

British Colonial Imprints on Pakistan's Western Borderland

Khan Zeb¹

ABSTRACT

Colonialism in the Indian sub-continent was a continued source of violence, exploitation, and political subjugation. The British rulers in India had instituted various laws and regulations for various region and people to secure their own political interests. The legal framework for the western borderland- Frontier Crimes Regulation (FCR) - was different in nature and practices from the rest of the British India. Instead of incorporation the democratic and modern political values the British instituted and enforced a regulation, Frontier Crimes Regulation (FCR), which was very contrary to the British political system and values of freedom and justice. The FCR triggered violence, subjugation, political repression, and socio-economic marginalization in Pakistan's border region. The paper qualitatively examined the motivation behind the colonial regulation and perspectives on colonial system from the lenses of postcolonial scholarship. The study investigates the political and strategic interests of the state in the region and the representation of the people to justify the ruthless use of power through colonial regulation-FCR. Furthermore, the research examines the implications of the FCR on the socio-economic and political landscape of the border region.

Keywords: *British Colonialism, Postcolonialism, Frontier crimes regulation, Governance, Borderland, Pashtun Tribal Areas, Pakistan*

INTRODUCTION

With extension of the British colonial authority to the Punjab, the Pashtun areas fell under the British control. The Pashtun belt was part of the Punjab province until the formation of North West Frontier Province (now Khyber Pakhtunkhwa) in 1901 (Kolsky 2015). Initially the British enforced ordinary laws of the colonial state and later constituted a special regulation to govern the Pashtun of the frontier. The nature of resistance (rebellion), crimes, peculiar political and social instabilities, and difficulty in conviction (conviction rate was low) are the cited reasons behind the enforcement of a new but varied regulation in the trans-Indus region (Mehsud, Ahmad, and Wasai 2021). Besides, it was

¹ Holds PhD in Peace and Conflict Studies, currently serving as Assistant Professor of Political Science at Government Degree College Tank, Khyber Pakhtunkhwa.

Corresponding Author's Email: kzburki@hotmail.com

viewed in geopolitical and security framework and was propagated that a special circumstance warranted special treatment. Further it was stated that the laws of “civilized states” were unsuited to “the wants of a barbarous frontier” (Kolsky 2015, 1221). To justify the institution and implementation of special laws the Pashtun land was branded as unruly, barbarous and anarchic Wasteland (Khan 2015). Besides, the border areas were physically unapproachable, thinly populated, and politically and economically less appealing to the British colonial regime but had vital security importance for British India. This led to the formation of buffer zone between Afghanistan and British India (Bangash 2016). These priorities, linked to security and geopolitical interests drew the British to institute and enforce Frontier Crimes Regulation (FCR) in these areas. The same regulation continues for over 70 years as a legal and governance framework after independence of Pakistan, till May 2018. The paper is based on PhD research and sheds light on the British needs and political motivations behind enforcement of FCR and the implications of this legal-customary regulation on the lives of the people. The paper qualitatively discusses the special legal apparatus the British used to expend its authority to border tribes. It explores the combination of factors led to the enforcement of special laws and examines the repercussion of such regulation from the postcolonial perspectives. The research deals with FCR governance but will not discuss the abolishment of FCR and post-merger situation. Hence the analysis is limited to the era before 2018- when FCR was officially replaced with the constitution of Pakistan.

The special characterization of the region and the people based for the enforcement of special regulations and legal codes, different in nature and practices from the rest of the subcontinent. To tame crimes and murders, ensure state control over the tribes in the Northwest Frontier the British had first introduced Murderous Outrages Act in 1867 (Condos 2016). One of the motivations behind the Murderous Act was to inflict harsh punishment on the “fanatics”ⁱ locals who kills or attempt to kill the British or their servants. While Kolsky (2015, 1221) is of the view that the act provided legal cover to extrajudicial punishment and empowers the commissioner with immense powers including death sentences and “disposal of body and property” of the fanatics.ⁱⁱ This was followed by the Criminal Tribes Act of 1871, through which the rulers inspected, listed, and controlled various tribes (Ullah 2015). The act was a social engineering, excluding certain tribes and were categorised as hereditary criminal, and their mobility was restricted, and surveillance was justified (Bej, Sonavane, and Bokil 2021).

To grab more control over the border tribes on pretext of increasing ratio of crimes, which could not be sufficiently covered in the then legal rules, the government replaced previously enacted laws with Punjab Frontier Crime Regulation Act in 1872, later modified in 1887 (Nichols 2001). The Regulation of 1887 further strengthened the grip of the British Political Agent (an administrative officer of the agency/district) and Jargaⁱⁱⁱ that were empowered to impose “whipping and transportation in addition to fine[s]” (Hopkins 2015, 375). The crux of these regulations remained the same and more vigorous

punishment was added with subsequent issuance. With the establishment of the North-West Frontier Province (NWFP), another rigorous version of the FCR was instituted and enforced as a judicial, administrative, and legal mechanism in 1901 (Ullah 2013). In this (1901) version, the erection of hamlet or hujra were banned (Hopkins 2015; GoP 1901). Besides the tribal areas, the law continued to regulate other parts such as NWFP (Khyber Pakhtunkhwa), Balochistan and Gilgit Baltistan. In NWFP the law was abolished with the promulgation of first constitution of Pakistan in 1956, while from Balochistan and Gilgit Baltistan this law was annulled in 1973 and in 1974 respectively (Ullah 2013). However, in western borderland (refers to erstwhile FATA or Pak-Afghan border areas), FCR remained in force till 2018 and was replaced with the constitution after the end of active terrorism related conflict in former FATA.

Colonial powers left distinct state and institutional legacies that formed the colonial regulation (Kollmeyer 2025) and in this border region the legacy was FCR with distinct features. The prominent feature of FCR were Political Agent (a British officer or civil bureaucrat), collective responsibility, Jarga, and Maliks. The Political Agent (PA) had enormous powers and acted as an agent of colonial (later Pakistan) state in the tribal agency (now district). The PA was the executive, administrative, judicial, and financial head of the agency dealt with execution of developmental project, levying taxes, imposing fines, granting punishment and pardon to individuals involved in offences (Mahsud 2012; Saeed and Khan 2016; Wazir and Khan 2014). To maintain law and order or what was referred to as peace, the PA was empowered to inflict collective punishment under the clauses of collective responsibilities^{iv}- the system devised by a British officer Colonel John Coke (Khan 2010). The tribal and territorial collective responsibility held the entire tribe/community responsible for the offence that was committed by an individual or happened in the territory of the tribe (Alam, Muhammad, and Shah 2014; Khan 2015).

