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Pakistan's political stiffness: The 'social agreement' for FATA's North Waziristan



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Abstract

In witnessing the 2013 general election and the installation of a new government entrusted with a remarkable majority in vote, the people of Pakistan and many international observers thought that the time for major change had finally come. Especially the country's neglected and repressed areas, like North Waziristan, which is part of Pakistan's Federally Administered Tribal Areas (FATA), were hoping for significant improvement of their socio-political and economic conditions. However, after two years in power, it seems more and more obvious that the current administration of Nawaz Sharif did not intend to change the patterns of Islamabad's decision-making in any significant policy area. Today, the country's political arena is still determined by the unchallenged supreme role of the army, the lack of political will and capacities of civilians to implement any noteworthy reform measures, endemic corruption, and the ongoing dominance of the Punjab province and its establishment leading to the consequent sidelining of the smaller territorial entities. This entrenched negative reality is closely linked with a repressive approach of the centre towards the regional periphery, which is deeply entrenched within the mindset of the national elite. The latest example for the continuation of the elite's offensive policies is the so called 'social agreement' for the people of FATA's North Waziristan, which were forced out by a major counter-terrorist military operation. In order to have the permission to turn back home, the internally displaced persons (IDPs) had to pledge loyalty and allegiance to the national government and ensure the area's future security. The discriminating character of this agreement shows that Islamabad does not have the political determination to change its pattern of decision-making, which ensures their economic and political prerogatives at the expense of the smaller provinces and their people. Therefore, the establishment avoids any form of a balanced mechanism of sharing power and national wealth in order to protect its partisan interests.

Initial Conditions - Continuation of unfortunate British colonial legacies in FATA

After observing much adulation in the aftermath of smooth general elections in 2013, entailing the first regular transfer of power from one civilian government to another, and a subsequent more or less functional parliament, one cannot help but sense the repetition of history with regards to Pakistan's political arena. More concretely, it seems obvious that the latest enthusiasm of the country's electorate and the domestic and international media hype about a potential 'new democratic impetus' did not initiate any noticeable change in the mindset of the civilian and military authorities. The way how the protests against the current government after taking office were orchestrated by non-democratic forces or the enactment

of the 21st constitutional amendment -manifesting the strongest, formal (constitutional) political role of the army in politics ever-are just some indicators forcing independent analysts to reassess the willingness of the country's elite to promote democracy at all. This becomes even more obvious when scrutinizing the latest development in the context of the Federally Administered Tribal Areas (FATA), an area which continues to be a place for human tragedy, symbolizing the inherent defects of Pakistan's political setup.

A former gateway for foreign invasions from western-central Asia as well as a frontline not only during the 'Great Game' of imperial powers played out in the 19th century but also in the following conflict during the cold war between Soviet-occupied-Afghanistan and US-allied-Pakistan, and today a major battle field in the 'global war against terror', Pakistan's border region FATA marks a historical battleground. As such, it is not surprising that this troubled region and its people developed and maintained unique social structures. Consequently, 'outside powers', in trying to keep this area in check, responded in an extraordinary way to exercise influence. This finds its most visible expression with far-reaching consequences in the establishment of a restrictive, elite-guided political-administrative system, supported by a complex 'draconian' set of laws, the so-called Frontier Crimes Regulation (FCR). Furthermore, it produced not only a style of governance, which neglects the notion of (liberal) democracy but also a political culture that successfully undermined any substantial processes of including the common people in participatory, political decision-making processes. In brief, the people of North Waziristan (including the rest of FATA) don't enjoy the same rights as other Pakistanis. Today critics claim that instead of empowering the common people, traditional elites and reactionary hierarchical structures have become even more deeply embedded within processes of inter-elite negotiations. Additionally, the rise of Islamic fundamentalism and Jihadism tremendously enforced the suppression of the tribal population and has led to further socio-economic decline of the FATA region.

