**DOI:** 10.31703/girr.2022(V-II).04 **URL:** http://dx.doi.org/10.31703/girr.2022(V-II).04

**p-ISSN:** 2788-5054 **e-ISSN:** 2788-5062 **Vol.** V, **No.** II (Winter 2022) **Pages:** 28 – 38

**Citation:** Kakar, F. (2022). Taliban, Indirect Rule and the FCR Factor. *Global International Relations Review, V*(II), 28-38. https://doi.org/10.31703/girr.2022(V-II).04

Farman Kakar *

# Taliban, Indirect Rule and the FCR Factor

**Abstract:** *This study provides for the indirect governance structure which existed in the tribal areas of the then Indian northwest and its repercussions in the form of the rise of Taliban militancy in these tribal areas after 2001 with a major focus on South and North Waziristan. In order to carry out this research, both secondary and primary sources and survey methods were used. Secondary sources include but are not confined to research articles, books, newspaper articles and magazine reports. Primary sources that were used include personal interviews, the constitution of Pakistan and the Frontier Crimes Regulation (FCR).*

**Key Words:** Taliban, FCR Factor, Waziristan, India, Pakistan, Constitution, Militancy

## Introduction

Taliban militancy has afflicted Pakistan ever since the latter's joining of the US-led War on Terror back in 2001. These were the tribal districts of South and North Waziristan, where militant violence first cropped up and then spread to other tribal districts and the wider country. Following is the data for suicide attacks that ripped through Pakistan in the following years 1 (2002), 2 (2003), 7(2004), 4 (2005), and 7(2006). (South Asia Terrorism Portal, n.d.). Following is the suicide attack data for subsequent years: 54 (2007), (59) 2008, (76), 2009 (49), 2010 (41), 2011 (39), 2012 (43), 2013 and (25) 2014 suicide attacks in Pakistan (South Asia Terrorism Portal, n.d.). In all, from 2002—2014, a total of 407 suicide attacks killed 6,272 people, with another 12,909 injured (South Asia Terrorism Portal, n.d.).

From 2001 to 2014, the inventory of those killed in terrorist violence and military operations is as follows. A total of 56,189 were killed. Of these, 20,054 were civilians, 6,047 security personnel, and 30,091 were Taliban militants (South Asia Terrorism Portal, n.d.) In 2009, some 89568 square kilometres—out of total Pakistani territory of 778,720 square kilometres—were under 'Taliban control', 'contested control' and 'Taliban influenced.' (Saleem, 2009). In order to reverse the territorial gains of the Taliban, by January 2010, Islamabad had deployed some 140,000 soldiers from military and paramilitary armed forces. (Hussain, 2010). By the end of 2007, Taliban militancy, which mainly started in South and North Waziristan, spread to other parts of the country, including Islamabad. Thus, Taliban militancy posed a fatal security threat to Pakistan from within.

This paper has three objectives. First, it gives a brief historical account of the indirect rule that three different empires established in the then Indian northwest tribal areas. Secondly, the paper gives a description of the rise of the Taliban in the tribal districts, especially South and North Waziristan and the formation of Tehrik Taliban Pakistan (TTP) and the latter's objectives. Third, it brings into the limelight the role of the Frontier Crimes Regulation (FCR) in the rise of the Taliban, especially in the South and North Waziristan tribal districts.

* Lecturer, Department of Humanities, Education and Psychology, Air University, Islamabad, Pakistan.
Email: mfarman@mail.au.edu.pk *(Corresponding Author)*

How were the tribal areas in the then Indian northwest ruled before the creation of Pakistan? How did the Taliban emerge in tribal districts of South and North Waziristan and the wider country under the banner of TTP? How does FCR help explain the rise of the Taliban in the tribal districts, especially in North and South Waziristan? Ahmed Rashid wrote his classic book (Rashid, 2000), but its major limitation is its exclusive focus on the Afghan Taliban. Additionally, it precedes the emergence of the Taliban in Pakistan post-November 2001, when the Taliban and their local accomplices relocated to the tribal districts of Khyber Pakhtunkhwa. On Taliban, both Pakistani and their Afghan counterpart, Rashid argued what remains conventional wisdom. Taliban were the "strategic assets" of the Pakistani military. Additionally, he traced the origin of the Taliban to the Soviet's pullout from Afghanistan back in the early 1990s. (Rashid, 2007). Rashid published his third book. Containing hardly something insightful, the author believed that the Taliban wanted an Islamic Shariah to be implemented in Pakistan. (Rashid, 2012). Maleeha Lodhi concurs with Rashid. She also attributed the Taliban's "Islamic militancy" to Zia's era and the Afghan jihad. (Lodhi, 2011).

Amir Mir has almost exclusively focused on the Punjabi Taliban militant outfits. Like most writers on Taliban, Mir falls prey to what remains a stock reply. He believed that Taliban violence was the blowback effect of the 'strategic depth' pursued by the Pakistani military. (Mir, 2009, p. 15). Zahid Hussain saw the rise of Taliban militancy against the backdrop of the idea of Pakistan, which liberals envisioned to be a secular state, whereas Islamists envisaged it to be an Islamist Shariah. The fight is as old as the creation of the country in 1947. (Hussain, 2010). The problem with Hussain's argument is that it hardly discusses the dynamics that were internal to the emergence of the Taliban in the tribal areas.

