

LOCAL GOVERNMENT SYSTEM IN THE FEDERALLY ADMINISTERED TRIBAL AREAS (FATA), PAKISTAN: PAST, PRESENT AND FUTURE

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Abstract

Although Pakistani Pakhtun-tribal belt or the Federally Administered Tribal Areas (FATA) is part of Pakistan yet it is governed differently from the rest of the country through the colonial era regulation known as Frontier Crimes Regulation (FCR) 1901. Local government system, which is considered as nursery for a participatory system of governance has never been introduced until lately in the FATA. Therefore, the tribal people have remained deprived of their rudimentary right of self-governance. However, the process of introducing local government began in FATA when the former President General (Retired) Pervez Musharraf pledged in January 2002 to have elected municipal councils in the FATA. Thus in 2002 the first draft for the current Local Government Regulation was prepared. Then in 2004, Local Bodies (LBs) polls with limited participation of tribal people were held in the FATA. More recently in 2012, another Local Government Regulation was drafted but the tribesmen are still waiting for the promulgation of an Ordinance, Act or Regulation for materialising the system in FATA. This paper attempts to analyse administrative structure of FATA and the importance of local government system as a basic step to introducing participatory governance and thereby bringing the FATA to the mainstream politics. The broader approach of the paper remains democracy where people share the right of rulership in a nation state and the theory of human development presented by Dr. Mebabul Haq and later evolved by Amrtya Sen advocating for good governance states that participation in local governance is the main indicator to measure the human development of a society. The research is purely qualitative in nature and the scholar has extensively used the research tools of interviews, focused group discussion (FGDs), personal interactions and observations, the unpublished documents

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and existing literature on local government. The key informants, politicians belonging to FATA, academicians, tribal students, tribal elders, legal experts and bureaucrats have been interviewed.

Introduction

The Federally Administered Tribal Areas are regarded mainly by US officials and Afghanistan government as a safe-haven for foreign militants of Al-Qaeda group and are being considered as the most dangerous place in the world. This region caught world's attention after US invaded Afghanistan in 2001 and started hunting the militants who crossed into this volatile region of the country. The journey of democracy in Pakistan has negotiated with tough bands, particularly in FATA, where the democratic system couldn't take roots. In tribal belt, the fate of tribesmen is still being decided under the harsh and rigid Frontier Crimes Regulations (FCR) known as 'Tur Qanun'—the black law—in tribal areas. FCR was implemented by the British rulers to control the tribal people.¹

The seven Agencies that constitute tribal belt fall under the direct domain of the President of Pakistan through the Governor of Khyber Pakhtunkhwa formerly known as North West Frontier Province (NWFP). The province was named during Awami National Party (ANP) government that came into power as a result of winning 2008 general polls. The ANP boasted and took pride for winning the identity for Pakhtuns of the province as one of the party's electioneering slogans. The Agencies from north to south are Bajur, Mohmand, Khyber, Orakzai, Kurram, North Waziristan, and South Waziristan. Except Orakzai, other six Agencies are bordered with the neighbouring Afghanistan. To the east of FATA of Khyber Pakhtunkhwa are six contiguous Frontier Regions (FRs) that are also controlled by the provincial governor but are administered through the provincial bureaucracy. These Frontier Regions are FR Peshawar, FR Kohat, FR Tank, FR Bannu, FR Lakki and FR Dera Ismail Khan.²

Constitutional Right of Self-Government in FATA

The denial of giving the right of self-rule to the Federally Administered Tribal Areas (FATA) can be traced to pre-partition era. Acting upon the Simon Commission, a system of self-rule was launched in other localities of India but it was not introduced in the tribal belt and Khyber Pakhtunkhwa, then called as North West Frontier Province (NWFP) that time. In November 1927, the British Government appointed a statutory commission headed by Sir John Simon to enquire into the constitutional affairs of the

¹ Akhunzada Chattan, interviewed by author, Bajaur Agency, FATA, Pakistan, March 01, 2014. He is former MNA of Pakistan Peoples Party (PPP).

² Said Nazir, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is defense and political analyst.

country. The lacking of potential and interest for democratic self-rule provided basis for this decision. After partition, the same denial persisted for tribal belt till 2002, when the then president General Pervez Musharraf granted the right of self-government to FATA.³

The very first Constitution (1956) of Pakistan that introduced a parliamentary form of government failed to amend the political and administrative structure of FATA. Likewise, Article 223 of the 1962 Constitution of Pakistan, on the pretext of the particular situations kept FATA outside of the spheres of central and provincial laws. The Governor of Khyber Pakhtunkhwa, who also heads the tribal belt, has been vested with special powers of legislation for FATA.⁴

The consent of the president has empowered the governor to formulate, abolish and change any regulation or can amend any central or provincial law for the entire or any locality of the tribal belt. By the same token, Article 247 of the 1973 Constitution maintains the same order for FATA.⁵ The first military ruler of Pakistan General Ayub Khan introduced the system of 'Basic Democracies' in 1961.