Hampered by unfavourable socio-economic and political-administrative factors

To be able to contextualize such claims one has to shed more light on the region under discussion with its socio-economic and political-administrative determinants. The FATA region is strategically located between the Pakistan-Afghanistan border, the Durand Line (named after British civil servant Sir Mortimer Durand), in the West, the Pakistani province of Khyber Pakhtunkhwa (KPK, formerly known as North-West-Frontier Province) in the North and East, and Balochistan in the South. Administratively, FATA is divided into two

territorial entities: a conglomerate of seven Agencies and six areas which are known as Frontier Regions (FR). The FR, namely Bannu, Dera Ismail Khan, Kohat, Lakki Marwat, Peshawar and Tank, are transition or buffer areas between the Agencies of FATA and the so-called adjunct ‘settled areas/districts’ of KPK. The Agencies are namely Bajour, Khyber, Kurram, Mohmand, Orakzai, North and South Waziristan.

The acronym FATA –the Federally Administered Tribal Areas– already reveals two unequivocal and significant hints: First, regarding the social, ethnic composition of the respective population –tribes, primarily Pashtun ones. Second, the fact that the tribesmen and their territories are under direct control of a central, national authority. Approximately a dozen major tribes live in the FATA, consisting of numerous sub-tribes divided into clans. If one takes the sub-divisions into account, there are around 400 tribes. The total population in this region is around 4 million; most of them residing in rural areas, leading to a degree of urbanization less than 3%, which is extremely low taking the more than 27.000 square metres (over 36% of KPW) and the insignificance of the agricultural sector into account. It is important to mention that FATA suffers more or less from the worst socio-economic conditions of entire Pakistan. Despite the fact that the area is rich in natural resources including minerals, coal and other deposits, no intensive efforts have been made to utilize them for development of the area. As a result, Pakistan’s so called ‘tribal belt’ is marked by an extremely insufficient infrastructure, ineffective (or non existent) industry, inadequate medical care, and an extraordinary lack of job opportunities for the inhabitants, which has lead to the establishment of a flourishing informal shadow economy of smuggling weapons and drugs. This, in return, is further deteriorating the already poor security situation, and much-needed business and investment activities are avoiding FATA by moving to the ‘settled districts’ and other parts of KPK (which is also partly encouraged by the authorities). Therefore, engaging with the Taliban and other Jihadists for financial purposes is viewed by some tribal people as one of the few options available. The fact that about 60% of the tribal population are live below the poverty line combined with a literacy rate below 18% (which is only half of the average in the entire KPK province) fosters and simplifies the recruiting process for the Jihadists.

To summarize, the situation in FATA today is doubtless a consequence of a mixture of different factors: its chequered history and peculiar culture, colonial legacies, especially the unique administrative and political status, as well as post-independence poor governance by

the central government. In this context, one should mention that Pakistan's establishment is making no secret out of 'inheriting', and continuing the British political-administrative system of the 'divide and rule', in the FATA.

Being an neglected 'internal colony': Repressive national elite behaviour

Generally one can state, that a very important element of the (British) colonial predecessor, which one could call the strategy of 'carrots and sticks', was somewhat lost in translation or misinterpreted. Pakistan, driven by its security paradigm, which was and is rooted in an enduring (paranoid) anxiety, generally prefers to use the 'stick', meaning it is looking for a military instead of a political solution in areas affected by militants and violent conflicts. Having FATA in mind, this means that Islamabad's security forces use coercive means against the tribesmen because of supporting cross-border militancy and terrorism.

The carrot is however not part of the grand scheme. The establishment in Islamabad (as usual) has forgotten to implement benign strategies or policies towards its 'tribal citizens', which are perceived by significant elements of the establishment as fractious, undisciplined, primitive, and unable to maintain order. Instead, as already indicated above, for decades virtually no developmental activities have been undertaken and envisaged reforms have not or only rudimentarily been implemented. One prominent example is the FATA Local Government Regulation (LGR) 2012 passed by the national government. Meant to calm the situation and bring the FATA a bid to stand at par with other areas by restructuring the inhibiting colonial system of governance and the introduction of participative, democratic elements, this reform evoked grave concern. In this context, a harsh law imposed in 2011, known as Regulation in Aid of Civil Power, gained significance, since it gave tremendous power to the security forces to tackle several offences against law and order. However, these regulations gave legal cover to the armed forces for unlawful acts (like dubious, unauthorised detentions) committed during the military operations. It does not come by surprise that this led to a further alienation of the local people, especially since the punishable offences have been already dealt with in the Anti-Terrorism Act, 1997.

