

ISSN-P : 2616-955X | ISSN-E : 2663-7030

DOI(Journal): 10.31703/grr

DOI(Volume): 10.31703/grr/.2024(IX)

DOI(Issue): 10.31703/grr.2024(IX.II)



GRR

GLOBAL REGIONAL REVIEW

VOL. IX, ISSUE II, SPRING (JUNE-2024)



Double-blind Peer-review Research Journal

www.grrjournal.com

© Global Regional Review

Article title

The Fata Conundrum: A Study of the Post-Merger Administrative Chaos

Global Regional Review

p-ISSN: 2616-955X e-ISSN: 2663-7030

DOI(journal): 10.31703/grr

Volume: IX (2024)

DOI (volume): 10.31703/grr.2024(IX)

Issue: II (Spring-June 2024)

DOI(Issue): 10.31703/grr.2024(IX-II)

Home Page

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Volume: IX (2024)

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Issue: II-Spring (June-2024)

<https://www.grrjournal.com/Current-issues/9/2/2024>

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Abstract

This research examines the post-merger administrative changes in the Erstwhile Federally Administered Tribal Areas (FATA) in Khyber Pakhtunkhwa (KP) almost six years after the 2018 merger. Policymakers may be optimistic, but the region still has a lot of governance and administrative issues. The problems stem from a hastily merger procedure without adequate planning and impact estimation. The study highlights the nature of the merger and its impact on governance by examining the transition from Political Agents (PA) to Deputy Commissioners (DC). The post-merger justice system has been completely inactive and failed. The research highlights that the transformation of Levis and Khasadars into KP Police was a flawed decision of the government. The administrative capacity and difficulties following the merger are examined in this study using the Institutional Capacity Framework. The results show that the merger's promises have not been fulfilled, and the new administrative structure still struggles to gain public trust.

Key Words: FATA Merger, KP, Reforms, Police, Judiciary, Bureaucracy, Governance, Terrorism

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Pages: 1-13

DOI: 10.31703/grr.2024(IX-II).01

DOI link: [https://dx.doi.org/10.31703/grr.2024\(IX-II\).01](https://dx.doi.org/10.31703/grr.2024(IX-II).01)

Article link: <http://www.grrjournal.com/article/A-b-c>

Full-text Link: <https://grrjournal.com/fulltext/>

Pdf link: <https://www.grrjournal.com/jadmin/Author/31rv1olA2.pdf>

Citing this Article

01	The Fata Conundrum: A Study of the Post-Merger Administrative Chaos						
	Author	Adnan Khan Ammara Tasadduq Ghulam Mustafa		DOI	10.31703/grr.2024(IX-II).01		
Pages	1-13	Year	2024	Volume	IX	Issue	II
Referencing & Citing Styles	APA	Khan, A., Tasadduq, A., & Mustafa, G. (2024). The Fata Conundrum: A Study of the Post-Merger Administrative Chaos. <i>Global Regional Review, IX</i> (II), 1-13. https://doi.org/10.31703/grr.2024(IX-II).01					
	CHICAGO	Khan, Adnan, Ammara Tasadduq, and Ghulam Mustafa. 2024. "The Fata Conundrum: A Study of the Post-Merger Administrative Chaos." <i>Global Regional Review IX</i> (II):1-13. doi: 10.31703/grr.2024(IX-II).01.					
	HARVARD	KHAN, A., TASADDUQ, A. & MUSTAFA, G. 2024. The Fata Conundrum: A Study of the Post-Merger Administrative Chaos. <i>Global Regional Review, IX</i> , 1-13.					
	MHRA	Khan, Adnan, Ammara Tasadduq, and Ghulam Mustafa. 2024. "The Fata Conundrum: A Study of the Post-Merger Administrative Chaos", <i>Global Regional Review, IX</i> : 1-13.					
	MLA	Khan, Adnan, Ammara Tasadduq, and Ghulam Mustafa. "The Fata Conundrum: A Study of the Post-Merger Administrative Chaos." <i>Global Regional Review IX</i> .II (2024): 1-13. Print.					
	OXFORD	Khan, Adnan, Tasadduq, Ammara, and Mustafa, Ghulam (2024), 'The Fata Conundrum: A Study of the Post-Merger Administrative Chaos', <i>Global Regional Review, IX</i> (II), 1-13.					
TURABIAN	Khan, Adnan, Ammara Tasadduq, and Ghulam Mustafa. "The Fata Conundrum: A Study of the Post-Merger Administrative Chaos." <i>Global Regional Review IX</i> , no. II (2024): 1-13. https://dx.doi.org/10.31703/grr.2024(IX-II).01 .						



