

**FATA FUTURE GOVERNANCE MODEL: DO STAKE
HOLDERS REPRESENT PUBLIC SENTIMENTS?**



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DEDICATED

TO

My loving father (Late) and my caring mother



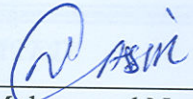
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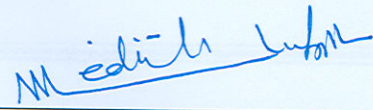
CERTIFICATE

This is to certify that this thesis entitled: *“FATA Future Governance Model. Do Stakeholders Represents Public Sentiments?”* submitted by Ms. Siddiqa Ali is accepted in its present form by the School of Public Policy, Pakistan Institute of Development Economics (PIDE), Islamabad as satisfying the requirements for partial fulfillment of the degree in Master of Philosophy in Public Policy.

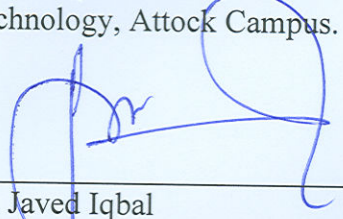
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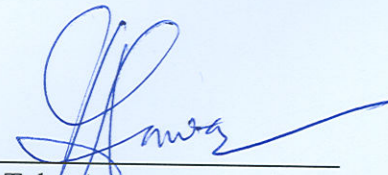

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Table of Contents

1. INTRODUCTION	1
1.1 CONTEXTUAL BACKGROUND.....	1
1.2 STATEMENT OF THE PROBLEM.....	5
1.4 OBJECTIVES OF THE STUDY.....	6
1.5 SIGNIFICANCE OF THE STUDY.....	7
1.6 SCOPE OF THE STUDY.....	7
2. FATA AT A GLANCE	9
2.1 CHRONOLOGICAL BACKGROUND.....	9
2.1.1 Past (Pre-Independence).....	9
2.1.2 The Pakhtuns as a Buffer Between Empires.....	9
2.1.3 The Invasion.....	9
2.1.4 The Durrani Federation.....	10
2.1.5 Splitting the Pakhtuns Cultural Areas.....	10
2.2 POST-INDEPENDENCE.....	11
2.3 GEO-GRAPHICAL BACKGROUND.....	13
2.4 POPULATION.....	14
2.5 CONSTITUTIONAL STATUS OF FATA.....	15
2.6 ADMINISTRATIVE STRUCTURE.....	16
2.7 POLITICAL AGENT.....	16
2.8 FRONTIER CRIME REGULATION - FCR.....	17
2.9 CRITICAL SITUATIONAL ANALYSIS.....	18
3. LITERATURE REVIEW	20
3.1 INTRODUCTION.....	20
3.2 EXPECTATIONS OF THE MASSES.....	20
3.3 GOVERNANCE IN FATA.....	22
3.4 GOVERNMENT REFORMS/INITIATIVES.....	23
3.5 LATEST FATA REFORMS-2018.....	25
3.5.1 Salient Features of 31 ST Constitutional Amendment Bill.....	26
3.5.2 Criticism on 31 ST Amendment.....	27

4. METHODOLOGY AND DATA COLLECTION	29
4.1 TARGET POPULATION	29
4.2 SAMPLE SIZE.....	29
4.3 DATA COLLECTION.....	30
4.3.1 Key Informant Interviews (KII).....	30
4.3.2 Citizen Perception Survey - CPS	31
4.4 DATA ANALYSIS	31
4.4.1 Qualitative Data	32
4.5 QUANTITATIVE DATA	34
4.6 DIFFICULTIES IN DATA COLLECTION	34
5. DATA ANALYSIS AND DISCUSSION	36
5.1 QUALITATIVE DATA ANALYSIS	36
5.1.1 <i>Stage I- Transcription</i>	36
5.1.2 <i>Stage II- Familiarization with data</i>	36
5.1.3 <i>Stage III- Coding</i>	36
5.1.4 <i>Stage IV- Developing analytical framework</i>	36
5.1.5 <i>Stage VI- Charting data into the framework</i>	45
5.1.6 <i>Interpreting the Data</i>	47
5.2 DISCUSSION ON QUALITATIVE DATA.....	48
5.2.1 Current Problems of Tribal Areas.....	48
5.2.2 Responsible People, Groups and Institutions for Problems of Tribal Areas.....	49
5.2.3 Frontier Crimes Regulations - FCR	51
5.2.4 Desired Governance Model & Reasons for Opposition	52
5.2.5 Reasons for Opposition for Reforms	56
5.2.6 Perception About Reforms.....	56
5.2.7 International Community Willingness for Funding and Assistance	57
5.3 CONCLUSION (QUALITATIVE PART OF THE STUDY)	58
5.4 QUANTITATIVE DATA ANALYSIS	59
5.4.1 Citizen Perception Survey.....	59
5.4.2 Respondents' Profile.....	59
5.4.3 Gender Composition	60
5.4.4 Age Composition	60

5.4.5	Education	60
5.5	RESPONDENTS FORM AGENCIES/FRONTIER REGIONS-FRS	61
5.6	ISSUES PREVAILING IN FATA	62
5.7	RESPONSIBLE ENTITIES FOR THESE ISSUES	63
5.8	FRONTIER CRIME REGULATION-FCR	64
5.9	FATA EXISTING SYSTEM & ROLE OF PA	65
5.10	DESIRED FUTURE GOVERNANCE MODEL.....	66
5.11	PERCEPTION OF MASSES OF FATA ABOUT REFORM	67
5.12	OTHER OPTIONS RELATED REFORMS	68
6.	CONCLUSION AND POLICY RECOMMENDATION	69
6.1	CONCLUSION	69
6.2	POLICY RECOMMENDATIONS	70
7.	REFERENCES	72

List of Tables

Table Number	Title	Page Number
1.	Population of FATA	14
2.	Main Theme 01: Current Problems of Tribal Areas Basic and Organizing Themes	37
3.	Main Theme 02: Responsible for Problems of Tribal Area Basic and Organizing Themes Merged	39
4.	Main Theme 03: FCR Basic and Organizing Theme	39
5.	Main Theme 04: Desired Governance Model/Reforms Basic and Organizing Themes Merged	40
6.	Main Theme 05: Reasons for Opposition of Reforms Basic and Organizing Themes Merger	43
7.	Main Theme 06: Perception about Reforms Basic and Organizing Themes Merged	44
8.	Main Theme 07: International Community Willingness for Funding and Assistance	45
9.	CPS Respondents Profile	51
10.	Problems/Issues Highlight by Respondents	63
11.	Frontier Crime Regulations – FCR	65
12.	FATA Existing System	66
13.	Role of Political Agent	66
14.	Desired Future Governance Model	67
15.	Perception of Masses about Reforms	67
16.	Other Options Related to Reforms	68

List of Figures

Figure Number	Title	Page Number
1.	Analysis Framework for Qualitative Data	32
2.	Chart of Themes and Sub Themes	46
3.	Graphical Representation of Main and Organizing Themes	47
4.	Response from Agencies/FRs	51
5.	Issues and Problems Highlighted by Respondents	52
6.	Responsible entities/bodies for issues	64

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ABSTRACT

Tribal areas of Pakistan (commonly known as FATA i.e. Federally Administered Tribal Areas) is in the focus since long for many reasons including war-on-terror, Afghanistan War etc. These areas have unique history as administrative unit. During British era, it was not proper part of British India rather it was a buffer zone between British India and Afghanistan. After emergence of Pakistan as an independent state; it was included in Pakistan though, but with the same colonial administrative, legal and judicial set up under Frontier Crimes Regulations – 1901. It was Bhutto regime which gives it the status of federating unit with the name FATA as per article 1 of 1973 Constitution of Pakistan but with same governance structure, although it was the first regime which tried to reform this structure in 1976 but due to 1977 Martial Law, did not succeed. President Laghari in 1977 extended adult franchising provisions to FATA. In 2011, President Zardari extended Political Parties Order 2002 to tribal areas. In November 2015, Prime Minister Nawaz Sharif constituted the FATA reforms committee which presented its report in August 2016. The committee was then converted to implementation committee in December 2017. Due to many reasons, the federal government was reluctant to implement the reforms. In this connection Constitution (Amendment) Bill 2018 / 30th Amendment Bill 2018 was debated a lot but to no avail then all of a sudden in May 2018, the last week of its tenure, the federal government in haste presented, and new Constitution (Amendment) Bill 2018 / 31st Amendment Bill 2018 from Parliament. It got presidential assent, and was made act of parliament i.e. 31st Constitution Amendment abolishing the special status of FATA and merging it with Khyber Pakhtunkhwa – KP.

In this scenario, this study aimed at (i) to know that what are the opinions relevant stakeholder and general masses about future governance model for tribal areas, (ii) to investigate the effects FATA merger with KP, and (iii) to present policy recommendations in this regard. The study adopted sequential mixed methods exploratory research designed. The data was collected in two forms i.e. qualitative and quantitative. The qualitative data was collected via semi structured interviews from relevant stakeholders, 15 in total purposively (three from each the intelligentsia; politicians; jurists and legal practitioner; social activists; and bureaucrats). Collected data was analysed with the help of Thematic Network Analysis. 221 basic themes are emerged. These basic themes are clipped in to 32 organizing themes on the basis of similarity and correspondence and subsequently these 32 organizing themes generated

7 main/global themes. With the help of this analysis, questionnaire was designed and piloted in Urdu language. The survey was administered in all seven agencies and six FRs of tribal areas. 206 out of 400 distributed/administered questionnaires were returned/found fit for analysis.

It is concluded from the qualitative part of this research that FATA have been deprived from the major rights in this advance world. The existing system of FATA is outdated, inhuman and unjust. It was also found out that creation of separate province is not a feasible option and not based on the ground realities and wishes of general masses. In case of separate province, they will lack enough resources, technical expertise and knowledge to run it as separate province. Almost majority respondents were agreed to the fact that Future Governance model for FATA is one and only merger with special status as the FATA and KP have same culture, traditions, geo-graphic proximity and language. Furthermore, after merger of FATA with KP common man will be obliged with basic rights of life and will empowered to enjoy the benefits. Such positive reforms will bring peace but require some time to restore. The masses will get rid from the rubbish model of FCR and no more will be slaves of PA/APA and *Malik*.

From Quantitative data analysis, it was found that tribal areas peoples are facing major problems as (i) in-efficient and troubling political agent/administration, (ii) FCR, (iii) un-employment issue, (iv) lack of health facilities, (v) corruption, (vi) lack of economic opportunities issue, (vii) deployment of Army, (viii) lack of educational facilities, terrorism, (ix) lack of basic needs/necessities, (x) deteriorating law and order situation, (xi) existing mal functioning judicial set up, (xii) *Malik*, (xiii) poverty, (xiv) collective responsibility. It was pointed out Politicians are more responsible rather than Bureaucracy. People/groups or institutions are FATA MNAs and Senators, political agent/administration, *malik*, establishment/Army, FCR - the existing system own responsible for prevailing issues and the role of *Molvi* can also be not ignored.

The study concluded that creation of separate province is not a feasible option and not based on the ground realities. In case of separate province tribal may have lack of enough resources, technical expertise and knowledge to run FATA as separate province. Almost majority respondents were agreed to the point that future governance model for FATA shall be merger of FATA with KP with special status as the FATA and KP have similar culture, traditions, geo-graphic proximity and language.

Furthermore, common man will be entitled to basic rights of life and enjoy the benefits. The masses will get rid from the rubbish model of FCR and they will be no more slaves of PAs/APA and Malik. By finalizing the results of qualitative data 12 out of 15 respondents were in favour of the policy decision taken by the government on quantitative side 76.70% were also in support of this decision with special status. The result of stakeholders and general masses are in agreement with the views of one other and both are on the same page. Through merger masses will get rid of from this rubbish model of FCR.

The study also presented policy recommendations in terms of future law enforcement agency / policing, local government system, judicial system, and international funding in tribal areas along with that it also argued for the enhancement of capabilities of KP Administration.

Key Words: FATA Reforms, FATA Future Governance Models, FATA Problems, Sequential Mixed Methods, Citizens Perception Survey – CPS, Thematic Analysis, FATA Policy Reforms, Participative Decision Making.

Chapter 1

INTRODUCTION

1.1 CONTEXTUAL BACKGROUND

Federally Administered Tribal Area (FATA) is a semi-autonomous tribal region in North-western Pakistan normally called the tribal belt. It was used as a buffer zone in colonial era between Afghanistan and British India. FATA is consisted of six tribal pockets called Frontier Region - FRs and seven agencies (districts) (IPRI Fact file, 2008). Total area of FATA is about 27,220^S Km² and total population is 5,001,676 as per Census of 2017. These tribal areas have been governed in a different way from the rest of the country through Frontier Crime Regulations (FCR)-1901. This system was imposed by the colonial (British) government in Six Frontier Districts of Pakhtuns that was enacted in 1871. FCR constitutes complex legal, administrative and governance system which is running in tandem through a '*Jirgah*' system. The Regulations have undergone numerous amendments in 1873 and 1876, the latest being on August 27, 2011, (vide an Executive Order of the President of Pakistan FCR, 2011). With the passage of time this system proved itself inadequate, paving way for additional acts and offences, and extended the acts scope (Rumi, 2012). The Judicial System enshrined in the FCR described as hybrid of colonial-era legal framework with tradition, norms and customs. It violates human rights in many ways. For example, collective punishment, that's why it is regarded as "*Black Law/ Draconian Law*" by the present international Human Rights Organization (HRCP, 2005).

Colonial laws were devised to meet apolitical administrative system and never ending bad governance practices. The geography of FATA imposes harsh choices for the people of this region, constraining the employment opportunities and infrastructure development. FATA practically remained an isolated territory since long. Piecemeal development plans only benefited the tribal elites rather than general masses (Kokhar, Kamran, Abbasi & Jaffar, 2014). Here, the natural resources are depleted, production is low and the workforce/manpower of FATA is largely unskilled because of that, industrial and commercial expansion is not possible. The people of FATA are poorly educated and deprived of all basic necessities of life. The literacy rate in FATA is only 17% and less than 40 % of all children are enrolled in education from Primary to Higher-Secondary level (NWFP, 2005a; FATA Secretariat, 2017). The only 7% area is

cultivable. As only few laws regulated economic activities therefore, the economy operates on an informal way, mostly undocumented (Ali & Ashfaq, 2013). As per 1998 census report electricity supply covered 62% households of FATA with low coverage and prolonged breakdown (GoP, 1998a). Furthermore; the region remains a hotbed of conflict and hostage to the on-going wave of terrorism.

Policy formulation and the subsequent implementation processes are essential for the smooth functioning of a country. These processes ensure compliance with laws, rules and regulations. Ironically, Article 247 of the Constitution of Pakistan ‘adopts’ the colonial understanding of the region: direct regulation of the Federal Government and reliance on the out-dated instruments of governance (1973 Constitution of Pakistan, 2017). The 1973 constitution of Pakistan holds that any law adopted by federal government will not be applicable until it is extended by the president through a formal gazette order in FATA. This make FATA a unique case, whose residents elect their representative for Parliament (i.e. for National Assembly in direct way and for senate in indirect way) but that parliament cannot legislate for it. Keeping in view this constitutional provision, due to certain circumstances, some laws were extended to FATA i.e. Passport Act 1913, Pakistan control of Army Act 1952, the Public Debt Act 1944, the Trade Mark Act 1940 and the Adult Franchise Act 1996 etc. But mostly were unsuccessful because of different grounds. For example, in 1979, the criminal Procedure Code was extended to FATA but with the provision that it would be operational only when relevant rules were missing in FCR, this thing negated the actual impact of its extension.

Many times, reforms in FATA structure were sought but to no avail. Reforming of governance structure is still continued but those reforms shall be in accordance with the will and demand of relevant stakeholders and general masses. Recently, in November 2015, the former Prime Minister Nawaz Sharif realized the urgent need to reform FATA. Thus, he constituted a committee for that purpose to consider the matter by holding through discussion and deliberation with all relevant stake holders. The committee was led by that time Advisor to Prime Minister Mr. Sartaj Aziz (Conference Report, 2016). The committee presented four possible constitutional options regarding the Status of FATA, i.e (i) maintaining the *status quo* with certain legislative and administrative reforms, (ii) the establishment of FATA Council as per the Gilgit Baltistan Model, (iii) carving out a separate province, and (iv) merging FATA with

Khyber Pakhtunkhwa -KP. After examining these options, the committee has opined in favour of merging FATA with KP and thought it the only viable route to mainstream FATA. The committee has suggested a five years' term for implementation of its plan while suggesting ten years' period for social and economic development.

As per on the Report of Committee (2016), consultation with tribal were not in favour of separate province for FATA as their cultural and economic links are strongly linked with KP. They are afraid if FATA become a separate province; it would not be able to generate revenue by its own and will thus lose the current advantage of merger. Therefore, merger is considered as the only viable option because the people of FATA will get right to elect their representatives for the KP Provincial Assembly, National Assembly (NA) of Pakistan and Senate of Pakistan which will make them represented at legislative/ policy making fora.

Government has taken political parties into the confidence over the merger, mostly are in favour except two i.e *Jamiat Ulema-e-Islam* (Fazal ur Rehman Group – JUI-F) and *Pakhtunkhwa Milli Awami Party* (PK-MAP). Considering this situation political parties pulling and grabbing for their own interest. The support by ANP is being supported by receiving an increase in provincial seats and representation at Federal level on the other hand JUI and PK-MAP wants referendum (Rahim, 2017).

Both types of the reforms, i.e. (i) merging with KP (ii) and declaring FATA as a separate province have some pros and cons. According to the plan of merger, FATA would be under the control of provincial government but criminal, civil and family laws of Pakistan will not be applicable here. Instead a FATA specific law i.e. Riway Act will be adopted. This point also raised issues. Political parties which are supporting merger may be motivated by their own political agendas and they may not have regard for damages that the merger may inflict in this sensitive region. FATA and KP are congenital twins with two different governance models. KP has a defined constitutional, legal and administrative structure while FATA is governed through centuries' old colonial model of governance based on FCR which was meant for suppressing the freedom-loving tribal rather than facilitating them (IPS, 2016). In the reforms package, it is proposed that FCR will be replaced with Riway Act but what that Riway Act will be comprised off is yet not clear. This Act may result in a justice administration system differently from the rest of Pakistan. While on the other hand merging option is defended by many following the rationale that these reforms will

empower the people of FATA to rule over the system. Three percent of NFC (National Finance Commission) divisible pool's funds will be awarded /allocated to the FATA. Local Government polls will be held after the general elections of 2018. These reforms will allow the people of FATA to knock the door of Supreme Court and High Court in appealable and original jurisdictions as per 1973 Constitution (Mehsud, 2012).

