 1.3 Student []
1.4 Business/self-employed [] 1.5 Unemployed [] 1.6 Housewife []
1.7 Any other, please specify []

5) What is your job nature? (Please skip the question 5 in case of housewife, unemployed or student)

1.1 Unskilled Labour [] 1.2 Skilled Labour (driver, farmer, electrician etc) []
1.3 Clerical work [] 1.4 Professional (doctor, engineer, lawyer etc) []
1.5 Businessman [] 1.6 Shopkeeper [] 1.7 Industrialist [] 1.8 Retired []
1.9 any other, please specify []

6) Marital Status

1.1 Married [] 1.2 Unmarried []

7) If married, number of children, if any?

1.1 Male [] 1.2 Female []

8) Children Age Group

SECTION II SOCIO-ECONOMIC PROFILE

(information about the demography and services available to the respondent)

13) Place of Residence

1.1 Urban [] 1.2 Rural/village [] 1.3 Hamlet [] 1.4 other []

14) Village/area population (estimated)

1.1 Male [] 1.2 Female []

15) Housing Units (estimated):-----

16) Housing Condition (%age):

1.1 Katcha [] 1.2 Pakka [] 1.3 Half-Pakka []

17) Distance from the main town -----

18) Road Condition

1.1 Metalled [] 1.2 Non-metalled [] 1.3 Half-metalled []

19) Do Afghan refugees reside in your locality?

1.1 Yes [] 1.2 No []

20) If yes, what is the estimated number? -----

21) Means of Transportation

1.1 Bus [] 1.2 Suzuki Carry [] 1.3 Hi-ace / Pick-up etc []
1.4 Tonga [] 1.5 by foot [] 1.6 Any other, please specify []

22) What are the healthcare facilities in your locality and distance from your home?

1.1 Basic Health Unit (BHU) []-----miles 1.2 Dispensary []----- miles
1.3 Agency Hospital []----- miles 1.4 Private Clinic []----- miles
1.5 None [] 1.6 other, please specify []----- miles

23) Does your locality have following facilities?

1.1 Drinking water Yes [] No [] 1.2 Irrigation water Yes [] No []
1.3 Electricity Yes [] No [] 1.4 Telephone Yes [] No []



- 1.5 Natural Gas Yes [] No [] 1.6 School Yes [] No []
 1.7 Madrassa Yes [] No []

24) What is the source of drinking water in your locality?

- 1.1 Sallow Well [] 1.2 Hand Pump [] 1.3 Tap Water []
 1.4 Stream [] 1.5 Tube well [] 1.6 Any other, please specify []

25) What is the source of irrigation water in your locality?

- 1.1 Canal [] 1.2 Stream water [] 1.3 Tube Well []
 1.4 River [] 1.5 Other, please specify []

26) Educational/vocational institutions in your locality (please mark and or number the relevant box)

27) Main crops of your village:

- 1.1 Wheat [] 1.2 Maize [] 1.3 Sugar Cain [] 1.4 Rice []
 1.4 Vegetable [] 1.5 Poppy [] 1.6 Other []

28) Most common crimes in your area/locality?

- 1.1 Robbery [] 1.2 Murder [] 1.3 Kidnapping for ransom []
 1.4 Car theft [] 1.5 Dacoity [] 1.6 Other []

29) Do the criminals use weapons in committing such crimes?

- 1.1 Yes [] 1.2 No [] 1.3 Don't know []

30) Common types of firearms possessed by your co-inhabitants include? Give list

31) Source of these weapons?

- 1.1 Across the border [] 1.2 Local production []
 1.3 other [] 1.4 Don't know []

32) Do your area have any firearms production units/shops?

- 1.1 Yes [] 1.2 No [] 1.3 Don't know []

33) If yes, please give details of:

- 1.1 No. of production units [] 1.2 No. of shops []

1.3 Production capacity per year

1.4 Types of fire arms produced -----



34) Do you have land revenue record in your area?

1.1 Yes [] 1.2 No [] 1.3 Don't know

35) If no, does it lead to:

1.1 Land disputes [] 1.2 Creation and strengthening of land mafia []
1.3 Blood feuds [] 1.4 Doesn't affect [] 1.5 Don't know [] 1.6 Other []

36) What are the three main grievances of women?

1.1)-----

1.2)-----

1.3)-----

SECTION III: PERCEPTION ABOUT GOVERNANCE

(please tick one)

37) In your opinion what type of Jirga provides justice?

1.1 Ulasi/Qaumi Jirga [] 1.2 Sarkari Jirga []
1.3 Both [] 1.4 Non of them []
1.7 Other [] 1.8 Don't know []

38) Who settles minor disputes in your locality?

1.1 Local elders through Jirga [] 1.2 Political Administration []
1.3 Other [] 1.4 Don't know []

39) To whom a major offence is first reported?

1.1 Naib Tehsildar [] 1.2 local elders []
1.3 Political Agent [] 1.4 Khasadar/levy force []
1.5 Other [] 1.6 Don't know []

40) Jirga decides according to:

1.1 Local Rewaj [] 1.2 Islamic Law [] 1.3 Both []
1.4 Other [] 1.5 Don't know []

41) Are the laws, according to which Jirga decides, codified?





1.1 Yes [] 1.2 No [] 1.3 Don't Know []

42) Do you think decisions taken by Jirga are consistent?

1.1 Yes [] 1.2 No [] 1.3 Don't Know []

43) Do you think Ulasi Jirga provides justice to the aggrieved?

1.1 Yes [] 1.2 No [] 1.3 Don't Know [] 1.4 Other []

44) Do you think Sarkari Jirga provides justice to the aggrieved?

1.1 Yes [] 1.2 No [] 1.3 Don't Know [] 1.4 Other []

45) Decisions taken by Ulasi/Qaumi Jirga:

1.1 are Final [] 1.2 Requires approval of Political Agent []

1.3 Don't know []

46) In case of difference in social status of the disputants, does Jirga remain impartial?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

47) In case of dissatisfaction with the decision of Jirga, can the aggrieved take the dispute to settled area's court?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

48) In case of dispute between inhabitant of settled area and that of tribal area which law applies?

1.1 FCR [] 1.2 Pakistan Penal Code []

1.3 Both [] 1.4 Don't know []

49) Do members of the Jirga extract monetary gains?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

50) Who pays to the members of the Jirga?

1.1 Aggrieved disputant [] 1.2 Defender [] 1.3 Both [] 1.4 Other [] 1.5 Don't know []

51) Were Jirga members customarily paid in the past?

1.1 Yes [] 1.2 Seldom 1.3 No [] 1.4 Don't know []

52) What does FCR mean to you?

- 1.1 Unchecked power of the PA []
- 1.2 Non-intervention in the affairs of the tribes []
- 1.3 Preservation of Tribal customs and traditions []
- 1.4 Suppression of basic human rights []
- 1.5 Other []
- 1.6 Don't know []

53) Who refers cases of aggrieved women to Jirga?

- 1.1 Women Victim []
- 1.2 Political Administration []
- 1.3 Male relatives []
- 1.4 Other []

54) Do women sit in Jirga as a party?

- 1.1 Yes []
- 1.2 Seldom []
- 1.3 No []

55) If yes, does Jirga consider her evidence?

- 1.1 Yes []
- 1.2 No []
- 1.3 Don't know []

56) The credibility of Jirga has been:

- 1.1 Increased []
- 1.2 Decreased []
- 1.3 Unchanged []
- 1.4 Don't know []

57) Is the Jirga:

- 1.1 Cost effective []
- 1.2 Delivers justice []
- 1.3 Speedy []
- 1.4 Manipulated []
- 1.5 Impartial []
- 1.6 Violate human rights []
- 1.7 Don't know []
- 1.8 Partial []
- 1.9 Don't know []

58) In your opinion collective territorial responsibility is:

- 1.1 Good/effective []
- 1.2 Bad/oppressive []
- 1.3 Undecided []
- 1.4 Don't know []

59) To resolve cases of blood feud/murder, what is preferable?

- 1.1 Imprisonment of the offender []
- 1.2 Death penalty/baddal []
- 1.3 Monetary compensation []
- 1.4 Swara []
- 1.5 Other []

60) Law and Order in tribal areas can be better maintained through:

- 1.1 FCR []
- 1.2 Ulasi Jirga []
- 1.3 Introduction of Pakistani laws []
- 1.4 Islamic/Shariat Law []
- 1.5 Other []
- 1.6 Don't know []

61) The role of Agency Council is?





- 1.1 Development of the area []
- 1.2 Mediates between the administration and the tribesmen []
- 1.3 Presents PA's interests []
- 1.4 Legislates []
- 1.5 Amends FCR etc []
- 1.6 Other []
- 1.7 Don't know []

62) Introduction of political parties act will:

- 1.1 Promote tolerance []
- 1.2 Improve governance []
- 1.3 Reduce sectarianism and extremism []
- 1.4 Disrupt the existing social fabric []
- 1.5 Other []
- 1.6 Don't know []

63) The introduction of adult franchise act has:

- 1.1 Promoted peace and tolerance []
- 1.2 Improved governance []
- 1.3 Reduced sectarianism and extremism []
- 1.4 Disrupted the existing social fabric []
- 1.5 Other []
- 1.6 Don't know []

64) Do women cast vote in your area?

- 1.1 Yes []
- 1.2 No []

65) In case women do not cast their votes, who prevents them from casting votes?

- 1.1 Family elders []
- 1.2 Candidates []
- 1.3 Religious leaders []
- 1.4 Other []

66) You feel more secured because of:

- 1.1 The current status of FATA []
- 1.2 Tribal norms and codes []
- 1.3 Strong Jirga system []
- 1.4 Possessing arms/weapons []
- 1.5 Other []
- 1.6 Don't know []

67) Easy access to firearms has been due to:

- 1.1 Trafficking from across the border []
- 1.2 Local manufacturing []

- 1.3 Local culture []
- 1.4 Absence of law and weak Governance System []
- 1.5 Other []

68) In your opinion speedy and inexpensive justice can be delivered by:

- 1.1 Existing system of justice (Jirag) []
- 1.2 Introduction of Pakistani laws []
- 1.3 Reforms in FCR []
- 1.4 Shariat advocated by Taliban []
- 1.5 Other []
- 1.6 Pukhtoonwali []
- 1.7 Don't know []

69) Do you think the religious parties could create a more just and peaceful society if they ran the government?

- 1.1 Yes []
- 1.2 No []
- 1.3 Don't know []

70) Do you think religious organizations have brought peace in your area by implementing Islamic Sharia?

- 1.1 Yes []
- 1.2 No []
- 1.3 Don't know []

71) Do you think that the government was right to order a crack down on religious institutions?

- 1.1 Yes []
- 1.2 No []
- 1.3 Other []
- 1.4 Don't know []

72) Do you consider?

- Cultivation of opium: 1.1 Permitted []
- 1.2 Forbidden []
- According to 1.1 Islam []
- 1.2 according to Tribal law []
- 1.3 Pakistani law []

- Trade in drugs: 1.1 Legal []
- 1.2 Illegal []
- According to 1.1 Islam []
- 1.2 according to Tribal law []
- 1.3 Pakistani law []

- Trade in arms: 1.1 legal []
- 1.2 Illegal []
- According to 1.1 Islam []
- 1.2 according to Tribal law []
- 1.3 Pakistani law []

- Selling non-tax paid goods: 1.1 legal []
- 1.2 Illegal []
- According to 1.1 Islam []
- 1.2 according to Tribal law []
- 1.3 Pakistani law []

73) Abundance of firearms leads to:

- 1.1 Greater security []
- 1.2 Balance of power/deterrence []
- 1.3 Greater insecurity []
- 1.4 Under-development []





1.5 Other [] 1.6 Don't know []

74) The presence of Afghan refugees has promoted

- 1.1 Drug trafficking []
- 1.2 Weapon culture []
- 1.3 Intolerance []
- 1.4 Extremism and sectarianism []
- 1.5 Human trafficking []
- 1.6 Cheap labour []
- 1.7 Promotion of native (Pushtu) language []
- 1.8 Growth in economic activity []
- 1.9 Don't know []

75) Special Status of FATA means:

- 1.1 Autonomy of tribal traditions and customs []
- 1.2 Oppressive rule of the PA and FCR []
- 1.3 Absence of rule of law []
- 1.4 Benefits in terms of quotas and exemption from taxes []
- 1.5 Don't know []
- 1.6 Other []

SECTION IV: ATTITUDES / PRACTICES

76) Where do you go to get medical treatment most of the time?