The collective responsibility as part of FCR was regarded a convenience for the government in a Pashtun society where “distinction between the guilty and the innocent [was] extremely difficult” (Hayat 2009, 186). Being sensitive to the tribal community’s reaction the British thoughtfully incorporated the two major component of Pashtun society - Jarga^v and the Malak (Malik) as part of the FCR. The combination of traditional customary and legal-political instrument had established “Hybrid rule” in former FATA ((Naseemullah and Staniland, 2016, 18). Hybrid rule was a special governance system that combined elements of the traditional and customary governance with British legal system to govern the border areas. It was an indirect rule through political agents and the state had limited presence in the region. The Maliks, who were from tribal community assisted him in administration and dispensation of justice (convene Jarga). Jarga, an important institution of the tribal/Pashtun society, is an instrument of dispensing justice and resolving conflicts- ranging from individual to inter-tribal, land and property disputes, to honour and family related matters (Islam, Faqir, and Atta 2013; Shinwari 2011). FCR Jarga formation, practice and purpose varied from that of the traditional Jarga and

surrendered its freedom to the will of government/Political Agent. FCR Jarga had certain structural and procedural limitation, and the decisions were directed by political administration or PA. The PA veto power relegated the institution of Jarga to being a mere consultative body, infused it with corruption and partiality demoted the Jarga status and prestige (Mushtaq et al. 2016; Shakirullah et al. 2019).

A British Officer, Robert Bruce introduced the “Malaki System” in late 19th century to facilitate British government intervention and to connect the tribesmen with government machinery (Ahmed and Mohyuddin 2013). The Malaks bridged the society and state, theoretically represented the tribesmen while practically they acted as agents of the state, facilitated the political government in administering western borderland, inhabited by Pashtun tribes. The Malaks had a role in the distribution of *Moajib* (allowances) on behalf of PA, collection of fines, dispensing justice through FCR Jarga, attestation of documents (domicile, CNIC and passport etc.) authentication of property deals, recruitment of Khassadar and implementation of developmental projects (Aman 2013). The Malaks under discussion here, were the chosen people of the PA or governor and could be suspended arbitrarily (Rakisits 2008). Their role was limited to consultation in administration of justice and punishment of the criminals or tribes (Malik 2013). The inclusion of traditional institution of Malaks and Jarga were presented as icons of upholding traditional authority but practically it strengthened colonial authority over the locals.

There have been numerous studies done on the colonial governance and practices in Pakistan border region- erstwhile FATA. The previous literature discusses the British policies towards border region (Khan 2010; Rais 2017), unfair representation of the border community (Hayat 2019; Starr 1920; Richards 2003; Tripodi 2011; Wylly 1912), motivation behind the special regulation-FCR (Hayat 2009; Khan 2018; Khattak 2017), its various aspects such as governance (Hopkin 2015; Ullah 2013), legal, constitutional, and humanitarian (Bangash 2016; Khan 2014; Khan 2015; Ullah 2010), and implications on the region and people (Berry 1966; Groh 2006; Khan and Afsar 2018; Sajjad 2013). Despite the availability of numerous studies- books, research articles and reports on governance in border region of Pakistan, none has studied the colonial FCR through an accepted framework. This study dive deep into the British policy towards western borderland, motivation behind the enforcement of special regulation-FCR and its implications on the region and border community.

The given sections discuss post-colonialism to set a ground for exploring the combination of factors that led to the enforcement of special law-FCR. Furthermore, the repercussions of colonial legal and political experiences have been analysed. This would deconstruct the myth the western borderland was independent from any control and the inhabitants had freedom to exercise their will.

Post colonialism

Colonialization has ended but the related practices and influences are still prevailing in the colonial societies. The postcolonial framework deeply and critically investigates the various aspects of colonialization in the postcolonial world where political independence has been achieved but the legal, political, socio-economic and culture legacies of the previous rule still exist (Yousaf 2019b). In postcolonial states like Pakistan, military and bureaucratic classes emerged during its time as a colony and remained dominant even after the process of decolonialization. They established a strong nexus and were able to control the helm of affairs. Such postcolonial states are often characterized by centralization and a struggle to maintain stability. The centres ignore the peripheries and minority groups, creating discontent and conflict in some cases (Ganguly 2012; Yousaf 2019b). The postcolonial framework not only shed light on the historical account of British policy but is equally helpful to deconstruct the reality of colonial practices that directly and indirectly affected the western borderland's community.

The study qualitatively evaluates the colonial governance through postcolonial framework. It is highly based on secondary data and the research involves qualitative secondary data analysis to understand the colonial's interest driven policies and governance mechanism in the western borderland. The data obtained from secondary sources has been critically analysed to understand the motivation behind colonial special regulation. Colonial rule had various implications on the local community which is discussed in the upcoming sections.

Colonial representation

To secure the frontier, the British adopted various policies such as "Masterly inactivity", 'Peaceful Penetration', 'Closed Border Policy', 'Forward Policy' and 'modified forward policy" (Khan 2010, 64-65). These policies were motivated by the British's geo-political interest to secure British India (Golden sparrow) from the Czarist Russia, the then potential rival in the region and to get hold of the western borderland (Khattak 2017). The British policies and representation of the locals have been discussed in the given section.

To legitimize their policies and to set ground for inhuman conduct in border region, the colonial writers and officials presented a derogatory image of the tribesmen and the region. The colonizers distorted the reality and were inculcated "through formal education, language and cultural relations". According to the then British Governor of NWFP, Olaf Caroe (1958, 348) "the border tribes were armed to the teeth and were the most notorious raiders and plunderers." The Pashtun tribes were excluded from the bounds of civilization and are referred as "wild cat" (Hayat 2019, 03), barbarian, "treacherous", "untrustworthy" (Wylly 1912, 07) thieves and robbers (Starr 1920, 08) and savages

(Richards 2003). According to Hugh Beattie (2013, 42) from the colonial perspective they were “savages, noble savages perhaps and not without some tincture of virtue and generosity, but still approaching barbarians nevertheless.” Such tagging of the border tribes was meant to demoralise them and provide justification for ruthless use of power and authority.