Global Regional Review

www.grrjournal.com

DOI: <http://dx.doi.org/10.31703/grr>



Pages: 1-13

URL: [https://doi.org/10.31703/grr.2024\(IX-II\).01](https://doi.org/10.31703/grr.2024(IX-II).01)

Doi: 10.31703/grr.2024(IX-II).01



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The Fata Conundrum: A Study of the Post-Merger Administrative Chaos

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Contents

- [Introduction](#)
- [Literature Review](#)
- [Research Methodology](#)
- [Research Question](#)
- [Conclusion](#)
- [References](#)

Abstract

This research examines the post-merger administrative changes in the Erstwhile Federally Administered Tribal Areas (FATA) in Khyber Pakhtunkhwa (KP) almost six years after the 2018 merger. Policymakers may be optimistic, but the region still has a lot of governance and administrative issues. The problems stem from a hastily merger procedure without adequate planning and impact estimation. The study highlights the nature of the merger and its impact on governance by examining the transition from Political Agents (PA) to Deputy Commissioners (DC). The post-merger justice system has been completely inactive and failed. The research highlights that the transformation of Levis and Khasadars into KP Police was a flawed decision of the government. The administrative capacity and difficulties following the merger are examined in this study using the Institutional Capacity Framework. The results show that the merger's promises have not been fulfilled, and the new administrative structure still struggles to gain public trust.

Keywords: [FATA Merger](#), [KP](#), [Reforms](#), [Police](#), [Judiciary](#), [Bureaucracy](#), [Governance](#), [Terrorism](#)

Introduction

Nearly six years after the merger of Ex-FATA with Khyber Pakhtunkhwa KP, the region is still awaiting mainstreaming progress as desired by the country's policymakers. The Merged Districts MDs are facing many issues in the aftermath of the merger. One basic reason is that the merger was rushed; no proper work was done to analyze its short and long-term impacts. Ex-FATA was merged on May 31, 2018, after the passage of the 25th Constitutional

Amendment (Wasim, 2018). The jurisdiction of the courts of Pakistan as well as the police of KP and other state frameworks were extended to the Ex-FATA. But unfortunately, the judicial and policing system in the MDs is practically absent. The Jirga system still prevails, people prefer to solve their matters through Jirga instead of courts. The old Levis and Khasadar forces were converted to Police after some training, which is incapable of maintaining law and order under the new legal and



political framework. There is total confusion between KP and the center regarding the implementation of the merger.

The social isolation of Ex-FATA continues despite its merger with KP people are unable to interact with the wider world and participate in the cultural and intellectual landscape. Due to the lack of political will the government response has been slow.

There is a severe lack of awareness and confidence in the official processes and services provided by the newly formed departments. The new system does not perform up to the pre-merger system's level. The absence of funding, inadequate staff training, poor departmental coordination, regional disputes, procedural ambiguity, judicial ruling delays, infrastructure damage, the presence of extremist forces, and resistance from various social groups are some of the causes. People's expectations are not being met by the administration, and popular dissatisfaction with the new regime is increasing as long as the security situation is unstable.

Therefore, people's distrust of the newly established administration increases day by day. Both KP and central governments have failed to implement the merger plan. The development of Ex-FATA remains a pipedream even to this day. The promises made after the merger of Ex-FATA had yet to be fulfilled. Moreover, the security of tribal regions has deteriorated again because of the resurgence of the banned militant group Tehrik-e-Taliban Pakistan TTP (Akhtar & Ahmed, [2023](#)).

Statement of the Problem

The post-merger administrative structure of Ex-FATA is experiencing many hurdles, which have undermined the effectiveness of governance and development. This study analyzes the persistent problems and challenges that compromise the effectiveness and credibility of post-merger administrative set-up.

Hypothesis

It is hypothesized that the post-merger administration of tribal areas has completely failed to produce the desired outcomes, due to lack of proper planning, poor implementation, and inconsistent policies.

Research Questions

What are the realities and effectiveness of the post-merger administration structure in Ex-FATA?

Literature Review

In the study "The Merger of FATA with Khyber Pakhtunkhwa: A Historical Analysis" written by Dr. Altaf Ullah and Dr. Syed Umar Hayat (2018) the authors discussed the historical background of FATA, its administrative structure and legal framework, notably Frontier Crime Regulation (FCR). The successive governments tried to make reforms in FATA regarding the region's isolation and constitutional status while they faced firm challenges in introducing it. The key reforms, the need of the 21st century, initiated by the federal government, such as the FCR Reforms Committee and the Adult Franchise Act of 1996 are highlighted. The main focus shifts to the study of the Frontier Crime Amendment Regulation of 2011, analyzing its effects on legal protection, the establishment of the FATA Tribunal, Qaumi Jirga, Jail inspection, and central government audit (Ullah & Hayat, [2018](#)).

In the work "Unraveling the Constitutional Quandary: The Status of FATA Pre-Merger in the 1973 Constitution" written by Syeda Mina Faisal, Muhammad Usman, and Asif Khan (2023) the authors described the Constitutional and legal complexities surrounding the Federally Administered Tribal Areas in Pakistan, focusing on its historical Evolution and unique administrative framework. The authors also scrutinize the legal prestige of FATA, Constitutional provisions, and amendments after 2018. They also noted regard challenges and implications of its merger with KPK. The authors examined legislative history, case laws, and the impact on the political, economic, and social landscape (Faisal, Usman, & Khan, [2023](#)).

The study "Constitutional Status of FATA: Pre And Post Merger Comparison of Legal And Administrative System" written by Sadia Fayaz, Sunaira Gull, and Asia Khatoon Khatak (2021) is planned to highlight the various strategies implemented by the governments of Pakistan for FATA and make a comparative analysis of the constitutional status, legal and administrative system of FATA pre- and post-merger. Before the merger, FATA was assigned a special status in the 1973 constitution, but the citizenship rights were

not given to the people of FATA. According to the 25th amendment, the Ex-FATA merger was finalized and has merged into KP. Following the merger, FCR was abolished, and the law of Pakistan is equally applicable to this region now they approached the Peshawar High Court and Supreme Court. Initially, the forces were Levies and Khasadar and now it is Police (Fayaz, Gul, & Khattak, [2021](#)).