This system was also extended to the tribal areas in Ayub era and representation was granted in national and provincial assemblies of Pakistan. One member each from the electoral college of basic democrats was elected to the national and provincial assembly. Under Article 247 of the 1973 Constitution FATA comes under the executive authority of the Federation. According to the Statutory Notification (SRO) 109 issued on June 24, 1970 and Article 247 of the 1973 Constitution, the administrative powers of FATA rests with the President of Pakistan. The president appoints the governor of Khyber Pakhtunkhwa to act as his agent for exercising executive authority in FATA, for which the President may direct him from time to time.⁶

³ Altaf Ullah, "Federally Administered Tribal Area (FATA) of Pakistan: Study of a Special Model of Governance," *Pakistan Journal of History and Culture* XXXIV, no. 2 (2013): 66–94, http://www.nihcr.edu.pk/Latest_English_Journal/pjhc_34-2_2013/4_Federally_Administered_Tribal_Areas_Atafullah.pdf.

⁴ Asmatullah Khan Wazir and Muhammad Zaheer Khan, "Mainstreaming FATA through Legal and Political Reforms," *Tigah: A Journal of Peace and Development* VI, no. 1 (2014): 25–48, <http://frc.org.pk/wp-content/uploads/2014/01/Research-Paper-2.pdf>.

⁵ Sarfraz Khan, "Special Status of Tribal Areas (FATA): An Artificial Imperial Construct Bleeding Asia," *Eurasia Border Review Part II* 1, no. 1 (2010): 63–74, <http://scholar.google.com/citations?user=k6XS0MIAAAAJ&hl=en>.

⁶ *Ibid.*

The governor is assisted by officers like Political Agents in his functions and FATA's affairs. The tribals have been ignored in democratic process and the rulers have hardly made any serious efforts to bring FATA into the main stream politics. Under the President's Order No.1 of 1975 known as the 'Preparation of Electoral Rolls (FATA) Order, 1975' the right to vote for every male and female over the age of 21 was denied. Following this order, the Political Agent and not the tribals were registering Maliks and Lungi holders as voters. The Political Agent endowed his favorite tribal elders with this position with the formal approval of the commissioner.⁷

The tribesmen were given the right of adult franchise in 1997 to elect members for National Assembly.⁸ However, the elections were conducted on non-party basis as political parties didn't exist in FATA. As Local Government Ordinance 2001 couldn't be launched in FATA till 2002, the tribals were not allowed to elect their representatives for the union council, Tehsil and Agency Councils. Finally, the strenuous struggle and voice raised by the tribesmen compelled the then President General Pervez Musharraf for issuing FATA Local Government Regulations 2002. The regulations allowed the formation of local councils in FATA.⁹

FATA Local Government Regulations 2002 and 2012: A Comparative Analysis

The FATA Local Government Regulation 2002 was issued to transfer power to the tribesmen at the grass roots level. The tribesmen hailed this decision and celebrated it. However, the governors of Khyber Pakhtunkhwa Syed Iftikhar Hussain Shah and his successor Commander Khalil ur Rahman created hurdles in the implementation of the said Regulations. In 2004 the former governor Commander Khalil ur Rahman announced the formation of 'Agency Councils' consisted of nominated members and the Councils were to serve only as 'advisory bodies' without administrative powers. The 2002 Regulations were not followed in true spirits while holding local government elections in 2004.¹⁰ This was more like a selection of his favourites by the Political Agents (head of an Agency). These Councils were installed with only the tribal Masharan (elders) or Maliks taking part in voting.

⁷ Ibid.

⁸ Rahmanullah, "Political Reforms and Its Impact on FATA," *Fata Research Center* (Peshawar: Fata Research Center, August 2012), <http://frc.org.pk/wp-content/uploads/2012/08/Political-Reforms-and-its-Impact-on-FATA.pdf>.

⁹ Ibid.

¹⁰ Dawn, "Nominated Councils for Fata Opposed," *Dawn* (Peshawar, September 30, 2004), <https://www.dawn.com/news/372114>.