- 1.1 Hakeem []
- 1.2 Mulla []
- 1.3 Hospital/BHU etc []
- 1.4 Private Clinic []
- 1.5 Other []

77) Do you take female patients to doctors?

- 1.1 Yes []
- 1.2 No []

78) If yes, do you take female patients to:

- 1.1 Female doctors only []
- 1.2 Both male/female doctors []

79) If No, why not? -----

80) Do you allow your women to work?

- 1.1 Yes []
- 1.2 No []
- 1.3 Allow in the fields only []
- 1.4 Other []

81) Which of the following best describes the role the women should have in the society?
(Read list and circle only one)

- 1.1 Women should be able to do work men can do []
 1.2 Women should stay at home and look after the family and the house [] []
 1.3 Women should be allowed to only enter professions such as teaching and nursing []
 1.4 Other []
 1.5 Don't know []
 82) Do you support a specific political party? (party system is not allowed in FATA however respondent's ideological affiliations, if any, need to be recorded)

- 1.1 Yes [] 1.2 No []

83) What is the preferred pass time of youth in your locality?

- 1.1 Sitting in Hujra [] 1.2 Attending religious/Tablighi Ijtima []
 1.3 Sports [] 1.4 Other []

84) What youth prefer doing in Hujra?

- 1.1 Gossip [] 1.2 Play games [] 1.3 Watching videos/TV []
 1.4 listen music [] 1.5 Other []

85) Do you attend Tableeghi Ijtima?

- 1.1 Yes/often [] 1.2 Yes/Seldom [] 1.3 No []

86) What are the impacts of Afghan conflict on your area?

- 1.1 Insecurity [] 1.2 Refugees influx []
 1.3 Drugs and weapons [] 1.4 Deteriorated local economy []
 1.5 Religious Extremism [] 1.6 Other []
 1.7 Don't know []

87) What are the factors leading to increased religious extremism?

- 1.1 Afghan conflict [] 1.2 Bad governance structure []
 1.3 Poverty [] 1.4 Illiteracy []
 1.5 Unemployment [] 1.6 Other []
 1.7 Don't know []

88) What is the most preferred type of Jihad?

- 1.1 Learning Quran & Modern Sciences [] 1.2 Peaceful resistance to oppression []
 1.3 Armed Jihad [] 1.4 Other []
 1.5 Don't know []

89) What is Talibanization?



90) Do you think that a person has the right to kill a relative to protect the honour of their family?

1.1 Yes [] 1.2 No [] 1.3 Other [] 1.4 Don't know []

91) Unemployed youth gets involved into:

1.1 Drug abuse [] 1.2 Arms and drug trade []
1.3 Extremism [] 1.4 Criminal activities []
1.5 Domestic violence [] 1.6 Anti-state activities []
1.7 Don't know [] 1.8 Don't know []

92) Do you consider?

Swara: 1.1 legal [] 1.2 Illegal []
According to 1.1 Islam [] 1.2 according to Tribal law []
1.3 Pakistani law []
Bride price (Walwar): 1.1 Legal [] 1.2 Illegal []
According to 1.1 Islam [] 1.2 according to Tribal law []
1.3 Pakistani law []

93) Carrying Fire Arms:

1.1 is a tradition [] 1.2 is a status symbol []
1.3 Provides security [] 1.4 Provides insecurity []
1.5 Maintains law and order through balance of power []
1.6 Promotes violence and crimes []
1.7 Other []

94) The availability of firearms at home provides women?

1.1 Security [] 1.2 Vulnerability [] 1.3 Doesn't affect []
1.4 Other [] 1.5 Don't know []

95) The custom of Swara is a practice:

1.1 Necessary to prevent bloodshed/conflicts [] 1.2 Inhuman []
1.3 Is tribal tradition to be continued [] 1.4 Criminal []
1.5 Don't know [] 1.6. Other []

96) Do you consider:

Watching TV and Video 1.1 Prohibited [] 1.2 Not prohibited []
1.3 Don't know []
According to: 1.1 Islam [] 1.2 Tribal law []
1.3 Pakistani law [] 1.4 Don't know []

SECTION V

SOURCES OF INFORMATION

97) What sources of information do you use that helps you form your opinion? (Multiple responses are allowed)

- | | | | | | |
|-----|------------------|-----|------|---------------------|-----|
| 1.1 | Pakistan Press | [] | 1.2 | Pakistan Television | [] |
| 1.3 | Radio | [] | 1.4 | Internet | [] |
| 1.5 | Films | [] | 1.6 | Books | [] |
| 1.7 | Friends & Family | [] | 1.8 | Work colleagues | [] |
| 1.9 | Other (specify) | [] | 1.10 | Don't know | [] |

98) What newspapers do you read regularly?

- | | | | | | | | | |
|------|---------------|-----|------|---------------|-----|------|-------------|-----|
| 1.1 | Ausaf | [] | 1.2 | Daily times | [] | 1.3 | Dawn | [] |
| 1.4 | Frontier Post | [] | 1.5 | Jang | [] | 1.6 | Khabrain | [] |
| 1.7 | Nation | [] | 1.8 | Nawa-l- waqat | [] | 1.9 | The News | [] |
| 1.10 | Observer | [] | 1.11 | Statesman | [] | 1.12 | The Express | [] |
| 1.13 | The Pakistan | [] | 1.14 | The Post | [] | 1.15 | None | [] |
| 1.16 | Other | [] | | | | | | |

99) What TV Stations do you watch regularly?

- | | | | | | | | | |
|------|--------|-----|------|-------|-----|-----|------|-----|
| 1.1 | AAJ TV | [] | 1.2 | ARY | [] | 1.3 | BBC | [] |
| 1.4 | CNN | [] | 1.5 | Fox | [] | 1.6 | GEO | [] |
| 1.7 | HUM TV | [] | 1.8 | PTV | [] | 1.9 | Star | [] |
| 1.10 | None | [] | 1.11 | Other | [] | | | |

100) What radio channels do you listen to regularly?

- | | | | | | |
|-----|-------------------------------|-----|-----|--------------------|-----|
| 1.1 | BBC Urdu Service | [] | 1.2 | BBC Pushtu Service | [] |
| 1.3 | Voice of America Urdu Service | [] | 1.4 | Voice of Germany | [] |
| 1.5 | None | [] | 1.6 | Buraq | [] |
| 1.7 | India | [] | 1.8 | Other | [] |

SECTION VI: OPINION ON FATAREFORMS

101) Can better system of security reduce the need for firearms in your area?

- | | | | | | | | | |
|-----|-----|-----|-----|----|-----|-----|------------|-----|
| 1.1 | Yes | [] | 1.2 | No | [] | 1.3 | Don't know | [] |
|-----|-----|-----|-----|----|-----|-----|------------|-----|

102) Do you feel a greater need for women education?





1.1 Yes [] 1.2 No [] 1.3 Don't know []

103) Do you want extension of regular criminal and civil laws to tribal area?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

104) Do you want decision made by Jirga binding; without approval of PA?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

105) Do you feel need for codified new laws?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

106) Should women be allowed to sit in the Jirga?

1.1 Yes [] 1.2 No [] 1.3 Don't know []

107) What changes you suggest in the Jirga system?

108) Do you want the Agency Council to be?

1.1 Fully elected body [] 1.2 Partially elected body []
1.3 Nominated Body [] 1.4 Don't know []
1.5 Other []

109) Do you want the function of the Agency Council to include?

1.1 Legislation []
1.2 Overseeing developmental activities []
1.3 Accountability of PA to the Agency Council []
1.4 Other []

110) Do you want FCR to be:

1.1 Amended [] 1.2 Abolished []
1.3 Not changed [] 1.4 Don't know []
1.5 Other []

- 111) Do you want tribal areas to?
- 1.1 Merge with N-W-F-P []
 - 1.2 Constitute a separate tribal province, within Federal System []
 - 1.3 No change []
 - 1.4 Bring reforms in the existing governance structure []
 - 1.5 Other []
 - 1.6 Don't know []

- 112) Do you favour extension of Political Parties Act to tribal areas?
- 1.1 Yes []
 - 1.2 No []
 - 1.3 Don't know []

- 113) Do you want land settlement
- 1.1 Yes []
 - 1.2 No []
 - 1.3 Don't know []

- 114) In your locality, do you think, there is a need for?
- | | |
|--|---------------------------------------|
| 1.1 Drinking water facility [] | 1.2 Irrigation water [] |
| 1.3 Electricity [] | 1.4 Natural Gas [] |
| 1.5 Phone [] | 1.6 Proper Sanitation system [] |
| 1.7 Road [] | 1.8 Industrial Unit [] |
| 1.9 Park [] | 1.10 Primary school: [Boys]/[Girls] |
| 1.11 High school : [Boys]/[Girls] | 1.12 College: [Boys]/[Girls] |
| 1.13 [Boys]/[Girls] Vocational Training Centre | 1.14 Madrassa [Boys]/[Girls] |
| 1.15 Employment opportunities [] | 1.16 Better healthcare facilities [] |
| 1.17 Other [] | |





Appendix II
**THE FRONTIER CRIMES
REGULATION, 1901**





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THE FIRST SCHEDULE THE SECOND SCHEDULE THE THIRD SCHEDULE

REGULATION NO. III OF 1901

THE FRONTIER CRIMES REGULATIONS, 1901

A Regulation further to provide for the suppression of crime in certain frontier districts

Whereas it is expedient further to provide for the suppression of crime in certain frontier districts;

It is hereby enacted as follows:-

CHAPTER 1 PRELIMINARY

1. Short title, commencement and extent.
- 1) This Regulation may be called the Frontier Crimes Regulation, 1901; and
- 2) It shall come into force at once.
- ¹3) It shall extend to the areas specified in the Third Schedule, but the Governor may by notification² in the official Gazette, exempt any such area from the operation of. all or any of its provisions.]
- 4) Sections 1 to 5, 10, 20, 21, 26 to 28, 31, 32, 36, 37, 56 and 60 to .64 are of general application, but the remaining sections may be

¹Substituted by West-Pakistan ordinance XLIII of 1963, S.2, for sub-sections (3) and (4) which were earlier substituted by central ordinance VIII of 1962 for the original sub-section (3). The FCR has been amended by the Amended Act XIII of 1954 only by N.W.P.P. Government and w.e. from 21st Dec 1954, in the six districts of NWFP. The said amendment was enforced only which was repealed in 1963 along with the entire FCR. vide section 34 of the criminal law (Amendment) act (VII of 1963).

²Exempted vide Government of West Pakistan, Home Department Notification No. Jud1.-K72) 64(1), dated 17th December, 1964, Gazette of West Pakistan, Extra ordinary, 17th Dec 1964 (the entire areas of the third schedule). And the areas of Malakand Division (Provincially Administered Tribal Areas) exempted through Frontier Crime Regulation. (Repeal) Regulation no.1 of 1973 with effect from 1.9.1973 vide Gazette of Pakistan, Extra ordinary part 1 of 31st Jan; 1973.

enforced, in whole or in part, as the case may be, only against Pathans and Balochis, and against such other classes as the ³[Provincial Government]⁴, may, by notification in the [official Gazette]⁵, declare to be subject thereto.

- 5) A notification under Sub-section (4) may declare a specified class only to be subject to all or any of the provisions of this Regulation in a district or part of a district.⁶

Explanation: - The word “class”, as used in Sub-section (4) and (5) includes any persons who may be collectively described in a notification under this section as persons subject to all or any of the provisions of this Regulation.