Theoretical Framework

The Institutional Capacity Framework is used in this study to figure out the post-merger administrative realities. This framework calculates the capability of institutions to accomplish reforms, considering factors like resource distribution, legal frameworks, and administrative capabilities. This study utilizes a mixed-methods approach, combining primary and secondary data obtained through interviews and government reports, academic papers, and other sources respectively.

Post-Merger Administrative Setup

Before the merger, Ex-FATA was controlled by the federal government. Following the merger in 2018, the tribal belt came under the direct jurisdiction of the KP province (Shah, Nawaz, & Mustafa, [2021](#)). All the previous governance structures including FCR were abolished. The Political Agents, Levis, and Khasadar forces were converted into Deputy Commissioners and Police respectively. The Jurisdiction of Pakistan's legal framework has been extended to the tribal areas. The tribal agencies were renamed as Newly Merged Districts.

The Political Agents in the tribal agencies were redesignated as Deputy Commissioners. Additional Political Agents and Assistant Political Agents assumed the charge of Additional Deputy Commissioners and Assistant Commissioners respectively. Moreover, the KP government ordered the concerned Deputy Commissioners to immediately cease the collection of all types of "Rahdaares", as well as import and export taxes and levies previously collected by the political administration (Ali, [2018](#)).

Despite these reforms, Ex-FATA mainstreaming is still a dream for the tribal peoples. The integration of Ex-FATA with KP necessitated important adjustments in governance, including judicial buildings and officers, the establishment of new

administrative procedures, a well-trained Police force, as well as other development initiatives.

As per Asad Iqbal, an official from the Ministry of States and Frontier Regions (SAFRON), which oversees FATA affairs, "there were a lot of functions to deal with from relevant departments, such as what to do with the judicial set up, local government, integration with KP, financial setup, funding for socio-economic development, manning the porous borders and so on" (Pakistan's tribal areas: Neither faith nor union found, 2019).

Political Agent as a Deputy Commissioner

Before their 2018 merger with Khyber Pakhtunkhwa (KP), the Erstwhile Federally Administered Tribal Areas (Ex-FATA) of Pakistan had a distinctive administrative structure that was greatly impacted by both traditional tribal customs and colonial legacy. A key player in this system was the Political Agent (PA), who had broad authority in revenue, judicial, and executive domains.

Under the Frontier Crime Regulation (FCR) of 1901, the PA was the "be-all and end-all" in the area. FCR was designed to control the tribal people directly through the government and indirectly through Sarkari Jirga, local tribal leaders known as Maliks (Shinwari, [2012](#)). The Maliks were granted allowances every month and development projects.

Powers of PA

The PA performed various government activities and development projects in his capacity as chief executive officer of each tribal agency. This entailed upholding law and order, with the help of local forces such as Levies and Khassadars (Our Correspondent, [2012](#)). Under the FCR, the PA had a substantial judicial role. In civil and criminal proceedings, they served as both judge and jury, depending on tribal jirgas or councils of elders, to render decisions based on tribal norms (Khan, [2011](#)). The PA's rulings were final and frequently unchallengeable before the establishment of the FATA's Tribunal in 1997.

Moreover, the PA was responsible for collecting taxes and overseeing land revenues. To make sure that the state's financial responsibilities were fulfilled, this required supervising agricultural revenues and other local taxation. Serving as the region's main fiscal authority, the PA's office

handled land disputes and other revenue-related matters (Sadiq, Mahmood, & Sohail, [2021](#)).

The Political Agent's ability to influence the Maliks, the tribal elders, was a major factor in how effective they were. Due to their ability to arbitrate conflicts and uphold PA instructions grounded in tribal norms and customs, these Maliks were essential to the functioning of the jirga system. This cooperation was crucial to upholding law and order in the tribal communities.

The Transition from PA to DC

The Government of Pakistan abolished the office of PA, replacing it with Deputy Commissioner in 2018. This transition in the administrative and governance structure of Ex-FATA was part of broader constitutional reforms aimed at integrating Ex-FATA into mainstream Pakistan.

The tribal agencies and frontier regions were renamed as tribal districts. The Agency Development Fund and other local levies were abolished. The Deputy Commissioner works under the same legal structure as their counterparts in other areas of Pakistan. The Jurisdiction of the Apex Court and High Court were also extended to the tribal areas.

The transition from PA to DC was merely on paper, while practically DC is still operating like the PA. The offices of DCs located in adjacent areas instead of tribal districts. As stated by the Newly elected MPA from the merged district South Waziristan Upper, Asif Khan Mehsud "The merger has been hampered by many issues. Previously, there was a strong Political Agent, who maintained control and people respected their authority. Currently, we are living in chaos, where laws are unknown to people as well as an ineffective police force. The merger aimed to benefit the tribal people but the new system has failed to deliver. Being a security zone other forces also influence tribal areas. The merger is struggling and the old system persists. Moreover, the progress of the merger and the effectiveness of the new system is hindered by inconsistent policies, a lack of peace, and disruptive operations" (Mehsud, [2024](#)).