Resultantly, most of the members of these councils were the handpicked nominees of the government like the Malik themselves.¹¹

Chapter 2 of the FATA Local Government Regulation 2002, deals with the composition of the local areas, such as:

- 1) Union
- 2) Tehsil
- 3) Frontier Region
- 4) Agency

According to this Regulation the Union Council comprised of one or more census village. And the Regulation empowers the government to declare Tehsils, Frontier Regions (FR) and Agencies by a notification. In this chapter, the local government for local areas has also been explained.¹²

- a) An Agency Government and Agency Council in each Agency.
- b) A Frontier Region (FR) Development Administration and Frontier Region Council in each Frontier Region.
- c) A Tehsil Development Administration and Tehsil Council in each Tehsil.
- d) A Union Administration and Union Council in each Union.¹³

In Chapter 3 of the Regulation, the composition of Agency Government has been given, that should consist of Agency Nazim and Agency Administration. Here the authority of the Agency Nazim has also been mentioned who can acquire, hold or transfer any property movable and immovable, to enter into contract and to sue or be sued in its name, through the Agency Coordination Officer. Among the functions of the Agency Government were included the operation, management and control of office of the department which were decentralized to it or might be set-up under the Regulation. The Agency Nazim was to head the Agency Government and was to perform functions assigned to him under the FATA Local Government Regulation 2002.

Among the functions and powers of the Agency Nazim included the provision of vision for the development, leadership and direction for efficient functioning of Agency Government. One of his important functions was to oversee formulation and execution of the annual development plan, delivery of services and functioning of the Agency Government. According

¹¹ Ibid.

¹² PIRP, *The Federally Administrated Areas Local Government Regulation, 2002*, 2002, https://www.slideshare.net/fatanews/2002-fata-local-government-regulation?from_action=save.

¹³ Ibid.

to the FATA Local Government Regulation 2002, the Agency Nazim had to maintain administrative and financial discipline in the Agency Government and to present tax proposals to the Agency Council.¹⁴

Chapter 4 of the FATA Local Government Regulation 2002 provided that the Agency Council shall consist of all Union Nazims in the Agency and the number of members elected or nominated against the reserved seats shall be as:

- a) Nominated members 10
- b) Women seats 04
- c) Minority seats 01

Chapter 8 of the FATA Local Government Regulation 200 provided that there shall be a Tehsil Council in each Tehsil of the Agency and shall consist of all Union Nazims in the Tehsil. While the details of the election or nomination of the members against the reserved seats are as under.

- a) Nominated members 05
- b) Women seats 02
- c) Minority seat 01

Among the functions and power of the Tehsil Council included approval of by-laws for delivery of municipal services, annual budget for the Tehsil Development Administration and long and short term development plans.¹⁵

Chapter 10 of the FATA Local Government Regulation, 2002 deals with the composition and function of the Union Council. A Union Council shall comprise of eleven members as per the following break up:

- a) General seats; 7 (including Nazim and Naib Nazim)
- b) Nominated members; 3
- c) Female member; 1

Among the functions of Union Council included the power to approve an annual development plan and budgetary proposal of the Union Administration.¹⁶

Chapter 14 of the FATA Local Government Regulation 2002 deals with the elections procedure. Here the process of direct election on the basis of adult franchise through joint electorate has been given for the Agency Nazim, Agency Naib Nazim, Tehsil Nazim and Tehsil Naib Nazim. For election of members against the reserved seats of women and non-Muslim member, there is a provision for Electoral College consisting of all elected members in the respective Council. The local government elections are to be held on

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

non-party basis after every four years.¹⁷ As the members of the Councils were selected in 2004 this rubber stamped Councils further strengthened the existing administration in FATA. The bureaucratic set up hindered the election process of the members through the local government system as it didn't want to transfer powers to the elected members. Enjoying great powers under the Frontier Crimes Regulation (FCR), the political administration was hesitant to share power with the elected members who would challenge their authority.

While interpreting the draft of the Local Government Regulation 2002, An Advocate in Mohmand agency stated that as the Agency Nazim, Agency Naib Nazim, Tehsil Nazim and Tehsil Naib Nazim are elected on the principle of adult franchise this would empower and as well as make them accountable to the public. According to the respondent this is a good step towards transparency, accountability and bringing FATA to the mainstream politics. The Local Government Regulation 2002 also provides opportunities to women and minorities to take part in the decision making process at the local government level. The draft of the Local Government Regulation 2002 is a great towards the promotion of good governance in FATA.¹⁸

FATA Local Government Regulation 2012

The then president of Pakistan Asif Ali Zardari on the eve of 66th Independence Day of Pakistan on August 14, 2012 promulgated the FATA Local Government Regulation, however, the announcement restricted to the documents only as after the Peoples Party government came to an end after completing its mandated term under the Constitution.

