

DEMYSTIFYING TRIBAL AUTONOMOUS GOVERNANCE: A CRITICAL APPRAISAL OF MALIKI SYSTEM IN FEDERALLY ADMINISTERED TRIBAL AREAS (FATA)

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Abstract

The paper argues that the British Empire strengthened an institution known as [Recognized/Enlisted] Maliki granting 'so-called' muwajjab, i.e., paid individuals allowances/benefits, both in cash and kind, to create an elite loyal to the Crown. Ostensibly Malik, the chief of a qawm, clan/subtribe/tribe, has been a liaison between his tribemen and the political administration in tribal areas (now FATA). He settles intra clan/subtribe/tribe disputes, as a member of a Jirga, relating to law and order. In 1867, Robert Sandeman introduced the Maliki system first in Baloch areas of Punjab (included then NWFP, now KP and tribal areas) and now Balochistan. Prior to the British occupation, a Malik has been an elder, 'spingirey', respected by his tribal segment owing to links in the genealogical chain. There exist three, almost hierarchical, types of Maliks, Those: (1)enlisted/appointed during the British era and in receipt of Lungi/kharcha; (2)selected/appointed from amongst Ayub Khan's Basic Democrats in 1960s and in receipt of Lungi; (3)appointed Malik/lungi holder by the Political Agent, approved by the Governor of the then NWFP, now Khyber Pakhtunkhwa. The creation of hereditary privileged position has been against the spirit of egalitarian Pakhtun tribal customs and traditions. After independence, these Maliks became part of an electoral college that elected members of the lower house of parliament representing tribal areas of Pakistan till the introduction of Adult Franchise in 1996. In return for privileges, loyalty to the British Crown transformed into sale/purchase of votes for the powerful, not resolution of disputes or problems of tribesmen in the parliament. The Malik, a go between the tribesmen and the state could not bridge increasing gap between the state

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and the inhabitants of FATA. Extension of Peoples Representation Act 1976 to FATA allowed ordinary inhabitants to contest and cast vote to elect members of parliament, not Malik alone. A critical appraisal of the Maliki system in FATA-in relation to autonomous governance is required. Revisiting published sources and interviews with both stake/non-stake holders in FATA provide better understanding of good governance.

Keywords: *Swat Nama, Mountstuart Elphinstone, Tribal chief, Robert Bruce, Sir Robert Groves Sandmen, Forward Policy, Khasadari System, Levies System, FCR, Political Agent.*

Federally Administered Tribal Areas (FATA) is a narrow belt, populated by ethnic Pashtun, stretched along the Pak-Afghan border, known as the Durand Line.¹ The British administratively divided tribal areas into two categories: Political Agencies, headed by, Political Agents (PA) and Frontier Regions (FRs) by Assistant Political Agents (APA). Both were administered by same rules and procedures having a type of administrative hierarchy. Sandeman, in 1876, devised a system that was followed by Lord Lytton (1831-1891)², in 1877, wherein the central government had direct control of the administration and Frontier Policy. A system of political agencies was developed in FATA, which supplanted an administrative structure, where political agents worked as the main government functionaries. They remained answerable to the officer, representing the Central Government. This office made alliances and developed a working relationship with the local Maliks. It controlled the Maliks or bought their loyalties by authorizing payment of allowances, *muwajjab*, benefits both in cash and kind.³

To facilitate the Political Officer,⁴ a Malik played the role of a mediator between the Government and his respective clan(s). The local chief or tribal elder, was designated as an intermediary between individual members of a clan/subtribe/tribe and the colonial authority and assisted in implementing

¹ Sarfraz Khan, Special Status of FATA: Illegal Becoming licit. *Central Asia*, 63, Peshawar: Area Study Center University of Peshawar, 2008, 8

² Robert Buler-Lytton, 1st Earl of Lytton was an English statesman and poet. He served as Viceroy of India (1876-1880). As a Viceroy of India he has been criticized for his handling of the great Famine of 1876 -78 and the Second Anglo-Afghan war. Britain was deeply concerned about Russian attempts to increase its influence in Afghanistan, which provided a Central Asian buffer state between the Russia and British India. In 1878, Lytton sent an emissary to Afghanistan who was refused entry. The Amir of Afghanistan, Sher Ali Khan, was perceived at this point to have sided with Russia. Lytton ordered an invasion which sparked the Second Anglo-Afghanistan War. Britain won virtually all the major battles of this war and in the final settlement, the Treaty of Gandamak.

³ The *Muajib*, the allowance paid to a tribe or a *Khel* as a unit, is probably the most important of the subsidies. It is usually turned over the *Maliks* representing the tribe in the presence of a *Jirga*. Distributions within the tribe is according to long-standing custom, and dissension over the division is rare.

⁴ From 1879 to 1902 Political Agent was known as Political Officer.

policies of government. To create reliable, trustworthy local elite, the British introduced a system of awarding Maliki i.e., in return for loyalty, one was rewarded with special status, financial benefits, and official recognition of influence, over the tribe. In reality, it translated into noninterference of the tribes into British lines of communication and ceasing raiding activities into the settled districts. Thus, a Malik became intermediary between the tribe and the Agency administration.⁵

A Pakhtun Malik is merely first amongst the equals: he may acquire prominence within clan owing to personal endeavors and/or adhering to customs and traditions. A grey-hair man having more male arms (brothers/sons), blessed with decent conversation skills may inspire fellow tribesmen by advocating their cause, can aptly be called a Malik.⁶ No doubt, wealth, family, influence, approval of the government etc., have also been contributory factors towards attaining and holding the title of Malik. Yet Malik's personal character and ability has been determining the extent of his influence. Thus, tribes administered/governed by a system of Political Agents, required a Malik, a go-between the tribe and the administrator, as its necessary part. The prestige of the Malik played a pivotal role in ensuring tribal obedience. In the settled areas, the British granted patronage to individual making them *Khan(s)* who served as instruments of the colonial administration there by symbolizing and preserving the feudal social system.⁷