Despite the abolishment of FCR, people continue to be detained and punished in tribal districts for individual offenses under the cover of 40 FCR's joint liability clause. The authorities in various merged districts continue to exercise powers

as per the old draconian law. Renowned journalist and Co-Founder and Director of News at the Khorasan Diary, Ihsanullah Tipu, stated regarding this matter "I have met with the district commissioners and assistant commissioners of several tribal districts, such as Mohmand, Bajaur, and South Waziristan. They told me that they still practically perform the function of Political Agent notwithstanding the merger. Every time a problem occurs in the community, locals still come to us for the solution, just as they used to with Political Agents through the jirga system, instead of going to court to pursue legal action. Furthermore, the Frontier Crimes Regulation's (40 FCR) collective responsibility clause is still in force. When there's a security problem in a certain region, security personnel arrest people, and the District Commissioner meets out punishment in several methods, just like the Political Agent used to do before the merger. Although the merger legally ended the role of Political Agent, practically speaking, the District Commissioner is still operating as a Political Agent" (Tipu, [2024](#)).

Similarly, Ghazan Jamal, a Former member of the KP assembly from District Orakzai said that "DC is still trying to maintain their PA role through other means" (Jamal, [2024](#)).

Moreover, a month later after the merger, a journalist from Kurram District Rab Nawaz was arrested along with five family members under the FCR regulation of collective responsibility. Although the local forces were aware that FCR had been abolished, their way of obtaining forced confessions, torture in jail, and refusal of legal counsel remained the same as in the old system (Malik, [2019](#)).

The shift from the PA to the DC system requires a substantial administrative capacity and culture. The post-merger administrative setup is more conducive to progress, development, and good governance, but due to persistent influence and meddling of non-civil institutions in civil affairs have undermined the authority and effectiveness of DCs. As stated by Alam Zaib Mehsud, a renowned social activist from Dist. South Waziristan "The Political Agent's role in tribal districts was substantially reduced by the security apparatus after the War on Terror. Similarly, the security operatives in these districts have practically stripped the DC and civil administration of their authority. The DC

and other civil administrations only have authority on paper. Furthermore, the new administration is unwilling to open offices in these areas, preferring to operate in other districts outside of tribal territories, despite our efforts to ensure that government offices should be built in their respective districts" (Mehsud A. Z., [2024](#)).

Nasrullah Wazir, a retired custom collector from Ex-FATA, said that "Political Agent was more effective & powerful as compared to present Deputy Commissioner who is just a symbolic head of administration. He has no power or say in the affairs of tribal people. The Political Agent was responsible for all jirgas with residents of tribal agency & was empowered to utilize the development funds. But the current Deputy Commissioner is just watching to implement decisions taken from other quarters" (Wazir, [2024](#)).

During the British era, there was an Official Council of Elders known as Sarkari Jirga in each Tribal Agency, which was under the authority of the Political Agent of their respective agency. The members of councils of elders would receive a monthly stipend from the Political Agent (Khan, [2011](#)), and developmental schemes were allocated as well by the same authority from the public sector development fund. The regional matters were to be dealt with by the political agent via the government-backed elders. The area was administered Indirectly by the political agents through the elders.

After the merger, the government jirga is actively working in the tribal districts. Deputy commissioners deal with tribal matters through this jirga. Jamal Malyar, a renowned social activist from Ex-FATA stated "Instead of holding open courts, Deputy Commissioners rely on this government jirga, and its members still receive the same stipend, and their role remains the same as before the merger. The regional matters are still being resolved through the Sarkari Jirga which is the reason why the public trust in the administration is dwindling progressively" (Malyar, [2024](#)).

Moreover, the corruption within the civil administration in Ex-FATA has continued even after the merger. The Deputy Commissioners and other officials persist in illegal taxes, smuggling, and embezzlement of development funds, just like before the merger. According to Gul Badin Khan, a prominent leader from Ex-FATA of the National

Democratic Movement "check posts have been set up in various areas where Deputy Commissioner, in collaboration with FC officials and Police personnel collect illegal taxes. Similarly, officials sell government jobs and are also involved in illicit trade at the border, directly or indirectly. Moreover, the embezzlement of development funds in collusion with contractors is one of the most common corrupt practices, undermines the progress and development of the region" (Khan, [2024](#)).

The merger of Ex-FATA was intended to bring about positive changes, but development has been impeded by the persistence of the old system, corruption, and external interferences. For the merger to succeed, significant efforts must be made to build administrative capacity and eradicate corrupt practices

The Functionality and Credibility of the New Police Force

Before the merger, there were traditional paramilitary forces in Ex-FATA known as Levies and Khasadar. These forces were established during the British era and operated under the control of PA in each tribal agency. The Levies and Khasadar personnel were recruited from the local tribes primarily responsible for law and order, security, and local administrative support. The principal responsibilities of Levies included maintaining internal security, preventing and investigating crimes, and implementing administrative rules. Levies assisted the Political Agent in carrying out administrative tasks such as tax collection and conflict resolution. They were also monitoring and securing the borders of tribal areas to prevent unlawful cross-border activities (Howell, [1979](#)).