The draft of the FATA Local Government Regulation 2012 was given on FATA website a month before its formal announcement for public comments. The FATA Local Government Regulation 2012, envisages the establishment of local municipal bodies in tribal areas. The draft is more like an amended version of the Khyber Pakhtunkhwa Local Government Act 2012, passed by the KP Assembly.¹⁹

¹⁷ Ibid.

¹⁸ Zahir Shah, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is serving as lawyer in Peshawar High Court.

¹⁹ Manzoor Ali, "Draft Regulation Envisions Municipal Set-up in FATA," *The Express Tribune* (Peshawar, July 14, 2012), <https://tribune.com.pk/story/408114/draft-regulation-envisions-municipal-set-up-in-fata/>.

Chapter 2 of the FATA Local Government Regulation 2012 deals with the local area and composition of the local council. Here the local area has been named as a 'Town', and has hinted that the governor can divide the local area into wards with a definite boundaries for elections purposes. The Local Council to be constituted under this Regulation shall be called Municipal Committee for each of the notified town. Every Local Council will have a Chairman and a Vice-Chairman to be elected by the respective councils.

In Chapter 3, the procedure for Local Council Elections has been mentioned, "Election of members of all Municipal Committees shall be held on the basis of adult franchise and joint electorate through secret ballot." Here the overriding powers have been given to the Governor Khyber Pakhtunkhwa. These powers have weakened the position of the local councils, as the four years tenure of the local council is subject to the satisfaction of the governor. The Regulation states: "Governor, when he is satisfied that remaining in office of office holders and members of Local Council is no longer in public interest, he may dissolve Local Council before the expiry of term on such a date as he deems fit." This Regulation empowers the governor to remove both chairman and vice chairman of local council from their offices, "if he generally acts in a manner pre-judicial to public interest".²⁰

Chapter 4 of the FATA Local Government Regulation 2012 is titled: 'Executive Powers And Conduct Of Business', According to this a Chairman or in his absence the Vice-Chairman will preside all meetings and in case of absence of both Chairman and Vice-Chairman, a member from the panel of four elected for that purpose will preside over the meeting. The executive authority of the council rests with its Chairman.²¹

In Chapter 6, compulsory functions of the Municipal Committees have been described. The compulsory functions of Municipal Committee include monitoring sanitation, removal and dumping of refuse, latrines, public health, water supply, drainage, food and drink, livestock, public safety, municipal planning, building control, streets, traffic vehicles, arboriculture and sports and culture.²²

In chapter 7, the rules for the preparation and approval of budget have been discussed. In the FATA Local Government Regulation 2012, such grey areas have been left that give a chance for political administration to meddle into the affairs of local council on various pretexts. Strangely enough, the local

²⁰ FATA Secretariat, *Draft Local Government Regulation, 2012* (Peshawar, 2012), <https://www.slideshare.net/fatanews/draft-fata-local-government-regulation-july-2012-fata-secretariat>.

²¹ Ibid.

²² Ibid.

council has not been given the power to pass a budget, resultantly; this authority also shifts to the governor. This Regulation envisages that if local council fails to approve budget before the starting of new financial year, the governor (through the Political Agent) will prepare and approve it himself.

Chapter 9 of the FATA Local Government Regulations deals with taxation. In case of taxation too, the governor has been empowered who can direct a local council to levy any tax, increase or reduce any tax and suspend or abolish the levy of any tax. In chapter 10, the governor has been given the power of suspension of order and resolutions. If the governor finds anything not complying with the law, he can “quash the proceedings, suspend the execution of any resolution passed or order made by the council and prohibit the doing of anything proposed to be done.”²³

A comparison of the two Regulation shows that in FATA Local Government Regulations great power has been given to the governor who wouldn't let the Local Government to function smoothly. One reason that tribesmen are not happy with the Regulation is the imposition of heavy taxes on the tribals. The concept of ‘town’ is very strange in the Local Government Regulations 2012 as first comes village and FATA is backward where there is no concept of town.

The FATA Local Government Regulations 2002 is more comprehensive and practicable than the FATA Local Government Regulations 2012. Sometimes, highly qualified tribesmen don't prefer FATA Local Government Regulations 2002 over 2012, as they think the former Regulation was issued during Musharraf's regime, and this is the actual reason of their disliking of the FATA Local Government Regulation 2002. The tribesmen are already paying taxes in the form of permits to political authorities and there is no need to impose new taxes in volatile zone. As militancy and insecurity has devastated FATA and foreign development funds are not spent on FATA uplift, tribal belt where there is no infrastructure, there is no justification for imposing heavy taxes in this war-battered zone.²⁴

In the FATA Local Government Regulation 2012, the governor has been given much power, and thus the local elected representatives have been brought under the control of political authorities. If the government seriously

²³ Ibid.