In a seminar at National Defence University, Islamabad on the topic peace and development in KP and FATA, mostly speakers supported these reforms. But one of the expert Lt Gen (R) Muhammad Tariq Khan differed with the point of others. He suggested to conduct a referendum to ascertain the opinion of tribal people. Considering the FATA as a separate Province have many advantage i.e. FATA would have its own tribal governor, tribal chief Minister and own legislative assembly. *“If the President through his constitutional powers under Article 247 could bring about any change in the administrative setup of FATA by simply calling a grand Jirga, why he cannot order a referendum for creation of Qabayalistan while exercising the same constitutional powers,”* stated by Former Federal Minister Hammed Ullah Jan Afridi (The DAWN, 2017). While on the other hand this option is rejected by many, establishing FATA as a separate province is not a feasible option. A FATA has narrow strip of territory; it is not one homogenous territorial unit. This separate province creation may lead to violence and conflict and may encourages more ethnic movement and provincialism. (The DAWN, 2011).

Recently, National Assembly of Pakistan made historic move on May 24th, 2018 by passing the 31st Constitutional Amendment which aims to merge Federally Administrated Tribal Areas (FATA) with Khyber- Pakhtunkhwa (KP). The bill was passed with 229-1. Subsequently, Senate also approved the bill by an overwhelming majority i.e. 71-5. Political Parties including Muslim League-Nawaz (PML-N), Pakistan Tahreek-e-Insaf (PTI), Jamaat-e-Islami (JI) and Muttahida Qaumi Movement-Pakistan (MQM-P) voted in favour of the bill. On the other side two allies of the ruling party, the Jamiat Ulema-e-Islam- Fazal (JUI-F) and the Pashtunkhwa Milli Awami Party (PkMAP), and one independent member from FATA who have been strenuously opposed the bill, opt to abstain from voting. Then, as per the requirements of Article 239(4), provincial assembly of the Khyber-Pakhtunkhwa passed the same with 92-7. The house passed the resolution and asking the Federal Govt. to extend the tax exemption period for Provincially Administrated Tribal Areas (PATA) for at least 10

years and demanded Rs 100/- billion for the development of the region (Khattak, 2018). The bill got the presidential assent on May 31st, 2018.

In short, it can be inferred cautiously that the decision of merger had been made in a hurry without in-depth study on this serious policy issue i.e. obtaining the views of the masses and other stakeholders as well as this literature gap already exists. However, literature provide us the evidence that there is difference of opinion among the stakeholders about the next governance structure of FATA. Furthermore, the opinion of general masses is missing. This study is informed by this apparent confusion among stakeholders. Subsequently, it aims to investigate the opinions of the relevant stakeholders as well as the general masses of FATA that whether both parties are on the same page or having differences in their opinion. Public opinions matter in democratic system because peoples are the fundamental source of power and have the right to elect and remove their representatives. Public opinions in forming policy may be diverse as the opinions themselves. (Winston Churchill) took the views that there was ¹“No such thing as public opinion”. There is only published opinion”. Examples such as *Ipsos Mori's² understanding* society series provides a detailed insight into what the public value, think and want from the state. Therefore, this study analysed opinion of the both strata's i.e Stakeholders and general masses with a mixed method research design. The government does not need to take any hasty step under pressure from a small band of people; having vested interests and drives into a ravine with horrific consequences for a strategically important area.

1.2 STATEMENT OF THE PROBLEM

Federally Administrated Tribal Areas (FATA), normally called tribal belt or *Alaqa-Ghair* (area of no one/others) is federally governed areas since long. In colonial era, it was used as a buffer zone between Afghanistan and British India in World Wars times. After independence, the FATA was kept outside the main stream of Pakistan. The adult franchise was not practiced until 1997. The 9/11 incident changed drastically

¹ Quote of Winston Churchill: As quoted in: Time, Volume 123(1984), p.155

² Understanding Society: The Perils of Perception. This examine the ways how to handle the perils of polling, external threat that people mostly worry about or whether they should be a concern. Also scrutinize the impact of public perceptions.

the social fabrics and dynamics of the administration in FATA. Recently government merged FATA with KPK and the bill got the presidential assent on May 31st, 2018 and become 31st Constitutional (Amendment) Act 2018.

Mostly parties are in favour while some are opposing merger with KP. Basically, FATA and KP are congenital twins with different governance model, administrative structure, constitutional structure, legal system and so on. The period of five years for an incremental approach for the proposed merger is also too long. This policy initiative loses its worth and significance if it is not supported by the majority. According to democratic norms, the decisions must be based on majority demand rather than individual or political basis.

The policy initiative/ reform in FATA are in full swing but we cannot conclude anything at this stage about recent reforms with certainty due to differences in stances of stakeholders which still exist. This study aimed to interview the stakeholders including the general population to present the actual demand and voice of all to the government for transparent decision making.

1.3 RESEARCH QUESTIONS

In the light of above discussion, the answer of the following research questions will be sought:

RQ1: Does these two i.e. the relevant stakeholders (key informants) and general masses differ in their opinions about the future status of FATA?

RQ2: What will be the perceived impacts of the FATA merger with KP?

RQ3: What possible policy recommendations can be made to find relevant solution to this issue?

1.4 OBJECTIVES OF THE STUDY

The prime objective of this research is to investigate the opinions of both the stakeholders and general masses about three possible options; i.e. (i) the status quo, (ii) merge with KP, and (iii) opting for FATA as a separate province. The purpose is to examine whether the opinions of stakeholders truly represent the sentiments of the people of FATA.

1.5 SIGNIFICANCE OF THE STUDY

The Federally Administrated Tribal Areas (FATA) as name suggested is governed by Federal Government using draconian Frontier Crimes Regulation –FCR as ³*modus operandi*. The masses of FATA are deprived of their basic right i.e. participation in their own governance. The PML-N government some time ago constituted a committee to reform the FATA governance model. They develop a report after thorough consultation with FATA people, relevant stakeholders etc. The report concluded that FATA merger with Khyber Pakhtunkhwa-KP as the viable option. The planning automatically gets its worth if it is for the betterment of the country but foundations of planning shall be strong enough and shall take the respective population into the confidence before finalizing any decision. Therefore, this study analysed and investigated the opinions of general masses and relevant stakeholders (intelligentsia, politicians, legal experts and bureaucrats) not only on the policy initiative of “merger of FATA with KP” but on other possible policy alternative(s) as well. The results of the study presented the policy alternative to the government about the issue at hand. More importantly, it helped us to understand whether or not the stakeholders are true representatives of the opinions of general masses in FATA. It will consider the issues that weather relevant stake holders and FATA general masses are of the same opinion or they differ with each other. In case they differ, a suggestion for referendum can be suggested.

This is the first empirical study which validates the recent decision taken by the Govt to merge FATA with KP. This study analysed the opinion of relevant stakeholders and general masses about reforming/merging of FATA with KP. It also considered the issue of synchronization of the opinion of both strata and vice versa. Thus, it will help the policy making/developing quarters to know about the ground realities instead of politicized statements and 180-degree opposite of opinions of quarters.

1.6 SCOPE OF THE STUDY

Since its inception, more than 70 years ago, the Government of Pakistan has been trying to improve administrative profile of FATA. It is widely believed that poor

³ Modus operandi means that “a particular way to do something”

governance and ill-informed policies resulted in an environment which was/is nurturing radicalizations and extremism. Moreover, it is conceived that FATA is kept outside the mainstream Pakistan. FATA is comprised of agencies (districts like administrative units) with own administrative system, norms, value, traditions and customs. This isolation and other contingent happenings in the past (i.e. USSR vs. USA War at Afghanistan, Cold War etc) made it the best options for radical religious militant groups and outfits. Those were not only limited to Pakistani militants but militants from the other parts of the worlds as well. If appropriate policy measures are taken, the country may be efficiently mitigated and accomplish the demands of FATA people to bring them into the main stream and extend all the basic rights and facilities to them. This study utilized sequential mixed method exploratory research design approach to determine the extent to which stakeholder and masses of FATA wants what type of policy initiative/administrative system for their region.

Chapter 2

FATA AT A GLANCE

2.1 CHRONOLOGICAL BACKGROUND

2.1.1 Past (Pre-Independence)

People living in the FATA are primarily Pakhtuns. The origins of their languages i.e. Pashtu is not obvious despite tireless efforts. History of FATA written by envoys and geographers based on two different theories (Khokar et al, 2014; Shinwari, 2010).

One group called religiously historians, claimed that's all Pakhtuns are the descendants of *Qais* (Saul of Israel). They used to speak themselves as "*Bani Israil*" and after the death of *Qais* descendants moved to *Qandahar*. He had only three sons from which branches of Pakhtuns evolved. Historians and ethnologist, the second group believes that they are not the descendants of *Qais* but the Aryans, who laid the foundation of their new culture around 1500 B.C. "*Bakhtar*" is the birth place of Aryans which is supported by modern researchers of this theory. The Dravidians, the residents of the Area migrated to India. Aryan settled in the parts of Afghanistan, Iran and India. The groups of people who are living in *Bakhtar* are the ancestors of Pakhtuns (Shinwari, 2010).

2.1.2 The Pakhtuns as a Buffer Between Empires

Literature supported that the lands that are now known as Afghanistan and North West of Pakistan have seen more invasions than any other regions in Asia. At some point the region remained part of India, then Persia, then again India and finally became the part of British India. Over a long period of time, the line of Indus represented the boundary (Khokar et al, 2014)

2.1.3 The Invasion

In 323 B.C, when Alexander the Great invaded India, he occupied Afghanistan and then moved to western part of the Sub-Continent where, he faced a lot of resistance from the Pakhtuns tribes and then this region became the part of Macedonian Empire

under the General Seleucus. Muslim Invasion started from Central Asia and Afghanistan in 9th and 10th centuries A.D. At that time, these areas were under the control of Hindu Rajputs i.e. *Raja Jay Pal*, who was defeated by Mahmud of Ghazna in Peshawar. *Mahmud of Ghazna*, a Pakhtuns, invaded the Sub-continent for 17 times but did not make the whole region part of his Empire. *Shahab ud Din Ghor* in 1186 attacked Punjab and Benares and defeated Rajputs and laid first foundation for a Muslim state in India. Chengez Khan in 1212 followed the same practices when *Sultan Altutmish* was ruling India, and then in 1398 by Amir Timur Lane who did enormous destruction to India Sub-continent. First Mughal Emperor *Zaheer-ud- Din Babar* came from Afghanistan in 1526 and defeated *Sultan Ibrahim Lodhi*, and Marathas at Panipat, laid the foundation of *Mughal Empire* in Indian Sub-continent which lasted till 1857 (Shinwari, 2010).

2.1.4 The Durrani Federation

The Mughal Empire started to decline with the death of Aurangzeb Alamgir in 1707, last powerful Mughal Empire. Thus, at that time the first modern Pakhtuns Federation known as Durrani Federation came into being. In 1826 Dost Muhammad of (Mohammadzai tribe) took the throne of Kabul. The first Afghan War (1839-42) was the result of lack of cooperation by the British with Amir Dost Mohammad to capture Hirat from Persians.

2.1.5 Splitting the Pakhtuns Cultural Areas

History clearly shows the struggles of Pakhtun areas on both sides of Hindu Kush which served as a Buffer Zone between the ancient cultures. Later on, Pakhtuns culture area was not seen as a nation and only 'Afghanistan' north of the Hindus Kush became the buffer zone between the USSR and the British India in what is known as "The great Game". To protect the North-Western flank of India, British made an alliance with Sikhs and deposed Shah Shujah against Dost Muhammad and promised the throne of Kabul while possession of Peshawar was given to the Sikhs. In the meantime, allied forces captured Kabul and Shah Shujah was made Amir of Afghanistan for a short period of time. Both Shah Shujah and British were ousted from the Country in 1841. By 1843 Dost Muhammad returned from his exile and regained the control. The second Afghan War (1878-1880) was fought under the command of

Brig. General Sir Neville Chamberlain. This war did show the same result as the previous one; the only important outcome was that British were now in possession of Khyber, the Kuram and Bolan Passes. These passes continue to link Kabul to Qandahar and Peshawar to Quetta. These Routes were the highway system during Durrani Empire and also connect the rural and urban Pakhtuns areas. Both Amir and British Raj was quite concern for the settlement of Afghanistan Frontier. As a result, after in-depth and long periods of negotiations, on December 12, 1893, an agreement was finalized and signed subsequently. On behalf of British Government ⁴Sir Durand, while on behalf of Afghanistan Govt, Amir Abdur Rehman signed the famous “Durand Line Agreement”. As per this agreement Khyber Pass and highland around Quetta fall within the jurisdiction of British Indian government/Raj. The culture area of Pakhtuns and the Durrani Federation was split in to two present day, Pakhtuns areas consider as Buffer between the nations (Wazir et al, 2007).

2.2 POST-INDEPENDENCE

The agreement between Afghanistan and Britain settled the border dispute. The Frontier pakhtuns region remains a trouble/ threat to the stability of British India. Considering this threat, British India formulated a policy of persuasion, control and armed interventions for these specific areas. 58 military campaigns were launched against tribal by the British between 1849 - 1939. Finally, the conflict was resolved by providing free road access, allowances, subsidies (to Maliks & elders) and a status of semi-autonomous area to the Tribal areas (Khokar et al, 2014).

FCR was one of the most important arrangements of this agreement implemented by the colonial government in so called autonomous Pakhtuns regions. In British India, the criminal law and the ordinary law was enforced and extended to those areas but did not served the purpose i.e. firm control this region. This situation drew British administration to devise a special law for the whole Pakhtuns region; hence “Frontier Crime Regulations” – FCR was enacted in 1871. It was modified from time to time. These modifications continued through 1901 when the Western Frontier region of British India was placed under Governor General of India, who governed it through Chief Commissioner of Punjab/NWFP and Political Officer of British Civil Service

⁴ Sir Henry Mortimer Durand, GCMG, KCSI, KCIE (1850-1924) was a British Diplomat and Stallman (Encyclopedia Britannica, 2018)

(Rumi, 2012). The Judicial System enshrined in the 1901, FCR is described as a hybrid of colonial-era legal framework with traditions, norms and customs. FCR violates human rights that's why it is labelled as "Black Law/ Draconian Law" when judge by the international human rights activists and organizations (HRCP, 2005). British Colonial rules included a system of administration to implement the FCR. In which Governor General of India through Chief Commissioner/Governor of Punjab (later Chief Commissioner of NWFP) engaged the local Pakhtuns as via civil servant i.e. Political Agent who used to deal with the Maliks and Lungi holders of the tribes rather than general masses (Shah & Waqir, 2012).

After Independence Tribal Areas become the integral part of this country as then Governor General of the Pakistan directly assumed the responsibility. Pakistani decided not to alter the status of these areas due to prevailing situation at that time resultantly; the same British imposed administration model prevailed in FATA (Shah & Waqir, 2012, p.7). In April 1948, Quaid-i-Azam Mohammad Ali Jinnah, the first Governor General of Pakistan, came to the N.W.F.P. (now Khyber Pakhtunkhwa) on an official visit. During his stay at Governor House Peshawar, he addressed to the *Qabayli Jirga* and issues faced by the tribal people were highlighted there. He expressed about the intention of central government regarding the future of tribal people in his speech,

"Pakistan has no desire to unduly interfere with your internal freedom. On the contrary, Pakistan wants to help you and make you, as far as it lies in our power, self-reliant and self-sufficient and help in your educational, social and economic uplift, and not be left as you are dependent on annual doles, as has been the practice hitherto which meant that at the end of the year you were no better off than beggars asking for allowances, if possible a little more. We want to put you on your legs as self-respecting citizens who have the opportunities of fully developing and producing what is best in you and your land" (Quaid-i-Azam Speeches and Statements, 1989, p. 238).

After his demise, the ruling elites failed to bring any positive change in the state policy and so the colonial structure of administration prevailed in the region. Similarly, in the coming decades same situation was witnessed in the areas where the Maliks and Lungi holders represented the local populace and enjoyed their previous position. Thus, no political, electoral, administrative, judicial and constitutional or legislative reforms were under taken in the tribal belt (Shah, 2012, p. 8). According to FCR three basic rights are not applicable to the residents of FATA – *appeal*, *wakeel* and *daleel* (the right

to request a change to a conviction in any court, the right to legal representation and the right to present reasoned evidence, respectively) (Ullah, 2016).

FATA is facing a lot of problems since 1947 as it was not even considered a proper part of the country till 1973. The then Prime Minister Zulfiqar Ali Bhutto government give it a proper status in constitution. Similarly, in 1976 the then Prime Minister Zulfiqar Ali Bhutto formed a committee through which FATA become the part of NWFP for general elections and get the proper status in the constitution, but this initiative not succeeded due to coup of Military in 1977 (Reforms Committee Report, 2016).

However, when the Government of Benazir Bhutto was dissolved in 1996 and Care Taker Government of Malik Meraj Khalid was in power, President Farooq Laghari had introduced certain reforms. The government had made a historical decision by extending the rights of adult franchise to FATA. Till then the system of limited franchise was in vogue in FATA in which only notables and *Malik* were having the right of franchise (The News, 2011). **Gen Musharaf** also formed a committee to reform FATA but that also did not see the light of day. Then this recent effort was made by PMLN regime.

2.3 GEO-GRAPHICAL BACKGROUND

FATA is a semi-autonomous region in North-western Pakistan and extending over 27,220 km² covers 3.4 per cent area of Pakistan's land. This mountainous land is inhabited by a majority of *Pakhtoon* population. It is surrounded by the province of Baluchistan in the south, the province of Khyber Pakhtunkhwa (KP) in the north and east, the province of Punjab in the south-east and in the west by the state of Afghanistan (IPRI Factfile, 2008, p. 15).

FATA is consisted of seven agencies namely Orakzai, Kurram, Mohmand, Khyber, Bajaur, North Waziristan and South Waziristan agency, and six tribal pockets called 'Frontier Regions' namely FR Lakki Marwat, FR Peshawar, FR Dera Ismail Khan, FR Bannu, FR Kohat, and FR Tank. All seven agencies are further divided into subdivision and Tehsils for administrative purpose. Political Agents (PA) is the head of agency who is usually an Officer from the Pakistan Administrative Services previously known as district management groups- DMG. Under the supervision of Political Agents (PA's) there is one or two Assistant Political Agents (APA's) and a number of

Tehsildars and Naib Tehsildars with supporting staff. The Frontier Regions (FRs) differs from the agencies only in the chain of command, and each FR is headed by a District Coordination Officer (DCO) of the adjacent settled district. Agencies shared border with the Afghanistan except Orakzai agency with minor exceptions (GoP, 2006). According to 2017 Census initial report FATA has a population of 5,001,676. FATA is inhabited by majority of *Pakhtun* tribes and a limited number of other religious groups such as Hindus and Sikhs (PBS, 2017).

2.4 POPULATION

The 1998 census recorded 126,577 persons as migrants from FATA to other areas of Pakistan, which renders the gender ratio questionable (the migrants are mostly assumed to be men, leaving behind a higher proportion of female population). According to the census 1998, the urban population in FATA was only 2.7 %, and the population density was 117. The urban population is mostly concentrated in Khyber and Kurram agencies.