Like Levies, the Khasadar personnel were recruited from local tribes and operated under the Political Agent and tribal elders. Its responsibilities included keeping the peace, patrolling, and providing security at key sites including governmental buildings and public infrastructure. They served as the tribal law's enforcers, implementing the judgments made by the Political Agent and the Jirgas or councils of elders. They were crucial in settling conflicts within the community, frequently using informal mechanisms rather than formal legal procedures.

Following the merger in 2018, the government abolished the old British time paramilitary units and

converted them into Police (The News International, 2020). If cosmetic changes like renaming the Levies Force as the Police and altering their ranks constitute an improvement, then Ex-FATA has unquestionably changed. However, it may be said that the status of law and order has reached a record low if the rate of fatalities and the proportion of civil and criminal cases before and after the merger are considered.

As Asif Khan Mehsud, newly elected MPA from South Waziristan Upper said "The same system persists with no change in sight. "It is the same donkey with a different saddle". Simply renaming the old Levis force as Police and deploying them in our areas, when they arrest and present people to court on someone's else orders, is a joke. These forces lack basic education and understanding, and when others write the FIRs for them, it is a mockery of the merger. Proper planning is required to make the merger viable, which has been stalled. The promises made during the merger remained unfulfilled. The decisions behind closed doors will remain ineffective until a proper and comprehensive policy is formulated to make the merger work. Enough time has been wasted, and now that our party is in government, I am committed to addressing the merger issue" (Mehsud, 2024).

The Pakistan Penal Code (PPC) is unknown to both the locals and the police. Due to a lack of proper training unaware of the law, investigations, and conventional policing. Naseer Ullah Khan Wazir, former Member of the KP Assembly from South Waziristan Lower, stated regarding this matter "I believe that tribal areas police personnel should be sent to other settled districts so they can gain a better understanding of their role and some sort of experience. During the previous KP government, I advocated for the recruitment and appointment of commissioned officers in tribal areas police, as the current Levis and Khasadars forces are uneducated and did not know about contemporary policing. This would, in my opinion somewhat improve the effectiveness of the tribal areas police force" (Wazir, 2024).

Tribal areas are a security zone, where security forces and other noncivil institutions directly manage the affairs of the region which often diminishes the role and efficiency of civil institutions. In most cases, security forces deal the routine matters in local communities instead of the

police. As stated by Jamal Malyar a renowned social activist from former FATA "Following the merger when Khasadars and Levis were transformed into Police, many police stations were established in tribal areas, which are operational with officers and staff present. However, the police often are absent when an outward incident occurs in the area. In disputes between tribes involving heavy weapons, the police try to intervene if the security forces want the issue to be resolved. At some checkpoints, police personnel are stationed alongside the army but they have no such role in inspection and are merely present. Occasionally, police come out to harass the general public and take bribes. In tribal areas, police have no authority. As long as the security forces remain in Ex-FATA the police will have no real authority. Moreover, the police force is mostly comprised of uneducated individuals, even at the division level, many SHO rank officers in some areas are middle dropouts. How can an uneducated person handle such crucial responsibilities or manage things when they don't even know how to sign papers? If they are given authority and properly educated, commissioned officers are appointed, improvement is possible" (Malyar, 2024).

The jobs in the Levies and Khasadar forces were originally given during the British era, often on a hereditary basis within families. During the FATA merger, when the government decided to integrate them into the police and required those holding these positions to serve as part of an organized force, many people transferred these jobs to unemployed, unskilled, or disabled family members. Many of these individuals are illiterate and unable to undergo training.

In the tribal system, local customs and traditions are highly respected. For a Levies soldier who has been merged into the police, it is extremely difficult to enforce a newly introduced law and arrest a neighbor or acquaintance for an offense in an area that has not had formal laws for decades. Here, even minor issues can lead to personal vendettas. Tribal and familial loyalties pose significant obstacles to enforcing a law that was introduced without considering the opinions of the local population.

Ihsan Tipu a renowned journalist who is covering Ex-FATA and Afghanistan affairs stated that "The regular police force performs their duties without any distinguishing, but in our tribal areas, this is not possible. The police here consider the

local dynamics and often show each other leniency. If they confront someone, it can lead to personal and family feuds. Although the Levis and Khasadars have been merged, they still function more like a tribal force than regular police" (Tipu, 2024).

Similarly, Gul Badin Khan a renowned social activist and political worker from Ex-FATA stated "There is a significant difference between the roles of the Levies and the police. There is a significant difference between the roles of the Levies and the police. Before the merger, the Levis' primary task was to report any interference in government affairs or threats to the interests of political agents. They functioned as a source for the political compound. On the other hand, the police operate within a formal legal framework. However, Levies personnel lack awareness of legal procedures and formal education. This deficiency was seen last month in Shawal, South Waziristan when a landmine incident occurred, we went to a police station to file an FIR, but they didn't even know how to register an FIR, these forces were unaware of procedural requirements, and the registration process. So, the initiative to merge Levies and Khasadar into the police has not worked out, leading to public frustration with the police force" (Khan, 2024).