Historically, each clan/subtribe/tribe put forward a person, possessing discrete leadership abilities and strong linkages with the administration as Malik, to represent them. It is evident that in the presence of Frontier Crimes Regulation (FCR), a Political Agent has attained considerable leeway in appointment of a Malik, and with passage of time, quantity of Maliks increased enormously. Malik has been formally registered with the Agency administration, some possess real patriarchal authority, others, neither carry much influence over clan/subtribe/tribe nor even reside in the tribal areas. Before the British Raj, Maliks used to be respected elders of a section of

⁵ Hopkins argued that the British by elevating 'a specific individual the representative of tribal interests when dealing with the state, the subsidy policy embedded new hierarchies of powers in Pukhtun society: The muwajjab was the primary method by which the British secured their relationship with the tribes. Money was integral to the tribal problem in a variety of ways. According to H. de Watterville, allowance was a system by 'which the tribes, in return for a fixed annual payment, pledged themselves to take that particular route under their protection, to abstain from raiding British Indian territory and to perform certain minor services. The allowance system came under fire as being a form of blackmail and for creating rifts in an egalitarian and classless society.

⁶ *Pakhtunkhwa: A Development Framework*. National democratic consultative process (NDCP), 2003, 43

⁷ Sher Muhammad Mohmad, *The Pathan Customs*. Former Political Agent, Mohmand Agency, 104

clan/subtribe/tribe possessing mandatory vital contacts in the genealogical tree.⁸

Robert Bruce,⁹ Deputy Commissioner, District, Dera Ismail Khan (1888-90), subsequently, Commissioner Derajat Division, Punjab Province (1890-96), accepted a system created by Sir Robert Groves Sandeman (1835-1892),¹⁰ the Chief Commissioner British Balochistan Province (1877-1892), earlier, District Officer, Dera Ghazi Khan (1866-1876). Robert Sandeman, deputized by Bruce, effectively placated the Khanate of Kalat¹¹ unlocking previously shut routes in Balochistan using a system of “penetration and occupation.”¹² Sandeman operated with Baloch chiefs and Maliks, paying cash/in kind in return for definite services, and raised levies that was deployed and resided in cantonments to safeguard important routes to the British. Sandeman constructed a network of roads linking cantonments at tactical points in Kalat and the adjoining region. In return for support, he sanctioned the Balochi chiefs and Maliks limited self-rule. Entitled British Political Agents organized *jirga* in order to resolve disputes and discuss issues important to British interests. However, the fulcrum to the peddled *Sandeman System*¹³ was the rapid advance of large contingent of British forces on newly constructed roads to subdue turbulences and protect the chiefs and Maliks against trials to their authority.¹⁴

⁸ Matthew W. Williams, *The British Colonial Experience in Waziristan and its Applicability to Current Operations*. Kansas: School of Advanced Military Studies United States Army Command and General Staff College Fort Leavenworth, 39

⁹ Salman Bangash, *The Frontier Tribal Belt: Genesis and Purpose under the Raj*. Karachi: Oxford University Press, 2016, 27

¹⁰ Sir Robert Groves Sandeman, Colonial British Indian officer and administrator, was the son of General Robert Turnbull Sandeman. Sandeman introduced an innovative system of tribal pacification in Balochistan, informally termed 'Sandemanization', that was in effect from 1877 to 1947. He gave financial allowances to tribal chiefs who enforced control, and used British military force only when necessary. However, the Government of India generally opposed his Forward Policy methods and refused to allow it to operate in India's North West Frontier. Historians have long debated its scope and effectiveness in his mostly peaceful spread of Imperial influence

¹¹ The Khanate of Kalat was founded in 1666 by Mir Ahmad Khan Qambrani Baloch. The Khanate reached at its peak during the period of Khan of Kalat Mir Naseer Khan in 1758. The territories controlled by the state fluctuated over the centuries but eventually were established by treaties with the British Agent Robert Sandeman in the late 19th century. From 15 August 1947 to 27 March 1948, the region was de facto independent before acceding to Pakistan on 27 March 1948. The Balochistan States Union was formed on 3 October 1952 with three neighbouring states. The Khanate of Kalat ceased to exist on 14 October 1955 when the province of West Pakistan was formed.

¹² James W. Spain, *The Pathan Borderland*. The Hague: Mouton Co., 1963, 119

¹³ “Good for me but not to other” The “Sandemen System” of pacification as Applied to Balochistan and North West Frontier, 1877-1947

¹⁴ Sultan-i-Rome, *The North – West Frontier (Khyber Pakhtunkhwa) Essays on History*. Karachi: Oxford University Press, 2013, 369

In late 1889, Sandeman held a huge *jirga* at Appozai, Fort Sandeman, near Zhob, Balochistan,¹⁵ participated by all the adjacent tribes, including the Mehsud and Wazir. The tribes during *jirga*, in January 1890, agreed to keep the Gomal Pass¹⁶ open in return for allowances. Adhering to the Sandeman system, Bruce allocated allowances to the tribal Maliks, in return, for a tribal levy to serve militia in cantonments, built along routes to the key passes.¹⁷

In 1892, five Mehsud tribesmen murdered an Officer of British Public Works Department, five *sawar* and a *sepo*y of the British Indian Army.¹⁸ Murders were instigated partially by a Mehsud Malik belonging to the Abdullai sub-tribe, an inadvertent excludee from the allowance scheme, developed after 1889 *jirga*, by the British, viewed Bruce. Remarkably, Bruce was able to coax the tribes into handing over, the culprits, get them tried, convicted, sentenced to jail, and fined. The application of British law against Mehsud tribesmen generated indignation amongst some Mehsud elders, especially, Mulla Powindah.¹⁹ Sir Evelyn Howell,²⁰ considered the *Mulla* as “the dominant factor in Mehsud politics in this period,”²¹ stressing the threat of religious leaders to the British and the collaborating Maliks. The agitating *Mulla* and his allies reacted by murdering the Maliks, facilitators, of handing over of the convicted tribesmen. Stunned at this

¹⁵ Zhob is a district in the north west of Balochistan province. Zhob district is a PATA. Before the British the place was known as Apozai, the town was found by Robert Groves Sandeman, who was a colonial British Indian Officers and administrator, and renamed it Fort Sandeman in 1889. Sandeman was the governor general in Balochistan since 1877 till his death in 1892 at Bela the capital of Las Bela state. In 1889 zhub valley Gomal pass were taken under the control of British government. Major tribes of Zhob include Madokhail, Kakar, Babar, Lawoon and Nasar. The name of the place was changed from Fort Sandeman to Zhob on 30 July, 1976 when by the then Prime Minister of Pakistan, Zulfikar Ali Bhutto. Zhob means bubbling water. It refers to the karez water which pops up everywhere when there is no drought situation.

