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Governance and Militancy in Pakistan's Khyber Agency¹

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Introduction and Background

In mid-October 2011, thousands of families were fleeing Khyber, one of the seven tribal agencies in Pakistan's Federally Administered Tribal Areas (FATA), to refugee camps or relatives living outside of FATA. Their flight was in response to the announcement by the Pakistani military that it was undertaking a fresh round of operations against militant groups operating in the area. Militants have been active in Khyber (and FATA more generally) for several years. Some have used the area as a safe haven, resting between their own military operations in Afghanistan or other parts of Pakistan. Others have competed locally for influence by providing justice or security services, by decrying the ruling elite's failure to provide these and other services to the local population, or by using force against those people the militants consider threatening or un-Islamic. The Pakistani military's actions against militants in Khyber have already driven most of these nonstate groups out of the more populated areas and into Khyber's remote Tirah Valley. But beyond that, the government of Pakistan has failed to implement most of the legal and political changes required to reform Khyber's dysfunctional governance system to meet the needs of its residents.

Khyber Agency is home to some half-million people, all of whom are ethnic Pashtuns from four major tribal groupings: Afridi, Shinwari, Mullagori, and Shalmani. It is also home to the historic Khyber Pass (to Afghanistan's Nangarhar Province). Khyber Agency covers an area of 2,576 square kilometers, with Mohmand Agency to the north, the district of Peshawar to the east, Orakzai Agency to the south, and Kurram Agency to the west. Khyber is an area of vital strategic importance because it is a critical trading route between Central and South Asia and has served historically as a corridor for invading armies, including those of Alexander the Great and Mahmud Ghaznavi. For the British, it was a "strategic possession without equal...the historic gateway to their valuable Indian empire," and later a buffer to an expansionist czarist Russia.² Today, it is an important hub of insurgency in both Afghanistan and Pakistan.

After the partition of the Indian subcontinent in 1947, Khyber tribesmen acceded to Pakistan by signing treaties making the agency part of Pakistan's tribal belt. In the ensuing period, the agency remained relatively quiet, and residents mostly relied on subsistence agriculture and pastoralism to earn a living. In 1965 Afghanistan and Pakistan signed the Afghan Transit Trade Agreement (ATTA), which allowed Afghanistan, a land-locked country, to import goods through Pakistani ports and trade routes without the imposition of duties or taxes. In the meantime, Khyber was becoming a hub for illicit trade activity. As goods heading for Afghanistan made their way through the Torkham border in Khyber, some were smuggled back into Pakistan and sold in Khyber's local markets. The local smuggling of goods, arms, and narcotics created an extensive illegal economy that cost the Pakistani government millions of dollars a year in tax revenues.

Khyber's strategic importance grew after the Soviet Union invaded Afghanistan in 1979 and the anti-Soviet resistance, the mujahideen, concentrated their activities in the northwestern areas of Pakistan. The Torkham border crossing was used to transport fighters, arms, and equipment to Afghanistan. Afghan refugees also flooded into Pakistan by the millions through this border.

¹ This background paper was prepared as part of research project on subnational governance and militancy in Pakistan. This research would not have been possible without the generous support of the Ploughshares Fund, the Henry Luce Foundation, and the Carnegie Corporation of New York. The views expressed in this background are those of the author alone.

² Paddy Docherty, *The Khyber Pass: A History of Empire and Invasion* (New York: Union Square Press, 2008); see also Imtiaz Ali, "Khyber: A New Hub of Islamist Militancy," *Terrorism Monitor*, May 29, 2008, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=4952.

When U.S. forces ousted the Taliban regime from Afghanistan in October 2001, it is believed that many members of al Qaeda and the Afghan Taliban fled to Khyber Agency's Tirah Valley, which is located across from the Tora Bora caves in Afghanistan. Since the attacks against the United States on September 11, 2001, the Khyber Pass has been a conduit for U.S. and North Atlantic Treaty Organization (NATO) supplies headed to Afghanistan. Because of its importance, various militant groups have competed for influence and access to the Khyber Agency in recent years. Convoys carrying food, fuel, and equipment have routinely come under attack by a variety of militant and criminal networks active in the agency. Currently, 140 supply trucks roll through the Khyber Pass daily at the Torkham border crossing. According to various estimates, almost 40 percent of the fuel for International Security Assistance Force (ISAF) vehicles passes through Pakistan on its way to Afghanistan.³

Informal Governance

Governance in Khyber is dominated by a range of informal actors and practices that include tribal structures, traders and smugglers, religion-oriented political parties, and local religious leaders known as *mullahs* or *maulvis*. Some of these actors provide critical services such as justice and health care that normally might be provided by formal governments.

Tribal Structures

Of Khyber's four main tribal groupings, the Afridi tribe is the largest and most influential; it makes up 80 percent of Khyber's population. The Shinwaris are the second largest tribe in the area, but almost 80 percent of Shinwaris live across the border in the volatile province of Nangarhar, Afghanistan (which facilitates cross-border trade, both legitimate and illicit). A small number of Orakzai tribesmen also live in the agency.

The Afridis are subdivided into eight *khels* or subtribes: Adamkhel, Akakhel, Kamarkhel, Qamberkhel, Malik Dinkhel, Kukikhel, Zakakhel, and Sepah. Within the Afridi subtribes, there is no tribal unity in their affiliation with various militant groups. The Zakakhels and Adamkhels are committed anti-Taliban subtribes. Some members of other subtribes have joined Lashkar-e-Islam and other militant groups in the area.⁴ Mangal Bagh, the leader of Lashkar-e-Islam, actually belongs to the Sepah subtribe, which is the least influential of all the Afridi subtribes.

Traders and Smugglers

Although many Khyber tribesmen own legitimate transportation, spare parts, and other businesses, a few are engaged in drug trafficking and smuggling. Over the years, they have made millions of dollars, and so have increased their social and political influence in the area.⁵ The network of smugglers in Khyber has also been a source of employment for the local youth. They serve as petty carriers of the smuggled goods sold in the Karkhano/Hayatabad market in the outskirts of the city of Peshawar, which borders Khyber Agency.⁶

Pirs of Landikotal

Religious and spiritual leaders have historically enjoyed significant legitimacy among those people living in Pakistan's tribal belt, who are known to be generally inclusive in their religious outlook. Most belong to the Barelvi school of Islamic theology. In Khyber's subdistrict of Landikotal, the hereditary religious leaders known as *pirs* have a large following among the local population, especially the Shinwaris. Pir Noor-ul-Haq Qadri, for example, was elected to the National Assembly by voters who consisted largely of his followers in Landikotal (he later became the federal minister for Zakat and Ushr). In addition to spiritual edification, pirs provide services to their followers such as resolving disputes or addressing health problems using amulets and religious invocations.⁷

³ Raheel Khan, "The Battle for Pakistan: Khyber," New America Foundation, April 19, 2010; Imtiaz Gul, *The Most Dangerous Place: Pakistan's Lawless Frontier* (New York: Viking, 2009), 74; "Afghanistan: Northern Distribution Network Delivers," *EurasiaNet.org*, March 17, 2009, <http://www.eurasianet.org/departments/news/articles/eav031809d.shtml>.