2. Definitions:- In this Regulation unless there is anything repugnant in the subject or context

⁷(a) “Council of Elders” means-

- i. in relation to Quetta and Kalat Divisions and District Lasbella a Council of three or more persons convened according to the Pathan, Baloch or other usage, as the Deputy Commissioner may in each case direct; and
 - ii. in relation to other areas, a Council of three or more persons whether officials or otherwise convened by the Deputy Commissioner and presided over by a Magistrate invested with powers under Section 30 of the Code of Criminal Procedure, 1898 (V of 1898);] and
- b) “Deputy Commissioner” includes any Magistrate of the first class appointed by the Deputy Commissioner by order in writing to exercise all or any of the functions or powers specified in the first part of the first Schedule, and also any Magistrate appointed by the ⁸[Provincial Government] to exercise all or any of such functions or powers;
- ⁹c) “Commissioner” or “Court of the Commissioner” means the Provincial Government or such officer or officers as the Provincial Government may appoint in this behalf.]

3. Relation of Regulation to other enactments.

- 1) The provisions of this Regulation shall take effect in case to which they apply, not with standing anything in any other enactment.
- 2) The powers conferred by this Regulation may be exercised in addition to any powers conferred. by or under any other enactment, and, where the contrary is not expressed or implied, other enactments in force in any place in which all or any of the provisions of this Regulation are for the time being in force shall, so far as may be, apply to cases dealt within that place under this Regulation.

CHAPTER II POWERS OF COURTS AND OFFICERS

4. Additional District Magistrate.

- a) In any district in the whole or any part of which all or any of the provision of this Regulation are for the time being in force, the ¹⁰[Provincial Government] may appoint any Magistrate or Magistrates of the first class to be an Additional District Magistrate or

³Substituted for L “Local Government” by the A.O., 1937.

⁴The words “with the previous sanction of the Governor General in Council” omitted, ibid.

⁵Substituted ibid, for “local official”.

⁶For persons ordinary resident in any area to which this Regulation does or does not apply. see schedule B to government of West Pakistan, Home Dept: notification no jud 1-1(5)/62, dated 19th April, 1962(W.P) and no jud-1-1(5) dated 7th may, 1962 for Amendment in Schedule B to notification no jud 1-1(5)62, dated 19th April 1962 which runs:-

⁷“4 all persons ordinarily in any area to which the said Regulation iii does not apply, who commit any offence in any area to which the said Regulation applies”

⁸Substituted for clause (a) by W.P. Ordinance XII of 1962.

⁹Substituted for “Local Government” by the A. O. 1937.

¹⁰Added by M.P. Ordinance XII of 1962, S.2.

¹¹Substituted for “Local Government” by the A.O.1937.



Additional District Magistrates, without any limit of time.

- b) Every Additional District Magistrate so appointed shall have all the ordinary powers of a District Magistrate specified in the fifth part of the third schedule to the Code of Criminal Procedure, 1898.
 - c) When exercising any of the powers of a Deputy Commissioner under this Regulation, an Additional District Magistrate shall be deemed, for the purposes of this Regulation to be the Deputy Commissioner.
 - d) Every Additional District Magistrate shall exercise his powers in subordination to the District Magistrate and in such cases or classes of cases, and within such local limits as the District Magistrate may, by order in writing, direct.
5. Power of District Magistrate to withdraw or recall cases.
- 1) The District Magistrate may withdraw any case from, or recall any case which he has made over to, an Additional District Magistrate whether the Additional District Magistrate is exercising jurisdiction with respect to the case as a Magistrate or as a Deputy Commissioner.
 - 2) If the case may, under the Code of Criminal Procedure, 1898, be referred to another Magistrate competent to inquire into or –try it, the District Magistrate may, instead of disposing of the case himself refer it to such other Magistrate for inquiry or trial, as the case may be.
6. Power to pass sentences of whipping in certain cases.

Where any person against whom, under Section 1, Sub-section (4), this section may for the time being be enforced in convicted by a Criminal Court of an offence punishable under any of the following sections of the ¹¹Indian Penal Code, namely, Sections 304, 307, 324, 325, 326, 376, 377, 382, 392 to 399, 427, 428, 429, 435, 436 and 448 to 460, the Court may subject to the provisions of Section 393 of the Code of Criminal Procedure, 1898? Pass upon him a sentence of whipping in addition to any other punishment to which he may be sentenced.

¹²7. Tender of pardon to accomplices.

Section 337 of the Code of Criminal Procedure, 1898, shall for the purposes of this Regulation, be constructed as if-

- a) the words in Sub-section (1) “triable exclusively by the High Court or Court of Session or any offence punishable with imprisonment which may extend to ten years or any offence punishable under Section 211 of the ¹³Indian Penal Code with imprisonment which may extend to seven years or any offence under any of the following sections of the Indian Penal Code, namely, Sections 216-A, 369, 401, 435 and 477-A”, and
- b) the whole of Sub-section (2-A) were omitted.

CHAPTER III COUNCILS OF ELDERS

8. Civil reference to Council to Elders.

- (1) Where the Deputy Commissioner is satisfied, from a police report or other information, that a dispute exists which is likely to

¹¹ Now the Pakistan penal code, 1860.

¹² Substituted by Regulation VII of 1926, S.2.

¹³ Now the Pakistan penal Code.

cause a blood-feud or murder, or culpable homicide not-amounting to murder, or mischief or a breach of the peace, or in which either or any of the parties belongs to a frontier tribe he may, if he considers that the settlement thereof in the manner provided by this section will tend to prevent or terminate the consequence anticipated, and if a suit is not pending in respect of the dispute, make an order in writing, stating the grounds of his being satisfied, referring the dispute to a Council of Elders and requiring the Council come to a finding on the matters in dispute after making such inquiry's may be necessary and after hearing the parties. The members of the Council of Elders shall in each case, be nominated and appointed by the Deputy Commissioner.

- (2) The order of reference made under Sub-section (1) shall state the matter or matters on which the finding of the Council of Elders required.
- (3) On receipt of the finding of the Council of Elders under this section, the Deputy Commissioner may-
 - a) remand the case to the Council for further finding; or
 - b) refer the case to a second Council; or
 - c) refer the parties to the "Civil Court; or
 - d) pass a decree in accordance with the finding of the Council, or of not less than three-fourth of the members thereof, on any matter stated in the reference; or
 - e) declare that further proceedings under this section are not required.

NOTE

Decree not passed by the Deputy Commissioner in accordance with finding of Council of Elders. Held, direction (of Deputy Commissioner) to file suit in Court of competent jurisdiction to be without ¹⁴any lawful authority where the F.C.R was repealed after the decision by Deputy Commissioner and the Commissioner, the case was remanded to the Court of Qazi, Bori-Sanjavi at Loralai, through Deputy Commissioner, Loralai for adjudication according to the Regulation of 197b.¹⁵

9. Effect of decree on finding of Council.

A decree passed under Section 8, Sub-section (3), clause (d), shall not give effect to any finding or part of a finding which, in the opinion of the Deputy commissioner is contrary to good conscience or public policy, but shall be a –final settlement of the case so far as the decree relates to any matter stated in the reference, although other matters therein stated may remain un disposed of; and have, to that extent and subject to the provisions of this regulation with- respect to revision, the same effect as a decree of a Civil Court of ultimate resort, and be enforced by the Deputy Commissioner in the same manner as a decree of such a Court may be enforced.

10. Restriction on jurisdiction of Civil Courts.


No Civil Court shall take cognizance of any claim with respect to which the Deputy Commissioner has proceeded under Section 8, Sub-section (3), clause (a), clause (b) or clause (d).

11. Criminal references to Council of Elders.

- 1) Where, in the opinion of the Commissioner or Deputy Commissioner, it is inexpedient that the question of the guilt or innocence of any person or persons accused of any offence, or of any several persons so accused, should be tried by a Court of any of the classes mentioned in Section 6 of the Code of Criminal Procedure, 1898, the Deputy Commissioner may or if the Commissioner

¹⁴ P.L.J.1967/Quetta 223.





so directs, shall, by order in writing, refer the question to the decision of a Council of Elders, and require the Council to come to a finding on the question after such inquiry as may be necessary and after hearing the accused person. The members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner.

- 2) Where a reference to a council of Elders is made under Sub-section (1) and the members of the Council have been nominated, the names of the members so nominated shall, as soon as may be, be communicated to the accused person, and any objection which he may then make to the nomination of any such member shall be recorded. The Deputy Commissioner shall consider every objection made by an accused person under this sub-section, and may, in his discretion, either accept or reject the objection, provided that, in the latter case, he shall record his reasons for so doing. The Deputy Commissioner shall, after disposing of any objection made by the accused person, appoint the members of the Council.
- 3) On receipt of the finding of the Council of Elders under this section, the Deputy Commissioner may-
 - (a) remand the question to the Council for a further finding; or
 - b) refer the question to a second Council; or
 - c) acquit; or discharge the accused person or persons, or any of them; or in accordance with the finding on any matter of fact of the Council, or of not less than three-fourths of the members thereof convict the accused person or persons, or any of them, of any offence of which the facts so found show him or them to be guilty:

Provided that a person discharged under clause (c) shall not be liable to be retried for any offence arising out of the same facts after the expiry of two years from the date of such discharge.

NOTE

Issuance of process by A.P.O/ A.D.C. Waziristan Agency (Tribal Area) Jurisdiction of the High Court not extended to the Tribal Areas (FATA) constituting Waziristan Agency. However the provisions of Section 86-A of the Criminal Procedure Code, 1898, shall have to be complied with after the execution of the warrants and before the removal of petitioner (accused) to the Tribal areas for his production before the Court.¹⁶

12. Punishment on conviction on finding of Council.

- 1) Where the Deputy Commissioner convicts a person under Section 11, Sub-section (3), clause (d) he may pass upon him any sentence of fine.
- 2) Where the Deputy Commissioner so convicts a person of an offence mentioned in the second schedule, he may, whatever may be the punishment prescribed for the offence, sentence the person, in lieu of or in addition to fine, to be imprisoned for a term which may extend to seven years, or, subject to the provisions, of Section 393 of the Code of Criminal Procedure, 1898, to be whipped or to be whipped and imprisonment for a term which may extend to five years, or to be transported for a term which may extend to seven years, and, where he so convicts a person of an offence punishable with transportation or with imprisonment for a term exceeding seven years, he may, subject to confirmation by the Commissioner, sentence the person to a term either of transportation or of imprisonment exceeding seven years but not exceeding fourteen years;

Provided first, that a sentence of whipping shall not be passed on any person so convicted of an offence under Sections 121, 121-A, 122, 123, 124-A, 125, 126, 127, 144, 150, 216, 216-A, 400, 401, 402, 494, or 495 of the Indian Penal Code:

¹⁶ P.L.D 1987/Lahore 323.

Provided, secondly, that a sentence of transportation or imprisonment for an offence shall not be for a longer term than that (if any) prescribed for the offence: and

Provided, thirdly, that a sentence of transportation shall not be passed for an offence which is not punishable with transportation or with imprisonment for a term which may extend to seven years or more.

¹⁷3)¹⁸ In cases of convictions under Section 302 or 396 of the Pakistan Penal Code, the immovable property of the accused shall be liable to forfeiture to the Government]

13. Manner of enforcing sentences.

- 1) Any sentence passed under Section 12 shall be executed in the manner provided for the execution of sentences passed by a Court of any of the classes mentioned in Section 60 of the Code of Criminal Procedure, 1898.
- 2) For the purposes of Sections 64 to 67 of the Indian Penal Code in reference to a sentence under Section 12 of this Regulation.
 - a) an offence punishable with death or transportation for life shall be deemed to be punishable with rigorous imprisonment for a term which may extend to ten years;
 - b) the imprisonment in default of payment of fine may be rigorous or simple at the discretion of the Deputy Commissioner.

