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Paper
Analysis of Peace Agreements with Militants
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1. Introduction

Pakistan, the second most populous Muslim state, possesses the seventh largest military force of the world and is part of the elite eight-nation nuclear club.¹ Concomitantly, it is also the fifth most violent nation,² and the 10th most fragile country in the world.³ This violence and fragility can be ascertained from the fact that some 10,000 people were killed in Pakistan in violent incidents in 2010, as compared to 7,123 killed in Afghanistan and 4,021 in Iraq.⁴

Since it became a frontline state in the war on terror, incidents of violence and terrorism have been on the rise in Pakistan, particularly after 2005-06. It has adopted various policy options, including military, political and socio-economic, to counter the rising terrorism and militancy. One such policy instrument has been the signing of peace agreements with the militant outfits in Khyber Pakhtunkhwa (KPK) and the Federally Administered Tribal Areas (FATA). Peace deals have been an important tool in Pakistan's conflict management strategy because of their history in the region as a non-military option and their resonance with the tribal culture.

The purpose of this study is to analyze the various peace agreements which the government of Pakistan signed with the militants in FATA and KPK beginning in 2004. The study endeavors to explore the broader perspective in which these agreements were signed, clauses of the various peace agreements, observations noted in their backdrop and the drawbacks of such policy. Finally, suggestions for the future course of action are given along with steps for a holistic approach towards conflict management.⁵

2. Methodology

Both primary and secondary sources were relied upon to understand and analyze the government's peace accords with militants. Books, journals, transcripts, and national and international media reports were reviewed. Most of the quantitative data was retrieved from the websites of the Government of Pakistan, RAND National Defense Research Institute, Global Terrorism Database (GTD), Terrorism Research Center (TRC), South Asian Terrorism Portal (SATP) and the International Crisis Group.

Since no police force operates in the semi-autonomous FATA region, the Intelligence Bureau's reports were the main official source available on major events in that region. The primary data included interviews with various political agents in FATA, lawmakers from Swat, leaders of political parties, and serving and retired bureaucrats with insight on the issues that are the subject of this study. Some of the key terms and concepts referred to this study have been defined below:

Peace agreements: Accords intended to contain a violent conflict or to significantly transform it so that it can be more constructively addressed.⁶ The main types include:

Ceasefires: Temporary suspension of armed conflict for an agreed-upon timeframe or within a defined area while political negotiations are conducted to find a durable solution.⁷

Pre-negotiation agreements: Agreements that determine procedural issues such as schedules, agendas, participants and location for peace negotiations.

Interim agreements: These are commitments to reach a negotiated settlement to build confidence between the parties.⁸

Comprehensive agreements: These agreements address the substance of the underlying issues of discord. Their conclusion is often marked by a handshake, signifying an "historical moment" that ends a longstanding conflict.⁹

Procedural components set out the processes that establish and maintain peace. These include the establishment of schedules and institutions that facilitate the implementation of substantive issues such as elections, dispensation of justice, disarmament and respect for human rights.¹⁰

Substantive components are parts of the agreement that define what is going to change after the peace agreement is reached. Substantive components include political (distribution of power), economic (management of natural resources) and social structural changes that are needed to remedy past grievances and provide for a more fair and equitable future.¹¹

Organizational components are arrangements intended to promote the peace consolidation efforts after the agreement. They include a neutral monitoring capacity to ensure that peace agreement commitments are honored as well as steering capacity which keeps the implementation process on track and resolves disagreements through political negotiations.¹²

Militancy refers to the state or condition of being combative or disposed to fight. It is also the active championing of a cause or belief. **Militants** are members of warring groups.

3. The Context

The situation in Pakistan's tribal areas bordering Afghanistan is not only complicated because of the porous border, and complex administrative structure but also explosive due to its trans-national and international linkages. The uncertainty over how to handle the tribal lands "makes the problems in Iraq look like a picnic."¹³

3.1 Complex Administrative Structure

The tribal areas and Khyber Pakhtunkhwa exhibit complex and diverse administrative structures with seven tribal agencies of FATA and six Frontier Regions (FRs); six Provincially Administered Tribal Areas (PATA) districts and three PATA enclaves, 18 settled districts and one hybrid area (Malakand Agency).

