

## **Historical and Systemic Overview of Federally Administered Tribal Areas (FATA): A Cultural Landscape.**

**Dr. Najma Sadiq**

*Assistant Professor,  
Department of Mass Communication  
National University of Sciences and Technology (NUST), Islamabad,  
Pakistan  
Email: najma.sadiq@s3h.nust.edu.pk*

**Tahir Mahmood**

*Assistant Professor,  
Department of Communication Studies.  
Bahauddin Zakariya University, Multan, Pakistan  
Email: tahirmahmood@bzu.edu.pk*

**Faryal Sohail**

*Lecturer,  
School of Creative Arts (SoCa),  
University of Lahore, Lahore, Pakistan.  
faryalbaloch04@gmail.com*

### **Abstract**

*The tribal landscape changed significantly due to the post-9/11 US war in Afghanistan. The armed conflict in these areas for the last two decades destroyed its social fabric. In the wake of a relative post-conflict scenario, the merger of Federally Administered Tribal Areas (FATA) in the Khyber Pakhtunkhwa (KPK) province provided the basis for “normalization” process of the tribal areas from the year 2018. The tribal system got severely affected due to the two decades of the armed conflict. Therefore, it is pertinent to divulge into the historical overview of these areas to understand their systemic properties. From a socio-cultural dimension, insights from administrative, political, economic, and cultural dimensions would trace the roots of social cohesion of the tribal system before the onset of recent armed conflict. Therefore, the current research engaged in a*

*historical appraisal of the “normal” tribal set-up to provide context for future researches that document and debate the “new normal” of FATA.*

**Keywords:** FATA, Tribal Culture, Tribal Set-up, Social Cohesion, Cultural Landscape, Tribal History

### **The Tribal Landscape: Historical and Systemic Overview of Federally Administered Tribal Areas (FATA)**

The US invasion in Afghanistan brought tribal areas to a global attention post 9/11 (Nawaz, 2009). These areas have seen successive conflicts throughout history, since the times of Alexander the Great (Khan & Syed, 2008). Historically, the Federally Administered Tribal Areas (FATA) (henceforth, the tribal areas), were part of the interest of various countries like Great Britain, Afghanistan, Russia, China, Turkey, India and even France (Ahmed, 1978). The areas which included Afghanistan, FATA and Khyber Pakhtunkhwa saw more invasions as compared to any country in Asia or the world (Caroe, 1958). However, geographical conditions and difficult terrain kept invaders from maintaining hold and firm control in the tribal areas (Sultan-I-Rome, December 2006). The remoteness and inaccessibility of the tribal areas have made them independent of any central authority (Nawaz, 2009).

These areas have always been the attention of the British Empire. Ahmed (1978) discussed the amazement that associated these areas with blurring lines of myth, legend and reality. The tribal areas, which are known as the Frontier during the British period, were said to influence the careers of not only the Indian viceroys but the British prime ministers also. The volatility of these areas was known for escalation of simple incidents to an international crisis. The general uprising of 1897 here was considered the greatest crisis that the British faced after 1857 (Ahmed, 1978). However, before getting into a detailed overview of the history, it is crucial to provide some geographical details of these areas.

The tribal areas comprise of 27,220 square kilometres with a population of 5,001,676 (Pakistan Bureau of Statistics, 2017). These areas share 2,500 kilometres border, the Durand Line, with Afghanistan. The tribal areas referred to in the present research were the geographically divided parts known as agencies. These include Khyber, Bajaur, Mohmand, Orakzai, Khurram, North Waziristan and South Waziristan. The topology of the tribal areas consists of a rugged mountainous mix of arid plateaus, valleys and thick forests (Afsar, Samples, & Wood, 2008). With more than 82 percent arid land, the population sustenance on agriculture was not possible (FATA Secretariat, 2004). Therefore, the survival of the local population was dependent on warfare, adventure (Khan A. , 2003), and businesses that provided financial gains irrespective of their legal or illegal nature. The tribal people identify the area which is under the control of the Pakistani government as *ilaqa Sarkar* (literally government area) and the tribal areas as *ghair ilaqa* (outside the governmental control). They “conceptualize the two as antithetical forms of social and political organization” (Ahmed, 1980, p. 11). Therefore, it seems vital to understand the tribal system through its setup and core values that provide the basis for social cohesion.

These tribal areas have almost hundred percent Pakhtun (or Pashtun) population (Khan I. , 2007). Being one of the world’s largest tribal society (Spain, 1963, p. 154), Pakhtun lives across the Durand Line sharing an ancient socio-cultural identity (Harrison, 2008 ). The genealogical charter of Pakhtun tribes linked most of them to one apical ancestor (Glatzer, 1998, p. 83). The name of the identified ancestor is Qais bin Rashid who was a descendent of eponymous Afghana. He was from the place named Ghor in Afghanistan (Mahdi, 1986). Although there is a controversy about the name of that ancestor (Glatzer, 2002) however, the general belief was that he was converted to Islam by the Prophet Muhammad (peace be upon him).

Glatzer (2002) explained that the term ‘tribe’ was often used in a derogatory way to denote a smaller ethnic group living in ‘underdeveloped’, ‘primitive’ or even ‘savage’ conditions. However, the connotation of this term was not derogatory in the

local context. Here, it was used as a marker of nobility. The lineage with the tribe was a reflection of distinguished and old ancestry, dependability, and genuineness. The binding within the tribe showed the network of primordial obligations linking this association with pride and honour (p. 265). Consequently, this led to tribal social cohesion where the community was strongly networked even outside these areas. The status of being a tribesman and Pakhtun was not confined to the persons living only in the Pakhtun areas. Whether a Pakhtun lives in the Pakhtun area or not, speaks Pakhtu (or Pashto) or not he would be called Pakhtun if his lineage, through the father's line, could be traced to one of the Pakhtun tribe (Ahmed, 1980).