14. Time for exercising power of reference to Council of Elders.

The powers conferred by Section 11 on the Commissioner and Deputy Commissioner, respectively may be exercised by them, in cases committed to the Court of Session, at any time before the trial before that court has commenced, and, in cases pending before any Court inferior to the Court of Session, at any time before an order of conviction or acquittal has been made.

15. Motion by Public Prosecutor in view to reference to Council of Elders.

- 1) In any trial before a Court of Session, the Public Prosecutor may, when instructed in writing in that behalf by the Commissioner or Deputy Commissioner, at any time before an order of conviction or acquittal has been made with respect to any accused person, withdraw from the prosecution of such person in order that the case may be referred to a Council of Elders.
- 2) The Sessions judge shall thereupon stay proceedings with respect to such person, and the Deputy Commissioner shall refer the case to a Council of Elders.

16. Case of persons jointly accused of an offence.

The powers conferred by Section 11, as limited by Section 14, may be exercised against and the withdrawal of a prosecution under Section 15 may have reference to one or some only of two or more persons jointly accused of an offence.


17. Powers to set aside orders making or refusing to make references to Council of Elders.

The Deputy Commissioner may, if he thinks fit, at any time reconsider and set aside any order of the Deputy Commissioner under this Regulation-

¹⁷ Added by W.P Ordinance XII of 1962, S, 3.

¹⁸ Now the Pakistan penal Code



- 
- (a) directing reference to a Council of Elders, or
 - (b) refusing to make such a reference.

18. Recommendation of Council of Elders.

1. Where a Council of Elders to which a reference has been made under this Regulation makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under this Regulation, the Deputy Commissioner may, if the recommendation effects a person mentioned in the order of reference and is relevant to the matter or question actually, referred, deal with the recommendation or any part of it as if it were a finding under Section 8 or Section 11:

Provided that no decree or sentence may be passed on any such recommendation as aforesaid against any person who has not had the claim or charge fully explained to him and been given an opportunity of entering upon its defence in regard thereto.

2. Where the Deputy Commissioner deals with a recommendation under Sub-section (1), he may pass any such decree as is authorized by Section 8, or any such sentence as is authorized by Section 12, Sub-section (1), and the decree or sentence shall have the same effect and be enforced in the same manner as if it were a decree or sentence passed under Section 8 or Section 12, Sub-section (1), as the case may be.

19. Record of Deputy Commissioner.

1. Where the Deputy Commissioner passes, under this Chapter a sentence of fine exceeding two hundred rupees, or of imprisonment for a term exceeding three months, or of transportation, he shall make a record of the facts of the case of the offence committed and of his reasons for passing the sentence.
2. The record shall be made by the Deputy Commissioner in English and in his own hand, unless for any sufficient reasons he is prevented from so making it, in which case he shall record the reason of his inability and shall cause the record to be made from his dictation in open Court.

20 Attendance of parties and witnesses before Deputy Commissioner Council of Elders.

Where a reference is made to a Council of Elders under this Chapter, the deputy Commissioner may exercise all or any of the powers conferred by the Code of Civil Procedure and the Code of Criminal procedure, 1898, respectively, as the case may be, for the purpose of compelling the attendance, before-himself or the Council of Elders, of the parties, and witnesses, or any of them, in any case and at any stage of the proceedings.

CHAPTER IV PENALTIES

21. Blockade of hostile or unfriendly tribe.

In the event of any frontier tribe, or of any section or members of such tribe, acting in a hostile or unfriendly manner towards the British Government or towards persons residing within British India, the Deputy Commissioner may with the previous sanction of the Commissioner, by order in writing, direct.¹⁹

- a) the seizure, wherever they may be found, of all or any of the members of such tribe and of all or any property belonging to them or

¹⁹ Code of Civil procedure, 1908 (V of 1908)

any of them”

- b) the detention in safe custody of any person or-property so seized and; the confiscation of any such property.
- c) and may, with the like sanction by public proclamation;
- d) debar all or any member of the tribe from all access into ²⁰British India; and
- e) Prohibit all or any persons within the limits of British India from all inter- course or communication of any kind whatsoever or of any specified kind or kinds with such tribe or any section or members thereof.

22. Fines on Communities accessory to crime.

Where, from the circumstances of any case, there appears to be good reason to believe that the inhabitants of any village, or part, of a village, or any of them, have-

- a) convinced at, or in any abetted, the commission of an offence; or
- b) failed to render all assistance in their power to discover the offenders or to effect their arrest;
- c) convinced at the escape of, or harboured, any offender or person suspected of having taken part in the commission of an offence; or
- d) combined to suppress material evidence of the Commission of an offence; the Deputy Commissioner may, with the previous sanction of the Commissioner, impose a fine on the inhabitants of such village or part of a village, or any of them as a whole.

23. Fines on communities where murder or culpable homicide is committed or attempted.-

Where, within the area occupied by a village community or part of a village community, a person is dangerously or fatally wounded by an unlawful act, or the body is found of a person believed to have been unlawfully killed, the members of the village community or part thereof shall be deemed to have committed an offence under Section 22, unless the headmen of the village-community or part thereof can show that the members thereof-

- a) had not an opportunity of preventing the offence or arresting the offender; or
- b) have used all reasonable means to bring the offender to justice.

24. Recovery of fines.-

Fines imposed under Section 22 4th all in default of payment, be recoverable as if they were areas” of land revenue due by the members of the community or part thereof upon whom the fine is imposed.

25. Forfeiture of remissions of revenue etc. in the case of communities and persons accessory to crime.-

Where a village-community or part of a village-community has become liable to fine under Section 22, it shall further be liable to forfeit, in whole or in part, and for a term or in perpetuity, any remission of land revenue of which it may be in joint enjoyment, and the members of the village-community unity or part thereof, as the case may be, shall in like manner be liable severally to forfeit any assignment or remission of land-revenue or allowance paid out of public funds which they, or any of them, may enjoy.

²⁰ Now to be construed as referring to all province * of Pakistan, see 6.5 .0. 20 of 1947.



26. Forfeiture of public emoluments etc. of persons guilty of serious offences or of conniving at crime.-

Where it is shown to the satisfaction of the Deputy Commissioner, that any person who is in the enjoyment of an assignment or remission of land-revenue or allowance payable out of public funds, has been guilty of a serious offence, or has colluded with or harboured any criminal, or has suppressed material evidence of the commission of any offence, or has failed, on the investigation of any criminal case, to render loyal and proper assistance to the authorities to the best of his ability, the Deputy Commissioner may, in addition to any other penalty to which such person may be liable under any law for the time being in force, direct the forfeiture, in whole or in part and for a term or in perpetuity, of such assignment or remission of land-revenue or allowance, as the case may be.

Explanation.- For the purposes of this section the expression "serious offence" means any offence punishable with transportation or with imprisonment a term which may extend to three years or more..

27. Powers to direct forfeiture.-

Forfeiture under Section 25 or Section 26 may be adjudged by order of the Deputy Commissioner for a term, which may extend to three years and by order of the Commissioner for any longer term or in perpetuity.

28. Powers of Provincial Government saved.-

Nothing in Sections 25, 26, and 27 shall affect the powers of the ²¹[Provincial Government] with respect to the grant, continuance or forfeiture, in whole or in part, of any assignment or re-mission of land-revenue or any allowance paid out of public funds.

29. Preparation to commit certain offences.-

Where a person is found carrying arms in such manner 'or' in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, or is found after sunset and before sunrise within the limits of any military camp cantonment or of any municipality, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and the arms carried by him may be confiscated.

30. Adultery.-

(1) A married woman who, knowingly and by her own consent, has sexual intercourse with any man who is not her husband is guilty of the offence of adultery, and shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

²²(2) Cognizance shall not be taken of an offence under this section unless a complaint has been made by the husband of the woman or in his absence, by a person who had care of. The woman on his behalf at the time when the offence was committed.]

CHAPTER V PREVENTIVE AND OTHER AUTHORITY AND JURISDICTION

31. Power to prohibit erection new villages or towers on frontier.-

1) No new hamlet, village-habitation, tower or walled enclosure shall, without the previous sanction in writing of the Commissioner, who may, either grant or refuse such sanctions as he thinks fit, be erected at any place within five miles of the frontier of – British

²¹ Substituted for "local Government" by the A.O., 1937.

²² Sub-section (2) omitted in its application to the District of Peshawar, Kohat, Hazara, Bannu, Mardan and Dera Ismail Khan, by the West Pakistan Ordinance XII of 1962.

India.

- 2) Where the Commissioner refuses to sanction the erection of any such hamlet, village-habitation, tower or Walled enclosure, as the case may be, he shall record, his reasons for so doing.

32. Power to direct removal of villages.-

Where it is expedient on military grounds, the Central Government] may, by order in writing, I direct the removal of any village situated in close proximity to the frontier of ²³British India to any other site within five miles of the regional may and award to the inhabitants such compensation for any loss which may have been occasioned to them by the removal of their village as in the opinion of the [Central Government], is just.

33. Regulation of Hujras and Chauks.-

- 1) No building of the kind commonly known as “hujra” or “chauk”, and no building intended to be used as a “hujra” or “chauk”, shall be, erected or built, and” no existing building not now used /as a “hujra” or “chauk”, shall at any time be used as such, without. the previous, sanction in writing of, the Deputy Commissioner.
- 2) Whoever contravenes the provisions of Sub-section (1) shall be punishable with imprisonment; for a term, which may extend to six months or with fine, or with both.

34. Demolition of buildings used by robber etc.-

- 1) Where the Deputy Commissioner is satisfied that any building is habitually used as a meeting place by robbers, house-breakers, thieves or bad characters or for the purpose of gambling, may, by order in writing, prohibit the owner or occupier thereof from so using such building, and if the order is not obeyed, may, by a like order, direct that the building be demolished. Such further order shall be without prejudice to any punishment to which the owner or occupier of such building may, under any law for the time being in force, be liable for disobedience of the prohibitory order.
- 2) No person shall be entitled to any compensation in respect of the demolition of any building under Sub-section (1).

35. Naubati chaukidari system.-

- 1) Where, in the opinion of the Deputy Commissioner, the custom of providing for watch and ward by what are commonly known as “Naubati chaukidars” exists in the case: of. any village-community, “and the village-community, or any part thereof fails to provide. For the due performance of such service, or any member of the village-community fails to perform his duty of watch and ward according to the customary rotation in respect of such duties, the Deputy Commissioner may impose a fine, which may/extend to one hundred rupees in any one case, upon the village-community or part or members thereof so failing as aforesaid.
- 2) The provision of Section 24 shall be applicable to the recovery of fines imposed on any village-community or part thereof under this section.
- 3) Where such custom as aforesaid has not existed or has fallen into misuse in any village-community, the Deputy Commissioner may, with the previous sanction of the Commissioner, by order in writing, direct introduction or revival, as the case may be, and thereupon the provisions of Sub-section (1) shall apply in respect of the village-community.



²³ Substituted for “local Government” by the A.O., 1937.

36. Power to require persons to remove in certain cases.-

Where in the opinion of the Deputy Commissioner, any person

- a) is a dangerous fanatic; or
- b) belongs to a frontier tribe and has no ostensible means of subsistence or cannot give a satisfactory account of himself; or
- c) has a blood-feud; or
- d) has occasioned cause of quarrel likely to lead to blood-shed; the Deputy Commissioner may, by order in writing, require him to reside beyond the limits of the territories as may be specified in the order:

Provided that, if the person has a fixed habitation in the place which the Deputy Commissioner requires him to leave, an order under this section shall not be made without the previous sanction of the Commissioner.

37. Penalty for breach of certain orders.-

Whoever contravenes the provisions of Section 31, or disobeys an order under Section 21 or Section 32, or a prohibition under Section 34, or a requisition under Section 36, shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to fine which may extend to one thousand rupees.

