

Mainstreaming FATA through Legal and Political Reforms

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Abstract

This research article pertains to an in depth and profound analysis of both legal and political reforms extended in the Federally Administered Tribal Areas of Pakistan from 1947 to 2013 and the impact of these reforms on the poor level of political administration, human rights phenomenon and socio-economic developments in this deprived and marginalized area of Pakistan. This paper sheds light on the public opinion regarding existing administrative and judicial system in FATA while suggesting the ways to improve it. The paper makes an attempt to understand that both political and legal reforms are vital in bringing this marginalized region into national mainstreaming.

Introduction

Before the Independence of Pakistan, the tribal areas now known as FATA, constituting the north-western border of the Subcontinent, were considered as part of India but not a part of British Raj and was governed under a distinct set of laws, known as *the Frontier Crimes Regulation, 1901 (FCR)*, coined by agreements between the British rulers and the tribes (Rumi, 2012). The laws were customary in nature but had disproportionate punishments to control tribes.

After 1947, when Pakistan became a sovereign state, the special status of FATA was kept intact under Articles 246-247 of the 1973 constitution. No efforts were ever made to alter or

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modify the FCR and the hegemonic role of the inherited circle of Maliks or tribal notables, to enhance the poor level of political mainstreaming, human rights phenomenon, socio-economic developments in this deprived and marginalized area of Pakistan.

Although the government made inadequate modifications in previous decades, however, the constituents and structure of the regulation have remained the same. The Frontier Crimes Regulations was consequently amended in 1928, 1937, 1938, 1947, 1962, 1963, 1995, 1997, 1998, 2000 and 2011. However, all amendments were minor in nature and substances. For instance, the word “commissioner” was substituted for “court of the commissioner” and the definition of the word “Governor” was added in 1997. Likewise, in 1962, punishment by forfeiture of property in the case of conviction under Section “302 or 306” of the Pakistan Penal Code (XLV of 1860) was added to the FCR. Alternatively, the authority to revise decisions made by the commissioner was removed from the regulation in 1997. The regulation’s Second Schedule was amended in 1995 and 1998, adding offences related to the Customs Act of 1969, the Prohibition (Enforcement of *Hadd*) Order of 1979, the Employment of Children Act of 1991 and the Control of Narcotic Substances Act, also of 1997. Thus depriving the aboriginals of FATA from their basic human rights i.e. judicial rights, legislation rights, etc. As a result, all potential constituents of destabilization, violence and militancy kept accruing in the socio-political fabric of FATA (Chaudhry, 2011). Subsequently, the law is considered as both regressive and receding within the present political and legal context.

Historical Background

British forces, after annexing Punjab, tried to conquer the Pakhtun and Baloch regions of the tribal regions bordering Afghanistan. Their efforts, however, to enlarge the reach of the British areas to the northwest faced severe resistance because of the mountainous landscape and lack of modern means of communication and transportation and the nomadic nature of

much of the tribal population, coercing the colonial rulers to opt for an alternative strategy (Shinwari, 2011). As the British forces were otherwise unable to establish an effective government writ in the tribal areas, the colonial rulers worked to adapt existing laws to the tribal context. After careful and profound analysis of tribal customs and local power structures, the British learned that incorporation of tribal chiefs (*khans* or *maliks*) into the legal framework was necessary to guarantee peace and governability in the tribal areas. This was how the concept of “collective responsibility” was introduced to FATA. In practical terms, the newly developed law placed singular responsibility with chiefs, making them liable for illegal acts committed by any member of their particular tribe. To implement this policy, existing civil and criminal laws were annulled in 1871 from the tribal areas and *the Frontier Crimes Regulation* was introduced (Shah, 2012).

FATA Reform From 1947-1970

Since independence, the Constitutions of Pakistan have never been completely extended to the Federally Administered Tribal Areas, rather, it has been governed under the Frontier Crimes Regulation (FCR) which is neither a constitution nor the mechanism defined in the FCR is exhaustive and adequate enough to substitute the constitution of Pakistan.

