

Federally Administered Tribal Areas (FATA): Impacts of militarization and war crimes on tribal women and children

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Abstract

In the global terrorism discourse the Pakhtun tribal areas of northwest of Pakistan straddling the Afghanistan border are projected as the 'natural' epicenter of militancy and extremism. Presently, around 21 Jihadi and 39 sectarian groups are operating in Pakistan, they support and endorse nearly 50 Taliban groups stationed and hiding in seven agencies of FATA under the umbrella of Tehrik-e-Taliban committing war crimes against women and children. Pakistan has launched more than fourteen major operations since 2002 and signed thirteen peace agreements with the Taliban, however, paid no attention to streamlining of FATA and address issues such as killings, displacing and persecuting non-combatants specifically women and children. An attempt is made in this paper to explore the skewed administrative system that led to militancy, challenges any primordial tribal disposition to violence and locates militarism in FATA. The colonial governance practices and postcolonial manipulation of the tribes in national and international issues; which led to radicalization of culture of the Pakhtun as 'warrior and militant' and its impact on women and children. This paper aims to (i) explore the socio-economic impact of armed conflict and war crimes committed against women and children living in the semi-autonomous Federally Administered Tribal Areas (FATA); and (ii) advocate for the rights of FATA's women and children in militarized space and highlight the criminal negligence of state. This study takes the following two hypotheses: (i) Armed conflicts has adversely affected the social and economic life of tribal people specifically women and children; (ii) Mainstream FATA to secure political, economic and social rights of all tribal people and specifically to protect women and children affected by conflicts.

Keywords: FATA, Pakhtun, Taliban, conflict, militancy, war crimes, women and children.

Introduction

Pakistan semi-autonomous border region Federally Administered Tribal Areas (FATA) has been one of the most volatile border regions. Today's FATA, Pak Afghan border areas played a very important role since British colonial times, used as a buffer zone between Russian Czars

and Great Britain during their “Great Game” both imperialist colonial powers were preserving their prosperous territories. Later tribal areas were again used in a “Cold War” converted to “Hot War” between two super powers in Afghanistan in 1979. Proxy war was fought on the expense of tribal people and their lands. After dismemberment of USSR, with no cold war or hot war, FATA already trained, prepared and used in a ten years long war was converted into a training ground for Jihadis/militants to fight inside and outside the state. In this capitalist and communist war, narratives are constructed about tribal people and culture (jihadi, warring and militant) that even today it’s difficult to challenge or change. However, it is also ironic that conflict going on in FATA and war crimes committed against non-combatant such as women and children is absent from any academic debate at national and international level nor tribal people are allowed to speak or participate due to Frontier Crimes Regulation (FCR) and Pakhtunwali (code of cultural norms of Pakhtuns in which women have no voice and representation). It is pertinent to generate a discourse and discuss local narratives about the conflict and war crimes that is affecting women and children. An attempt is made from emic and etic understanding to discuss the impact of armed conflict and war crimes in semi-autonomous FATA nowadays plagued with non-state actors threatening the very state of Pakistan and affecting lives of women and children living in this conflict-ridden border.

FATA is mountainous region, made up of seven ‘political agencies’ Bajaur, Khyber, Kurram, Mohmand, Orakzai, North Waziristan and South Waziristan along with six smaller zones, called ‘frontier regions’(FRs) total area of 27,220 sq.km, which separate the tribal agencies from the rest of the country. FATA is located between the Pakistan-Afghanistan border and the settled areas of Khyber Pakhtunkhwa. Its estimated population is 3.17 million out of a total Pakistani population of nearly 170 million (according to unofficial estimate it has reached 7 million) and share nearly 2253.081 km (1400 miles) of border with Afghanistan (FATA Development Authority, 2013). FATA is the poorest, least developed part of Pakistan. Literacy rate is only 17.42% and among women its hardly 3% women, per capita income is roughly \$250 and 66% of population lives beneath the poverty line. With hardly 3% land holdings, its 50% population is involved in agriculture or trade, women and children actively participate in agriculture activities. State negligence in terms of development and this border forbidding terrain isolate tribals from markets, health and education services, and many outside positive influences (FATA Civil Secretariat, 2014).

British during colonial period had accorded a skewed administrative and political status to FATA since 1849. British controlled the area through a combination of effective Political Agents, Frontier Crimes Regulations and tribal elders, while leaving the people with their traditions and cosmetic independence. The Political Agents under FCR were granted huge powers of executive and judicial authority such as the magisterial powers to institute a Sarkari Jirga (Government Council of Elders) of appointed tribal elders. They had the power of establishing or demolition of villages of certain clans as a reward or punishments. Military forces established by them could blockade tribes, banish them in severe cases and regulate their village guesthouses. Thus, he under FCR can award any punishment without a due process of law and right of appeal. In criminal cases, the only right of defendant was to object to the members designated to Jirga (Spain, 1985).