¹⁶ Gomal Pass is a mountain pass on the Durand Line border between Afghanistan and South Waziristan. It takes its name from the Gomal River and is midway between the legendary Khyber Pass and the Bolan Pass. It connects Ghazni in Afghanistan with Tank and Dera Ismail Khan.

¹⁷ The Viceroy, Lord Lansdowne, informed the Afghan Amir that the Gomal scheme was a strategic and political benefit to the British Government and therefore to be blessed, that it to sever all connections to the British Government and accept allegiance to the Amir. The appearance of the Afghan Sirdar split the leading Maliks into pro-Afghan and pro-British factions, which contributed to increased violence against the British.

¹⁸ James W. Spain, *The Pathan Borderland*. The Hague: Mouton Co., 1963, 116

¹⁹ *Mulla* Powindah (Mohiuddin Mahsud) was religious leader in the Pashtun tribe of the Mahsuds, who earlier studied at a madrassa in Bannu, declared himself *badshah* (king) of the *taliban*, provoking fear among the pro-British Maliks. He used the Tochi valley as his centre of operations against the British. He became known first as the Selani Mullah.

²⁰ Evelyn Howell served in Waziristan as a Political Agent and wrote vivid account of the British experience during this period,

²¹ Robert Lane Sammon, *Mullas and Maliks: Understanding the Roots of Conflict in Pakistan's Federally Administered Tribal Areas*. Master's Thesis, University of Pennsylvania, 2008, 49

injury to his power, Bruce urged the tribal leaders to take punitive action against the murderers of the Maliks, but the response was luke warm. Bruce followed instructions of The Government of India “to continue his communications with the tribal *jirgas*, with the object of procuring, if possible, the punishment of the murderers of the Maliks by the tribes themselves.”²² Such efforts failed, primarily due to lack of superior military assistance leading to non- implementation by Bruce of the Sandeman System in Waziristan.²³

The outbreak of violence created doubt over list of official Maliks registered by Bruce. To reform the apparent inaccuracies, in 1895, Bruce formed a more elaborate list dividing the Maliks into five classes, taking into account “the measure and extent of their influence.”²⁴ His inability to control the *Mulla* via the tribal Maliks, Bruce offered him a hefty allowance too. The *Mulla* conceded, in case of keeping payment secret. Recognizing his tall sway, an allowance thrice more than any of Maliks, was agreed upon. The *Mulla* was in receipt of a regular allowance from Nasarullah Khan (1874-1920),²⁵ brother of the Afghan Amir. In Waziristan, throughout the 1890s, the British continued efforts to gain support of tribes in close cooperation with the Maliks. The Mehsud Maliks in their territory were held accountable by the British for all offenses but tiny groups of tribesmen continued attacks and committed acts of robbery. Many of the Mehsud Maliks associatted these misdeeds to Mulla Powinda’s faction. Mournful of the situation, the Maliks complained to the British that “they were between the devil and deep sea”. And the devil seemed to be drawing nearer.²⁶

In 1900 at the eve of Curzon’s²⁷ frontier expedition., John Gordon Lorimer (1870-1914),²⁸ assistant to the Viceroy, wrote an official memo to

²² John Gordon Lorimer, *Customary Law of the Main Tribes in the Peshawar District*. “nd ed., Revised by J.G. Acheson. Peshawar: NWFP Government Press, 1934, 114

²³ Retrieved from <http://discovery.nationalarchives.gov.uk/details/r/9e3a41a5-5750-4605-9623-466f107093b7>, accessed on 5/21/2017

²⁴ C.E. Bruce, *Waziristan 1936-37*. Aldershot: Gale and Polden Ltd., 1938, 89

²⁵ His brothers were Habibullah Khan and Mohammed Omar Khan. Nasrullah's birth occurred during a period in which his father was living in exile in Russian Turkestan. On July 22, 1880, Nasrullah's father was recognised as Amir following the end of British occupation of Afghanistan, on the condition that he align Afghanistan's foreign policy with Britain. As a consequence of his father's ascension of the throne, Nasrullah and his elder brother Habibullah became crown princes of Afghanistan.

²⁶ Robert Lane Sammon, *Mullas and Maliks: Understanding the Roots of Conflict in Pakistan's Federally Administered Tribal Areas*. Master’s Thesis, University of Pennsylvania, 2008, 53

²⁷ Curzon predicted, the system proved ineffective over the long-term at stemming resistance to British rule. From 1857 to 1947, tribesmen murdered four of thirty-four British political agents. One even took his own life out of utter frustration in his efforts to subdue the tribes. Despite its flaws, this *patchwork* system became the basis for the administration that governs the tribal areas.