Another root cause for grievances is that the president of Pakistan directly administers the FATA through the governor of KPK and his appointed political agents (PA's) in the Agencies (the FR were headed by District Coordination Officer/DCO of the adjacent settled district) who are actually in charge of the decision-making. But it is interesting to note, that besides

the fact that PA's were representing the supreme authority, they were never able to simply order something themselves without provoking (violent) resistance. It was always a common understanding that a political outcome has to be negotiated between the state and the tribes. Therefore, the PA's are empowered to coerce tribesmen through bribes and threats or granting and holding back national resources. However, unsurprisingly nothing happens in the area without coordination and in accordance with the local leadership. In sum, the grip of any outside rule in the region has never been strong or unchallenged. In order to tackle this problem, Pakistan continued, with minor modifications, the colonial oppressive arrangement, which narrowed down the decision-making process only to a chosen few stakeholders: the Pakistan government represented by the PA's and the so called Maliks which were identified among the tribal elders and/or chieftains.

This not only bestows much autonomy upon the tribesmen but also strengthens the Maliks' position towards their own people, disturbing the traditional system of authority of the Pashtuns. Given the sense for equality, egalitarian within the Pashtun tribal society flanked by the concept of Pashtunwali (tribal code of honour and behaviour), traditionally the Maliks were seen as *primus inter pares* (the first among equals) but not as supreme leaders. This creates an understanding of leadership which is different from other tribal societies in Pakistan, like in Baluchistan where basically the tribal chiefs (Sardars) are able to claim greater power. But the further entrenchment of the colonial system of 'divide and rule with proxies' deepened the growing alliance between the outside forces, now represented through Pakistan's administrative officials, and the Maliks as the selected and privileged representatives of all tribesmen. In result, the common people in FATA not only increasingly lost the access to political participation but also became more dependent on the tribal leadership represented by the Maliks, who benefitted largely from the century-old FCR (first introduced in 1901), which constitutes FATA's judicial system – a hybrid body - that allows local customary laws and traditional tribal Jirgas (council of handpicked elders) to prevail in tandem with representatives of the central government. This system made sure that all issues of significance between the tribes and the Pakistani state were managed through interactions between the Maliks and the PA's (which were backed the Frontier Constabulary Force/Police, Levies and Khassadars/tribal militias, Frontier Corps/Army). Additionally it granted the tribes substantial autonomy in their own affairs, in which the Maliks, appeared increasingly not only as sole interlocutor in state-policy making but also as *de facto* arbiters in local conflicts as well as heads of several councils and Jirgas.

In consequence, neither the national legislative can play a role in the respective regional affairs nor is FATA a subject to rulings by national or provincial courts, unless Pakistan's president so desires. The fact, that until 1996 members of Parliament for FATA were not elected but appointed by the Maliks underpins their extraordinary power.

Deprivation of political rights and the rise of Islamic fundamentalism

Instead of establishing an empowered local administration in order to include the common tribesmen in political decision-making, understood here as a precondition for any democratic transition, all reforms and amendments regarding FATA until now, especially the FATA LGR 2012, turned out to worsen the situation by reinforcing the status quo. In other words, there is a lack of political will or lack of capability to change the power structure in FATA, which formally rest in the PA's and informally in the Maliks. Doubtless, the current political status of FATA and its inhabitants are against the country's constitution and are not in line with the UN's general principles and resolutions regarding human rights. The imposed system of governance lacks tremendously accountability and transparency. Furthermore, the elected representatives still remain powerless because all authority was concentrated within the political administration in the name of governor further limited the option for political participation. In addition, the restriction in party competition gave Islamist parties and religious hardliners a predominant position in form of a monopoly in public opinion making. The situation of being deprived of any substantial constitutional, political and civic rights as well as any legal protections through the country the judiciary not only made the more rigid and conservative but also turned their FATA into a persistent flashpoint. Having this in mind, it does not come by surprise that the 'balance and harmony' within this autocratic governance system was disturbed by the emergence of new, 'anti-systemic actors'. Most recently, in the aftermath of the internationally military actions against the Taliban in Afghanistan, FATA become an ideal breeding ground and hub for Taliban and other militants like the Haqqani network, Hekmatyar group, or Islamic Movement of Uzbekistan. Experiencing no credible efforts of integrating FATA into the Pakistani state with all necessary constitutional and legal ramifications, like granting fundamental rights and a democratic order, the tribal belt will remain a lawless hotbed and sanctuary for Jihadists of all kinds of colour.