Articles 103 and 104 of the 1956 constitution of Pakistan provided for the administration of “Excluded Areas” and “Special Areas” referring to the provincially administered tribal areas and Federally Administered Tribal Areas respectively. The Article 104 of the 1956 constitution of Pakistan empowers the President of Pakistan with administrative control and the governor of KPK is the representative of the president and exercises the executive authorities in FATA (Chaudhry, 2011).

The political agent (PA), a senior most bureaucrats appointed by the federal government, who works under the governor of KPK enjoys extensive judicial, executive and revenue authority in the tribal region. Under a preventive clause that provides for “*security*

and surveillance for the prevention of murder or culpable homicide or the dissemination of sedition”, the PA can require an individual believed to pose such a threat to provide a bond or surety “for good behavior or for keeping the peace”. By rejecting the bond, the PA can impose a three-year jail term (ICG, 2009). Similarly the PA has the authority to penalize the entire tribe for a crime in his territory by imposing huge sum of fines, arrest, and seizure of property. He can order the detention of a member or the whole tribe to access the settle areas if he believes that they are acting in a suspicious or unfriendly manner and his decisions cannot be challenged in any court. This is mere violation of international law and is certainly depriving the locals from their basic human rights.

Moreover, until recently, the PA without any check and balance utilized the funds directed by the federal government for the development of the tribal region. Thus the development funds were materialized for the interest of few Maliks and elites rather for the development of the entire community. Similarly, the access to judiciary that is the basic right of every citizen of Pakistan is denied to the locals of FATA, thus depriving them of this basic human right.

According to the Article 247, the higher and lower courts of Pakistan cannot be extended to the tribal regions. In the absence of courts in FATA, the political agent solves the criminal cases and he can also refer the case to the local Jirga headed by the local Maliks and the tribal elites. However, the decision of local Jirga can be appealed to PA who is the supreme authority and his decision cannot be challenged until the introduction of FATA tribunal recently. Under the FCR, the Tribal can be penalized two or more than two times for the same crime which is against the constitution of Pakistan. The prisoners will remain in jail even after the completion of their term if they are unable to give the amount of bail to the political agent. This portrays the misuse of unchecked power by the political administration and how they are violating the human rights (SDP, 2006).

Similarly, legislative authority was not exercised by Provincial Assemblies in Excluded Areas, PATA, and the National Assembly also remains deprived from legislative power over FATA. In fact, until the introduction of the Adult Franchise in 1997, the locals of FATA even remained deprived of their basic human right of voting. This illustrates that from 1947 to 1970 very minor political and legal reforms were introduced for the development of the tribal region resulting in deprivation of the locals of FATA from their basic human rights.

FATA Reform From 1970-1990

Later on after 1970s, further minor amendments were made in FCR. For example the word “centrally” was substituted with “federal” in the Constitution of 1973, however, the system and mechanism of political and governance remained unchanged. However, in the democratic government of PPP in 1970s various developmental policies were introduced for the deprived region of the tribal belts and provided a development structure for the tribal regions. Although the reforms were inadequate enough to alter the existing administrative and legislative system of FATA, however, they brought FATA development administration under the new federal minister of State and Frontier regions (SAFRON) and developed the FATA development corporation. Thus, the federal government was streamlined as an offshoot of these reforms (Safi, 2013). Moreover, for the socio economic development of FATA, the PPP government in 1970s introduced few more reforms like increase in quotas for FATA residents in government organizations and educational institutions. Furthermore, to improve the infrastructure in the region, various roads were constructed and also a number of schools and colleges were established in various agencies to promote education in the tribal belt. Likewise, to improve the standard of living in the region, the tribal people were allowed and facilitated to get passport and travel abroad to earn their livelihood.

However in 1980s during the military government under Zia ul Haq, no major developmental projects were initiated in FATA

for the prosperity of the region. Rather, during this period, Islamic radicalization was injected in the region with the assistance of US and Saudi Arabia to promote the proxy war against the USSR. The lack of developmental policies, the depravity of locals from basic human right and the interest of Pakistan army in utilizing the strategic importance of this region for the proxy war in Afghanistan made FATA a breeding ground for militants (ICG, 2009).

