

Comprehensive review of NAP

FATA's ill-fate

*Muhammad Ismail Khan**

* Muhammad Ismail Khan works as Project Coordinator at PIPS, where he also edits the *Conflict and PeaceStudies*.

One of the points of NAP called for expediting administrative and development reforms in FATA. It was hoped that after the 16th December tragedy, those at the helm of power would come up with tangible reforms for FATA to crush militancy.

In more than ten year of war against terrorism, FATA has been a constant reference. Militants of several shades established network there, continuing attacks countrywide. Since 2007, the anti-Pakistan Tehreek-e-Taliban Pakistan (TTP) operated from there. Like several other high profile attacks, the APS attack was carried out by militants who had made their way from the adjoining tribal areas.¹ Similarly, Afghanistan too has been complaining about the presence of anti-Afghan militants like Haqqani network leaders and their abode in FATA. In 2014, former Director General of Inter-Services Press Release (ISPR) admitted that all sorts of militants had gathered in North Waziristan.²

That is why, security observers have long been pointing towards dealing

with FATA to settle militancy in the country.

To this end, Pakistan's traditional response has been an all-out operation in the tribal agencies considered as troublemaker. On June 15, 2014, Pakistan military launched a military operation in North Waziristan, known as Zarb-e-Azb. Earlier, Pakistan had launched more than ten major military operations in FATA and Khyber Pakhtunkhwa, starting from 2002.

These operations did not prove a long-lasting solution to the problem of militancy stemming from FATA. Once the operation concluded, the militants staged their come-back after some time, expanding their network with time. The long-term sustainability of the current operation, too, needs to be seen.

What in fact will contribute to long-term security and peace in FATA, particularly after the security operations conclude and military presence is reduced, are the political and administrative reforms. A similar point was raised in the NAP, which calls for expediting

¹ Several other attacks owned or carried out from FATA include assassination of Benazir Bhutto and Bashir Bilour, attack on GHQ and PAF airbases.

² Asif Faruki, "Kayani hesitated, delayed operation resulting into big loss,"

(Author's translation), BBC Urdu, June 30, 2014, http://www.bbc.com/urdu/pakistan/2014/06/140630_waziristan_delay_kayani_blame_zz.shtml.

administrative and development reforms in FATA.

Keen observers agree that the administrative reforms in FATA would be instrumental in rooting out the deadly militant networks from there.

To date, FATA's administrative structure has been kept distant from the rest of country. FATA is still ruled by Frontier Crimes Regulation (FCR) which denies the people several fundamental rights. Even now, under this code, any person can be arrested for the crime committed by someone of his tribe.

For all the powers the code delegated to the local administration, it failed in checking the rise of militants, who went on to advance their influence in FATA.

Similarly, in 2011, the government extended Action in Aid of Civil Power, which a politician once likened to martial law over FATA.³ Yet, militancy didn't end, evident from the rationale given behind the on-going military operation in North Waziristan.

All these institutions of modern state are necessary to keep some check on the rise of the militants. From policing end, settling for FATA status is important. Militants from FATA have attacked in settled areas, and escaped back, precisely because they are out of bounds for the law-enforcement agencies of the settled areas. That is why KP police, around the time of APS attack, also wrote to the higher authorities to decide about the status of FATA.⁴

Almost every political party desires FATA reforms. The apex courts too have asked for extending jurisdiction of higher courts into FATA.

Reforming FATA will directly impact country's fight against terrorism. The breeding houses of militants would somewhat come under scrutiny. Besides this, the tribal belt will attract investment in different social sectors, which too may mitigate conflict in the long term there.

The previous government did some efforts at reforming administrative structure of FATA, such as by allowing political parties to contest from there and amending the FCR off its most-draconian clauses. However, progress on the latter front is yet to be

³ "The Hands of Cruelty: Abuses By Armed Forces and Taliban In Pakistan's Tribal Areas", Amnesty International, page 39, http://www.amnesty.nl/sites/default/files/public/p4026_end_impunity_in_tribal_areas.pdf

⁴ Javed Aziz Khan, "IGP suggests Fata integration into KP," *The News*, December 15, 2014, <http://www.thenews.com.pk/Todays-News-7-290163-IGP-suggests-Fata-integration-into-KP>.

seen; as the clauses of collective responsibility are invoked even now.

In one of the recent developments, in May 2014, a committee known as the FATA Reforms Committee was constituted, to "to frame strategic objectives for the volatile tribal areas for the next 25 years."⁵ After extensive deliberations, the Committee released its report.⁶

The report, however, didn't come up with any policy suggestions on the administrative status of FATA. Unsurprisingly, several FATA lawyers rejected the Committee's report. The Commission's chairman rather said that deciding about constitutional reform was not in the domain of the commission.⁷

To many, it reflects the old strategy: dealing with militants heavily-handedly, and leaving the status of FATA aside. The fear is that once the operation concludes, the vacuum will once again provide militants an opportunity to re-group there.

Meanwhile, in May 2015, the government constituted FATA Tribunal, to take up cases dispensed by administrators.⁸ This tribunal,

however, has limited powers. FATA lawyers point out that it lacks *writ jurisdiction* of fundamental human rights and cannot issue contempt of court notices, and invoke *suo mottos*. They are wondering as to what will be status of the tribunal if the political agent doesn't agree with its decision.

In September 2015, reports circulated that the two northern agencies, Bajaur and Mohmand, might be converted into Provincially-Administered Tribal Areas (PATA), an administrative structure that comes under the control of KP.⁹ On ground, however, not much appears to changing. As a starting point, local government elections could be held in FATA or at least those agencies which are considered as terror free now.

Progress on FATA marks Pakistan's overall commitment on other fronts. As long as FATA remains distinct, doubts will linger over Pakistan's commitment to fight terrorism in and outside

⁵ Zulfiqar Ali, "Another commission formed on Fata reforms," *Dawn*, May 20, 2014.

⁶"FATA Reforms Commission Notification (May 2014)," <http://fatareforms.org/2014/05/16/fata-reforms-commission-notification-may-2014>.

⁷ "Commission and political forces disagree on FATA constitutional reform," *FATA Reforms*, May15, 2015.

⁸"'Much awaited' Fata Tribunal formed," *Dawn*, May 28, 2015.

⁹ Iftikhar Firdous, "Bajaur, Mohmand agencies' merger into PATA proposed," *Express Tribune*, September 3, 2015.