Levis and Khasadars lack formal education and training. This poses significant challenges in effectively performing their role in a modern police and legal framework. They are struggling to enforce laws and maintain law and order with standard procedures in the region. Secondly, the tribal areas police are ill-equipped, unaware of laws, and have no resources to perform their duties like a regular police force. Without resources, training, and proper education about the new laws, their effectiveness, and credibility are compromised.

There is a need for the recruitment of commissioned officers to enhance the efficiency and credibility of tribal areas police. With the right education, equipment, and training these old Levis and Khasadar forces will maintain law and order effectively.

The New Judicial System and Post-Merger Role of Jirga

The Federally Administered Tribal Areas (FATA) were governed under the Frontier Crimes Regulation (FCR), a set of laws introduced by the British on April 14, 1901. The FCR was designed to

maintain control over the tribal regions, but its provisions were harsh and oppressive, leading to widespread criticism. The law granted political agents significant authority, including the power to arrest, detain, and punish individuals, as well as impose collective punishment on families and tribes. This approach was incompatible with the traditional Pashtun way of life, known as Pashtunwali, which values freedom and autonomy.

The FCR's provisions were detrimental to the people of FATA, and its clauses violated basic human rights. The law's emphasis on collective and territorial responsibility, combined with the unbridled powers of political agents and the lack of appeal rights, created a system that was widely regarded as draconian. Despite efforts to appease the tribes, the British struggled to achieve administrative success, and the FCR ultimately proved to be a source of conflict and oppression (Khan, 2008).

The tribal communities in FATA were allowed to maintain their traditional way of life, governed by their customary code of conduct, Pashtunwali. However, this coexistence was problematic, as the FCR's provisions clashed with the tribal values. The FCR's draconian clauses, including collective and territorial responsibility, unchecked powers of political agents, and lack of appeal rights, violated fundamental human rights. These contradictions ultimately had devastating consequences for the people of FATA (Khan, 2011).

Before the enactment of the criminal justice system in 2018, jirga dominated the judicial, administrative, and social systems when it came to resolving disputes in the tribal areas. Jirga was comprised of Tribal Elders known as Maliks who resolved disputes according to old traditions and practices. The word "jirga" in Pashto is frequently used to refer to a gathering of a few or more people (Hussain, 2011).

However, Jirga refers to an assembly of elders to make decisions and resolve disputes while taking into account the local customary law. The Jirga system guarantees that justice is carried out in a demonstrably just manner and ensures maximum public participation in the administration of justice.

FCR Jirga or Sarkari Jirga

One of the important forms of Jirga was FCR Jirga which was under the control of the Political agent

and its objective was to deal with illegal and political matters in the administrative area of these tribal regions. The Political agent was like a judge. Every decision of the Jirga was to be endorsed by him and in case parties were unhappy with the decision then he had the right to appeal to the commissioner tribunal. Later on, the political administration implements these decisions through the Khasadar or Levis force (Mahsud, [2023](#)).

Local Jirga and Maraka

Many people refer to Maraka and Jirga as the same, which is not so. The two are different, Maraka (parleys) is when elders get together to thrash out an issue. It is a consultative process; all the participants are on the same side and even women can participate in Maraka. Jirgas are groups of elders trying to decide a dispute, each group representing a party to the dispute and there can be any number of parties to a dispute. Normally the Jirga gives a consensus verdict; if for some reason consensus cannot be reached then the Jirga is replaced with a new Jirga. There is no written legislation by which Jirgas decide cases, it is all verbal and most decisions are reached from old precedents.

The Jirga members take guidance from Islamic Shariah and Riway. The parties are given an option, of whether they like to decide the case according to Shariah or Riway. If both the parties agree on one code then experts of that code are called upon, like, if they agree on Riway, Maliks will be called upon as members of the Jirga and if they agree on Shariah then Mullahs will be on the Jirga. However, if both the parties don't agree on one code, let's say one asks for the case to be decided according to Shariah and the other according to Riway then the Jirga will have a Malik and a Mullah representing each party. Both the disputing parties have already consulted people and know where their benefit lies so they will ask for the law that benefits them. In such cases the issue is reconciled; the Jirga members try to come up with a solution acceptable to both parties. The Jirga may or may not reduce the verdict in writing depending on the issue (Daur, [2014](#)).

In smaller, family disputes, the Jirga members call for Waak, authority, from both parties. Once the parties surrender their *Waak (authority)* to the Jirga, they don't have any recourse to backing out

or asking for a fresh Jirga. In smaller, family disputes, the Jirga members get the verdict implemented, since it is within the family no force is required. If the dispute is between subcastes of a tribe or parties from different tribes then the Caleweshti will get the verdict implemented, if any of the party is not complying with the decision of the Jirga. If it is a dispute between tribes, then, either a neutral tribe or the administration is involved in deciding and implementing the verdict. I have never come across any decision for the implementation of which a tribal Lashkar has been formed. Women normally don't sit on Jirgas which involve external parties, they do however sit in Marakas and in Jirgas involving internal family disputes, especially those related to issues involving women.

There have been rare occasions where mishaps took place but if there is a threat or apprehension, then the neutral Jirga meets both parties separately and if their presence is required then the Jirga fixes several people that will attend and unarm them before attending the Jirga.