Table 01: Population of FATA

<i>S.No</i>	<i>Name of Agency/FRs</i>	<i>Census 1998</i>	<i>Census 2017</i>
1	Bajaur Agency	595,227	1,093,684
2	Mohmand Agency	334,453	466,984
3	Khyber Agency	546,730	986,973
4	Orakzai Agency	225,441	254,356
5	Kurram Agency	448,310	619,553
6	North Waziristan Agency	361,246	543,254
7	South Waziristan Agency	429,841	679,185
8	FR Peshawar	53,841	64,691
9	FR Kohat	88,456	118,578
10	FR Bannu	19,593	43,114
11	FR D.I khan	6,987	68,556
12	FR Tank	27,216	36,389
13	FR Lakki	38,990	26,359
TOTAL		3,176, 331	5,001,676

Sources: Pakistan Bureau of Statistics (2017), Census Reports of FATA 1998 by population Census Organization, GoP, Pakistan Bureau of Statistics- BPS (2017). Initial Census District-wise Report. Islamabad: BPS

2.5 CONSTITUTIONAL STATUS OF FATA

The Indian Independence Act 1947 abolished special treaties. Pakistan not opted to base troops in FATA region because 200 *Maliks*, during a *Loya Jirga* signed an “Instrument of Accession” with Muhammad Ali Jinnah in return for continuous of their autonomous status. As per the international law, Pakistan inherited all international agreements of British India, and so as Durand Line Agreement. The constitution of 1956, 1962 and 1973 with some minor modification recognized the special status of FATA (Khan, 2014).

When Constitution of Pakistan 1956 promulgated, the government of Pakistan adopted parliamentary system but it did not introduce any change in administrative system of FATA (Bangash, 1996). Under the military regime of General Ayub Khan, 1962 constitution was promulgated. Due to peculiar situation it also kept FATA outside from the mainstream of both the provincial and central domains. The FCR was given constitutional protection in all three constitutions of Pakistan. In the 1956 constitution the protection was given via articles 103 and 104. The two articles provided for the administration of “Excluded Areas” and “Special Areas”, referring to the Provincially Administered Tribal Areas and Federally Administered Tribal Areas, respectively. Article 104 empowered the President of Pakistan with administrative control (Chaudhry, 2011). Powers delegated to the governor of concerned province wherein tribal areas located of making, amending and repealing any regulation or amending any central or provincial law by the Head of the state (1962 constitution, Article 223).

In 1973, the third constitution of Pakistan was enforced. It also did not bring FATA into the mainstream of the country and allocated the special status to it. According to 1973 constitution Article 1, FATA become one of the territories of Pakistan. Article 247 prescribed the procedures related to its administration. As per this article, the executive authority of the federation is extended to the FATA and the Governor, on the direction of the President shall administer it. Clause 7 of the Article 247, bars the jurisdiction of superior judiciary (i.e. Supreme Court and High Court etc) to FATA unless the Parliament so provides under the law. The same Article and SRO 109 authorizes the head of the state to exercise administrative power in FATA. On behalf of the President, the Governor of the adjacent province i.e. Khyber Pakhtunkhwa, acts as his agent exercising executive authority in these areas (Wazir, 2007).

2.6 ADMINISTRATIVE STRUCTURE

In both houses of the parliament of Pakistan i.e. National Assembly and Senate, FATA has representation. Till 1997, the *Maliks* and Lungis-dar only were having the right to vote and elect National Assembly members. For Senate member, elected FATA National Assembly members were constituting the electoral college. In February 1997, the tribal, for the first time exercised their right of adult franchising. After 18th amendment, now FATA has 12 directly elected representative at National Assembly and 8 indirectly elected representatives at Senate of Pakistan (National Assembly, 2012)

FATA falls under the executive authority of the Presidents as per Article 247 of the Constitution of Pakistan, its sub section 5 which authorize the president of Pakistan in FATA to make regulations for “peace and good governance” (NA, 2012, p. 146). Now a day, FATA is directly administered by the Governor of Khyber Pakhtunkhuwa, as an agent to the president with the assistance of Civil Secretariat FATA which was established in 2006, and under the supervision of Ministry of SAFRON (State and Frontier Region) mainly through FCR 1901. Governor of KP exercise his authority through political agent (PA) who is political, administrative and judicial head of the Agency under FCR and assisted by assistant political agents (APA’s), Tehsildars and Naib Tehsildars in their respective areas.

2.7 POLITICAL AGENT

The Political Agents (PAs) are appointed by the Federal Government for all seven agencies of FATA and they are mostly from Pakistan Administrative Services (PAS) previously known as District Management Group – DMG of Civil Superior Services of Pakistan. Governor of Khyber Pakhtunkhuwa work as an agent of President of Pakistan exercise his authority via political agents in each trial agency who is also further assisted by APA’s, Tehsildar’s, Deputy Tehsildars, Security Personnel (Scouts and Levies) and agency police (Khasadar) (CAMP, 2010).

Sole authority of exercising all the powers i.e. administrative, financial and judicial are in the hands of political agent and he governs the area with the assistance of the loyal and its elders called Malik’s (GoP, 2006). Under the existing system of FCR the decisions of political agent cannot be challenged in any court of law, which is

clear violation of the basic human rights. Neither the National Assembly (NA) nor any of the Provincial Assemblies have any legislative authority over FATA. He is the chief executive officer and at the same time he is a judicial head for an agency. He is the head of Jirga and can declare any decision as *null and void* at any time. He can impose any kind of tax without seeking advice from any forum and can spend his agency development fund without any audit (Khan & Wazir, 2014). The powers concentrate in the office of political agent and the draconian nature of FCR, has resulted in an enormous political and legal vacuum which led to various problems as everything in FATA got into mess and the region became an administratively isolated territory (Rumi, 2012).

2.8 FRONTIER CRIME REGULATION - FCR

The Frontier Crime Regulation (FCR) has its origins in the Murderous Outrages Regulation (MOR) which was enacted by the British Empire to prosecute crimes in British India. Murderous Outrages Act-1877 was specifically devised to counter the opposition of the Pakhtuns and to protect the interests of the British Empire (Ullah, 2016). Their main objective was to strengthen the judicial system and an archive of legal records in a way which can assist them in tax collection and maintenance of public order in the mid-19th century (Nichols, 2013). Criminal Law and Ordinary Civil Law was initially extended to tribal areas but failed to serve the purpose. This situation led the British Empire to devise a special Law for Pakhtun regions.

FCR system was enacted in 1873 for the first time. With the passage of time this system proved itself inadequate, paving way for additional acts and offences, extended the acts scope. This was done through promulgation of the FCR 1901 (HRCP, 2005). The British colonial authorities promulgated these regulations via regulation III of 1901. It is not a formal document comprising only punishment about a comprehensive system of governance and administrative system (Shah, 2011; Wazir, 2007). FATA stayed subservient to FCR till date except Dir and Malakand divisions (Afridi, 1993). Masses of FATA were independent in their internal affairs/personal matters; however, the government oversaw the external affairs for the sake of personal vested interest (Rakisits, 2008, IPRI Factfile, 2008).

The political agents watch the administration more closely with exercising maximum power and executive authorities in hand. He is particularly supported by paramilitary, levies and Khasadar forces (Rakisits, 2008; Shinwari, 2010).

2.9 CRITICAL SITUATIONAL ANALYSIS

Dr. Hussain stated that in the constitution of Pakistan fundamental rights are extended to all general masses of country, so it shall be considered extended to the areas of FATA as well, however enforcement of these rights is through the Judiciary under the Article 184 (3) and 199(1) Article respectively. It means that fundamental rights are available to the residents of FATA, their enforcement is excluded by the bar to the jurisdiction of the courts in such territory. As per the standards of International Human Rights principles, the norms practiced in civilized states and the fundamental rights guaranteed in the constitution of Pakistan, the FCR failed to meet the standard criteria. He also stated that British devised FCR as an instrument of subjugating. While devising it government relied upon the traditions of Pakhtoon/ tribal belt but customs and norms were twisted to suit the govt. plan of securing convictions (HRCP, 2005).

Three main important aspects of FCR in the judicial system are (i) Role of *Jirga* (ii) Role of political administration and (iii) The law of FCR. *Jirga* established under the FCR is totally different from the traditional *Jirgas*, as this *Jirga* only forwards non-binding recommendations/suggestions to the political agents. This system negates the basic norms of justice; vision of its members is not adequate sometime for a dispute. *Jirga* members could also become biased, especially when their clans and sub-clans are involved. Political Agent is the executive and Judicial head of the agency. When one person performed executive as well as judicial functions at the same time, the justice is invariably compromised at every end. Under the article 175 of the constitution the judiciary should be separated from the executive but it not had been done in FATA (Banghash, 2017)).

Bangash (ibdi) also elaborated the role of third component and according to his opinion the FCR violates the basic rule of justice - a person arrested under this system was not considered innocent unless proven guilty and the burden of proving himself an innocent person was on the shoulder of the accused. All over the world elected government is responsible for the protection and safety of their citizen but in FATA the situation is totally reverse. As per the FCR three basic rights are not applicable to the

residents of FATA i.e. *Appeal, Wakeel and Daleel*. Clause 21 of the FCR deals with the “*collective responsibility*” consequently under section 22 and 23, fines are imposed on the whole tribe/ family for the crime/wrong doing of one single individual. The government claimed that amendment has been made in section 55A of the FCR for setting up a FATA Tribunal which would exercise powers like the high court under Article 199 of the Constitution. Steps taken by the govt. are positive like amendment in the FCR include the scope of provisions related to collective and territorial responsibility has been narrow down. (The News, 2011).

Chapter 3

LITERATURE REVIEW

3.1 INTRODUCTION

The study contains multiple sources of information including newspapers, journals, social media websites, articles, books and others which further added value to this research. Official documents have also been consulted for preparing this study that will further enhance the relevance of the research. There has been plenty of literature that has been accessed to make it a complete and comprehensive study.

The existing literature on FATA Governance employs various ways and means to document and analyse the effectiveness of existing system i-e FCR (Frontier crime regulation) around the world. However, before delving into the effectiveness of existing system, the previous research seeks to map out the aspirations and stakes of all the relevant stakeholders and the general masses.

Past research conducted to gather material related to the subjective opinions of the stakeholders, primarily revolved around survey research, focus group discussions (FGDs) and interviews. The following literature review will also analyse the existing material available on FATA governance system, expectations of the masses and government reforms/initiatives. However, as the theoretical underpinnings and historical evolution of FCR (Frontier Crime Regulation) system have been elaborated in the previous sections of this paper, these aspects of the existing literature shall not be reiterated in the following sections of the literature review.

3.2 EXPECTATIONS OF THE MASSES

Shinwari (2010) stated that since 2007 the CAMP (Community Appraisal and Motivation Programme) been conducting opinion polls of FATA people. Four thousand adults were interviewed. The results showed that people of FATA are more optimistic about the on-going efforts by the government and believe those are in the right direction. One third of the respondents identified that law and order is the biggest problem being faced by them. It is surprising that over half of the respondents confirm that they prefer to live in FATA and would not leave if given the opportunity despite of insurgency and military operations. Regarding the points concerns with future status of FATA, the variation has been found in the results over the last four years ago, nearly

one third 30.7 % wants merger of KPK with FATA on the other hand 24.9 % wants FATA as a separate Province. According to 2008 and 2009 reports 23 % and 21 % respondents respectively like the *status quo* while in 2010 only 7.9 % want to stay with the 'status quo', 2.9 % of responded who were belong to elite's family supported the proposed FATA Council as an elected body. Considering the range of inquiry into the people's opinion the relation with India is flagged as problematic one with the history of conflict.

Zulfiqar (2012) stated that Pakistan being a federal state remains failed to develop the spirit of federalism. Uneven distribution of resources and lack of provincial sovereignty remained the real issue between federal government and the FU's (Federating Units), this enduring issue of the central government have the demand of separate province to redirect this factor. FATA Research Centre (2014) concluded that People of FATA love their traditions, norms and culture but they also have desire to move forward with world and willing to adopt the changes. In wake of militant's activities small but influential group of minorities settled in major cities of Pakistan as well as in developed countries. This movement brought awareness amongst the common masses belongs to FATA. They started demand of their political rights which resulted in Governance Reforms Package of August 2011. The extension of Political Parties Order 2002 empowered the common masses to take interest in such political activities. The people of FATA understand that the existing system of FCR is inappropriate in democratic era and now they want only independent and responsible governance system which satisfy their needs (FATA Research Centre, 2014).

A research study "*FATA Reforms: Community Perception and Identification of Constraints in Implementation*" was conducted to analyse the perception of the community of FATA on Government Reforms. The study revealed that the masses of FATA are more optimistic about the reforms recently taken by the Government of Pakistan and considered the merger of FATA with KP option most viable. Moreover, the results also demonstrated that due to merger both financial, social, political, economic condition and judicial structure will improve on pretext of FATA reforms. The results also declared that amendments in existing system i-e FCR will not improve the system (Zaman, Mansoor and Naz, 2016).

(Ullah, Saud, Idrees, Shouaib & Fahad, 2017) concluded that tribal areas remained underdeveloped due to mode of governance system existed there which

becomes the root cause of insurgency and militancy. Their study revealed that these tribal areas need to be integrated with KP, more than 3/4 of respondents were in favour of merger because this merger will increase the people representation in KP provincial assembly, improvement in infrastructure will occur and economic condition also be flourished. This merger will also have positive impact on people of FATA and KPK.

3.3 GOVERNANCE IN FATA

Ullah et al., (2015) has clarified that governance in FATA is totally different from other parts of the Pakistan. After independence, it becomes the part of Pakistan but remains neglected and no improvement/ successful reforms were undertaken by the governments. The FCR system gives more power to political administration system in FATA. So, the notion "*powers corrupt and absolute powers corrupts absolutely*" is thus proved.

Javaid and Ul-Haq (2016) argued that in the present political atmosphere, FATA is not proficient to continue to remain closed off from the rest of Pakistan. There is a strong need to embrace effective measure and valuable decisions to integrate FATA into the mainstream. They put forth short term and long terms recommendations for the process of integration. Recommendations includes improvement in infrastructure road communication for economic and industrial activity; extension in railway link; establishment of airports; electricity supply; laws promulgation in the FATA as other parts of the country which shall replace existing FCR; revenue and land records; participatory role in development process; and establishment of schools and hospitals.

(Parveen, Dasti, Khan,2016) concluded that after independence of country Pakistan government does not pay any special attention toward FATA administrative structure and let these areas under its own political administration system. It has been governed through FCR, totally differently from the rest of the country. It is expended along the border of Afghanistan, therefore, the people of the either both side has strong relations with each other. The masses of FATA are deprived of their basic rights e.g. participation in their own governance. Due to FCR, unfortunately these tribal areas remained backward. The geography also imposes harsh choices for the people of FATA. The residents of these areas are deprived off from the necessities of life, and literacy rate is too low as well. Women are restricted to homes. These regions must be

integrated with Pakistan urgently to bring prosperity and peace; otherwise the end would be undesirable and may have serious consequences.

3.4 GOVERNMENT REFORMS/INITIATIVES

Reforms is the essence of a deliberations and efforts, considering all the negative and positive aspects of any change in terms of results, efficiency and variable by performance indicators. Reform is a planned intervention aimed at improving the organizations in both qualitative and quantitative term.

Government of Pakistan Report (2016) titled "*Presentation on FATA Reforms: FATA Reforms Committee*" highlighted that since America's attack on Afghanistan, FATA is emerged as a serious zone of insurgency and a threat to national and international security. Insurgents used this region as safe place to train and recruit fighters. Considering this situation, the government of Pakistan instituted the NAP (National Action Plan) to transform tribal region of FATA a free of war place. According to the report, tribal see merger with the KP Province as the only the rational choice for mainstreaming the FATA because both FATA and KP are closely related to each other in terms of economy, culture and language. Majority is not in the favour of having a separate province as there economic and cultural links mostly integrated with KP districts. The tribes are afraid if FATA become a separate province then they may not be able to manage resources for own requirement.

Rana (2017) stated that National Internal Security Policy was announced by the Federal government of Pakistan in February 2014 to address the issues of security and to counter insurgency. This plan was drafted after consultation with stakeholders to overcome and neutralize threats. Although the outgoing coalition government led by the PPP (2008-2013) had not announced any such policy, it developed approaches to address the critical security challenges. One of the major aspects of PPP government was related to ownership of the war against terrorism. The government had declared war on terror to influence the opinion of public against militants; this approach significantly contributed to 2009 Military Operation in Swat.

Since the start of the year 2015, military operations and through NAP in FATA and elsewhere, overall improvement in the country security situation has been observed. The ratio of terrorist attack is gradually in decline.

Khan (2017) stated that status of FATA is under consideration for last few years. Finally, government reached to the conclusion and decided to merge FATA with KP in consultation with political parties and stakeholders. Irrespective of the future of FATA, the most important areas of concerns that need immediate attention is economic prosperity through peace and sustainability; which will be accomplished through rehabilitation of all displaced people, economic opportunities and through civic facilities. Unfortunately, in October 2017 ever since US invasion in Afghanistan tribal areas have gone a crisis. Military operations resulted into the displacement of population. However, the situation of law and order has improved over the past years through military operations *Zarb-i Azab*. Many displaced people returned and others waited to return soon. The reform to merger FATA with KP have others salient features; there will be party base local government elections after general elections while Levies Forces will be beefed up with around 20,000 additional troops. But these reforms came under critique in Parliament Minister for SAFRON also stated recently that *“We have removed all bottlenecks which came in way of implementation of merger of Fata with KP. We have addressed concern of JUI-F and Pk-MAP and implementation of FATA reforms is a matter of few days”*. He also concluded that these reforms would be a breakthrough in the history of Pakistan. Federal Government and Provincial government needs to play their role. The locals of these tribal areas are also the important element and must take over those areas which cleared/vacated by Pak Army, create the opportunities for economic activities through good governance. After successful implementation of this reform tribal areas can become an ideal place of living.

According to Bhatti (2017), a group of tribal elders have challenged the decision taken by the government on FATA reforms to merge FATA with KPK in the court. Petitioners questioned the authority of Prime Minister’s to make decision and claimed the recommendations of the committee are “illegal and unconstitutional”. The petitioner argued that according to the Article 247 (6) of the constitution, the powers to make *“a decision in relation to the merger of any part of the tribal area falls within the exclusive domain/jurisdiction of the President of Pakistan or his representative, the Governor of Khyber Pakhtunkhwa Province”* and the government also needs to hold a tribal Jirga to solicit the views of the resident. They also stated that government’s claim that majority of the masses belongs to FATA are in favour of this merger reform is false, committee needs to seek the opinion of resident of FATA are mere “eyewash”.

The petition argued that *“the mere fact that neither of its [reform committee's] members belong to Fata nor has any relationship whatsoever with the region denies it the requisite credibility and legitimacy”*. According to clause 7 of article any order/direction must be given by the President of Pakistan.