FATA consist of seven agencies: Bajaur, Mohmand, Khyber, Orakzai, Kurram, North Waziristan and South Waziristan. These agencies are administered by the federal government through the Khyber Pakhtunkhwa Governor and Political Agents.¹⁴ There are six transitional areas wedged between the tribal agencies and the settled districts of Khyber Pakhtunkhwa which are called Frontier Regions (FRs).

These are FR Peshawar, FR Kohat, FR Bannu, FR Tank, FR Dera Ismail Khan and FR Lakki. The FRs are administered by the provincial government through the district coordination officer (DCO) of the respective settled district, who exercises powers comparable to those of a political agent in FATA.¹⁵

The six PATA districts, i.e., Chitral, Upper Dir, Lower Dir, Shangla, Buner and Swat, were carved out of princely states in 1969. They are administered provincially but an act of the federal parliament or the provincial assembly cannot be extended to them unless so directed by the Khyber Pakhtunkhwa Governor. The three PATA enclaves are the former princely state of Amb, Kala Dhaka (in Mansehra district) and the tribal area of Kohistan district.

The 17 settled districts of Khyber Pakhtunkhwa are managed by the provincial government without any specific role for the Governor. The Malakand protected area is unique in the sense that it is called an agency but has no political agent. The administration is run by a Nazim (administrator) and a DCO. However, no district police officer (DPO) or police stations are present there.

Under articles 246 and 247 of the Constitution, the parliament cannot legislate for FATA and PATA unless the President so directs. Legislators from FATA can legislate for the whole country but not for their own region.

3.2 Metastasis of Militancy

The regions bordering the Durand Line, the Pak-Afghan border, have been referred to as 'terrorist Disneyland'.¹⁶ The militancy has spread from this region into various directions, manifesting the following patterns:

Local-National:

The militancy has a local-national dimension. It is raging in the seven tribal agencies, six Frontier Regions, six PATA districts, 18 settled districts of Khyber Pakhtunkhwa and other parts of Pakistan in varying shades and intensity.

Transnational and Regional:

The Taliban from Afghanistan have found a sanctuary in the tribal areas where they come to rest and recover, replenish their revenues, recruit new cadres, hibernate in the winter and infiltrate into Afghanistan in the summer.¹⁷

The insurgency in Afghanistan has great repercussions for Pakistan. It operates on three fronts. The northern front, where mainly Hizb-e-Islami militants are active, spans Nurestan, Konar, Laghman and Nangarhar provinces of Afghanistan as well as parts of Pakistan across the border.¹⁸ The central front, comprising foreign fighters (Arabs and Central Asians), covers the Afghan provinces of Khost, Paktia and Paktika as well as Bajaur area of Pakistan.¹⁹ The southern front, which mainly comprises of Afghan Taliban, is based in Helmand, Kandahar, Zabol and Uruzgan provinces of Afghanistan as well as parts of Balochistan.²⁰

International Dimension: the Epicenter

Militants from Pakistan's border areas have been linked to a range of international terrorist attacks and plots, such as the July 2005 bombings in London, the foiled 2006 plot against transatlantic commercial flights, the foiled plots in Germany and Denmark in 2007, and the 2008 arrest of terrorism suspects in Spain.²¹

Until 2008, the number of foreign fighters present in the tribal areas was estimated to be 500-600, according to former President Pervez Musharraf, whereas Prime Minister Yousaf Raza Gilani said the number was 1,200 and the Interior Ministry cited the figure of 8,000.²² However, the FATA Additional Chief Secretary claims that there were 18,470 foreign fighters in FATA, including 5,000 Saudis, 4,500 Uzbeks and Chechens, 3,000 Yemenis, 2,000 Egyptians, 2,800 Algerians, 400 Tunisians, 300 Iraqis, 200 Libyans and 200 Jordanians. Recent estimates suggest that the number of foreign militants in FATA is between 3,500 and 5,000. These militants constantly keep changing their locations to avoid US drone strikes and military operations by the Pakistan Army.