The lack of reforms in the administrative structure of FATA has benefited few elites while marginalizing the majority of FATA population. Although the PPP government in 1970s introduced few minor reforms discussed above, however these reforms were not adequate enough to bring FATA into the national mainstream. Lack of legal and political reforms during this period from 1970s to 1990s have not only kept FATA in isolation, but have also exacerbate militancy and extremism in the region, particularly after the military regime in 1980s during which negligible development projects were introduced for the prosperity of FATA.

FATA Reform From 1990-2013

Voting right is the basic right of every citizen of Pakistan, however, the locals of FATA prior to 1996 reforms were deprived of their voting rights and only Maliks used to exercise the power of voting. However, after the introduction of the Adult Franchise Act in 1996-1997, the local of FATA after more than 18 years were empowered to use their voting right and in 1997 election the independent candidates from FATA were directly elected to the National Assembly. Although the Adult Franchise Act empowered the locals with voting rights and for the first time the political representative were made answerable to the locals at large in the Federally Administered Tribal Areas, however, the dilemma of political parties' participation in FATA remained confined to Maliks only (Sajjad, 2013).

Before the 2011 reform package by the government of Pakistan, the political parties were not allowed any kind of

political activities in the tribal belts of Pakistan and independent candidates were directly elected to the National Assembly. This helped the Maliks to exploit the situation for their best interest depriving FATA from political mainstream. Moreover, the independent parliamentarians from FATA in the National Assembly could not influence any legislation regarding FATA as the legislative authorities rests with the president of Pakistan according to the Article 247 of constitution of Pakistan. However, in 2011, during the PPP government the Political Party Order was introduced in FATA allowing the political parties to pursue their political activities in the areas. The easing of restriction on political campaigns in FATA has not only allowed the political parties to offer their manifestos to the locals in FATA, that can help bring the deprived people of FATA to the political and national mainstreaming (Sajjad, 2013).

Nevertheless, the legislative authority still rests with the president of the Islamic Republic of Pakistan, depriving the parliamentarians from FATA from legislation; however, the parliamentarians can influence the legislation in FATA by using their party platform. Moreover, the parliamentarians from FATA can now stand for the prosperity of FATA and can mobilize the tribal people regarding the socio-economic issues of FATA (Tribune, 2012). The role of political parties in mobilizing the locals of FATA can be gauged from the fact that in 2013, the turnout of female voter was 34% of the total registered voters' bank illustrating a significant increase from the earlier elections (FATAreforms, 2013).

Likewise, in continuation of the reforms package for FATA, the government of Pakistan has decided to introduce the local government system to the federally administered tribal areas as the Article 140 of Pakistan constitution 1973 bolster the implementation of the local government system (FISP, 2012). The introduction of local government system in the tribal areas will help in transfer of power from the tribal elites to the marginalized section of the society, empowering them with authority and no doubt can play a vital role in mobilizing the locals at the political

level. Similarly, they can also play a vital role in effective utilization of the developmental funds and can also pressurize the federal government for the introduction of more reforms for the prosperity of the region.

Establishment of FATA Secretariat

Prior to the reform package introduced in 2002, the decisions regarding developmental policies for FATA were taken by the FATA section of KPK planning and development department and were implemented and executed by the government line departments. However, in 2002, a FATA Secretariat was established and later on, in 2006 it was extended to the civil secretariat of FATA for the implementation of projects under the FATA Civil Secretariat. The governor of KPK plays an intermediary between the federal government and FATA civil secretariat. Another important development regarding FATA was the establishment of Agency Council as a local representative of body of the tribal belt. The members of the Agency Council were selected and nominated by the political agent without any executive functions and authorities and its session expired in 2007 without any policy of its further extension (Safi, 2013).

In 2013, the government of Pakistan introduced another vital reform by extending the authority of federal ombudsman to the federally administered tribal areas. This reform will bring FATA under the jurisdiction of higher judiciary for the first time in the history of Pakistan. Under this mechanism, the locals in the tribal areas can approach the office of federal ombudsman against the FATA Secretariat and its subsidiary organizations working under it. The ombudsman can resolve complaints and assist in providing judicial relief to the tribal people and investigate the maladministration of administrative system in FATA (FATA reforms, 2013).