Anatol Lieven calls the Taliban's militancy "Islamist rebellion" (Lieven, 2011, p. 405) and attributed it to the US-led invasion of Afghanistan post 9/11 and the influence of the Afghan Taliban on their Pakistani counterpart (Lieven, 2011). Although the book has some verisimilitude, it missed shedding light on local dynamics that played a pivotal role in the rise of Taliban in the tribal districts of South and North Waziristan. Thus, despite the availability of literature on the Taliban, there is hardly any insightful work which may explain the emergence of the Taliban in the light of the internal dynamics of the tribal belt and its historical background. This paper is an endeavour to fill these lacunas.

## Indirect Rule in the Indian Northwest Tribal Areas

The tribal districts of Khyber Pakhtunkhwa, previously known as Federally Administered Tribal Areas (FATA), comprise tribal agencies of Bajaur, Orakzai, Mohmand, Khyber, Kurram, North and South Waziristan agencies and tribal areas adjoining Peshawar, Kohat, Bannu, Lakki Marwat, Dera Ismail Khan and Tank districts (Pakistan Cons. art. 246, para. c) Following paragraphs provide a snapshot of the three different empires that held sway in what was then the northwest hinterland of India. These were the Durrani Empire, the Sikh Kingdom and the British Empire. In terms of administration, all three empires governed the tribal hinterland indirectly.

The annals of history hardly depict the tribal areas in the Indian northwest to be safe to traverse through. In the late 1730s, Nadir Shah of Persia had great troubles while passing through Khaibar Pass back to Persia (Caroe, 1958). His army was hunted by Afridi and other tribesmen (Caroe, 1958). Had it not for the reason of Nadir Shah's Abdali and Khilji bodyguards, his army would have been annihilated (Caroe, 1958). Still, he had to pay huge sums to secure his safe retreat to Persia (Caroe, 1958). Similarly, the forces of Ahmed Shah Abdali faced similar difficulties in and around Peshawar (Caroe, 1958) during the course of his eight expeditions across India (Caroe, 1958). Nevertheless, a couple of factors helped Abdali in his dealing with the Pashtun tribesmen. He, unlike Nadir Shah, was a fellow Afghan who had founded a new kingdom. In addition, Caroe (1958) enlisted tribesmen in his military services, married the daughters of prominent tribal maliks, and distributed lands among leaders from Yousafzai, Orakzai, Khalil

and Mohmand and paid tolls to the Shinwaris and Afridis of Khyber (Caroe, 1958). Although he was the most powerful of Afghan kings, Abdali did not seek to extend regular administration to the tribal landmass, including the valley of Swat (Caroe, 1958).

By 1793 when Taimur Shah Durrani—Abdali's son and successor—died, Lahore and Rawalpindi were under Sikh control, which also extended to Margalla Pass and Hassan Abdal (Caroe, 1958). First in 1797 and again in 1798, Shah Zaman controlled Lahore from Sikh rule (Caroe, 1958), and in 1799 the king appointed the young Ranjit Singh as his Viceroy in Lahore (Caroe, 1958). As a consequence of palatial fratricidal conflict, power changed hands four times during the course of the first quarter of the 19th century. Instability at the court of Kabul occasioned the rise of Sikh rule and the Sikh occupation of the areas and territories between the Indus and Sulaiman Range that were hitherto under Durrani rule (Caroe, 1958).

On July 13, 1813, Sikhs, under Mukham Chand, occupied Attock from the Durrani control (Caroe, 1958). By the end of 1818, Ranjit Singh was in control of Peshawar (Caroe, 1958). In 1819, Ranjit Singh captured Kashmir and thus effectively ended 67 years of Durrani rule there (Caroe, 1958). Ahmed Shah Abdali wrested Kashmir from the Mughals back in 1752 (Caroe, 1958). The Mughals had ruled Kashmir for nearly 200 years (Caroe, 1958). Overall, Kashmir had experienced Muslim rule ever since 1341 until Ranjit Sigh, accompanied by Gulan Singh, wrested control of Kashmir in 1819 (Caroe, 1958). Afghan prominence in Kashmir lasted for nearly five centuries (Caroe, 1958). By 1821, Ranjit Singh was in control of Dera Ismail Khan and Dera Ghazi Khan as well (Caroe, 1958). Devastating Peshawar, Ranjit Singh held the sway there in 1823, followed by his 'nominal sway' in Kohat, Bannu and Derajat (Caroe, 1958). Ranjit had obtained the surrender and submission of the Durrani governors in these territories (Caroe, 1958). In May 1834, under Hari Singh, Peshawar was formally annexed into Sikh dominion, with Hari Singh becoming its first Sikh governor (Caroe, 1958). The Sikh rule extended as far as Peshawar, Kohat, Bannu and Derajat (Caroe, 1958). The Sikhs never even tried to occupy Yaghistan or establish any direct relations with its inhabitants (Caroe, 1958). They never entered Swat, Buner, Bajaur, the Khurram Valley and Waziristan (Caroe, 1958). Any relations, whenever the need arose, were conducted through the middlemen of the tribes (Caroe, 1958).