⁴ Author telephone interview with Asad Afridi, lawyer and academic from Khyber Agency, December 6, 2010.

⁵ One example is Haji Ayub Afridi, who contested and won the 1990 elections and represented the tribal belt in Pakistan's National Assembly.

⁶ Author interview with Aamer Abdullah, independent consultant and FATA expert based in Peshawar, November 20, 2010; Syed Saleem Shahzad, "US Turns to Drug Baron to Rally Support," *Asia Times Online*, December 4, 2001, <http://www.atimes.com/ind-pak/CL04Df01.html>.

⁷ Aamer Abdullah, interview, November 20, 2010.

Religious Political Parties

Under Pakistan's 1973 constitution, political parties are not permitted to have a formal presence in FATA. But some Deobandi religious parties,⁸ including Jamiat Ulema-e-Islam (JUI) and Jaamat-e-Islami (JI), established *madrassas* (religious schools) and mosques in Khyber and other agencies, thereby giving themselves political influence in the area. Their preferred candidate in Khyber, Maulana Khalilur-Rahman, was elected to the National Assembly from the Bara subdistrict in 2002. Because of the constitutional limits placed on political party participation in the tribal belt, Rahman contested as an independent, even though he was a member of the JUI. Over the last decade, however, the JUI's influence in the tribal belt has waned with the emergence of a younger generation of more militant, well-armed men.⁹

Local Mullahs

Traditionally, the mullahs or maulvis had little influence among tribal communities beyond a limited role in facilitating religious rituals such as burials, births, and marriages. Although they were respected locally, their survival generally depended on the stipends they received from influential elders (*maliks*) in the community. The mullahs and elders reinforced each other's influence within the traditional tribal culture. However, the reliance of local clergymen on tribal elders changed dramatically with the Soviet invasion of Afghanistan in the late 1970s. Pakistan's intelligence agencies, relying on U.S. and Saudi funding, established *madrassas* to prepare students to fight the Soviets, and the local clergymen proved useful in mobilizing these students. The hike in funding caused a shift in their stature within the tribal culture and freed the mullahs from their reliance on the maliks.¹⁰ Some mullahs even emerged as significant power brokers in tribal affairs. For example, since 2007 Mullah Tamancha, a local prayer leader at the main mosque in Landikotal, Masjid-e-Quba, has been holding rallies and processions against obscenity, music, and the presence of women in public without a male relative.¹¹ A few mullahs created or became active in militant groups in the area.

Informal Justice

In traditional Pashtun society, *mashars* are respected community elders who govern the affairs of their respective tribes (*qaum*) and subtribes (*khels*) based on the unwritten tribal code known as Pashtunwali. When disputes arise between tribes or subtribes, tribal elders from the affected communities often work together to reach a truce between the antagonists, who are then given an opportunity to select representatives to a *qaumi jirga* (an ad hoc council for dispute resolution) and to decide whether shari'a (religious law) or *riwaj* (customary law) should govern the proceedings. Once the case is heard and the *qaumi jirga* reaches its verdict, the *jirga* is responsible for enforcing its decision. Traditionally, enforcement has sometimes required raising a temporary militia known as a *lashkar*.¹²

Qaumi jirgas have considerable legitimacy on the ground. In a recent FATA survey, 68 percent of respondents favored *qaumi jirgas* over *sarkari jirgas*, the official system for resolving disputes in FATA, even though the *qaumi jirgas* were seen as favoring the rich over the poor.¹³

Lashkars have been effective in enforcing *jirga* verdicts, and in recent years they have been raised to combat militants in the area as well, but with mixed results. In 2008, for example, at least four *lashkars* were raised by various Khyber tribesmen to confront the militant groups among them. The first to retaliate against the militants were the Mullagoris, a relatively less influential tribe that mobilized about 3,000 men. They focused on militants' hideouts in the village of Shagai and met with little resistance as the militants melted away. Encouraged by the Mullagoris, and with assurances of government support, the Zakakhels and a subtribe of the Adamkhels called the Kalakhels followed suit. Initially, these *lashkars* achieved some success primarily because they received additional arms and equipment from the

⁸ Deobandi is a movement of Sunni Islam.

⁹ Aamer Abdullah, interview, November 20, 2010.

¹⁰ Author interview with Brig. (ret.) Shaukat Qadir, former military official, Islamabad, September 13, 2010; Kimberly Marten, Thomas H. Johnson, and M. Chris Mason, "Misunderstanding Pakistan's Federally Administered Tribal Area?" *International Security* 33 (Winter 2008/09): 180–89.

¹¹ Gul, *Most Dangerous Place*.

¹² Author interview with Fakhr-e-Alam, director general, Directorate of Projects, FATA Secretariat, Peshawar, September 17, 2010.

¹³ Naveed Ahmad Shinwari, *Understanding FATA 2008*, Vol. 2, *Attitudes Towards Governance, Religion, and Society in Pakistan's Federally Administered Tribal Areas* (Islamabad: Community Appraisal and Motivation Programme, 2008), 64, <http://www.understandingfata.org/u-f-v-2/Understanding%20Fata%202008.pdf>.

political administration. However, when at times there was a lack of coordination with the political authorities, the lashkars proved incapable of thwarting the advance of militants in their areas. One example was the Shinwari lashkar raised in late 2008—it incurred many casualties while battling Lashkar-e-Islami fighters who were better armed.¹⁴

Health and Education

Khyber Agency is home to a large number of nongovernmental organizations (NGOs) that provide local communities with health and education services. They work through the FATA Secretariat’s directorates for health and education to set up schools, clinics, and immunization drives within the agency. However, some NGOs have come under direct attack by militant groups. Many people in Khyber address their health problems through informal channels when formal health facilities are unavailable or inaccessible. Faith healers, local religious figures, and doctors not recognized by the Pakistani medical and dental associations all provide basic health services, although at times they provide fake or substandard medicines.¹⁵