The current historical appraisal is focused on understanding the tribal set-up and social cohesion through the lens of their resistant nature and the systemic properties of administrative, political, economic and cultural set-up. This analysis would provide the roots of the tribal system that has been disrupted and destroyed due to the armed conflict with ripple effects on the rest of the country also.

## **1. The Tribal Tales of Resistance**

The strategic significance of the North-Western frontier attracted invasions from the northern side but this area acted just as a passage. Alexander, Taimur and Babar were also not able to conquer Pakhtun and compromised on using this area as a passage to the subcontinent (Ahmed, 1978). The difficult terrain and local resistance played a major role in keeping invaders from governing the tribal areas.

The British made futile attempts to suppress the tribes in Waziristan several times through military attacks in 1897, 1919, 1930 and 1936. Even when the British penetrated the areas with their military and administrative structure, they were not able to establish a direct rule. The review of the British policy in 1945 by Tucker Committee recommended engaging tribes for policing these areas (Khan & Syed, 2008). There were particularly two reasons for such treatment: 1) the importance of these areas was more of a strategic nature than any economic and commercial

incentive. 2) the persistent resistance of Pashtun tribes to colonial rule. Everyone from the tribes was engaged in the war against British despite the burning of villages and crops, destruction of wells and fruit trees and blocking the food supplies to these areas (Khan A. , 2003).

The British policy in the tribal areas was a combination of persuasion, pressure and armed intervention (Rakisits, 2008). Surrounding these areas with a chain of posts and cantonments, the British established several tribal agencies where Pashtun tribes were allowed to run their tribes through their laws and customs (Rakisits, 2008). Ahmed (1978), however, articulated that the reason for allowing the tribal structure for the uninterrupted function is the “traditional romantic attitude” of the colonial rulers regarding these areas. The identification of British with tribal people due to racial features (being tall and fair) and geographical similarity of these areas with their British homes played a role here. Moreover, the key symbols of idealized British behaviour were found in the Pakhtun society. These mutually recognized symbols (like “word” (jaba), “honour” (nang) “gentlemanly” (Pukhtun) and “courage” (tora). Certain things were either “done” or “not done”) created a common ground for understanding their competitor (Ahmed, 1978).

Lindholm (1980) also observed that the colonial frame of mind recognized similar interests among the tribal warriors. In the early times, the British Empire was far from the tribal belt and they knew little about Pashtuns except about their warlike aptitude which might make a suitable ally against the French. However, the tribal people showed strong resistance against British assailment which got them a semi-autonomous status in the colonial period.

On the eve of partition in 1947, Pakhtuns accepted the joining of North Western Frontier Province (NWFP) with Pakistan (Khan I. , 2007). Accepting the semi-autonomous status of FATA, Pakistan’s government entered into new agreements with the tribes. Tribal elders were given assurance regarding paying of allowances and respecting the autonomy of tribes (Tanguay-Renaud, 2002).

## **2. The Systemic Overview of the Tribal Setup**

The tribal setup is the mix of values and practices that are defined and adopted as an internal and external level. The systemic understanding of tribal system requires the background information of its administrative, political, economic and cultural setup. The following sections deal with these dimensions.

### **2.1. Administrative Setup**

Even after becoming the part of Pakistan after partition in 1947, the administrative system in the tribal areas was based on the colonial laws and regulations. Till 2002, the administrative setup of the tribal areas remained mainly the same as what it was during the colonial period. This administrative system always met with criticism and raised various debates aiming at its amendment and improvement. Therefore, it is critical to understand the underlying factors.

The tribal areas were supervised by the federal government through tribal elders and the political agents. Besides being an administrator, the political agent also acts as a judicial officer and there was no right of appeal against his decisions (Khan I. , 2008). According to Pakistan's constitution (National Reconstruction Bureau, 1974), despite the executive authority of the President over these areas, the parliament did not affect the region. The tribal areas suffered due to the top-down and anachronistic administrative system and the lack of proactive and participatory governance mechanisms (Nawaz, 2009; Nella, July 2008).

Till 1971, the development policies in the tribal areas remained insignificant. In the 1970s, the development policies got some momentum. Although the administrative reforms did not effectively change the administrative system it did bring organizational changes and initiatives which streamlined the

control of the federal government over tribal areas. The FATA (abbreviated from, Federally Administered Tribal Areas) development corporation was established under a newly created Federal Ministry of States and Frontier Regions (SAFRON). Constitutional sanctions were given to quotas for tribal areas people in educational institutes and federal jobs. The establishment of high schools and degree colleges for men, construction of few public sector industries, incentives to the private sector, development of new schemes for agriculture and communication sector and acquisition of passports was also facilitated (Khan I. , 2008).

The FATA Secretariat was established in 2002 after the abolishment of FATA development corporation. The governor's secretariat of North Western Frontier Province or NWFP (now known as Khyber Pakhtunkhwa province or KPK) played a coordinating role between the federal government, provincial government and FATA's civil secretariat (Khan I. , 2008). A wide range devolution plan was proposed in 2002 to bring changes in the administration system and government of tribal areas but it was postponed for an indefinite period due to the start of the conflict in these areas (Cloughley, 2008).

