

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

COMMITTEE ON FATA REFORMS 2016

PRESENTATION ON FATA REFORMS

(24 AUGUST 2016)

MEMBERS OF THE COMMITTEE

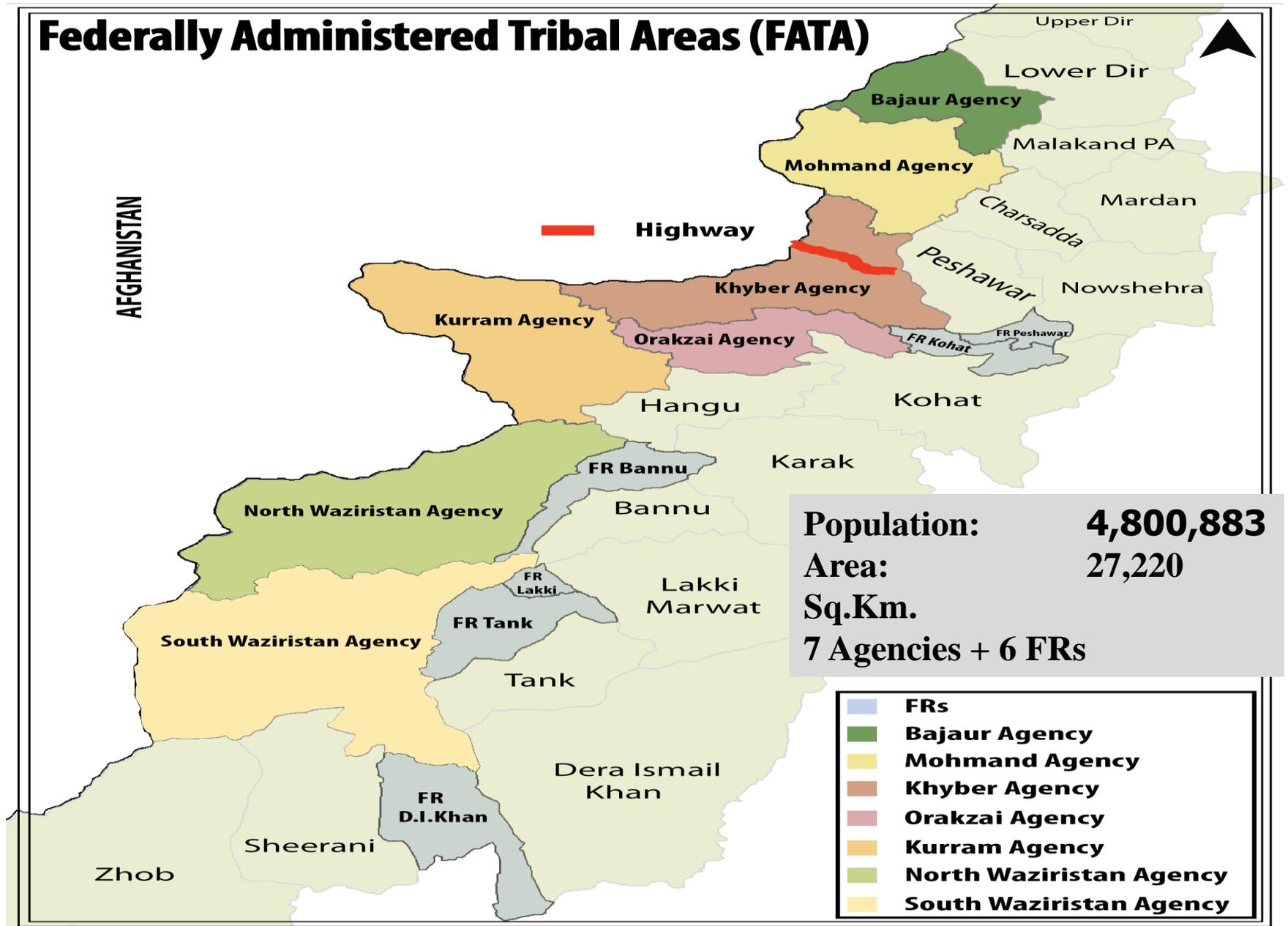
Membership:

- 1) Mr. Sartaj Aziz, Chairperson
Adviser to the Prime Minister on Foreign Affairs
- 2) Mr. Zafar Iqbal Jhagra, Member
Governor KPK
- 3) Lt. Gen. (Rtd.) Abdul Qadir Baloch Member
Minister for SAFRON
- 4) Mr. Zahid Hamid, Member
Minister for Law & Justice
- 5) Lt. Gen. (Rtd.) Nasser Khan Janjua Member
National Security Adviser
- 6) Mr. Muhammad Shehzad Arbab, Secretary
Secretary SAFRON

FATA PROFILE (cont' d)

<u>AGENCIES</u>	<u>POPULATION</u> (Estimated 2016)	<u>FRONTIER</u> <u>REGIONS</u>	<u>POPULATION</u> (Estimated 2016)
Bajaur	875,810	FR Peshawar	79,221
Mohmand	492,110	FR Kohat	130,153
Khyber	804,452	FR Bannu	28,829
Orakzai	331,711	FR Lakki	10,281
Kurram	659,638	FR Tank	40,045
North Waziristan	658,800	FR D. I. Khan	57,369
South Waziristan	632,463		
	Grand Total:	4.8 Million	

Federally Administered Tribal Areas (FATA)



CONSULTATIONS WITH FATA STAKEHOLDERS

- For purposes of Article 247(vi), the Committee identified the following stakeholders for consultation: (i) FATA parliamentary members, (ii) Tribal Maliks and Elders (iii) Representatives of political parties, traders, journalists, youth and civil society organizations.
- On 7th September 2015, 19 FATA parliamentarians (excluding the JUI (F) MNA from North Waziristan) had jointly presented the 22nd Constitutional Amendment Bill proposing integration of FATA into KP.

CONSULTATIONS WITH FATA STAKEHOLDERS (cont'd)

- The Committee met members of Parliament from FATA on 10 December 2015. At this meeting a 7 point Agenda signed by all the 19 members was presented to the Committee. In this Agenda, the FATA Parliamentarians modified their position reflected in the draft 22 Constitutional Amendment calling for integration and said “abolish Article 247 of the Constitution to make FATA part of KP Province, or create separate FATA province or give FATA the status of Executive Legislative Council”.
- The Committee also sought views of several experts and senior civil servants with FATA experience on 18th November 2015 in Islamabad and on 4th April, 2016 in Peshawar.

CONSULTATIONS WITH FATA STAKEHOLDERS (cont'd)

- The Committee visited the following Agencies/FRs on dates indicated against each for consultations.

<u>Agency</u>	<u>Dates</u>
Bajaur	31 st December 2015
Mohmand	1 st January 2016
North Waziristan	4 th February 2016
Kurram	28 th March 2016
Orakzai	28 th March 2016
Khyber	4 th April 2016
South Waziristan	25 th April 2016
Frontier regions	2 nd May 2016

- During these visits, one session was organized with about 200-300 Tribal elders and Maliks and another with representatives of political parties, traders, journalists and youth.

POSSIBLE OPTIONS

There are four basic options for reforms:-

- 1) Maintain Status Quo but introduce judicial/administrative reforms and increase focus on development activities
- 2) Create FATA Council on the pattern of Gilgit Baltistan
- 3) Create a separate Province of FATA
- 4) Integrate FATA with Khyber Pakhtunkhwa Province, each Agency becoming a separate District and FRs integrated with the respective districts

MAJOR FINDINGS

- **The process of extensive consultations with all the major stakeholders i.e. Tribal Maliks and Elders, FATA parliamentarians, leader of major political parties in FATA, the business community, civil society representatives and youth organizations, clearly revealed that the advantages of the option for the integration of FATA with Khyber Pakhtunkhwa, were far greater than any disadvantages.**
- The tribes were not in favor of having a separate province for FATA as their economic and cultural links were deeply integrated with the adjoining districts of Khyber Pakhtunkhwa. Moreover, the vertical links between Agencies in FATA were non-existent. Furthermore, if FATA was to become a province, it would not be able to generate the required resources for meeting minimum requirement.