Formal Governance

Each tribal agency in FATA is divided into two broadly demarcated areas: protected areas (PAs), which the government partially controls through agreements with the local political agent (the official chief administrator) and tribal leaders, and tribal territories (TTs), in which the government has no jurisdiction and the tribes, led by maliks, exercise exclusive authority. However, the boundaries between these two areas are somewhat blurred. The government has attempted to reduce the size of the tribal territories by providing infrastructure and other facilities, but a large portion of the tribal belt, about 70 percent, remains completely outside of the government’s writ, including the Tirah Valley in Khyber Agency. The political administration in Khyber has tried to expand its control to include the Khajuri Plains, which could provide a way to expand its influence in the volatile Tirah Valley—militant groups flee to Tirah whenever the government launches military operations against them.¹⁶

At the turn of the nineteenth century, the British colonial powers found it increasingly difficult to protect their convoys from marauding tribesmen as their trading goods made their way through the Khyber Pass into present-day Afghanistan and Central Asia. At first they looked to the Adamkhel subtribe of the Afridis to protect their convoys in exchange for a fixed allowance. When the Adamkhels abandoned the agreement in pursuit of more profitable plundering, the British turned to the Orakzai tribe, and when that failed to the Bangash. Finally, when the colonial government identified the Kukikhel Afridis as the subtribe responsible for the attacks at the Khyber Pass, it imposed on them a system of collective responsibility for crimes against the British: entire communities would be held responsible for the crimes of any of their members.¹⁷

This approach evolved into the “Khyber System,” whereby the political agent of Khyber was given the authority and responsibility to “tame” the tribes through either special concessions and benefits or collective punishment. Although not always effective, this arrangement was codified in 1876 into the Frontier Crimes Regulation (FCR), which was revised in 1901, vesting even greater powers in the office of the political agent and providing an overarching framework whereby Khyber (and other tribal agencies) would be governed through a mix of formal bureaucratic institutions and informal tribal structures.¹⁸

When Pakistan attained independence in 1947, the national government signed instruments of accession with the various tribes in the tribal belt, and Khyber became part of Pakistan’s national territory. Under Article 247 of Pakistan’s constitution, the president of the country exercises authority over the tribal areas through the governor of the province of Khyber Pakhtunkhwa (KPK), formerly called the North West Frontier Province (NWFP). The governor in turn administers the agencies through federally appointed political agents. Section 6 of Article 247 gives the president the power to “direct that the whole or any part of a Tribal Area shall cease to be a Tribal Area,” subject

¹⁴ Rahimullah Yusufzai, “The Tribes Fight Back,” *Newsline*, October 15, 2008, <http://www.newslinemagazine.com/2008/10/the-tribes-fight-back>.

¹⁵ Civil Secretariat FATA, *FATA Sustainable Development Plan 2007–2015* (Peshawar: Civil Secretariat FATA, 2006), 40.

¹⁶ Author interview with Tariq Durrani, development consultant, Peshawar, September 18, 2010; author interview with Fakhir-e-Alam, FATA Secretariat official, Peshawar, September 19, 2010.

¹⁷ Robert Lane Sammon, “Mullas and Maliks: Understanding the Roots of Conflict in Pakistan’s Federally Administered Tribal Areas,” *Lauder Institute*, University of Pennsylvania, April 2008, 36.

¹⁸ *Ibid.*, 37.

to consultations with local tribes. In addition, although Pakistan's courts have no jurisdiction over FATA, the president can authorize the parliament to enact laws that would allow such jurisdiction.

Administratively, Khyber is divided into three subdistricts: Landikotal, Jamrud, and Bara. The political agent serves as the district or agency head, with headquarters in Peshawar. He is assisted by three assistant political agents stationed in each of the three subdistricts and other functionaries. The office of the political agent has long been a controversial governance structure because of its extreme concentration of political, judicial, and budgetary authority. Indeed, the perceptions of corruption associated with it are widespread. According to one government official, the Khyber political agent position is considered extremely lucrative because of the agent's alleged share of Khyber's illicit economy. Therefore, the job is usually auctioned and given to the highest bidder.¹⁹ In addition, some political agents in FATA are known to impose illegal taxes on consumer goods such as flour, sugar, and cooking oil, as well as on smuggled items.²⁰

The traditional Pashtun social structure was highly egalitarian, but the introduction of patronage systems under British rule changed it. The British paid maliks subsidies and gave them privileges, and in exchange demanded the loyalty of their tribes. The government of Pakistan continued this arrangement after Pakistan's independence from Britain in 1947. In exchange for their allegiance to the Pakistani state, maliks are paid subsidies and extended certain privileges at the discretion of the political agents. These can, however, be arbitrarily withdrawn if the malik or the tribe he represents is found to be on the wrong side of the government. Maliks are assisted in maintaining order on behalf of the government by "lungi holders"—mostly large families who are paid small government stipends in exchange for their willingness to monitor antigovernment activities in their areas. These payments are usually small in amount and symbolic. The real benefit to the recipients is the recognition such a position brings and therefore the elevation in status of the lungi holder in the eyes of other families.

Over the decades, these local tribal elites have controlled aid and its distribution, infrastructure development in their areas, and the employment in public works programs. For example, according to a FATA Secretariat official, maliks in Khyber and other agencies are known to use development funds to build schools around their own property and collect salaries for guards and teachers, even when the latter fail to show up for work. As of 2010, Khyber was home to 32 maliks and almost 4,000 lungi holders. Over the last several years, however, militant groups have targeted and killed four maliks in Khyber and more than 300 maliks across the tribal belt.²¹

In 1996 the adult franchise was extended to the tribal belt, and FATA now occupies in the Pakistani parliament 12 National Assembly and eight Senate seats. Until recently, however, candidates for these seats were not allowed political party affiliations. Under Article 247 (3) of the constitution, Pakistan's legislative assemblies have no jurisdiction over FATA unless so directed by the governor of KPK with the prior approval of the president of Pakistan. Thus although FATA legislators can legislate on issues related to the rest of Pakistan, they have no authority to legislate on matters related to FATA. FATA parliamentarians are, however, given development funds from the federal Annual Development Program to spend in their constituencies. Khyber has two National Assembly members and one senator. In the national elections of 2008, militant leader Mangal Bagh prohibited most candidates in Khyber from campaigning openly, although some in Khyber claim he favored a particular candidate from Bara, who won the election and became federal minister for the environment.²²

In 2003 the administration of President Pervez Musharraf set up the FATA Secretariat and placed all the line departments under its control to ensure efficient service delivery. Critics maintained that a separate secretariat for FATA increased its "separate but unequal" status and was a step in the wrong direction—they argued in favor of integrating FATA into KPK Province instead. In addition, because the FATA Secretariat was staffed with officials seconded from KPK's bureaucracy, critics feared that KPK's chief administrator would seldom send his best employees to do the job.²³

¹⁹ Author interview with anonymous Pakistani official, September 18, 2010.