The administrative system in the tribal areas included the Political Agent of each tribal agency and the maliks (tribal elder). The political agent represented the federal government (Nella, July 2008). He was the bureaucratic head of the agency and at times was selected by the provincial government (Rakisits, 2008). Maliks were representative of the tribal people, some of them selected by the tribes whereas others (the "official" maliks) were selected due to the favour of political agents (Nawaz, 2009).

The political agent was a very powerful official who was backed by Khasadars and Levis (tribal militias) and also paramilitary forces that operate under army control. He had an extensive executive, judicial and revenue power. His responsibilities included maintaining law and order and crime control in the tribal areas (Rakisits, 2008). He was responsible for local governance (Nawaz, 2009). His role was to provide funds to Maliks as an assistant to carry out policies. (Nella, July 2008).

The funds were provided in line with their perceived status in the eyes of the government (Nawaz, 2009). The non-auditable, non-accountable and discretionary nature of the funds not only led to corruption but also the increased criticism of the government (Nella, July 2008).

The 1973 Pakistani Constitution protected the semi-autonomous status of the FATA. The main provisions were contained in Article 247, affirming the distinct status of the FATA (Tanguay-Renaud, 2002; The National Assembly of Pakistan, 1973). However, the constitutional rights of the tribal areas were limited due to their legal framework known as the Frontier Crimes Regulations (FCR). This legal framework was implemented in 1901 by colonial administrators (Rakisits, 2008) to deal with the unrelenting resistance (Khan A. , 2003) of the tribes. This FCR was often called draconian (Rana, 2009) and black law (Wazir, 2007). Rana (2009) described the salient features of FCR:

Some of the draconian provisions in the FCR include seizure/confiscation of property and arrest and detention of an individual without due process, barring a person in the tribal areas from entering the settled districts (Section 21); removing a person from his residence/locality (Section 36); imposition of fine on the entire community for crimes of an individual (sections 22, 23); prohibition on erecting village, walled enclosures and their demolition (sections 31-33); demolition of a house or building on suspicion of being used or populated by thieves or dacoits (Section 34); fines on relatives of a criminal and realization of fines by selling his property (Section 56); and, no right to go to courts against the political agent's decision (Section 60), etc.

The FCR did not imply the due process of law. The engagement of council and the right to appeal to the superior judiciary, which was available to all Pakistani citizens, was not given to the accused in the tribal areas. The inquiry was conducted by the jirga instead of following the normal judicial process (Ali, 1999). The verdicts were passed based on riwaj (traditional culture practices). In this scenario, the political agent held supreme



authority in terms of case initiation, the appointment of the jirga, presiding the trial and awarding punishments without the policy of appeal against any verdict (Rakisits, 2008).

Despite the strong criticism, FCR remained in effect till the year 2018. It was in 2018 that the government took the initiative of including tribal areas in Khyber Pakhtunkhwa province and consequently extending all the constitutional rights to the tribal people.

## **2.2. Political Setup**

Since the tribal areas were given the status of semi-autonomous area therefore the political participation did not flourish here as compare to other areas in Pakistan. The limited political participation alienated these areas and created an impression of deprivation of basic rights. Till 1997, the representative in the National assembly, from these areas, got selected by maliks (Nawaz, 2009). Only the maliks have the right to vote. In 1997 the adult franchise was extended to the tribal areas and all the tribesmen got the right to vote. Moreover, political parties were not allowed to operate and campaign there. Pakistan Political Parties Act did not apply to tribal areas. However, the participation of tribal people in the 1997 general elections corroded the power of the tribal elders (Ghauri, 2006).

Due to egalitarian nature of the tribal culture, political leaders not only needed to demonstrate their personal qualities but they had to procure and redistribute the resources from outside the tribal areas along with providing the security to the tribe in the times of political chaos. In the absence of institutional safety, the khan or commander could get changed overnight if the stakeholders involved in the system got disappointed (Glatzer, 2002). In January 2002 a reform plan, Pakistan Devolution Plan of 2000, was announced for the tribal areas to introduce local government institutions. However, the plan was shelved due to lack of representation of tribal areas and tribesmen in the provincial assembly during the October 2002 election (Nawaz, 2009).

### **2.3. Economic Setup**

During the colonial period, tribal areas were kept isolated from the rest of the sub-continent. The introduction and implementation of economic reforms were restricted to the settled areas. The colonial administration did not expect land revenue due to rugged and dry mountains and the infertile land of the tribal regions. Therefore, the revenue system was not extended to the tribal areas. This was counterintuitive since the infertility of these areas necessitated the need of the inhabitants to identify livelihood beyond these means (Khan A. , 2003). This old economic setup of the tribal areas remained intact, with few exceptions, even after 1947 partition.

Local people had few sources for income generation. They mainly depend on pastoral activities since the agricultural land was scarce and could not meet their food requirements (Khyber.ORG, 2003). The rearing of livestock and small-scale businesses were the primary level activities. The economic activities of these areas include a limited level of unorganized mining, short-term unskilled labour, joining of paramilitary and local security forces. A significant number moved across Pakistan or the Middle East to find work. The qualified people permanently moved to urban centres which led to the dearth of skilled workers, teachers and doctors (FATA Secretariat, Unknown).

The tribesmen who settled in the tribal areas got engaged in arms manufacturing and trade due to the absence of economic opportunities. The arms factories were set up at Kaniguram (South Waziristan Agency), Illam Gudar (Khyber Agency), Nawagai (Bajaur Agency) and several other areas (Khyber.ORG, 2003). Since this was a profitable business it got expanded and flourished. Likewise, due to proximity to the border with Afghanistan, tribal areas developed market economy of smuggled goods and started smuggling locally manufactured arms (Khan A. , 2003). This illegal trade provided income to a large group of population and upgraded their way of living (Khan I. , 2008). Their finances were further enriched with the drug trade, especially heroin (Khan I. , 2007).

