



mainstreaming **FATA**

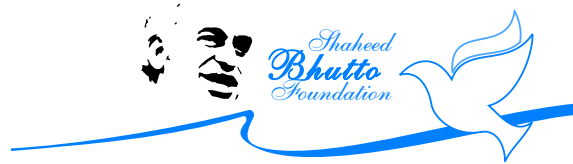


Benazir Democracy Institute
Shaheed Bhutto Foundation

mainstreaming
FATA



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Shaheed Bhutto Foundation

The Shaheed Bhutto Foundation, registered in 2006, is a nonprofit, apolitical, and nongovernmental welfare organization. Shaheed Mohtarma Benazir Bhutto, its Founding Patron, approved its establishment in Dubai on December 3, 2005 with the inclusion of a democracy institute in its charter. The Institute was dedicated to her and named the Benazir Democracy Institute (BDI).

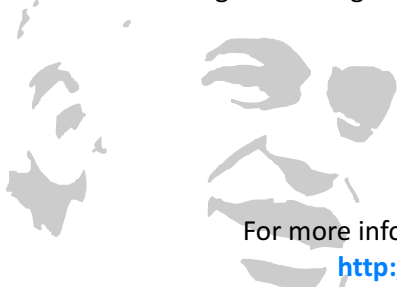
Vision: The Foundation envisages having a prosperous Pakistan where justice prevails and citizens are valued irrespective of their race, religion, political opinion, or gender.

Mission and Objectives: The Foundation strives to provide social service access to enhance the ability of people through personal behavior to attain optimal "human capital and development" outcomes by utilization of quality social services which are made available on the basis of need and equity within the consolidated means of civil society, governments at various tiers, communities, and partners in development.

One of the main objectives of the Foundation is to facilitate the institutionalization of democratic norms at various levels of the society and struggles for strengthening of democracy and democratic institutions in Pakistan. The Foundation routinely organizes seminars, workshops, free medical camps, national dialogues, and advocacy events to sensitize the civil society towards the need to safeguard human rights and other interests of the masses.

Main Areas of Work: The Foundation has eight main components and since its inception, it has endeavored to serve the people of Pakistan in these areas:

1. Benazir Democracy Institute;
2. Peoples Health Program;
3. Peoples Education Program;
4. Peoples Legal Aid Program;
5. Peoples Women Empowerment Program;
6. Peoples Micro credit Program;
7. Peoples FATA Development Program; and
8. Peoples Disaster Management Program.



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The core team of academics from Peshawar University and development experts who are the founding members of the Shaheed Bhutto Foundation deserve special accolades for making our efforts a success.

Deepest gratitude is extended to Senator Farhatullah Babar, Director of SBF's Benazir Democracy Institute and Spokesman for the President of Pakistan, whose support and guidance ensured that Mainstreaming FATA would be a fruitful exercise.

These workshops would, of course, not have been possible without the brave participation of the proud tribesmen, who are the guardians of the western frontiers of Pakistan. For the first time, they were called upon to share their views and they responded in a befitting manner, speaking the hidden truths of FATA. Their input is vital because they are not only patriotic citizens of Pakistan, but also those who have lived through all the political maneuverings of successive regimes. I am very thankful to them for honoring the Benazir Democracy Institute of the Shaheed Bhutto Foundation by participating in these workshops.

We would like to extend our heartiest gratitude to the members of the Board of Governors, Friends of the Shaheed Bhutto Foundation, Council of Advisors, Council of Organizers, Shaheed Bhutto Foundation FATA Chapters, and FATA Reforms Committee for their support and facilitation. Special thanks go to Engr. Toor Gul Chamkani for his untiring efforts in finalizing the list of participants and their contacts.

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At the end, I would especially like to thank wholeheartedly the National Democratic Institute for International Affairs (NDI) for their help and support, which enabled us to carry out this entire activity of great national concern.

Dr. Syed Kamal
President
Shaheed Bhutto Foundation
January 2009



INTRODUCTION

Today, the Federally Administered Tribal Areas (FATA) is not only a war-zone but chaos and disorder characterize its basic institutional structures. The old system has given way. If the situation is not remedied, explosive consequences are likely to continue in this geo-strategic area. An economically sustainable, politically stable, and administratively sound FATA can be the best antidote to the immense risks inherent in the current situation. Even more significant than FATA's geopolitical dimension is the need for empowerment of FATA's populace, and conferment of long-denied fundamental political freedoms and human rights. The current unrest in FATA underscores the urgency for establishing a democratic and constitutional system of governance.

