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Backgrounder

FATA's Merger with Khyber Pakhtunkhwa

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S*ummary*

The idea of abolishing FATA as a distinct administrative entity and merging it with KP led to a country-wide debate, with some commentators pointing to the futility of the merger and others advocating its early implementation in the interest of peace and stability in the region.

On 13 June 2016, the FATA Reforms Committee (FRC) headed by Sartaj Aziz, the then advisor to ex-Prime Minister Nawaz Sharif, came out with a report recommending the merger of the Federally Administered Tribal Areas (FATA) with the Pakistani province of Khyber Pakhtunkhwa (KP). The report called for a transition period of five years to prepare the tribal regions for integration and accomplish the “important objectives and pre-requisites” it outlined. On 2 March 2017, Nawaz Sharif called a special cabinet meeting during which the FRC report was formally accepted by the government.

The idea of abolishing FATA as a distinct administrative entity and merging it with KP led to a country-wide debate, with some commentators pointing to the futility of the merger and others advocating its early implementation in the interest of peace and stability in the region. Amidst the political uproar over the merger plans and noisy protests by opposition members and legislators from the tribal areas, on 19 May 2017, the Nawaz Sharif government put the decision of merger on hold pending the creation of a more favourable political climate. But nearly three months later, on 15 August 2017, Sharif's successor as Prime Minister, Shahid Khaqan Abbasi, convened a meeting with the Members of the National Assembly from FATA and announced that “change in FATA is a must and the status quo must end”. This has brought the issue of FATA's merger with KP to the fore once again.

Mapping FATA

FATA is strategically located along the Durand Line, the disputed border line between Pakistan and Afghanistan. It covers seven tribal agencies—Bajaur, Mohmand, Khyber, Orakzai, Kurram, and North & South Waziristan – stretching from Khyber Pakhtunkhwa in the east to Balochistan in the south. It also shares borders with five provinces of Afghanistan from Kunar in the north through Nangarhar, Paktia and Khost to Paktia in the south. This entire belt is a Pashtun majority area.

FATA is governed through the Frontier Crimes Regulation (FCR), which was first framed by the British colonial administration in 1901 to prosecute criminals as well as counter Pashtun opposition to the Raj. The British regarded the region as ‘unsettled’ and ruled it with an iron hand through the FCR. Pakistan retained this approach after 1947 and granted the region only nominal autonomy without repealing the drastic punitive measures that formed the core of the FCR. Under the FCR, the people of FATA stood outside Pakistan's legal framework. Although amendments were enacted to the FCR in 2011, most of the new rules have remained in abeyance. The resultant absence of Appeal, Dalil and Wakil has contributed to the state of lawlessness in the region. The people of the region could neither appeal to the courts nor hire a lawyer or even argue their case in any court. Their cases could only be resolved by the local Jirga based on the whims and fancies of the tribal elders.

In addition, from 2001, FATA was subject to tough military action because of the concentration there of elements affiliated to the Taliban and Al Qaeda. Operation Zarb-e-Azb (now renamed Radd-ul-Fasaad) has been on-going in North Waziristan since June 2014. While the operation has resulted in the dismantling of militant infrastructures in the region, it has also led to the displacement of millions of people, thus accentuating the region's sense of lawlessness and chaos. Many in Pakistan believe that the success of the military operation has opened up the space for mainstreaming FATA. This the context in which the FATA Reforms Committee was established.

The Status Issue

The demand for bringing FATA into the mainstream is, however, not new. Since 1977, there have been several efforts to usher reforms in the region. The appointment of a committee under Gen. Nasarullah Babar by Prime Minister Zulfikar Ali Bhutto was the first serious attempt in this regard. The original aim of the Babar committee was to create a framework for making FATA a part of the North-West Frontier Province (NWFP) before the general elections of March 1977. But it was subsequently decided that this issue will be dealt with after the general elections. Unfortunately, however, the issue was pushed under the carpet due to the military coup against Bhutto's government in July 1977. Subsequent consultations held by the Government and the civil society over the last 40 years have indicated a growing demand for mainstreaming FATA.