All of FATA's prior governance structures, including FCR, were abolished during the merger, leaving a legal and administrative void in which new laws could not be implemented because there were no law-enforcement organizations and existing laws were no longer applicable.

Amidst legal uncertainty, the government enacted an interim governance regulation that essentially replicated the extant FATA legislation. This regulation included provisions granting judicial powers to the former political agents and enabling tribal councils, often known as "jirgas," to assume jurisdiction over both civil and criminal cases (Hameed, [2019](#)). The provincial high court invalidated such "improvisation" in October 2018 after ruling that the merger immediately applied Pakistani law to FATA, precluding the use of any other system (Pakistan's tribal areas: Neither faith nor union found, 2019). However, there was no administrative framework in place to implement the new judicial system there.

The old Jirga System still prevails in the tribal areas, people prefer to resolve their issues through Jirga rather than Courts. The role and functioning of the new Judicial System have been very limited. As stated by Ihsan Tipu renowned Journalist "Issues in the region are still resolved through Jirgas, which

are an effective tool for justice. The Pakistani judicial system, in practice, is very ineffective. Therefore, people are satisfied with the justice provided by the Jirga because it delivers swift justice and, most importantly, it is a cheap platform for providing justice. On the other hand, the judiciary is practically a game of money, from lawyers to judges. The judiciary is completely inactive, and its role is zero" (Tipu, 2024).

Despite its merger in KP the FCR Jirga or Sarkari Jirga still operates in the tribal areas under the control of DC and other non-civil institutions. Both civil and security administrations deal with the matters of the region through the members of FCR Jirga. Jamal Malyar renowned social activist from Ex-FATA stated regarding this matter "After the FATA merger, it was said that the Jirga system would be abolished. However, this change was nominal. Later, when General Faiz Hameed was appointed as the Corps Commander of Peshawar, the same Maliks (tribal elders) were reinstated upon his recommendations. Today, when district administration and army conduct Jirgas, they invite these Sarkari Maliks. If any political leader or another government officer visits, only the Maliks are invited to such Jirgas or programs. When there is an incident of injustice by the government, including killings of innocent people by security forces, these official Maliks intervene, settle the issue with compensation and government jobs, and resolve the matter. They still receive annual contracts. These Jirga members work as spies and facilitators for the government" (Malyar, 2024).

According to Alam Zaib Mehsud a renowned social activist and political worker from former FATA, "The role of Sarkari Jirga remains the same. Commissioners or other administrators still manage affairs with this Jirga. The political, civil, and security administration deals with the problems of the region through this Sarkari Jirga. The Sarkari Jirga serves their interests rather than those of the public or the region. While the traditional local Jirga is playing an important role in regional disputes as it was before the merger" (Mehsud A. Z., 2024).

Every reform requires proper planning and implementation of policy. Similarly, the government merged Ex-FATA into KP but no proper infrastructure and other resources were developed to make it practically viable. Courts have been established in adjacent areas for many tribal

districts instead of within the region. The government is not interested in implementing the merger plan in a true spirit and manner. The decision was made haphazardly even not in line with the recommendations of the FATA reforms committee. Naseer Ullah Khan Wazir, a former member of the KP assembly stated regarding this matter "Although the judicial system was introduced in FATA after the merger, it requires infrastructure and proper procedures, which were not established. I have observed that no significant response or seriousness has been shown by the judiciary in this regard. Our Jirga system is much better at delivering justice compared to the other judicial systems. If the judicial system gives 15-20% weightage to the Jirga decisions, because the Jirga considers all aspects and the dynamics of the region in its decisions, it would improve the justice system in the tribal areas to some extent. The court will need these local Jirgas to resolve land disputes at the regional level, as these issues cannot be resolved without them" (Wazir, 2024).

As stated by Gul Badin Khan, "In FATA, the traditional local Jirga worked under a fundamental structure of tribal customs and traditions, providing a good system for delivering justice. Now, since the Pakistani judicial system has been introduced after the FATA merger but is completely inactive, the local Jirga continues to provide justice and plays an excellent role" (Khan, 2024).

The government asserts that its justice system is swift and free, but the reality is very different. This is the main distinction between the Jirga system and the criminal justice system. It will take years for the disputants to receive justice and pay huge fees to their councils in the criminal justice system while on the other hand, Jirga is a source of quick and affordable justice. As stated by Asif Khan Mehsud, a member KP assembly from South Waziristan Upper "A successful justice system in the world is affordable and immediate. However, the Pakistani judicial system is extremely ineffective, even in other parts of the country. On the other hand, our Jirga system is excellent, providing quick and affordable justice, considering regional issues and cultural dynamics" (Mehsud, 2024).

The merger marks a pivotal move toward bringing FATA under Pakistan's broader judicial system. This initiative aimed to provide former FATA residents with the same legal protections and

services other Pakistani citizens enjoy. By establishing formal courts, the goal was to offer a more uniform and transparent legal process, replacing the traditional Jirga system. Despite this shift, the Jirga system remains culturally and socially significant in tribal areas. Rooted in tribal customs, Jirgas have historically served as mechanisms for conflict resolution and community governance. While the formal judicial system is set to take precedence, Jirgas is still operating and providing justice to people.