Pakistan's government did try to launch schemes of public utility in the tribal areas. These included the allocation of quotas in jobs, relaxation of three years in the age limit for various public sector services, the recruitment of local people in the Frontier Constabulary and Frontier Corps, increased employment and commerce opportunities (Khyber.ORG, 2003). However, due to lack of education, fewer people could avail these options which limited the desired impact of these initiatives. Consequently, the socioeconomic indicators of tribal areas were significantly below the levels of the adjacent province and at the national level, they were at nearly half level (Nawaz, 2009). In this scenario of challenges related to administrative, political, and economic setup due to the external factors, what kept tribal society together were their core cultural values. The cultural values in terms of Pakhtun code or Pakhtunwali provided stability and cohesion of sorts.

#### **2.4. Cultural Setup: The Code of Pakhtuns**

The title for the tribal chiefs was khan or malik. Glatzer (1998) described Khan as an ambitious individual with proven valour, sharp thinking, fair and just in decision making, known for his understanding of the local culture or code, hospitable to an extent that he could share his resources with adherents, guests and the people who were under his protection. Apposite to know that being Khan was not about the power but the influence (Sultan-I-Rome, December 2006).

Nevertheless, the title of Khan was not permanent. Khan had to prove his leadership qualities constantly which led to internal rivalry and manoeuvring (Lindholm, 1980). However, despite the wavering tribal leadership, during the crisis period, the tribal system provided stability and resilience (Glatzer, 2002).

Likewise, to get the community together, in each village there was a community centre or community club which was called Hujra. It was owned by influential families and was shared by the whole community (Yousufzai & Gohar, 2005). Hujra was the multipurpose centre (Sultan-I-Rome, December 2006) that served to accommodate collective ceremonies, Jirga (Yousufzai & Gohar, 2005) visitors and guests. Representatives from all age

groups gathered there to reflect and discussed issues with mutual consensus before sharing the issue with the whole community (Yousufzai & Gohar, 2005).

Moreover, what kept the tribal system intact through the history were the long-established customary laws which represented the fundamental rules of restorative justice (Mahsud, 2004). Tribal activities were governed by these laws or the code known as Pakhtunwali, Pashtunwali, Pakhtu or Pashto (Sultan-I-Rome, December 2006). Predate to the Islamic period, it was a Pakhtun code of honour (Afsar, Samples, & Wood, 2008). The foundations of these laws were based on the principles of equality, individualism and stern competition with the opponents. However, despite skirmish, the tribesmen got united during the need of an hour (Lindholm, 1980) or in the face of an outside threat.

Pakhtunwali was a model to educate and provide a guideline in terms of conflict resolution, contrasting the ethnic outsiders who had different values and to invite peaceful visitors. Hospitality was considered a core value in Pakhtunwali. Moreover, the children were educated on these traditional values through their presence in the places where decisions were being made, such as dera (guest house) and the tribal councils. Parents ensure that the Phakhtunwali was internalised by girls as much as boys (Glatzer, 1998).

In the following sections, different practices and customs under Pakhtunwali are discussed.

#### **2.4.1. Melmastya (hospitality)**

Melmastya or hospitality was the main feature of Pakhtunwali. It was an obligation that was offered to acquaintances and also to strangers. In the case of acquaintances, and specially Pakhtuns, it was reciprocal. It was expected from the guest that tomorrow he would also act as a host. One of the Pakhtun sayings was “Pukhtun khpalah dodai da bal pah koor khwri” meaning that Pakhtun eats which meant that the Pukhtun eats his meal at someone else’s home (Sultan-I-Rome, December 2006). The contextual factor behind this saying was the hospitable tribal culture where the whole community acted as a host. The

ingrained accommodation of the guest was equally applicable to ingroup and outgroup.

The expected behaviour from the guest was his passivity. During his stay, the guest should only receive and never give. The active behaviour of the guest was seen by the host as dominating and insulting (Lindholm, 1980). In *melmastya* the warmth of the host was considered more important than the food and other things (Sultan-I-Rome, December 2006). Lindholm (1980) explained that the perception of Pakhtun character shifted according to the perspective of the observers and the visitors. The people who came as guests or allies were received with friendship, hospitality, deference and respect. The ones who came to dominate were treated as honoured enemies. However, when the enemies penetrate inside their territory, they were treated as the competitors and then they experience cruelty, deceit, greed and envy from their Pakhtun host.

*Melmastya* also included protection of the guest within the limits of the house and territory. The host would provide *badragah* or escort to his guest. It was not only done in the case of threat and for the safety of the guest but it was also a gesture of showing honour to the guest (Sultan-I-Rome, December 2006).

#### **2.4.2. Panah (Sanctuary)**

Another important feature of Pakhtunwali was *Panah* or sanctuary. When someone asks for the sanctuary or asylum it was considered his right and an obligation of that person from whom it was sought from (Sultan-I-Rome, December 2006). The host had to protect that person until the asylum seeker remained under the *panah* of that person. In Pakhtunwali, the request for sanctuary could not be denied even to the enemy when he requested it under *Nanawatai* (Caroe, 1958, p. 153).

#### **2.4.3. Nang (Dignity, Honour and Shame)**

The concept of *nang* (dignity, honour and shame) held an important position in Pakhtunwali. It involved the concept of courage and valour. If the rules and customs related to *nang* were violated then it was required to restore honour even at the cost

of one's life (Afsar, Samples, & Wood, 2008) to be specific, the life of the violator. The concept of dignity, honour and shame was usually confined to the acts of women whereas courage and valour were related to the man from the women side who took action against the violation. The action usually involved the killing of woman and man who had breached the concept of nang. The concept of nang had three major aspects: Namus, Tura and Aql.