²⁰ Tariq Durrani, interview, October 19, 2010.

²¹ Author interview with Zubair Asghar Qureshi, FATA Secretariat official, Peshawar, September 18, 2010; author telephone interview with Asad Afridi, Khyber lawyer based in Peshawar, December 6, 2010.

²² Asad Afridi, interview, December 6, 2010; International Crisis Group, "Pakistan: Countering Militancy in FATA," *Crisis Group Asia Report*, October 21, 2009.

²³ International Crisis Group, "Pakistan: Countering Militancy in FATA."

In 2005 the Pakistani government under Musharraf instituted a local governance program in all seven agencies of the tribal belt. Councils were set up in each agency at the subdistrict level. In Khyber, the agency councils were set up in Jamrud, Bara, and Landikotal. The agency councils were supposed to monitor development activities in their respective subdistricts and report back to the political agent. However, according to one FATA expert, neither the maliks nor the political agent liked the council system because it impinged on their authority. Another observer noted that the political agent would tend to dominate council proceedings and sabotage any efforts to critically evaluate development projects in the subdistricts. In addition, the councilors had no formal training for evaluating projects and were not given the proper facilities to run their affairs. Some local FATA officials maintained that the agency councils were a step in the right direction, and that over time, with proper training and facilities, they would have allowed the local population in Khyber to hold their elected officials more accountable. However, the system ended when the KPK governor, who had been the impetus behind the local governance program, left office.²⁴

Formal Justice and the Security Sector

Even though under the constitution the president of Pakistan enjoys supreme jurisdiction over the tribal belt, the Pakistani military currently has control over most FATA-related decisions. Since it first entered FATA in 2004, the military's policy has oscillated between military operations and negotiations, generally without consulting political stakeholders in the region. The military's relationship with militants in FATA is complicated by the fact that some of the active militant groups, especially the Haqqani network and Hizb-e-Islami, have long enjoyed the quiet support of the military.

Law enforcement in Khyber is the collective responsibility of the Frontier Corps (FC), a paramilitary force headed by the army, and the tribal police, who are under the authority of the political agent. The tribal police are made up of *levies*, who are armed by the government, and *khassadars*, who are responsible for collecting their own arms and munitions.²⁵ Challenges to the effectiveness of the police include inadequate arms and training, intimidation by militants, in some cases ideological sympathy with certain militant groups, and meager salaries, especially of the *khassadars*.²⁶

In May 2010, President Asif Ali Zardari issued a Federal Levies Forces Regulation, which called for the immediate development of a security force for FATA that would ensure the protection of infrastructure and government installations in all seven agencies. Although the idea is to have a modern professional force with formal salaries and pensions, the challenge will be to make sure that its members do not succumb to corruption and intimidation.

In the protected areas of Khyber, the official sarkari jirga justice system is headed by the political agent, who selects its members. The appeals process is handled by a special tribunal made up of bureaucrats rather than members of the judiciary. The process has long been considered biased and cumbersome, with 73 percent of FATA residents having an unfavorable impression of the judicial process defined in the FCR.²⁷

In 2005 the KPK governor formed a committee to review the FCR, but the group's recommendations were not implemented. In 2008 a cabinet-level committee was formed by Prime Minister Yousuf Raza Gilani to review those recommendations and propose amendments to the FCR. In August 2009, President Zardari formally introduced the proposed changes. Among them was a recommendation that a three-member appellate tribunal, including a district judge, be set up to review the decisions of the political agent, who would nevertheless continue to have some judicial powers. (Critics maintain that the fusion of executive and judicial authority in the office of the political agent violates Article 175 of the constitution, which mandates separation of the two entities.) Other recommendations of the committee included requiring that suspects who are arrested be granted a hearing within 24 hours and amending the collective responsibility clause to prohibit the detention of women and of children under the age of 16. After two years of delays, the amendments were signed into law in August 2011, but by mid-October they had not yet been implemented, and most courts were reportedly operating under the former version of the FCR.²⁸

²⁴ Author telephone interview with Aamer Abdullah, independent consultant based in Peshawar, November 20, 2010; author telephone interview with Ibrahim Shinwari, head of the Tribal Union of Journalists based in Peshawar, October 28, 2010.

²⁵ International Crisis Group, "Pakistan: Countering Militancy in FATA."

²⁶ Gul, *Most Dangerous Place*.

²⁷ Shinwari, *Understanding FATA 2008*, Vol. 2.

²⁸ Waseem Ahmed Shah, "Misuse of FCR," *Dawn*, November 22, 2010, <http://www.dawn.com/2010/11/22/misuse-of-fcr-more-and-more-move-phc-for-relief-2.html>; "Fact File 1: Frontier Crimes Regulations Reforms," in *Dynamics of Taliban Insurgency in FATA*, ed.

In the summer of 2008, after growing attacks against NATO convoys passing through Khyber, the Pakistani army, under pressure from the United States, launched its first military operation in Khyber, Operation Daraghalam (Here I Come). Since then, it has launched a series of joint offensives with local paramilitary groups in Khyber against Mangal Bagh's group and TTP commanders but has failed to kill or capture any of the top militant commanders. Instead, in April and August 2010 its aerial bombing campaigns in the Tirah Valley killed almost a hundred innocent civilians in the Kukikhel tribe.²⁹ Drone strikes surged sharply in mid-December 2010; four were carried out on Tirah within a span of 24 hours and killed some 60 suspected militants.³⁰

Health and Education Services

FATA is the least-developed region in Pakistan, with more than 60 percent of the population living below the poverty line and an average annual per capita income of US\$250, which is almost half the national average.³¹ In Khyber, health and education indicators suggest great challenges, with literacy at 23 percent and immunization rates among children at 28 percent.³²

The FATA Secretariat's directorates for health and education work in partnership with international and local nongovernment organizations and other service providers to improve health and education services. For fiscal year 2010/11, the annual development budget of the federal government allocated approximately \$176 million to development projects across FATA, of which some \$16 million was earmarked for development initiatives in Khyber, or less than \$30 per person.³³

Meager resources, dilapidated infrastructure, and substandard health and education services all play a role in Khyber's low levels of human security, but the greatest challenge in accessing basic services is inadequate physical security. To date, militants have destroyed 86 schools in the agency. The tense security situation led the Pakistani military to partner with UNICEF and six health teams to administer polio vaccine at checkpoints across the agency after 22 cases of polio were detected among children in Khyber.³⁴

An additional challenge is elite capture and corruption. There have been numerous reports of maliks appropriating public health and education facilities for private use, or hiring members of their own families to staff those facilities. For example, in June 2010 the governor of KPK fired dozens of health officials and shut down 15 health centers in Khyber because maliks in the area were reportedly using the facilities as private guesthouses.³⁵