Any future vision for FATA has to be built on two foundations – first, recognition of and trust in the values of the tribal people. A new vision should acknowledge their strength of character, inherent commitment to democracy and to their land. Secondly, there is a whole harvest to be reaped from a system that kindles hope in the tribal populace. If foundations are laid for establishing a regime of peace and stability in FATA, the dangers so glaring today can be transformed into opportunities for accelerated economic, social, and political development and global cooperation. The existing framework cannot support such a vision and must be reformed.

These workshops are the best opportunity to include people from FATA in a consultative process which would result in concrete suggestions and solutions to the problems facing the tribal areas.

-Farhatullah Babar, SBF Director and Spokesman for the President of Pakistan



Lasting peace, security and stability in the region are prerequisites for development and for attracting foreign and private investment. Nonetheless, development work must not wait for peace to have fully returned; peace and prosperity go hand-in-hand and each bolsters the other. For instance, development will bring employment opportunities for FATA residents, furthering stability and peace in the region.

While there is no denying that economic uplift in FATA must top any agenda...the exercise will be fruitless if it is not accompanied by a political, legal and administrative overhaul.

"We cannot rein in wild horses with silken braids," was the justification given for the Frontier Crimes Regulation (FCR) by John William Kaye, head of the Political and Secret Department of the India Office, at the time of its adoption in 1901. Over a century later, the tribal areas are still governed by the same draconian law. This system of governance denies the people of FATA their basic human rights.

Why it continues to be in force today is a question that needs to be addressed. The socially, economically, politically, and legally inferior status of the people of FATA as the backdrop to the dwindling writ of the government, rising extremism, and altered geopolitical realities, necessitates an urgent review of not only the FCR but the entire governance and legal structure, which continues to differentiate and marginalize FATA from the mainstream of Pakistan.

While there is no denying that economic uplift in FATA must top any agenda of making the region at par with the rest of the country, the exercise will be fruitless if it is not accompanied by a political, legal and administrative overhaul. Despite resistance from various groups with vested interests in the status quo, the need to conduct a thorough review of the problems and the available options in consultation with those who currently live in FATA is critical and urgent. Those living in FATA suffer from the impact of outdated laws that deny them the same democratic political system, fundamental human rights, and economic opportunities prevailing in the rest of Pakistan.

The Benazir Democracy Institute, under the auspices of Shaheed Bhutto Foundation, organized three roundtable workshops, representing the northern, central, and southern FATA regions. The two-day workshops, held between August and November 2008, were attended by a broad cross-section of 280 FATA residents and representatives including tribal leaders, parliamentarians, lawyers, academics, youth, journalists, intellectuals, political party leaders, and current and former military and civil officials. The workshops provided an opportunity for a wide range of residents and representatives of the tribal agencies to engage in a consultative process about the need for comprehensive reform in FATA.

The objectives of the workshops were to:

1. Identify the issues that deny the people of FATA the same basic human and political rights as well as economic opportunities enjoyed by and available to the rest of Pakistan;
2. Consult with a broad cross-section of representatives from across the region on necessary reforms needed to define, democratize and develop FATA;
3. Develop a consensus on options for broad-based political and legal reforms to bring FATA into the mainstream of Pakistan; and
4. Recommend and advocate proposed reforms to relevant policy and decision making circles that are responsible for the wellbeing of the citizens of FATA and the integrity of Pakistan.

It is commendable to get this opportunity at a time when we are passing through turbulent times- the Army operation on one hand and the extremist strikes on the other hand.

-Workshop Participant from Bajour Agency



Broad Consensus:

The need for peace and security in FATA was the overriding concern unanimously voiced by all the participants as the sine qua non for development in the region. Blaming both the government and the Taliban for the deteriorating security situation in the past several years, participants stressed that thousands of innocent tribal people have been brutally killed and injured, while hundreds of thousands of others have been ruthlessly displaced. The risk of further attacks continues to threaten daily life in most of the region.

This series of workshops seems to me the first ever serious and sincere effort about FATA, and there could be no two opinions about the recommendations presented here. I am much relieved to see the realization that tribesmen are human beings and are in need of democratic rights like anyone else.

-Abdul Latif Afridi, President Peshawar High Court Bar Association

The participants called for immediate measures by the Federal Government to hasten peace and stability, including the exercise of the writ of the State. All conflict should be resolved through peaceful means, specifically through negotiation and dialogue involving all relevant stakeholders at the local, national, and international levels. The use of force should only be used as a last resort. In particular, a genuine effort needs to be made by the government and security forces to precisely identify hostile elements involved in criminal activities in order to ensure that civilian casualties are avoided. Compensation for human and material losses to the innocent residents of FATA caused by the frontal assaults of extremists and the property damage from the military was considered vital to create goodwill and restore confidence of the tribal people. Unwarranted interference by extraneous agencies as a mode of governance should be replaced by a coherent system with well-established civil institutions.

We have been kept in isolation deliberately by successive regimes. We are thankful to SBF for breaking the isolation of the tribesmen.