²⁴ Zahir Shah, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is serving as lawyer in Peshawar High Court.

wants to promote a democratic culture in FATA and bring it into the mainstream politics then the political administration should be brought under the elected representatives.²⁵

The FATA Local Government Regulation 2012 can never work under the existing administration. The financial controversy is also a big hurdle that can hamper the work of local government system. The FATA Local Government Regulations 2002 and 2012 are just eyewash, as until and unless the British draconian law called the Frontier Crimes Regulation (FCR) is there, no democratic system can function fully in FATA. The FCR gives unlimited powers to the Political Agent and the local representatives' powers are very meager. One can better judge the government seriousness about FATA that in one decade, two Regulations were issued about the Local Government system in FATA but so far no proper local bodies' elections have taken place there.²⁶

An analysis of the FATA Local Government Regulation 2002 and FATA Local Government Regulation 2012 shows that the former was the brainchild of a single person as it was the then president General Pervez Musharraf constituted the 2002 Regulation and no chance of consultation was given to tribesmen. While four committees were involved in constituting the FATA Local Government Regulation 2012. The renowned lawyer and minister for law in PPP coalition government Farooq H.Naik, Justice Ajmal Shah, Bhutto Foundation and National Democratic Institutions (NDI) were engaged in preparing the draft. The tribesmen were also called for consultation and later on the draft was put on website for further suggestions and recommendations.²⁷

The FATA Local Government Regulation 2002 was drafted by a dictator and that was only for a particular period and was not implemented in true sense. However, the Local Government Regulation 2012 framed by a political government. The FATA LG Regulation 2002 was the sole production of a military dictator and the tribesmen had no role in its formation, however, in the formation of LG Regulation 2012 all stakeholders were involved. If government is sincere it should implement the LG Regulation 2012 and better would be to introduce even LG Regulation

²⁵ Rifatullah Orakzai, interviewed by author, Peshawar, KP, Pakistan, February 02, 2014. He is currently serving as journalist in BBC World Service.

²⁶ Akhunzada Chattan, interviewed by author, Bajour Agency, FATA, Pakistan, March 01, 2014. He is former MNA of Pakistan Peoples Party (PPP).

²⁷ Said Nazir, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is defense and political analyst.

2014 to bridge the gap and not to give chance to those who want to disrupt the system.²⁸

Impediments

Causes of the failure of Local Government System in FATA are multifaceted. Though the FATA Local Government Regulation 2012 was promulgated during the Pakistan Peoples Party coalition government, the then government failed to implement this Regulation in its true spirit. The then government failed to hold local government polls in FATA. However, in 2004 local bodies were formed in FATA, that time too the FATA Local Government Regulation 2002 issued during Musharraf's regime was not followed.

For various reasons, the tribesmen call it a selection not election. In 2004 local bodies were formed in seven agencies of FATA on population basis. The buildings for offices were constructed and committees were formed that worked for about six to eight months. The political administration was not happy with some of the functions of local bodies, as the members of these bodies conducted inspection of health, education and other departments. Such acts of the local bodies worried the political administration about the curtailment of its power (Taj Mahal Afridi 2014).²⁹

The political administration also got worried that the dynamism of local bodies can expose its corrupt activities, thus Political Agent started creating hurdles for local bodies. As the Political Agent was supposed to call and chair the meeting of the local council. This annoyance reduced the number of sessions of the elected bodies and also most of the time the Political Agent was not ready to chair the meeting.

The Political Agents' lack of interest was one of the prime reasons of the failure of 2004 local bodies in FATA. Other reason was that this was not a proper election of the tribesmen's representatives rather a selection. The Political Agent adopted a rough way for the selection of the local representatives as he selected his favourite tribal elders.

As the FATA Local Government Regulation, 2002 was not properly followed, the Political Agent adopted a rough way for the election of the local representatives, who were not enjoying full support and trust of the tribesmen. The Agency Councilors contacted FATA secretariat in Peshawar, capital of Khyber Pakhtunkhwa and apprised the secretariat officials about the cold interest of the Political Agent, but all in vain.

²⁸ Taj Mahal Afridi, interviewed by author, Khyber Agency, FATA, Pakistan, February 02, 2014. He is currently serving as lawyer in Peshawar High Court.

²⁹ Ibid.