In consequence, FATA become a safe haven for Jihadism. However, the militant Islamists not only terrorised the whole region but also turned against the local tribesmen enforcing their discriminatory, suppressive, and inhuman notions of state and society, rooted in a distorted

interpretation of Islam. Furthermore, the Islamists disrupted the traditional social structure, with militants taking the place of tribal chiefs and elders by killing many of them. Subsequently, Islamabad's strategy of ruling the area based on its 'divide and rule' with selected local leadership in order to control the masses of the people does not work anymore since it was seriously undermined by the Islamists. But instead of developing a new approach through incorporating the common people into the political process by 'winning the hearts and minds' of them, as well as to strengthen their socio-political, and economic conditions, Islamabad reacted in its old traditional pattern by imposing even more stricter laws to give legal cover to additional extraordinary armed force. As such, the establishment once again showed that it is not willing to share power and resources with the regions despite the fact it was agreed on. Here the National Action Plan clearly indicated that Islamabad is or was supposed to develop and mainstream the area. However, instead of building a positive image of the national government as well empowering the people, the population of North Waziristan/FATA was sidelined even more to the advantage of Jihadist outlets.

Military actions and the return of the Internally Displaced Persons (IDPs)

Over the last decade, after ignoring the 'domestic dimension' of the Islamist threat for a long time, Islamabad's security circles, for years lacking a clear counter-terrorist strategy in FATA, was finally engaged in a plethora of military actions with Jihadists and other militants, from, half-hearted skirmishes to more complex battle scenarios. But a comprehensive, large-scale push against the Jihadists did not take place until 2014. After numerous defeats, few dubious victories, and a parade of failed peace treaties, the situation remained out of control and Pakistan's military top brass had to finally to recognize that it is at war with its former 'brothers-in-arms' and had to carry out a full-scale major military campaign in FATA, foremost in North Waziristan. This military operation, code-named Zarb-e-Azb (which means 'Strike of the Prophet's Sword'), was launched in June last year to eradicate all foreign and local militants hiding in North Waziristan. Pakistani authorities were claiming that this comprehensive and all-inclusive campaign of Pakistan Armed Forces against all kinds of militant groups was an extraordinary success, an assessment that is difficult to prove since no independent data is available. However, one thing is for sure, this latest armed conflict was a humanitarian disaster leading to the displacement of one million people (on 14 July 2014, 929,859 individuals were registered as internally displaced persons/IDPs), around 18000 thousand families.

After several month of fighting, on 31 March 2015, the IDPs started to return to their ancestral homes. In order to receive the permission for their ‘repatriation’, a so called ‘social agreement’ was imposed on the tribesmen from Waziristan. The controversial document has to be signed by each uprooted family if they want to go back. Basically, regarding official statements, this ‘social agreement’ was supposed to ensure the cooperation of the tribal people in fighting terrorism. But this document contains only a little social dimension in a positive sense (if at all). In contrast, the agreement enshrines some offensive requirements and is remarkably discriminating for several reasons:

First, it presupposes the disloyalty of the tribesmen of North Waziristan towards the state by asking them to pledge their allegiance(‘oath of loyalty’) to the constitution of Pakistan.