Reforms in Frontier Crimes Regulations from 1990 to 2013

Since the FCR was enforced during the British Raj in the FATA, it was amended several times in 1928, 1937, 1938, 1947, 1962, 1963, 1995, 1997, 1998 and 2000. However, all the amendments and alterations in FCR were trivial in nature. For instance, the word “commissioner” was substituted for “court of the commissioner” and the definition of the word “Governor” was added in 1997.

Although, in August 2011, numerous and extensive amendments were introduced in the Frontier Crimes Regulation, however, the legal concepts and overarching structure of the regulation remained essentially untouched. The 2011 amendments to the FCR did introduce new concepts, strengthened pre-existing substantive and procedural law, and made some gains in terms of the political and human rights of FATA citizens, yet most critics and a vast majority of FATA population still believe that further amendments are required in the FCR (Sajjad, 2013). In 2011, some of the amendments made in FCR are strengthening the FATA Tribunal with power like that of Supreme Court of Pakistan, and the political agent should consider the suggestion given by the Qaumi Jirga regarding exclusion of women and children below 16 from collective responsibility clause of FCR; and changes to FCR for the arbitrary arrest and detention without the right to bail.

Strengthening FATA Tribunal

In protected areas of FATA, the political agent (PA) is the judicial authority and he decides the criminal or civil cases. After the initial inquiries and investigations, a Jirga is called with the consent of both the parties. The political agent or the representative of the political agent heads the Jirga and gives the final decision. Before the introduction of the FATA Tribunal, the decision of PA was considered as the final decision and the aggrieved party could not challenge the decision made by the political agent. Thus the locals of FATA were deprived of their

judicial right to approach the Supreme Court or any other mechanism of justice to gain justice. However, in 1997, amendments were made in the FCR and FATA Tribunal was introduced. In 2011, reforms introduced during the PPP government that enhanced the independence and visibility of the Tribunal. The reforms made in 1997 and 2011, empowered the locals to challenge the decision made by the political agent and he or she can appeal to the commissioner of the adjacent district. Moreover, the recent reforms have empowered the locals to challenge the commissioner decision in FATA Tribunal. This reform has enabled both the authorities to review their decisions, orders, and sentences made by a political agent or commissioner (Dawn, 2011).

According to Section 48 of the 1997 FCR, the membership of the FATA Tribunal was limited to the secretaries of federal Home and Law Departments. However, the 2011 reforms in the FCR brought the court out of direct administration of the federal government. The reforms specify that the membership of the FATA Tribunal must consist of a chairman who has been a civil servant and should be at least BPS-21 having the experience of tribal administration and two other members out of whom one should be qualified enough to be a high court judge and should be familiar with the local traditions and the other should be civil servant at BPS-20 (Chaudhry, 2011).

The reforms also provided the FATA Tribunal with the power to review its own decisions by request of any individual. Another significant impact of 2011 amendment is that now the citizens in FATA have two mechanisms at their disposal as they can contest the actions and decisions of the political administration and may file an appeal with the commissioner within 30 days and with FATA Tribunal within 90 days.

Extending the Power of Qaumi Jirga in FATA

The notion of Jirga is not novel in the tribal areas where in non-protected areas the local disputes or issues are solved through the “Qaumi Jirga” consisting of respectable elders and representatives of the tribes at agency level. The local or Qaumi Jirga resolve the issue in accordance with the local *Riwaj* (tradition) or Islamic Sharia. Once the Jirga gives its decision, the parties cannot challenge its decision, however, the aggrieved party can challenge the decision before another Jirga of their own choice. But the new Jirga does not see the case as fresh, but rather look into its final decision and to see if the decision is deviating from the Sharia or customary law.

The 2011 reform package also includes reforms regarding the Qaumi Jirga which says that “*the political agent or district coordination officers may take knowledge of any offence or civil dispute in exceptional situations, if so recommended by a Qaumi Jirga of the tribe in the interest of justice and public peace*” (TheTribalTimes.com, 2013).

