



FATA's merger with Khyber Pukhtoonkhwa

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About the Author

Rustam Shah Mohmand specializes in FATA and refugee affairs. He has served as Chief Secretary then NWFP, Interior Secretary of Pakistan, Pakistan's Ambassador to Afghanistan and was Commissioner Afghan Refugees. Mohmand also served as Political Agent in the Khyber and South Waziristan Agencies.

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Fata has finally been merged with KP after the passage of the 31st amendment bill that looks to abolish the separate identity of the tribal area. The passage of the bill would have profound and multi-dimensional implications for the area and its people both in the short and long term.

The system that was in vogue in the tribal area certainly suffered from several shortcomings. There was obviously a need for course correction –all systems and laws need changes to make them more responsive to the changing ground realities and more compatible with the cannons of justice.

But was such a radical transformation of the legal and administrative framework of the area advisable now? To answer the question, it is important that the prevailing situation in the tribal area be correctly and dispassionately analyzed.

Because of the military operation in the area since 2003, phenomenal changes have occurred in terms of vast human displacement and degrading of infrastructure. Whole villages have been wiped out, markets decimated, and businesses have been disrupted. Untold number of people have been killed and thousands wounded. Thousands suffer from chronic depression because of the constant threat of drones that used to fly at night causing terrible fear and alarm to the people.

Hundreds indeed thousands have disappeared in the war. Even after years, their fate is a mystery. The area is deeply militarized, hundreds of new security posts and fortresses have been set up on scarce land. Movement of people is restricted with commuters having to pass through barriers and security scans after every few miles. Besides causing discomfort from delays and interrogations, the exercise is painful and humiliating for a people who love their freedom.

Women who freely went about their daily business, fetching water, gathering fodder and fuel, and grazing of cattle are now mostly confined

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to their homes because of the presence of security guards on every hilltop and every intersection. This has paralyzed the rural economy.

Cross border trading with Afghanistan, on which many households were dependent for their sustenance has come to a virtual standstill. In most areas mobile telephone service is suspended causing another blow to communication and contacts in the community.

Across the area many schools and dispensaries or health centres remain closed or have been temporarily occupied in connection with the security requirements. The tribesmen face these agonies on a daily basis.

The question is: In the context of the ground realities outlined above, would it be a rational and prudent approach to first focus on rehabilitation of people and reconstruction of the houses, shops, and villages or make merger a priority?

The fact of the matter is merger was never a priority or a demand of the people living in the hinterland of the tribal area. Some sections of the youth did want adjustments in the system. But the uprooting of the distinct identity of the people and the area was never a popular demand of the bulk of the population who have lived in the tribal area.

True, in recent times the system in the tribal area has been abused by those in authority. But when top people in the Government dealing with the tribal area are appointed on the basis of 'graft' and 'deals' then do you blame the system or the Government at the top?

The system in the tribal area though lacking in a few areas largely has delivered. The proof of the pudding is in the eating. Historically, the tribal areas had far fewer incidents of crime per unit of population compared to the settled districts of KP. The number of registered crimes in one police station of any district exceeded the number of crimes in the whole agency bordering the district for the same period. Murders were few, while rape, dacoities, and robberies were non-existent. Not that the political administration was more efficient, but there was an institutionalized system of accountability ingrained in the tribal way of life.

For one thousand years Hindus and Sikhs lived alongside Muslim tribes in the interior of the tribal area ranging from Bajaur to South Waziristan. There was no instance of these minorities having been victimized or harmed. There were no cases of their women having ever been molested or attacked.

What could be a greater proof of the fairness and egalitarianism of the tribal society? These were built on traits which have been passed from generation to generation --- norms which everyone was expected to follow.

Since 2003, Hindus and Sikhs began to leave the tribal areas. This weakened tribal institutions.

Paradoxically while the people of the tribal area have been crying for quality education for their children, better health delivery systems, more roads, water supply schemes, exploration and exploitation of the minerals in the area, establishment of skill development centres, increase in economic opportunities, and cross border trade, we have ignored the reality or their demands and have fantasized the needs of the area and its problems by raising voices for ‘mainstreaming ‘ of the area--- as if such mainstreaming would contribute to progress and prosperity.

The extension of police and the induction of lawyers and judicial officers would, in the tribal context, put the clock back by decades. Because while under the jirga system all civil and criminal disputes used to be resolved within two to six months, with no cost to the parties, under the new system cases would linger on for years, five to fifteen or twenty with heavy cost to the parties in the shape of fate lawyers’ fees etc.

Not only that, the next 10 years would be used up in laying down the infrastructure for the new system --- courts, prisons, offices, residences, transport and giving security to thousands of employees of all grades.

Just to cite one example of how precious resources would now be diverted to construction of offices and residences, the cost of new housing colonies and court buildings for judicial officers only would be more than Rs 14 billion! If the cost of office buildings and residences of other departments is added, the total cost in the next 10 years would be more than 50 billion rupees!

Squandering such resources on creating an administrative machinery for achieving dubious goals in the face of widespread opposition, is a stupendous miscalculation that will boomerang, creating chaos, confusion adding to miseries and sufferings of the impoverished people of the tribal area.

Tribesmen have a good enough idea of the state of administration in the adjoining settled areas and in the rest of the country. They know well how the administrative infrastructure of Karachi has not been able to respond, check or deal with those who have been blatantly committing crimes against innocent citizens for over a quarter of a century. What could the courts, the police, the lawyers do in the face of daily targeted killings, extortion of crores of rupees every day for over 25 years? No one has been convicted, no one has been hanged for the daily atrocities committed against innocent citizens, burning alive of 260 factory workers, the massacre of 12th May 2008 etc.

They compare such gross inadequacies of the system in the settled area with their own transparent, inexpensive system that delivers justice within weeks. And because the system is so robust, so natural, the crime rate is so low.

And lastly why were the real stake holders ---the people living in the tribal area, ignored in taking such an action that would have such far reaching and harmful implications? The Sartaj Aziz committee just carried out a whirlwind tour of the area, visiting each agency for a couple of hours, meeting selected elders without soliciting the reaction of the rank and file tribesmen on the issue of merger. And why did the Govt which had only a few days left, choose to seek passage of the amendment? It is reported that the security establishment pressed the government to hastily go ahead and accomplish the task of seeking merger.

Fata has been merged. But the merger would not contribute to the goal of peace, progress and prosperity. In 1955 the government gambled and in a utopian decision integrated all four provinces

into one Unit. It took the govt 15 years to realize the absurdity of that decision. One Unit was abolished in 1970.

It would remain to be seen whether the merger would achieve the goal of peace and progress and at what cost. Because as old institutions that were the bedrock of administration and management are dismantled, the area and its people would have to struggle to cope with issues like lengthy delays in the disposal of cases, police excesses, the menace of corruption, expanding tiers of bureaucracy----- all at the cost of projects for socio-economic emancipation and of course the strong social order that ensured peace and accountability.