Marwat (2017) argued that nowadays “FATA Reforms” is an evolving issue. Many officials are discussing the decision of merger or FATA as a separate Province, there are other who are opposing the decision suggest holding a referendum to seek the opinion on status of FATA. In the light of many reports independent province decision almost died down. After examining the positives of merger, people of FATA will get the fundamental legal rights as KP has well-established administrative structure then it will be easy to extend it to the FATA. Those supporting merger argue that merger is only the viable option rather than declaring it as separate province because challenges like extremism and terrorism can only be tackled with the Socio-economic development which would be possible if FATA merge with KP. In a meeting of the National Committee an alternative was considered for the creation of a new post of the Chief Operating Officer (COO), to fast implementation that may be filled by a grade 22 civilian or military Officer. However, this option will not be feasible since a post of civilian COO will be Political Agent and military is already playing its role. He concluded that government needs to pay attention towards broad based political consensus bring all stakeholders including population for ultimate decision.

Guramani (2017) said in his article published in DAWN titled *“Bill extending PHC, SCP jurisdiction to FATA passed by National Assembly”* that National Assembly extended the jurisdiction of the Supreme Court of Pakistan (SCP) and Peshawar High Court (PHC) to the FATA. The bill was presented by the Law and Justice Minister Mahmood Basheer Virk and considering it a handful of a reform paving the way for a merger. It faced opposition only from Jamiat Ulema-i-Islam (JUI-F). Minister for states and Frontier Regions (SAFRON) Abdul Qadir Balouch congratulated the house on this development.

3.5 LATEST FATA REFORMS-2018

Recently, National Assembly of Pakistan made historic move on May 24th, 2018 by passing the 31st Constitutional Amendment which aims to merge Federally Administrated Tribal Areas (FATA) with Khyber- Pakhtunkhwa (KP). The bill was

passed with 229-1. Subsequently, Senate also approved the bill by an overwhelming majority i.e. 71-5. Political Parties including Muslim League-Nawaz (PML-N), Pakistan Tahreek-e-Insaf (PTI), Jamaat-e-Islami (JI) and Muttahida Qaumi Movement-Pakistan (MQM-P) voted in favor of the bill. On the other side two allies of the ruling party, the Jamiat Ulema-e-Islam- Fazal (JUI-F) and the Pashtunkhwa Milli Awami Party (PkMAP), and one independent member from FATA who have been strenuously opposed the bill, opt to abstain from voting. Then as per the requirements of Article 239(4), provincial assembly of the Khyber-Pakhtunkhwa passed the same with 92-7. The house passed the resolution and asking the Federal Govt. to extend the tax exemption period for Provincially Administrated Tribal Areas (PATA) for at least 10 years and demanded Rs 100/- billion for the development of the region (Khattak, 2018). The bill got the presidential assent on May 31st, 2018 and become act of Parliament i.e Constitutional (Amendment) Act 2018.

3.5.1 Salient Features of 31ST Constitutional Amendment Bill

Following are the salient features of 31st Amendment

- i. FATA is merged with Khyber Pakhtunkhwa with immediate effect
- ii. Frontier Crimes Regulations (FCR) is replaced with the interim governance system (The President promulgated the FATA Intern Governance Regulations 2018 on May 28th, 2018) till the full integration of the region into Khyber Pakhtunkhwa.
- iii. FATA seats in National Assembly will be reduced from 12 to 6 after five years. Members of National Assembly to be elected in 2018 elections shall continue till that National Assembly lasts. In the Senate, FATA seats will be ended after the retirement of currently elected FATA Senators.
- iv. Khyber Pakhtunkhwa will have 55 National Assembly seats as against the present 48 after five years.
- v. FATA will have 21 seats (16 general, 4 women, 1 non-Muslim) in Khyber Pakhtunkhwa Assembly. The election for these seats will be held within one year i.e. 2019. Consequently, seats of the Khyber Pakhtunkhwa Assembly will increase from 124 to 145.
- vi. Tribal areas of Zhob etc will be merged with Baluchistan province
- vii. Article 247 is omitted

- viii. PATA areas of Malakand division are merged with Khyber Pakhtunkhwa (Wasim, 2018).

3.5.2 Criticism on 31st Amendment

FATA Grand Alliance -FGA apposing this constitutional amendment on the plea that this is “*forced and unjustifiable*”. They argued that Federal Government laid the foundation of great disaster in FATA by implementing the so-called reforms. They also pointed out that Pakistan Army Chief, General Qamar Javed Bajwa had made promise that future of FATA would be decided in accordance with the aspirations of the local masses but the Prime Minister and Army Chief didn’t keep their promise. FGA will begin the protest after Ramzan and knock the door of the Supreme Court to get repealed the 31st Constitutional Amendment (The Dawn, 2018).

Sirmid (2018) stated that FATA merger related Constitutional Amendment seems look like an old wine in a new bottle as the president signed a questionable FATA Interim Governance Regulation 2018. These regulations convert the political agent office into the deputy commissioner and the additional political agent becomes the additional deputy commissioners and similar in the case of assistant political agent. They will exercise the same powers as they were exercising in the system of FCR i.e Act like a Judge in criminal cases when designated by the Governor. The agencies of tribal areas get replaced by the tribal districts and FR are made sub-divisions. Just like FCR, this Regulation also maintained the institution of *Jirga* as the council of Elders and as a *Qaumi Jirga*. Another worrying provision is this regulation is pertaining to negation of any jurisdiction of any civil court of the country to call if some happened in the region. Law enforcement mechanism need to extend to FATA on immediate basis. The road map for the extension of jurisdiction through High Court and Supreme Court is missing. The regulation had been drafted by the bureaucrats in the darkness of the night without discussion and debate with oppositions in the Parliament.

Khan (2018) pointed out that the Chief Secretary of KP recalled in the address of the Ministry of States and Frontier Regions (SAFRON) that financial package announced by the federal Govt for the development of FATA over ten years was Rs 1 trillion, out of which Rs 200 billion was to be provided in the first three years of the transition period. Unfortunately, no consensus exists for provision of financial assistance. No reforms/ transition could be implemented without money. A plan

without money is just a paper work. In this article it is also pointed out that using the word of *tribal areas* creates doubt as its just re-name in new scheme as *tribal districts*. In the rush to get the amendment passed many legal implications remain unattended.

Hali (2018) pointed out that government has shown urgency to complete the process and by passed the elected representatives of the tribes, only two MNA's of FATA out of nine voted in favour of this decision and this is contrary to the principles of democracy and the minority vote of FATA parliamentarians also held sway. However, the will of resident of FATA is not obtained. Time will decide later on whether the decision of merger of FATA with KP was boon or bane by FATA residents.

Chapter 4

METHODOLOGY AND DATA COLLECTION

Keeping in view the nature of this study, mix methodology research approach is used. For data collection qualitative and quantitative tools are employed to this study. This study aimed to analyse the perceptions of the stakeholders and general masses of (FATA representative). The qualitative part helped in obtaining the required information through interviews from the relevant individuals for the contextualization of strengths and weaknesses of the new policy initiative of FATA and KP merger and other policy alternatives. Sequentially, the quantitative data helped in analysing the ground realities using perception survey through the structured individual questionnaire.

4.1 TARGET POPULATION

The target population of this study is divided into two types i.e. namely the relevant stakeholders and general masses of FATA. Relevant stakeholders mean all those quarters those are being affected or have some stake in FATA, e.g. the intelligentsia; politicians; jurists and legal practitioner; social activists; and bureaucrats from FATA and KP. These stakeholders were interviewed thoroughly. On other hand, the general masses include residents of all agencies and Frontier regions – FRs of FATA. They were surveyed through own-developed perception survey.

4.2 SAMPLE SIZE

From the first strata i.e. stakeholders, data is collected through semi-structure interviews (please refer to annexure A for initial questions/interview guide). A sample of 15 (three from each the intelligentsia; politicians; jurists and legal practitioner; social activists; and bureaucrats.) are purposively chosen to get of rich data. Their consent were sought and they were briefed about the study in terms of its significance, importance and policy relevance. It was based on voluntary participation. They were told that they can leave at any point of interview or even after interview can ask for exclusion of their opinions from analysis. One of the respondents asked to not utilized his interview, subsequently his interview was excluded and discarded. Notes were taken in English/Urdu/Pushto as recording was not allowed by all the interviewees; along with that mind maps were developed. From those notes and maps, the transcripts were

developed in English and provided in print/email to the interviewee on the next coming days of interview. They changed some text and at some place or deleted some portion. All changes/deletion was done and again was provided to interviewee and they approved it.

On the other hand, Citizen Perception Survey - CPS was conducted by filling the structured questionnaires. Themes were generated from the analysis of interviews of relevant stakeholders with the help of thematic analysis as per the guidance provided by Bryman (2012) helped in developing the questionnaire which further administer to the general masses in all agencies i.e. Khyber, Orakzai, Bajur, South Waziristan, North Waziristan, Kurram and Mohmand Agency; and Frontier regions – FRs i.e. FR-DI Khan, FR-Tank, FR-Peshawar, FR-Lakki, FR-Kohat and FR-Bannu) of FATA with a representative sample of 206 by employing convenience sampling technique. The questionnaire also included demographics like gender, age, education, employment status and others (please refer to annexure-B).

4.3 DATA COLLECTION

In this part of the chapter, qualitative data will be analysed. In-depth semi-structured interview was selected as data tool to collect desired data from relevant stakeholders. Bryman (2012) explains that qualitative interview is the most widely employed method for collection of rich data. A semi-structured interview guide (see Annexure A) was designed for this research to ask opened ended questions from the respondent to get rich data about the issue at hand. This interview was prepared with the help of literature review, supervisor and co-supervisor suggestions and two public policy experts. However, quantitative data will analyse by using citizen perception-CPS. Questionnaire will design to get the views/perception of local masses of FATA.

4.3.1 Key Informant Interviews (KII)

Key informant interviews (Denzin, & Lincoln, 2011) from the relevant stakeholders which are closely associated with the functioning of system or representative of FATA/KP were conducted one-on-one basis with three from each category i-e intelligentsia, politicians, jurists and legal practitioner, social activists, and bureaucrats. Key Informants from different walks of life were selected, those were bureaucrats, civil society activists, journalists/jurists, politicians and intelligentsia (03 from each category). To get better understanding about FATA future governance

structure model the respondents were chosen who lived or served in FATA and were familiar to issues, opportunities and future reforms regarding FATA. The key informants were identified by the researcher, supervisor and Co-supervisor and in same case the respondents also referred other key informants to be interviewed.

Questions on diverse issues regarding existing policy issues, knowledge and awareness of citizens, past reforms as well as on service delivery were being asked to gather the opinions of the important stakeholders involved. Moreover, suggestions for policy initiative were also taken from the stakeholders. Interviews were taken English, Urdu and Pushtu. Recording was not allowed by all the interviewee, notes were taken and mind maps were developed during the interviews. From those notes and maps, the transcripts are developed in English and sent via email or print to the interviewee in next few days. Some of them suggested minor changes with their comments in Ms Word file or on printed transcript. Some respondents add or deleted some portion. The required changes, addition, deletion, were incorporated in the transcripts and again were sent via email /print in one to three days to respondent and they approved it. Estimated time for the interview was 35-50 minutes on average.

4.3.2 Citizen Perception Survey - CPS

Quantitative data is collected via structured questionnaire although where there were two open ended questions specially designed to document the perceptions and views of the local masses of FATA in all agencies and FR's of FATA. A Citizen Perception Survey – CPS is aimed at capturing “*citizens' voice*” on the FATA future governance model. Using CPS, one can standardize the quantitative data collected to enrich the analytical part of the research conducted as well as extracting future policy implications. The survey comprises of opinion seeking from local masses about the FATA future governance Model. The data obtained helpful in analysing the perceptions of locals about the future governance model and identifying the loopholes in the existing system. Ultimately this helped in formulating policy implications.

4.4 DATA ANALYSIS

The research is adopted Sequential Mixed Methods Exploratory Design. Mixed methods data collection techniques i.e. qualitative (semi-structured interviews) and quantitative (survey/questionnaire). Denzin and Lincoln (2011) considered ‘*mixing of*

survey data and interviews a better version of using the triangulation technique'. In short it may be termed as the combination of quantitative and qualitative analysis.

4.4.1 Qualitative Data

There is no specific formula to analyse qualitative data. Different interpretation techniques and guidelines suggested by researcher (Miles & Huberman, 1994; Stake, 1995). The analysis approach depends on the nature of the case that needs to be analysed (Rayan & Bernard, 2003).

The data collected through interview analysed with the help of thematic network analysis as per guidelines of Attired-Stirling (2001) and Braun and Clarke (2006) and thus found out the results. Braun and Clarke (2006) have defined this technique, as explained in the following section that this is the method for identifying, analysing and reporting patterns within the data.

The framework of analysis is discussed briefly in order to conduct thematic analysis of qualitative data (Braun & Clarke, 2006).

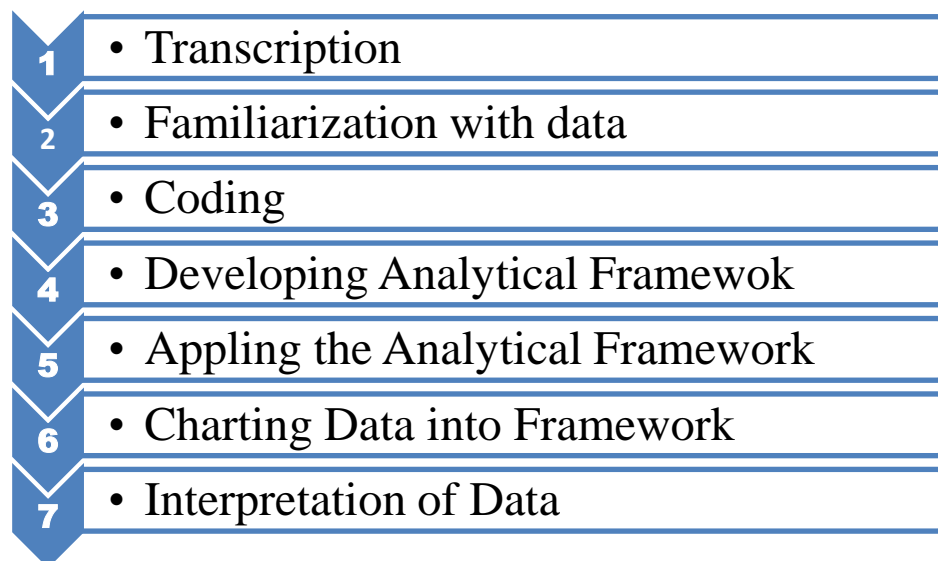


Figure 1: Analysis Framework for Qualitative Data

4.4.1.1. Stage 1- Transcription

Initially the interviews have to be transcribed for data analysis. These transcriptions are developed from the recordings of interviews but if the respondents do not give consent to record interviews. In such case(s), notes are taken during and after interviews and at the same times mind maps / diagrams are used in transcriptions. A proper transcription

of data facilitates other stages of analysis. Transcriptions were maintained in separate folder as per their profession.

4.4.1.2. Stage II- Familiarization with data

It is very important for the researcher to get familiar with the data i.e. transcriptions. It is done with the aim to know thoroughly so that the researcher can easily drive basic themes from the data / transcriptions. Irrelevant data is excluded in order to manage the results.

4.4.1.3. Stage III- Coding

In this stage of analysis qualitative data required coding. Code is something interpreted in the passage and is thought. Due to time constraint coding was difficult.

4.4.1.4. Stage IV- Developing analytical framework

Basic themes generated from the qualitative data further grouped into categories such as organizing themes and main themes

4.4.1.5. Stage V- Applying the analytical framework

At this stage the framework is applied to the data. Themes further categories into organizing themes and sub-themes are generated according to the context in which they emerged. All defined in the table are derived from the data collected through semi structured interviews. All the 15 interviews were transcribed carefully and an understanding was developed with the context of the themes

4.4.1.6 Stage VI- Charting data into the framework

A vital aspect of qualitative analysis is to reduce the voluminous data into manageable form by summarizing it in presentable form. Data reduction is the process whereby data is sorted and simplified while emphasis is on important piles of data (Miles and Huberman, 1994). For this purpose, charting is used that is aimed to summarize the data by categories from all the transcripts. It helps to reduce the data while retaining the important part of the data. Charting ensures that the researcher focused on describing the important data.

4.4.1.7. Stage-VII Interpreting the data

At this stage interpretation is made with aimed at constructing the meanings from the qualitative data, explaining the details and drawing conclusion. This stage is discussed in detail in chapter 5.

4.5 QUANTITATIVE DATA

The quantitative part of research is based on Citizen Perception Survey (CPS). Quantitative/Thematic analyses helped the study in designing the questionnaire/survey, through which data is collected and analysed. It's designed to gauge the opinions of tribal regarding FATA future governance model and opinion, on their existing government in their area, and their perceptions about future government policies. The survey investigates the satisfaction of masses by considering their awareness, interest in future model of FATA and knowledge about reforms package. CPS was conducted in the agencies and Frontier regions-FR's of FATA. Convenience sample from all agencies and FR's was drawn.

The quantitative data was gathered by using CPS through questionnaire and further analysed with the help of Quantitative Data Analysis Software e.g. SPSS 20 and Ms. Excel 2016. Responses were codified accordingly. Descriptive Statistics analyses (i.e. mean, frequency analysis, percentages were carried out to respond to research questions. It also supplemented the qualitative data analyses and to help answering the research questions. The quantitative data is also helpful in analysing the ground realities using perception survey through the structured questionnaire.

4.6 DIFFICULTIES IN DATA COLLECTION

For qualitative data the respondents identified from five strata are key-figures of their respective walk of life. It was, found difficult to get appointments from them. Due to non-feasibility of face to face meetings, some interviews were taken telephonically. Second major issue was un-willingness to record the interviews. This issue was coped by taken notes and developing mind maps. Later, transcripts were developed with the help of those notes and diagrams and were validated by sending back to respondents for checking, addition and deletions. These suggested changes, addition and deletion were incorporated in transcripts and again were sent to respondents for re-validation. After getting approved from them, those transcripts were utilized for manuals thematic analysis. However, for quantitative data collection it was

decided to get maximum responses around 400 from the general masses but 206 properly filled questionnaire received from agencies and FRs of FATA and considered best for research analysis. As the researcher not belongs to FATA region so, it was quite difficult to collect data by visiting directly therefore the services of enumerators were utilize and financial burden bear by the researcher itself.

Chapter 5

DATA ANALYSIS AND DISCUSSION

This chapter will deal with the analysis of the collected data. As the study is following Sequential Mixed Methods Approach, hence, two types of data analysed i.e qualitative data and quantitative data. Consequently, there are two parts of the chapter. In section 5.1, qualitative data is analysed while in section 5.2 quantitative data is analysed.

5.1 QUALITATIVE DATA ANALYSIS

The qualitative data is analysed keeping in view the guidelines of Braun and Clarke (2006) in the subsequent sections.