The 2011 reforms do not, however, yield any of the political agent’s judicial power to the Qaumi Jirga. Rather, it recommends the political agent to take into consideration any of the recommendation or suggestion of the tribes in a particular dispute.

Civil Power Regulations

In 2011, another vital reform was introduced which was warmly welcomed by the locals of FATA. The reform gave exemption to the elderly and children from eligibility to be arrested under the FCR. They were equally satisfied with the new ban on sealing or confiscating residential and commercial properties under the same clause.

In June 2011, the Actions in Aid of Civil Power Regulation was decreed, thereby authorizing security forces to arrest or capture any local of FATA on doubt of his or her

association with a militant faction or doubt of participation in any terrorist-related activities (Shinwari, 2011). This law empowered the military with unlimited authority allowing them to act more forcefully in the region. Already the military is accused of unprecedented collateral damaged and this power given to army can certainly lead to human right abuse in the region. Likewise, this law is against the 1973 constitution of Pakistan. The procedure of investigation under this law is also faulty as it can investigate any person on suspicion or complaint, and can allow people to use it for the purpose of revenge.

FCR and Poverty Alleviation in FATA

The Frontier Crimes Regulation (1901) is the core reason behind the economic depravity and escalating poverty in the federally administered tribal regions. The federally administered tribal areas have been and are still one of the most underdeveloped regions in the country, with 60% of its population living below the poverty line and an unemployment rate ranging between 60-80%. Similarly, only 62% of the FATA population is provided with electricity, on average the road density is 0.17 as compared to the national average of .26. Although agriculture is the main source of income for the tribal people but only 7% of the total area of FATA is cultivable (SDP, 2006).

Likewise, due the absence of state writ in the tribal region, the health conditions are abysmal as compared to the rest of Pakistan. The conditions of healthcare facilities in the western border of Pakistan can be gauged from the available health facilities in the region. According to a study, there are 577 doctors available for a population of 4 million people and 280 Lady Health Visitors (LHV) available for 1.8 million populations of women in FATA (PRDS, 2011), and, the total number of hospital in FATA are reported to be 33 with 302 dispensaries and 56 mother and child healthcare center for around 4 million population of FATA (KPKBS, 2011).

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The influence of Taliban in the region and the military operation against the Taliban further exacerbated the health issues in the tribal regions. Thus coercing millions of the tribal residents to flee the tribal regions and take refuge in the urban areas of KPK either in camps or on their own. According to a research, around 75% of the internally displaced persons (IDP) do not have access to clean drinking water, approximately 40% IDP families do not have access to a formal latrine at home and 23% of the IDPs have to cover approximately 5 km to access healthcare facilities (IVAP, 2013). These statistics reveal that the healthcare situation during the past few years has deteriorated in federally administered tribal areas.

The role of proper education system and high literacy rate is vital for any nation to reach the pinnacle of success and prosperity. But unfortunately, the literacy rate in FATA is the lowest in the country, stemming from economic depravity and escalated poverty in the region. According to a study, the overall literacy rate in FATA is 17% and the ratio of male literacy rate being 18 % and that of female is 3% (PRDS, 2011). Moreover, the increased militancy in the region has further deteriorated the education system in FATA. According to a report, in 2013 around 485 schools have been ravaged, depriving 500,000 children in FATA from getting education. (Pulse, 2013).

Despite substantial humanitarian assistance, the dilemma of lack of education facilities for the IDPs has amplified over the past few years. According to a report, the displaced children from the western border of Pakistan are facing the plight of child labor instead of attending school (Dawn, 2009)

The state's failure to provide these basic services and economic opportunities i.e. infrastructure, hospitals, education, irrigation facilities and electricity has further exacerbated poverty, which in turn has fueled militancy in the tribal region. With no proper courts and absence of economic regulation, the federally administered tribal areas became a hub of black market and a persuasive arms and drugs trade. The war on terror has further

deteriorated the economic depravity of the region as violence is shrinking the economic opportunities in the FATA, making the tribal residents even more vulnerable to recruitment by the militants According to a FATA analyst *“Ideological recruitment is few, most of the reasons (for recruitment) are related to economic and political marginalization”* (ICG, 2009).