Chinese Uyghur militants of the East Turkistan Movement, Uzbek rebels from Islamic Movement of Uzbekistan, and Chechens are among those operating in the tribal belt.²³

4. Federally Administered Tribal Areas

In 1893, with a view to divide and weaken the 11 main Pashtun tribes and turn Afghanistan into a buffer zone between the British and Russian empires, British diplomat Sir Henry Mortimer Durand established Durand Line which serves as the border between Pakistan and Afghanistan.²⁴ In 1901, the British Raj imposed on the tribal areas a series of laws, known as the Frontier Crimes Regulations (FCR), which were ostensibly based on tribal customs (*riwaj*) and the Pashtun code of ethics known as *Pashtunwali*.²⁵ According to the FCR, the people were free to govern their internal affairs according to tribal codes, while the colonial administration held authority in what were known as 'protected' and 'administered' areas only.²⁶

According to the 1973 Constitution of Pakistan, FATA remains under the direct executive authority of the President (Articles 51, 59 and 247). Laws framed by the National Assembly do not apply there unless specifically ordered by the President. Some of the draconian clauses in the FCR violate human rights and democratic principles. These include:

Section 21: Collective responsibility of the tribe empowers the administration to punish the whole tribe for individual misconduct.

Section 22: Territorial responsibility empowers the administration to impose fine on an entire village for an individual's offence.

Section 40: A preventive provision pertaining to good conduct under which individuals can be detained for years without recourse to appeal.

The governance of each tribal agency rests with a Political Agent (PA), who is assisted by assistant political agents, tehsildars (administrative heads of sub-districts) and naib tehsildars (deputy tehsildars), as well as personnel of local Khasadars force and security forces (Levies and Scouts).

The PA is the administrative head of an agency, arbitrator of inter-tribal disputes, armed with judicial powers and supervisor of development, etc. The government functions through tribal intermediaries: *maliks* (representatives of the tribes) and *lungi* holders (representatives of the clans).

In the last 60 years, the state has failed to invest either in human development or physical infrastructure of FATA to bring it at par with other parts of Pakistan. The development indicators show a bleak 17% literacy rate, one doctor for every 8,000 people and only 100 high schools compared to 500 madrassas.²⁷

The traditional *jirga* system is becoming an ineffective instrument for local conflict resolution because the poor and more vulnerable segments of society cannot afford to convene a *jirga* due to its expensive formalities such as the cost of hospitality of the *jirga* members. In most cases *jirga* decisions favor the richer or the more influential party.

Some recent changes in the traditional power structures of FATA have become a serious source of instability. Firstly, the influx of Arab '*mujahideen*' in the 1980s and of Taliban and Al Qaeda militants since 2001 brought political Islam, money, and illegal economic activity to the region and buttressed the emergent Islamist leadership.²⁸ Secondly, migration of the population to the settled areas of Pakistan and the booming oil economies in the Gulf has injected substantial remittances to families which in the past had relatively low social status in the tribal society. These families now seek power and influence consonant with their new financial status. Migrants have also become acutely conscious of inequities in the tribal areas and have garnered greater appreciation for the rights that Pakistani citizens everywhere except FATA enjoy.²⁹

Thirdly, the role of the *mullah* and political Islam has expanded into FATA and adjoining areas. The prominence of the *mullah* and the collapse of the *malik* system is one of the most important changes in FATA in the recent years.³⁰

Finally, US-led military operations in Afghanistan and Iraq and action by the Pakistan Army in the tribal areas have contributed to the growth of Islamism and even Islamist militancy in the region. It is difficult for many tribal residents to understand how the *mullahs* and militants, who were once considered heroes and given support in the bid to drive Soviet troops out of Afghanistan, are now branded as villains.³¹

5. Military Operations and Peace Agreements

In the post-9/11 scenario, Pakistan became the frontline state in the US-led war on terror. To purge its tribal areas of foreigner and local militants, the Pakistani military launched *Operation Meezan* in 2002 and entered FATA for the first time since the country's independence from British rule in 1947. Some 80,000 military and paramilitary troops were deployed in FATA.³²

In March 2004, under intense US pressure, Pakistan Army launched an operation in Kaloosha village near Wana, the administrative headquarters of South Waziristan, with the belief that a surgical operation would eradicate the militants.³³ However, the militants ambushed the troops, inflicted heavy losses on them and took officials hostage. Due to increasing casualties on both sides as well as high public resentment resulting from indiscriminate shelling, the government soon opted for a peace deal with the militants.³⁴