Many federal government and donor-sponsored drives are under way to improve the quality of services in Khyber through teacher training, resource centers, library equipment, school construction, parent-teacher associations, and improvements in neonatal care, among other initiatives. However, funds that go through the FATA Secretariat and the political agent for such projects are not subject to rigorous (or any) auditing, and widespread perceptions of corruption remain. In April 2010, the U.S. Government Accountability Office (GAO) attempted to evaluate the impact of U.S.-funded projects in FATA but found that, in the absence of proper evaluation mechanisms put in place by the U.S. Agency for International Development (USAID), "the U.S. government cannot fully and accurately assess

Muhammad Amir Rana, Safdar Sial, and Abdul Basit (Islamabad: Pak Institute for Peace Studies, 2010), 227–30; Irfan Bukhari, "Amendments to FCR Awaiting Approval," *Pakistan Today*, January 31, 2011, <http://www.pakistantoday.com.pk/pakistan-news/National/31-Jan-2011/Amendments-to-FCR-awaiting-approval-for-2-years>; Waris Husain, "Short Steps, Long Road Ahead," *Dawn*, August 17, 2011, <http://www.dawn.com/2011/08/17/short-steps-long-road-ahead.html>; Arif Taj, "Pakistan Still Awaits Implementation of Amended FCR," *Pakistan Today*, October 25, 2011, <http://www.pakistantoday.com.pk/2011/10/fata-still-awaits-implementation-of-amended-fcr>.

²⁹ Daud Khattak, "Militants Thrive on Pakistan's Military Failures," AfPak Channel, *Foreign Policy*, September 21, 2010, http://afpak.foreignpolicy.com/posts/2010/09/21/militants_thrive_on_pakistans_military_failures.

³⁰ Ahmed Nabi, "60 Killed in Year's Deadliest Drone Hit," *The Nation*, December 19, 2010, <http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/Politics/19-Dec-2010/60-killed-in-years-deadliest-drone-hit>.

³¹ International Crisis Group, "Pakistan's Tribal Areas: Appeasing the Militants," *Crisis Group Asia Report*, December 11, 2006.

³² Tushar Ranjan Mohanty, "An Education in Terror," Washington Bangla Radio USA, October 18, 2010, <http://www.washingtonbanglaradio.com/content/101288410-commentary-education-terror>.

³³ "Rs.15bn FATA ADP Approved," *Dawn*, August 10, 2010, <http://www.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/peshawar/rs15bn-fata-adp-approved-080>.

³⁴ Humanitarian Information Portal, "Anti-Polio Vaccination Campaign Kicks Off in Khyber Agency Despite Security Fears," November 1, 2010, <http://www.hip.org.pk/component/interviews/?view=stories&layout=story&id=1438>.

³⁵ Said Nazir Afridi, "Over 500 FATA Health Directorate Employees Likely to Be Reinstated," *The News.com*, November 3, 2010, <http://thenews.com.pk/03-11-2010/peshawar/13541.htm>.

the status of current assistance efforts or accountability of funds associated with U.S. development efforts in the FATA.”³⁶

Militancy and Shadow Government in Khyber

The most urban of all the tribal agencies, Khyber was relatively stable prior to 2003. The first signs of organized militancy emerged when a Khyber tribesman, Haji Namdar, returned to his agency after having lived for some time in Saudi Arabia. Inspired by the Afghan Taliban, he set up an organization called the Promotion of Virtue and Prevention of Vice.³⁷ He also took it upon himself to reform his community based on his version of the Deobandi school of Islamic theology: he shut down music shops, forced men to grow beards, and began monitoring attendance at local mosques. Violators were thrown into private prisons that he named Abu Ghraib and Guantanamo, after the notorious U.S. military prisons.³⁸ Namdar also established an FM radio station to propagate his message and employed a vehemently anti-Shiite cleric, Mufti Munir Shakir, from the adjacent Kurram Agency to deliver sermons calling for the imposition of strict Islamic laws in the surrounding areas.³⁹ Mufti Munir Shakir then set up his own group, Lashkar-e-Islam (LI), also a Deobandi outfit.

Around the same time, Pir Saifur Rehman, an Afghan from the Barelvi Islamic sect who had settled in Khyber, established his own organization, Ansar-ul-Islam, as a way to counter the activities of the LI. The two groups engaged in violent exchanges that killed scores of innocent civilians as well as members of both groups. In early 2006, a group of senior Afridi tribesmen convened several jirgas and decided to expel both Rehman and Shakir from Khyber because neither one of them was a native of the agency. One of Rehman’s followers, Mehbub-al-Haq, took over as head of Ansar-ul-Islam, but he maintains a low profile. The vacuum left by the expulsion of Shakir was filled by Mangal Bagh, a local bus driver and follower of Shakir. After taking over the LI, Mangal Bagh began enforcing his own interpretation of Islamic principles with added fervor.⁴⁰

After its establishment in December 2007, the Tehreek-e-Taliban Pakistan (TTP), sometimes called the Pakistani Taliban, tried to make inroads into Khyber because of the agency’s strategic importance. Its leader, Baitullah Mehsud, repeatedly called on Mangal Bagh to join his organization. However, while sympathetic to the TTP’s ideology, Bagh resisted these efforts and chose to remain independent in order to maintain an exclusive sphere of influence in Khyber. In fact, none of the local militant groups opted to join the TTP. In 2008 Haji Namdar was assassinated by members of the TTP for allegedly blocking their access to supply routes in Khyber.⁴¹

The Pakistani military went after Taliban and LI hideouts in Khyber in 2008. Although TTP locations were effectively targeted, the operation against the LI appeared to many locals to have been half-hearted; there were accusations that the Pakistani military had warned Mangal Bagh of the imminent operation well in advance, which allowed him and his followers to escape to the Tirah Valley ahead of time. One expert claimed that the Pakistani military wanted to keep the LI operational to offset the growing influence of the TTP. Operations in 2009 and 2010, however, succeeded in driving all four militant groups into the Tirah Valley where their activities became greatly circumscribed.⁴²

In late 2010, there were reports that al Qaeda was making inroads into Khyber; it was said to have plans to use Tirah as a training ground to stage a comeback in Swat. According to one report, al Qaeda had earmarked over \$23 million

³⁶ U.S. Government Accountability Office, “Combating Terrorism: Planning and Documentation of U.S. Development Assistance in Pakistan Federally Administered Tribal Areas Need to be Improved,” April 2010, <http://www.gao.gov/products/GAO-10-289>.

³⁷ Author interview with Shafeerullah Wazir, Khyber’s political agent, Peshawar, September 17, 2010.