In the broader sense, the concept of namus (privacy and protection) referred Pakhtun women and in the narrower sense, it denoted the integrity, modesty and respect of the women. The namus had to be protected by the men and its infringement was fatal for the violator. In this case, the fear of gossip supersedes the actual violation (Glatzer, 1998). Therefore, women were kept hidden from the outside world and if they resided in cities, they were compelled to wear the full veil.

The literal meaning of the word turá was sword but it was used in the meaning of courage. Since the concept of courage and valour was associated with men, therefore their ideal personality was the one which is dominated by turá. He was supposed to use his weapon at provocation. Aggressiveness should be more of a reflex than focusing on reasoning (Glatzer, 1998). Male children were taught about turá at an early age. It was the job of the father or any elder male to teach them. The second aspect of turá was aql (wisdom or reasoning).

As courage belonged to the young man aql or wisdom was applied by the elders based on the aspects of Pakhtunwali. Glatzer (1998) explained that the man of aql employed reasoning and acted in an integrative social way. He possessed characteristics of true Pakhtun for instance hospitality, generosity, conflict mediation, granting asylum, and balancing of social judgments. The concept of tura and aql was knowing when to draw a sword and when to put it back. The young ones were educated to obey elders. However, the obedience was only shown to the elders if they represented reason and tradition of collective will and accepted values (Glatzer, 1998).

#### **2.4.4. Tor (Sexual Misconduct)**

The literal meaning of tor was black. However, in the context of Pakhtunwali, it was used in the meaning of sexual misconduct, adultery and illicit relations (Sultan-I-Rome, December 2006). Mahdi (1986) explained that in Pukhtun culture, female honour was considered a sensitive topic and indulging in an illicit sexual relationship was the worst crime to be committed. When such a relationship was discovered then the couple got killed by the family of the female. Tor also involved elopement (Sultan-I-Rome, December 2006), and at times even with the remarriage of a woman after getting a legal divorce (Ahmed, 1980). The consequent murder could be avoided by using swara (detailed discussion is available on the subsequent relevant section).

Mahdi (1986) added that in the case of tor the killing did not provoke badal (revenge). The provision of getting exemption from the revenge of murder was called toi. Besides tor, the exemption from revenge was also granted if a person got killed due to his involvement in other criminal activities like dacoity, burglary, or theft. If it was unclear that the killing was under toi or not then a Jirga would be arranged to evaluate and decide (Sultan-I-Rome, December 2006).

#### **2.4.5. Badal (Revenge or Assistance)**

The term Badal was mainly used as "revenge killing" (Mahdi, 1986) although the other meaning of Badal was assisting others with their work or to return the favour, work or act. It was considered a cornerstone (Mahdi, 1986) and an important obligation (Sultan-I-Rome, December 2006) of Pakhtunwali.

In terms of punishment Badal was taken to avenge death, honour (Mahdi, 1986), beating or injury (Sultan-I-Rome, December 2006). The revenge was either taken immediately or after generations, if the family of the victim was at the weaker position during the infraction (Afsar, Samples, & Wood, 2008). Badal acted as deterrence because it was not deflected by economic and social status or the time limit (Mahdi, 1986). The famous saying among Pakhtuns highlight this, 'Pukhtun cheh sal kaalah pas badal wakhli no hum taadi kawi', meaning that even if Pukhtun takes revenge after hundred years it would be still too early

(Sultan-I-Rome, December 2006). Revenge always remained fresh. However, the revenge was not restricted to the perpetrator of an atrocity, it was also extended to the family, kinship group (Mahdi, 1986) and sometimes even to the whole tribe of the perpetrator. In the absence of writ of the government, law enforcement agencies and courts, the scope and seriousness of revenge provided a foundation to ensure peace and respect of human life (Sultan-I-Rome, December 2006).

Badal, in terms of avenging, had two alternatives that can exempt the culprit from revenge: Swara and Nanawatay. The term Swara was derived from a Pushto word 'Swara' referring to a female riding on a horse or camel or a carriage. This was linked to the tradition of using palanquin when the bride was carried on a horse or camel. However, as a custom, it referred to the dispute resolution compromise where the female(s) was married off to someone from the aggrieved party to settle a conflict or to avoid death (Usafzai, 2004). It was applicable only when the aggrieved party agreed to settle the issue (Sultan-I-Rome, December 2006). The range of the crimes compensated through Swara included murder, adultery, abduction and kidnapping. The decisions were made by the jirga, consisting of only male members, and females were forced to comply with its decision. It did not involve the consent of the female (Usafzai, 2004) and sometimes male members also (Sultan-I-Rome, December 2006). Usafzai (2004) explained that if the girl was mature then she was handed over to the aggrieved party and if she was young then she was kept with her parents till she got mature. The delay in marriage was sometimes used as a tactic to disgrace the perpetrator's family.