A meeting of the all Agency Councilors (total number of which was 421) was called in 2006 to redress the issue, the governor of Khyber Pakhtunkhwa was contacted around ten times to save the future of the local bodies in FATA, but this entire struggle ended in smoke. Eventually, towards the end of 2007, the local bodies in FATA were dissolved.³⁰

The weak writ of the government and a gap in tribesmen and political administration has also impeded local government system in FATA in the past. The sincerity of the federal government to bring the FATA in mainstream politics has been missing since the creation of Pakistan. Tribesmen always look at the lofty claims of government with a jaundiced eye. The 2004 local bodies also aroused much suspicions and little in the FATA. Tribesmen showed little interest in the local bodies.

The lack of awareness was another reason of the failure of 2004 local bodies in FATA. The election was not held by the Election Commission of Pakistan rather the Political Agent handpicked his blue-eyed elders that resonated the entire system with boundless doubts and suspicions. FCR was the main hurdle in Local Government system in FATA.

The frequent interference of Political Agent in local bodies' affair made them toothless bodies. In the absence of any check and balance system, the Political Agent works like a raja (king) in the Agency. His unlimited powers and interference shattered the 2004 local bodies system in FATA. Not holding of proper elections by the government was another reason for the failure of the local bodies system in 2004.³¹

The local government bodies system in 2004 was a selection not an election process. The powerless Councils were resulted and the FATA Regulations 2002 was not followed at all. The Councils were having no funds to utilize for the well-being of the tribesmen. The Political Agent held all funds and powers and it was distributed to the local councils. As the control of funds and powers were with the Political Agent, the basic purpose of Local Government was not served that is meant for transferring of powers to the grass roots and to resolve people's problems at their doorsteps.³²

In 2004 local bodies only the selected tribesmen mostly tribal Maliks/Mashran (elders) voted for the candidates who were sitting in front of them. This was the worst pattern of voting and none can call it election. The tribal Maliks/Mashran were selecting the tribal Maliks. As the tribesmen already suffer due to these imposed Maliks they showed cold interest in 2004 local bodies.

³⁰ Faridullah Afridi, interviewed by author, Bajaur Agency, FATA, Pakistan, February 25, 2014. He had served as coucelor in his agency.

³¹ Abdur Rashid, interviewed by author, Bajaur Agency, FATA, Pakistan, March 01, 2014. He is local resident of Bajaur Agency.

³² Akhuzada Chattan, interviewed by author, Bajour Agency, FATA, Pakistan, March 01, 2014. He is former MNA of Pakistan Peoples Party (PPP)

The Councils were having no authority and the entire authority vested with the Political Agent. The Political Agent could remove the councilors on minor pretexts. In 2004, the councilors couldn't do anything for the benefit of the tribesmen rather they only nourished hatred and contempt. The councilors were only signing forms of National Identity Cards (NICs) and Domiciles. They were given around (Rs3000 to Rs5000) from Political Agent as remunerations.³³

The basic reasons of failure of the local bodies in 2004 that probably it was applied in lukewarm and not with a full thrust. This was just a nominal local bodies system and was a sort of *loly pop* for the tribesmen, proper elections were not held and all powers were concentrated in the Political Agent. The councilors were mostly picked and chose, the system was not transparent and the councilors were not given the powers, thus the Political Agent system was prevailed. The Political Agent didn't want them to work and the local bodies 2004 system badly failed in FATA.³⁴

The local bodies system in 2004 badly failed because the local leaders were not elected through ballot, rather the seats were sold. This was a sort of auction in which the councilors paid heavy bribes to get the seats but failed to get the trust of the local tribesmen. Adil Noor became a councilor in Mir Ali Tehsil of North Waziristan but he paid no heed to the local problems. Thus tribesmen ceased taking interest in local bodies as their problems were not solved by these local leaders.³⁵

Gulo Khan became a Nazim of Union Council Manday Khel of F.R. Lakki Marwat. However, just two weeks after Khan's assuming charge, he resigned his seat and became primary school teacher. Abandoning the seat of nazim and becoming a school teacher shows the lack of importance and dignity of the local bodies. Gulo Khan was openly telling about the low salaries of nazim. He wanted to refrain from corruption and thus had to resign the nazim seat.

Shams-ur-Rahman replaced Gulo Khan, but didn't do anything beneficial for the people of his locality. These local leaders made lofty claims but never honoured them. The Political Agent and nazim misused the funds. The nazim only gave benefits to his close relatives. This was nearly

³³ Said Nazir, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is defense and political analyst.

