



## The FATA reforms

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The FATA reforms committee has finally submitted its report, which is awaiting approval by the Prime Minister. The committee was formed after an unexpected bill demanding the merger of Khyber Pukhtoonkhwa and FATA was presented in the National Assembly by FATA parliamentarians.

Instead of following democratic norms and entertaining the demand of FATA representatives in the parliament and considering their will as the will of the people of FATA, the federal government decided to follow its own way. The committee visited different areas of FATA and the opinion they gathered wasn't different from the one demanded by FATA parliamentarians. The fifty-one pages report includes the suggestions the committee received and the final road map it provided for the future of FATA. Unlike the reports by previous committees, this report has many tangible gains for the people of FATA but the vagueness about merging FATA and Khyber Pukhtoonkhwa and clubbing it with five years transitory period has still left some doubts.

Primarily, the committee has accepted the fact that merger of FATA with Pukhtoonkhwa is the most popular demand of the people of FATA. The committee has identified six areas as basic themes of the reform package.

Rehabilitation of the displaced people of FATA and reconstruction of FATA is the first theme of the reforms package. It recommends that all the displaced people must be resettled before the end of 2016 and the reconstruction work must be completed before the end of 2018. The report recommends that reconstruction of infrastructure should be undertaken by the public sector agencies while the repairing of private buildings should be left to the owners themselves by paying them cash compensation at prescribed rates. However, the report doesn't provide a clear guideline on how to determine the compensation given to the owners for rebuilding their homes. The rates circulating in the

market may be extremely low compared to the damage caused to the property especially when big expensive properties are involved.

Social and economic development of FATA is also a key recommendation in the reform package proposed by the report. A commendable feature of the report is that, as a report prepared by a government committee, it accepts probably for the first time that large portions of public funds allocated to FATA are practically wasted in corruption. Another commendable feature of the package is that, it proposes a ten-year development plan for the much neglected FATA region, which includes large-scale infrastructure projects such as construction of dams, development of mineral fields, and other programs in health and vocational training. However, in the formula for the distribution of development work among various governmental bodies, it recommends assigning a large proportion of work to the old bureaucratic structures blamed for inefficiency and misuse of funds. For example, the committee recommends that 20% of the development fund be spent through the local governments to be formed through party based elections in 2017. This implies 80% of development fund will be utilised through bureaucratic channels.

A FATA development council has also been proposed in the reforms package to oversee the preparation and implementation of the ten-year development plan for FATA. The council will be headed by the Governor Khyber Pukhtunkhwa and will include all senators and MNA's of FATA, Secretary SAFRON, Chief Secretary KP, Additional Chief Secretary FATA, Chief executive FDA, Secretary P&D FATA Secretariat, COS 11th cops, and four technocrats nominated by governor Khyber Pukhtoonkhwa as members. Once again the overseeing mechanism would not be under any public scrutiny and the public representatives will hardly have any say in decision-making. The same setup that has been accused of corruption in this report will oversight the development program.

Legal reforms are the most essential theme of the reforms package. The report recommends replacing FCR with FATA Good Governance Act 2016, which incorporates the principle of individual responsibility in the administration of justice instead of collective responsibility as in the current FCR. The act will extend the jurisdiction of the high court and Supreme Court of Pakistan to FATA by amending the article 247 of the constitution.

This single point alone will be a major achievement for the people of FATA as it will protect their fundamental rights. According to this act, the Jirga system will be retained and a council of elders appointed by the court will decide the criminal and civil cases under the light of Riway. The act recommends the codification of Riway after its scrutiny by the superior courts. Although, the oversight of the superior courts would not allow any term

of Riway that conflicts with fundamental rights, the turmoil of 15 years has hardly left any elder who has a thorough knowledge of Riway. Most of the elders who were authorities on Riway were target-killed or relocated to other places in the country during the turmoil in FATA.

During this period, a new lot of unpopular and uncredible elders was installed by the militants and bureaucracy. Constituting a council of genuine and competent elders would be difficult job for the courts.

A federal level committee along with a technical team will oversee and implement the reforms package. The federal committee will consist of the Governor Khyber Pukhtoonkhwa, Minister SAFRON, Minister Law, National Security Advisor, and a representative of Army. Again there is no representation of FATA in this committee. The operational work will be undertaken by the FATA secretariat, which has been blamed for massive corruption and without a public oversight by the local representatives, it is unlikely that the reforms will be correctly implemented.

Finally, although the reforms package has a lot of benefits for the people of FATA, the delay in merger of FATA and Khyber Pukhtunkhwa and juxtaposing it with five-year transition period is leaving many doubts in the minds of the FATA people. It would have been more acceptable to the FATA people had the merger done right-away and reforms carried out by the government of Khyber Pakhtunkhwa. The share of FATA in NFC could have been transferred to the provincial government and the whole development process carried out under the supervision of Khyber Pukhtunkhwa government.

Representation to FATA in Khyber Pukhtunkhwa assembly in 2018 elections could have enforced the reform more effectively. The demand of the people of FATA and pressures of some domestic and international powers has after 69 years created a momentum, which has forced the state of Pakistan to mainstream the FATA. The people of FATA should maintain pressure on the federal government for allowing the merger of FATA and Pukhtunkhwa immediately as the situation after five years may become uncertain. The momentum once lost would be very hard to regain.

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