5.1 Shakai Agreement

The signing of peace agreements with pro-Taliban militants started with the Shakai agreement, which the government signed with Nek Muhammad and other militant commanders at Shakai, South Waziristan on March 27, 2004. Nek, a charismatic Yargulkhel Wazir known as the Che Guevara of Wana, was a battle-hardened commander of Taliban who provided sanctuary to the chief of Uzbek militants Tahir Yaldochev in the military operation in Kaloosha.³⁵

The main clauses of the agreement were:

- The government would release all individuals taken prisoner during the military operation.
- The government would pay compensation for casualties during the operation.
- The government would pay compensation for collateral damage caused during the operation.
- The government would not take action against Nek Muhammad and other wanted individuals.
- The government would allow foreign 'Mujahideen' to live peacefully in Waziristan.
- Local 'Mujahideen' would not resort to any action against the land and government of Pakistan.
- 'Mujahideen-e-Waziristan' (fighters from Waziristan) would not take part in any action in Afghanistan.

The peace accord failed because of disagreements over registration of foreigners with the authorities. The government claimed that the militants were required to register 'foreign fighters' in the area and surrender them to the government. However, the militants claimed that there was no such clause in the agreement.

On June 11 2004, the military operation was re-launched. Nek was killed by a missile launched from a US drone on June 19, 2004.³⁶ The agreement remained in place for less than 50 days.

Observations:

- The agreement led to the tribal dissidents morphing into a powerful militant group which became a permanent feature of the tribal landscape and further reinforced polarization.
- Pakistan's strong support for the stance of the US in the war on terror and reliance on the use of military means further militarized the situation.
- In the peace agreement, the militants were given a status equal to the government.

5.2 Sararogha Peace Deal

The militancy, which was hitherto restricted to areas inhabited by the Ahmadzai Wazir tribes of South Waziristan, started spreading to the Mehsud-dominated areas of South Waziristan by the spring of 2004.³⁷ The two Mehsud commanders spearheading the militancy in their respective areas were Abdullah and Baitullah. The government opted for another peace deal in a bid to bring calm to the Mehsud territories. The deal was inked between pro-Taliban militant Baitullah Mehsud and the government of Pakistan through the mediation of a local *jirga* at Sararogha, South Waziristan, on February 22, 2005.³⁸

The six clauses of the written agreement were:

- Baitullah and his group would neither harbor nor support any foreign fighter in their area.
- Baitullah and his supporters would not attack any government functionary nor damage official property. They would also not create any hindrance in development activities.
- The government would not take action against Baitullah and his supporters for their past actions. However, they would be dealt with as per the law if they were found involved in any terrorist or criminal activities in the future.
- Any culprit found in the Mehsud area would be handed over to the government.
- All the issues not covered by the agreement would be resolved with mutual consultation between the political administration and the Mehsud tribe.
- In case of violation of any clause of the agreement, the political administration was empowered to take legal action.

The agreement was signed by Baitullah Mehsud and members of the local *jirga*.

Observations:

- The agreement did not cover cross-border infiltration or attacks in Afghanistan.
- There was no clause concerning the surrender of foreign fighters.
- There was no provision that militants would surrender their weapons.
- The agreement became controversial after reports emerged that money had been paid to the militants during the negotiations.
- Abdullah Mehsud, the second most important militant commander in the region, opted out of the agreement.

5.3 Miranshah Peace Accord

The militancy that began in the Ahmadzai Wazir territories of South Waziristan in 2003 spread to the Uthmanzai Wazir areas of North Waziristan in 2005.³⁹ The government writ receded in North Waziristan as the militants attacked security forces personnel and convoys. The political administration was effectively restricted to government buildings.⁴⁰ When the cost of military options exceeded the benefits, the government opted for a 16-point peace deal with the militants of North Waziristan on September 5, 2006.