Second, the local people also have to renew their acceptance of the draconian Frontier Crimes Regulation (FCR), which denies the tribal people full citizenship. As such, the agreement reinforces the colonial logic and further entrenches the repressive politics of the central government towards North Waziristan. Additionally, by making the tribesmen stick to the FCR, they have to take on various collective and territorial duties, foremost to ensure peace in their area. In other words, the political administration is shirking the responsibilities (and consequently also the fault for failures) for maintaining security, law and order towards the tribesmen.

Third, since the acceptance of the ‘social agreement’ is a precondition for the return and does not give the IDPs any other choice in order to return to their homes, this agreement embodies an extreme case of blackmailing the people of North Waziristan. In brief, if they do not agree to cooperate in counter-terrorism or fail in keeping the militants out of North Waziristan, the people have to face severe consequences (from individual to collective punishments) like losing national identity cards, passports, visa - even their property can be taken away or they could be banned from the area.

Fourth, the ‘social agreement’ gives the false impression that the local people are responsible for their homeland turning into a sanctuary for domestic and foreign militants. Because of the allegedly close cooperation between tribes and terrorists, the situation spiraled out of control. However, this accusation is a severe distortion of facts, since terrorist groups like the Haqqani network or Taliban were without any doubt operating in the region with the blessing of the country’s army and intelligence. In this context, one must recall that the government itself

allowed anti-state actors like the Tehreek-e-Taliban Pakistan (TTP) to stay in the area by signing numerous so called ‘peace deals’, at least 11. Furthermore, it is obvious that Pakistani state agencies helped to facilitate foreign financial support, especially from Saudi Arabia, for terrorist organization operating in FATA.

Last but not least, the controversial agreement provoked much critic among the tribes and their elders regarding the approval or rejection of the document. Subsequently many of them interpreted the agreement as an attempt of the political administration to divide and silence the tribal people in order to gain more leverage among them.

Conclusion

Islamabad lonce again let a window of opportunity to improve governance and socio-economic conditions in a part of the country’s ‘periphery’ close in front of their eyes. Instead of using the post-war scenario after a large scale military operation and a more or less stalemate for the introduction of sufficient democratic reforms, Islamabad decided to continue its repressive policy inherited by the colonial rulers to protect its partisan interests. This is a phenomenon, which not only set the FATA in general and North Waziristan in particular apart from the rest of Pakistan, but also made the region one of the country’s most underdeveloped and unsafe regions. By having said this, the unwarranted agreement symbolises the lack of political will and incompetence of Pakistan’s national elite to work out a fair mechanism of decision making and distribution of national resources. Instead the latest use of coercive force by the state as well as the Jihadists is further alienating the affected tribesmen from the central state authorities. In sum, the need of the hour is to finally address the grievances of the tribal populace. More concrete, to reconstruct their homes and other properties destroyed in military operations, integrate them into the social and economic national mainstream, enhance their political participation by granting them full political rights and citizenship, as well as the removal of restrictive laws originating from colonial times.

Beyond any question, this must be done by Islamabad without any condition (besides insisting on the regular obligations of a Pakistan citizen) attached to the tribesmen. Furthermore, the country’s decision makers have to understand that enforcing discriminating laws like FCR is not feasible any more in order to maintain Islamabad’s grip over the region. Not only because of the increasing entrenchment of Islamist power in FATA but also due to the fact that the local people are exhausted of being misused as a strategic asset in Pakistan’s foreign and

security policy in general and in its Afghanistan approach in particular. Subsequently, Pakistan's establishment has to reassess its notion of 'social' as well as stop questioning the loyalty of tribesmen. Furthermore, the approach must be changed from demanding all kinds of guarantees from the people in the region, threatening them with harsh consequences and imposing a draconian system of regulations but offering nothing substantial in return. Before the state questions the loyalty of tribesmen, seeking various forms of guarantees from them and threatening them with dire consequences, Islamabad should engage in some serious introspection to understand its own role in creating and then aggravating the conflict in North Wazistan/FATA. If this is will not happen, the 'social agreement' remains 'asocial' and instills further mistrust into the faith and loyalty of the tribal people towards the state. Otherwise, Pakistan will experience a continuation of armed struggles and enhance the transformation of North Waziristan into Jihadist 'no-man's land'.