5.1.1 Stage I- Transcription

The transcription of data is developed with the help of recordings of interviews or notes/diagrams etc. As all respondents did not allow to audio-record their interviews. Therefore, transcripts are developed with the help of notes taken and mind maps developed during and after interviews. These transcripts were then provided to the interviewees for checking and validation. They have checked these and modified, add and delete some portions. Those all modifications, additions/deletions were incorporated and then sent again to interviews. After their approval, those were put in course of analysis. A proper transcription of data facilitates other stages of analysis. Transcriptions were maintained in separate folder as per their profession.

5.1.2 Stage II- Familiarization with data

It is very important for the researcher to get familiar with the validated interview transcriptions adequately. Interviews were taken from different professionals to get diverse opinion. Irrelevant was data excluded in order to manage the results.

5.1.3 Stage III- Coding

In this stage of analysis qualitative data required coding. Code is something interpreted in the passage and is thought. Due to time constraint coding was difficult.

5.1.4 Stage IV- Developing analytical framework

Basic themes were generated from the qualitative data. Then those were clipped on similarity and correspondence into organizing and finally to main themes.

In this qualitative thematic analysis, 221 basic themes are emerged. These basic themes are clipped in to 32 organizing themes on the basis of similarity and correspondence and subsequently these 32 organizing themes generated 7 main/global themes. The following tables shows the basic, organizing and main themes.

**Table 02: Main Theme 01: Current Problems of Tribal Areas
Basic and organizing Themes**

S #	Basic Themes	Organizing Theme	Main Theme
1	Alarming Literacy Rate / Lower Literacy	Socio-Economic Problems	Problems of Tribal
2	Unemployment		
3	Poor Infrastructure		
4	Less economic development		
5	lack of basic facilities		
6	Poor education and health facilities		
7	Lack of educational organizations		
8	Terrorism / Militancy / TTP outfits	Terrorism/Law and Order Generated Problems	
9	Destruction of people's properties due to militancy		
10	Law and Order situation		
11	Afghan Refugees long stay in FATA		
12	Rehabilitation of IDPs/TDPs		
13	Drugs smuggling networks		
14	Negative effects of USSR-Afghan War, Post 9/11 War		
15	Turmoil at the borders		
16	Poverty		
17	Voluntary migration of Youth for jobs to Peshawar/Karachi		
18	In-appropriate role of Army in FATA issues		
19	Rule of Law		
20	Eradication of militancy is need		

21	Elimination of Curfew regime		
22	No proper political process and system		
23	Power Hegemony		
24	Crime Gangs		
25	Treatment as 2nd tier Pakistani	Rights based Problems	
26	Inability of FATA parliamentarians to legislate for FATA		
27	Deprived of Fundamental Human Rights		
28	No adult franchising till 1997	Government-Ignorance Oriented Problems	
29	Not a full part of Federation of Pakistan till 1973		
30	Govt. in-sincerity towards tribal		
31	Most ignored region of country		
32	No development initiative in the last 30 years		
33	Development fund are looted by nexus of PA+ MNA+ Malik		
34	No economic rehabilitation of Bara (FR Peshawar), Dara (FR Kohat)		
35	Non-construction of reconstruction opportunity Zones as promised by Bush Junior		
36	Loot of Fund due to no-audit of those funds		
37	Deliberately kept FATA out of mainstream		
38	So-called <i>Azad Qabayal</i> and <i>Alaqa Ghair</i>		
39	Outdated, Old Legal and Judicial Regime – FCR	FCR based Problems	
40	Mal-functioning Jirga system		
41	FCR and PA as all in all - is key of all evils at FATA		
42	Malik's own interest based role		
43	PA (mostly from PAS/DMG) are from outside FATA, just come to loot to FATA		

**Table 03: Main Theme 02: Responsible for Problems of Tribal Area
Basic and organizing themes emerged**

S #	Basic Themes	Organizing Theme	Main Theme
1	Past Governments	Government Functionaries	Responsible for Tribal Areas Problems
2	Political [Agent] Administration		
3	Army / Military Establishment		
4	Bureaucracy		
5	Army Deployment and Operations		
6	Political Parties	National Political Players	
7	Political/Elected Elite of FATA / MNAs and Senators		
8	Nationalist as well as Religious Parties who has strong bases in tribal areas		
9	Inability of FATA parliamentarians to legislate for FATA		
10	International Power Players especially USA and Allies	International Politics	
11	TTP / Militants Outfits		
12	No -reward for ending Poppy cultivation / No Industrial/Economic Zone etc.		
13	Govt. + Bureaucracy and Army Nexus which is beneficiary of the current system	Interest Based Groups	
14	Military, Militancy, Mullah, and Malik Nexus		
15	Tribal who themselves got education and job and didn't back to their native areas and not worked for its mainstreaming	Tribal-Themselves	

**Table 04: Main Theme 03: FCR
Basic and organizing Theme**

S #	Basic Themes	Organizing Theme	Main Theme
1	Colonial Legacy	FCR - Colonial Legacy	FCR
2	FATA is used as Buffer-zone by British		
3	FCR as Mass - Controlling tool		
4	Designed not for citizenry but for slaves/colony		
5	Obsolete / Outdated/Old / Since 1900		

6	Not as per demands of modern day requirement	FCR as Governance Structure	
7	PA is judge, executive head and legislature (in terms of <i>Jirga</i> head)		
8	Political Agent as Power Ruler without Accountability		
9	Controlling not serving model		
10	Draconian Governance Structure		
11	Reframing tribal for mainstreaming and modernizing	FCR as Legal System	
12	Curbed Fundamental Human Rights		
13	Collective Responsibility is violating Fundamental Human Rights		
14	Has un-Islamic provisions/clauses		
15	Un-Islamic, Anti-Human Rights Collective Responsibility concept		
16	Not as per Free Trial Concept	FCR Reforms History	
17	MAJ <i>Qaud e Azam</i> Promise of Self Governance – 1948		
18	1st FCR Reform Attempts by ZA Bhutto - 1976 not succeeded due to Army Coup in 1977		
19	2nd Attempt: one-man-one-vote by President Laghari – 1997		
20	3rd Attempts by Musharraf Regime, but to no avail		
21	4th Attempt by PMLN in 2016-18	FCR Attribution	
22	Falsely attributed to <i>Pakhtunwali</i>		
23	Violates Pakhtuns norms		
24	In-human, Un-Islamic, Anti- <i>Pakhtunwali</i>		
25	Master-slave concept based legal regime		
26	Exploitative in nature		
27	Inhuman		
28	Black Law		

**Table 05: Main Theme 04: Desired Governance Model/Reforms
Basic and organizing themes emerged**

S #	Basic Themes	Organizing Theme	Main Theme
1	Initially <i>Riwaj</i> Act then gradually Pakistani Police System	General Reforms	Desired Governance Model/Reforms
2	Tribal will be dealt as 1st tier citizen		
3	Fundamental Rights will be protected		
4	Huge funds for development		
5	Law Enforcement Agencies will need training and capacity building		

6	More seats of KP in National Assembly				
7	Representation in KP Assembly				
8	Tribal are already using KP facilities of Education and Health etc.				
9	More political awareness/freedom				
10	No issue in merger due to same culture and language				
11	No issue as it is adjacent to KP				
12	Martial plan for tribal areas				
13	Same Geographical Proximity				
14	Ghost schools/hospital needs to be made functional				
15	Merger or Separate Province (If merger is not possible)			Separate Province	
16	Separate Province is not feasible				
17	Separate Province is not feasible due to FATA financial position				
18	Pakistani Judicial System				
19	Police System				
20	Minimization of collectivistic cultures				
21	Separate Province not feasible due to Geographical spread, transportation, and feasibility of ant FATA city as Capital of new province				
22	Having 23 own senate seats, making KP+FATA seats 46, which means more strengthening Pakhtuns at Senate				
23	Lot of economic and other opportunities				
24	Own Assembly				
25	Royalty of its own resources e.g. Mohmand Dam, and will be used for own development				
26	Own Local Govt. (Tailored system)				
27	Jirga System institution as part of the tailored LG system at FATA. It shall have Professional, <i>Ulema</i> , Civil Society, Malik and some from Teaching Community				
28	Post-merger Khyber Pakhtunkhwa will have more share on National Resources	Fully Merger			

29	KP Administration is capable	Merger with Special Status	
30	Local Government as same of KP		
31	KP Administration has to increase its skills		
32	Full merge with Pakistan Judicial System and Police System		
33	Merger with KP is the best with special status i.e. KP (Tribal)		
34	Own LEA (tribal needs' tailored)		
35	Special Quota in jobs for KP (Tribal)		
36	Special share other than usual for KP (Tribal) in KP Budget		
37	15-25% Representation at KP Cabinet		
38	Existing Levies as LEA - with capacity building		
39	KP Administration has to increase its skills	Status-Quo with Minor Modifications	
40	Only Jirga system is somehow working		
41	Tribal identity will be at stake in case of merger		
43	Pakistan Judicial and Police System are slow, full of corruption, costly, complex		
44	Just need modification, no need to abolish it		
45	FCR has merits as tribal are collectivist		
46	Current FATA model is addressing issue at gross root level		
47	Executive powers are only exercised by Political Agent, it shall be decentralized		
48	Same FATA with modified governance model and same special status within Federation of Pakistan		
49	Merger is not a good option as system of KP is not better than FCR		
50	KP Administration is capable	Referendum	
51	Tribal needs-tailored Local Government System / Separate from KP Model		
52	Taking Malik, Ulema, Youth, Civil Society on board for deciding modalities of new Model of Governance		
53	Referendum for future governance model is the best option		

Table 06: Main Theme 05: Reasons for Opposition of Reforms

Basic and organizing themes emerged

S #	Basic Themes	Organizing Theme	Main Theme
1	Own stakes like free from Pakistan Legal System as they do illegal things	Own Stakes/ Love for Status-Quo	Reasons for Opposition of Reforms
2	JUI-F/Pk-MAP - having own political motives and vested interests		
3	Own personal/group vested interest		
4	It is ruling elite (FGA) and will lose power after merger		
5	Pk-MAP is not even a bona fide stakeholder		
6	JUI-F has own stakes in case of separate province		
7	FGA has a group of beneficiaries of current Status Quo		
8	JUI-F is representative of Clergy in FATA and thus want to maintain its hold there		
9	Elite group is opposing who are beneficiary of Status Quo		
10	Opposition of FGA is justified		
11	JUI-F is direct beneficiary of Status Quo		
12	JUI-F has strong presence in tribal areas, 70-80% Ulema belongs to it, so they are the real and main stakeholder, therefore there say shall matter	Harmful Effects for Tribal	
13	Tribal will lose their identity		
14	Merger will be problematic		
15	Some Journalist are of the opinion that replacing one inefficient system for another will not work	KP Administration In-capabilities	
16	KP administration is not capable of managing tribal areas		
17	KP is itself in rehabilitation stage		
18	KP Administration did not know much about tribal norms and traditions	Referendum	
19	Accepted only if decided by Referendum		
20	FGA/JUI-F/Pk-MAP demand for referendum is justified		
21	Deciding the fate of tribal by few is not democratic		

Table 07: Main Theme 06: Perception about Reforms
Basic and organizing themes emerged

S #	Basic Themes	Organizing Theme	Main Theme
1	Hope for Development	Welcoming/ Optimistic	Perception about Reforms
2	Hope for provision of basic necessities		
3	Hope for economic opportunities		
4	Hope for empowerment		
5	Hope for better living and life standards		
6	Expecting social, economic and governance reforms		
7	Reduction in Terrorism		
8	Increase in Literacy Rate		
9	Peace will prevail		
10	Tourism Industry will flourish		
11	More financial resources		
12	Hope for more political freedom and awareness		
13	Gradual betterment in Infrastructure		
14	Provision of Fundamental Rights		
15	Access to Justice		
16	Local Government		
17	Funds Accountability		
18	Making tribal more confident		
19	Enhanced trust in state		
20	Better Education		
21	Business Opportunities		
22	Overall Life Standards and Economic Development		
23	Abolishment of all anti-human rights laws and provisions		
24	Representation in KP Assembly		
25	Local Government System - means more democratic norms development		
26	Sceptics due to previous reforms dramas	Sceptics/ Pessimistic	
27	Pk-MAP don't have a proper stake in the issue		
28	JUI-F do want to lose the support of Clergy at FATA		
29	Not optimistic/Sceptics due to previous reforms dramas and being-played perception		
30	Govt. is not serious in reforms		
31	2018 Election will serve as Referendum for merger issue		
32	Waiting for execution		

Table 08: Main Theme 07: International Community Willingness for funding and Assistance

S #	Basic Themes	Organizing Theme	Main Theme
1	After 9/11, FATA is in focus	Post USSR-Afghan War Post 9/11	International Community Willingness for funding and assistance
2	De-arming /De-radicalization		
3	To curb terrorism and extremism		
4	Both Afghan-USSR and US Post 9/11 Wars effects		
5	US presence in Afghanistan affected FATA a lot, they will be willing to fund here		
6	Institutional Capacity Building	Capacity Building	
7	Political Awareness		
8	LEA training and development		
9	Local Govt. Development / Gross-root level development		
10	Funds for LEA capacity building		
11	Industrial zones under CPEC / Developing Special Economic Zones	Economic Development	
12	Exploration of Natural Resources		
13	Poverty Reduction Program [micro-financing]		
14	Economic Opportunities		
	Alleviation of Poverty		
16	Will fund in infrastructure development	Not appealing	
17	Limited hope for general assistance		
18	Assistance for Rehabilitation of IDPs/TDPs only		
19	This funding will also be dependent on Pak-Afghan relations		

5.1.5 Stage VI- Charting data into the framework

A vital aspect of qualitative analysis is to reduce the voluminous data into manageable form by summarizing it in presentable form. “Data reduction is the process whereby data is sorted and simplified while emphasis is on important piles of data” (Miles & Huberman, 1994). For this purpose, charting is used that is aimed to summarize the data by categories from all the transcripts. It helps to reduce the data while retaining the important part of the data. Charting ensures that the researcher focused on describing the important data. Themes and sub-themes identified through framework method are presented in a chart format in figure 2.



Figure 2: Chart of Themes and Sub Themes



Figure 3: Graphical Representation of Main and Organizing Themes

5.1.6 *Interpreting the Data*

At this stage interpretation is made with aimed at constructing the meanings from the qualitative data, explaining the details and drawing conclusion. This stage is discussed in detail in following section.

5.2 DISCUSSION ON QUALITATIVE DATA

This section presents the findings and discussion focused on the FATA future governance model. These results are obtained through in-depth analysis of interviews from the stake holders. Past reforms made by previous governments; and recent government reforms (2016) in consultation with tribal were studied in detail. An attempt was made to study the views of general masses and stakeholder whether both are on the same page or have differences in their opinion.

In-depth interviews were conducted to study the perception/views of stakeholders' i.e. intelligentsias, politicians, bureaucrats, social activists and journalists. In this regard, seven themes have been identified. These were current problems of tribal areas, responsible people, group and institution for problems, FCR, desired governance model, reasons for opposition of reforms, perception about reforms and International community willingness for funding of assistance. Themes are summarized in figure of main of organizing themes.

5.2.1 Current Problems of Tribal Areas

FATA is a tribal area that is being governed under FCR since long. It is facing a lot of problems since 1947 as it was not even considered a proper part of the country till 1973 when Bhutto government give it a proper status in constitution. The constitution of 1956, 1962 and 1973 with some minor modification recognized the so-called special status of tribal areas. Sole authority of exercising all the powers i.e. administrative, financial and judicial are in the hand of political agent who governs the area with the assistance of the loyal and its elders called *Malik* (GoP, 2006).

Under the existing system of FCR the decisions of political agent cannot be challenged in any court of law, which is clear violation of basic human rights. He is the chief executive Officer (CEO) and at the same time he is a judicial head for an agency. He is the head of *Jirga* and can declares any decision as *null and void* at any point of time. He can impose any kind of tax without seeking advice from any forum and can spend his agency development fund without any audit (Khan & Wazir, 2014)

Interviewees were asked to share their views and highlight the problems that are facing by the local masses of FATA. The most repeated theme emerged was socio-economic issues i.e. lack of health and education facilities, unemployment and poor infrastructure is a major concern of the citizen of FATA. The literacy rate in FATA is

alarming i.e. 17% and only 3% in females. The mortality rate is also very high. Same is with unemployment. That's why there are (i) diseases (lot of polio cases are being reported from FATA), (ii) forced (IDPs/TDPs) and (iii) voluntary migration of tribal from the FATA to seek better opportunities and live a good life. Youth of tribal areas either go to Karachi, Lahore or somewhere else for earning their bread. The collective responsibility made the life of families and tribes too terrible as a single person crime or disobedience to PA system can put the lives of hundreds at risk. Furthermore, Poverty is also a major issue.

Participants also highlighted government ignorance oriented problems and terrorism/law and order generated problems. Till 1997, they did not enjoy the adult franchise. **President Laghari**, for the 1st time gave the One-Person-One-Vote right [Adult Franchising] to tribal people in 1997 otherwise before that were only the *Maraatyafra Tabqa* i.e. *Malik and Sufaid Raish* (White Beard/Elders) had right to cast vote. Government remained in-sincere with the people of FATA and kept the FATA outside of the mainstream deliberately. Un-necessary curfew by the establishment/Army is major hindered and people of FATA are sick off it, its abolition is required on immediate basis. Even the parliamentarians of FATA are un-able to legislate for FATA.

In FATA more powers like administrative, political, financial and judicial are in the hands of political agents/assistant political agents, and they mostly exercise these in a negative way. Development funds are looted by the nexus of PA/APA's, *Malik's* and MNA's of FATA. No audit system exists to reviews the financial statements. PAs (mostly from PAS/DMG) are mainly from outside FATA, just come to loot tribes. *Jirga* system under FCR is mal-functioning. FCR and PA as all in all- is the key evil at FATA.

5.2.2 Responsible People, Groups and Institutions for Problems of Tribal Areas

As discussed above the major issues that are facing by the resident/ masses of FATA since independence. Questions come directly into the mind that who shall be held responsible for these issues. It is evident from literature and analysis that Government is responsible for these. Governance in FATA is totally different from other parts of the Pakistan. After independence FATA becomes the part of Pakistan but

remains neglected and no improvement/ successful reforms were undertaken by the governments (Khokar et al, 2014).

To address the same, respondents were given an opportunity to highlight the responsible entities in which mostly pointed at past and present governments, and inappropriate role of bureaucracy along with that, PA/*Malik* and deployment of army are also held responsible for these issues. These groups/entities may have their interest or getting financial and administrative benefits. Therefore, they deliberately ignored this region. Existing governance model in FATA is political agent-centric. FCR system is basically for colonies not for citizenry of a sovereign and independent country. PA/APA and tehsildars are having *darbari* in the form of *malik/masharan* who are also not the actual representative of their respective tribes but of yes-men. The most highlighted second responsible group by the respondents was of FATA MNAs and Senators who did nothing for FATA. They used to buy votes from *malik* and now only lure the masses to get vote. They, after winning the election, did not bother to visit their constituencies rather shift to Islamabad or Peshawar. They only come back when there is election again.