The second alternative to badal was nanawatay or nanawatai. "Nanawatai [was] a verbal noun carrying the meaning of 'coming in'" (Caroe, 1958, p. 351). It was applied to the act of taking refuge (Mahdi, 1986). However, it is taken as a surrender rather than a sanctuary (Spain, 1963). The surrender in Pukhtun culture was considered as an insult and the surrenderer lose his respect in the society, as a result, this submission or surrender was very rare (Mahdi, 1986). In Nanawatai, when the guilty party or the culprit wanted to end the conflict and bloodshed before badal



was taken, they go to the affected party admit their guilt, conveyed their repentance and ask for pardon (Sultan-I-Rome, December 2006). In this tradition, the person needing the favour (perpetrator or member of his family) goes to the house or tent of decision-maker from the aggrieved party and refused to sit on his carpet or share his hospitality till the favour was granted. Since the inhospitable person was considered contemptuous and devoid of Phakhtuwali, refusing the favour to the person who surrenders damaged the reputation of refuser. When the affected party agreed to give up badal, a Jirga was held to implement nanawatay (Caroe, 1958, p. 351).

#### **2.4.6. Paighor (Taunt)**

Paighor was an insult or taunt to show overt, verbal disapproval. This expression was used when a man was perceived to have failed in proving his courage or failed an obligation of honour (Mahdi, 1986). As a form of ostracism, it forced the person to conform to the ethics of Pakhtunwali. It could come from one's won relatives or friends (Yousufzai & Gohar, 2005). It was taken more seriously if it was related to a woman's honour or misconduct.

#### **2.4.7. Tarbourwali (Cousinhood/ Cousin Enmity)**

The word tarbour meant cousin and also the enemy and tarbourwali was used for both cousinhood and cousin enmity. There was a dependence of cousins to protect each other and to take revenge in case of loss or dishonour. However, they also considered each other enemies due to their rivalry for family power and due to their equal status (Sultan-I-Rome, December 2006). Yousafzai and Gohar (2005) explicated that the main reason for the enmity was the distribution of property among the heirs of real brothers. It could transform into a kind of enmity that would be forwarded to the next generations but it was also quickly forgotten in case of an external threat.

#### **2.4.8. Jirga (Council of Tribal Elders)**

Jirga (also spelled as Jargah, Jirgah and Jarga) was a council of tribal elders in a form of a consultative assembly which discussed issues of common interest and gave verdicts. It was a

roundtable conference, to avoid any dominant position (Glatzer, 2002), with a mediator. The role of the mediator was to encourage and applaud all the views however he aimed to reach a compromise (Sultan-I-Rome, December 2006).

The jirga assembled when disputing parties showed their desire to end hostilities. Any individual (generally a malik or an elder) or a group could call for jirga. Its success depended on the agreement of the parties to arbitration (Mahdi, 1986). The judgements were made through consensus and unanimous approval after the deliberation. After the consent of involved parties, Jirga could either arrange a truce or cessation of aggression (Sultan-I-Rome, December 2006) and thought. The deliberations and discussions lasted until a consensus was reached or when it became evident that a consensus was not possible at that time. The decision of the jirga was considered binding for all the participants (Glatzer, 2002).

The nature of the problem identified the Jirga attendees. Mainly these included elders or representatives of the families, notable and influential religious figures or their family members, and other persons who hold some sort of influence in the tribe. All the attendants could express their opinions without any restriction or hindrance (Sultan-I-Rome, December 2006). Involvement and agreement of all the affected parties in the process made jirga effective (Mahsud, 2004). Jirga provided an opportunity for settling disputes and communal matters in line with Pakhtunwali (Sultan-I-Rome, December 2006). In case the decision of jirga was related to Pakistan's interests than the government representative also intervened in the process (Country Research Section, 2006).

There were four types of Jirgas (Yousufzai & Gohar, 2005). The first type of jirga was the Sarkari (Governmental) Jirga. Before the merger of tribal areas in KPK province, this jirga was formed under FCR where two or more members were nominated by the concerned government official, usually a political agent. By involving the concerned parties, evidence was analysed and a decision was recommended after the approval of the government authority. The maximum punishment recommended by this Jirga was up to fourteen years of imprisonment. The approval and

enforcement of the recommendation were done by the political agent.

The second type of jirga, Ulusi or Qaumi (Local-Representative) jirga, was an assembly of the community elders. The jurisdiction of this jirga extended to any issue which involved national or community interest. It involved local matters like collective property, disputes over rights and distribution of irrigation water, or the selection of a site for a school. The announcement of the Jirga was done through the band beat after the initial consultation by a few elderly leaders. It was a kind of open discussion forum that allowed everyone to express their opinion. In case private consideration was needed then more than one session was arranged to make a decision.

The third type of jirga was organized when there was a dispute between two individuals or families. It was called shakhsi or the third-party jirga. The members of the jirga were neutral and were selected with the consent of involved parties. The settlement was done in a balanced and neutral way to provide an acceptable settlement to both sides.

The fourth type was Loya Jirga. It was the grand assembly that involved representatives of various areas. They got together, discussed and reached a consensus on issues of national level. In the deliberation process, when a formal settlement was not achieved, a truce was arranged by the jirga to address a feud (Sultan-I-Rome, December 2006). This truce is referred to as tigha or stone that was placed for a stipulated period. It was a temporary truce that could be extended or renewed indefinitely with the help of jirga. Mahdi (1986) described that during the tigha period parties refrained from hostilities. The violation of this truce could lead to the imposition of fines or other some other penalty.

The penalty imposed against the violation of the jirga's verdict was called kanrhai (Mahsud, 2004). The violator was termed 'Kabarjan', or the arrogant one. The person labelled as kabarjan could be killed by his opponents without any impunity (Country Research Section, 2006, p. 17). Another penalty was to burn the house of the violator. Since most of the Pakhtun were very poor,

therefore, fine or burning of the house was a severe punishment. It was difficult to raise money or rebuild a house and without a house, they become vulnerable and precarious. Moreover, the difficult terrain and distances made it difficult to sustain life if they were unable to move, or not entitled to safe-conduct under *melmastya*. This was the only instance where *melmastya* can also be violated (Mahdi, 1986).