The latest committee in this regard was set up in November 2015 by the then Prime Minister of Pakistan, Nawaz Sharif, to propose a concrete way forward for the political mainstreaming of the tribal areas. The Committee was headed by the then advisor to the PM Sartaj Aziz and included Mr. Zafar Iqbal Jhagra (Governor KP), Lt. Gen. Abdul Qadir Baloch (Minster for States and Frontier Regions [SAFRON]), Mr. Zahid Hamid (Minister for Law and Justice), Lt. Gen. Nasser Khan Janjua (National Security Advisor) and Mr. Muhammad Shehzad Arbab (Secretary SAFRON) as members. The Committee submitted its report to the Prime Minister's office after 10 months of rigorous field study and consultations with the various stake holders.

The debate over the status of FATA led to intense discussion on two options: merger with KP, and making it a separate province. The Sartaj Aziz committee reported overwhelming support for the first option. It reported overwhelming support among the people of the region for the merger option. Both the common people and tribal heads believe that the merger will help bring the region into the mainstream and considerably reduce its isolation. According to the FRC report, the popular demands of the people and tribal elders of FATA are: the immediate removal of FCR law which

prevents access to the country's legal institutions; and the rehabilitation of the Pashtuns of the region, especially the internally displaced persons, and reconstruction of their homes destroyed during the anti-terrorism campaign. Along with the merger, the report also suggested an allocation of three per cent of resources from the federal divisible pool to FATA.

What Went Wrong

As indicated earlier, the Nawaz Sharif government accepted the report and the merger plan earlier this year. But the merger plan was dropped from the agenda of the last Cabinet meeting chaired by Nawaz Sharif on 19 May 2017. This development occurred because of two main reasons: one was the political uncertainty facing the Sharif government due to the Panama Leak case; and the other was the opposition to the plan from Maulana Fazlur Rehman, the head of Jamiat Ulema-i-Islam (JUI-F) and an important partner of the PML-N government.

The JUI-F has not only opposed the merger but has also demanded a referendum to provide an opportunity for the tribesmen of the region to decide their future. It has been said that JUI-F fears that it may lose influence in FATA after the region's merger with KP. For long, the party had enjoyed a monopoly in FATA because all mainstream political parties were barred from contesting elections in this region. But its hold began weakening with the lifting of the ban. The 2013 elections are a case in point in this regard, when all seats in FATA were distributed equally among the major parties. With its grip on the region loosening, the JUI-F sensed that it would be difficult to mobilize the local population to block the reforms and therefore resorted to political blackmailing of the ruling government. Rehman also complained that the idea of FATA's merger with KP was an American ploy. Instead, he suggested mainstreaming of the region through the formation of legislative councils based on the Gilgit Baltistan model.

In addition, other political leaders and parties also stood against the merger. Mahmood Khan Achakzai of the Pakhtunkhwa Milli Awami Party (PkMAP) opposed the decision claiming that it will affect Pashtun identity at large. The party organised a massive gathering of Pashtuns on February 14, 2017 in Islamabad under the banner of "FATA Jirga". It too termed the plan as the propaganda of a handful of elites (Maliks) and tribesmen who were not true representatives of the people. And it demanded an Autonomous FATA province. By opposing the move, the PkMAP hoped to gain political mileage in certain sections (especially among militants) within FATA that are opposed to the merger. In any case, historically, the party had very limited influence among the Maliks who support the merger. Since the party projects itself as the guardian of Pashtun rights all over Pakistan, its opposition to the move can be interpreted as a ploy to sympathize with those who consider a merger as

interference with the traditional autonomy enjoyed by Pashtun groups in the tribal areas.

The Road Ahead

The changed political scenario in Pakistan has altered the priorities of the ruling PML government and the initiation of the FATA merger plan before the 2018 elections (as planned initially by the government) seems a distant dream. The PML-N, which propagated the idea of the merger, is engaged in dealing with the crisis flowing from the Panama scandal. The meeting of the current Prime Minister Shahid Khaqan Abbasi with the political representatives of FATA recently indicates that the PML-N has not yet given up the idea of FATA's merger with KP. Analysts in Pakistan believe that the postponement of the merger plan will affect the electoral prospects of the ruling PML-N in the coming elections in the region as people have already started talking about the 'step motherly treatment of the Pashtuns sentiment' by the government in Islamabad.

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