Respondents also believed that the political parties did not bother to voice for FATA. Political agents (bureaucracy) and their whole system along with so-called *masharan/sufaidraish/malik* is based on FCR. Along with these people the main parties i.e. PPP, PMLN are also culprit, they perceived. The tribal who got education, jobs and resided outside the FATA, they are equally responsible for this current situation, the respondents opined. Finally, the international game players like USA and her allies who used these tribal for achieving their own goals and objectives, and made promises (employment for youth in reward of ending poppy cultivation and development of Reconstruction Opportunity Zones –ROZs) with them to empowered them economically, did not play their part.

One of the respondent said that;

“Nationalist parties like ANP and Pk-MAP somehow raised their voices for FATA but in my honest opinion even they (ANP and PkMAP) did not play their part in mainstreaming the tribal belt. The religious parties like JUF (F & S) and JI, all has strong bases in FATA but they did not do anything for them. Now the youth of FATA is getting aware of these culprits. Their frustration may result in a disastrous situation if FATA is not mainstreamed” (LAK, Political Worker).

5.2.3 Frontier Crimes Regulations - FCR

Respondents were asked to comment on the existing system of FCR whether it is obsolete or not? And what is their opinion about governance in FATA; its issues; positive and negatives? In response thereof, mostly respondents stated that it is an outdated British imposed system and just rubbish. It violates the basic human rights to them. FCR is Black Law, they are not satisfying with it. No society of today even of least developed country will ever accept it as their civil and criminal law. FCR was imposed by *Angreez* [British] to control the free tribal areas of Indian sub-continent. With the help of this inhuman law, they governed the tribal areas deceptively. *Pashtunwali* is totally different from FCR and FCR is falsely attributed to *Pakhunwali* which is based on Islamic values and traditions while FCR is totally un-Islamic.

By highlighting the political [agent] administration system, they opined that administration is there just get out most of money from FATA as it is full of minerals e.g. in Mohmand and Khyber Agencies, there is lot of marble, and in other agencies there are other minerals, gems, but unfortunately exploited by FATA bureaucracy. PAs/APAs and *Malik* are helping the capitalist elite to loot FATA resources. They are also part of the huge smuggling network and get their share from these networks. Political agents' postings and transfers involve lot of money. Even the clerks are kings there and grabbing in lacs per month. Respondents further pointed out that we, the tribal are wrongly called *Azad Qabaeel* [Free Tribal People], as there is no sense that they we are free in any sense. Even we did not enjoy the fundamental rights. Rather the title "*Alaqa Ghair* [areas of others] is right for FATA because we the tribal people are dealt as non-citizens/ lower citizens of the country by government functionaries.

Another issue also discussed that pertains to the concept of "collective responsibility" in which is holding all family/tribe members responsible for any act/offense of a member family / tribe). This CR is clear violation of the international human rights. It is totally against the human rights.

One participant of this research said that

"My family is suffered in late 1980s due to this so-called collective responsibility and consequently, my father along with two brothers buys a house in Peshawar and we were brought up here although we usually visit our ancestral house,

village etc. Some of my cousins are still there just to look after our stakes there but their siblings are also getting education in the cities of KP”.

However, only one of the respondents highlights the pros of the concept

“The clause had certain merits in terms of decreasing the incidence of crimes and ensuring more responsible behaviour by members of community owing to the fear of putting all the family in danger due to personal crimes. Similarly, as per this clause, no one can purchase a piece of land without mutual consensus of the owners of houses adjacent to it.”(FA, Govt. Official).

Similarly, another respondent said

“it is very important to understand that FATA has its own peculiar custom and values. FCR, the existing legal system is not as much fallacious as we are presenting and supposing because the issue is with some clauses of FCR, which need to amend on timely basis i.e. the clause of Collectively Responsibility although it has some merits as well” (ABD, Academician).

But majority of the respondents perceived that FCR is an obsolete, outdated, colonial and inhuman justice, legal and administrative system.

5.2.4 Desired Governance Model & Reasons for Opposition

Respondents mostly disagree with the police system as law enforcement agency for tribal areas as, according to them, it is not facilitating but teasing. They also suggested that a tailored legal system along with modified and trained levies/Frontier Corp as law enforcement agency will work in FATA. While discussing the existing judicial system mean “*Jirga system*” in FATA in comparison of judicial system with rest of the country Pakistan, although Pakistani judicial system has so many flaws but it is still better than FCR. But for the FATA there must be a different set of laws which further incorporate *Pakhtun* traditions and Islamic provisions as well. Around the globe, there are some countries who are having two or more legal system at micro level by considering this example it will also be feasible for the FATA and can developed by taking stakeholders including *Ulema* on board as they are the key stakeholders.

One of the responded replied in the favour of it with the argument that

“Jirga system, we can brashly state that the jirga system is more efficient and speedy in comparison with Pakistan’s judiciary infrastructure. If one is not satisfied with the decision of the Jirga then an appeal can be filed to the upper level i.e. “Qoami Jirga”. Speaking of the judicial system operational in Pakistan, it is not only mired in corruption rather the process of getting justice is so slow and cumbersome that it takes years to resolve simple cases. Poor people are completely marginalized from accessing the legal institutes as they can hardly afford to pay lawyers and undergo the complicated trials. In the given scenario, we can hardly criticize Jirga system. No institute for policing exist in FATA. Whosoever is proved guilty in the region is automatically sentenced and sent to prison. No one can try to evade their sentence” (ABD, Academian).

Respondents were asked to describe which future governance model will be beneficial for the residents of FATA i.e. (i) the merger of FATA with KP, (ii) FATA as a separate province, (iii) maintain the status quo, or (iv) another alternate governance system. While discussing FATA as a separate Province, mostly did not favour it, as, according to them, it is not feasible and not based on the ground realities. The geography of FATA even makes it near impossible to deal it as separate province. FATA also do not have enough resources to run it as a province. People of FATA don’t have technical expertise, democratic process and knowledge as well.

Only one of the participants belongs to JUI-F considered separate province a good and viable option due to number of reasons.

“Firstly, it will be a separate federating unit, so it will get its due share in NFC, Waters, and other resources. Secondly, it will have its own assembly which will be solely discussing and governing tribal and it will have senator in equal number as of other provinces. So, FATA and KP, both will have 23 seats in senate which means 46 seats for Pakhtuns. This will safeguard the interests of Pakhtuns. Thirdly, it will create lot of economic activities including employment opportunities. Fourthly, it will get royalty of its resources like hydal projects e.g. Mohmand Dam [Munda Dam] which will be a 740 MW dam, Kurran Tange Dam; minerals, coal etc” (NSK, Politician).

Due to geographical spread there will be issue of transportation within FATA. FATA can be divided into three major parts i.e. North (including Khyber, Mohmand, & Bajur agencies, FR Peshawar, FR Kohat), South (South & North Waziristan agencies, FR DI Khan, FR Bannu, FR Lakki, and FR Tank) and Central (Kurram and Orakzai agencies). So even, deciding the capital of the new province will be a hell task.

Considering the option of Merger of FATA with KP, respondents strongly believed that is the only option which can be helpful for the masses of FATA to get rid of from the existing system FCR that was imposed by the British. FATA and KP have similar culture, traditions, geo-graphical proximity and language.

According to a respondent;

“The people of FATA are well groomed, and they know their basic rights. However, their voices can’t be heard if they stand for their rights. According to recent report published by PIDE, FATA have a big pool of schools and basic facilities. In this regard, we don’t need to address the issues at grass root level because it will just increase the administrative cost. We just need a better system for the people of FATA for their human development and in my point of view merger is the best option so far. However, if FATA merged with KP than within the KP it shall be given a separate status like KP (Rural) of KP(Tribal) on the model of Sindh Urban and Rural for at least 30 years to protect the rights of its people, in the meanwhile efforts for streamlining of FATA shall continue.” (AJ, Academician/Governance Specialist)

One of the respondents who belong to Academia and still the resident of FATA argues that

“He is not against the merger of FATA but this option has some deficiencies as replacing an inefficient system with another similar system does not make much sense. Rather what is required is upgradation/revision of FCR in the region and amendments of its draconian clauses. If the government wants to make a sincere endeavour for improving the region, then it should establish appropriate grass-root infrastructure, empowering the masses in the region. Grass-root empowerment shall be accompanied by development initiatives where schools, hospitals shall be built and awareness programs shall be run in alliance with decreasing influence of military. Only then can the true essence of democracy and welfare government be realized. Merger will deprive the people of FATA from their unique identity. Tribal needs tailored local governance system separate from KP model. Therefore, referendum for future governance model is the best option for deciding the FATA fate” (ABD, Academician).

Initially Merger of FATA with KP will not create any extra burden on the administration of KP as KP administration is already bearing the burden of education and health facilities of tribal. As every agency of FATA has entrance into the KP. Initially Law Enforcement Agencies (LEAs) will face some short comings so to manage law and order situation due to their professional shortcomings Therefore, there shall be a comprehensive plan to enhance their capabilities and transfer of powers to them in phases. Moreover, through merger FATA will get huge amount and resources for the development of infrastructure. So, there is dire need to enhance the capabilities of KP administration to cope with the new challenges after merger of FATA. It was taken care in FATA reforms as well. Due to merger FATA will have share in Provincial Assembly with increased resources as well.

Furthermore, if FATA merged with KP than following changes can foresee in the future.

- i. Abolishment of FCR,
- ii. Representation at KP assembly,
- iii. More peace in FATA
- iv. More funds for education, infrastructure etc which will create more economic activities and more economic opportunities for the people of FATA
- v. More educational institutes, professional colleges, universities
- vi. More health facilities
- vii. Local governments which means, more participation of people in democratic process and political awareness
- viii. More funds for education, infrastructure etc which will help in the development of FATA
- ix. More literacy rate, more educational institutes
- x. More health facilities, less mortality rate
- xi. More economic opportunities for the people of FATA
- xii. More participation of people in democratic process

Some respondents who were more interested to maintain the *status quo* argued that in the democratic approach, people whom decision is going on should be consulted through referendum. Although, most of them are in favour of the merger but views of masses matter a lot which were not addressed properly by Reforms Committee. If government is interested to do something for the betterment of FATA,

then they shall go for referendum. Coming to the stance of political parties, it is true many political parties are the direct beneficiaries of this move given their own political interest i.e. to increase the voter's bank, more fund ratio in divisible pool etc.

5.2.5 Reasons for Opposition for Reforms

In interview respondents were directly asked to comment as JUI-F chief *Maulana Fazlur Rehman* and Pk-MAP Chairman *Mehmood Khan Achakzai* are demanding consultation with common man of FATA before bringing reforms. The FATA Reforms Committee visited all the tribal regions and consulted different people before presenting their report. In response, most of them said that they have their own stakes there, although, Pk-MAP has never-ever had representation from FATA at any elected forum. Consultation shall be done with common men of FATA through different media. Furthermore, FATA reforms committee report is also not complete, it needs more deliberation.

Moreover, according to a respondent

“JUI-F has a well-structure organizational structure in FATA. It is not only the Qaud Muhtaram's opinion, but it is the Markazi Shura well-thought opinion where FATA is also well-represented. Almost 70-80% of Ulema from FATA have affiliation with JUI-F. And how you can decide the fate of a huge region without asking their opinion and considering their say? It's a big violation of democratic norms and traditions.” (NSK, Politician)

Once the government get a nod from tribal for merger, then they shall have through deliberation on the modalities of post-merger governance system but openly and taking all FATA people on board.

5.2.6 Perception About Reforms

During interview respondents were asked to share the views that how they perceive these reforms? What are their expectations on the development needs about their area? What social, economic and political opportunities they are expecting? In response thereof, some of them were thinking that again they are being played in the name of reforms. A respondent argued this way;

“They have given us this lolly pop many times. We are expecting too much from these reforms still we are afraid, the government hardly seems

sincere with the people of FATA and the drama of political gains by multiple actors is underway” (WAQ, Journalist).

Mostly respondents were taking it in positive sense and they feel if they will have such reforms, their areas will be developed like other parts of country and obviously they will get all basic facilities which they are not enjoying right now. After reforms there will be a lot of opportunities through economic activities. Even they will be empowered and will have better lives. They are also quite hopeful to have the same social, economic and political rights as other Pakistani nationals have. Especially, better infrastructure and more employment opportunities they expect from reforms. It is also an effective way to curb the wide spread terrorist nurseries in FATA. Such positive reforms will bring peace; will require some time to restore.

Grass-root empowerment shall be accompanied by development initiatives where schools, hospitals shall be built and awareness programs shall be run in alliance with decreasing influence of military. Only then can the true essence of democracy and welfare government be realized.

5.2.7 International Community Willingness for Funding and Assistance

International Communities can contribute toward the development of FATA. As this area required development at grass root level. People are living in FATA below Poverty line. Investment needs to be done in all development projects especially on education, health and on awareness programs.

While discussing this point with the respondents they described that this is the area which was exploited in USSR war against Afghanistan and post 9/11 era and it is the belt from where major militant outfit operated in the past. It became an international attraction due to the safe place for terrorists’ activities. To control and check such anti-state activities, the international support is required because it is a threat to whole world. International donors will not only provide donations and development funds but also encourage the business activities there through MNCs. The UN and other developed countries like USA may also initiate all its development and poverty alleviation programs. FATA is situated on Pak Afghan Border and its development depends on the relations of two neighbouring states.

Following are the areas in which international communities can contribute more suggested by the research participants:

- i. Political awareness
- ii. Law and order
- iii. Education, building schools, colleges, universities, and reforms in Madrassas
- iv. Health,
- v. Eradication of Kalashnikov culture
- vi. Handing over administration to local police (community policing)
- vii. Under China Pakistan Economic Corridor-CPEC), more industrial zones in FATA region that attract foreign direct investment
- viii. FATA has rich natural resources which need exploration.
- ix. The most important, it's not the job of international community but it's the job of Pakistan to do more for its war-torn people.

Furthermore, if the UN and other donors are serious in eliminating the menace of terrorism and extremism they must arrange and provide development funds to the FATA region and thus contributing to infrastructure development and creation of jobs opportunities in the war inflicted area of FATA. It is the only way to compensate the miseries of poor living there.

5.3 CONCLUSION (QUALITATIVE PART OF THE STUDY)

It is concluded from the qualitative part of this research that FATA have been deprived from the major rights in this advance world. The existing system of FATA is out-dated, inhuman and unjust. Frontier Crime Regulation- FCR was enacted in 1873 for the first time. With the passage of time this system proved itself inadequate, paving the way for additional acts and offences extended the acts scope. This was done through promulgation of the FCR 1901 (HRCP, 2005). The FCR system gives power to political administration system in FATA. So, the notion "*Powers corrupts and absolute powers corrupt absolutely*" is thus proved (Ullah et al., 2015).

From this part of the study, it can be inferred that creation of separate province is not a feasible option and not based on the ground realities and wishes of general masses. In case of separate province, they will lack enough resources, technical

expertise and knowledge to run it as separate province. Almost majority respondents were agreed to the fact that Future Governance model for FATA is one and only merger with special status as the FATA and KP have same culture, traditions, geo-geographic proximity and language. Furthermore, after merger of FATA with KP common man will be obliged with basic rights of life and will empowered to enjoy the benefits. Such positive reforms will bring peace but require some time to restore. The masses will get rid from the rubbish model of FCR and no more will be slaves of PA/APA and Maliks.

Moreover, it is also concluded from results of qualitative data, FATA is area exploited in USSR war against Afghanistan and post 9/11 and use as belt from major militant outfit operated in the past. International donor's agencies contribute to eliminate the menace of terrorism and extremism and further in the field of law and order, Health, job opportunities and eradication of Kalashnikov culture. Moreover, under China Pakistan Economic Corridor-CPEC, more industrial zone in FATA region that attract the foreign direct investment.

5.4 QUANTITATIVE DATA ANALYSIS

5.4.1 Citizen Perception Survey

The quantitative part of research is based on Citizen Perception Survey (CPS). Quantitative/Thematic analysis helped the study in designing the questionnaire, through which data is collected and analysed from general masses. It's designed to gauge the opinions of tribal regarding FATA future governance model and opinion, on their existing government existing in their area, and their perceptions about future government policies. The survey investigates the satisfaction of masses by considering their awareness, interest in future model of FATA and knowledge about reforms package. CPS was conducted in the agencies and Frontier regions-FR's of FATA. Convenience sample from all agencies and FR's was drawn. In the following section, that is the description of all respondents who participated in the survey followed by the findings.

5.4.2 Respondents' Profile

The survey is conducted on utilizing convenience sampling. Respondents are further classified, age group, education, gender composition and occupation. Total number of respondents is 206 from agencies and frontier regions (i.e. FRs) of FATA.

5.4.3 Gender Composition

The survey respondents comprised of 75.7% males and 24.3% females from agencies and FRs

5.4.4 Age Composition

The survey respondents were from different age group. The minimum age of the respondents was 19 years and maximum age of the respondent was 85 years. Around 30.09% of the respondents are in the age group of below 25 years. Majority i.e. 36.89% of the respondents are from the age group between 25-35 years. Approximately 18.93% are in the age range of 36-50 years. Rest two groups have minority number of respondents i.e. 14.07%.

5.4.5 Education

The survey respondents further divided into many education groups i.e. 18 years of education or above, Master (16 years), Bachelors (14 years), Intermediate (12 years), Matric (10 years), middle, primary and no education (Illiterate).

The results depict 56.30% studied bachelors to Masters Level or Higher. Followed by the respondents with education up to Matric level i.e 16.5%, 7.76% passed Matric, 0.48% secondary school and 4.36% having education up to primary level. Moreover, the illiterate respondents were 22.81%.

5.4.6 Occupation

The survey respondents were classified into six occupational groups of which 25.24% are employed persons. 21.84% respondents are running their own business. 32.03% of the respondents are student at different levels of their education. Rest i.e. 20.87% were un-employed. To get the female representation already included in above mentioned ratios 12.62% are un-employed/student also asked to fill out the survey however, only 10.67% females were employed.

Following table shows the profile with actual number of respondents.

Table:09 CPS Respondents Profile

	<i>Particulars</i>	<i>Number</i>	<i>Percentage</i>
Gender	Male	156	75.702%
	Female	50	24.271%
Age (in years)	Below 25	62	30.09%
	25-35	76	36.89%
	36-50	39	18.93%
	51-60	17	8.25%
	Above 60	11	5.82%
	Education	Primary	09
	Middle/Secondary	17	8.25%
	Intermediate	17	8.25 %
	Bachelors	52	25.24 %
	Illiterate	47	22.81%
	Masters/Higher	64	31.06 %
Occupation	Student	66	32.03%
	Business	45	21.84%
	Employed	52	25.24%
	Un-employed	43	20.87%

5.5 RESPONDENTS FORM AGENCIES/FRONTIER REGIONS-FRS

By using convenience sampling technique data is collected from all agencies and Frontier regions- FRs of tribal areas on FATA future Governance Model. In this regard the survey comprises of following representation of respondents.