The British occupied Peshawar on March 21 1849, and proclaimed the end of Sikh rule there ten days later (Caroe, 1958). Like the Sikhs and Afghans before the former, the British did not proceed to occupy the tribal areas then known as Yaghistan or the land of rebels (Caroe, 1958). A Deputy Commissioner of every district, which shared a border with the neighbouring tribal territory, was entrusted with dealing with tribesmen (Caroe, 1958). Beyond the settled districts, the British dealt with tribesmen through their intermediaries such as Khan and Maliks (Caroe, 1958). DCs would interact with the tribesmen through their intermediaries (Caroe, 1958), a practice which the British inherited from Afghan and Sikh rulers before them.

From the British occupation of Peshawar in 1849 till 1878—when the Second Anglo-Afghan war broke out—are the years of the Closed Border Policy (Caroe, 1958). The British launched numerous military operations and expeditions in the tribal territory of Yaghistan, but no permanent occupation was carried out (Caroe, 1958). From 1878 onwards till the formation of North West Frontier Province (NWFP) in 1901 as a separate province which was carved out of Punjab, these years constituted forward policy on the frontier (Caroe, 1958). Nevertheless, in Balochistan, the forward policy was tested in 1876 (Caroe, 1958). Under the terms of the agreement, the Khan of Kalat leased on a 'perpetual quit-rent' Bolan Pass, Quetta and its environs to the British, which would administer the leased areas in accordance with local customs and usages while recognising the Khan's nominal sovereignty over them (Caroe, 1958). In the wake of the agreement, a British Indian force was stationed at Quetta (Caroe, 1958). The British forward policy to establish a foothold in Balochistan was a counterbalancing act to, and occasioned by, the expansion of Czarist Russia into Bukhara and Samarkand (Caroe, 1958). British feared that Kabul and

Kandhar would be the next cities to fall, only to pave the way for Czarist expansion into the Indian sub-continent (Caroe, 1958). Afghan ruler, Sher Ali, resented the British occupation of Bolan Pass and Quetta, which had been under the nominal sovereignty of Afghans ever since Ahmed Shah Abdali's time. Dismayed at the British, Sher Ali accepted the entry of the Russian mission into Kabul while refusing it to the British mission, which was stopped at Khyber, then under the Afghan occupation (Caroe, 1958). The refusal of the British mission while entertaining one from the Czars became the recipe for the outbreak of the Second Anglo-Afghan War. The British proceeded on two sides, Khurram and Khyber, and invaded Afghanistan. Sher Ali abdicated the throne, and his son Yaqub Khan through the Treaty of Gandamak 1879, ceded Khurram, Khyber, Sibi, Pishin and Loralai to the British with the effect of pushing the British Indian frontier to Chaman (Caroe, 1958).

## FCR in the Making

For twenty years since 1849, the British signed an agreement with tribes that were bound to maintain the opening of roads, refraining from harbouring an outlaw and preventing any depredation into settled areas (Caroe, 1958). In return, these tribes were awarded allowances that included, among others, service in the army, irregular corps and the border police (Caroe, 1958). Breach of the agreements on the part of tribesmen would call for punitive actions, withdrawal of the allowances, blockade and seizures of persons, animals or belongings of an individual or a tribe (Caroe, 1958).

The colonial British differentiated between the residents of Peshawar Valley and the tribesmen along the Indo-Afghan frontier. Whereas the former was seen as a peaceful agriculturalists, the latter was tagged as wild tribesmen (Nichols, 2013). The high rates of killings, violence and theft in Peshawar valley prompted the British to take action. In order to suppress crimes, the colonial administration, in 1871, first devised and enforced the Punjab Frontier Regulation, which was, in 1901, revised and implemented as FCR in the then newly formed NWFP (Nichols, 2013). The NWFP was created on November 9, 1901, by severing five districts from Punjab (Caroe, 1958). These were Peshawar, Kohat, Bannu, Dera Ismael Khan and Hazara (Caroe, 1958). The charge of the province was placed in the hands of a Chief Commissioner who was directly subordinate to the central government (Caroe, 1958). A protrusion of the Hazara Settlement Rules 1870 (Hopkins, 2013), the FCR was initially promulgated in 1872 (Hopkins, 2013) in the non-regulation areas that later in 1878 became tribal agencies (Baha, 1978). The British formed five tribal agencies that, from north to south, were Malakand, Khyber, Khurram, North and South Waziristan (Caroe, 1958). The regulation was revised in 1887 and 1901 while reinforcing bureaucratic authoritarianism (Hopkins, 2013).