²⁸ John Gordon Lorimer was a British diplomat, historian and colonial administrator. The Lorimer family was intimately associated with colonial service; he worked in the Indian

the Punjab Government enquiring, was Bruce's Maliki system workable? "With reference to the future management of the tribes the Government of India will only observe that the best method of dealing with the Pathans of Waziristan appears to be still a matter for experiment."²⁹ W. R. H. Merk,³⁰ Commissioner Derajat (1900-1905), approved Lorimer's doubts, in 1900, declaring Bruce's Maliki System impractical due to the democratic nature of the tribes of Waziristan. Instead, Merk paid allowances to selected Maliks not to the entire tribe, held accountable for offenses the entire tribe, rather than individuals. As a consequence of failure of the tribes to agree to pay outstanding bill of damages in December 1900 Merk introduced in a blockade, stopping their access to markets in the settled areas.³¹ In March 1902, a *jirga* the tribes relented, agreeing to pay the fine and return stolen cattle and rifles obtained from raids. Merk rejoined by restoring payment of allowances to around 1,500 tribesmen. However, Merk's relinquishment of the Maliki system proved short-lived. His successor, P.W. Johnston,³² found Merk's plan not only costlier but tremendously hazardous, since a several thousand strong *jirga* constituted graver security threat. Thus, Johnston fashioned a "conglomerate scheme,"³³ re-establishing the Maliks at a higher allowance and continued lesser payments to a limited number of other male tribesmen. Curzon was not alone in his recognition of the failings of the Maliki system.³⁴

The Maliki system, heavily dependent on the power and influence of the Maliks to coerce tribal compliance, had no formal process that stipulated what made a Malik effective? Rather, the Political Agents or their superiors made such discretionary decisions. As Howell bemoaned a

civil service and was stationed first in Punjab and later in the restive Northwest frontier province. His work included: *Customary Law of the Main Tribes in the Peshawar District (1899)*, *Grammar and Vocabulary of Waziri Pashto (1902)* and *Gazetteer of the Persian Gulf, Oman and Central Arabia (1908, 1915)*.

²⁹ Norman Bolton, *Summary of the Tribal Custom of the Dera Ismail Khan District*. Peshawar: NWFP Government Press, 1907, 129

³⁰ The publication of WRH Merk's Report on the Mohmands completes a trilogy of three rare and valuable accounts of three major tribes living in the tribal areas. Merk's Report, like the other two authoritative monographs by E Howell on the "Mahsuds" (Mizh: a monograph on government's Relations with the Mahsud tribe, oxford university press,

³¹ James W. Spain, *The Pathan Borderland*. The Hague: Mouton Co., 1963, 119

³² Robert Nichols, *Settling the Frontier: Land, Law and Society in the Peshawar Valley*. Karachi: Oxford University Press, 2001, 27-30

³³ *Ibid.*, 31

³⁴ Howell commented on the inherent difficulty of creating a list of representative Maliks. To begin with, the rapacity of the Mehsums is insatiable; to go on with, tribal society is not static, and a list that is perfect to-day will be imperfect next week; finally, the distribution list is regarded as a warrant of precedence, and no race of men that has ever existed has ever been reasonable over questions of precedence, as perhaps the records of other hills besides those of Waziristan could testify.

century ago, lists of Maliks carved by the Political Agents' were often incorrect, or needed perpetual updating.³⁵

Both Political Agents and the Maliks had varied reasons to maintain the status quo; the corruption of the Maliks coupled with other social and economic changes nurtured sensitivities of inequality and corruption that ordinary tribesman cognizant of the greater freedoms of their cousins in the settled areas, had trouble enduring. The system did not create the anarchy that encompasses today, it shaped an environment that allowed it to spawn since the highest executive and judicial official, in each Agency, the Political Agent, had the power to appoint Maliks to serve as his intermediaries to the tribes. Each Malik was entitled to a stipend and exercise the right to serve on the Electoral College, the Agency Council, or to become a member of a *jirga*.³⁶ Malik can also act as government contractor, a role that empowers him to profit financially from government-funded development projects.

In addition to the Maliks, there are *Lungi-holders*³⁷—individuals appointed by the government and entitled to a stipend. There are three hierarchical levels of Maliks, each of which is hereditary and has different degrees of privilege:³⁸

(1) Those *Malik* or *lungi* holders appointed: (1) during the British era; (2) Under President Ayub Khan in the 1960s under *Basic Democracies*; (3) by the Political Agent and approved by the Governor of the then NWFP (now Khyber Pakhtunkhwa).

The Maliki system undermined traditional Pakhtun customs and traditions in a number of ways. The conception of advantageous positions with hereditary rights has been profoundly contravening socially democratic rather egalitarian Pakhtun customs. The bait of privilege and paybacks led to a swift growth in number of Maliks in subsequent decades, giving birth to the proverb “every man is a Malik unto himself,” hence lessening their representative character.³⁹ According to Ahmad Shah Mohabbat,

³⁵ Salman Bangash, *The Frontier Tribal Belt: Genesis and Purpose under the Raj*. Karachi: Oxford University Press, 2016, 127

³⁶ Monunstuart Elphinstone, *An Account of the Kingdom of Caubul*. London: John Murraray, 1815, 291

³⁷ *Lungi* holders were of lesser status than maliks, but were similarly appointed by the government and entitled to a stipend.

³⁸ The century old dependence imprinted in minds. Monthly *Kharcha* I for certain Maliks for nothing. Maliki and lungi allowances @Rs. 4.16/month is the most wanted privilege. Maliki/lungi holders act as Jirga members. Numerous intra-family feuds over lungi issue. Ali Muhammad Jan Orakzai, the then governor of Khyber Pakhtunkhwa is lungi holder.

³⁹ Available data on the number of Maliks and lungi per agency and FR is incomplete. The elders themselves appear conscious of their corruption, yet unable to resist its allure. Ahmed recounts a common sentiment of tribal elders: The Khyber agency, population of 546,730, as having 24 Maliks and 3630 lungi holders, with each Maliki receiving an annual stipend of Rs. 1,811,619. However Ahmed, writing in 1983, estimates that South Waziristan (1972 population of 307,514) had one Maliki per hundred people and further

“the Maliki system created new modes of deviant behavior that were abhorrent under the pakhtunwali but became permissible given the new incentives. The corruption eroded the Maliks’ perception of legitimacy for many tribesmen. Decades of increased social and economic integration with the settled areas awoke the FATA tribesmen to the spreading democracy of the settled areas, while the Maliks became more detached and less concerned with the interests of the communities they represented”.⁴⁰

For Christian Tripodi⁴¹

“Apart from the fact that the concept of bribery would have been unpalatable to policy-makers, money paid by the political officer to the tribal leader was not a one way arrangement.⁴² For the British, the allowance system had certain benefits.....it allowed for potential political integration and inclusion into British service of the tribes..... the money paid on allowances was in lieu of that which would otherwise be expended on a military presence... it was not a sanctioned system of bribery, although this is not to say that bribes were unheard of”⁴³

Proponents of the system extolled its implications for turning the wild tribesmen from enemies into friends, and bringing them by degrees within the pale of civilization. Merk, the commissioner of the Derajat, was dissatisfied with the Maliki system as a whole. He proposed that an allowance be paid to the tribe rather than to some selected Maliks, and that the government should deal with the tribe as a whole and enforce tribal, instead of individual responsibility in case of offences, (collective responsibility). Robert Warburton (1842-1899),⁴⁴ who pioneered the direct

cautions that while every Maliki claims to speak for an entire tribe, most do not even control their extended family group or clan.