Being critical to the manner of representing the border tribes Akbar S. Ahmed, an anthropologist and former political agent, informs that it was the derogatory construct of the periphery by the centre. He presented other examples of such construction of peripheries as “*bled es siba*, the land of rebellion (North Africa), *Tuareg*, abandoned by God (west Africa), *Hadhramaut* region in Yemen “death has come,” and *Asir* in Saudi Arabia “inaccessible” (Ahmed, 2013, p.11-12). Ghulam Qadir Khan explaining the motives behind the pejorative portrayal of the Pashtun noted that it was to first, to break the spirit and morale of the people and second, to justify the heartless treatment of the native people. The presentation of Pashtun as martial race, ‘warrior like’ had another objective to enlist them in British security forces and to make them fight as “first line of defence” to protect the colonizers’ interest (Khan, 2018). For the British the border areas had significance to recruit warriors/ army, provide passage (to Afghanistan) and act as a buffer zone to protect the mainland British India from external threats (Hayat 2009). The negative portrayal does not only become part of public consciousness but ultimately such representation was deeply rooted in the state policies to justify aggressions and violence (Khan and Afsar 2018).

Some scholars and British officials have referred to border areas as “*Yaghistan*” (the land of rebellion) *Ghair Ilaqa/Ilaqa Ghair* (alien land), “Pakistan’s no-man’s land” (Rakisits 2008, 139), “no-go zone” (Tripodi 2011,173), fiercely “autonomous” and “independent” (Hussain 2007, 143), “lawless frontier” and a “lawless and anarchic society” (Khan 2009, 12), and “ungoverned space” (Callen, Gulzar, Rezaee, and Shapiro 2014, 02; Groh 2006, 01). Farhat Taj (2011, 12) is critical of such representation of the western borderland’s community and termed all such statements as “sweeping judgements and far from the truth.” Fair and Chalk (2006, 10) are of the view that “these axiomatic constructs of former FATA as a ‘no-go zone’ or an ‘ungoverned space’ are not strictly speaking correct.” They denied these myths by providing justification that the western borderland/ tribal areas was a constitutional part of Pakistan and subject to authority of the President who could abolish FCR and extend constitutional authority or bring any change at any time (Taj 2011; Fair and Chalk 2006).

Motivation behind an exceptional regulation- FCR

The FCR governance structure based on requirement of the colonial power, matters for socio-economic depravation and political instability of the areas and has had lasting impact on crime and violence in border areas (Pant 2018). With the reconstruction

or branding the western borderland community as savage, anarchic, uncivilized etc., the British stipulated the nature of crime as being different from the rest of the Indian subcontinent and special legal instrument, FCR, was promulgated (Berry 1966; Ullah 2010; Wazir and Khan 2014). The crime in FCR governed areas were not only understood as murder, theft, and other social evils, but it includes political and social resistance, deemed as threat against the state's interest. The regulation made it convenient for the government to sentence an accused without conviction requirement required in the regular courts (Khan 2015). For instance, the case of Summad Afridi reflected the political nature of the crime. Summad Afridi who attempted to kill Lieutenant Ashton Brandreth's wife, he opened fire, but the bullet passed close, and she remained safe. Summad was sentenced to death with immediate execution. The transgression from law was defended by arguing^{vi} that "special danger necessitated special measures" (Kolsky 2015, 2019). In the postcolonial Pakistan the case of Dr. Shakeel Afridi, accused of facilitating the US to reach Osama Bin Laden (who was killed by the US forces in Abbottabad) comes as a recent point of reference. Shakeel was convicted under the FCR^{vii} (Dawn 2012). For political exigencies the colonizer and even Pakistan have adopted different standard of justice in the mentioned cases. The British intention was further reflected in the letter of the DC Peshawar W.R.H. Merk to Commissioner and Superintendent Peshawar Division. The letter stated, "In short, admirable as they are, our civil law courts are unsuited to a semi-barbarous people as were the Roman laws to the Germans" (Khan 2015, 27).

The British perception of the frontier tribes, security policy, political, economic and strategic concerns and constraints led to the adoption of "indirect rule"^{viii} (Naseemullah and Staniland, 2016, 18). The indirect rule was framed in a way that secured British interests and gave a (false) sense of freedom and own-ness to the tribesmen, by incorporating traditional practices of resolving disputes and inflicting punishment (Dil 2016; Shinwari 2011). For Noor Hamid Khan (2015), the intention was to carry out disproportionate punishment for the people, whom they called fanatics. Furthermore, this is evident from the writing of the British military historian, John William Kaye (1874, 124), who stated that "we cannot rein the wild horses with silken braids." Salman Bangash (2016, 176) summed up the British policy, stating;

The British very cleverly framed a policy of willful neglect on the pretext that it guaranteed for them (tribesmen) freedom, independence, and non-interference... the tribal areas were training ground[s] for soldiers and officers, a place for administrative experiments, a second line of defence, a bulwark against the aggressive power, a launching pad to fulfill their imperial design in Afghanistan and beyond.

The plight and dehumanization of the tribesmen was cleverly hide under the umbrella of Semi-customary Regulation. The tribesmen in the words of Hopkin (2015, 370) were treated as "Imperial objects." Former Prime Minister of Pakistan, Shaukat Aziz

quoting Mark Lyall Grant -Britain's Permanent Representative to the UN and- former High Commissioner to Pakistan writes; "We (the British) deliberately left them as sort of lawless, partly because it would have been quite difficult to control them, but also because it was in our interests to have this quasi-lawless area" (2016, 20). The FCR was meant to suppress locals, protect and promote the state's interest, and to keep the roads entering Afghanistan open (Khan 2017; Rahman 2014). The colonial legacy was kept intact after independence for decades. Like the British, the primary concern of Pakistan was the state's interest; it had no regard for human rights and justice and treated the tribesmen as "second-class citizens" (Akins 2017, 09). The state ignored the socio-economic services and political voices of peripheries by continuing with the colonial policy for over 70 years.

The postcolonial scholars referred to FCR governance differently according to the nature, structure, and practices of administration in border region. Altaf Ullah (2013, 71) termed it as a "comprehensive system of governance" and a "major component of administration system of justice" to rule the tribes. The executive authority of the President constraining the power of the Parliament and elected representatives, established 'centralized governance system' in former FATA/ western borderland (Khan 2016). The authority of the President with a combination of judicial, financial and administrative powers was concentrated in the hands of PA(s) establishing "bureaucratic authoritarianism" (Nichols 2013; Mohammad and Khan 2017). For Asghar Khan (2017, 267), the FCR established an "indirect rule" and "Indirect governance" under the auspices of Jarga, run through the Malaks and PA (White & Malik, 2012, p.1). Ayaz Wazir saw no government or governance in former FATA, he rather contends that former FATA is "administered not governed" where a bureaucrat controlled the helm of affairs without any input from the people (Rahman, Mohmand, and Wazir 2013, 59). Ijaz Khan (2008, 04) referred to the FCR as an "anachronistic legal framework" failing to meet the criterion of modern governance system. The Human Right Commission of Pakistan (HRCP, 2005) remarked comprehensively on FCR and referred it "a bad law nobody can defend". The FCR is thus generally referred to as a draconian regulation (Condos 2016; Wazir 2009).