-Workshop Participant from North Waziristan Agency

Participants voiced the need to initiate a review of existing policies to ensure that the needs of the people of FATA and the people of Pakistan are given priority. This should be done in combination with a broader process of comprehensive political reform that would empower the local people, restore their human and political rights, institute democratic governance, and create conditions for economic development. In short, the people of FATA desire to join the mainstream of Pakistan while safeguarding their centuries' old traditions, culture, and customs.

Among the most pressing issues for redefining FATA, participants highlighted a wide spectrum of constitutional changes needed vis-à-vis the Frontier Crimes Regulation (FCR) and including both the high courts and the local custom of Jirga in a revamped judicial system. On the democratization of FATA, the participants called for an overhaul of the political administration system currently centered around maliks and political agents by establishing representative governments accountable to the people and extending the Political Parties Act to FATA. In addition, a number of workable and effective recommendations have been given for improving the overall state of development in the region and including local people in the decision making process.

Drones in the air and guns on the ground- how can one speak?

-Workshop Participant from North Waziristan Agency





FATA REFORM RECOMMENDATIONS

The following recommendations represent the shared vision and common aspirations of the people of FATA. They emerged from a set of three workshops in which a total of 280 residents of the tribal areas, from all walks of life, voiced their concerns about the current status of FATA and the desire for reforming the territory's system of governance and development. The FATA residents made a resounding and unanimous call for peace, normalization, and democracy. They want a proper judicial system and a say in development projects in their communities. The Government of Pakistan and other key stakeholders should respect the wishes of the people of FATA and engage and support them in implementing reforms that satisfy their aspirations to be mainstreamed with the rest of Pakistan. All reforms or changes to the present system should be made in consultation with the people of FATA and be based on a consensus of the major stakeholders to ensure local ownership of those reforms.

The workshops were organized around three broad themes – Defining FATA, Democratizing FATA, and Developing FATA – and the recommendations below are grouped accordingly.

FATA Reform Recommendations	
Defining FATA	
Constitution of Pakistan	The jurisdiction of the Constitution of Pakistan should be extended to the Federally Administered Tribal Areas.
Freedoms	Democratization in tribal areas can only be achieved by extending the fundamental freedoms enshrined in the Constitution of Pakistan and international human rights conventions to the people of FATA. These freedoms include, but are not limited to, the freedoms of expression and association, rule of law, access to justice, and the sanctity of life and property.
Frontier Crimes Regulation	The Frontier Crimes Regulation (FCR) should be replaced or heavily amended to bring it in line with the Constitution of Pakistan and international norms of justice, including safeguards for fundamental human rights.
Judicial Reform	<p>In consideration of the local traditions and values (Riwaj), the traditional institution of the Jirga should be revived, respected, and further strengthened through codification and legal protection. Elected Agency Councils should nominate members of a Jirga court and should maintain such lists of eligible members among whom the disputant parties would choose. The disputant parties should have the right to either choose among Riwaj, Shariah, or civil laws as the basis for settlement of their disputes.</p> <p>The jurisdiction of the Peshawar High Court and the Supreme Court of Pakistan should be extended to the tribal areas. FATA Courts should be established to serve as the court of first instance for the settlement of disputes on the basis of civil law and to act as an appellate court for Jirga decisions. A special FATA Bench of the Peshawar High Court would hear appeals from FATA Courts and the Supreme Court would be available to settle questions of law and interpretation of the Constitution.</p>

Law and Order	Khassadars and Levies should be made regular forces, provided with sufficient training and modern equipment and be paid handsomely. These forces should be given responsibility for maintaining law and order in their respective areas.
Devolution	The Local Government Ordinance should be extended to tribal areas, with a two-tier structure of Agency and Tehsil Councils. All development powers shall vest in these elected councils.

Democratizing FATA

Representation in the NWFP Assembly	Until the final decision on the constitutional status of FATA, the people of FATA should be represented in the Provincial Assembly of the North West Frontier Province (NWFP) alongside their existing representation in the National Assembly and Senate.
Elected Governance	An elected FATA Council should be created and endowed with legislative powers and financial authority for the tribal areas. Elections for the Council on the basis of adult franchise should be conducted in a transparent manner. Elected Agency and Tehsil Councils should be introduced to fill the governance vacuum at the local level. These elected bodies would maintain lists of Jirga court members for resolution of disputes in accordance with the local customs of the tribal peoples.
Representation of Women and Minorities	Women from tribal areas should have representation in the Provincial and National Assemblies and on the new elected councils. The same should also be guaranteed for religious minorities.
Political Parties	The Political Parties Act should be extended to the tribal areas providing freedom of association to the people of FATA.
FATA Secretariat	The FATA Secretariat, which is widely deemed unaccountable, must be made answerable to the elected representatives of the people of FATA. The capacity of Secretariat officers should be enhanced to more effectively cope with security issues and carry out development works.
Political Agent	The powers vested in the office of the Political Agent ought to be drastically curtailed and limited to administrative matters, with no role in judicial matters.