For a plethora of reasons, the British did not extend formal administration to the tribal areas. For one, the region hardly offered the prospects of any productivity and revenue to sufficiently run a regular administration. According to Hopkins, the indirect rule that the FCR embodied was indicative of the British colonial austerity. It was bad economics for the British to lay out an elaborate, complex and expensive system of governance with its attendant appurtenances in a region which did not offer in return (Hopkins, 2013). The tribesmen "did not practice the art of not being governed, but rather were governed indirectly and on the cheap" (Hopkins, 2013, p.74). Additionally, the British perceived themselves to be 'civilised' and those who the British ruled over as 'savage' (Hopkins, 2013). While no subjects of the colonial conquest were civilised, those who inhabited the frontier were more savage than those who resided on the plain areas (Hopkins, 2013). These ignorant, barbarian and violent hordes of people were not suited to the complex and regular administration, which the colonial masters saw as a signpost of civilisation. A threat to the civilised order, these tribesmen were to be oppressed, subjugated and left to their own retrogressive devices anchored in the state-sanctioned customs and traditions overseen by the imperial authority (Hopkins, 2013). In addition, the FCR 1872 was justified in the name of its conformity with the Pashtun customs and hence its efficiency (Caroe, 1958). It, working through tribal chiefs and maliks,

enshrined settlement of issues that were arbitrated by jirga. The Indian Penal Code, on the other hand, was seen not worth experiencing in the tribal belt as it was out of accord with Pashtun culture, traditions and norms (Caroe, 1958).

A militia named Punjab Irregular Force was raised to deal with any law and order challenge thrust upon by the fully armed, marauding tribesmen who bordered the administered territory (Caroe, 1958). Secondly, the force was also aimed at disarming the settled districts (Caroe, 1958). On the other hand, Frontier Constabulary, originally known as Border Police, worked as the antenna of the PIF. FC protected and defended the border with Yaghistan (Caroe, 1958). FC, while reinforced by the military, orchestrated eleven military expeditions in Yaghistan between 1857—1877 and the other twelve in the five years, 1877—1881 (Caroe, 1958).

Post-independence, Pakistan retained the indirect system of rule over the tribal areas, a colonial legacy. It was only in 2018 when the Pakistani government repealed the FCR and merged tribal areas, then known as Federally Administered Tribal Areas, with Khyber Pakhtunkhwa. The preceding paragraphs have tried to establish that tribal areas in the Indian northwest were ruled indirectly through intermediaries from the Afghan Durrani rulers to Sikhs to the British.

## The Rise of Taliban

The following discussion explains the Pakistani Taliban—known as Mujahideen in tribal districts of North and South Waziristan until the formation of Tehreek-i-Taliban Pakistan (TTP) on December 13, 2007—in the tribal districts of South and North Waziristan and traces their origin to the pre 9/11 era. We must guard against a common fallacy that the Pakistani Taliban did not exist in tribal areas before the demise of the Taliban regime.

Many of the local, would-be Taliban leaders and foot soldiers had already fought alongside the Taliban in Afghanistan (Siddique, 2014). Just a day before 9/11, on September 10, Siddique (2014) interviewed a mullah Manan in Wana, South Waziristan. The Mullah's words were instructive

of what was coming next. “We have taken care of Massoud, and we will soon come to Pakistan to implement true Islam there” (Siddique, 2014, p.43).

Pashtuns call a madrassah's student *Talib*. What follows is that the Taliban, in the context of former FATA militancy, were all madrassah students. Ironically, this was untrue. The inhabitants of the former FATA I interviewed estimated that the contribution of madrassahs in terms of numerical strength to the Taliban ranged from 1 to 7 per cent (F. Kakar, personal communication, April 5, 2009). In other words, out of every 100 Taliban, no more than 7 of them were students of madrassahs. Nevertheless, Taliban leadership from across the anti-state TTP and pro-state non-TTP were madrassah students, with hardly anyone of them being an *Alim,* a madrassah graduate*,* with erudite knowledge of Islam, however.

The Taliban foot soldiers included much-unemployed youth who joined the militants to eke out a living. Others joined the Taliban for social status and power (F. Kakar, personal communication, April 5, 2009). Many among the Taliban were local criminals who wanted to give protection to their criminal activities. In the case of Khyber Agency-based Lashkar e Islam, its recruits were aged between 16 and 40. Many were college students who received a monthly salary which ranged from 4,000 to 5,000 rupees (F. Kakar, personal communication, December 15, 2010). On the other hand, Baitullah Mehsud paid a monthly salary of between 100 to 200 dollars to his foot soldiers and their senior counterparts, respectively (Gul, 2009). Many families would allocate at least one member from them for want of security. Joining the Taliban meant the protection of a family in a situation in which the state nearly ceased to exist, and the Taliban were the actual ruling class (F. Kakar, personal communication, April 5, 2009). Additionally, many among the tribesmen joined the Taliban because the former had lost their near and dear ones in either the military operations that the Pakistani military conducted or they were killed in the wake of drone strikes that were

carried out by the US predator drones (F. Kakar, personal communication, April 5, 2009).

## Prelude to Militancy

The following paragraphs attempt to establish that buffeted by US military operations, Taliban, al Qaeda, and other militants retreated to various tribal areas of Pakistan, especially South and North Waziristan. The porous nature of the Pak-afghan border facilitated the militant movement across the border, and the Pakistani military presence and operations hardly helped in intercepting al Qaeda members. Taliban were never the target of the military, however. In these two tribal areas, the Taliban regrouped and launched their attacks on the US-led NATO forces in Afghanistan in earnest.