Criticism of FCR

Since its enforcement in various parts of the subcontinent, it was denounced by British and Indian politicians and writers for its ruthlessness, and inconsistency with modern practices and ideas (Pant 2018; Khoso 2010). The failure to revoke FCR even after independence has had further contributed to grievances and scholars, researchers, lawyers, judges, and human rights activists reflected differently to its existence.

The postcolonial scholars critically evaluated the governance arrangement of colonial masters that implied physical violence and coercion of different kinds through various governance structure. The "colonial rule pressed against its own limits of legality and produced new forms of law that sanctioned spectacular displays of power and

violence” (Kolsky 2015, 1219). Discussing the nature and characteristics of the colonial states, Hansen & Stepputat (2001, 10-11) asserted that the colonial states were branded with excessive centralized governance, indirect rule, absence of independent judiciary and forceful control of the people; hence they were not “normal states”. According to Ty L. Groh (2006, 70) the FCR was a “powerful weapon in the hands of the administration to show its efficiency and effectiveness and to bowing the heads of the tribesmen.”

The colonial masters drew support from the local customs and traditions that were incorporated in the FCR. Scholars reflected on this inconvenienced marriage of traditional and western colonial practices. Maira Hayat (2009, 198) quoting Martin Chanock stated that FCR was part of a state corrosive processes and “was neither customary nor British: customary law was neither there nor traditional.” Willard Berry (1966) following the same line of criticism stated that the FCR could neither be accepted as a mechanism of justice in the traditional or western sense, nor could it be thought of as substitute for any of the two. Saurabh Pant (2018, 15) quoting the speech of Shah Nawaz, a member of the Punjab Legislative Council (of 1922) termed FCR worse than ‘Rowlett Act’^{ix} and supplemented that the regulation “had disgraced the criminal justice. It had disgraced the inhabitants of those districts to which it was applicable, and it had lowered the prestige of the Government.”

The FCR instrumented structural, cultural and Physical violence in the region where it was enforced (Rahman, Ali and Kahn 2018). In the western borderland, violence was implied both as tactic (to subjugate and control) and as a language (a sign system the tribesmen understood- from colonial perspective). During the colonial era the western borderland was in constant state of war. It would not be an exaggeration that violence was the only connection between state and the inhabitant of the tribal borderlands (Kolsky 2015).

The arbitrary collective punishment policy of the state such as punitive expeditions, burning of harvests, demolishing of houses etc. were also condemned for various reasons. Sir Bartle Frere^x denounced punitive expedition and collective punishment where the tribe was punished for the offence of the few or an individual and the real result was to make a desert (after bulldozing houses and burning crops) and call it peace (Beattie 2013). Robert Nichols (2001) recounting the British vicious policies stated that burning of villages and crops, banning the tribesmen from entering to British India (later Pakistan), suspending trade and frequent expeditions against the tribes were regular feature of colonial policy. Disapproving the collective responsibility, in 1924 the Hindu, Muslim and Sikh members of Kohat Working Committee demanded the abolishment of collective responsibility clauses of FCR (Pant 2018).

Jules Stewart quoted by Noor Hamid Khan decried the Jarga justice and collective punishment stating that “unjust arrests, derogatory trials, inhuman prison conditions and

human [rights] abuses are some of the common attributes of retributive justice in the [borderland] areas” (Khan 2015, 25). Maira Hayat (2009) denounced the mass arrest on suspicion, collective punishment and restriction on the movement of the tribesmen to move out of the border areas. Similarly, Collin Davies (1932, 26) quoting Lord Lytton, the British viceroy on punitive policy, stated that “...it seldom touches the guilty, and generally falls most heavily on the innocent; because its natural tendency is to perpetuate animosity rather than lead up to good relation...” Besides the British the collective punishment policy was widely adopted by Pakistan especially more severely during the war against terrorism where indiscriminate killing, bombing of villages, mass arrest, forced displacement etc were witnessed.

The FCR did not meet the principle of justice and a number of judges decried it. Justice Kayani termed the FCR discriminatory in *Khan Abdul Akbar Khan v. Deputy Commissioner Peshawar* case (1954) and stated that the “FCR was effectively racial discrimination and is open to criticism as discrimination between a Negro and a white man” (Akins 2017, 11). Justice A. R. Cornelius in the case of *Sumunder v. State* termed the FCR proceeding as “obnoxious to all recognized modern principles governing the dispensation of justice” (SBF 2009, 56). In another judgement of 1957, *Toti Khan v. District Magistrate Sibi and Ziarat*, the courts found that “the use of unelected Jarga for criminal cases violated the 1956 Constitution’s article on equal protection under the law” (Akins 2017, 11). Trial under the FCR was against the principles of “separation of the judiciary from the executive”, and was “denial of fundamental fairness shocking to the universal sense of justice” and hence could not be termed as a trial in accordance to the law (Mehsud et al. 2021, 116). The fusion of the judicial and executive authority led to the encroachment of the basic rights (Khan 2015).

The FCR had been condemned for violation of human rights. Faqir Hussain is of the view that “judging by the standards of international human rights principles, the norms practiced in civilized states and the fundamental rights guaranteed in the Constitution of Pakistan, the FCR failed to meet the test of compatibility” (HRCP 2005, 60). It had failed to bring good governance, rule of law and protection of human rights (Ahmed 2014). The FCR could not guarantee the right to self-determination, equality, freedom of expression, freedom of religion, right to peaceful assembly and protest, and equal treatment before law and other rights conferred by international human rights law and the constitution of Pakistan (Mahsud et al. 2016). The rights of women and minorities were suppressed in FCR rule, and even women and children were not exempted from collective punishment until the 2011 reforms. It was biased towards women as in adultery cases; only women had to face punishment and males were exempted (did not suggest punishment for them) from punishment (Zeb & Ahmed, 2019).