38. Powers of arrest.-

In any place in which all or any of the provisions of this regulation are for the time being in force.

- I. any private person may, without an order from a Magistrate without a warrant, arrest or cause to be arrested, and make over or cause to be made over to a police officer or take or cause to be taken to the nearest police station, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned; and
- II. Section 48 of the Code of criminal Procedure, 1898, shall be read as if the following sub-section were added thereto namely:-
 - (4) But this section gives a right to cause the death of a person against whom those portions of the frontier crimes regulation 1901 which are not of a general application, may be enforced.
 - a) if he is committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as to afford reasonable ground for believing that he intends to use arms to effect his purpose; and
 - b) If a hue and cry has been raised against him of his having been concerned in any such offence as is specified in clause (a) or of his committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as are referred to in the said clause".

39. Arrest without warrant in cases under Section 498,²⁴ Indian Penal Code.-

- 1) Where there is reason to believe that a person has committed or attempted or commit an offence punishable under Section 498 of the "Indian Penal Code, an officer in charge of a police station may, without, an order from a Magistrate and without a warrant,

²⁴ Now the Pakistan Penal Code.

arrest that person on the requisition of the husband of the woman, or, in his absence of a person having the care of her on his behalf, or, in the absence of both the husband and any such person as last aforesaid from the village in which the woman resides, on the requisition of a headman of the village.

- 2) A police officer making an arrest under Sub-section (1) shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate having jurisdiction.
- 3) The Magistrate may, in default of bail being furnished to his satisfaction, detain the person arrested for such period, not exceeding fifteen days, as may be necessary to enable the husband, or, in his absence, a person who had care of the woman on his behalf, to make a complaint.
40. Security and surveillance for the prevention of murder or culpable homicide or the dissemination of sedition.-
 - 1) Where the Commissioner or the Deputy Commissioner is of opinion that it is necessary for the purpose of preventing murder, or culpable homicide not amounting to murder, or the dissemination of sedition, to require a person to execute a bond, for good behaviour or for keeping the peace, as the case maybe, he may order the person to execute a bond with or without sureties for his good behaviour or for keeping the peace, as the case may be during such period not exceeding three years, as the Commissioner or the Deputy Commissioner, as the case may be, may fix.
 - 2) The Deputy Commissioner may make an order under Sub-section (1)-(a) on the recommendation of a Council of Elders, or
 - (b) after inquiry as hereinafter provided.

²⁵[(2-A) Pending the completion of an inquiry for the purposes of Sub-section (2), the Deputy Commissioner may, if he considers that immediate measures are necessary for preventing any offence referred to in Sub-section (1) direct the person in respect of whom the enquiry is to be held, to execute a bond, with or. Without sureties, for keeping the peace or maintaining good behaviour for a period not exceeding one month, and detain him in custody till such bond is executed]

- (3) Where a person has been convicted in accordance with the finding of a Council of Elders of an offence mentioned in Section 106 of the Code of Criminal Procedure, 1898, or punishable under Section 302, Section 304, Section 307 or 308 of the ²⁶Indian Penal Code, the Deputy Commissioner at any time of passing sentence, or the Commissioner at the time of revising the sentence, may make an order under Sub-Section (1) with respect to that person.
- (4) Where the Deputy Commissioner makes an order under Sub-section (1) on the recommendation of a Council of Elders, he shall record his reasons for acting on the recommendation.
- (5) Where the Commissioner or the Deputy Commissioner is of opinion that sufficient ground exist for making an order under Sub-section (1) he may, either in lieu of or in addition to such order, by order in writing, direct that the person concerned shall notify his residence and any change of residence in the fanner prescribed by Section 565 of the Code of Criminal Procedure, 1898, during such term, not exceeding three years, as may be specified in the order.

NOTE

Matter not adjudicated upon by the Deputy Commissioner in accordance with Section 8(3)(d): of Frontier Crimes Regulation. Commissioner too failing to exercise authority vested in him under law in not deciding Revision Petition according to law. Orders passed by the Deputy Commissioner and Commissioner set aside through Constitutional Petition.²⁷

²⁵ Sub-section (2-A) of Section 40 ins. By W.P.Ord: XXXVII of 1963, S.2, shall apply to Quetta and Kalat divisions only.

²⁶ Now Pakistan penal Code

²⁷ P.L.J. 1987/Quetta 223.



41. Security from families or factions in case of blood feud.-

Where a blood-feud or other cause of quarrel likely to lead to blood-shed exists or, in the opinion of the Deputy Commissioner, is likely to arise between two families or factions, the Deputy Commissioner may, on the recommendation of a Council of Elders, or, after inquiry as hereinafter provided, order all or any of the members of both families or factions or of either family or faction to execute a bond, with or without sureties, for their good behaviour or for keeping the peace, as the case may be, during such period, not exceeding three years as he may fix.

42. Procedure in inquiry.-

- 1) An inquiry for the purposes of Section 40 Sub-section (2), or Section 41, may be conducted, so far as may be necessary out of Court Provided that a person from whom it is proposed to require a bond under Section 40, or the principal members of a family or faction from which it is proposed to require a bond under Section 41, shall be given an opportunity of showing cause in Court why a bond should not be required and of having his or their witnesses examined there, and of cross-examining any witness not called by himself or themselves who may testify there to the necessity or otherwise for the execution of a bond.
- 2) Sections 112, 113, 115 and 117 of the Code of Criminal Procedure, 1898, shall not apply to an inquiry under this section, but the deputy Commissioner shall record his order with the reasons for making it.

43. Breach of bond.-

- 1) A bond executed under Section 40 shall be liable to be forfeited if the person bound thereby to be of good behaviour or to keep the peace, as the case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment.
- 2) A bond/executed under Section 41 shall be liable to be forfeited if the person bound thereby to be of good behaviour or to keep the peace, as the case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment in respect of any member of the opposite family or faction to which the bond related.
- 3) If, while a bond executed under Section 41 is in force, the life of any member of either family or faction is unlawfully taken or attempted, the Deputy Commissioner may declare the bond of all or any of the, members of the other family or faction and their sureties (if any) to be forfeited, unless it is shown to his satisfaction that the homicide or attempt was not committed by, or in consequence of the abetment of, any member of that family or faction.

44. Imprisonment in default of security.-

- 1) Where a person ordered to give security under Section 40; or Section 41 does not give security on or before the date on which the period for which the security is to be given commences; he shall be committed to prison, or, if he is already in prison, be detained in prison until that period expires, or until within that period he furnishes the required security.
- 2) Imprisonment for failure to give security under this Chapter may be rigorous or simple as the offence requiring the security directs in each case.

45. Length of imprisonment.-

Where a person has suffered imprisonment for three years for failure to give security under Section 40 or Section 41, he shall be released and shall not again be required to give security unless a fresh order is passed in accordance with the provisions of this Chapter or of the Code of Criminal Procedure, 1898.

46. Further Security.-

- 1) Where a person has, under the provisions of this Chapter, given security or been imprisoned for failure to give security, he may be brought before the Deputy Commissioner, if on the expiry of the period for which security was required to be given the Deputy Commissioner so directs.
- 2) Where the Deputy Commissioner thinks it necessary, for the purpose of preventing blood-shed, to require security for further period from any person so brought before him, he shall record proceeding to that effect.
- 3) The proceeding may be founded on the facts on which the original order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section; but such an order, if passed shall have the same effect and be enforced in the same manner as an original order to give security under Section 40 or Section 41.
- 4) Notwithstanding anything in this section, no person shall suffer, for failure to give security under this Chapter continuous imprisonment for more than six years or, without the sanction of the Commissioner for more than three years.

47. Modified applications of Chapters VIII and XLII, Act V of 1898.

- 1) Where, within the territories in which all or any of the provisions of this Regulation are for the time being in force, it is found necessary or expedient to take security under this Regulation from Pathans or Baluchis or any other classes against whom all or any of the provisions of Section 40 to 46 may for the time being be enforced, the provisions of Section VIII and XLII of the Code of Criminal Procedure, 1898, shall be read as if for the words "High Court", "Court of session" "Session Judge" wherever they occur, the word "Commissioner" were substituted, and all references to any such Courts shall be deemed to refer to the Court of the Commissioner.
- 2) Subject to the provisions of Sub-section (2) of Section 42 and Sub-section (1) of this section, the provisions of the said Chapters of the Code of Criminal Procedure, 1898, shall, so far as they are consistent therewith, be applicable to every proceeding under this Chapter relating to the taking of security; but all applications for revision in respect to any such proceeding shall be made to, and be disposed of by, the Commissioner.

CHAPTER VI

48. Appeals barred.-

No appeal shall lie from any decision given; decree or sentence passed, order made, or act done, under any of the provisions of this Regulation.

49. Revision.-

The Commissioner may call for the record of any proceeding under this Regulation and revise any decision, decree, sentence or order given, passed or made therein.

50. Powers in exercise of criminal revisional jurisdiction.-

The Commissioner may, in the exercise of his revisional jurisdiction in any criminal proceeding, exercise the power to direct tender of pardon conferred by Section 338, and any of the powers conferred on an Appellate Court by Sections 195, 423, 426, 427 and 428 of the



Code of Criminal Procedure 1898, and may-also enhance any sentence.

Provided that nothing in this Chapter shall be deemed to authorize the Commissioner to set aside the finding on any question of fact of a Council of Elders, where such finding has been accepted by the Deputy Commissioner, unless he is of opinion that there has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to a miscarriage of justice.

51. Sentences which may not be passed on revision.-

No sentence shall be passed by the Commissioner in the exercise of his revisional jurisdiction, which the Deputy Commissioner could not have passed under this Regulation.

52. Powers in exercise of civil revisional jurisdiction.-

Nothing in this Chapter shall be deemed to authorize the Commissioner to vary or set aside any decision, decree or order given, passed or made in any civil proceeding under the Regulation, unless he is of opinion that there has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to occasion a miscarriage of justice or that the decision, decree or order is contrary to good conscience or public policy.

53. Record of reasons.-

Where, in the exercise of his revisional jurisdiction in any proceeding under this Regulation, the Commissioner varies or sets aside any decision, decree, sentence or order, he shall record his reasons for so doing.

²⁸54. Procedure where the decision, etc. to be revised was given by the officer invested with revisional jurisdiction as Deputy Commissioner.-

- 1) No officer shall revise-any decision, decree, sentence, or order given, passed or made by himself in the capacity of Deputy Commissioner.
- 2) Where any such decision, decree, sentence or order is brought to the notice of an officer invested with revisional jurisdiction under this Regulation with a view to the exercise by him of revisional powers such officer shall report the case to the Provincial Government and it shall be disposed of by the Provincial Government or by an officer other than the reporting officer, appointed by the Provincial Government.]

55. Enforcement of orders made on revision.-

Every order made by the Commissioner in exercise of his revisional jurisdiction shall be forced as if it were an order of the Deputy Commissioner or District

Magistrate, as the case may be, and the Deputy Commissioner or District Magistrate shall do all acts and things necessary to give effect thereto.

CHAPTER VII SUPPLEMENTAL PROVISIONS

56. Recovery of fines, etc., from relatives of person liable.-

²⁸ Substituted for original section by W.P Ord: XII of 1962, S.5.

Where by a decree passed under Section 8 or by a sentence passed under Section 12, any person belonging to a frontier tribe becomes "liable to pay a fine or other sum of money, the Deputy Commissioner, may, I on the recommendation of a Council of Elders and on satisfying himself, that such a course is in accordance with local tribal custom, by order in writing, direct that the amount shall be recovered from the property movable or immovable, of such of the relatives of fellow tribesmen of the person so liable as may be specified in the order.

57. Power of Deputy Commissioner to order disposal of certain fines.

- 1) The Deputy Commissioner may make such order as he thinks fit for the disposal of the proceeds of any fine imposed under Section 12, Section 18, or Section 22, and, subject to any order made by the Commissioner under Chapter VI, the proceeds shall be disposed of accordingly.
- 2) Where, in pursuance of an order made under Sub-section (1), a person has received compensation for an injury out of the proceeds of a fine, so Civil Court shall take cognizance of a claim to compensation based on the same injury.