The undertakings by the Uthmanzai Wazirs, including local Taliban, religious leaders, elders and tribesmen, included:

1. There would be no attacks on law enforcement personnel and government property. There would be no target killings.
2. No parallel administration would be established in the area and the government's writ would prevail. In case of any problem, the political administration in consultation with the Uthmanzai tribes would resolve the issue according to the traditions and the FCR.
3. There would be no cross-border militant activities in Afghanistan. However, there would be no restriction on crossing the border for trade/business and for meeting relatives according to the local *riwaj*.
4. There would be no terrorist activity in the districts adjacent to North Waziristan.
5. All foreigners residing in North Waziristan would either leave Pakistan or remain peaceful according to the prevailing law and the current agreement. All the clauses of the agreement would also apply to the foreigners in the tribal agency.
6. All captured government property during the operation including vehicles, weapons or any other equipment would be returned.

The government's undertakings included:

1. All individuals apprehended during the operation would be released and would not be arrested again on the previous charges.
2. The government would release all political benefits.
3. The government would remove all newly established checkpoints on the roads and would post Levies and Khasadar personnel on the old checkpoints as was done in the past.
4. The government would return all vehicles, weapons and other equipment captured during the operation.
5. The government would stop all land/air operations and all issues would be resolved according to the local traditions.
6. The government would pay compensation for collateral damage to the affectees.
7. There would be no restrictions on carrying weapons as per the tribal tradition. However, restrictions would continue to be imposed on heavy weapons.
8. Implementation of the agreement would begin with the withdrawal of the army from the check posts to the barracks.

As per the agreement, a 10-member committee was to be established. The committee comprised clerics/elders and representatives of the political administration. The committee was to be responsible for establishing a link between the government and the Uthmanzai tribes and review and ensure the implementation of the agreement. Any individuals or group not abiding by the agreement or disrupting peace in Waziristan was to be proceeded against. The agreement was signed by Hafiz Gul Bahadar, Maulana Sadiq Noor and Maulana Abdul Khaliq. The peace deal broke down on May 20, 2007.

Observations:

- An unspecified amount of money was transferred from Pakistani government's coffers to the militants. A vague term "foreigners", a euphemism for Al Qaeda and other foreign militants, was used.⁴¹ Some 100 mid-level Taliban and Al Qaeda commanders and foot soldiers were released from custody.⁴²
- During the signing ceremony of the agreement in the soccer stadium of Miranshah, security cover was provided by the militants while their flag was fluttering over the scoreboard of the stadium.⁴³

5.4 Khyber Agency Pact

While the insurgency incubated and matured in Waziristan, militancy in Khyber Agency had been raging on Deobandi-Barelvi fault-lines for several years.

This militancy remained restricted to Bara subdivision and Tirah Valley of Khyber Agency. The main militant outfits in the area were Lashkar-e-Islam, led by Mangal Bagh; Ansarul Islam, led by Qazi Mehboob; and Amr Bil Maroof Wa Nahi Anil Munkir (promotion of virtue and prevention of vice), headed by Haji Namdar. These groups were mainly 'moral brigades' and not part of the Tehreek-e-Taliban Pakistan, the umbrella organization of Taliban militants in the country.

Khyber Agency, which borders Afghanistan on one side and the Khyber Pakhtunkhwa (KPK) province on the other, is important not only because the main supply route of the NATO and US forces in Afghanistan passes through it, but also because of its proximity to Peshawar, the KPK capital.

To counter the impending danger of the militants consolidating their position in Peshawar and to keep the NATO forces supply line via Khyber Pass open, the government launched Operation Siraat-e-Mustaqeem (right path) against militant outfits in 2008. However, the immediate trigger for this operation was the abduction of 16 Christians, including two priests, on June 21, 2008 by Lashkar-e-Islam.⁴⁴ After several days of military sweeps in the Khyber Agency, the operation came to an end and a peace deal was signed by the government, represented by the political agent, and an 18-member *jirga* of Afridi tribes. According to the agreement:

- Law enforcement agencies and government property would not be targeted. There would be no target killings.
- Armed patrol would be the prerogative of the government.
- No parallel administration would be set up. Any problems that crop up would be resolved through the FCR and as per the local tradition.
- There would be no incursions into Peshawar district and other settled areas.
- Any foreigner in Bara sub-division would leave Pakistan.
- Government officials and law enforcement personnel would not be threatened. The tribes and Khasadars would be responsible for the protection of the roads as per *riwaj*.