Alongside the human rights abuses, the FCR was responsible for instigating crimes. A study by Intikhab Alam, Niaz Muhammad & Musawir Shah (2014, 303)

revealed that it accelerated “crimes in the tribal belt in view of the absence of the state law; rather it provided a safe way as well as habitat for the criminals and militants in light of its geo-political and cultural dimensions.” The criminals could not get punished in most of the cases. They were encouraged by the fact that the price for their crimes would have to be paid by the tribes (Zeb and Ahmed 2019). Due to the repressive clauses and arbitrary punishment, lack of human rights and political freedom, repression and despotic rules of justice, the humanitarian groups dubbed FCR a draconian and primitive regulation (HRCP 2005; Liwal 2010). The colonial security and political interests had pre-eminence over individual rights and liberty in the frontier region. The legal regime of coercion and control was the example of “lawfare”^{xi} (Kolsky 2015, 1244) and what is called “a right to have rights” by Hannah Arendt was denied to the tribesmen (Arendt 1973, 296). The colonial treatment developed a “feeling of otherness” among the tribes (Yousaf 2019a, 173).

The burning or destroying the crops and houses, banning the tribesmen from entry into to British India (later Pakistan), suspending trade, closure of markets or stopping issuance of legal documents during enforcing collective responsibility clauses have had a direct economic and social implication. The Quetta Kalat laws commission of 1958 on FCR had criticized it for hampering social and economic advancement of the society. FCR allowed illiteracy to persist, and economic progress could not be achieved in the presence of regulations. The argument underlined the need for a regular court to handle problem of law and order. The report suggested that Balochistan (ruled under FCR till 1974) failure to develop economically result from dependence upon the law (FCR) derived from custom (Berry 1966). The FCR has been regarded as the mother of all evils in the western borderland, ranging from socio-economic backwardness, political disenfranchisement, illiteracy, poverty, violence and human rights violation (Burki 2017).

The British legacy of using the western borderland as strategic outpost to secure British India was continued after the partition, without conducting major developmental projects and structural changes to improve the living standard of the local inhabitants (Bangash 2016; Zeb and Ahmed 2019). While Izzat Awan (1972) claimed that unlike British, the Pakistan government prioritized the socio-economic development of the areas but the ground realities did not testifies such claim. It is evident from the fact that western borderland legs behind socio-economic terms from the rest of the country.^{xii} The economic insecurities and under development has contributed to multidimensional poverty which was over 73 percent at the time of abolishing FCR regulation or merger of FATA into KP (Zeb and Ahmed 2019). Though developmental project, conferring proper identity, issuing of passport and some efforts were made to change the dynamics of the borderlands (Khan 2008). While representation of the inhabitants of borderland were not significantly different from that of the British policy (of naming and shaming). Like the British, Pakistan continued the strategic use of the region especially since late 1970s till

the recent past and political and economic liberties were denied (until it was merged into KP).

On the pattern of colonizers, it was used as a recruiting ground for mujahideen who later turned into Taliban. In the post 9/11 the areas were branded as the most dangerous place, den of terrorism, intelligence black hole etc. and the people were viewed with the lens of terrorists, spies, agents, and insurgents (Gul 2009; Cameron 2010; Liwal 2010; Daur 2014). This provided justification for massive military involvement, indiscriminate killing, destruction of infrastructure and even limiting the movement of tribesmen in the rest of Pakistan. On this pretext a regulation Action in Aid of Civil Power Act has been enforced to provide legal cover to forceful persecution (Khan 2014). This approach and the policy of good and bad Taliban developed a sense among the Pashtun that the state actions are “antipashtun” (Liwali 2010, 81). At the same time, they were glorified as freedom fighter^{xiii} and patriot in addresses and speeches to the western borderlands’ community to enlist their favour or pacify their anger. While the popular demand to sojourn the policy of good and bad Taliban/militants is unheard reflecting the strategic use of the region. The British policies had cost a lot and in the post-merger border region, no element of the colonial policy should be practiced to avoid further discontent and exclusion. The sense of otherness, socio-economic marginalization and political repression can better be eliminated through constitutional governance and fair legal practices.

CONCLUSION

Colonialization was a process of subjugation, exploitation and control over political and economic institutions. The British did the same in the subcontinent and more vigorously in the western Borderland. With taking over formal control, the British government devised special laws and regulations on the basis that special circumstances warrant special measures. From Murderous Act to the 1901 Regulation all laws were developed to tame crimes, suppress mass reaction, and secure political and security interest of the government. The last version of the regulation of 1901 was more repressive, authoritative in nature, and inhuman in practice. The regulation was given traditional touch to sound indigenous to the locals. While in practice, the traditional institutions were manipulated to secure their geo-strategic interests in the region.

The primary objective behind such regulation was to regulate the affairs with minimum resources and suppress internal resistance and protect British India from external aggressions. The socio-political empowerment was not taken into consideration and therefore the FCR lacked provisions for upholding human rights, security and political liberties. Conversely, the tribesmen were dehumanised and relegated to the status of serfs or ‘colonial object’. The colonial practices in the western borderland continued for over 70 years after the independence of Pakistan. What little was changed under Pakistan were

the change in officers (from British to Pakistan) and minimal efforts were made to uplift the socio-economic status of the tribesmen. The socioeconomic development did not bring the western borderland at par with the rest of Pakistan. Political exclusion (except right to vote), repression of human rights, military interventions and aggression were witnessed before the merger of border areas into Khyber Pakhtunkhwa. In the post-merger scenario, constitutional governance is established but there is need to do away with the colonial practices of securing state interest at the expense of individuals. More focus is needed to transform socio-economic and political landscape of the border region. It's the right time for political commitment to abolish all the colonial practices and foster socio-economics and political inclusion of the western borderlands' community.

REFERENCES

- Ahmed, Akbar. 2013. *The Thistle and the Drone: How America's War on Terror Become a Global War on Tribal Islam*. Washington DC: Brookings Institutions Press.
- Ahmed, Danish, and Anwaar Mohyuddin. 2013. "Role of Malik in Pukhtoon Tribal Areas." *Journal of Studies in Social Sciences* 5 (2): 239–53.
- Ahmed, Zahid Shahab. 2014. "The Special Status of the Federally Administered Tribal Areas of Pakistan." In *Autonomy Arrangements around the World: A Collection of Well and Lesser Known Cases*, edited by Levente Salat, Sergiu Constantin, Alexander Osipov, and Gergo Szekely, 157–68. Cluj-Napoca: Romanian Institute for Research on National Minorities.
- Akins, Harrison. 2017. "FATA and the Frontier Crimes Regulation in Pakistan : The Enduring Legacy of British Colonialism," no. November. <http://bakercenter.utk.edu/wp-content/uploads/2017/11/PolicyBrief5-2017.pdf>.
- Alam, Intikhab, Niaz Muhammad, and Musawir Shah. 2014. "Frontier Crimes Regulation (FCR) and Writ of the State : A Study on Local People ' s Perception in Khyber Agency." *Pakistan Journal of Criminology* 6 (1): 295–306.
- Aman, Shahida. 2013. "Malik-Militancy Conundrum: Deciphering the Transitions in Traditional Pakhtun Leadership." *Islamic Studies* 52 (2): 183–208. <https://www.jstor.org/stable/24671818>.
- Arendt, Hannah. 1973. *The Origins of Totalitarianism*. San Diego: Harcourt Brace & Company.
- Awan, Izzat. 1972. *Pattern of Administration in the Tribal Areas of Pakistan*. Peshawar: Provincial Civil Services Academy.
- Aziz, Shaukat. 2016. *From Banking to the Thorney World of Politics*. London: Quartet Books.
- Bangash, Salman. 2016. *The Frontier Tribal Belt: Genesis and Purpose under the Raj*. Karachi: Oxford university Press.