58. Maintenance of registers.-

Registers shall be kept up, in forms to be approved by the ²⁹[Provincial Government] of all cases dealt with by the Deputy Commissioner and by the Commissioner under this Regulation.

59. Jurisdiction of ordinary Courts in cases under Sections 29, 30 and 37

An offence punishable under Section 29 or Section 30 may be tried by a Court of Session or by the Court of a Magistrate of the first class. An offence punishable under Section 37 may be tried by any Magistrate of the first class.

60. Finality of proceedings under Regulation.-

Except as therein otherwise provided, no decision, decree, sentence or order given, passed or made, or act done, under Chapter III, Chapter IV, Chapter V or Chapter VI, shall be called in question in, or set aside by, any Civil or Criminal Court.

61. Application of provisions of Indian Penal Code respecting fines and imprisonment.-

The provisions of Section 61, and those of Section 63 to 74, of the ³⁰ Indian Penal Code, shall, subject to the provisions of Section 13 of this Regulation, apply to sentences passed under this Regulation.

62. Power, to make rules.-

The ³¹ [Provincial Government] may make ³² rules to carry out the purposes and objects of this Regulation.

NOTE

The Court-fee required under the rules framed by the Agent to the Governor-General and Chief Commissioner of Baluchistan through Order No. 1833-V dated the 5th June, 1936 on any document pertaining to criminal cases, or civil cases involving amount not exceeding

²⁹ Substituted for "local Government" by the A.O 1937.

³⁰ Now Pakistan Penal Code.

³¹ Substituted for "local Government by the A.O 1937.

³² For rules see

i. NWFP Gazette, dated the 11th Dec 1913, page 1134, and dated the 30th April 1926, page 457; and
ii. P.B. Gazette, 1902, PT.1, page 6.35.



Rs. 25,000/- are now no longer to be levied with court-fee from 1st August, 1978. Gazette of Baluchistan, Extraordinary, 15th January, 1979.

³³[62-A. Power to make rules for the issue and safe custody of rifles and ammunition and for the imposition and recovery of fines.

The ³⁴[Central Government] may make rules for the issue and safe custody of rifles and ammunition for border village defence, and for the imposition and recovery of fines for any breach of such rules. Fines imposed for a breach of the rules made under this section may be recovered in the manner laid down in Section 386 of the Code of Criminal Procedure, 1898].

63. No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Regulation.

64. Protection for persons acting under Regulation.-

[Repeal.] Repealed by the Repealing Act, 1938(1 of 1938), Section 2 and Schedule 1.

]THE FIRST SCHEDULE

(See Section 2, clause (b))

PART 1- POWERS AND FUNCTIONS WITH WHICH MAGISTRATES OF THE FIRST CLASS MAY BE INVESTED BY DEPUTY COMMISSIONERS

- a) In the case of an additional District Magistrate- all or any of the powers and functions of a Deputy Commissioner.
- b) In any other case-all or any of the powers, namely:
 - (i) power to make orders of reference to Councils of Elders under Section 8, Sub-section(1);
 - (ii) power to nominate and appoint the members of the Council when an order of reference to a Council has been made under Section 8, Sub-section(1);
 - (iii) power to nominate the members of the Council when an order of reference to a Council has been made under Section 11, Sub-section (1);
 - (iv) power to consider and dispose of objection made by an accused person to members so nominated, and to appoint the member of a Council of Elders under Section 11, Sub-section (2); and
 - (v) power to take security under Section 40.

PART II- POWERS AND FUNCTIONS WITH WHICH MAGISTRATE MAY BE INVESTED BY THE ³⁵[PROVINCIAL GOVERNMENT]

- a) Power to nominate and appoint the members of a Council of Elders where an order of reference to a Council has been made under Section 8, Sub-section.

³³ Inserted by Regulation V of 1928, S.2.

³⁴ Substituted for "local government" by the A.O 1937.

³⁵ Substituted for "local Government" by the A.O 1937.

- b) Power to nominate the members of the Council when an order of reference to a Council has been made under Section 11, Sub-section(1); and power to consider and dispose of objections made by an accused; person to members so nominated, and to appoint the members of a Council of Elders under Section 11, Sub-section (2)

THE SECOND SCHEDULE

[See Section (2) sub-section 1]

1. Any offence punishable under any of the following sections of the³⁶ Indian Penal Code, namely, Sections 121, 121_A, 122, 123, 124-A, F125, 126, 127, 131, 144, 148, 150, 193, 194, 195, 196, 201, 211, 212, 216, 216-A, 295-B³⁷, 302, 304, 307, 308, 324, 325, 326, 328, 354, 363 to 369, 376, 377, 379 to 382, 386, 387, 392 to 399, 400, 401, 402, 411. to 414, 427 to 429, 435, 436, 440, 448 to 460, ³⁸439-B-489-C 494, 495, 497 and 498.
2. Any offence punishable under Section 29 or Section 30 of this Regulation.
3. Abetment of any of the offences aforesaid.
4. Attempt to commit any of the offences aforesaid, which are not themselves expressed to be attempts to commit offence,

³⁹THE THIRD SCHEDULE⁴⁰

[SEE Sub-section (2) of Section]

1. The Divisions of Quetta and Kalat.
2. The District of Lasbela.
3. Nasirabad Sub-Division of Jacobabad District.
4. The Added Areas of the Hazara District specified in the First 'Schedule, to G.G.O No. 1 of 1952.
5. The Added Areas of Mardan District, specified in Schedule 'A' to G.G.O.No VII of 1953.
6. The Added Areas of Hazara District, specified in the First Schedule to G.G.O.No XIII of 1955.

The former excluded Areas of upper Tanawal and Baluch Areas of Dera Ghazi Khan, specified in the Schedule to President Order No.III of 1961.]

³⁶ Now Pakistan Penal code

³⁷ Added by the Amended Regulation 1 of 1982, See Gazette, extra ordinary part 1 5.4. 1982.

³⁸ Added by the Amended Regulation II of 1983, 18th Aug, 1983(Gazette).

³⁹ Added by the West Pakistan Ordinance no.XLIII of 1963, S.3.

⁴⁰ The Regulation is withdrawn from the areas of the third schedule through West Pakistan extra ordinary Gazette dated 14th Nov, 1964, wide notification no T.12/ 240-61-11(M.P). This schedule has to be added to the Regulation by the Amended Ordinance XLIII of 1962, and the third schedule added by the amended (W.P) Ordinance, 1962 XII was substituted by this Ordinance XLIII of 1963.





Appendix III

**List of participants
& speakers of focused group
discussions and consultative
dialogues**



Kurram Agency

November 05, 2006

NAME

ADDRESS

Nasir Hussain	Village Inzari, P.O Alizai, Lower Kurram
Engr. Tor Gul	P.O Box 164(university of (Pesh)
Malik H. Kastir Khan	Village Surpakh, Kurram Agency
Malik Faiz Gul	Sadda Main Bazar, Kurram Agency
Malik Janat Mir	Village Easter Surpakh, Kurram Agency
S.Maignoon .H	Ibrahim Zai, Kurram Agency
Zahid. H	Bisato, Kurram Agency
Noor Gulam	Amalkot, Kurram Agency
Iqrar Hussain	Parachinar, Kurram Agency
Zahid Hussain	Luqman Khel , Kurram Agency
Nasir Hussain	Tehrik-i-Islah Taleem (TIT), Parachinar Kurram Agency
Munawar Hussain	Village Lorzar Shalozan, Kurram Agency
Nasir Ali Bangash	SAP-Pakistan, Peshawar S.A.P Village Shalozan, Kurram Agency
Liyaqat ali	Parachinar ,Kurram Agency
Sabahat	Shalozan, Kurram Agency
Mussarat Hussain	Village Larzer Shalozan, Kurram Agency
Iqbal Hussain	Parachinar, Kurram Agency
Malik Haji syed Shah	Parachinar, Kurram Agency
Zaheer Ahmad khan	Parachinar, Kurram Agency
Muzzafer Khan	Parachinar, Kurram Agency
Engr. Mardan Ali	Parachinar , 0926-310584 & 091-5810916
Wajahat Hussain	Parachinar , Hazara Muhallah
Miqdad Hussain	Parachinar , Hazara Muhallah
S.Siraj Hussain Shah	Village Zeran Shah, Kurram Agency
Mumtaz Hussain	Parachinar, Parachinar, Kurram Agency
M. Khan shaheen	Sadda, Parachinar, Kurram Agency
Malik M. Ali Khan	Sadda, Parachinar, Kurram Agency
Kausar	Parachinar, Kurram Agency
Nozar Ali	Village & P.O Shalozan , Kurram Agency
Imtiaz Hussain	Parachinar, Kurram Agency
Anwar Shah	Sadda Kurram Agency
Haji Iran Badsha	Sadda, Sherzai, Kurram Agency
H.Younas Kahn	Alam Sher, Kurram Agency
Noor Mohammad	Sra Gala, Parachinar Kurram Agency
Mula	Parachinar, Kurram Agency
Munir Hussain	Tehsil : Alizai, Kurram Agency
Maqbool Hussain	Pewar, Kurram Agency
Noor Hussain	Parachinar, Kurram Agency
Samin Ali	Kurram Rural Support Organizatio (KRSO), Singak Road, Parachinar, Kurram Agency
Hasib Hussain	Zeeran Zore, Kurram Agency

S.Lal Hussain Jan	Parachinar, Kurram Agency
Sub.major GUL Hussain	Parachinar, Kurram Agency
Munir hussaini	Pewar Shah, Kurram Agency
Wahab Hussain	Village Zeran Shah, Kurram Agency
S. Jamil Hussain Kazmi	Parachinar, Kurram Agency
Ashfaq Hussain	Village Malikhel, Kurram Agency
Haji Habib	Village Malikhel, Kurram Agency
Haji Ahmad Ali	Village Malikhel, Kurram Agency
Gul Nabi	Ghazgari, Kurram Agency
Malik Zamarak	Ghazgari, Kurram Agency
Salameer	Ghazgari, Kurram Agency
Noor Mohd	Grid Station, Kurram Agency
Abid Hussain	Spinghar Rural Support Organization (SRDO), Parachinar, Kurram Agency
Habib Hussain	Inzari, Kurram Agency
Sabir Bangash	HRCP - Parachinar, Village Shalozan, Kurram Agency
Jamshaid Hussain	Parachinar, Kurram Agency
Mushtaq Hussain	Parachinar, Kurram Agency
Shamsul Wahab	Parachinar, Kurram Agency
Maqbool Hussain	Social Welfare Officer Parachinar, Kurram Agency
Amin Ali	Village Malana, Kurram Agency
Sabir Hussain	Village Hagi Gul Parachinar Kurram Agency
Rajab Ali	Parachinar, Kurram Agency
Pir Syed Riaz Hussain	Agra Parachinar Kurram Agency.
Ali Mohd	Village Shalozan, Kurram Agency
Karblai Nazir Hussain	Village Shalozan, Kurram Agency
Abroqe Hussain	Village Zeran, Yousaf Khel, Kurram Agency
Raza Hussain	Village Mali Kali, Parachinar Kurram Agency
Raza Hussain	Village Malana, Parachinar Kurram Agency
Sharif Hussain	Village Luqman Khel , Parachinar, Kurram Agency
Rashid Hussain	Village Agra , Parachinar, Kurram Agency
Syed Anwar Ali Shah	Village Shalozan , Kurram Agency
Mohammad Alam Jan	Tehrek-i-Islah Taleem (TIT), Village Zeran, Parachinar, Kurram Agency
Hadi	FATA Colony, Parachinar Kurram Agency
Hashim Khan	AEO Office , Parachinar, Kurram Agency
Nawab Ali	KRSO, Shingak Road, Kurram Agency
Malik Akhwanzada M.Akram	Parachinar, Kurram Agency
Malik Nadir	Shirkat House, Kurram Agency
Syed Gadir Hussain	Village Kharolachi, Kurram Agency