Developing FATA

Accountability	Decision making should be decentralized and accountability mechanisms for elected representatives should be introduced to curb widespread corruption in the FATA Secretariat. Community participation and transparency should be key features of the decision-making process concerning development projects in the tribal area.
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<p>Economic Development</p>	<p>A comprehensive development package for the tribal areas should be introduced to generate employment and bring prosperity. The exploitation of its natural resources, such as marble, coal, granite, and other minerals, should be developed into local industries. Investment is required in infrastructure like roads and electricity and the agricultural sector needs greater support. The strategic location of the tribal areas should be utilized as a major trade route to Central Asia and the region's rich cultural heritage should be used to promote tourism.</p>
<p>Education</p>	<p>Education should be promoted at all levels in the tribal areas with special focus on the provision of vocational skills and training. A university, colleges, and technical institutions should be established to meet these needs.</p>
<p>Health</p>	<p>Facilities for primary, secondary and tertiary healthcare should be provided at the agency level.</p>





SUMMARY OF FATA REGIONAL WORKSHOPS

The Shaheed Bhutto Foundation, under the aegis of the Benazir Democracy Institute, conducted three regional workshops in Peshawar, one each with representatives from the northern, central, and southern regions of FATA. The workshops were attended by 280 FATA residents and representatives including tribal leaders, parliamentarians, lawyers, academics, youth, journalists, intellectuals, political party leaders, current and former military and civil officials.

Each of the two-day workshops offered a unique opportunity to tribal stakeholders to directly participate in discussions about the future governance and development of FATA. All workshops were facilitated by a team of experts and included academics, politicians, and technocrats on FATA.

Participants in each workshop were divided into three thematic groups: Defining FATA, Democratizing FATA, and Developing FATA. Facilitators in each group ensured input from all participants in developing recommendations and building consensus.

In addition to the extensive interactive and consultative group work, SBF also arranged opening and closing sessions with panels of senior politicians, policymakers, and high-level government representatives.

Unless we take into consideration the wishes and aspirations of the people of FATA, we cannot move towards finding a lasting solution to its problems. Time has come for us to introduce a comprehensive political package, in consultation with all the main stakeholders, to bring lasting peace in the region.

-Senator Mian Raza Rabbani,
Federal Minister for Inter-Provincial
Coordination



Northern FATA Workshop



The first regional workshop with participants from northern FATA was held on August 18-19, 2008. Ninety-five participants from the three agencies of northern FATA -- Khyber, Bajour and Mohmand -- participated in the workshop.

NWFP Governor Owais Ahmed Ghani was the chief guest at the opening session and Secretary of the Law and Justice Commission of Pakistan Dr. Faqeer Hussain was the keynote speaker. Awami National Party Provincial President Afrasiab Khattak participated in the concluding session.

SBF Director and Spokesman for the President of Pakistan Farhatullah Babar opened the session and briefed the participants about the objectives of the series of workshops. He said that the government led by the Pakistan Peoples Party supports broad-based dialogue on issues related to FATA. He noted that these workshops are the best opportunity to include people from FATA in a consultative process which would result in concrete suggestions and solutions to the problems facing the tribal areas.

The democratic agenda for Pakistan remains incomplete unless democracy is brought to FATA. Peace and stability in Pakistan will remain a dream without stability in FATA.

-Afrasiab Khattak, Awami National Party Provincial President

The three thematic groups were chaired by Farhatullah Babar, Peshawar High Court Bar Association President Abdul Latif Afridi, and Chief Economist of the Planning & Development Department of NWFP Shakil Qadir. A team of experts assisted the chairs in facilitating the group work. In the concluding plenary session participants presented specific recommendations from each of the three thematic groups.

Below are excerpts from remarks made by the speakers and the participants:

Chief Guest: Owais Ahmed Ghani, Governor of NWFP

"Improvement in the situation in FATA will depend on our collective will and wisdom, especially of the people of FATA. The challenge for us today is to comprehend how such change can take place and be channeled in the right direction. Needless to say, a change in the wrong direction will not just be detrimental for this region but for the entire country.

Pakistan, including FATA, has been faced with a troubled situation for the last three decades, and this scenario, one way or the other, is also affecting the rest of the world. In FATA, we are not just simply facing a law and order situation but also an active insurgency.



Presently, we are facing many threats but at the same time we also have an opportunity to recognize and bring improvements in our political, social and economic systems that have been experiencing stagnation over the years. A comprehensive dialogue process like these workshops will be an important vehicle to exploit these opportunities for change.”