After 1947, Pakistan continued with the old British colonial system of FCR and Sarkari Jirga in her peripheral region. Hence, tribal agencies of Khyber, Kurram, North Waziristan and South Waziristan were extended the special status and later Mohmand Agency (in 1951), and Bajaur and Orakzai (in 1973) were formed with the same arrangements of administration (White, 2008). The special status of tribal areas was incorporated in the Constitution of Pakistan 1973, Article 246 defined certain areas and categorized them into (a) "Tribal Areas" meaning the areas in Pakistan which, immediately before the commencing day, were Tribal Areas, and includes "Provincially Administered Tribal Areas" includes certain areas adjacent to Khyber Pakhtunkhwa and Baluchistan and Federally Administered Tribal Areas (FATA) includes (i) Tribal Areas adjoining Peshawar district; (ii) Tribal Areas adjoining Kohat district; (iii) Tribal Areas adjoining Bannu district; (iv) Tribal Areas adjoining Dera Ismail Khan district; [(v) Bajaur Agency; (va) Orakzai Agency;] (vi) Mohmand Agency; (vii) Khyber Agency; (viii) Kurram Agency; (ix) North Waziristan Agency, and (x) South Waziristan Agency" (Butt, 2006).

Article 247 reaffirms the separate legal status of the Tribal Areas (FATA), hence neither Central nor Provincial Laws apply to them. The President of Pakistan controls these areas through his Governor of Khyber Pakhtunkhwa. He through his Governor and political agents administer 27% of FATA (Allaqa-i-Sarkar) through FCR, while the remaining 73% area (Allaqa-i-Ghair) is administered through Riway (Butt, 2006). The Judiciary of Pakistan cannot exercise any jurisdiction in relation to a Tribal Area,

therefore leaving tribal areas at the mercy of President, Governor and his appointed political agents.

Unfortunately, none of the Pakistan constitutions and governments recognized the need for change in tribal areas. Therefore, FATA has had very restricted participation in the political system of Pakistan. Until 1997, tribal Malik's votes would send its representatives to the National Assembly. In 1997, universal franchise was extended to FATA but on non-party basis (recently in 2011, Political Party Act is extended to FATA). They were kept away from Provincial Assembly of Khyber Pakhtunkhwa and could only send representatives to the federal legislature providing representation in the National Assembly and Senate. In the present setup, FATA has twelve seats in National Assembly and eight seats in Senate of Pakistan. However, tribal parliamentarian cannot legislate in the lower or upper house for any issue related to FATA or tribal people (Bangash, 1996). It is ironic that since British period, no measures or special attention is given to women and children in FCR and 1973 Constitution. There are no reserve seats for FATA women and have no representation at any level of the governance, although, 33% quota was reserved for other settled areas Pakistani women. While, Jirga in FATA is a male domain and there is no tribunal or judicial forum available to tribal woman (Nawaz, 2009). However, recently President Ordinance passed in 2011 forbade the detaining of women and children under FCR but even then no practical steps is taken to stop such inhuman practices or manipulation of women and children during conflicts or crimes against them in war (Govt. of Khyber Pakhtunkhwa, 2011).

War crimes against women and children of FATA

After 9/11 incident and dismantling of Taliban government in Afghanistan by US converted FATA into war zone. Since 2001, Taliban and Pakistan military is engaged into endless operations against each other, which has profound effect on the population of FATA. Most of the Afghan Taliban settled down, formed bases in FATA, and started issuing fatwa (notifications based on Islamic Sharia) to the rest of tribal population. It is ironic that in FATA, the most affected are the women and children, however issues related to women and children are absent from any debate at national and international level nor tribal men/elders are allowed to speak or participate due to FCR, and Pakhtunwali.

There are different views and opinions regarding emergence of Taliban in FATA. Some are of the opinion that Taliban were given asylum

(Panah or Nanawatey in Pakhtunwali) by the tribals due to their cultural norms and values, other argue that they were given refuge as they were fighting a holy war against infidels. Pakhtun border areas across the Durand are very complex, emergence of Taliban after 9/11 in FATA is also another riddle. Local elders and the people have no idea how this new setup established overnight. According to tribal local people, most of the Taliban commanders are from deprived background and poor tribes. These groups are living in the most remote areas of tribal belt or in some cases forced the local people to leave their villages and taken over their lands and properties. They assert themselves through killings, beheadings, kidnappings and at times targeting their elders/Maliks. Due to fear and suppression, civil society of tribal areas failed to generate any movement to oust these terrorists from their respective areas. National and international media is not allowed to report, journalists are targeted for reporting or highlighting any issue related to terrorists activities. Taliban apparently demands for Sharia law to be implemented in FATA and rest of Pakistan, however, they are not clear about it, thus, targeting already impoverished services sector and weakest in FATA and assert themselves (Minutes recorded with tribals from FATA and resident editor of Express Tribune Iftikhar Firdous).