Mohmand Agency

November 19, 2006

NAME

Ghulam Hussain Mohib
Shabir Ahmed
Rahimdad
Khalid khan
Rizwanullah
Naveed Ali Afkari
Jehanzeb Khan
Khan Bahader
Syed Rehman
Abdul Jalil
Gul Zamin
Maloom Khan
Jangrez Khan
Dr. Sultan
Shakirullah
Fouzi Khan
Mohib Ali
Liaqet Ali
Jabbar Khan
Ibrahim Shah
Noor Mohammad
Bashir Khan
Abdul Wahab
Mukarrem Khan
Syed Ahmed Safi
Nisar Mohammad
Mukamil Khan
Mohib Ali
Tariq Khan
Engr. Saeedullah
Mohammad shah
Uzair Khan
Asgher Khan
Dr. Farooq Afzal
Namdar Khan
Jamshed
Malik Manzoor
Shams Mohmand
Malik Attaullah
Muzafar
Bahadar Khan

ADDRESS

Ghalanai Press club, Mohmand Agency
Ghalanai Mohmand Agency.
Mian Mandi, Yousaf Khel, Mohmand Agency
Yousaf Khel, Ghalanai Mohmand Agency
Ghalanai, Mohmand Agency.
Ghazibeg, Mohmand Agency
Derba Khel, Mohmand Agency
Prang Ghar, Mohmand Agency
Yousaf Khel, Mohmand Agency
Ekka Ghund, Mohmand Agency
Ghalanai, Mohmand Agency
Kooza Kadai, Atat Kor, Mohmand Agency
Ghalanai, Mohmand Agency
Ghalanai, Mohmand Agency
Ghalani Bigel Kor Ghalanai, Mohmand Agency
Ghalanai, Mohmand Agency
Ghalanai, Mohmand Agency
Ghalanai, Mian Mandi, Mohmand Agency
Wazir Kalay, Mohmand Agency
Ghalanai, Mohmand Agency
Badi Khel, Spin Qamer, Mohmand Agency
Ghalanai, Mohmand Agency
Ghalanai, Mohmand Agency
Atif Enterprises, Mohmand Agency
Adin Khel, Mohmand Agency
Galanai, Mohmand Agency
Ghalanai, Mohmand Agency
Journalist, Mian Mandi, Mohmand Agency
Ghalanai, Mohmand Agency
Major Hujam Kalay, Ekka Ghund, Mohmand Agency
Mian Mandi, Ghalanai, Mohmand Agency
Rana Khel, Mohmand Agency
Yousaf Khel, Ghalanai, Mohmand Agency
President PPPP - Mohmand Agency, Ekka Ghund, Mohmand Agency
Sra Khpa, Ekka Ghund, Mohmand Agency
Sra Khpa, Ekka Ghund, Mohmand Agency
Musa Khel, Mohmand Agency
Ekka Ghund, Mohmand Agency
Mian Mandi, Mohmand Agency
Ekka Ghund, Mohmand Agency
Ghalanai, Mohmand Agency

Aurakzai Agency

November 27, 2006

NAME	ADDRESS
Khalid Khan Aurekzai	Sultan Zai, Aurakzai Agency
Mohammad Zamman Khan	Aurakzai Sultan Zai, Aurakzai Agency
Dawood Khan	Aurakzai Agency
Baz	Aurakzai Agency
Badshah Khan	Kalaya, Aurakzai Agency
Syed Hassan Mehmood	Jabori, Aurakzai Agency
Imran Khan	Jabori, Aurakzai Agency
Gul Rehman	Sultan Zai , Aurakzai Agency
Shamshad Gul	Sultan Zai , Aurakzai Agency
Ajmir Khan	Kalaya, Aurakzai Agency
Tor Gul	Jabori, Aurakzai Agency
Walmin Shah	Kalaya, Aurakzai Agency
Haji Yaqutullah Khan	Kalaya, Aurakzai Agency
Malik Resham Khan	Jabori , Aurakzai Agency
Sobedar Aslam Khan	Kalaya, Aurakzai Agency
Khawas Khan Aurekzai	Jabori, Aurakzai Agency
Niazbeen	Kalaya, Aurakzai Agency
Usman	Kalaya, Aurakzai Agency
Syed Shah	Kalaya, Aurakzai Agency
Col Amanullah Khan	Sultan Zai Aurakzai Agency
Nisar Ahmed	Kalaya, Aurakzai Agency
Abubaker	Kalaya, Aurakzai Agency
Akber Jan	Jabori , Aurakzai Agency
Naeem Khan	Jabori , Aurakzai Agency
Sameen Jan	Jabori , Aurakzai Agency
Inam Khan	Kalaya, Aurakzai Agency
Goher Ali	Kalaya, Aurakzai Agency
Ibrar Ali	Kalaya, Aurakzai Agency



Khyber Agency

December 14, 2006

NAME

ADDRESS

Mekael Shah Afridi	Khyber, Khyber Agency
Haji Zabe ur Rahman	Jamrud, Khyber Agency
Zait Ullah	Ghundi Bara, Khyber Agency 03339365054
Irshad Afridi	Landi Kotal, Khyber Agency 0924-304373
Taj Mahal Afridi	Jamrud, Khyber Agency
Haji Abdul Hanan	Jamrud, Khyber Agency
Iqbal	Landi Kotal, Khyber Agency
Meraj Afridi	Jamrud, Khyber Agency
Shehzad Khan	Jamrud, Khyber Agency
Naseeb Gul	Jamrud, Ghundi, Khyber Agency
Mohammad Rafiq Afridi	Bara, Khyber Agency
Ayaz Ahmed	Bara, Khyber Agency
Dr. Goher Rehman	Jamrud, Khyber Agency
Dr. Mohammad Jalil	Jamrud, Khyber Agency
Mohammad Wajid Khan	Jamrud, Khyber Agency
Shah Hussain	Landi Kotal, Khyber Agency
M. Taif	Jamrud, Khyber Agency
Taj Mehmood	Jamrud, Khyber Agency
Sadaqet Ali	Bara, Khyber Agency
Ferman Ali	Jamrud, Khyber Agency
Shabir Ahmed	Jamrud, Khyber Agency
Sultan Ahmed	Jamrud, Khyber Agency
Zerteef Afridi	Jamrud, Khyber Agency
Arif	Bara, Khyber Agency
Mohammad Farooq	Bara, Khyber Agency
Gul Rehman	Jamrud, Khyber Agency
Abdur rehman	Bara, Khyber Agency
Qazi Fazlullah	Landi Kotal, Khyber Agency
Noor akber Shinwari	Landi Kotal, Khyber Agency
Haji Abdul Jaleel shinwari	Landi Kotal, Khyber Agency
Abdur razaq	Jamrud, Khyber Agency
Abdur rahim	Jamrud, Khyber Agency
Hashim Khan afridi	(Agency councilor) Bara, Khyber Agency
Bazullah	Bara, Khyber Agency
Hameedullah Afridi - Senator	Bara, Khyber Agency
Haji Mohammad Hashim Khan	Jamrud, Khyber Agency
Dr. Khayal Mohammad	Jamrud, Khyber Agency
Zer Nabi Shinwari	Landi Kotal, Khyber Agency
Raees Nooret Khan	Jamrud, Khyber Agency
Manzoor Afrid	Jamrud, Khyber Agency
Abdur Rehman	Bara, Khyber Agency

Rehmet shah	Jamrud, Khyber Agency
Serwer khan	Jamrud, Khyber Agency
Murad	Bara, Khyber Agency
Khyber Afridi	Bara, Khyber Agency
Ghafoor Khan	Jamrud, Khyber Agency
Dr. Nusret Afridi	Jamrud, Khyber Agency
Aftab Ahmed	Jamrud, Khyber Agency
M.ayaz	Bara, Khyber Agency
Qazi Mohammad Rauf	Bara, Khyber Agency
Ibrahim Shinwari	Journalist - Khyber, Khyber Agency
Multan	Bara, Khyber Agency
Shahid	Bara, Khyber Agency
Sawab Khan	Bara, Khyber Agency
Wahab Gul	Bara, Khyber Agency
Siraj	Jamrud, Khyber Agency
Badshah Khan	Jamrud, Khyber Agency
Bakhtiar Khan	Jamrud, Khyber Agency
Aziz Jan Afridi	Bara, Khyber Agency
Khan Habib	Bara, Khyber Agency
Syed Jehangir Shah	Advocate - 6th Floor, Office #30, Bilour Plaza, Peshwar
Saler Khan	Bara, Khyber Agency
Asad Khan Shinwari	Bara, Khyber Agency
Mohammad Arif Shinwari	Landi Kotal, Khyber Agency
Gharet Khan Afridi	Bara, Khyber Agency
Mohammad Ferhad	Landi Kotal, Khyber Agency
Asad Afridi	Jamrud, Khyber Agency
Mohammad Rafique	Jamrud, Khyber Agency
Latif Rfridi	Bara, Khyber Agency
Irshad	Bara, Khyber Agency
Mehboob Shah	Bara, Khyber Agency
Mohammad Naseem	Bara, Khyber Agency



North & South Waziristan Agency

January 11, 2007

NAME	ADDRESS
Engr. Rabnawaz Khan	North Waziristan Agency
Dr. Khizer Mohammad Khan	South Waziristan Agency
Eng. Moh Zaman Khan Dawar	President FATA Grand Alliance, North Waziristan Agency
Engr. Mohammad Ayoub Khan	Rtd. Chief Engineer WAPDA, North Waziristan Agency
Sami Ullah Dawar	Government Official South Waziristan Agency
Ahsan Ullah	Journalist North Waziristan Agency
Syed Hameed Shah	North Waziristan Agency
Mustafa Kamal	Businessman South Waziristan Agency
Iqbal Serwar	North Waziristan Agency
Gul Dar Ali	North Waziristan Agency
Aziz Dawar	North Waziristan Agency
Tariq Mustafa	North Waziristan Agency
Mohammad Ayaz Khan Dawar	(Councilor) North Waziristan Agency
Haji Noor Gul	North Waziristan Agency
Waheed Ullah	North Waziristan Agency
Shakeer Ullah	North Waziristan Agency
Jameel Ahmad	North Waziristan Agency
Abid Ullah	North Waziristan Agency
Noor Rehman	North Waziristan Agency
Naeem Khan	North Waziristan Agency
Sameen Jan	North Waziristan Agency
Eng. Ghani Gul Mahsud	South Waziristan Agency
Abdul Kareem Masud	Advocate South Waziristan Agency
Gul Marjan	PhD. Research Fellow South Waziristan Agency
Mohammad Zubair	Law Professor South Waziristan Agency
Mohammad Gul Mehsood	North Waziristan Agency
Hamid Ullah Dawar	North Waziristan Agency

Bajour Agency

January 18, 2007

NAME	ADDRESS
Haji Sahibzada Roohullah	Nawagai, Bajour Agency
Gul Raza	Khar, Bajour Agency
Mohammad Bazgul	Khar Bajour Agency
Taj Mir Khan	Charmang, Bajour Agency
Mohammad Zada	Bajour Agency
Sultan Yousaf	Charmang, Bajour Agency
Khan Mohammad	Nawagai, Bajour Agency
Fatah Ullah	Khar, Bajour Agency
Mr. Marjan	Nawagai Bajour Agency
Amir Mohammad	Khar Bajour Agency
Abdul Ghani	Khar Bajour Agency
Taj Munir Sahibzada	Khar Bajour Agency
Bayanul Haq	Nawagai Bajour Agency
Mukhtar	Khar Bajour Agency
Zark badshah	Nawagai Bajour Agency
Molana Rehman Saeed	Religious Scholar Charmang, Bajour Agency
Abdusammad	Nawagai Bajour Agency
Hassan Khan	Charmang Bajour Agency
Taj Mohammad	Nawagai, Bajour Agency
Shiekh Jehan Zada	Nawagai, Bajour Agency
Haji Shafi Ullah	Nawagai, Bajour Agency
Qazi Abdul Manan	Nawagai, Bajour Agency
Atta Ullah Khan	Khar, Bajour Agency
Haji Shair Muhammad	Tangay Charming Bajour Agency
Hayat Gul Tarabi	Manogai Charmang Bajour Agency
Bismillah Khan	Ex-MNA, Nawagai Bajour Agency
Aman Ullah Khan	Nawagai, Bajour Agency
Mesal Khan	Khar Bajour Agency
Akter Sher	Charmang Bajour Agency
Zahur ur Rehman	Khar Bajour Agency
Aziz-ur-Rehman	Nawagai, Bajour Agency