Some 500—600 operatives from Al Qaeda, Chinese Uighurs and Islamic Movement of Uzbekistan (IMU), ended up across Pakistan side of the Durand line following US-led military operations against them in Spinghar—near Tora Bora—in December 2001 and Operation Anaconda in Shahikot valley, Paktia March 2002 (International Crisis Group, 2006). In December 2001, the al Qaeda chief Osama Bin Laden had, presumably, fled to Pakistan tribal areas (Rashid, 2008). Nevertheless, eluding the US military for a decade, Laden was finally killed on May 1, 2011, in a compound in the Pakistani city of Abbottabad and not in the border region where he was presumed to have taken safe refuge (New York Times, 2011)

In December 2001, Pakistan deployed armed forces in Khyber and Khurram tribal agencies and helped capture fleeing al Qaeda and other foreign militants who were on the run following the US-led military operations in Tora Bora, Afghanistan (Yusufzai, 2002). In 2002, under US pressure, Pakistan launched Operation Al Mizan throughout FATA with a major focus on South Waziristan (Jones, 2010). The Musharraf government deployed some 70,000 to 80,000 army and paramilitary troops throughout FATA (Jones, 2010). In March 2002, the Pakistani army was moved into South and North Waziristan to intercept retreating al-Qaeda operatives into Pakistan following the US-led Operation Anaconda, which took place in the Shah-i-Kot Valley of Paktia Province, Afghanistan (Jones, 2010). In June 2002, US military officers believed that some 3,500 foreign militants had taken refuge in South Waziristan (Rashid, 2008). In June 2002, the Pakistan army, Frontier Corps and commandos Special Services conducted an operation of Kazha Punga against al Qaeda operatives in the Azam Warsak region in South Waziristan (Jones, 2010). In October 2001, Frontier Corps forces clashed with militants who were crossing the border around Nawa Pass in the Bajaur agency (Jones, 2010). By August 2002, military, intelligence and police were conducting operations in Balochistan (Jones, 2010).

Taliban regrouped and converted tribal districts into launching pads against the US-led NATO forces from across the border in Afghanistan. By the end of 2002, the Taliban executed 65 attacks that killed 79 soldiers from NATO in Afghanistan (Jones, 2008). The tally of Taliban yearly attacks in Afghanistan against US-led NATO forces was as follows: 2003 (148); 2004 (146); 2005 (207); and 2006 (353) (Jones, 2008). Fatalities during the same period were: 2002 (79); 2003 (133); 2004 (230); 2005 (288); and 2006 (755) (Jones, 2008). In 2003, based in South Waziristan, Baitullah Mehsud expressed his support for the Taliban. "America is our enemy, and we will fight against it wherever it is possible…the Taliban could not negotiate with Americans, as Christians and Jews cannot be friends with Muslims, they are the enemies of Muslims", (Gul, 2009, p. 172) he said.

The presence of militants in South Waziristan resulted in piling more international pressure on Pakistan to act against them. In the event of military operations, militancy, remaining unabated, spread to other parts of tribal districts of South and North Waziristan.

## The Rise of TTP

Because the Taliban were the de-facto rulers of the tribal areas, their formation of an umbrella organisation, the Tehrik Taliban-e-Pakistan, was meant to hold their own against the advancing military operations that heralded the eradication of rule by the militia in the tribal hinterland. Only

a united action front seemed to at least halt the advance of the military. Additionally, an institution, which would bring a multitude of separate militant outfits onto a joint platform, was also designed to bring about an Islamist revolution in Pakistan to replicate the Taliban's late 1990s victory in Afghanistan.

An International Crisis Group (ICG) Report (2006) estimated that the core of militants in 2006 comprised of some 100 foreign fanatics accompanied by some 1000 locals in the tribal areas. These foreigners were al Qaeda-linked Arabs, Chechans and Uzkeks—the most prominent of all foreign militants. Some of these foreigners had settled among tribesmen after the withdrawal of the Soviets from Afghanistan back in the 1980s; others relocated to tribal areas after the ouster of the Taliban regime in 2001 (International Crisis Group, 2006). By December 2006, there were some 15-20 and 10-12 small local militant groups in South and North Waziristan, respectively (International Crisis Group, 2006). They all had pledged allegiance to Mullah Omar and had committed to "come to each other's rescue if need be" (International Crisis Group, 2006, p.21).

By 2006, it was obvious that the Pakistani military had started patronising militant groups that were against the presence of foreign militants in Waziristan. In the spring of 2007, the Molvi Nazir group of militants, aided by Special Forces of the Pakistan army, ousted the IMU militants from Wana following a bloody battle (Siddique, 2014). The Uzbek militants fled to central Waziristan (Siddique, 2014). IMU joined TTP—an umbrella militant outfit—which was formed on December 13, 2007 (Yusufzai, 2009) in an undisclosed location in South Waziristan where forty Taliban leaders from seven tribal agencies, six Frontier Regions of former Fata and NWFP districts of Swat, Kohistan, Buner, Dir, Malakand, Kulachi, Bannu, Lakki Marwat, Tank and D.I. Khan had gathered (Dawn, 2007). The objective of TTP was to enforce Shariah in areas that the Taliban controlled. The Shura meeting appointed Baitullah Mehsud as the head of TTP and Hafiz Gul Bahadur of North Waziristan, and Maulana Faqir Muhammad of Bajaur Agency as second and third in command (Abbas, 2008). "The sole objective of the Shura meeting was to unite the Taliban against Nato forces in Afghanistan and to wage a 'defensive jihad' against Pakistani forces here," said Baitullah's spokesman (Dawn, 2007). The meeting demanded that the government call off military operations in Swat and North Waziristan, remove military check posts within 10 days and release Lal Masjid cleric Maulana Abdul Aziz and other Taliban that were in jails across the country (Dawn, 2007).