Keynote Speaker: Dr. Faqir Hussain, Secretary of the Law and Justice Commission of Pakistan

“The continued neglect and maintenance of the status quo in the region has wrought untold suffering for its inhabitants. This way, problems multiplied and crucial issues were ditched. Poverty, illiteracy and bad governance led to alienation of the tribesmen. Denial of fundamental rights including the right to life, liberty, safety, dignity, property and freedom of thought, movement, expression and association, left the inhabitants at the mercy of the strong and powerful, be it a local chieftain or an obscurantist religious zealot. Ignorance furnished an ideal environment for extremism and militancy to take root and they are now eating into the vitals of the tribal society.

Notwithstanding these difficulties, the people have and continue to demonstrate tremendous vitality and aspire for change and progress. The majority of the people in this turbulent region are not influenced by the phenomenon of extremism. The simmering in FATA has been largely on account of its criminal neglect and emphasis on maintenance of the status quo. There has never been any serious effort at reform to bring about economic, social and political integration of the region into the mainstream.

The organizers of the workshop deserve credit for bringing together people from different sects under one roof despite the fact that our areas are going through fierce sectarian clashes.

- Workshop Participant from Kurram Agency

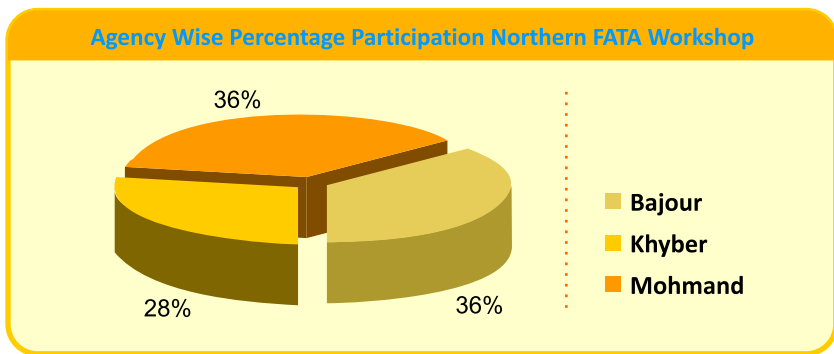
This is a distinctive workshop because we are discussing our problems in a free and relaxed atmosphere.

-Workshop Participant from Khyber Agency

There is need for a coherent and practical framework to address the basic needs of the people, through the provision of infrastructure facilities and economic activity to ensure sustainable livelihoods and reduce poverty. There is also a need for political and legal reform to extend the benefits of law and good governance to the people.”

Afrasiab Khattak, Awami National Party Provincial President

“The democratic agenda for Pakistan remains incomplete unless democracy is brought to FATA. Unless the people of FATA are given their democratic rights we cannot say that Pakistan is a democratic state. So change in FATA is imperative to make Pakistan a fully democratic state. Peace and stability in Pakistan will remain a dream without stability in FATA. In fact, the entire region and even world peace will be disturbed if FATA is not treated properly.”



Central FATA Workshop



The second regional workshop with participants from central FATA was held on August 23-24, 2008. Seventy-three participants from Orakzai and Kurram Agencies, Frontier Region Peshawar, and Frontier Region Kohat participated in the workshop.

Reforms will be introduced very soon by the current government but peace is the most important thing and for this the participation and help of the tribesmen is needed.

-Najmuddin Khan, Federal Minister for States and Frontier Regions

Federal Minister for States and Frontier Regions (SAFRON) Najmuddin Khan was the chief guest at the opening session, former NWFP Governor Lt. General (r) Ali Ahmed Jan Orakzai was the keynote speaker, and SBF Director and former Speaker of the NWFP Assembly Barrister Masood Kosar opened the session. President of the Peshawar High Court Bar Association Abdul Latif Afridi made the concluding remarks.

The three thematic groups were chaired by Former Chief Secretary Mr. Abdullah, Additional Chief Secretary FATA Habibullah Khan, and Barrister Masood Kosar.

Below are excerpts from remarks made by the speakers and the participants:

Chief Guest: Najmuddin Khan, Federal Minister for States and Frontier Regions

“ In my opinion, the most pressing issue for the tribal areas is the judicial system, which is defective and full of flaws. The government has finalized a new judicial system for tribal areas. In this system, disputes will be settled by tribal elders in the presence of political administration.



Reforms will be introduced very soon by the current government but peace is the most important thing and for this the participation and help of the tribesmen is needed.”