- Beattie, Hugh. 2013. "Tribe and State in Waziristan 1849-1883." University of London. <https://eprints.soas.ac.uk/28895/1/10673067.pdf>.
- Bej, Srujana, Nikita Sonavane, and Ameya Bokil. 2021. "Construction(s) of Female Criminality: Gender, Caste and State Violence." *Economic & Political Weekly* 56 (36).
- Berry, Willard. 1966. *Aspects of the Frontier Crimes Regulation in Pakistan*. Durham: Duke University.
- Burki, Khan Zeb. 2017. "FCR: The Mother of Violence." *The Lahore Times*, February, 1–8.
- Callen, M., Gulzar, S., Rezaee, A., & Shapiro, J. (2014). *Living in Ungoverned Space: Pakistans Frontier Crimes Regulation*. 1–23.
- Cameron, Keith. 2010. "Who Is the Adversary? Pathans, the Taliban and Prospects of Peace." *Canadian Military Journal* 10 (3).
- Caroe, Olaf. 1958. *The Pathans 550 B.C-A.D. 1957*. London: Macmillan and Co.
- Condos, Mark. 2016. "Licence to Kill: The Murderous Outrages Act and the Rule of Law in Colonial India, 1867-1925." *Modern Asian Studies* 50 (2): 479–517. <https://doi.org/10.1017/S0026749X14000456>.
- Daur, Ghulam Qadir Khan. 2014. *Cheegha The Call from Waziristan, the Last Outpost*. Sweden: L'Aliph.
- Davies, C. Collin. 1932. "The Problem of the North West Frontier 1890-1908." Cambridge Scholars Publishing.
- Dawn. 2012. "Shakil Afridi Sentenced to 33 Years in Treason Case." *Dawn*, May 23, 2012. <https://www.dawn.com/news/720716>.
- Dil, Umer. 2016. "Black Law (FCR) in Federally Administered Tribal Areas (Fata) of Pakistan." Atlas Corps. 2016. <https://atlascorps.org/black-law-in-federally-administered-tribal-areas-fata-of-pakistan/>.
- Fair, C. Christine, and Peter Chalk. 2006. *Fortifying Pakistan The Role of U.S. Internal Security Assistance*. Washington DC: United States Institute of Peace.
- Ganguly, Rajat. 2012. "Autonomy and Ethnic Conflict in South and South-East Asia / Edited by Rajat Ganguly." Edited by Rajat Ganguly. <http://search.ebscohost.com/login.aspx?direct=true&db=cat00823a&AN=ceul.b1160545&site=eds-live&scope=cite>.
- GoP. 1901. *The Frontier Crimes Regulation*. Pakistan: Government of Pakistan.

- Gul, Imtiaz. 2009. *The Most Dangerous Place Pakistan's Lawless Frontier*. New York: Penguin Group.
- Hansen, Thomas Blom, and Finn Stepputat. 2001. *States of Imagination: Ethnographic Explorations of the Postcolonial State*. Durham: Duke University Press.
- Hayat, Maira. 2009. "Still Taming the Turbulent Frontier? The State of Federally Administered Tribal Areas of Pakistan." *JASO-Online* 1 (2): 179–206.
- . 2019. "Empire's Accidents: Law, Lies, and Sovereignty in the 'War on Terror' in Pakistan." *Critique of Anthropology* 40 (1): 49–80. <https://doi.org/10.1177/0308275X19850686>.
- Hopkins, Benjamin D. 2015. "The Frontier Crimes Regulation and Frontier Governmentality." *Journal of Asian Studies* 74 (2): 369–89. <https://doi.org/10.1017/S0021911815000030>.
- HRCF. 2005. "FCR a Bad Law No Body Can Defend." Peshawar. <http://hrcf-web.org/hrcfweb/wp-content/pdf/ff/23.pdf>.
- Hussain, Zahid. 2007. *Frontline Pakistan the Struggle with Militant Islam*. New York: I B Tauris.
- Islam, Fakhr ul, Khan Faqir, and Malik Amer Atta. 2013. "JIRGA: A Conflict Resolution Institution in Pakhtun Society." *Gomal University Journal of Research* 29 (1).
- Kaye, John William. 1874. *History of the War in Afghanistan*. 3rd ed. Vol. 1. London: WM. H. ALLEN & CO. <http://www.gutenberg.org/ebooks/48083>.
- Khan, Arif Mahmood. 2017. *The Challenge of Transforming FATA: The Role of Governance*. Islamabad: IRD.
- Khan, Asghar. 2017. "Challenges to Integration of the Federally Administered Tribal Areas (FATA) in the Mainstream Governance System of Pakistan." *Journal of Applied Environmental and Biological Sciences* 7 (12): 263–69.
- Khan, Ghulam Qadir. 2018. "How the British Kept the Pakhtuns Divided." *Herald*, 2018. <https://herald.dawn.com/news/1154053>.
- Khan, Huma Iqbal. 2009. "NEW WINE IN OLD BOTTLES : An Analysis of Pakistan's Conflict in the Pashtun Tribal Areas." University of Kansas.
- Khan, Ijaz. 2008. "Challenges Facing Development in Pakistan's FATA." *NBR Analysis* 19 (3): 14–20.
- Khan, Mazhar Ali. 2014. "Social, Political and Economic Implications of Frontier Crimes Regulation 1901, in FATA, Pakistan." *Asian Journal of Social Sciences & Humanities* 3