³⁴ Moeen-u-din, interviewed by author, Peshawar, KP, Pakistan, February 28, 2014. He is currently student of Department of Political Science, University of Peshawar.

³⁵ Waliullah, interviewed by author, Peshawar, KP, Pakistan, February 28, 2014. He is currently M.phil Scholar of Department of Political Science, University of Peshawar.

the case of all other Agencies that deserted the local bodies system in 2004.³⁶

Tribesmen's Demand for Empowering LG

The tribesmen demand an empowered Local Government system. The Local Government System of settled areas should be implemented in FATA where the powers, functions and funding of the district administration and the elected bodies are clearly spelled out. With implementation of the settled areas like Local Government system, the tug of war between the Political Agent and the elected bodies will cease, as they will know about their jurisdiction and will confine to it.

The purpose of Local Government is to transfer power from top to bottom, to a great extent, this system serves its purpose in the settled areas, thus government should stop new experiment on FATA and should adopt same pattern here. The tribesmen have strong reservations over the extensive powers of governor in Local Government Regulation 2012 and they have apprised the FATA Secretariat. The tribesmen have sent a document of over twenty points/suggestions to the FATA Secretariat for consideration.³⁷

However, some of the political leaders like former PPP MNA in Bajaur Akhunzada Chattan considers that it is the handiwork of bureaucracy that has indulged the tribesmen on giving suggestions on the Local Government Regulation 2012. He referred to a popular story of the Holy Quran regarding Bani Israel's cow, when Allah Almighty ordered Bani Isreal to slaughter a cow, a barrage of questions of the tribe perplexed the selection of cow for them.

According to Akhunzada Chattan, bureaucracy intends to keep quarreling on the issue of the form of Local Government System instead of implementing it. He himself prefers the FATA Local Government Regulation 2012, one reason may be that the draft was prepared by the PPP coalition government that he was part of the ruling party.

The tribesmen want Local Government System as most of them have no access to an MNA. Even after election, the MNA rarely visits FATA for many reasons, but he always makes insecurity as a big pretext of his rare appearance in FATA. However, the local councils should be free from the influence of Political Agent. The Political Agent already enjoys great power he should not encroach powers of the councilors. The local councils should be free to project and convey the tribesmen's demand to the governor and the federal government.

³⁶ Abdur Rashid, interviewed by author, Bajaur Agency, FATA, Pakistan, March 01, 2014. He is local resident of Bajaur Agency.

³⁷ Akhunzada Chattan, interviewed by author, Bajaur Agency, FATA, Pakistan, March 01, 2014. He is former MNA of Pakistan Peoples Party (PPP).

Being representative of the tribesmen, a councilor or nazim should be respected at federal and provincial level (governor secretariat). As being part of the tribal locality, the local leaders are always well apprised of the local problems. Their response to the solution of problems is always prompt as compared to the MNAs who are sitting hundreds kilometers away from their constituencies in Islamabad. Therefore, the tribesmen demand for a powerful local bodies system to solve their problems promptly.

Significance of Local Government System for FATA

The tribesmen deem local government system much important for FATA. The majority of the Maliks/Mashran (tribal elders) who are imposed on tribesmen from the British colonial era and are less or completely uneducated. The replacement of these Maliks (tribal elders) with educated nazims will help in changing the fate of tribal people. The local government system will work as a nursery for producing and training future politicians who will work not only for the development of FATA but for the entire country.³⁸

Engagement of the tribesmen in local government system can help in reducing the problem of extremism and terrorism in FATA to a great extent. The launching of uplift projects at local level will increase employment opportunities for the tribals and they wouldn't play in the hands of extremists and terrorists. The development projects will also mitigate the frustrations of the tribesmen and thus it can help in reducing militancy, to a great extent, in FATA. The dejected tribesmen who are despaired due to lacking of proper legal system in FATA, particularly, the Frontier Crimes Regulation (FCR), the local government system can help in reducing their anxiety to a great length, if implemented in its true spirits.

The example of the Tribal Lashkars (Anti-Taliban militia) is before us that help greatly in maintaining law and order situation and expelling militants from their areas, thus a strong local government system will strengthen hands of the government. The tribesmen will trust their elected representatives and will stand by their decision for maintaining law and order situation in FATA and cleaning the areas of militants.³⁹

If local government system is not important then why government activates it in the settled areas. If this system is important for settled areas like Khyber Pakhtunkhwa, Baluchistan and Punjab where government wants to trickle down powers from top to the bottom, likewise, this system is

³⁸ Rifatullah Orakzai, interviewed by author, Peshawar, KP, Pakistan, February 02, 2014. He is currently serving as journalist in BBC World Service.