Keynote Speaker: Ali Mohammad Jan Orakzai, Former Governor of NWFP

“What distinguishes these workshops from others is the fact that they have participation from the grassroots and involve all the stakeholders including the tribal leaders, opinion makers and intellectuals from FATA. I am very hopeful that the deliberations of the seminar and the recommendations will go a long way in improving the situation and helping the government and the policymakers. I am also very much hopeful that, as a result of this event, we will be able to have a clearer direction to move ahead for bringing peace, stability and development in the tribal regions.”

People are not only recommending reforms in the existing system but want to be mainstreamed with the rest of the nation.

-Workshop Participant from South Waziristan Agency

Abdul Latif Afridi, President of the Peshawar High Court Bar Association

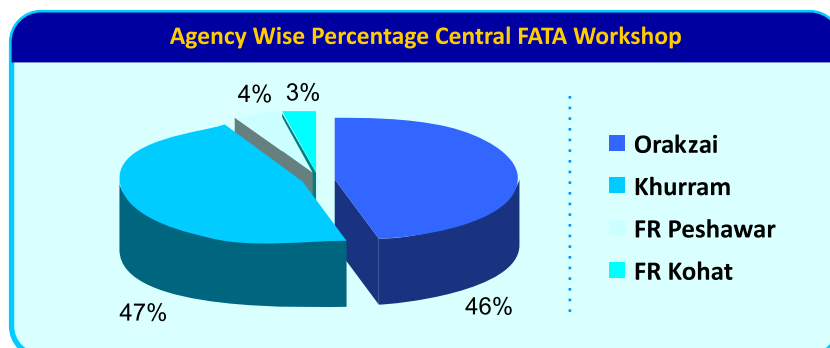
“This series of workshops seems to me the first ever serious and sincere effort about FATA, and there could be no two opinions about the recommendations presented here. I am much relieved to see the realization that tribesmen are human beings and are in need of democratic rights like anyone else.



FATA has been converted into a laboratory where people have been made scapegoats for carrying out the experiments.

-Workshop Participant from Orakzai Agency

A question arises about which religion, holy book or morality justifies or allows the barbarianism presently prevailing in FATA? Even the women and children of different sects are being brutally killed. And our governments that have the military might of 1.5 million never made a sincere attempt to put an end to this ongoing conflict. So our first demand should be the establishment of peace in FATA, where people have a great thirst for stability, peace and tranquility. Without peace there is little chance for education, democracy, development or even morality and religion.”



Southern FATA Workshop



The third and last regional workshop with participants from southern FATA was held on October 19-20, 2008. One hundred and twelve participants from North Waziristan, South Waziristan, and Frontier Regions Lakki, Bannu, Tank, and D.I. Khan participated in the workshop.

Federal Minister for Inter-Provincial Coordination and Leader of the House in Senate Mian Raza Rabbani was the chief guest at the opening session, Senior Deputy Chairman of the Pakhtunkhwa Milli Awami Party Senator Abdul Rahim Mandokhel was the keynote speaker, and SBF Director and Spokesman for the President of Pakistan Farhatullah Babar opened the session. Chief Minister of NWFP Ameer Haider Khan Hoti participated in the concluding session of the workshop.

It is extremely necessary to break the shackles of extremism and terrorism which have found roots in tribal areas and are now afflicting massive damage to settled parts.

-Senator Abdul Rahim Mandokhel, Senior Deputy Chairman of the Pakhtunkhwa Milli Awami Party

The three thematic groups were chaired by Farhatullah Babar, Former Chief Secretary Northern Areas Sangi Marjan Khan, Secretary of Planning and Development of the FATA Secretariat Zafar Hassan, Dr. Faqir Hussain, and Former Secretary Information of NWFP Azmat Hanif Orakzai.

Below are excerpts from remarks made by the speakers and the participants:

Chief Guest: Senator Mian Raza Rabbani, Federal Minister for Inter-Provincial Coordination and Leader of the House in Senate

“The issues of FATA have now become a central concern for the whole region and, in fact, put the solidarity of the federation of Pakistan in jeopardy. Considering the central nature of this issue, as well as the specific culture and traditions of the region, the solution has to be indigenous and cannot be imported from the outside. Unless we take



into consideration the wishes and aspirations of the people of FATA, we cannot move towards finding a lasting solution to its problems. Any solution without such an approach will not only be fragile but will also fail to reflect the wishes and aspirations of the people of FATA.

There is no military solution to this problem. Unless the people of FATA are involved in the peace process, we will not be able to find a lasting solution to the ongoing crises. I believe that the time has come for us to introduce a comprehensive political package, in consultation with all the main stakeholders, to bring lasting peace in the region.

New realities demand a renewed approach. It is the wishes and aspirations of the people of FATA to have a political form of government in the region which is evolved and devised through consultation and consensus. With this, the people of FATA need to have representation at the provincial and federal levels.”