- (1): 250–61. [http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.3\(1\)/AJSSH2014\(3.1-24\).pdf](http://www.ajssh.leena-luna.co.jp/AJSSHPDFs/Vol.3(1)/AJSSH2014(3.1-24).pdf).
- Khan, Noor Hamid. 2015. "Implications of Frontier Crimes Regulation (FCR) for Human Rights in FATA." Quaid-i-Azam University Islamabad.
- Khan, Sagheer Ahmad. 2016. *Governance in Pakistan Hybridism, Political Instability and Violence*. Karachi: Oxford university Press.
- Khan, Sarfraz. 2010. "Special Status of Tribal Areas (FATA): An Artificial Imperial Construct Bleeding Asia." *Eurasia Border Review Part II* 1 (1): 63–74. <http://scholar.google.com/citations?user=k6XS0MIAAAAJ&hl=en>.
- Khan, Waheed Ahmad, and Ayaz Afsar. 2018. "Critique of Representation of Pashtuns and Their Cultural Values in Khaled Hosseini's The Kite Runner." *The Dialogue* XIII (4). https://www.qurtuba.edu.pk/thedialogue/The_Dialogue/13_4/06-417-428_Waheed_Ahmad.pdf.
- Khattak, Abdur Rauf Khan. 2017. "Reforms To the Federally Administered Area of Pakistan (FATA)- an Unresolved Problem." *Asian Affairs* 48 (3): 529–42. <https://doi.org/10.1080/03068374.2017.1362872>.
- Khoso, Abdullah. 2010. "Frontier Crimes Regulation Infringing Human and Child Rights." Asian Human Rights Commission. <https://fatareforms.wordpress.com/2010/09/06/frontier-crimes-regulation-infringes-human-child-rights/>.
- Kollmeyer, Christopher. (2025). Colonial legacy and contemporary civil violence: a global study from 1960 to 2018. *Social Forces*. <https://doi.org/10.1093/sf/soaf036>
- Kolsky, Elizabeth. 2015. "The Colonial Rule of Law and the Legal Regime of Exception: Frontier 'Fanaticism' and State Violence in British India." *American Historical Review* 120 (4): 1218–46. <https://doi.org/10.1093/ahr/120.4.1218>.
- Liwal, A Ghafoor. 2010. "Areas between Afghanistan and Pakistan and the Present Turmoil." *Eurasia Border Review* 1 (1): 75–86.
- Mahsud, Muhammad Irfan. 2012. "Religious Militancy and Tribal Transformation in Pakistan: A Case Study of Mahsud Tribe in South Waziristan Agency." University of Peshawar. http://pr.hec.gov.pk/jspui/bitstream/123456789/11392/1/Muhammad_Irfan_Mahsud_Political_Science_2019_18.07.2019.pdf.
- Mahsud, Noor Hamid Khan, Muhammad Zubiar, and Sumbal Hussan. 2016. "Frontier Crimes Regulations (FCR), Status of Fundamental Human Rights in FATA and Pakistan's International Obligations." *Global Social Sciences Review* I (II): 74–97. [https://doi.org/10.31703/gssr.2016\(i-ii\).06](https://doi.org/10.31703/gssr.2016(i-ii).06).

- Malik, Muhammad Akbar. 2013. "Role of Malik in Tribal Society: A Dynamic Change after 9/11." *Pakistan Annual Research Journal* 49: 103–12.
- Mehsud, Noor Hamid Khan, Mian Saeed Ahmad, and Wasai. 2021. "Frontier Crimes Regulation (FCR): From Introduction to Abolition." *Global Political Review* VI (I): 109–20. [https://doi.org/10.31703/gpr.2021\(VI-I\).10](https://doi.org/10.31703/gpr.2021(VI-I).10).
- Mohammad, Fida, and Muhammad Shafiq Khan. 2017. "Fata Reforms in Institutional Inertia." *Pakistan Journal of Criminology* 9 (4): 47–58.
- Mushtaq, Abdul Qadir, Umer Yaqoob, and Muhammad Usman Javaid. 2016. "Role of Jirga in Pakhtoon Society an Analysis with Special Reference to Justice Dispensation." *JPUHS* 29 (2): 11–19.
- Naseemullah, Adnan, and Paul Staniland. 2016. "Indirect Rule and Varieties of Governance." *Governance* 29 (1): 13–30. <https://doi.org/10.1111/gove.12129>.
- Nichols, Robert. 2001. *SETTLING THE FRONTIER: Land, Laws, and Society in the Peshawar Valley, 1500-1900*. Karachi: Oxford University Press.
- . 2013. *The Frontier Crimes Regulation: A History in Documents*. Edited by Robert Nichols. First. New York: Oxford University Press.
- Pant, Saurabh. 2018. "The Frontier Crimes Regulation in Colonial India : Local Critiques and the Persistent Effect." *South Asia: Journal of South Asian Studies* 41 (4): 789–805. <https://doi.org/10.1080/00856401.2018.1531470>.
- Rahman, Aziz, Mohsin Ali, and Saad Kahn. 2018. "The British Art of Colonialism in India: Subjugation and Division." *Peace and Conflict Studies* 25 (1). <https://doi.org/10.46743/1082-7307/2018.1439>.
- Rahman, Khalid, Said nazir Mohmand, and Ayaz Wazir. 2013. "Conflict in FATA and Governance." *Policy Perspectives* 10 (2): 49–71. <http://www.jstor.org/stable/42909308>.
- Rahman, Raza. 2014. Local Government System in FATA. *Tigah: A Journal of Peace and Development, IV*, 131–145.
- Rais, Rasul Bakhsh. 2017. Geopolitics on the Pakistan–Afghanistan Borderland: An Overview of Different Historical Phases. *Geopolitics*, 1–24. <https://doi.org/10.1080/14650045.2017.1359546>
- Rakisits, Claude. 2008. "Pakistan's Tribal Areas: A Critical No-Man's Land." In *Identity and Conflict*, edited by Alexandre Vautravers and Eugene James. Geneva: Webster University. <http://www.webster.edu.gh/securityforum/documents/sf2008.pdf#page=128>.