#### **2.4.9. Lashkar (Local Army)**

The decisions of the *jirga* were imposed with the help of local tribal army known as the *Lashkar*. In Northern Dialect of Pashtu (Afridi, 2004), it was also called “*Lakh'kar*”. The *lashkar* was composed of men from various segments of the tribes who disband after their task completion (Mahdi, 1986). Unless there was a legitimate excuse of nonparticipation, the participation in *lashkar* was obligatory. However, the *lashkar* had to comply the tribal norms and traditions and could not exceed its limits (Afridi, 2004).

#### **Concluding Remarks**

The tribal areas showed strong resistance against invasions and compelled the invaders either to use these areas only as a passage or to let them operate with little supervision. These areas were not developed in a political, economic and administrative sense. However, the lives of the tribesmen were guided by *Pakhtunwali* or *Pakhtun* code of conduct. The concept of hospitality, honour and courage were the main features of the *Pakhtun* system. The conflicts, disputes and other important issues were resolved through *Jirga* system. The verdict of the *Jirga* was obtained after consensus and it was considered final. The failure to comply with the *Jirga*'s decision resulted in the implementation of fine, exile or burning of houses that was imposed with the help of *Lashkar* (local army).

The tribal cultural code or *Pakhtunwali* contributed to the social cohesion of the tribe amid all the crisis and outside intrusions. The enclaved tribal community kept these traditions alive for

centuries with strong resistance and retaliation. Throughout history, they kept their autonomy in some form or the other without changing the norms and traditions that define their lifestyle and practices. The traditions were transferred from one generation to another as an intangible cultural heritage. However, in the past two decades, these areas saw the kind of armed conflict which shake the tribal system from within.

The conflict affected the local administrative and cultural set-up and has left many people displaced. The foreign militants who took refuge in the tribal areas were accommodated because of local hospitality. Yet they turned back on them and just in two years, from 2004-2006, more than 200 tribal elders were killed in the tribal areas by foreign militants (Khan I. , 2007). The absence of strong leadership and widening trust gap between local tribes and the state the situation aggravated at a fast-paced. However, after 2016 the situation started to get better. Additionally, the merger tribal areas with the adjacent province in 2018 paved way to development and rehabilitation process for these areas. Nonetheless, there is still a lot of contention from different sides as to how the development process should move ahead.

In the current developments, it is important to see as to how the disruptive armed conflict eroded the tribal system and where the currently ongoing “normalization” process would lead. From a research point of view, the documentation of the intangible cultural heritage with its manifest and latent values would provide a space to deliberate cultural preservation of these areas by engaging and empowering local tribes. The development, rehabilitation, restoration and “normalization” process should focus on restoration of the positive values that provide the basis for a networked community.

## References

1. Afridi, O. (2004). Easy to Win a War, Hard to Win in a Jirga. Retrieved February 10, 2009, from Khyber.ORG: <http://www.khyber.org/articles/2004/EasytoWinaWarHardtoWininaJirga.shtml>
2. Afsar, S., Samples, C., & Wood, T. (2008). The Taliban: An Organizational Analysis. *Military Review*, 58-73.
3. Ahmad, N. (2008). The Laws and Justice System in FATA with Recommendations for Reforms. Thesis for the Degree of LL.M. Lahore, Punjab, Pakistan: University of South Asia.
4. Ahmed, A. S. (1978). An aspect of the colonial encounter in the North-West Frontier Province. *Asian Affairs*, 9(3), 319 - 327.
5. Ahmed, A. S. (1980). *Pukhtun Economy and Society*. London: Routledge & Kegan Paul.
6. Ali, S. S. (1999). The Rights of Ethnic Minorities in Pakistan: A Legal Analysis. *International Journal on Minority and Group Rights*, 6, 169-195.
7. Caroe, O. (1958). *The Pathans: 550 B.C.-A.D. 1957*. New York: St Martin's Press.
8. Cloughley, B. (2008, January 24). Insurrection in Pakistan's Tribal Areas. Brief Number 29. Pakistan Security Research Unit (PSRU).
9. Community Appraisal & Motivation Programme. (2010). FATA Introduction. Retrieved October 1, 2010, from Understanding FATA: <http://www.understandingfata.org/about-u-fata.php>
10. Country Research Section. (2006). RRT Research Response. Refugee Review Tribunal (RRT).
11. FATA Secretariat. (2004). Land Use Indicators. Retrieved October 1, 2010, from Federally Administered Tribal Areas: [http://fata.gov.pk/index.php?option=com\\_content&view=article&id=52&Itemid=86](http://fata.gov.pk/index.php?option=com_content&view=article&id=52&Itemid=86)
12. FATA Secretariat. (Unknown). Economy and Livelihood. Retrieved October 12, 2010, from Federally Administered Tribal Areas: [http://fata.gov.pk/index.php?option=com\\_content&view=article&id=54&Itemid=90](http://fata.gov.pk/index.php?option=com_content&view=article&id=54&Itemid=90)
13. Ghauri, I. (2006, July 27). Adult Franchise System in FATA Put Clerics in Parliament: ISPR DG. Lahore: Daily Times.
14. Glatzer, B. (1998). Being Pashtun - Being Muslim: Concepts of Person & War in Afghanistan. In B. Glatzer (Ed.), *Essays on South Asian Society: Culture and Politics II* (pp. 83-94). Berlin: Zentrum Moderner Orient.
15. Glatzer, B. (2002). The Pashtun Tribal System. In G. Pfeffer, & D. K. Behera (Eds.), *Concept of Tribal Society (Contemporary Society: Tribal Studies)* (Vol. 5, pp. 265-282). New Delhi: Concept Publishers.
16. Harrison, S. S. (2008, April 2). 'Pashtunistan': The Challenge to Pakistan and Afghanistan. Retrieved March 2011, from Fundación Real Instituto Elcano:

- [http://www.realinstitutoelcano.org/wps/portal/rielcano\\_eng/Content?WCM\\_GLOBAL\\_CONTEXT=/elcano/elcano\\_in/zonas\\_in/ari37-2008](http://www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari37-2008)
17. Howard, M. (1962). The Use and Abuse of Military History. *Journal of the Royal United Services Institute for Defence*(107), 4-8.
  18. Hussain, R. M. (2007). Federally Administered Tribal Areas (FATA): A Modern-day Anachronism? *Journal of Political Studies*, 51-75.
  19. Khan, A. (2003, February). Pakhtun Ethnic Nationalism - From Separation to Integration. Retrieved October 2010, from Khyber.ORG: <http://www.khyber.org/publications/001-005/pakhtunethniconationalism.shtml>
  20. Khan, I. (2007, March 17). 14 paramilitary troops among 38 killed in Wana: Militants seek exchange of captives. *Dawn*.
  21. Khan, I. (2007, September 5). Pashtuns in the Crossfire: Pashtun Politics in the Shadow of 'War against Terrorism'. Brief Number 19. Pakistan Security Research Unit (PSRU).
  22. Khan, I. (2007, April 5). The Game is Up for Uzbeks. *Dawn*, pp. 1, 3.
  23. Khan, I. (2008). *Challenges Facing Development in Pakistan's FATA*. Seattle, Washington: The National Bureau of Asian Research.
  24. Khan, K. S., & Syed, M. A. (2008, May 24). Conflict Transformation and Development in Pakistan's North Western Territories. Brief Number 33. Pakistan Security Research Unit (PSRU).
  25. Khyber.ORG. (2003). Sources of Income for the NWFP Pashtoons. Retrieved February 12, 2009, from Khyber.ORG: <http://www.khyber.org/articles/2003/SourcesofIncomefortheNWFPPasht.shtml>
  26. Lindholm, C. (1980). Images of the Pathan: the usefulness of colonial ethnography. *European Journal of Sociology*, 21(2), 350-361.
  27. Mahdi, N. Q. (1986). Pukhtunwali: Ostracism and Honor Among the Pathan Hill Tribes. *Ethology and Sociobiology*, 295-304.
  28. Mahsud, S.-e.-M. (2004). Jirga & Restorative Justice. Retrieved February 12, 2009, from Khyber.ORG: <http://www.khyber.org/articles/2004/JirgaRestorativeJustice.shtml>
  29. National Reconstruction Bureau. (1974). The Constitution of the Islamic Republic of Pakistan : PART XII :Chapter 3. Tribal Areas. Retrieved March 10, 2011, from National Reconstruction Bureau: Government of Pakistan: [http://www.nrb.gov.pk/constitutional\\_and\\_legal/constitution\\_1/part12.ch3.html](http://www.nrb.gov.pk/constitutional_and_legal/constitution_1/part12.ch3.html)
  30. Nawaz, S. (2009). *FATA—A Most Dangerous Place: Meeting the Challenge of Militancy and Terror in the Federally Administered Tribal Areas of Pakistan*. Washington, D.C.: Center for Strategic and International Studies (CSIS).

31. Nella, S. (July 2008). Pakistan's Tribal Areas: Achilles Heel or Strategic Outpost? [www.argoriente.it](http://www.argoriente.it).
32. Pakistan Bureau of Statistics. (2017). Province Wise Provisional Results of Census-2017. Retrieved March 1, 2011, from Pakistan Bureau of Statistics (PBS): [http://www.pbs.gov.pk/sites/default/files/PAKISTAN%20TEHSIL%20WISE%20FOR%20WEB%20CENSUS\\_2017.pdf](http://www.pbs.gov.pk/sites/default/files/PAKISTAN%20TEHSIL%20WISE%20FOR%20WEB%20CENSUS_2017.pdf)
33. Rakisits, C. (2008). Pakistan's Tribal Areas: A critical no man's land. Webster University Forum (pp. 1-10). Geneva: Geopolitical Assessment.
34. Rana, M. A. (2009). Taliban Insurgency in Pakistan: A Counterinsurgency Perspective. Pak Institute for Peace Studies.
35. Spain, J. W. (1963). The Pathan borderland. The Hague: Mouton.
36. Sultan-I-Rome. (December 2006). Pukhtu: The Pukhtun Code of Life. Pakistan Vision, 7(2).
37. Tanguay-Renaud, F. (2002). Post-Colonial Pluralism, Human Rights & the Administration of Criminal Justice in the Federally Administered Tribal Areas of Pakistan. Singapore Journal of International and Comparative Law, 541 – 596.
38. The National Assembly of Pakistan. (1973, April 10). The Constitution of the Islamic Republic of Pakistan. Islamabad, Pakistan: The National Assembly of Pakistan.
39. Usafzai, Z. A. (2004, February 20). Swara: The Price of Honour. Peshawar, Khyber Pakhtunkhwa: Daily Statesman.
40. Wazir, M. M. (2007). FATA Under FCR(): An Imperial Black Law. Central Asia(61), 173-198.
41. Yousufzai, H. M., & Gohar, A. (2005). Towards Understanding Pukhtoon Jirga. Peshawar: Just Peace International.