³⁸ Raheel Khan, “The Battle for Pakistan: Khyber,” New America Foundation, April 19, 2010.

³⁹ Author interview with Raheel Khan, journalist, Peshawar, November 22, 2010.

⁴⁰ Shafeerullah Wazir, interview, September 17, 2010; “Lashkar-e-Islami/Mangal Bagh,” *GlobalSecurity.org*, <http://www.globalsecurity.org/military/world/para/lei.htm>.

⁴¹ Raheel Khan, interview, November 22, 2010; Mukhtar Khan, “Local Militants Struggle for Control of Khyber Agency,” *Jamestown.org*, August 6, 2009, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35376.

⁴² Author interview with Ibrahim Shinwari, head of the Tribal Union of Journalists, Peshawar, September 19, 2010; Raheel Khan, interview, November 22, 2010.

for training 400 fighters to engage the Pakistani military in Swat to prevent a military operation in North Waziristan, something the U.S. government was pushing for at the time.⁴³

Of the four militant groups present in Khyber Agency, Lashkar-e-Islam was the most powerful until its recent confinement to Tirah Valley. When Mangal Bagh first emerged on the scene, his message appeared simple: he felt obligated to rid Khyber of the prevalent social evils—smuggling, kidnapping, criminal activity, alcohol, prostitution—and institute a strict Islamic code. His men attacked shops in the Karkhano market and targeted the goods of prominent smugglers. His antifeudal, anticorruption agenda at first gained him considerable legitimacy within Khyber. His demand for a more equitable distribution of development funds, land, and jobs resonated deeply with local communities. In May 2008, he stated in an interview:

Earlier all the schemes [projects] and jobs announced for the people of this area were not meant for the poor but for *spingheeres* [tribal elders recognized by the government and paid a salary]. Development projects were for them, jobs were for them, *drasthakhwan* [entertainment allowances] were for them. . . . The poor got no share in all this. Now we requested every member of the National Assembly representing this area to pledge in writing that every penny of the development schemes will be divided equally among the Afridi tribesmen. Special attention will be given to the poor.⁴⁴

Mangal Bagh proved especially adept at monopolizing the airwaves in Khyber Agency. Because of the low levels of literacy in FATA, radios have traditionally been the conduit for news, information, and awareness. Setting up FM radio stations, especially without prior registration, Mangal Bagh and others found a relatively easy way to propagate their messages.⁴⁵

In 2008 Mangal Bagh claimed to control more than 100,000 men.⁴⁶ Although this claim seems exaggerated, what is known is that he was able to attract a large number of unemployed and disaffected youth, who were paid \$80–100 to join his cause. In parts of Khyber (except Jamrud and Tirah), he set up shadow governments whereby he imposed an annual protection tax, or *jizya*, of about \$13 on non-Muslims, established his own courts to dispense “speedy justice,” and fined people who failed to follow his strict dress code.⁴⁷

Most of his funding came from taxing smuggled goods as convoys made their way through his areas of control. According to Khyber’s political agent, Shafeerullah Wazir, in 2008 the administration convinced smugglers not to go through Mangal Bagh’s areas in order to cut off a major source of funding for his activities. Since then, the administration maintains, Mangal Bagh and his men have resorted to criminal activities such as kidnapping for funding. Currently in the Tirah Valley, Mangal Bagh is known to control the hashish (cannabis) trade, and he has succeeded in raising the price by more than 50 percent. He does not believe it is un-Islamic to generate income by taxing goods considered illegitimate in Islam. Just like the Taliban government in the mid-1990s in Afghanistan, Mangal Bagh appears to have engaged in religious pragmatism in an effort to sustain his organization.⁴⁸

In March 2008, a widow living in the city of Peshawar convened a press conference. She appealed to Mangal Bagh to intervene in a long-standing land dispute in which some of her family members had been killed. Lacking confidence in the government, she resorted to Bagh’s help. Bagh responded by sending his armed militia to intimidate the opposing side, which quickly relinquished the disputed territory. Such cases won Mangal Bagh quite a reputation among communities in Khyber and Peshawar. Many ordinary people contributed to his cause and actively sought his

⁴³ Syed Saleem Shahzad, “Al-Qaida Backs Massive Push in Swat,” *Asia Times Online*, December 7, 2010, http://www.atimes.com/atimes/South_Asia/LL07Df02.html.

⁴⁴ NEFA Foundation, “NEFA Foundation Exclusive: An Interview with Mangal Bagh, Commander of Lashkar-e-Islami, Pakistan,” May 1, 2008, <http://www.nefafoundation.org/reports.html>.

⁴⁵ Mukhtar Khan, “The FM Mullahs and the Taliban Propaganda War in Pakistan,” Jamestown Foundation, May 26, 2009, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35033.

⁴⁶ *Ibid.*

⁴⁷ Khan, “Battle for Pakistan: Khyber”; Mukhtar Khan, “Local Militants Struggle for Control of Khyber Agency,” Jamestown Foundation, August 6, 2009, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=35376.

⁴⁸ Shafeerullah Wazir, interview, September 17, 2010; Imtiaz Ali, “Khyber Agency: The New Hub of Islamist Militancy,” Jamestown Foundation, May 29, 2008, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=4952; Tom Hussain, “Taliban Reforms Raise Hashish Price,” *The National*, December 12, 2010, <http://www.thenational.ae/news/worldwide/middle-east/taliban-reforms-raise-hashish-price>.

help in resolving disputes. Wealthy families, who especially were the targets of kidnappers, also approached him for help, and he charged them a fixed fee to recover their loved ones. The political administration by its own admission allowed him to gain a foothold in Khyber because he provided the local population with services that the administration was unable to deliver.⁴⁹

Not only have Mangal Bagh and other militant leaders in Khyber undermined tribal authority, but they also are dismissive of the political authority of the religious parties such as the Jamiat Ulema-e-Islam that once had significant influence within the tribal belt. For example, the JUI's attempts to reconcile differences between Lashkar-e-Islam and Ansar-ul-Islam in 2008 achieved only a limited degree of success. Other significant power brokers who have had to submit to militant authority are those involved in the smuggling trade; they have had to pay taxes to militant groups on everything from narcotics to auto parts. For example, not only did the influential Haji Ayub Afridi negotiate with Mangal Bagh to ensure the safe passage of his convoys through Bara, but he also provided Bagh with protection during a military operation against Bara.

The emergence of Mangal Bagh and other militant groups in Khyber, most of whom claim to be Deobandi Muslims, has greatly reduced Barelvi influence in the area. For example, four family members of the prominent Barelvi pir Noor-ul-Haq Qadri were murdered in May 2008. It was believed that either the local Taliban or members of Lashkar-e-Islam were responsible for the killings.