(a): Children Education:

Taliban are against every scientific and critical study based education. Hence, to deter and create scare among the tribal people, many sporadic incidents such as slaughtering of boy students, attacking/blasting girls school vans with mortar shells started in FATA, thus killed many school going students. In Bagzai village of Lower Kurram, militants' slaughtered school going boys, made compact discs of the gory crime and distributed it that led to sectarian skirmishes between Sunni and Shia population in Kurram (Minutes recorded with tribal elders at Tehsil Alizai in 2013). The incident of acid throwing by Taliban on Kohat University female students in Lower Kurram again created a scare and many families stopped their daughters from going to colleges and universities in settled areas of Khyber Pakhtunkhwa. Qari Mauvia threatened the local people that every girl would be targeted with acid if found going to school or college (The Nation, 2012). The only girls' school in Miramshah, North Waziristan was taken by Taliban in 2009 and according to locals, even after military operation, it is still their abode (Minutes recorded with elder of Dawar tribe in Peshawar 2015). In Tangi, Salarzai tehsil Bajaur, school-going van was targeted by remote control improvised explosive device, killing female teachers and students (Mohmand, 2014). After such incidents, boys and girls stopped attending school and student's attendance plummeted to

hardly 1% and out of 458 educational institutions 317 schools are destroyed by militants (FATA Research Centre, 2014).

(b): Women Health:

Taliban also targeted the vulnerable health sector in FATA. There are hardly 41 hospitals for nearly 7 million FATA populations with poor paramedic staff. According official details, child mortality in FATA is 135 out of 1000 live births (Bureau of Statistics FATA, 2014). Above all Taliban targeted health workers and staff, making health facilities difficult for tribal children, in one gory incident health worker Suryia Bibi from Parachinar on official duty was ambushed on her way back from Peshawar in ambulance, she was raped and brutally killed by Taliban. This was not reported in newspapers and nor any security provided by local administration to female staff working in health services (Minutes recorded with locals in Parachinar 2013). In addition, an incident of Osama bin Laden and involvement of polio eradication workers involvement further complicates the issue and made health workers vulnerable to attacks. Recent attacks against polio-workers and ban on polio drops in FATA further created health emergency. Lady health workers and teachers after Suryia Bibi incident and Bin Laden incident either resigned or left on indefinite leave, very few are back on duties. Suffocated by tribal culture tribal women are further restricted by radical Taliban, many women and children died of minor infections due to non-availability of drugs and also in-access to the cities hospitals (The News International, Express Tribune, Dawn, 2010,11,12,13-14). The staple food items are sold by inflated prices compared to their original prices in other part of Pakistan. Food shortages and mal nutrition affected the health of children and women (Minutes recorded with locals from FATA).

(c): Affecting Women Participation in FATA Economy:

Tribal society is patriarchal although 60% of work force in agriculture sector were women and children, in Taliban controlled areas women are stopped from working in the farm fields and those in non-Taliban areas, quit working due to fear of militants, hence, pushed poor families into absolute poverty. Many females working as teachers, health workers, running vocational training centres of embroidery and stitching in FATA were also stopped and threatened. In FATA, women and female children cannot inherit, hence, on death of male members, lands and properties are taken by relatives with help of Taliban leaving them in despair (Minutes recorded with FATA women).

(d): Women and Children Migrated and Trafficked:

More than 6000 women and children cross over Pak-Afghan border only during Kurram Agency sectarian violence spearheaded by Taliban. According to few local reporters, women from different villages are taken to Khost, Paktia and Makeen (South Waziristan) by Taliban and were sold/taken as war bounty (Mal-e- Ghanimet) and they were declared missing or dead by the families. Similarly, in many other agencies, many women and children were lost, displaced and some reported as taken by Taliban or other actors (Minutes recorded with FATA elders).

(e): Displaced Women and Children:

Failure of peace agreements, operations conducted, led to the displacement nearly 3 million tribal people (IVAP, 2014) and since 2006, 26822 people are killed (SATP, 2014). The first major displacement during military operation was from South Waziristan Agency, which displaced around 428,000. Another huge military operation was launched in Tirah Valley of Khyber Agency, which resulted into huge exodus of more than 80,000 people, and then North Waziristan, displacing nearly 1 million people (IVAP, 2014). Many women are widowed, raped/crippled/mutilated, children are orphaned during conflict and there is no help available to them. Women and children in camps and different villages are traumatized and due to conservative culture norms and traditions, they cannot seek help or counseling. Many women have started eating opium for pains and mental trauma. More than 700 families in Durrani, Shasho and Eidgah camps in Kurram Agency are headed by females with no male to look after them (World Food Program Report, 2011). Born and raised in protective environment, women and young girls do not feel safe around other strange men. Recently, case was reported that woman was raped by the camp authorities in front of her three young daughters in Jalozei camp, hardly thirty five km away from Peshawar city (Mona, 2013). The recent huge exodus of nearly 1 million populations from North Waziristan in Zarb-e-Azab operation affected women and children badly, huge number of these non-combatants are suffering in camps along with their young children (IVAP, 2014).