Although at present time it is the security situation that is impeding the developmental process in FATA, however, in real terms it is the FCR that has been obstructing the process of development by limiting the freedom of choice. For example, the political administration known as the uncrowned king has been enjoying unchecked financial powers, thus resulting in escalated corruption of the developmental funds meant for the tribal regions.

Although the auditor general is to audit the funds utilized by the political agent but question to be consider here is; will the auditor general in the tribal region be able to put an end to the contracts of developmental works given to Taliban and their sympathizers? This seems unlikely to happen as the Taliban networks are deeply rooted in the region that lead to accumulation of wealth in hands of few people and widening the gap between the poor and rich rather than alleviating poverty.

Likewise, the FATA Development Authority (FDA) was established in 2006 aimed at implementation of the developmental projects primarily to boost the public and private investment in the region; however, up till now it has been unable to achieve its desired objectives. The lack of cooperation between FATA Secretariat and FDA is another big hurdle after security situation to pursue development in the federally administered tribal areas. It is generally argued that there were huge funds allocated for the tribal regions, but due to lack of will and mismanagement these funds were never materialized for the prosperity of the region. To ensure the proper use of the allocated funds to the tribal regions, the audit mechanism introduced in PPP government should be extended to all the public institutions working in the federally administered tribal regions i.e. FDA, FATA Secretariat and FC.

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Likewise, the commercial banks are not allowed to operate in the tribal regions. In the absence of formal banking system, the informal banks exploit the locals by charging 100% interest annually and commercial contracts enforced by the local *Jirgas* under FCR are a disincentive for the investment in the tribal regions (ICG, 2009).

In 2003-2004, a few economic reforms were introduced in FATA for the economic prosperity of tribal region. For instance, the industrial estates were exempted from the jurisdiction of FCR to promote industrial development in the region. Similarly, in 2005, the US government also proposed Reconstruction Opportunity Zone (ROZ) for the economic prosperity of the region as 80% of the economy of FATA has been destroyed after 9/11. But up till now, no concrete measures have been taken for the establishment of ROZ in FATA. Likewise, in 2006 the Pakistani government in collaboration with US and other international organizations initiated a sustainable development program to enhance the socio economic condition of the tribal regions. 2.46 billion \$ dollars were pledged for a nine year sustainable development program with five year of actual development and four year of consolidating development with an aim to improve the literacy rate of FATA from 17% to 30-40% up till 2015. But up till now no concrete steps have been taken by the government of Pakistan to materialize these funds (Orakzi, 2009).

Future Reforms in FATA

The announcement of a presidential ordinance regarding a reforms package including amendments to the Frontier Crimes Regulation on August 12, 2011 was no small event, since the independence of the Islamic Republic of Pakistan. The reform package will not only help in bringing the locals of FATA into the national mainstream, but will also ensure their constitution, legal and basic human rights. Although the 2011 reform package brought some promising and positive changes in the FCR, yet much work need to be done on part of the Pakistani government to

bring FATA into the mainstream and ensure development and prosperity in the region.

The most significant dilemma the locals of FATA are faced with is the access to an independent judiciary as the local executive authority (political agent) in FATA exercises all judicial powers, serving as the final peacemaker of justice in all cases, including those cases where he himself is involved. Therefore, more reforms are required to be introduced pertaining to the extension of jurisdiction of supreme and high court of Pakistan to the tribal region (FATAReforms, 2013).

Likewise, the article 247 of the constitution (1973) is a big hurdle as it impedes the parliamentarians from FATA to participate in the legislation process. Moreover, under this Article the Supreme Court and high court cannot extend their jurisdiction to the federally administered tribal areas. So the political parties act 2002 in this case becomes useless as the tribesmen do not have any decision making power (Dawn, 2012) Therefore, the government of Pakistan should either abolish this law or make adequate amendments to empower the locals with legislative and judicial rights. In case the article 247 is abolished, there will be a twofold impact on the locals of FATA. Firstly, it will empower the members of National Assembly elected from FATA to take part in the legislation for FATA that will no doubt help in bringing prosperity to the region. The legislation authority will allow the parliamentarians from FATA to bring about certain structural and administrative changes in FATA that will certainly help the marginalized population of FATA in enhancing their standard of living. The abolishing of this article will help in minimizing the power of the political agent who has unlimited administrative and judicial authorities in FATA.