However, the transition is challenging. There is resistance from various groups, including tribal elders who consider the Jirga system a crucial part of their identity and autonomy. Additionally, practical issues such as infrastructure, awareness, and the accessibility of formal judicial services in remote areas present significant obstacles. Building trust and educating the local population about their legal rights under the new system is essential for the government and judiciary. To effectively serve the people of former FATA, Pakistan's judicial system needs substantial investment in capacity building and infrastructure. This includes training judicial officers, establishing courts, and ensuring that legal services are accessible to everyone. Adequate resources must be allocated to support this transition and ensure the judicial system functions effectively in the region.

A hybrid approach, recognizing the Jirga system's value while gradually integrating formal legal mechanisms, might be the most practical path forward. Phasing in the judicial system can help ease resistance and allow the local population to adapt more comfortably to the changes. The success of this integration depends on effective governance, ongoing dialogue with local communities, and a committed effort to develop the necessary legal infrastructure.

People's Distrust Over the New Administration

Every reform must first be approved by the public, which requires a community assessment of the reform's potential effects and how they will impact people's daily lives. No such action was done in the reform that is being discussed; instead, a non-representative commission was established to consider potential reforms for the tribal territories. Ultimately, not even their suggestions were carried

out. The merger would have a significant effect on the people of Fata, thus at first, they were unaware of what had happened because it was unexpected that it would take place in such a haphazard way. After the merger's dust settled, they began to realize its impact. Every comment they make reflects their grievance, and some pro-merger advocates are now saying that the merger has completely failed (Pakistan's tribal areas: Neither Faith nor Union Found, 2019).

The lack of successful community engagement is a major component of the mistrust. Many locals believe that their distinct socio-political environment was not taken into account or that the merger was forced upon them. The belief that choices are made without their involvement breeds discontent and resistance. Traditional power structures of FATA have been disrupted by the merger, especially the Jirga system and the position of tribal elders. The abrupt implementation of a new governance model, which was meant to establish legal uniformity, has marginalized these local leaders and stoked resistance among individuals who believe their power and influence are being diminished.

Moreover, the people of merged districts feel left out economically. Despite promises of economic development, project implementation has been delayed, and chances for job creation and business expansion remain restricted. The government's expectations are significantly at odds with the state of the economy, which exacerbates feelings of disenfranchisement. There hasn't been enough or equitable distribution of the promised advancements in healthcare and education. The region's schools and hospitals remain underfunded and understaffed, unable to meet the population's fundamental needs. This failure to provide critical services contributes to the public's sense of neglect and trust in the government.

The ongoing security operations and the presence of the military in the region have hampered integration efforts. Disruptive military operations and the resultant displacements of people and collateral damage to infrastructure have caused widespread trauma and mistrust. Many people regard the military's dual position in security and government as a conflict of interest, which undermines faith in the new administration.

The formal legal system's inefficiencies and apparent corruption have posed considerable confidence hurdles. Despite its informality, many residents still choose the old-fashioned Jirga method because of its quick justice and cultural compatibility. The official courts, which are perceived as slow and corrupt, have failed to provide a viable alternative, leaving locals dissatisfied with the new legal structure. Confusion and annoyance have resulted from the inconsistent application of policies and changes. Promised improvements frequently end up on paper, and it's unclear how new rules and legislation should be implemented in the context of the merged districts. This contradiction erodes public confidence in the government and damages its legitimacy.

The deteriorated law and order situation following the merger is one of the main problems. The old Levis and Khasadars forces were transformed into KP Police, which are unequipped, ill-trained, uneducated, and unaware of modern or regular policing. It is still challenging for them to adapt to their new responsibilities resulting in a poorly functioning policing system in the region.

There is a widespread mainstream media blackout in the tribal areas, which restricts information transmission and fosters public distrust. Human rights violations go completely unnoticed and unanswered as a result of the lack of attention from the media. Demanding accountability and justice, activists from movements such as the Pashtun Tahafuz Movement (PTM) have been vocal about these problems.

Conclusion

When Khyber Pakhtunkhwa (KP) and Ex-FATA merged six years ago, the area was still continuously

facing troubles accomplishing the promised advancement and mainstreaming. In light of the merger's rapid implementation and lack of thorough preparation, the Merged Districts (MDs) now have ineffective legal structures and law enforcement institutions. While the previous governing bodies vanished and Pakistan's judiciary was expanded to include tribal areas, the new administrative structure is still mainly unsuccessful. There has been little shift from Political Agents to Deputy Commissioners. The latter continue to operate roughly in the same manner as their forerunners. The issue is made harder by the JIRGA system's perpetuity, the inadequate education of freshly recruited police officers, corruption, and external influences.

The goals of the merger will not be achieved if important progress is not made to boost administrative capacity, eradicate corruption, and practically integrate the MDs into a new governance system. Due to poor education and training, the conversion of elderly militia groups, Levies, and Khasadar, into a current police force has been entirely useless. The deeply rooted Jirga system, which is still favored for its swift and socially fit justice, has been tough for the new legal system to replace. The promised improvements in administration, law and order, and revenue growth were also impeded by a lack of infrastructure, resources, and suitable delivery. The requirements for a more gradual, fair, and well-planned tactic to integrate Ex-FATA into the national framework are highlighted by the additional destruction of confidence and efficacy caused by the military's continuing presence and the removal of local involvement from the reform process.

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