Keynote Speaker: Senator Abdul Rahim Mandokhel, Senior Deputy Chairman of the Pakhtunkhwa Milli Awami Party

“The armed conflicts with international dimensions have pushed the region to militancy, terrorism, smuggling, and a culture of drugs that has also spilled over to parts of Pakhtunkhwa. It is therefore extremely necessary to break these shackles of extremism and terrorism which have found roots in tribal areas of Pakistan and are now afflicting massive damage to settled parts by launching comprehensive reforms which include social, economic, legal and democratic changes.”

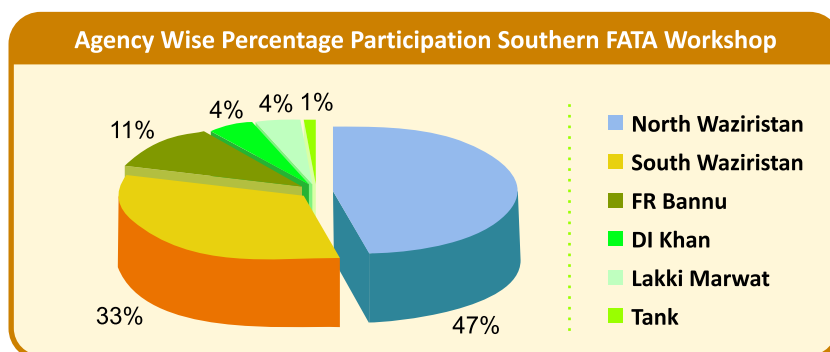
The people of FATA should be taken onboard about administrative and political reforms so that tribesmen could be enabled to decide their own fate. The Pakhtunkhwa Assembly is not fully representative because it lacks the representation of FATA.

-Ameer Haider Khan Hoti,
Chief Minister of NWFP

Ameer Haider Khan Hoti, Chief Minister of NWFP

“The issue of FATA is a matter of life and death for us and a totally wrong impression is given to the world that the whole situation is created by the people of the tribal areas breeding militancy. The government is ready to enter into dialogue with only those elements that are willing to recognize the writ of the state and ready to lay down their arms.

The people of FATA should be taken onboard about administrative and political reforms so that tribesmen could be enabled to decide their own fate. The Pakhtunkhwa Assembly is not fully representative because it lacks the representation of FATA.”





HISTORICAL CONTEXT

The partition of the subcontinent and the subsequent independence of Pakistan marked a turning point in the history of the tribal areas, known since as the Federally Administered Tribal Areas (FATA). The Indian Independence Act of 1947 abrogated all the treaties and agreements that bounded the tribal areas with the British government in Delhi. In de jure terms, this meant that the tribal areas became independent and it was up to the tribesmen to decide to which of the two dominions – Pakistan or India – they wished to accede.

The tribal leaders (maliks) were cognizant of the fact that, due to their geographical location and majority Muslim population (as religious considerations were required by the Indian Independence Act), they had to make new arrangements with Pakistan. To that end, the new Pakistani state, through its political agents, entered into agreements with the tribal leaders under terms and conditions that would guarantee specific rights and privileges to the tribesmen in return for their pledge to and support for the new establishment in Karachi.

With the passage of a series of acts and notifications to provide legal and constitutional cover to these renewed agreements, the tribal areas were formally declared part of Pakistan. The Government of Pakistan, in its agreements, pledged to continue the same arrangements and privileges for tribal leaders as had been agreed upon during British rule. This included maintaining the existing administrative structure and retaining the Frontier Crimes Regulation (FCR), promulgated in 1901.

The regulation was originally designed to protect the interests of the British Empire against the persistent and fierce resistance of the tribesmen to British rule. The FCR is widely considered a set of draconian, discriminatory laws that violate basic principles of human rights. At the time of independence, the FCR also applied to the whole of North West Frontier Province (NWFP) and the province of Balochistan. In 1956 the settled districts of NWFP, and in 1973 the province of Balochistan, were exempted from the FCR and brought into the mainstream of Pakistan; the FCR continues, however, in FATA to this day.

The concentration of power in the hands of a few, unaccountable individuals, is not only against all established principles of democracy, but is also a recipe for corruption and abuse of authority.

The second critical phase in the modern history of FATA started in the late 1970s and continued to the early 1990s with the Soviet invasion of Afghanistan. Pakistan had become a frontline state in the Afghan war of resistance against the Soviets and the tribal areas were the main supply route, the launching base, and the training ground for the Mujahedeen. This period witnessed remarkable changes in FATA due to the influx of millions of Afghan refugees and the consequent culture of guns, drug trafficking, and smuggling. The border back then between Pakistan and Afghanistan had virtually ceased to exist.