MAJOR FINDINGS (cont'd)

- Similarly the option of FATA Council, on the lines of the GB Council, also did not enjoy much support. It was emphasized that even as a transitional measure, it would create new vested interests that could block further reform and lead to the next logical demand of a separate FATA province which, as explained above, is not a viable option.
- **The Committee's recommendation to integrate FATA with KPK in order to mainstream FATA will require a transition period of 5 years. Such a gradual approach, if carefully planned will greatly minimize the likely demerits of the integration option. To execute the reforms on fast track basis, Article 247 of the Constitution will be retained during the transition period.**

RECOMMENDATIONS

THE TRANSITION PERIOD

The proposed 5-year transition period can be utilized to prepare FATA for the integration option and to accomplish the following important complementary objectives and pre-requisites:

- Restoration of durable peace in all parts of FATA, rehabilitation of Temporarily Dislocated Persons (TDPs) and reconstruction of infrastructure, houses and shops.
- Initiating a major program of socio-economic development.
- Establishing elected local bodies in FATA before end of 2017, would address alienation of the tribesman, that will enhance his faith in the State.

TRANSITION PERIOD (Cont'd)

- Introduction of judicial reforms to extend the jurisdiction of the Supreme Court and the High Court while retaining the Jirga system.
- Capacity building of Law Enforcing Agencies (LEAs), especially Levies to enable them to perform normal policing functions.
- Carrying out Land Settlement and preparing GIS based computerized land record.
- Capacity building of FC for efficient border management.

RECOMMENDATIONS

(a) REHABILITATION AND RECONSTRUCTION:

- The target date for return of TDPs should be end of 2016 the reconstruction phase should be completed before the end of 2018.
- This gigantic task will require much larger financial resources and coordination between all the Federal Agencies including SAFRON, FATA Secretariat, the Army formations and FWO/NLC.
- While the rehabilitation and reconstruction of infrastructure should be undertaken by the public sector agencies, the repair or rebuilding of private houses and shops should be left to the owners themselves by giving them cash compensation at prescribed rates. Supply of non grid solar units at subsidized rates should be an important part.

RECOMMENDATIONS (Cont' d)

(b) SOCIO-ECONOMIC DEVELOPMENT OF FATA:

- A Special Committee of high level experts and officials should be formed under the Governor KPK, to prioritize preparation of a 10-year Comprehensive Development Plan for FATA before the end of 2016, to reduce substantially the gaps in development and per capita indicators between KPK and FATA.
- The 10-year Development Plan should include major infrastructure and irrigation projects, mineral development program, integrated plans for health and education and special industrial zones.

RECOMMENDATIONS (Cont' d)

- The NFC should make allocation of 3% of the available resources in the federal divisible pool (Rs. 90 billion) on annual basis for the implementation of the 10-year Development Plan. This will be in addition to the existing annual PSDP allocation of Rs.21 billion. 30% of the allocation in the 10-year Plan should be channeled through the local bodies.
- An important component of the new Development Plan would be the concept of social transformation of FATA by setting up modern urban hubs in all Agency Headquarters and other important trading centres.

RECOMMENDATIONS (Cont' d)

- FATA Development Authority (FDA) may be reorganized with enhanced powers to implement large infrastructure projects under the 10-year Development Plan.
- A position of Chief Executive (BPS-22) may be created under the Governor to assume responsibility for implementation of the 10-year Development Plan. (He can also serve as Vice Chairman of the High Powered Special Committee mentioned above).
- A Governor's Advisory Council consisting of all FATA Senators and MNAs may be set up to assist the Governor in carrying out development and administrative functions.
- The approving powers of FATA Development Committee may be enhanced from the present Rs.400 million to Rs.2 billion and that of FDWP from Rs.200 million to Rs.1 billion.

RECOMMENDATIONS (Cont' d)

- The President Order No. 13 of 1972 regarding service matters in FATA may be suitably revised to empower the Governor to attract competent officers from multiple sources for the transition period.
- All posts in FATA be upgraded/brought at par with KPK.
- Salaries for the project personnel in FATA should be 20% higher than those admissible under the project policy of KPK.
- Connectivity of FATA with CPEC should be ensured at suitable locations.
- State Bank of Pakistan (SBP) to establish more branches of banks in FATA with special incentives for private banks.
- Allocation for BISP, Bait-ul-Maal and microfinance schemes in FATA should be increased.
- Quota of FATA students in education/health institutions in other provinces should be doubled and retained for 10 years after integration with KPK.