Similarly, the extension of supreme judiciary will be possible with the abolishing of relevant clauses of the article 247. This will help the local to challenge the decision of a Jirga made under supervision of the political agent or in Qaumi Jirga in the Supreme and High Court of Pakistan. Although in 2011 reform package

FATA Tribunal was expected to be strengthened and was to be given the status of Supreme Court, but up till now no concrete steps have been taken to bolster the institution. Likewise, the bureaucrats rather than the Judge of Supreme Court or High Court of Pakistan manage the FATA tribunal. So the extension of Supreme Court in the tribal areas will give the citizens of FATA a choice to challenge the decision of the bureaucrats.

But the main hurdles impeding the abolishing of FCR are, firstly, the bureaucrats of FATA who are currently enjoying unlimited administrative and judicial authority, which can be devolved if the article 247 of 1973 constitution of Pakistan is abolished and the locals can challenge their decision in Supreme Court of Pakistan. Moreover, a bureaucrat will be accountable to the public and Supreme Court if locals complaint against him regarding the utilizing of the developmental funds. Secondly, due to the militancy and American presence in Afghanistan, the establishment in Pakistan wants to utilize this region for proxy war in Afghanistan for its own interests. Therefore, they are keeping the mineral rich and strategically important region directly under the command of president of Pakistan through the notorious FCR.

Moreover, the locals of FATA are of the view that the FCR has deprived them of their democratic, economic and basic human rights coercing the residents of FATA to live a life like that of stone age. Therefore the locals of FATA are demanding from the government to give FATA either the status of autonomous province or it should be integrated in the KPK government so they can get rid of the notorious Frontier Crime Regulations. During a speech in the National Assembly the Pukhtunkhwa Milli Awami Party (PkMAP) Chairman, Mr. Aurakzai revealed that if the government of Pakistan will grant FATA the status of autonomous province no doubt within one year the locals of FATA will counter the dilemma of militancy in the region (FATAREforms.org, 2013). Although the autonomous status of FATA as a separate province is believed to bring FATA to national mainstream and can possibly bring prosperity to the region, however, on the other hand due to the militancy, it can become a hub of military and intelligence

agencies and the situation of FATA will further deteriorate rather than improving. Moreover, if autonomous status is given to FATA various issues will arise like where will be its capital, the dilemma of resource distribution as some agencies are rich with natural resources i.e. Waziristan, lack of skilled labor to administer the new province and the issue of skewed population distribution which will further exacerbate the situation in FATA.

However, in case if FATA is integrated with the KPK province, it is more likely to prosper as KPK government is already involved in many political and administrative decisions regarding FATA. Moreover, ethnically, socially and culturally FATA and KPK are similar which can also assist in improving the overall situation in FATA and with the abandoning of FCR, the western border of Pakistan will no doubt be at the pinnacle of prosperity in no time.

Moreover, media is one of the four pillars of the state and access to information according to the 18th constitutional amendment is the basic human right of the citizens of Pakistan. However, the people of FATA are deprived of their basic right to access information as media has very little access to FATA. Therefore, Pakistan electronic media regulatory authority (PEMRA) laws should be extended to FATA. At present one cannot publish a newspaper in the tribal region, thus depriving them the democratic right to access information (Shinwari, 2011).

The tribal areas of Pakistan can indeed be at the pinnacle of prosperity if the government of Pakistan abolishes the FCR or even make sure the implementation of the political and legal reforms introduced in FATA recently. During the Taliban regime, locals in Afghanistan were also deprived of their basic necessities of life and were living a miserable life. For instance, if we consider the healthcare in Afghanistan during the Taliban regime only 9% of the overall population had access to healthcare facilities as the Taliban were spending no money on healthcare from 1996 to 2001. In the rural areas of Afghanistan, the situation was even worse due to poor road and transportation system. But

the present government in Afghanistan has no doubt taken great steps for the development of Afghanistan, particularly the health sector. Besides rehabilitation and infrastructure, they have poured huge sums of money for the improvement of health sector. According to a recent report, 65% of the people in Afghanistan have now access to healthcare facilities; however it was 9% during the Taliban regime. Likewise, the child mortality rate has subsided to 97 from 167 per 1,000 children (Centralasiaonline, 2013).