Civil society groups are also subject to threats from Mangal Bagh and other militant groups. For example, Mangal Bagh directly contacted Ibrahim Shinwari, the recently retired head of Pakistan's Tribal Union of Journalists (TUJ), to warn him against reporting on casualties incurred by Lashkar-e-Islam.⁵⁰

Although at first Mangal Bagh seemed effective and popular, his image began to change when in 2007 his men publicly executed two men and a woman on charges of adultery in the town of Bara. Similarly, land conflicts with other Afridi tribesmen led to numerous clashes in which civilians caught in the cross-fire were killed. However, until the government went after him decisively in 2009–2010, people continued to support Bagh out of fear. Meanwhile, according to recent reports serious differences have emerged between Mangal Bagh and his top lieutenants. Leaders of a splinter group claim they disagreed with Bagh's use of kidnapping to finance his activities. The political administration in Khyber is hoping to take advantage of the split, and it has plans to reach out to the dissident group to further undermine Mangal Bagh.⁵¹

Even though the rise of Mangal Bagh exposed the corruption associated with Khyber's ruling elite, over time he himself became corrupt and his sources of funding more dubious. Although the Pakistani government has succeeded militarily in confining the LI to various hideouts in the Tirah Valley, it has failed to address the structural flaw—Khyber's abysmal governance system—that gave the militant leader clout and legitimacy. The threat of militancy remains as long as Khyber's antiquated governance system fails to provide justice, security, employment, health, and education to local communities. In addition, as long as parts of the agency, such as Tirah Valley, remain outside of government control, the area will continue to be vulnerable to not just Khyber-based militant groups but also those fleeing operations in adjacent agencies.

In recent years, the traditional tribal structures in Khyber have come under pressure from a younger generation of men, *kashars*, who grew up impoverished, disenfranchised, and heavily influenced by the war in Afghanistan. Many of these men attended Deobandi madrassas along the Pakistan-Afghanistan border, where they were primed for war in neighboring Afghanistan against the Soviets. Later, they were inspired by the Taliban government in Kabul. These men have joined Taliban groups, and others such as Lashkar-e-Islam, and have tried to regulate social conduct based on their limited knowledge of Islam.

Compared with their older counterparts, these men are more militant, better armed, and better able to speak the language of religion, which legitimizes them in the eyes of the community. By engaging in religious rhetoric, they

⁴⁹ Shafeerullah Wazir, interview, September 17, 2010; "Family Demands of Mangal Bagh to Get Rid of Gul Baz," *Pakistan Press International*, March 28, 2008, <http://www.highbeam.com/doc/1G1-177252811.html>.

⁵⁰ Ibrahim Shinwari, interview, September 19, 2010.

⁵¹ Raheel Khan, interview, November 22, 2010; M. Ibrahim, "Khyber Agency Militant Group Splits into Two," *Central Asia Online*, December 2, 2010, http://centralasiaonline.com/cocoon/caii/xhtml/en_GB/features/caii/features/pakistan/2010/12/02/feature-04; Ali, "Khyber Agency."

also have succeeded in expanding their base by reaching across tribal cleavages to unite members. Thus they do not recognize tribal lineages, tribal leaders, and those leaders' authority to regulate tribal affairs.

Rather than submit to the traditional authority of jirgas, these young men engage in vigilante justice through their own parallel courts. Local communities have also sought out these men to resolve their disputes and provide security. Because they are better armed than the tribal militias or lashkars, they can enforce their verdicts, which are often brutal, with greater efficiency than the temporary lashkars or militias raised to enforce the verdicts of the qaumi jirgas.

In the absence of effective coordination mechanisms with formal law enforcement agencies, some anti-militant lashkars have suffered heavy casualties. And, as noted, nongovernment and international organizations working in Khyber have been limited in their capacity to provide health and education services because of the rising insecurity in the area. Fighting between government security forces and militants has prevented health workers from effectively implementing immunization programs, which has resulted in a sharp spike in polio cases among young children in Khyber.

Conclusions and Recommendations

Hundreds of millions of dollars have poured into Khyber and surrounding areas through government and international donor programs, but the FATA Secretariat (through which all aid flows) and the political agent have not been audited effectively. In addition, elite capture is a significant constraint on effective service provision. Militants continue to target health and education facilities and have restricted the access of local and international nongovernmental organizations.

Although the Pakistani military has launched multiple operations, the militant leadership has successfully avoided capture. Some analysts cite Tirah's difficult terrain and the military's overextension as reasons why the military has refrained from putting boots on the ground in Tirah.⁵² And yet at a time when all four militant groups operating in Khyber are confined to the Tirah Valley (as well as those that have fled the military operation in Orakzai), it makes more sense than ever to set up cantonments in the valley to further limit the movement of these groups and capture their senior leadership. Aerial campaigns, whether drone strikes or bombardments by the Pakistani military, may have succeeded in killing some militants, but they also killed scores of innocent civilians.

As long as the government views the Tirah Valley as an inaccessible tribal territory, militant groups will continue to use it as a safe haven. But its status could be altered from a tribal territory to a protected area, thereby giving the government partial control through agreements with the local political agent and tribal leaders. For this to happen, the political administration in Khyber would have to begin negotiations with the tribes in Tirah. Recently, two tribal territories in Mohmand Agency, Mian Mandi and Ghallanai Bazar, were declared protected areas after a jirga of local tribesmen convened and endorsed the idea.⁵³

The reform package for FATA that President Zardari signed into law in mid-2011 is a step in the right direction—but should be implemented—but these reforms do not go far enough in introducing structural changes in FATA's governance system. They leave the malik and political agent structures largely in place without integrating the tribal belt with the settled areas of Pakistan. Although the reform package includes the extension of the Political Parties Order—and it has been implemented—that order will not be meaningful without constitutional amendments granting FATA parliamentarians legislative authority.

Finally, although the president of Pakistan has constitutional authority in FATA, currently the Pakistani military influences most political and military decisions, often without discussions with political counterparts. Similarly, there is little consistent coordination with the local actors such as lashkars, humanitarian groups, and NGOs that are providing services to local communities. Just as in early 2008 when an Apex Committee for Policy Coordination was formed between the military high command in FATA and the bureaucratic chiefs in KPK to control militancy, a coordination committee should be formed in Khyber (and in all other tribal agencies), made up of Khyber parliamentarians, Khyber NGOs, journalists, and lashkar chiefs. This committee could help coordinate security as well as access to health and education facilities in Khyber.

