

Institute for Policy Reforms

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Mixed Views on FATA Merger

Institute for Policy Reforms today published a Brief titled “Progress and Challenges for the Tribal Districts”, regarding issues in FATA’s merger with KPK. The IPR Brief brings together views of two renowned experts with vast experience and knowledge of the area. “History was made on 31 May 2018 when the President signed the Bill to complete the constitutional merger of FATA”, says Rahimullah Yusufzai. On the other hand, Rustam Shah Mohmand wonders whether “it is more important to restore peace in the tribal districts and reconstruct infrastructure and homes there or offer constitutional merger”. Was enough done to know what the people wanted, he asks.

Calling it a momentous change for the people of former FATA, Rahimullah Yusufzai writes that its full effect would show when the merger is completed and 119 mainstream Pakistani laws are extended to the tribal districts. Until then the FATA Interim Governance Regulation provides legal cover, which continues with some provisions from the past.

The transition period is beset by uncertainties. FATA reform document provided five years for transition. Under political pressure the Bill signed by the President stipulates two years, while the Interim Regulation limits it to six months. The latter period is ambitious and would likely be breached. There are internal and Afghan opposition as well as concerns about the security situation. Pakistan “would have to keep its 170,000 troops in the tribal districts for the foreseeable future”.

Three successive elections within one year in the new districts that yet have no hard or soft infrastructure is a challenge. After the July 25 polls to the National Assembly, local government elections are planned for October 2018, and elections for eighteen additional KPK provincial assembly seats from these districts must take place by July 2019.

With respect to LG polls, government must draw lessons from past failures. In 2004, Political Agents had to nominate tribal elders. The additional seats (23 in effect, including reserved) may change the complexion of the KPK assembly, especially as the July 2018 elections would have already elected the provincial Chief Minister by an ‘incomplete’ assembly.

There are other practical issues. KPK government is concerned that there is no binding commitment between the four provinces and the federation on the Rs one trillion funds needed in ten years. This must come out of the divisible pool to which all provinces must agree. It demands that the federal government guarantee the amount. A bigger challenge is to spend the funds appropriately and transparently because “lack of capacity of institutions is a problem”. Also, extending the judicial and policing systems to the new districts calls for deft handling as these systems enter an unfamiliar environment. Regarding policing in the new districts, all stakeholders have differing views with persistent differences.

Rustam Shah Mohmand holds a contrarian's view on FATA's merger. He agrees that the legal system and institutional arrangements need reforms. Yet, rather than spend vast resources on merger, government would do well to restore order, rehabilitate homes and infrastructure, and rebuild lives by creating economic opportunities. People of the tribal districts demand education, health, roads, water supply, skills, and cross-border trade. Displaced persons want to return home. The centre has "fantasized the needs of the area and its problems by raising voices for 'mainstreaming ... as if (it) would contribute to progress and prosperity".

The legal system or law and order in the rest of the country too is not in great shape. In fact, historically, former FATA has had excellent harmony among residents and lower crime rates than in adjoining districts. "The extension of police and the induction of lawyers and judicial officers ... may put the clock back by decades". The jirga system resolved all disputes within six months at no cost to the parties. In the rest of the country cases linger indefinitely. Spending resources on administrative machinery cannot be a priority when there are other urgent needs.

Rustum Shah Mohmand said that it is unclear if merger would achieve the goals of peace and progress. As old institutions give way to those that operate in the rest of the country, the people of FATA would face all those issues that other citizens live with: delay in court cases, police excesses, corruption, and a detached bureaucracy. This will be at the cost of projects for socio-economic emancipation and the strong social order that so far ensured peace and accountability, he writes.