⁴⁰ Ahmad Shah Mohabbat, *Pakhtun National Self- Determination: The Partition of India and Relations with Pakistan*. Ph.D. dissertation, Graduate School of St. Louis University, 1979, 49

⁴¹ Dr. Christian Tripodi received his Ph.D. from the department of War studies, King’s college London. After working at the international institute of strategic studies, he joined the defence studies department and was appointed senior Lecturer in 2012. Dr. Tripodi’s research focuses primarily upon the contemporary and imperial age, and the development by western militaries and colonial administrators of techniques designed to build knowledge of ‘alien’ societies. In particular his research focuses upon the complex, unpredictable and often paradoxical consequences that result when military power is instrumentalised on this basis for wider political or military purposes.

⁴² Christian Tripodi, *Edge of Empire: The British Political Officer and Tribal Administration on the North-West Frontier 1877–1947*. London: Asghate, 2011, 74-77

⁴³ *Ibid.*, 79

⁴⁴ Colonel Sir Robert Warburton, was an Anglo-Indian soldier and administrator. Half-Afghan and proficient in Pashtu, he served for many years that British political officer in charge of the Khyber Pass. Warburton was born in a Ghilzai by Shah Jahan Begum, niece of the Amir Dost Mohammed of Afghanistan. In 1870 he was appointed to the Punjab commission as an assistant commissioner to the Peshawar division. At the end of September 1872, he was

approach to the tribes, records the conviction, after twenty-nine years spent on the Peshawar Frontier that the majority of wars and fights between the British government and the independent tribes were due to the evil intrigues and machinations of Arbabs and Middlemen.⁴⁵

Lord Lytton⁴⁶ in his famous Minutes of 22 April 1877 also opposed the role of Maliks, middleman, or Arbab in dealing with the tribes; instead, he preferred direct link and relations to understand better the system and culture. He informs,

“I think that the employment of Arbab, or middlemen, should be discontinued as much as possible. I do not myself believe that it strengthens our hold even upon the small class we thus employ. For every man gratified by employment, a host of jealousies are raised against him and ourselves..... Even if we could always depend on the absolute loyalty of Arbabs, these men cannot convey to the Native the same clear idea of our views and character that he should gain by personal intercourse with British officers”.⁴⁷

The administration of tribal areas and formulation of tribal policy had constantly engaged the attention of British Empire ever since the border alignment. From “close door” to forward policy, the British Empire carried out many moves in this direction supported by military expeditions, but kept options open. Finally, it evolved a policy of “non-interference” in accordance with the tribal customs and traditions and began governing through the tribal hierarchy of chieftains. The Crown strengthened its hold through an evolutionary process of making inroads into the tribal society by entering into realties of the tribes through Maliks and sectional elders and expanded its area of influence. It gradually established communication links in closed areas and covered them with posts, piquet’s, and forts at strategic points.⁴⁸

The *Khasadari* system, introduced in 1921, placed the responsibility of maintaining law and order on the tribesmen themselves since it has been the

removed temporarily to the sub-district of Yusafzai and stationed at Hoti-mardan, and in February 1876 he was permanently appointed. He was appointed first political officer of the Khyber Agency in 1879.

⁴⁵ Robert Warburto, *Eighteen Years in Khyber Agency*. Lahore: Sangi Meel Publications, 2005, 40

⁴⁶ Salman Bangash, *The Tribal Belt: Genesis and Purpose under the Raj*. Karachi: Oxford University Press, 2016, 37

⁴⁷ Robert Wurburton, *Eighteen Years in Khyber Agency*. Lahore: Sangi Mell Publications, 2005, 45

⁴⁸ According to Akbar Ahmed by encouraging the growth of the chiefly Malik class in the Tribal Areas the British created the foundation of conflict, contradiction, and dysfunction in the society. The political officer was authorized to arbitrarily withdraw, suspend, or cancel Malik status if he deems the individual was not serving his interests. Robert Sandeman was of the opinion that by backing tribal elders who did not enjoy the support of their people would only cause problems in the long run.

most economical way of administering the tribes and also supplemented power and influence of the Maliks. Additionally the system suited government more because not only it required less commitment and responsibility of military in the tribal areas but also enabled extension of government control and enforcement of the government's writ on the tribes by the tribesmen themselves. Since the Khasadars have been recruited, on the basis of Nikat⁴⁹ or Quota, by the tribal Maliks, the khasadari system is considered a corollary to the Maliki system. The system has often been termed as a colossal favour to the Maliks or even blackmail. Sher Muhammad Mohmand⁵⁰, a former Political Agent, however, considers this criticism unfair, contending Khasadar are used as tribal police to support the authority of the Maliks, as agents to the Government, in maintaining Law and Order, protecting roads, buildings, installations and properties of the Government.

FCR was extended to FATA in 1939, earlier, the British had already been manipulating Jirga and Maliks. The concept of collective responsibility was first floated and practiced by Coke in Dara Adam Khel in 1853 while dealing with Afridis at Kohat Pass. This has not been a Pakhtun tradition and the Malik endorsed it under compulsion not in compliance of traditions. The British expeditions against Pukhtuns were neither planned nor executed by Maliks. The Maliks were just ordered to endorse these acts. It is noteworthy that Jirga, Badraga (Tribal escort for conditional safe passage) and Maliks are Pukhtuns' own institution and traditions. They existed for centuries here as mentioned by Khushal Baba⁵¹ and Elphinstone⁵². The British only encouraged corruption to secure their interest.