⁵² Ejaz Haider, Pakistani journalist, e-mail exchange with author, February 3, 2010; Brig. (ret.) Shaukat Qadir, e-mail exchange with author, January 23, 2010.

⁵³ Aamer Abdullah, interview, November 20, 2010.

Additional recommendations are the following:

- *Civil society.* In recent years, civil society organizations in Khyber with links to all tribal agencies have emerged as proponents of change and a voice against militancy. The Tribal Union of Journalists, local NGOs, Radio Khyber, and others are bright spots in the agency and could be strengthened to increase their collective influence on political and military stakeholders in the region. Human rights organizations such as the Human Rights Commission of Pakistan and major media outlets such as GEO and ARY could establish a coalition of civil society groups to mobilize more effectively for change. To this end, USAID could extend financial and technical support to such civil society organizations.
- *Merger with KPK.* FATA's ethnic, linguistic, economic, and geographic links to KPK Province make it suitable for a merger with that province. Currently, the three major parties in the region—Pakistan People's Party (PPP), Pakistan Muslim League (PML-N), and Awami National Party (ANP)—all favor some kind of merger of FATA with the KPK. In its 2008 election manifesto, the ANP called for an increase in the number of provincial assembly seats to accommodate representatives from FATA. In 2009 the ANP-led provincial government passed a similar resolution.⁵⁴ The Charter of Democracy, a blueprint for democratic reform developed by Pakistan's two main parties, the PML-N and PPP, also calls for FATA's integration with the KPK.⁵⁵ As for the residents of FATA, a slight plurality favors a merger. In a 2010 survey, 30 percent endorsed the idea of integration with the KPK, and 24.9 percent indicated they would prefer FATA to become an independent province.⁵⁶ Administratively, KPK's governor exercises authority over FATA as the president's representative, and before the emergence of an independent FATA Secretariat, the provision of services to FATA was coordinated through the line departments of the KPK. Thus if the merger were to occur, it would not require major restructuring and the FATA Secretariat could be reabsorbed into the KPK bureaucracy.
- *Constitutional and political reforms.* A FATA-specific constitutional committee could be established to examine constitutional reforms of FATA's political and legal status in time for the 2013 election. Over the next two years, the constitutional committee should draft amendments that gradually phase out the FCR. The committee should include FATA parliamentarians and introduce amendments to Article 247 (3) of the constitution that would allow FATA representatives in the National Assembly and Senate to legislate on matters related to the areas they represent in the tribal belt. In addition, the constitutional committee should engage the Election Commission of Pakistan to ensure that FATA is prepared for party-based elections in 2013. In the meantime, the FCR should be amended to dismantle the office of the political agent and create the new position of agency coordinating officer (ACO). The role of the ACO should be administrative, and he should have responsibility for coordinating the various line departments. In short, his role should be similar to that of his counterparts in Pakistan's settled districts who are known as district coordinating officers (DCOs). Unlike the political agent, the ACO should have no judicial authority. That authority should be transferred to the district judges of Khyber Pakhtunkhwa through amendments to Article 247 (7) of the constitution. Meanwhile, Khyber's political administration should begin immediate negotiations with tribesmen in the Tirah Valley in order to begin the process of changing its status to a protected area.
- *Development, health, and education.* Meaningful development in Khyber will require (1) better monitoring of health and education facilities; (2) minimizing the role of the political agent in development activities; (3) introducing schemes to generate employment; and (4) curbing drug trafficking and other smuggling activities in the agency. Agency councils should be established in all three subdistricts of Khyber, similar to those set up in 2005. All members should be elected with a 50 percent quota for non-maliks and a 10 percent quota for women such as Lady Health Workers and teachers. The councils should serve as the mechanism through which all development programs are identified and monitored. Accordingly, members should receive comprehensive training. The agency coordinating officer should not have any role in the development of projects. His sole

⁵⁴ Ziad Haider, "Mainstreaming Pakistan's Tribal Belt: A Human Rights and Security Perspective," Belfer Center Student Paper Series, Belfer Center for Science and International Affairs, Kennedy School of Government, Harvard University, January 2009.

⁵⁵ International Crisis Group, "Countering Militancy in FATA."

⁵⁶ Shinwari, *Understanding FATA 2008*, Vol. 4, *Attitudes Towards Governance, Religion and Society in Pakistan's Federally Administered Tribal Areas* (Islamabad: Community Appraisal and Motivation Programme, 2010), <http://www.understandingfata.org/files/Understanding-FATA-Vol-IV.pdf>.

responsibility should be to provide administrative support through the transfer of development funds from the federal budget to the agency councils.

- *Judicial services.* In this area, the all-party constitutional committee proposed earlier should suggest amendments to Article 247 (7) of the constitution. The jurisdiction of the Peshawar High Court, the KPK's district courts, and the Supreme Court should be extended to Khyber and the rest of the tribal areas. Sarkari jirgas should cease to exist. In a 2008 survey by the Community Appraisal and Motivation Programme (CAMP), 80 percent of FATA residents polled deemed the qaumi jirga credible, whereas only 13 percent had confidence in the sarkari jirgas or those jirgas constituted by the political agent.⁵⁷ The qaumi jirga system should be maintained as a dispute resolution mechanism for minor offenses and disputes. For more serious crimes, the Peshawar High Court should have jurisdiction. Local civil society groups could jointly investigate ways in which to make the qaumi jirgas more participatory and representative. They should publicize their findings agency-wide and seek local feedback. Meanwhile, an ordinance should be passed extending land settlement laws in Khyber so that the incidence of land conflicts is reduced. Currently, land is owned collectively by the tribes. But there is growing recognition by tribe members that unclear demarcations cause numerous time-consuming disputes that often lead to violence. Thus a land settlement process using geographic information system (GIS) technology should be initiated as a pilot project in any one of the subdistricts in Khyber.⁵⁸
- *Information gap.* Mangal Bagh's initial success can be attributed to his adept monopolization of illegal radio channels. The Pakistani government should extend the Pakistan Electronic Media Regulatory Authority (PEMRA) to FATA so it can monitor the emergence of illegal and unregistered radio stations. The U.S. government could support U.S. media organizations such as Developing Radio Partners and others who are interested in providing technical and training support to emerging community radio channels such as Radio Khyber. The media have been responsible for exposing numerous corruption and accountability issues in the settled areas and should be allowed to do the same in Khyber Agency. The Tribal Union of Journalists should partner with mainstream media organizations such as GEO and ARY to highlight the restricted media access of local journalists in Khyber. The TUJ should also engage with regional organizations such as South Asia Free Media Association to raise awareness on issues.

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⁵⁷ Shinwari, *Understanding FATA 2008*, 2:64.

⁵⁸ Aamer Abdullah, interview, November 20, 2010.