(f). State Apathy:

In these conflicts and wars, crimes committed against the non-combatants women and children by the militants/non-state actors, state structures are equally responsible. The unjust FCR, absence of courts, proper policing and accountability mechanism has made lives of tribals more miserable. State failed to facilitate the women and children affected by the on-going crises. In 2006, United States pledged \$150 million

annually for development and rehabilitation of displaced tribals from war; however record of Rs. 6431.9 million fund used for FATA is available (Congressional Research Report, 2011). However, there are reports of huge misappropriations of funds allocated to conflict ridden tribal areas. Thus, in 2013, Federal Investigating Agency was given directions to investigate corruption in FATA funds by FATA Secretariat (Express Tribune, 2013). Recently, FATA Disaster Management Authority embezzled 60 million funds that were allocated for damaged houses in FATA (Amin, 2015). It is ironic that Ministry of SAFRON, Governor Khyber Pakhtunkhwa and political agents are not taken into an ambit of inquiries about funding and development.

Participation of Tribal Women in Peace Building and Demilitarization:

Patriarchal Pakhtun culture, state system and militancy have affected women and children the most during war crimes. Therefore, it is important to take them on board in peace building and demilitarization process. Gender mainstreaming in tribal areas will be possible if FATA is settled and reformed like other parts of Pakistan. It is also pertinent to mention that women in FATA is not organized in any kind of pressure group neither there is any forum through which they can address or highlight their plight. They are in individual capacity with all the security risks trying to run certain services based NGOs. In 2012, Farida Afridi of Savera from Khyber Agency was on her way to attend the meeting was assassinated in Hayatabad, Peshawar (widely reported on TV and other media). Hence, majority of the tribal women are doing jobs that do not involve their mobility outside homes. These restrictions are due to fear, system of oppression and militarization. The deliberate vacuum in terms of judicial, political and economic development led to the present situation of the weakest section of tribal society and unchecked/unaccountable and many un-reported war crimes.

1. Abolish inhuman FCR and special status of FATA; give tribal men and women representation in local, provincial and federal setup to fill the vacuum occupied by the autocratic state and non-state actors. Self-rule of tribals will make the system accountable too and mal-practices can be checked. Gender perspective will be guaranteed in the legislative and governance participation in patriarchal and militarized setup of tribal society if quota is fixed for women. Thus, gender parity should be recognized in legislative and governance structures of FATA at local/provincial/national level.

2. For effective peace building and war crimes in FATA, Pakistan shall sign Security Council Resolution 1325 to assure security, protection and participation of tribal women in conflict hit FATA. While signing any peace agreements with militants, local people and women shall be included to address their grievances and other reservations.

3. With the help of UN Women, FATA women commission comprises of Pakistani human rights activists and local tribal women shall be formed to highlight unrecorded and unaddressed crimes against women and children in tribal areas. It is also essential that proper survey be carried out to record atrocities committed by state and non-state actors.

4. For conflict ridden FATA, special criminal tribunals (consist of human rights activists, sensitize police officials, judges and lawyers) shall be formed to punish militants according to the findings of commission.

5. Tribal women affected by conflict shall be taken in confidence in all aspects of repatriation and resettlement arrangements. Demographic research and survey should be carried out to find out families headed by women as most of the men died in the conflict.

Conclusion:

Tribal Areas' old cultural practices, geography and states' policies contributed to the militarization of present day FATA. Pakistan's national and international entanglements have changed the nature of FATA's militarization and conflict. Presently, there is several state and non-state international actors' involved, which has complicated the issue and left no option but needs state prudent approach for rigorous reforms inclusive of women and children. States' militarization policies have not only disconnected tribal people from the state but created space for human rights violations, especially concerning women and children. Thus, on one hand militarization and armed conflict is pulling Pakistan into confusing abyss where she herself was entangled into a clash rather bringing a solution to it and on another side, the major sufferers are her non-combatant women and children. This approach of state towards FATA should change, peace and trust should be built between state and tribal people by abolishment of old colonial system and integrate them in a state through social, political and economic development. In addition, special measures should be taken to provide justice and protect tribal women and children.

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