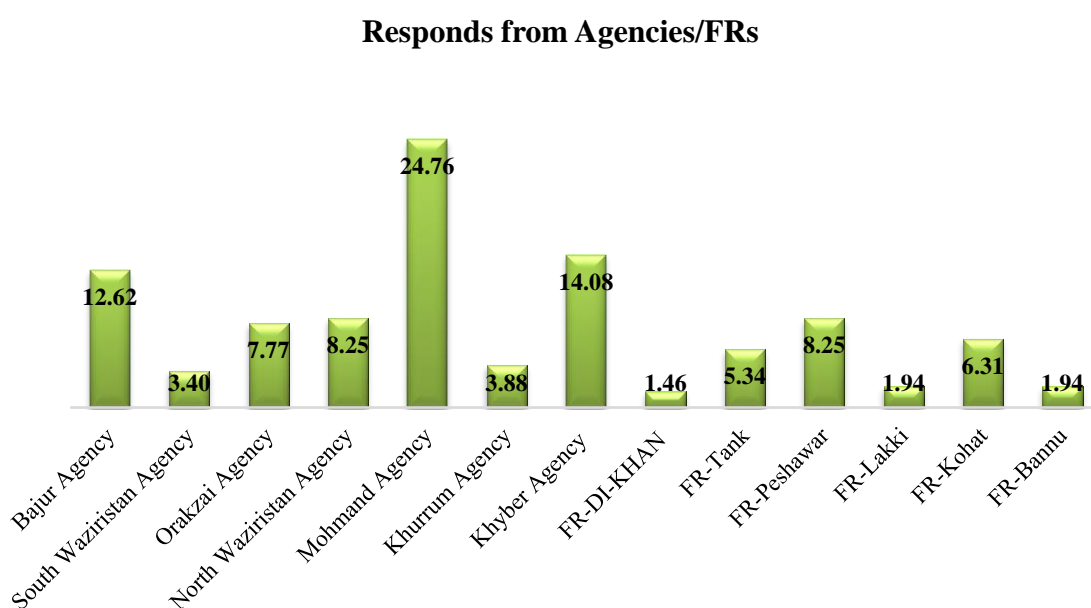


Figure 4: Responses from Agencies/ FRs

5.6 ISSUES PREVAILING IN FATA

Masses of FATA were asked to highlight the problems prevailing in FATA since long. The idea or purpose behind to asking this question is to seek the opinion of the citizen of agencies and FR of FATA to highlight the issues appropriately. In this regard, majority 44.17% were the views that the 1st and foremost is the governance model which is Political Agent-centric. PA/APA and tehsildars having curtains in the form of *malik/masharan* and exercising all powers like administrative, judicial and financial, who are not their actual representatives.

Following chart shows the issues/problems pointed out by the citizen of the agencies and FR of FATA under study.

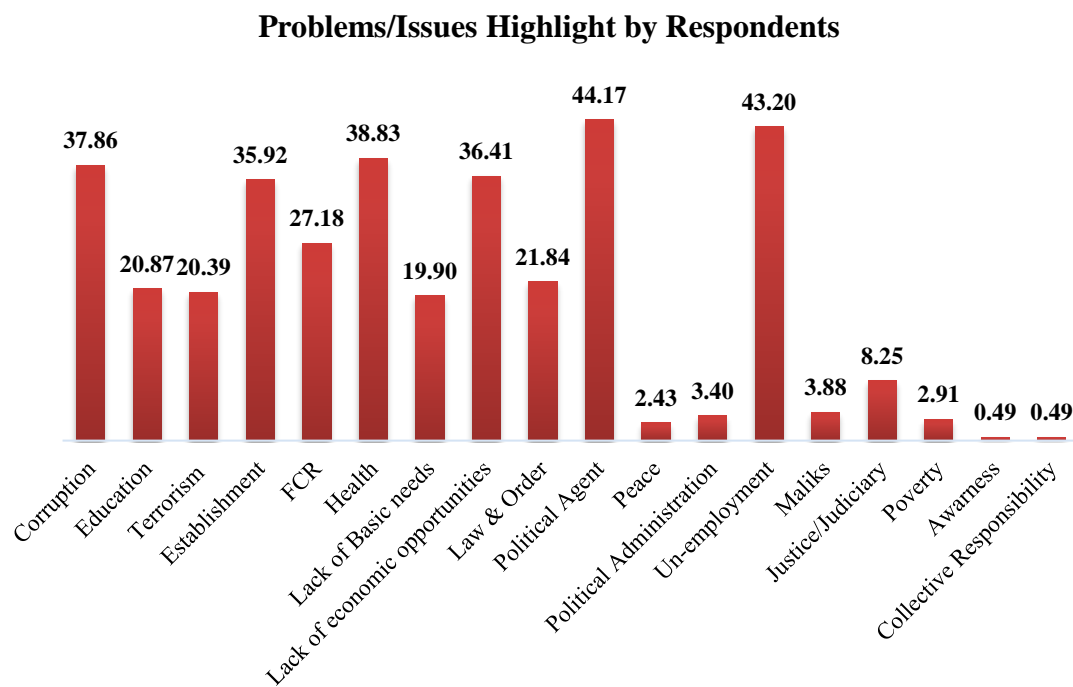


Figure 5: Issues and Problems highlighted by Respondents

The respondents were asked to point out five problems being faced by tribal since long. The results depict that 43.2% respondent of survey highlighted un-employment issue while 38.8% highlighted health issue. In FATA the mortality rate is high that's why there are diseases (lot of polio cases are being reported from FATA). 37.8% respondent's opined that corruption is a grave issue. On the other hand, 36.40%

highlighted lack of economic opportunities issue, that's why the voluntary migration of tribal from the FATA is continued since long to seek better opportunities and live a good life is also higher. 35.92% pointed out that deployment of Army is the major hindrance while 27.1% stated FCR as problem. Other problems identified by respondents were lack of educational facilities (20.87%), terrorism (20.3%), FCR (21.18%), lack of basic needs (19.90%), and law and order situation in FATA (21.84%). Moreover, respondents also highlighted some minor issues like 8.25% Judiciary, 3.88% Malik's, 3.39% political administration/political parties who did not bother to voice for FATA, (2.42%) peace, (2.91%) poverty and (0.48%) highlighted collective responsibility and awareness issue.

Table 10: Problems/Issues Highlight by Respondents

<i>Services demanded</i>	<i>Number</i>	<i>Percentage</i>
Corruption	78	37.86%
Education	42	20.87%
Terrorism	42	20.38%
Establishment	74	35.92%
FCR	56	27.18%
Health	80	38.83%
Lack of basic needs	41	19.90%
Lack of economic Opportunities	75	36.40%
Law and order	45	21.84%
Political Agent	90	44.17%
Peace	05	2.42%
Political Administration	07	3.39%
Un-employment	89	43.20%
Malik's	08	3.88%
Judiciary/Justice	15	8.25%
Poverty	06	2.91%
Awareness	01	0.48%
Collective Responsibility	01	0.48%

5.7 RESPONSIBLE ENTITIES FOR THESE ISSUES

Citizen of FATA were given an opportunity by asking the question that whom top four you think is responsible for the problems in FATA since long. This question helped in analysing the perspective of citizen by highlighting the responsible bodies. The idea behind to address this question is to figure out the utmost responsible body. Majority (60.68%) are of the view that past and present Government held responsible

for the problems as government always used these tribal in 1947/48 and USSR-Afghan War which influenced almost two generation

Following chart shows the issues/problems pointed out by the citizen of the agencies and FR of FATA under study.

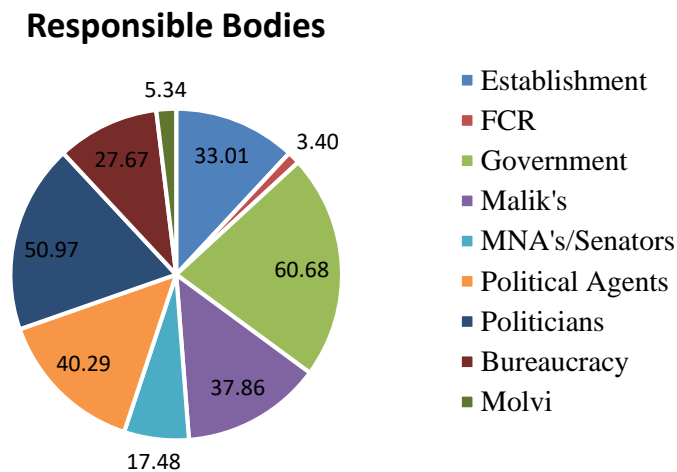


Figure 6: Responsible entities/bodies for issues

The respondents pointed out the Politicians are more responsible rather than Bureaucracy. (17.48%) respondents of FATA mentioned that MNAs and Senators are responsible as they did nothing for FATA. 4th is the Political Agents and *Maliks* (40.29% & 37.86%) who did not bother to voice for FATA. Role of Establishment/Army itself is the major hindered in the development of FATA region. They mostly held the reins of power and own interest. The results also show that FCR (3.40%) the existing system own responsible for prevailing issues and the role of *Molv*is can also be not ignored.

5.8 FRONTIER CRIME REGULATION-FCR

The respondents were asked to point out whether you are satisfied with the system of FCR that was imposed by the British since long. The results depict that almost 96.5 % respondents disagree with the statement that FCR is a good Law. Moreover, 94% of the respondents were agreed with the statement that FCR is a bad law which validates the responses. When the respondents were asked about the concept of *collective responsibility* is a good law and as per practice of International human rights

principles then in response 90.2% and 97% strongly disagreed with statements respectively. 65.05% demanding alternate system of FCR. Moreover, 44% respondents disagree with the statement that Police system is better than FCR, and 23.30 % remain neutral. Furthermore, 96% strongly disagree with the statement that FCR is not against Pakhtunwali.

Table: 10 Frontier Crime Regulation-FCR

	<i>Good Law</i>	<i>Against "Pakhunwali"</i>	<i>Bad Law</i>	<i>Collective responsibility is good</i>	<i>Collective responsibility as per Human Rights</i>	<i>Police System is better than FCR</i>	<i>Alternate system of FCR</i>
Strongly Disagree	81.5%	82.5%	0.49%	54.85%	60.68%	30.58%	0.49%
Disagree	15.05%	14.08%	1.94%	35.44%	36.41%	14.08%	9.22%
Neutral	1.94%	1.94%	3.88%	2.91%	1.94%	23.30%	25.24%
Agree	1.46%	1.46%	26.70%	5.83%	0.97%	24.27%	65.05%
Strongly Agree	0%	0%	66.99%	0.97%	0%	7.77%	0%

5.9 FATA EXISTING SYSTEM & ROLE OF PA

The existing system prevailing in FATA is FCR and under the control and command of political agent's, elites and *Malik*. According to the response 93.69% respondents were not satisfied with the system of political agents and FATA administration and the same is not acceptable to them in any case. Furthermore, 21.36 % respondents were strongly agreed that existing system required amendments while, 51.46% remain neutral. When respondents were asked that political agent is acceptable in any of the role/authority i.e. as an executive head; as a judge; as a *Khasadar* head; and *Jirga* head, they were not willing to accept the political agents in any position/role. (Refer, table #12).

Table :11 FATA Existing system

	<i>Satisfied</i>	<i>PA and FATA</i>	<i>Alternate</i>	<i>Need amendments</i>
	<i>admin</i>	<i>system</i>		
Strongly Disagree	76.70%	70.87%	2.43%	5.34%
Disagree	18.93%	22.82%	7.77%	0.97%
Neutral	3.40%	5.83%	16.02%	51.46%
Agree	0.97%	0.49%	14.56%	20.87%
Strongly Agree	0%	0%	59.22%	21.36%

Table 12: Role of Political Agent

	<i>As Executive Head</i>	<i>As Judge</i>	<i>Jirga System under PA</i>	<i>As Khasadar Head</i>	<i>Being rep of electoral system</i>
Do not need to be changed	3.40%	2.91%	2.91%	1.46%	2.91%
Little changes required	6.31%	3.40%	10.19%	6.80%	0.97%
Do not Know	0.97%	1.46%	0.97%	12.14%	2.43%
Required more changes	19.90%	9.71%	4.85%	10.19%	10.68%
Fully changed	69.42%	82.52%	81.07%	69.42%	83.01%

Explanation and views of the masses of FATA is already explained above

5.10 DESIRED FUTURE GOVERNANCE MODEL

To figure out the desire of masses of FATA, 5-point Likert scale was used. Turns out there are slight differences between the desires of the citizens. The main concern and most important part of this research is to understand what actually the desire of the masses of FATA? Through questionnaire population were given an opportunity to highlight the desired governance model. Around 68.9% disagree with the statement and were not in favour of separate province. 71.13% were demanding merger of FATA with KP. Moreover, 76.70% demanding merger but with special status, as the KP administration is capable to manage FATA 56.31% respondents

agreed while majority 86.41% is not interested and disagree with the statement to maintain the *status-Quo*.

Table: 13 Desired Future Governance Model

	<i>Separate Province</i>	<i>Merger of FATA with KP</i>	<i>Merger with special status</i>	<i>Maintain Status Quo</i>
Strongly Disagree	52.91%	4.37%	0.97%	79.13%
Disagree	16.02%	2.91%	7.28%	7.28%
Neutral	18.93%	13.59%	15.05%	4.85%
Agree	11.65%	55.34%	26.21%	5.83%
Strongly Agree	0.49%	23.79%	50.49%	2.91%

5.11 PERCEPTION OF MASSES OF FATA ABOUT REFORM

Majority rated that merger of FATA with KP is the most viable option and population having more expectation from the government and perceiving that merger of FATA will bring improvement in all parts of life. 47.57% respondents were agreed that merger of FATA with special status will be more beneficial for FATA as its bring improvement in administration, peace, more educational opportunities and improvement in judiciary/justice system of FATA.

Table: 14 Perception of Masses of FATA about Reform

	<i>Existing System</i>	<i>Separate Province</i>	<i>Merger with special status</i>	<i>Fully Merger</i>
Benefits for FATA	1.94%	21.36%	47.57%	29.13%
Administrative Improvements	1.46%	13.11%	43.69%	41.75%
Improve peace & harmony	1.46%	16.50%	52.91%	29.13%
Educational opportunities	0.97%	12.62%	43.69%	42.72%
Improvement in Justice	0.49%	16.02%	53.40%	30.10%
Beneficial for one man	1.46%	12.62%	44.66%	41.26%
All will be benefited	1.94%	20.39%	48.54%	29.13%

5.12 OTHER OPTIONS RELATED REFORMS

Citizens were asked about other related reforms/ Reasons for opposition of reforms to regulate the results with qualitative data and for cross check the validity of both. In response citizen almost 56.31% are of view that KP administration is capable to managing FATA in efficient manners and more funds will be allotted to the KP to do work for the betterment of the FATA. Moreover, the 91.75% population of FATA has desired for own local Government system as per their norms, values and customs. Moreover, they were also asked that will merger deprived the masses of FATA from their unique identity in response 79% disagree with the statement. Disagree with the provision of referendum opportunity before merger by 75.24%.

Table 15: Other Options Related to Reforms

	<i>KP capable to manage FATA</i>	<i>LG in case of merger</i>	<i>LG like the one in KP</i>	<i>LG separate as per norms of FATA</i>	<i>Merger will deprive FATA from unique identity</i>	<i>Some political parties are against merger.</i>	<i>Referendum before merger</i>
Strongly Disagree	0.49%	0.97%	16.02%	0.49%	55.34%	53.88%	51.94%
Disagree	19.42%	1.46%	39.81%	0.97%	24.76%	23.30%	23.30%
Neutral	23.79%	12.14%	21.84%	6.80%	14.56%	16.02%	16.99%
Agree	41.75%	42.23%	13.11%	26.70%	4.85%	5.83%	3.40%
Strongly Agree	14.56%	43.20%	9.22%	65.05%	0.49%	0.97%	4.37%

Chapter 6

CONCLUSION AND POLICY RECOMMENDATION

In this chapter conclusions of qualitative and quantitative data are integrated and presented. Keeping in view literature review, results, and discussions, first the study is concluded and then policy recommendations are put forth. Furthermore, limitations of the study and avenues for future research are also discussed.

6.1 CONCLUSION

The aims of this study were to take up the recent government reforms related to merger of FATA with KP and analysed it further in the views of general masses and key informant's opinions. All reforms including the recent 31st constitutional amendment was studied in detail. Rigours review of literature was carried out. Data was collected and analysed by employing sequential mixed methods exploratory research designed. Key informants were interviewed via semi-structured interviews and opinion of the general masses was sought through survey.

The study concluded that creation of separate province is not a feasible option and not based on the ground realities. In case of separate province tribal will have lack of enough resources, technical expertise and knowledge to run FATA as separate province. Almost majority respondents were agreed to the point that future governance model for FATA shall be merger of FATA with KP with special status as the FATA and KP have similar culture, traditions, geo-graphic proximity and language. Furthermore, common man will be entitled to basic rights of life and enjoy the benefits. The masses will get rid from the rubbish model of FCR and they will be no more slaves of PAs/APA and *Malik*. By finalizing the results of qualitative data 12 out of 15 respondents were in favour of the policy decision taken by the government on quantitative side 76.70% were also in support of this decision with special status. The result of stakeholders and general masses are in agreement with the views of one other and both are on the same page. Through merger masses will get rid of from this rubbish model of FCR.

This research gives value to the views of general masses. Results also declared that the step taken by the government was not hasty and in any pressure from a small band of people. Although some are still opposing the decision but results show that both

parties stake holders and the population of FATA are on the same page and opinions are mostly similar.

6.2 POLICY RECOMMENDATIONS

In the light of above analysis and conclusion, this study put forth following policy recommendations to the concerned quarters

a) Law Enforcement Agency / Policing

The police system working in all provinces of Pakistan, but FATA have its own norm and culture and values. It will be difficult to implement the police system in FATA. Therefore, a tailored law enforcement system along with well-equipped and trained Levies/Frontier Corps/ Frontier Constabulary in FATA is recommended.

b) Local Government System

Local Govt. is a system which means, more participation of people in democratic process and political awareness and it's a key to service delivery at door-steps and empowering the locale People will get the right to participate. After merger of FATA with KP, special tribal areas tailored local governments system needs to establish by considering their own norms, culture and value rather than to impose existing local government model of KP.

c) Judicial System

The people of FATA are used to “*Jirga system*” as judicial system to resolve their disputes. A separate judicial system incorporates Pakistan traditions and Islamic culture by taking stakeholders including *Ulema* on board is recommended. A proper and well-informed alternate dispute resolution – ADR set up in the form of a true *Jirga* shall also be established. To start with Nizam e Adl Regulations – 2009 (which are promulgated in PATA/Malakand Division) will be a good example. But those regulations also need updation and proper implementation. There shall be a special bench of Peshawar High Court for tribal districts which shall manage the sub-ordinate judiciary in these areas, and shall work as 2nd last appellate forum against the sub-ordinate judiciary. Similarly, at Peshawar Registry, Supreme Court of Pakistan shall have a special bench for tribal areas. The judges of Peshawar High Court Special Bench and Supreme Court Special Bench shall be from tribal areas.

d) International Funding

Funding from international donor's agencies is required for the development of FATA. Donors' shall be attracted via donor's conferences, road shows, and by special initiatives at UNESCO, UNDP, EU, OIC, Shangai Forum etc. Similarly, ADB, World Bank, USAID, Uk-Aid/DFID, AUS-Aid, JICA, etc shall fund the tribal areas to mainstream it and developed infrastructure there as per the footsteps of Marshall Plan (officially the European Recovery Program, ERP). This will help in elimination of menace of terrorism and extremism.

e) Enhancement of Capabilities of KP

As FATA is merged with KP, initially this merger will create extra burden on the administration of FATA, but FATA will get huge amount and resources for the development procedure so the need arises to enhance the capabilities of KP administration to cope up with new challenges. Therefore, enhancement of KP capabilities is recommended one.