RECOMMENDATIONS (Cont' d)

(c) ELECTED LOCAL BODIES FOR FATA- 2017:

- In 2002, the then Government extended FATA Local Government Regulation to FATA and in 2004, some Agency Councillors were nominated by the Political Agents. However, the system did not take off because general public had no confidence in those “selected” office bearers who had no powers. In 2012, FATA Local Government Regulation 2012 was drafted to establish local bodies in FATA, however, the Regulation could not be promulgated.
- Once the rehabilitation phase is completed, party-based Local bodies elections should be held in FATA before end of 2017. This would require promulgation of FATA Local Government Regulation, which can be promulgated by the Federal Government within three months.

RECOMMENDATIONS (Cont' d)

- Permit/Rahdari system for exports from and imports into FATA should be abolished to eliminate large scale corruption and to bring down prices of essential items in FATA. Correspondingly, necessary funds should be provided in the budget for operational expenditure of the political administration.
- Auditor General of Pakistan should ensure that development funds and all other expenditures of local bodies in FATA are properly audited to ensure efficient utilization, and if this requires capacity building the same should be encouraged. The jurisdiction of NAB should also be extended to FATA.

RECOMMENDATIONS (Cont' d)

d) LEGAL REFORMS:

- FCR should be repealed and new “Tribal Areas Rewaj Act” enacted.
- The “Jirga” system will be retained for both civil and criminal matters, whereby the Judge will appoint a Council of Elders to decide factual issues in accordance with Rewaj and will pass a decree in accordance with its findings in a civil reference or pass an order in accordance with its findings and applicable law in a criminal reference.
- Provisions relating to collective/vicarious responsibility in the FCR will be omitted from the new Act, thereby making an individual responsible for his own acts. This would eliminate one of the major criticisms of the present FCR relating to violation of fundamental rights.

RECOMMENDATIONS (Cont' d)

- Under the new Act the concept of individual responsibility will be extended in phases in such Agencies or their parts where it is convenient and it will be so notified.
- Jurisdiction of the Supreme Court of Pakistan and the Peshawar High Court be extended to FATA.

With certain changes in procedures, the Jirga process could start resembling the “jury system” which is acceptable internationally. Simultaneously, any legal instrument, which incorporates ‘Rewaj’ as part of the judicial process, must ensure that it is not in conflict with the fundamental rights as well as other substantive laws administered in KPK.

RECOMMENDATIONS (Cont' d)

e) CAPACITY BUILDING OF LEAs:

- The Levies should be reorganized for performing agency police functions. They should have standard uniform and basic training.
- Levies should receive in-service and specialized training with the assistance of Army / FC / Police.
- Provision of specialized equipment specially arms/ammunition and surveillance devices may be provided to Levies.
- Additional 20,000 posts in the Levies force may be sanctioned.
- Provision of additional infrastructure for Levies to ensure round-the-clock security should be undertaken.

RECOMMENDATIONS (Cont' d)

- Surveillance and management of border with Afghanistan should be improved.
- Capacity building of FC should be undertaken and additional new wings of FC may be created for border management.

RECOMMENDATIONS (cont'd)

f) LAND SETTLEMENT

- Most of the land in FATA is held collectively and thus cannot be used for collateral or sold to create equity capital thus preventing capital formation. Property records are also important pre-requisite for banking operations in FATA and for attracting private investment.
- Land settlement will be undertaken by using modern technology to create individual record of rights based on GPS based computerized records as adopted by Punjab.

IMPLEMENTATION MECHANISM

- The success of these reforms is dependent on institutional capacity building and provision of required manpower. More importantly, the institution of Political Agent being the pivot of the reform process has to be retained and strengthened during the transition period to effectively complete the reform process.
- A well structured implementation mechanism will be necessary to ensure adequate and timely implementation of the Reforms recommended by this Committee. This should include a Cabinet Level Committee and a special Directorate of Transition and Reforms with dedicated units for each segment of the Reforms.

RECOMMENDATIONS (Cont' d)

- The Cabinet Level Committee will comprise Governor KP, Minister SAFRON, Minister Law, National Security Advisor, Secretary SAFRON (as secretary) and a representative of Army to review the progress of these reforms.
- Quarterly review by the Prime Minister with all stake holders.

NEXT STEP

- After final presentation of the Report, it would be made public to generate a debate on the recommendations in the media.
- The Chairman of the Committee would seek consensus of 19 members of Parliament from FATA.
- The Chairman of the Committee should also discuss with the Chairman Senate and Speaker of the National Assembly the best approach to seek the views/endorsement of the two houses of Parliament on these recommendations.

Thank You