Within a year and a half, the Taliban, under the banner of TTP, overran large swathes of territories across the width and breadth of tribal areas, the adjoining districts and many areas in Khyber Pakhtunkhwa. In 2008, Baitullah Mehsud made it to the list of 100 most influential people in the world (The Time, 2008) and not for any reason. By April 2009, TTP, which Baitullah had helped coalesce, controlled Khyber, Kurram, Bajaur, Mohmand, Orakzai, North Waziristan and South Waziristan—all seven tribal agencies that formed FATA (The News, 2009). When combined with territories that the Taliban had had influence, control and contested control, some eleven per cent of Pakistan's landmass was under the Taliban. "At least 11 per cent of Pakistan's landmass has been ceded to the Taliban", wrote in The News in April 2009 (Saleem, 2009).

In 2010, a TTP pamphlet read: "…In this world, our ultimate aim of 'sharia or martyrdom' is now focused on the destruction of Pakistani rulers and army. The world knows that the military, intelligence agencies, and the so-called democratic players are the real hurdles in implementing sharia in Pakistan… we first have to root out the old evil democratic system to realise the dream of implementing the sharia" (Siddique, 2014, p. 46). In an interview with *Dawn* in 2014, TTP spokesman reiterated their call for implementing Shariah in Pakistan "whether through peace or war" (Dawn, 2014).

The TTP, like its precursors of Mujahideen Shuras of North and South Waziristan, had an ideology which was inspired by the Deobandi version of Sunni Islam. The Taliban gave punishments that were in line with Islamic Shariah as understood by the Taliban. Like their Afghan counterpart in the late 1990s, the

Pakistani Taliban initially delivered swift justice, which earned them public approbation. The TTP, unlike the Afghan Taliban, also fought against the Pakistani military. From 2001 onwards Pakistani Taliban, then known as "Mujahideen Shuras of South and North Waziristan" (International Crisis Group, 2006, p. 20), kept attacking the Pakistani military when the latter launched military offensives in the tribal areas, especially in the South and North Waziristan. The main thrust of Taliban violence, however, was the US-led military presence in Afghanistan. Nevertheless, as soon as military operations against the Taliban became intensified and ubiquitous, they shifted their focus on targets inside Pakistan and closed ranks and formed the notorious TTP.

## The FCR and the Rise of Taliban in Tribal Districts

Taliban militancy in former FATA partly stems from the rickety governance enshrined under the FCR. The Taliban capitalised on the state's delivery deficit and envisaged a quicker and more effective governance system compared to the inefficient governance enshrined under the FCR. As a result, they won over the locals of the tribal region.

Under the FCR, justice was perhaps the biggest casualty that paved the way for the Taliban to capitalise on the state delivery deficit. Good governance was hardly ever known to the residents of former FATA. The least governance may include the provision of four core responsibilities that states perform. These include security from internal and external threats, lawmaking and its implementation and the purveying of justice. The FCR failed even to meet the bare minimum criteria of what governance entails.

The FCR enshrined an overbearing and authoritarian bureaucracy. Under articles 8 (1) and 11 (1) of the FCR, a Deputy Commissioner (DC) is empowered to constitute a council of elders, *jirga*, and require it to come to a finding on an assigned dispute in both civil and criminal references respectively. In both civil and criminal references, the elders are the appointees of a DC or Political Agent (PA) in a given tribal district (FCR, § 8(1) & 11(1)). In a civil reference, when a PA receives the findings on a matter on which he had constituted a council of elders for a finding, issuing a verdict in accordance with the findings of a council of elders is just one of the five choices available to the DC or PA to dispose of a matter (FCR, § 8(3)(d)). One of the choices is to even "declare that further proceedings under this section are not required" (FCR, § 8(3)(e)). Section 10 even bars civil courts from taking cognisance of any decision that the PA has proceeded with under Section 8, Sub-section (3), clause (a), clause (b) or clause (d).

In a criminal reference, when the PA constitutes a council of elders for a finding on a matter, the accused is notified of the constitution of the council. If the accused raises an objection to the appointment of a member of the council, it is up to the discretion of a DC or PA whether or not to entertain such a request (FCR, § 11(2)). When a DC receives the findings on a matter on which he had constituted a council of elders in a criminal reference, he may 'remand the question to the council for further finding' or 'refer the question to a second council' or 'acquit or discharge the accused' (FCR, § 11(3)(a, b, & c)).

FCR envisaged harsh punishments and collective responsibility. The latter violates the very essence of individual accountability and liability before a law. Section 21 authorised a DC or PA to punish a whole tribe to which an accused belongs if he acts in a 'hostile and unfriendly manner towards the British Government or towards persons residing in British India.' The penalties may take the form of 'the seizure, wherever they may be found, of all or any of the members of such tribe or any property belonging to them or any of them' (FCR, § 21(a)). The section also provides for 'the detention in the safe custody of any person', the 'confiscation' of property and 'debar[ring] of all or any member of the tribe from all access into British India' [four provinces of Pakistan]. Even a DC can bar any person from the rest of Pakistan from having any interaction and communication with an accused and his whole tribe (FCR, § 21(b, d, & e)). In July 2009, the South Waziristan local administration sent a Khassadar force to seal Mehsud tribe-owned businesses in Peshawar

so that the tribe could be compelled to fight against the Taliban (Dawn, 2020).