If we compare the situation of FATA with Afghanistan, we will get to know that both regions are facing the dilemma of militancy and extremism. But the question to ponder here is; if the healthcare facilities in Afghanistan can improve why not in FATA? The answer is simple. In Afghanistan, the government is working to bring the marginalized region of Afghanistan into the national mainstream by initiating developmental projects with the collaboration of international community and is also ensuring the proper implementation and execution of these policies. In case of FATA, the government of Pakistan has kept this region isolated, depriving the locals from even their basic human rights. Very few developmental projects have been introduced in the region. Thus, this ad hoc system has marginalized the locals depriving them from socio economic prosperity while benefiting few tribal elites and Maliks. As a result, majority of the population of FATA is faced with the dilemma of absolute poverty, unemployment, lack of access to health facilities, information and judiciary.

Conclusion

The recent reforms made by the Pakistani government to improve the socio-economic and political condition of FATA were, though, warmly welcomed by the residents of FATA yet these were indeed too little and too late. Therefore there is need for more reforms in order to bring FATA at par with the rest of Pakistan. However, in the whole process of reforms, the government should respect the wishes and desires of all the stakeholders. The reforms should be devised through consultation and general consensus as inputs by the tribesmen is fundamental.

Similarly, reforms should be introduced in an incremental way as any abrupt change has the potential to rapture the whole social structure of the tribal belt that has already suffered a great deal. The way forward is quiet promising provided that we bring about changes to FCR well within the parameters of FATA's people aspirations.

Recommendations

- Amendments should be made in article 247 of 1973 constitution to extend the jurisdiction of the Parliament, Supreme Court and High Courts to FATA.
- As per the Federal Government rules of business, the responsibility for the overall administration of FATA falls under the Federal Ministry of State and Frontier Regions (SAFRON). However, the Ministry only performs limited role of serving as a channel for transfer of funds to the areas otherwise it is virtually irrelevant in policy formation or its implementation in the region. Therefore it is recommended that necessary steps shall be taken to allow the ministry to play its due role in the affairs of the tribal belt.
- The system that is currently in vogue is not based on principal of separation of power. It bestows enormous powers on Political Agent that are often abused. He acts simultaneously as an executive officer, as a magistrate and also as a revenue officer. It is therefore recommended to separate these powers in order to make the system more accountable and responsive.
- The process of decision making for the development activities is too centralized. Therefore, public involvement and local ownership must be introduced. Moreover, the mechanism of audit of the funds utilized by the political agent must also be strengthened.
- NAB ordinance must be extended to FATA and accountability through elected representatives of the areas should be instituted.

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- PEMRA laws should be extended to the tribal region so that access to information is ensured which is the basic democratic right of residents of FATA.
- Various companies' related acts/ordinances and business friendly laws made at national level must be extended to FATA in order to ensure a conducive environment for the business community.
- Establishment of an elected body or FATA council should be setup on the basis of adult franchise and it is further recommended that development powers should be vested in this elected body. Furthermore, they should also oversee the FATA Secretariat affairs. Though in 2004, the government established Agency Councils as local government institution in the region to facilitate the participation of people in governance and development schemes. However, the political agent of each Agency was made the chairman of the Agency Council making the whole practice murky. It is therefore recommended to review the previous arrangement and local bodies' elections should be held in FATA under revised local bodies act.
- Educational reforms should be introduced to improve the education system in FATA and awarding schools as a tool to bribe tribal elders and Maliks must be stopped forthwith.
- Levy Force needs to be reformed and it is high time to organize this force at the FATA level.
- The implementation of 2011 reform package should be ensured with true spirit.

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