⁴⁹ Nikat is the close and detailed organization based on heredity in a tribe. It fixes the share of each class and sub-section, even of each family in all tribal loss and gain, benefits are distributed and liabilities apportioned. It regulate shares in allowances from the government of booty from a raid and equally the amount due in fine under any settlement either with the government or with contending sections.

⁵⁰ Sher Muhammad, *Federally Administered Tribal Areas: A Socio-Cultural and Geo-Political History*, Peshawar, 2003, 37

⁵¹ Shakeel Ahmad Khan, *Swat Nama of Khushal Khan Khattak* (Edited & Translated Into English). M.Phil. Thesis, Peshawar: Area Study Center, University of Peshawar, 1981, III-IV

⁵² Mountstuart Elphinstone's (1779 – 1859) book *Account of the Kingdom of Cabul* first published in London in 1815 by M/S Longman Hurst, Rees, Orme, Brown and Murray is the product of his assigned visit to Afghanistan, of which he could only visit the eastern portion and most information was collected at Peshawar from February –June 1809. It took him five years to compose his data in Poona and give the work a book form. His associations with afghans can in all be counted around six months when he entered the area beyond Indus (7th January 1809) and re-crossed Indus (20th June 1809). It is not mere oral collection of data on Afghanistan but is based on all then known oriental (Persian) and European books plus travel accounts. Mountstuart Elphinstone was a Scottish peer: his father John was Lt. Governor of Edinburgh castle, whose two sons James and Mountstuart joined the East India Company at very Young age and earned political position as of baronial descent in the company services and Mountstuart becoming Resident at Nagpur.

The duties and responsibilities of the khasadar in tribal structure classify them as the instrument of the tribal will. Bruce positions, though 'paid by the Government', Khasadar belong to the tribe.⁵³ The collective territorial responsibility is an important feature of the khasadari system in many ways: Selection through tribal consultations; khasadars' liability to punishments such as, fines, suspension, arrest --- for misbehavior on the part of the concerned tribe; the accountability to the government, of Maliks and even the whole tribe, for the khasadars' absence from duty; and the khasadars' liability to punishment under collective territorial responsibility, in case of offence occurring in their jurisdiction.⁵⁴

This system initially introduced by Sandeman, in 1867, in Derajat was called Levies System. Khasadari, similar to Levies System remained in currency as Badraga/Bardaqa System, i.e., caravans were to be escorted by tribesmen in their area either as good will of Pukhtun or on payment by alien invaders/rulers e.g., Mughal and British⁵⁵. The British monetized this system and permanently placed a certain number of tribesmen to keep roads and communication channels safer.⁵⁶

During the colonial period, political officers dealt with the tribes through elders, their gradual enlistment as Maliks evolved into the formal institution of Maliki, synonymous to the system of tribal administration. Those Maliks in payment of *lungi* allowance, locally called *muajib* (*muwajib*) for political services to the government were called *lungi* holder. Initially the *lungi* or Maliki was not inherited rather terminated upon death of the Malik or *lungi* holder, however, deeper involvement of family in services to the government led the Political Agent to designate the eldest son of the Malikh as successor allowing continuation of the *lungi* allowance or *Muwajib* in his favour. This provided not only continuity in the allegiance of the family to the government but also rendering political services. This institution continued and is still in vogue in FATA.⁵⁷

Here he learned both Sanskrit and Persian. He also visited Perisa in between this period and was charmed by Persian poetry. Elphinstone in all served in India for 31 years (1796-1827) retiring as governor of Bombay. He was also offered the governor generalship of India later but he declined. Elphinstone remained bachelor, yet his house remained attached to India, his nephew was assuming the position of governor at Bombay and Madras. He died in 1859.

⁵³ Sultan-i-Rome, *The North – West Frontier (Khyber Pakhtunkhwa) Essays on History*. Karachi: Oxford University Press, 2013, 365

⁵⁴ Altaf Ullah, *Reforms in FATA: Implications for Pakistan and Afghanistan*. Ph.D. dissertation, Area Study Center University of Peshawar, 2014, 48

⁵⁵ The same type of monetary-cum-escort system was established in Broghal valley, upper Chitral when both the authors personally visited to explore the area of Wakhan Corridor in June 2014. From Broghal to Wakhan Corridor the covered distance was 20 KM, and it was covered by the horses' back. In between the area, there were four stay points, where the horses were changed and new owner of the horse asked us for money. The journey was on mountainous area, as we climbed ahead, the rate of money increased.

⁵⁶ Ayaz Mandokhel, interviewed by author, Peshawar, June 4, 2017. He is Additional Secretary, Home Department, Government of Khyber Pakhtunkhwa.

⁵⁷ Olaf Caroe, *The Pathans (550Bc-AD1957)*. New York: Macmillan, 1962, 92

Besides, the above mentioned allowances paid to the lungi holders or tribal Maliks, another kind of muwajib or allowance is paid to the tribesmen. These muwajibs have mostly been paid in lieu of permanent losses incurred by the tribe, for giving up traditional sources of revenue in favour of the government, such as rahdari, toll on passage, goods passing through their territories and jurisdictions.

The muwajibs (concessions/allowances) paid to the tribesmen are the most misunderstood part of the tribal administration. Izzat Awan had contended, these have sometimes been termed as dole-money, considered not appropriate.⁵⁸ He argues, during travels through the tribal areas, one at once realizes that the best cultivable land or land with water facilities has taken over by the British for an Army camp/a post/ a road or an air-field. Since plain land with water facilities was practically nonexistent, indeed a great hardship was caused to the tribes in case they were deprived of such land, means of livelihood. Hence, the British, arranged a fixed annual payment (lease) in return for assets taken away instead of a lump sum payment as compensation.⁵⁹