Under section 31 of the FCR, no new village or any tower can be formed or erected within the five miles of administered areas unless permitted by a DC or PA. Section 32 even authorises the government to remove any village if the need is on military grounds, which is in 'close proximity of the frontier' of the settled districts. In a civil reference, a council of elders is the nominees of the Political Agent or DC (section 8(1). Once a matter is referred to the council, the findings of the council are not binding on the DC. To dispose of a matter on which DC constitutes a council of elders, he has four choices, including to "pass a decree in accordance with the finding of the Council, or of not less than three fourth". (Section 8(3)(d). A verdict given in a matter under section 8(3)(d) will be a final settlement (Section 9) and cannot be challenged in any civil court (section 10).

Like in a civil reference, in a criminal reference too, the council of elders is nominated by the DC (section 11(1). The council of elders can have a strong influence on the decision that a DC makes after the receipt of the finding of the council as he may "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."(Section 11 (3) (c)

Justice delivered through jirga is fallible. A jirga comprises the nominees of a political agent. The member of a jirga can manipulate the judicial process by giving favours (FCR, § 8(1)). With the malaise of corruption—especially during the days of Afghan jihad when some tribesmen filled their coffers with drug money—penetrating the jirga system, justice was compromised. With regards to the partiality or impartiality of both the *Sarkari* (FCR) *jirga* and its counterpart *Wolasi jirga*, a survey conducted in FATA showed the following result: 49.9 per cent of the respondent said that decisions that *jirgas* doled out always favoured the rich at the expense of the poor (Shinwari, 2008). How little hope people repose in government jirgas is illustrative of the fact that 73 per cent of the respondents replied that the FCR *jirga* did not mete out justice to the aggrieved party (Shinwari, 2008).

The abdication of state writ in some 90 per cent of tribal districts was the state's Achilles' heel. In normal circumstances, only 10 per cent of the tribal territory was administered. In other words, the state writ could expand to more than 10 per cent if the government wanted to under extraordinary circumstances. The remainder, 90 per cent of the tribal territory—un-administered under normal circumstances—was vulnerable to armed mobilisation or any other criminal activity even historically. (Kakar,2022) So, when the Taliban, al Qaeda and other others of their persuasion relocated to tribal districts of Khyber Pakhtunkhwa in the wake of the US invasion, they had a huge un-administered space to melt in. then Taliban had an ungoverned territory to replicate their Afghan experience.

Unlike the authoritarian and arrogant bureaucrats, the Taliban, like their Afghan counterparts, were easily accessible and welcoming. Additionally, their justice was swift. My interlocutors from all seven tribal agencies confirmed that anyone aggrieved had the liberty to walk into the Taliban office and make his grievances redressed (F. Kakar, personal communication, August 2009). 'There were age-old land disputes, which the administration in Bajaur failed to resolve, but the Taliban did within no time, and hence they were welcomed', stated a man from the agency (F. Kakar, personal communication, August 2009). To the pleasure of locals, 'the militants took stern actions against the video shops, which sold vulgar CDs' echoed another young Bajauri (F. Kakar, personal communication, August 2009).

FATA's Taliban, in a replica of their Afghan counterpart, dealt with criminals swiftly and sternly. In the tribal areas, the Taliban punished criminals in public. Ostensibly, the aim behind punishment in public was to discourage crimes, and the act was justified in the name of Shariah law (F. Kakar, personal communication, August 2009). Unlike the FCR system, which had favoured the rich and resourceful both under the FCR jirga (council of elders) and people's jirga,

the weak, vulnerable, poor and destitute got their grievances heard and redressed (F. Kakar, personal communication, August 2009). Thus, the Taliban impressed on the tribesmen that the latter had a better alternative in the holy Quran and hadith, replacing the FCR.

Wherever the Taliban occupied territory, they introduced their Shariah-based system on the one hand and incapacitated the state's ramshackle governance on the other. By Sep 2006, pro-Taliban extremists had already spread to Khyber Agency. There two different mullahs from different Sunni sects of Deobandi and Barelvi were implementing their own brands of Islam. Mufti Munir Shakir, a JUI-F-linked Deobandi cleric, emulated the Taliban style of governance. Instructing people to grow beards, offering five-time mandatory prayers and banning interest as being un-Islamic was well established under the Deobandi cleric (F. Kakar, personal communication, October 20, 2009). Taliban also overran levies stations, killed military and paramilitary troops and pro-government tribal elders and established their own offices in the buildings deserted by government functionaries. By February 2006, the Taliban had killed 150 pro-government tribal elders in North Waziristan (Ghumman, 2006). There were reports that the Taliban killed as many as 15,00 tribal elders across FATA (Kakar, 2014). By April 2009, incorporating nearly all the seven tribal areas, the Taliban had 11 per cent of Pakistan's territory under their complete control, contested control or influence (Kakar, 2014).