Chapter 7

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Annexure 'A'

Interview Guide

The following questions constitute the interview guide for the study. Although, these questions are by no means constitutes a conclusive list, however, they serve to establish the direction of the interviews and maintain focus. Probing questions will be asked at the appropriate point during the interviews and at the discovery of points of interests to the study.

A. Background Questions

Q01: Can you brief me about the problems FATA is facing?

Q02: Whom you think is responsible for these problems?

Q03 Are you satisfied with the FATA administration?

B. FCR in FATA

Q03: What is your opinion about FCR in FATA?

Q04: Do you think that FCR is falsely attributed to "*Pakbunwali*"? If yes, why?

Q05: What you think of "Collective Responsibility Concept" under FCR?

- a. Isn't violated the human rights?
- b. Isn't against the norms of *Pakbtuns*?

Q06: If you compare the FCR and Rest of Pakistan Judicial System, which one is suitable for FATA and why?

C. Governance at FATA

Q07: Tell me about the governance in FATA, its issues, positives and negatives.

- a. Would you like to add anything else to the description you have provided to me?

Q08: Do you think that the governance model being practice in FATA is obsolete?

- a. Why you think so that it is obsolete?
- b. Will you welcome any change in this model?

Q09: Which sort of change in governance model you are looking for

- a. Are you in favour of merger with Khyber Pakhtunkhwa? If yes, why? If no, then
- b. Are you in favour of FATA as separate province? If yes, why? If no, then
- c. Are you in favour some changes in current model? If yes, why? If no, then
- d. What other option you are interested in?

- Q11: Suppose FATA is merged with Khyber Pakhtunkhwa, what sort of changes you can foresee in future?
- Q12: Is the KP administration capable of managing FATA?
- Q13: Will you see this merger beneficial for the people of FATA? Or the other way around?
- Q14: Weather the political reforms are necessary for FATA?
- If yes, what sort of political reforms, you think will work?
 - Will political reforms harm or strengthen the tribal culture of love for freedom?
- Q15: In your opinion, why FATA grand alliance is opposing FATA Merger with KP?
- Q16: How local tribesmen perceive these reforms? What are their expectations on the development needs of their area? What social, economic, political opportunities they think, should be provided to them?
- Q17: Do you think MERGER with KP will deprive the people of FATA from their unique identity?
- Q18: JUI-F chief Maulana Fazlur Rehman and PkMAP chairman Mehmood Khan Achakzai are demanding consultation with common man of FATA before bringing reforms. The FATA Reforms Committee visited all the tribal regions and consulted different people before presenting their report. What will you say about it?
- Q19: How can international community contribute to 10-years FATA development plan? What will be the magnitude and scope of their contribution?

Annexure 'B'

Citizens Perception Survey Questionnaire

سوالنامہ - فائٹا کے مستقبل کا حکومتی نظام

گرامی قدر اسلام علیکم!

ذیل میں دیا ہوا سوالنامہ ہمارے ایک تحقیق بعنوان فائٹا کے مستقبل کا حکومتی نظام: اسٹیک ہولڈرز اور عوام کی رائے خدمات کے سلسلے میں ہے۔ آپ کی سوچی سمجھی رائے ہمیں اصل صورتحال سے آگاہ کر سکے گی۔ آپ کی شناخت اور دیئے گئے جوابات مکمل طور پر محفوظ ہوں گے۔ اور صرف تحقیقی مقاصد کیلئے استعمال ہوگی۔ آپ کی شناخت معلومات وغیرہ کسی بھی شخص / ادارے کو نہیں دی جائے گی۔

منجانب
تحقیقین IPIDE اسلام آباد
0345-9198388

(1) کوائف:-

FR/انجینیئر:- جنس: مرد خاتون
تعلیم:- 18 سال سے زائد 16 سال / ماسٹر / BS 14 سال
12 سال / انٹر / DAE میٹرک ڈل پرائمری خواندہ کوئی نہیں
عمر:- _____ سال کیفیت: ملازم اپنا کاروبار بے روزگار

(2) فائٹا کے مسائل

(1) ذیل میں فائٹا کے عوام کو درپیش 5 بڑے مسائل لکھے

(1) _____ (2) _____
(3) _____ (4) _____ (5) _____
(2) آپ کے خیال میں ان مسائل کے ذمہ دار کون ہیں۔ باترتیب لکھے
(1) _____ (2) _____ (3) _____ (4) _____

(3) ایف سی آر (FCR)					
کلی / مکمل متفق	متفق	شائد	نہیں	بالکل نہیں	
					(1) ایک اچھا قانون ہے۔
					(2) کیا FCR اور بھتوں و لی مترادف ہے؟
					(3) FCR ایک فرسودہ قانون ہے۔
					(4) "اجتہامی ذمہ داری" ایک اچھا تصور ہے۔
					(5) "اجتہامی ذمہ داری" انسانی حقوق کے عین مطابق ہے۔
					(6) FCR کے مقابلے میں پولیس کا نظام صحیح ہے۔
					(7) FCR کے متبادل کی ضرورت ہے۔

(4) فائٹا کا موجودہ انتظامی ڈھانچہ					
کلی / مکمل متفق	متفق	شائد	نہیں	بالکل نہیں	
					(8) فائٹا کا موجودہ انتظامی ڈھانچہ ٹھیک ہے۔
					(9) پولیٹیکل ایجنٹ اور اُس کی انتظامیہ فائٹا کے عوام کیلئے قابل قبول ہے۔
					(10) موجودہ انتظامی ڈھانچہ مکمل طور پر تبدیل کرنا چاہیے۔
					(11) موجودہ انتظامی ڈھانچے میں کچھ رد و بدل کی ضرورت ہے۔

جاری ہے۔-----

تبدیل کرنے کی کوئی ضرورت نہیں	تصویری سے تبدیل کرنے کی ضرورت ہے	پتہ نہیں	اچھا خاصہ تبدیل کرنے کی ضرورت	مکمل تبدیل کرنے کی ضرورت

(5) فانا کے مستقبل کا انتظامی ماڈل				
بالکل نہیں	نہیں	شائد	متفق	مکمل متفق

(6) فانا کے عوام سے متعلق				
موجودہ حالت میں	انگ صوبے کی صورت میں	انضمام کو خصوصی حیثیت کی صورت میں	مکمل انضمام کی صورت میں	

(7) حفرق				
بالکل نہیں	نہیں	شائد	متفق	مکمل متفق

آپ کے قیمتی وقت کا بہت شکریہ۔
 اگر آپ اس تحقیق کے نتائج سے اپنے آپ کو باخبر رکھنا چاہتے ہیں تو ای میل یا موبائل نمبر فراہم کریں۔
 ای میل _____ موبائل نمبر _____

Annexure C:



FATA Future Governance Model: Do Stakeholders represent Public Sentiments?

Participant information sheet

I would like to invite you to take part in a research study. Before making a decision, you need to understand the aim and importance of the research and your involvement in it. You are requested to take time to read the following information carefully. Ask questions if anything you read is not clear or need more information

What is the purpose of this study?

The planning automatically gets its worth if it is for the betterment of the country but foundations of planning shall be strong enough and shall take the respective population into the confidence before finalizing any decision therefore the Prime aim of this research is to investigate the opinions of relevant Stakeholders and general masses on the ongoing policy initiative of government of Pakistan regarding merger of FATA with KP and on other policy alternatives as well. The purpose is to investigate whether the opinion of Stakeholders truly represents the sentiments of the people of FATA.

What areas will be covered in the research?

Study will throw light on the following areas.

- i. Current policy initiative of Merger of FATA with KP and Other Alternative i.e FATA as a Separate Province/ Maintain the status Co
- ii. Existing system FCR
- iii. Stance of Political Parties
- iv. Law enforcement mechanism
- v. Feedback and suggestions related to governance system in FATA

Why you have been chosen?

You have been invited to participate in the study because you people are belonging to FATA and well aware about the existing system and current ongoing policy initiatives taken by the government about FATA. You have your own point of view on this reform.

What will happen if I take part?

You will have an opportunity to ask any question about the research project. If you agree to participate then face to face interview will be conducted with you. Your participation will be kept confidential and you can withdraw at any stage

Policy on confidentiality

- Anonymity and confidentiality will be offered to the research participants.
- Names, contact details and other personal information will be kept confidential.

If you require more information, please contact

Ms. Siddiqa Ali

Email: siddiqamalik45@gmail.com

Annexure D: Sample Interview Transcript

INTERVIEW TRANSCRIPT

Name: FA

Department: Interior Ministry – Federal Govt.

Details: Belongs to Khyber Agency, serving in Interior Ministry for the last 14 years. He is holding a Master Degree and is Grade 18 now. He has served in 4 agencies of FATA and 3 districts of KP since 2004.

Place and setting Office of the Interviewee at Peshawar after official office hours.

Date and Timing: Friday, May 18 2018, 0500-0700PM

Interview Procedures Adopted:

Interview was taken mostly in English and some place words, phrases and sentences of Pashtu were also used. Recording was not allowed by the interviewee, notes were taken and mind maps were developed during the interview. From those notes and maps, the transcript is developed in English and sent via email the interviewee after 3 days. He suggested some minor changes with his comments in Ms Word file. The Required changes were incorporated in the transcript which was sent via email again, the next day to interviewee and he approved it on the same day.

Can you briefly tell me about the FATA and reforms attempts as you have been serving in interior ministry?

FATA is a unique region and it is facing a lot of problems since Pakistan came into being. It is under FCR since 1900 when British capture it gradually. They develop a loose but deceptive and draconian governance structure here. They keep the tribal in the illusion of so-called freedom but actually they want this region to be used a buffer zone between the British India and USSR etc. After independence **M. A. Jinnah in 1948** promised them that they will remain free from the influence of the center and they will decide their fat by their own. After his demise, no one bother to think about FATA until Bhutto. He gave this region the name of FATA and included it as federating unit of Pakistan. In 1976, he also formed a committee chaired by **Lt Gen Naseer Ullah Babar** and Hafeez **Pirzada, Raza Raza** and **Dr Mubashir Hassan** as members. The committee was tasked to formulate the mechanism and time frame to merge FATA with KP (that time NWFP) till 1977 elections. But the Zia coup deteriorated that reforming effort. **President Laghari**, for the 1st time

give the One-Person-One-Vote [Adult Franchising] to tribal people in 1997 otherwise before that only the *Maraatyajfta Tabqa* i.e. *Malik and Sufaid Raish* (White Beard/Elders). **Gen Musharaf** also formed a committee to reform FATA but that also did not see the light of day. Then this recent effort was made by PMLN regime.

Can you brief me about the problems FATA is facing?

FATA is facing a lot of problems since 1947 as it was not even consider a proper part of the country till 1973 when Bhutto sb government give it a proper status in constitution. There is no proper education facilities, health facilities, development infrastructure, non-participation in political activities, the draconian political agent and FCR system and so many others. The literacy rate in FATA is alarming i.e. 17% and only 3% in females. The mortality rate is also very high. Same is with unemployment. That's why there are diseases (lot of polio cases are being reported from FATA), forced (IDPs/TDPs) and voluntary migration of tribals from the FATA to seek better opportunities and live a good life. Our youth either go to Karachi, Lahore or somewhere else for earing their bread. The collective responsibility made the life of families and tribes so terrible as a single person crime or disobedience to PA system can put the lives of hundreds at risk.

Whom you think is responsible for these problems?

1st and foremost is the governance model which is PA-centric. This system is basically for colonies not for citizenry of a sovereign and independent country. PA/APA and tehsildars are having courtians in the form of *malik/masharan* who are also not the actual representative of their respective tribes but of yes-men. Second responsible group of is of FATA MNAs and Senators who did nothing for FATA as they previously buy votes from *malik* and now only lure the masses to get vote. They, after winning the election, did not bother to visit their constituencies rather shift to Islamabad or Peshawar. They only come back when there is again election. Third is government who used these tribals in 1947/48 and USSR-Afghan War which influenced almost two generation. That's why in FATA the veterans of USSR-Afghan war settled there, made houses there, amalgamate with them especially in both Waristans. After 9/11, some of these or their sons etc joined Afghan Taliban and some joined TTP. 4th is the political parties who did not bother to voice for FATA. 5th are those tribals who got education and jobs and resided outside the FATA, they are equally responsible for the this current situation and finally the USA and her allies who used them, made promises (employment for youth in reward of ending poppy

cultivation and development of Reconstruction Opportunity Zones –ROZs) with them to streamline them but then didn't do anything.

Are you satisfied with the FATA administration?

How can I be? It is an obsolete, colonial and draconian administration. I did not want to reside permanently in my agency. PA administration is there just to pocket what they can. FATA is full of natural resources but those are exploited by FATA administration.

What is Your Opinion about FCR? Do you think that FCR is falsely attributed to “Pakhtunwali”? If yes why?

FCR is just rubbish. No society of today even of least developed country will ever accept it as their civil and criminal law. The government and its allies (*malik/MNAs etc*) falsely attributed it to *Pakhtunwali*. My family is suffered in late 1980s due this so-called collective responsibility and consequently, my father along with two brothers buy a house in Peshawar and we were brought up here although we usually visit our ancestral house, village etc. Some of my cousin are still there just to look after our stakes there but there siblings are also getting education in the cities of KP.

What you think of “Collective Responsibility Concept” under FCR?

It's an inhuman, colonial and rubbish concept

c. Isn't violated the human rights?

FCR in its totality violate the concept of human rights.

d. Isn't against the norms of *Pakhtuns*?

Totally

If you compare the FCR and Rest of Pakistan Judicial System, which one is suitable for FATA and why?

FCR is totally unacceptable to us in any case. Although the common Pakistani judicial system has so many flaws but it is still better than FCR. But FATA shall have a different set of laws which shall incorporate Pakhtun traditions and Islamic provisions as well. And it is feasible as there countries in the world which is having two or more legal systems at micro level. But it shall be developed by taking all the stakeholders on board including Ulema as they are key stakeholders as far as FATA is concerned.

Which law enforcement mechanism you like and why?

a. Existing levies/Frontier Corps

No, they can be the assisting ones but not the actual one

b. Police System

Not at all, because FATA people hate police too much.

c. Riway Act based Law Enforcement Force

Not this Riway Act which is news but another set of laws as I have told earlier.

Tell me about the governance in FATA, its issues, positives and negatives.

I have discussed in detail earlier

b. Would you like to add anything else to the description you have provided to me?

No

Do you think that the governance model being practice in FATA is obsolete?

Yes, is more than obsolete.

c. Why you think so that it is obsolete?

It is not meant for free citizenry but for governing a colony.

d. Will you welcome any change in this model?

In my opinion, it shall be changed in its entirety.

Which sort of change in governance model you are looking for

e. Are you in favor of merger with Khyber Pakhtunkhwa? If yes why? If no then

Yes, I am in favor of FATA with KP but due to its long history of depravedness, it shall be given special status within KP e.g. KP (Tribal). And reasons for my opinion are (i) FATA cannot be a feasible separate province, (ii) complete merger will not work as the depravedness of FATA will not be addressed with this.

f. Are you in favor of FATA as separate province? If yes, why? If no, then

No; because of its lengthy geographical spread and issue of transportation within FATA. FATA can be divided in three major parts i.e. North (including Khyber, Mohmand, & Bajur agencies, FR Peshawar, FR Kohat), South (South & North Waziristan agencies, FR DI Khan, FR Bannu, FR Lakki, and FR Tank) and Central (Kurram and Orakzai agencies). So even, deciding the capital of the new province will be hell task.

g. Are you in favor some changes in current model? If yes, why? If no, then

It shall be changed with new one.

h. What other option you are interested in?

Only merger fully or with special status.

Suppose FATA is merged with Khyber Pakhtunkhwa, what sort of changes you can foresee in future?

- xiii. Abolishment of FCR,
- xiv. Representation at KP assembly,
- xv. More peace in FATA
- xvi. More funds for education, infrastructure etc which will create more economic activities and more economic opportunities for the people of FATA
- xvii. More educational institutes, professional colleges, universities
- xviii. More health facilities
- xix. Local governments which means, more participation of people in democratic process and political awareness

Is the KP administration capable of managing FATA?

Yes, why not. KP has a full provincial management services (PMS) and the services of Federal bureaucracy may also be utilized.

Will you see this merger beneficial for the people of FATA? Or the other way around?

It is beneficial for the people of FATA.

Weather the political reforms are necessary for FATA?

Yes, absolutely.

c. If yes, what sort of political reforms, you think will work?

There shall be representation of FATA in KP Assembly and it shall be mandatory for the provincial government to take atleast 15-25% cabinet members from FATA. And there shall be special allocation in provincial budgets for FATA. Along with that there shall be tribal's local government system which shall take into consideration the social set up of the FATA.

d. Will political reforms harm or strengthen the tribal culture of love for freedom?

No, but vice versa

In your opinion, why FATA grand alliance is opposing FATA Merger with KP?

These are supporters of status quo because its suits them and benefit them.

How local tribesmen perceive these reforms? What are their expectations on the development needs of their area? What social, economic, political opportunities they think, should be provided to them?

As they have given this lolly pop so many time so they are expecting too much from these reforms as well as they are afraid. They expect more political freedom, infrastructure and economy development and much more.

Do you think MERGER with KP will deprive the people of FATA from their unique identity?

No

UI-F chief Maulana Fazlur Rehman and PkMAP chairman Mehmood Khan Achakzai are demanding consultation with common man of FATA before bringing reforms. The FATA Reforms Committee visited all the tribal regions and consulted different people before presenting their report. What will you say about it?

They have their own stakes there although PkMAP has never-ever had representation from FATA at any elected forum. Consultation shall be done with common men of FATA through different media.

FATA reforms committee report is also not complete, it needs more deliberation.

How can international community contribute to 10-years FATA development plan? What will be the magnitude and scope of their contribution?

They will be very much willing to contribute to the FATA development plan. Because, it is the area which was exploited in USSR war against Afghanistan and post 9/11 era, and it is the belt from where major militant outfit operated in the past. So if these areas are funded, it will help in developing the FATA and de-radicalizing its youth specially.