A large number of foreign NGOs and UN agencies began operating in the region, resulting in a huge inflow of funds to FATA. The people of the tribal areas largely accepted these new phenomena, which they had opposed in the past, as they considered the Afghan war as integral to the security of Pakistan. As a result, FATA society changed with the birth of a new class based on financial superiority. These individuals, while not respected figures within their tribes,

used their wealth to win election to parliament, creating conflict in tribal areas. Even development projects implemented in FATA during the Afghan war primarily benefited this small group and not the tribal people.

The Soviets were eventually forced to withdraw from Afghanistan, which created a power vacuum and resulted in civil strife between the Soviet-installed regime and the Afghan Mujahedeen. The U.S. and other western powers turned their back and left the fate of the region in the hands of warlords and battle-hardened jihadi commanders. The active backing of Pakistan and the military training and weaponry provided during Soviet-Afghan conflict enabled the Mujahedeen to gain control of more than 90 per cent of Afghanistan and establish an extremely rigid form of government in Kabul based on their interpretation of Shariah law. And so the advent of the Taliban era in the mid 1990s initiated yet another phase for the tribes of Pakistan.

The writ of the government started to collapse and the influence of religious extremism increased as the tribes looked across the border for political aspirations. Ethnically and culturally, tribes on both sides of the border have always had close linkages and a common history. The political influence of Taliban and their common cause fighting the Soviets and the Northern Alliance pulled the tribal areas out of the mainstream of Pakistan.

The latest chapter in the checkered political history of FATA began soon after the attacks of September 11, 2001 and the subsequent decision of the Pakistani government to join the U.S.-led “war against terrorism.” Pakistan once again became the frontline state and FATA the main focus of international attention due to its strategic location vis-à-vis Afghanistan. As a result of the U.S.-led war in Afghanistan, the Taliban regime, from which Pakistan had already distanced itself, was ousted from power for providing sanctuary to Al Qaeda. It is alleged that the leadership of the Taliban and Al Qaeda found refuge in the tribal areas and the conflict spread to Pakistan.

The people of the tribal areas must not be denied their fundamental rights and freedoms or access to impartial and independent justice, guaranteed in the Constitution of Pakistan for every citizen.

The war in Afghanistan, as we know it today, is far from achieving its military objectives, not to mention its lack of results politically. Local Taliban in the tribal areas inspired and supported by their counterparts in Afghanistan started establishing parallel governments, defying the writ of the government in Islamabad and challenging its authority in other parts of Pakistan for having taken sides with the U.S. and NATO.

In order to restore the government's writ and under increasing international pressure to curb the terrorist activity and attacks on coalition forces by cross-border militants, the Pakistan military moved in to the tribal areas. The ongoing armed conflict between the militant groups and the Pakistan army enjoys little popular support because it has resulted in widespread civilian casualties and has severely damaged the already fragile stability of the region.

Today, FATA is represented in the lower and upper houses of parliament, but very strangely, its elected representatives can legislate for the country but cannot legislate on FATA. All shots in FATA are called by the Governor of NWFP, being the agent of the President of Pakistan, and by the political agents in each of the tribal agencies who are vested with wide administrative, judicial and political powers. The concentration of power in the hands of a few, unaccountable individuals, is not only against all established principles of democracy, but is also a recipe for corruption and abuse of authority. This peculiar system of administration whereby the people of FATA are governed by their local chieftains, called maliks, who are in turn beholden to the political agents with control of the purse strings, negates the fundamental principles enshrined in the Constitution of Pakistan.

The tribal areas were only granted universal adult franchise in 1997 but are still deprived of the basic freedom of association, as political parties are prohibited from operating in FATA. The Pakistani courts have no jurisdiction in tribal areas. The FCR, which advocates for collective punishment, includes a number of discriminatory laws. Socio-economically and in terms of the status of education and health, FATA falls well behind other areas of Pakistan. Scarce development funds and poor infrastructure, coupled with instability in neighboring Afghanistan, have always made the tribal areas less prosperous than the rest of Pakistan.

The ongoing militancy has only further worsened the deplorable state of the people of FATA. Difficult terrain, relative isolation, scarce natural resources, and the deteriorating law-and-order situation pose serious challenges. The people of the tribal areas must not be denied their fundamental rights and freedoms or access to impartial and independent justice, guaranteed in the Constitution of Pakistan for every citizen.

Successive governments and political parties have been promising reforms in the tribal areas but to no effect to date. Under the present circumstances, where instability in FATA has spilled into the settled areas of NWFP and has become a matter of concern for not just Pakistan but for the entire world, the need for comprehensive reforms has never been so great. In his inaugural speech on March 29, 2008, Prime Minister Yousaf Raza Gilani pledged to repeal the FCR, which indicates the commitment of the current government to bring FATA into the mainstream. Reform of the FCR, however, is just one of the many essential changes needed to help advance peace, democracy and development in the region.



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