- Richards, D. S. 2003. *The Savage Frontier: A History of Anglo-Afghan Wars*. London: Pan Books.
- Saeed, Fozia, and Saeed Khan. 2016. "Reform Process in the Federally Administered Tribal Areas and the Future of Frontier Crimes Regulation (FCR): A Local Perspective." *JPUHS* 29 (2): 70–82. <http://bakercenter.utk.edu/wp-content/uploads/2017/11/PolicyBrief5-2017.pdf>.
- Sajjad, U. (2013). Political Development in Federally Administered Tribal Areas (FATA): A Step to Minimizing Extremism and Radicalization. *Tigah: A Journal of Peace and Development*, III, 81–91.
- SBF. 2009. "Mainstreaming FATA: Defining, Democratizing and Development." Islamabad.
- Shakirullah, Bahadar Nawab, and Noor Elahi. 2019. "Violent Conflict in North Waziristan, Pakistan: The Distortion and Re-Emergence of Social Structure." *FWU Journal of Social Sciences* 13 (3): 1–14.
- Shinwari, Naveed Ahmed. 2011. "Understanding Jirga: Legality and Legitimacy in Pakistan's Federally Administered Tribal Areas." *Community and Appraisal and Motivation Programme*. Islamabad.
- Starr, Lilian A. 1920. *Frontier Folk of the Afghan Border and Beyond*. Church Missionary Society.
- Taj, Farhat. 2011. *Taliban and Anti-Taliban*. Newcastle upon Tyne: Cambridge Scholars Publishing.
- Tripodi, Christian. 2011. *Edge of Empire: The British Political Officer and Tribal Administration on the North-West Frontier 1877–1947*. Burlington: Ashgate.
- Groh, Ty L. 2006. "Ungoverned Spaces: The Challenges of Governing Tribal Societies." http://www.nps.edu/programs/ccs/docs/pubs/06jun_groh.pdf.
- Ullah, Altaf. 2010. "The Governance of Federally Administered Tribal Areas (FATA) under Frontier Crimes Regulation (1901): An Analysis" 1 (1901): 1–23.
- . 2013. "Federally Administered Tribal Area (FATA) of Pakistan: Study of a Special Model of Governance." *Pakistan Journal of History and Culture* XXXIV (2): 66–94.
- . 2015. "Inhuman Laws in Frontier Crimes Regulation: A Case Study of FATA." *TAKATOO* 7 (14): 41–50.
- Wazir, Asmatullah Khan, and Muhammad Zaheer Khan. 2014. "Mainstreaming FATA through Legal and Political Reforms." *Tigah: A Journal of Peace and Development* VI (1): 25–48.

- Wazir, Muhammad Maqbool Khan. 2009. "FATA Under FCR Frontier Crimes Regulation." <https://fatareforms.wordpress.com/2009/11/01/fata-under-the-frontier-crimes-regulation-maqbool-wazir/>.
- White, Joshua T., and Shuja Ali Malik. 2012. "Governance Reforms in Pakistan's Tribal Areas: The Long Road to Nowhere?" Washington.
- Wylly, Colonel H. C. 1912. *From the Black Mountain to Waziristan*. Lahore: Macmillan and Co.
- Yousaf, Farooq. 2019a. "Pakistan's Colonial Legacy: FCR and Postcolonial Governance in the Pashtun Tribal Frontier." *Interventions* 21 (2): 172–87. <https://doi.org/10.1080/1369801X.2018.1487322>.
- . 2019b. "Tribes and Intrastate Conflict: Using Indigenous Methods for Conflict Resolution in Pakistan's Tribal Frontier." The University of Newcastle.
- Zeb, Khan, and Zahid Shahab Ahmed. 2019. "Structural Violence and Terrorism in the Federally Administered Tribal Areas of Pakistan." *Civil Wars* 21 (1): 1–24. <https://doi.org/10.1080/13698249.2019.1586334>.

NOTES

ⁱ The "fanatic" was a colonial construction and new legal category of persons, deprived of legal rights and securities (see Kolsky, 2015)

ⁱⁱ The most common method of disposing of the corpses of executed fanatics in the nineteenth century was to burn them (see Kolsky, 2015).

ⁱⁱⁱ Jarga is the term the Pashtun use for council of elders while in literature it is often written as Jirga (an Urdu version of Jarga) instead of Jarga.

^{iv} Under the collective tribal responsibility clause, the administration would take punitive measures against the whole tribe, sub-tribe or clan for the crimes committed by individual(s) of the respective tribe. Territorial responsibility means that in case a dead body or seriously wounded person was found without any clue about the culprits, the tribe/sub-tribe/clan from whose soil the body/wounded person was recovered or a crime is committed was to be made responsible for the crime ((Mehsud, Ahmad and Wasai 2021).

^v Jarga is the term used for council of elder in the Pashtun society and in the literature, it is referred as 'Jirga'. In this study the indigenous term of Pashtun society 'Jarga' and is used for the purpose to give substantial space to the indigenous term in the literature.

^{vi} Peshawar Division Commissioner J. R. Becher who delivered this extraordinary judgment further stated that "Under any circumstances, committed against any person and in any part of India, the crime which is established against the accused is liable to the punishment of transportation for life. In this instance the crime has been committed by an Afridi, a member of one of the many rude and independent races which surround the immediately adjoining district. In the space of a little more than a year this is the third attack on the life of a European by men of foreign territory, and in my judgment it is necessary to adopt more than ordinary measures to prevent an evil so great and so fraught with political consequences."

^{vii} Dr shakeel was living on Peshawar but he was executed under FCR just because he hails from Khyber - tribal areas

^{viii} Indirect rule is understood as a form of political control in which agents of the state delegate day-to-day governance to local powerholders in areas considered beyond the reach of the state's direct authority (see Naseemullah & Staniland, 2016).

^{ix} A legislation passed by the Imperial Legislative Council, the legislature of British India in 1919. The acts allowed certain political cases to be tried without juries and permitted internment of suspects without trial (see <https://www.britannica.com/event/Rowlatt-Acts>)

^x Sir Henry Bartle Edwards Frere was the British colonial administrator and chief commissioner of Sindh from 1850-1859. For detail see < <https://www.britannica.com/biography/Sir-Bartle-Frere-1st-Baronet> >

^{xi} The legal regime what John Comaroff calls "lawfare," was "the effort to conquer and control indigenous peoples by coercive use of legal means" (See Kolsky, 2015)

^{xii} The literacy rate in the tribal region/borderlands is 33.3% (12.7% females) as compared to the national 58%. The poor healthcare governance accelerated infant mortality- 116 per 1,000 compared to 103 per 1,000 in rest of the country. The maternal mortality rate is 600 per 100,000 in FATA compared to the national rate of 350 per 100,000 live births. The polio cases are high in comparison to rest of the country (see Zeb and Ahmed, 2019).

^{xiii} They took part in Kashmir liberation war of 1948 and were called as freedom fighter or state army who did not demand any remunerations for their services. As mujahideen they were sometime appreciated as first line of defence. However, all this has been at the time when the state needed their services and to appease them when wrong is to them.