Since the Afghan Taliban was idealised, the tribesmen initially supported the emerging Pakistani Taliban in their native lands in the hope that the latter would serve as healers to their festering wounds. Put differently, the tribal revolt against the corrupt local dispensation at this juncture of history is simply because of the fact that the indigenous Taliban were latecomers to introduce their alternative system in FATA.

## Summary

This paper is an endeavour to explain the rise of Taliban militancy with the main focus on their rise in South and North Waziristan. Nevertheless, where needed, mention of other tribal areas has also been made. This paper has looked into the past governance system or its absence in the tribal hinterland that was ruled by the Afghans, Sikhs and the British. It has been observed that all three empires had established an indirect system of governance in the tribal areas in the then Indian northwest. The British, however, formalised it through FCR, which Pakistan inherited until mid-2018, when former tribal areas were formally merged with Khyber Pakhtunkhwa and renamed as tribal districts. FCR, which enshrined poor governance and left large swaths of tribal territory ungoverned, helps explain the rise of Taliban in tribal districts.

The US-led invasion of Afghanistan following 9/11 spawned the retreat of al Qaeda, Afghan Taliban and, among others, the would-be Pakistani Taliban to South and North Waziristan. Against the backdrop of the absence of state authority, the Taliban, Pakistani, and their Afghan counterparts regrouped and staged attacks on coalition forces across Afghanistan. Additionally, the Pakistani Taliban, Islamist in their own right, tried to replicate the Shariah system, which before their ouster Taliban had enforced in Afghanistan. Under US pressure, the Pakistani military launched operations that either primarily targeted al Qaeda or those groups and individuals of Taliban who were a threat to Pakistan.

The Taliban retaliation caused a haemorrhage of any semblance of state writ in South and North Waziristan. Additionally, by the end of 2007, Taliban militants formed TTP, which led a devastating campaign of death and destruction throughout Pakistan in hundreds of suicide attacks and bomb blasts that killed thousands of civilians and injured many more. While they spread their presence from tribal districts to the wider country, the Taliban also extended their mission which then included turning the whole country into a Shariah state. Whereas formally integrating former tribal areas with Khyber Pakhtunkhwa is a step in the right direction, denying Taliban safe havens in tribal districts and initiating economic development there will eventually help remedy militancy in these areas.

## References


"Bin Laden Is Dead, Obama Says", (2011). *NYT.* https://www.nytimes.com/2011/05/02/world/asia/osama-bin-laden-is-killed.html

"Centralised Taliban organisation set up" (2007). *Dawn*. https://www.dawn.com/news/280452/centralised-taliban-organisation-set-up

"TTP wants enforcement of Sharia: spokesman". (2014). *Dawn*. https://www.dawn.com/news/1083891

Abbas, H. (2008). A profile of Tehrik-i-Taliban Pakistan. *CTC Sentinel*, *1*(2), https://ctc.usma.edu/wp-content/uploads/2010/06/Vol1Iss2-Art1.pdf

Baha, L. (1978). *NW F. P. administration under British Rule, 1901–1919.* Historical studies (Muslim India) series. Islamabad: National Commission on Historical and Cultural Research.

BBC News. (2021). Panjshir - the valley trying to hold off the Taliban. https://www.bbc.com/news/world-asia-58420859

Caroe, O. (1958). *The Pathans 550B.C—AD.1957*. London: Macmillan.

Ghumman, Z. (2006). "Taliban killed 150 pro-government maliks". *Daily Times.*

Gul, I. (2009). *The Al Qaeda connection.* Penguin.

Hopkins, B. D. (2013). *Ruling the savage periphery: Frontier Governance and the making of the modern state.* Karachi: Oxford University Press.

International Crisis Group. (2006). *Pakistan's tribal areas: Appeasing the militants*. Crisis Group Asia Report 125.

Irfan, S. (2020). "Civilians: first line of defence". *Dawn.*

Jones, S. G. & Fair, C. C. (2010). *Counterinsurgency in Pakistan*. Santa Monica, California: RAND Corporation.

Jones, S. G. (2008). The rise of Afghanistan's insurgency: State failure and Jihad. *International Security, 32*(4), 7-40.

Kakar, F. (2022). Islamist militancy in South and North Waziristan districts. *Pakistan Journal of Society, Education and Language (PJSEL)*, *8*(2), 237-247. https://pjsel.jehanf.com/index.php/journal/article/view/759

Nichols, R. (2013). *The Frontier Crimes Regulation: A history in documents*. New York: Oxford University Press.

Rashid, A. (2008). *Descent into chaos: How the war against Islamic extremism is being lost in Pakistan, Afghanistan and Central Asia*. New York: Viking.

Saleem, F. (2009). "*Where is the Pakistan army*", *The News*.

Shinwari, N. A. (2008). *Understanding FATA,* Community Appraisal & Motivation Programme (CAMP).

Siddique, A. B. (2014). *The Pashtun question: The unresolved key to the future of Afghanistan and Pakistan*. London: Hurst & Company.

Yusufzai, R. (2002). *Fall of the last frontier*. *Newsline* (Karachi).

Yusufzai, R. (2009). A who's who of the Insurgency in Pakistan's North-West Frontier Province: Part two – FATA excluding North and South Waziristan. *Terrorism Monitor, 7*(4).