Olaf Caroe views muwajibs, paid to the tribes, from another perspective. He has pointed but out that the application of force by the army or civil power' to restrain the tribesmen from carrying out raids and depredations, and keeping them passive 'was the negative side of the coin, and that the British administrators were not without positive ideas. The most obvious of these ideas were written agreements and allowances, therefore, during the first twenty years' of their coming to these areas, signed agreements were negotiated with every tribe up and down the Frontier and secured, on paper, everything that the government needed. A clause of these agreements guaranteed 'an annual allowance contingent to the tribes called muwajib but it was subject to their good behavior' and their abiding by the terms of the treaty. These payments might be in the form of compensation for roads through their country, or in recognition of some special service. A good example is that of the Khyber Afridis, whose original allowances were granted in lieu of the tolls which the tribe itself formerly levied by force on all traffic through the pass. Subsequent increases were made to the Afridi allowances as rewards for the signal service rendered by the tribe in remaining staunch through World War I, and as compensation for roads, railways and camps.⁶⁰

Caroe, in the strongest possible terms, has negated those arguments and objections calling the muwajibs blackmail and concluded: All allowances,

⁵⁸ Izzat Awan, *Pattern of Administration in the Tribal Areas of Pakistan*, Peshawar: Printed Speenzar, 1972, 33

⁵⁹ Sultan-i-Rome, *The North – West Frontier (Khyber Pakhtunkhwa) Essays on History*, Karachi: Oxford University Press, 2013, 368

⁶⁰ J. M. Ewart, Sir Evelyn Berkeley Howell, *Story of the North West Frontier Province*, New delhi: Government Print. and Stationery Office, 1930, 76

granted for whatever reason have been conditional, ensuring good behavior and liable to suspension or forfeiture, in part or in whole, in case the tribe breaks an agreement or commits offences. Suspension has been one of the most effective tools of reprisal upon a lawless tribe, and the value of the allowance system may best be demonstrated in case of relative inability of the government in engaging a tribe not provided subsidies with.⁶¹

There is no doubt, J. G Elliott has observed, that over the years these allowances achieved a considerable degree of success but they were a palliative and not a cure and on occasion they could be the cause of trouble when those who were receiving what they felt to be less than their fair share stirred up trouble to discredit those through whom the political agent dealt when making the payments.⁶² Muhammad Anwar Khan has made the position clear in another way by stating,⁶³ while the settled area contributed though marginally to the revenue income of the state, the tribal belt remained exempt from all kinds of taxes, rather some public monetary assistance, though nominal, was extended to the Maliks, tribes and individuals. Lungi went to the Maliki, muajib for the tribe and *kharcha* [expenditure sum or pocket money] to the individual. In return, the tribesmen protected the security infrastructure in their area and assisted in maintenance of peace against raids and robberies in the settled districts.⁶⁴

The British Indian political administration always worked and interacted with the tribes through a pernicious system of middle-men. The Maliks or *Sardars*, middle-men lacked their own power when the *Sirkar* didn't support and thump their back. The Sarkar makes and unmakes these men, the role of Mulla and Malik have been institutionalized using the FCR keeping in view their respective sources of authority i.e. *Shariah* and *Rewayat*. The tribal Mulla and Malik derive their respective authority, power and prestige using their colonial and imperial connections granted as member of FCR *Jirga*.⁶⁵

On April 17, 1948, Quaid-e-Azam Muhammad Ali Jinnah, graced an all Tribal *Jirga* attended by two hundred tribal Maliks at Governor House, Peshawar, The Maliks put forward a strong request to the founding father of the nation and the first Governor General of Pakistan to place tribal area under the direct administration of the federal government. Hence, the Quaid to pay adequate surveillance to this request established the Ministry of States

⁶¹ Sultan-i-Rome, *The North – West Frontier (Khyber Pakhtunkhwa) Essays on History*, Karachi: Oxford University Press, 2013, 50

⁶² James Gordon Elliott, *The Frontier, 1839-1947: The Story of the North-West Frontier of India*. London: Cassel, 1968, 6

⁶³ Mohammad Anwar Khan, *The Role of NWFP in the Freedom Struggle*. Punjab: Research society of Pakistan, 2001, 31

⁶⁴ *Ibid.*, 35

⁶⁵ Ayaz Mandokhel, interviewed by author, Peshawar, June 4, 2017. He is Additional Secretary, Home Department, Government of Khyber Pakhtunkhwa

and Frontier Regions (SAFRON) and to meet their demand took its charge in person on July 6, 1948.⁶⁶

The Maliks and Lungi holders kept representing the local population and enjoyed their hereditary position. The right to vote was originally granted to Maliks alone enabling them to play a formidable role in political and electoral affairs, disenfranchising tribal people and enlarging Maliks' role of intermediaries in the politics of patronage. Through an electoral college, they had the right to select representatives to national assembly mainly under the directives of their patrons in the political administration till the introduction of adult franchise in 1996.

An extended cooperation between the Maliks and Lungi holders allowed them to exploit the system for their own advantage. The 1973 Constitution provided eight National Assembly seats to FATA initially. Prior to the introduction of adult franchise in FATA, a total of 35000 electoral votes were unevenly distributed. The tribal elders known as *speengiry*, *masharan* or *Maliks* in receipt of lungi allowance for their services from the political administration could cast votes.⁶⁷ The total of 35000 voters for eight National Assembly seats i.e., an average of 4500 voters per seat, constituted an electoral college. These tribal elders or Maliks were in receipt of varied amount of lungi allowance depending upon social influence and reputation. The limited number of votes required to elect a member of National Assembly led these Maliks to openly involve in political bargaining and vote-trading. Buying and selling votes became order of the day⁶⁸ making it an auction not an election. These representatives elected by Maliks were mostly uneducated and paid little attention to the Maliks even, once elected as members of the National Assembly (MNAs). They denied even the small legal demands of the Maliks on the ground that during the election they had already paid Maliks for their votes.