³⁹ Abdur Rashid, interviewed by author, Bajour Agency, FATA, Pakistan, March 01, 2014. He is local resident of Bajour Agency.

important rather of high significance for FATA. As compared to settled areas, the problems of FATA are multifarious, even a refined and much advanced system of local government is needed for FATA.⁴⁰

Proposed Local Government Structure for FATA

During interviews with the tribal elders, these elders floated different suggestions regarding the structure of Local Government in FATA. The FATA Local Government Regulation should be named as FATA Local Self Government. The elections should be held on party basis and should be started from Khel or Union Council. Khel or Union Council should elect nazim. The Local Government should generate its own revenue and the governor should act upon the report of the local councils.

The power of using funds should be given to the Agency Nazim, and the Agency Nazim should distribute it to the union councils. All the local bodies elected heads should be accountable to their committees. The Khel or Union Council should be re-named as Khel or Union Jirga and likewise Tehsil Council and Agency Council should be re-named as Tehsil Jirga and Agency Jirga respectively. The elections should be held on adult franchise and the tenure of the local government should be five years instead of four.⁴¹

Complete powers should be given to local bodies and should be free of all government interference. This should be a completely free body and should not be subjected to any government functionary at any level. The members of the local bodies should be empowered to remove the head through vote of confidence if he is involved in any immoral, anti-state, and corrupt practices.⁴²

The Union Councils should be framed on basis of Khel, sub-tribes and tribes. The elections should be held on party basis as the consecutive holding of two or three party based elections would help in promoting political and democratic culture in FATA. The local bodies created as a result of such elections should be completely powerful.

The councilors should be elected on the basis of Kandi (a small tribal village having a 2000-3000 population). All councilors and naib nazims should work as an electoral college for the election of Agency Nazim. Women should be given representation but they should be given right of law formulation in specified fields like child and women rights.⁴³

⁴⁰ Sheikh Jehanzada, interviewed by author, Bajaur Agency, FATA, Pakistan, February 23, 2014. He is tribal elder in Bajaur Agency.

⁴¹ Sakina Rahman, interviewed by author, KP, Pakistan, February 23, 2014. She is a local political activist of Bajaur Agency.

⁴² Ikramullah Jan Kokikhel, interviewed by author, Khyber Agency, FATA, Pakistan, February 23, 2014. He is tribal elder in Khyber Agency.

⁴³ Akhunzada Chattan, interviewed by author, Bajour Agency, FATA, Pakistan, March 01, 2014. He is former MNA of Pakistan Peoples Party (PPP)

The structure of the Local Government in FATA should not be much different from the settled areas. The local bodies system in FATA should be made more potent and give more rule of business to it. Through the structure of Local Government, the government should ensure, the tribesmen that you are the real stakeholders whose interest are to be protected. In FATA, the administration has got extra power, therefore, the structure of Local Government should be framed a manner that dilutes the power of political administration in FATA.

The Frontier Crimes Regulation (FCR) is not a democratic law rather it is known as a black law in FATA, it should be amended to create room for local bodies to operate in FATA. A FATA Council should be formed at FATA Secretariat level that will look after, coordinate, allocate the resources, frame laws and submit recommendation via the governor. Then the Agency Council where the local problems like financial, developmental and legal matters are resolved and then there will be a Tehsil Council and a local council. In other words, this should be a wholesome chain in command; if the Local Government System doesn't work in a chain then the entire system will be disconnected.⁴⁴

Conclusion

The dilly dallying tactics in initiating the Local Government System in FATA can further multiply the complexities of FATA. The FATA situation has become so much complex because of the cold attitude and inattention of the government since 1947. The tribesmen have not been given the basic constitutional rights, MNAs of the FATA can formulate laws for the whole country but they cannot do so for their own tribesmen. The Constitution Article 247 has barred tribesmen of their political rights, now time has come that the government seriously thinks about granting rights to the tribesmen.

The holding of free, fair and transparent local bodies elections would result in molding the deviated tribesmen to the right path. Further delay in giving political rights to the tribals would frustrate even those who are loyal to the state and such a blunder on the part of government would further aggravate the already turmoiled situation in FATA. After holding general elections in May 2013, the government delayed the Local Government elections on the pretext of law and order situation in FATA. If should have not the government is really serious to restore the law and order situation and bring

⁴⁴ Said Nazir, interviewed by author, Mohmand Agency, FATA, Pakistan, February 23, 2014. He is defense and political analyst.

FATA into a mainstream politics of the country, the installation of a refined, advanced and self Local Government System in FATA can be the best panacea.

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