Complete List of Participants in “FATA Reforms – Consultative Dialogue” 09 – 10 May, 2007 at Hotel Grand, Peshawar

NAME OF PARTICIPANT	AGENCY
Malik Khan Bahadar	Tribal Chief Bajour Agency
Sahibzada Baha-ud-Din	Member Tribal Union of Journalist, Bajour Agency
Mian Saeed-ur-Rehman	Member Tribal Union of Journalist, Bajour Agency
Mufti Hanif Ullah Jan	Religious Scholar, Bajour Agency
Mohammad Alamgir Khan	Member Civil Society Organization, Bajour Agency
Malik Anwar Khan	Community Elder, Bajour Agency
Sardar Khan	Amir Jumat-i-Islami, Bajour Agency, Bajour Agency
Shaikh Jan Zada	Ex President Awami National Party, Bajour Agency
Qazi Abdul Manan	Chairman Political Alliance Bajour Agency, Bajour Agency
Senator Hafiz Rashid Ahmad	Jamit Ulima-i-Islam (JUI), Mohmand Agency
Muhammad Zahir Shah Safi Advocate	FATA Reforms Committee Member Agency Councilor, Mohmand Agency
Mukaram Khan Aatif	Member Tribal Union of Journalist, Mohmand Agency
Dr. Farooq Afzal	President Pakistan Peoples Party Parliamentarian, Mohmand Agency
Abdul Hassan Khan	Tribal Chief, Mohmand Agency
Shams-ul-Qamar Shams	Member H.R.C.P and Member Tribal Union of Journalist, Mohmand Agency
Ghulam Hussain Mohib	Member Tribal Union of Journalist, Mohmand Agency
Nasar Ullah Afridi	Member Tribal Union of Journalist, Khyber Agency
Ikram Ullah Jan	Tribal Chief and Chairman Zwan Pukhtoon Organization, Khyber Agency
Fahim Afridi	Member Zwan Pukhtoon Organization, Khyber Agency
Ibrahim Shinwari	Member Tribal Union of Journalist, Khyber Agency
Mohammad Rafiq Afridi	Community Elder, Khyber Agency
Iqbal Khyberwal	Member Awami National Party and Member FATA Reforms Committee, Khyber Agency
Bazar Gul Afridi	Tribal Chief Ex President Khyber Union, Khyber Agency
Eng. Ishart Ullah Shinwari	Pakistan Peoples Party Parliamentarians, Khyber Agency
Malik Imran Abass	Tribal Chief, Aurakzai Agency
Syed Hassan Mehmood	Member Tribal Union of Journalist, Aurakzai Agency
Col (Rtd). Aman Ullah	Member FATA Reforms Committee, Aurakzai Agency
Syed Wasi Saeed	Tribal Chief, Aurakzai Agency
Amin Azam Khan	Tribal Chief, Aurakzai Agency
Maulana Nazir Hussain	Religious Scholar, Aurakzai Agency
Eng. Mardan Ali	Chairman Kurram Rural Support Organization Member FATA Reforms Committee, Kurram Agency
Iqbal Hussain Iqbal	Bureau Chief Daily Mashriq and Ex Vice President of Tribal Union of Journalist Kurram Agency
Eng. Hidayat Hussain	Ex Chief Engineer Irrigation and Member FATA Reforms Committee, Kurram Agency
Malik Muzafar Khan	Tribal Chief, Kurram Agency
Eng. Tor Gul Chamkani	Free Lance Journalist, Member FATA Reforms Committee, Kurram Agency
Eng. Muhammad Zaman Khan Dawar	President FATA Reforms Forum, North Waziristan Agency
Ihsan Dawar	Member Tribal Union of Journalist, North Waziristan Agency
Sami Ullah Dawar	Writer/Columnist, North Waziristan Agency

Qismat Khan Wazir
Dr. Faqir Mohamad
Mohammad Ayub Khan
Farid Khan
Muhammad Zubair
Gul Marjan
Sang-i-Marjan Khan

Abdul Karim Mahsud Adocate

Dr. Said Aalam Mahsud
Eng. Ghani Gul Mahsud
Ghulam Rasool
Haji Ghairat Khan

Ayesha Gullalai Wazir

Agency Councilor, North Waziristan Agency
Health Practitioner, North Waziristan Agency
Rtd. Engineer, North Waziristan Agency
Station Manager Radio Meranshah, North Waziristan Agency
Lecture Law Collger and Ph.D. Research Fellow South Waziristan Agency
Ph.D Research Fellow, South Waziristan Agency
Ex Chief Secretary Northern Areas and Member FCR Reforms Committee Ex Political
Agent, South Waziristan Agency
Member FATA Reforms Committee and Member FCR Reforms Committee and Chairman
FATA Lawyers Fourm, South Waziristan Agency
Vice President Pukhtoon Khwa Mili Awami Party South Waziristan Agency
Finance Secretary PPPP and Member FATA Reforms Committee, South Waziristan Agency
Community Elder, FR Peshawar
Tribal Chief Prominent Member of Tahrik-i-Itihad Qabail and Member FATA Reforms
Committee, FR Kohat
Member FATA Reforms Committee and Member Tribal Union of Journalist, FR Bunu



“FATA Reforms-Consultative Dialogue” at Provincial level
05 June,2007 at Peshawar Press Club

Name of Participant	Organization/Address
Khizar Hayat	Legal cell Peshawar University
Saira Qadir	Rehabilitation Centre for Physically Disabled, Peshawar
Barbara Redey	Research Triangle Institute(RTI)
Paula Loyd	Research Triangle Institute(RTI)
Ayesha Bukhari	APWA,68 old Bara Road
Emmanuel Khurshid	British High Commission
Sangi Marjan	South. Waziristan
Hamidullah	South. Waziristan
Ibrahim Shinwari	Correspondent "DAWN"
Shams Momand	DAWN-HRCP
Mukarram Khan Atif	VOA Deewa Radio
Engr Tor Gul chamkani	Member FATA Reforms Committee
Asif Nisar Ghayasi	Daily Mashriq
Wazir Khan Afridi	Darra Adam Khel
Pervez Khan	Compare
John .P.Beavis	IDEALS
Albert	British High Commission
Sailab Mahsud	Tribal union of Journalist
Meraj N.Khan	CE,DLG, Secretary PNF
Javed Ajmel	National Institute of Research & Education (NIRE)
Ashfaq	National Institute of Research & Education (NIRE)
Maqsood	National Institute of Research & Education (NIRE)
Shah Nawaz Khan	Physio Care, HPC
Dr Iftikhar Ali	A.D.C DC FATA Secretariat
M.Ijaz Qasim	SPO Peshawar
Ajaz Durrani	SPO,NWFP
Ghani ur Rahman	Daily Azkaar
Qaisar Shah	Nawai-Waqt
Naheed	SAP
Nusrat Ara	SAP
Nasir Ali Bangash	SAP
Said Afzal	SPARK
Nisar M.Khan	Daily Subeh
Qaiser Afridi	Daily The Post
Ashtiaq	AVT Khyber
Arif Yousafzai	The post
Nauman Ali	AVT Khyber
Azam Hussain	Daily Ilhaq
Ghulam Murtaza	Daily Frontier Post
Salahuddin	The Statesman
S.H Khan Sabir	Daily Akhhbar
Zawar Hussain	The Muslim

Mushtaq Yousafzai
Shehzad Mehmood
Hamid
Saleem afaqi
Ghairat Khan
Mehmood jan Baber
Wahid ur rehman
Baba jani
Adil Afridi
Syed Irfan
Diyar Khan
Abdul hakeem
Sikender Shah
Um
Abdul Ahad
Shahab
Qasar Haleem
Liaqet Shah
Ayesha Gullalai
S. Adnan Ali Shah
Abdul qadoos
Rahmattullah
Nasreen Jabar
M.Arif qureshi
Rooh-ul-amin khan
Shoukat Khattak
Zahir Shah
Zeeshan Liaqet
Gulzar
Iqbal Khattek
Sajjad Gul
Zia-ul-Haq
Noshewan Qalandar
Agha baqir Mousim
Khurshid Ali
Sajjad tarakzai
Naif
Hazrat Khan
Qismat Khan Wazir

The News
Mashriq
The Nation
Columnist
Darra Adam Khel
AVT Khyber
I.N.P
Awamunnas
Daily Al Akhbar
DAWN TV
Khyber TV
Frontier Post
Daily Jinnah
Daily Khabrain
Daily Surkhab
Daily Subeh
18F KKK Rd, Town, HRMDC
Shirket Gah, Abdara road
FATA reforms forum
International Centre for Political Violence & Terrorism
Daily Pakistan Observer
Daily Pakistan
Daily jang
Daily Jehad
Royal Tv
Dawn News TV
Dawn news Tv
Awam-un-Nass
Daily Aaj
Daily Times
Daily Pakistan Observer
ARY
AAj TV
Daily Mussarat
Daily Alakhbar
APP
SPADO
Daily Pakistan Post
Agency Councilor, North Waziristan Agency



“National Consultation on the status of FATA”

July 18, 2007, Marriott Hotel Islamabad

List of Participants.

Name of Participant	Organization/Address
Ahmed Bilal Mehboob	Chief Executive - PILDAT
Advocate Qazi. M. Jamil	Former Attorney General of Paksitan
Afrasayab Khattak	Provincial President Awami National Party
Sang-i-Marjan	Retired Bureaucrat & Tribesman
Nisar Mohammad	Member of F.G.A
Samiullah Dawar	Journalist N. Waziristan
Eng. Malik M. Zaman Dawar	Tribal Elder, President FATA Reforms Forum
Meraj N Khan	Da Laas Gul (DLG)
Eng. Tor Gul Chamkani	Kurram Agency, Member FATA Reforms Committee
Badshah Rehman	NCR Corporation, Islamabad
Mohammad Najeeb	INTERMEDIA
Naseer Ahmad Nawidy	IPS Islamabad
Shahbaz Gul Shinwari	Private Engineer
Shahnaz Begum	CDO/CDU/CAR
Ali Gohar	Just Peace Int
Sarah Pervez	BHC
Asad Ali	Aurat Foundation
Khalid Usman	Khwendo Kor,
Mukarram Khan Atif	VOA,DEEWA Radio,(Journalist)
Ibrahim shinwari	DAWN,VOA,DEEWA, Khyber Agency corresp.
Shams Momand	DAWN-HRCP,AVT Khyber
Dr.Syed Alam Mahsud	Pukhtoon Khwa (MAP)
Mariam	Political Science student-Kinnaid college
Farid Ullah khan	Govt of Pakistan
Tipu Mohabat Khan	Special Home Secretary NWFP
Farhat Ullah Babar	PPPP - Spokesman



Community Appraisal & Motivation Program (CAMP) is a national development organization, with international affiliations, which aims to promote peace, sustainable development and endeavours to fight for human rights and social change. A distinctly community centred approach and strategic placement ensures that CAMP is able to offer strategies for sustainable development of the poor and marginalised. Through its unique policies and operational systems, CAMP has pioneered and produced local strategic models for the continuing development of the unique demographic region of FATA & NWFP.

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