The colonial British colonial administration neither took an interest in creating a system of service delivery in terms of education and health, nor economic and social development of the tribesmen viewing it 'unnecessary interference'⁶⁹, to be avoided. Pakistan inherited this situation, and merely renewed the existing treaties with the tribes, previously concluded with the British. Instead of winning over hearts and minds of tribesmen and creating a sense of ownership in the new state of Pakistan

⁶⁶ Ministry of Information and Broadcasting Directorate of News and Publication, *Quadi-i-Azam Muhammad Ali Jinnah Speeches and Statesmen's as Governor General of Pakistan 1947-1948*, Islamabad: Ministry of Information and Broadcasting Directorate of News and Publication, 1989, 238

⁶⁷ Currently the representation of FATA in the Parliament of Pakistan that 12 MNAs and 8 senators

⁶⁸ Lawrence Ziring, *The Ayub Khan era: politics in Pakistan, 1958-1969*. New York: Syracuse University Press, 1971, 59

⁶⁹ Sultan-i-Rome, *The North – West Frontier (Khyber Pakhtunkhwa) Essays on History*, Karachi: Oxford University Press, 2013, 357

preferred withdrawing its armed forces to use allegedly in Kashmir.⁷⁰ The *Khasadars*, acquired more responsibilities to assist political administration, and the scouts and militia, recruited and raised from amongst the tribesmen, of the army. No adequate service delivery or socio-economic uplift programme was even deliberated upon. Sanctioning a few schools and colleges, reservation of a limited number of admissions in professional/technical colleges and universities, limited financial assistance to a limited number of tribal students, fixing of quota in public sector services and opportunities to indulge in cross border/transit trade can be cited as concessions rather special privileges offered to the tribesmen over several decades. Limited political representation in the national parliament was granted with a restricted franchise. The right to vote was confined to Malik and lungi holders till extension of Peoples Representation Act 1976, allowing Adult franchise, in 1996.⁷¹ The Agency Councils, created in 2001, an admixture of elected and nominated members remained non-operational. With the passage of time, increased opportunities in trade, industry, business, commerce in the country and expatriate labour in the Middle and Far East, imperceptibly opened up a traditionally immobile society.⁷² New stake holders having surplus financial resources earned working hard inside/outside country coupled with those who earned money trading in Narcotics and arms in a perpetual war, aspiring power, have emerged. Political Agents are either not ready or willing or both to surrender power to representatives of clan/subtribe/tribe. Political privileges are enjoyed by hand-picked pro-government tribal Maliki, who fall in line when observe killing of Malik by extremists and terrorists. In fact, reform, infringement upon privileges is resisted by both Malik and the political administration. The Malik oppose changes to the FCR, however, the extension of Political Parties Act to FATA may pave the way for political and social climbing through the popular elections, especially, if Election to fill posts of local institutions of governance are introduced, and fairly and regularly held.

Conclusion

⁷⁰ When Jinnah became Governor General of Pakistan in 1947, he ordered the withdrawal of government forces from the tribal areas and pledged to respect the tribes' independence and preserve their allowances in return for their allegiance. Same year a lashkar of more than ten thousand tribesmen fought bravely in the Kashmir at the behest of the Muslim League-led government and in defense of Islam.

⁷¹ The pace of development aid to the tribal areas increased during the regime of Zulfikar Ali Bhutto whose populist message promised to override the authority of the Tribal Sardars, the Waderas, and the Maliks. Rumors swelled in 1977 that Bhutto had announced adult franchise for the tribal areas, an act that would have severely undermined the maliks' position. However, the rumors proved untrue, and the maliks maintained their exclusive and highly lucrative role as the conduits of development projects.

⁷² Izzat Awan, *Pattern of Administration in the Tribal Areas of Pakistan*, Peshawar: Printed Speenazar, 1972, 48

In theory, Malik and Lungi holders represented local tribesmen and played a role of a go-between the clan/subtribe/tribe and the political officer of the Crown. In reality, those who used their influence in loyalty to the Raj, were enlisted officially and paid allowances as well as added benefits, both in cash and kind. The source of this privileged position has been access to political officers and membership of Jirga that resolved disputes resulting into enhancing further their financial and social status. Lack of political, electoral representation of the tribesmen and a mechanism to recall an elder, in receipt of Maliki from Political Officer, resulted into the diminished role of the tribe and increased influence of Political Agent and Malik. In short, Malik, tribal elders' role of facilitator, mediator and arbitrator, gradually transformed into a British Agent, solely. Not only it led to marked stratification within the egalitarian tribal society but increased financial and decision making power of Malik, thus, served as source of increased antagonism and hatred within the tribe. The legitimacy of those Malik, conniving with the political administration began to erode, conversely, their assets, wealth, self-interest and influence increased beyond proportion. Failure of successor state, Pakistan, in bringing tribal areas under constitutional ambit, rather continued administering through colonial Political Agents and FCR led to a proliferation of Maliks on one hand and greater variation in their influence at the other. The system increasingly continued relying on the judgment of chiefly, the political agents, who colluding with Malik and lungi holders embezzled public money prospering both, however, the economy of FATA remained stagnant.

Though many dub this region 'autonomous', in practice, the authority of Political Agent (a non local) far exceeds that of his judicial and executive equivalents in the settled areas. Had the region been really autonomous, the tribal Malik, bereft of their hereditary exclusivity and patronage, would have retained more authority and control than they do today. The primary flaw in the system has arisen when co-opting traditional tribal leadership resulted into undermining the social dynamics essential to its legitimacy and effectiveness. The tribal system, corrupted by the activities of the political agents, became less responsive and workable eventually making, tribal Malik hereditary rights holder, antithetical to the ideals of egalitarian Pakhtunwali.

Increased, both inland and outland, migration,⁷³ coupled with remittances sent to families from Middle East or national cosmopolitan/industrial hubs, such as Karachi/Islamabad/Lahore gave birth to new social classes. Allocation by political administration of migrant work opportunities reserved most lucrative jobs for the Malik. Almost every Malik

⁷³ In South Waziristan alone, 1979, 20,000 - 30,000 men moved to the settled areas, to other urban centers such as the port city of Karachi and to the Gulf States to earn income

had a male relative from the extended family working abroad. Arrival of new stake holders including gun and drug barons and quest/contest of power has challenged the myth of autonomous governance in FATA. It exposed that real power lies not with elected representatives, Malik or residents of FATA but with political administration, after 9/11, with militants and military. Answer to efforts of both militants and military to monopolizing power in the name of autonomous governance is not restoration of the status and influence of unelected Malik and Political administration but introduction of election to local government institutions and making them accountable to tribesmen and women.

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