- Khasadars and government officials would be allowed to work and would not be threatened or forced to quit their jobs.
- Development work would not be impeded.
- Guarantees for peaceful behavior of any criminal from the settled areas of Pakistan would be given by the concerned tribe.
- No training camp would be operated against Pakistan. Action against any militant camp including any suicide camp would be taken by the concerned tribe and the government as per traditions and the FCR.
- Display of unlicensed weapons in government offices and Bara bazaar would be banned except for those authorized by the Peace Committee of Afridi tribes.
- No propaganda against Pakistan and its institutions in the form of pamphlets or CDs would be allowed.
- Heavy weapons would not be allowed in the tribal territories.

Observations:

- a. Lashkar-e-Islam leader Mangal Bagh alleged that the aim of the operation was to please the US. The timing of the operation was significant in that regard, launched as it was before the Prime Minister's upcoming visit to the US.
- b. The operation targeted "empty buildings [used by] banned organizations," and "not a single leader or fighter [of these organizations] was captured."⁴⁵
- c. Mangal Bagh insisted on continuing his struggle against criminal elements in Bara.
- d. On the day of peace deal, five Frontier Corps personnel were killed and three wounded in Khyber Agency.⁴⁶

4.5 Swat Agreements

The Provincially Administered Tribal Areas (PATA) of KPK comprise mainly of six districts: Swat, Shangla, Upper Dir, Lower Dir, Chitral and Buner. These districts previously constituted the princely states of Swat, Dir and Chitral. However, in 1969 PATA regulations were imposed there which were quashed by the Supreme Court in 1994. This abolished the customary tribal courts based on local traditions and replaced them with the civil law of Pakistan. This sparked an uprising spearheaded by Sufi Muhammad, leader of Tehrik-e-Nifaz-e-Shariat-e-Muhammadi (movement for the implementation of *Shariah* law). The TNSM said it wanted imposition of *Shariah* which the then government of KPK (called NWFP at the time) promised. There was a similar uprising in the region in 1999. In 2002, Sufi was arrested while entering Pakistan after fighting alongside the Taliban against the US forces in Afghanistan. In Sufi's absence his more radical son-in-law Fazlullah, nicknamed 'Mullah Radio' because of his speeches on illegal FM radio channels, became active. The violence by Fazlullah's militant group in Swat precipitated a military operation there in 2007.

The first peace deal in Swat was struck on April 20, 2008 between the Awami National Party-led provincial government and followers of the TNSM led by Sufi Muhammad. As per the agreement, the

government accepted the right of every Muslim to 'peacefully' work for the enforcement of *Shariah*. The TNSM dissociated itself from the elements attacking the security forces and a *fatwa* was issued against attacks on security personnel which were considered against Islamic teachings. The TNSM renewed its pledge to support the state institutions and enable the state to restore its writ in the region. The agreement paved the way for the release of Sufi Muhammad, who had been in jail since February 2002.

The second Swat peace agreement was inked on May 21, 2008 between Swat militants operating under the command of Fazlullah and the Awami National Party-led government. It was a 16-point handwritten accord in Urdu. During the negotiations process, the Swat chapter of the Taliban was represented by their spokesperson Muslim Khan, Ali Bakht, Maulana Muhammad Amin, Mehmood Khan and Nisar Khan, while the government team consisted of senior ministers Bashir Bilour and Rahimdad Khan, NWFP Environment Minister Wajid Ali Khan, Awami National Party (ANP) provincial President Afrasiab Khattak and MPA Shamshir Ali. The first round of talks was held in Chakdara on May 9, in which both sides agreed to a ceasefire, and the second on May 13. After achieving consensus on several issues, the agreement was signed on May 21. The clauses of the agreement stated:

- The militants agreed to accept and honor the writ of the federal and provincial governments.
- *Shariah* would be implemented in Malakand Division in letter and spirit.
- The militants would not criticize or abuse the religion of other citizens.
- Cases of the imprisoned militants would be reviewed and a decision about their release made.
- Personnel of law enforcement agencies, government officials, buildings and installations, police stations, police officials, Police Lines, army, Frontier Corps, Frontier Constabulary, bridges, roads and electricity installations would not be attacked. There would be a ban on private militias. The Taliban would denounce and disown suicide attacks, remote-controlled bomb blasts and bomb blasts in all private or government buildings and shops.
- The army would be gradually sent back to the barracks in accordance with the prevailing situation.
- All foreign militants would be handed over to the government. The militants would not attack barber shops or markets visited by women.
- The government would look into the damage caused during the security forces' operations and would compensate all the deserving victims.
- The Taliban would not oppose campaigns to vaccinate children against polio and other diseases, and would not obstruct women's education.
- There would be a complete ban on display of weapons and only licensed weapons would be allowed.
- Incidents of abduction and vehicle theft and snatching would be condemned and eliminated and all those places where militants and suicide bombers were trained or explosives were made would be dismantled.

- In line with the rules of the authorized license, there would be permission to talk on FM radio channels.
- The local Taliban would cooperate with the government in investigation of incidents of murder, robbery and other crimes.
- The government would take action in the area against oppressors, those taking bribe, adulterers, thieves, dacoits and kidnappers in order to rid the society of such elements.
- An Islamic university would be set up in Imamdheri Complex, which would be run by a joint government-Taliban committee.
- An 11-member joint committee was named to ensure the implementation of the agreement. The members of the committee included Wajid Ali Khan, MPA Dr Shamshir Ali, the Malakand Range deputy inspector general of police, the Swat district police officer and the Swat district coordination officer from the government side and Maulana Muhammad Amin, Ali Bakht, Muslim Khan, Mehmood Khan and Nisar Khan from the Taliban.

Observations:

- The agreement failed to mention anything about Taliban commander Fazlullah or whether he had been granted amnesty.
- Hard-core Jihadi elements such as Jaish-e-Muhammad and non-local militants, mostly from Punjab, started violating the agreement almost instantly. Immediately after the agreement, a militant commander, Said Jamal, announced establishment of a *Shariah* court in Swat for settling local disputes. Only hours before the signing of the Swat peace deal, two girls' schools were torched and a policeman shot dead.⁴⁷ The militants continued running training camps in the hills. They carved out 'no-go' areas and nominated their 'governors' there.
- As many as 400 Swat policemen resigned after the peace deal, most likely because they feared reprisal attacks by militants. The Swat militants had reportedly said that they would not abide by the peace agreement if a similar deal was not reached with the Tehrik-e-Taliban in Waziristan, a stipulation which was not included in the Swat peace deal.

5. Views of Different Stakeholders

In this complex conflict, the divergent views of the various stakeholders have been discussed below:

Militants

- Every time a peace agreement is at hand, US drones strike the tribal area.
- Pakistan Army is fighting Washington's war against its own people, and is killing innocent tribesmen.
- 'Mujahideen' would continue 'jihad' against US-led forces in Afghanistan and if Pakistan tries to stop them, they would fight against Pakistani forces as well.

United States

- US analysts described the peace deals as tactical moves by the militants to gain advantage from the government without changing their violent ways.
- Ceasefires were used to erect a parallel system of government complete with *Shariah* courts, taxation, and recruitment of militants' own 'police' force.
- Peace deals weaken Pakistani state institutions and prolong the insurgency rather than curtailing it.
- Past peace accords had not resulted in a reduction in violence.
- The Pakistani government appeared to take a harder stand against Al Qaeda to please the United States and a more permissive posture with the Taliban, who in turn worked with other militant groups.⁴⁸

Pakistan

- The three core Pakistani defense concerns are to contain Indian hegemony; not to permit development of pressures which would threaten retention of nuclear weapons by Pakistan; and retention of leverage over political developments in Afghanistan and to have a pro-Pakistan government in that country.
- Pakistan deployed 120,000 forces to take on the militants, compared to the combined NATO-ISAF force of 50,000 in Afghanistan. Pakistan established 669 patrolling posts while Afghanistan only had 69 posts along the border. Pakistani security forces suffered more casualties than the 40-nation NATO-ISAF forces operating across the border.
- The US was interested in eliminating only Arab fighters in the region. US drones did not take action when information about Pakistani Taliban was shared.

6. Drawbacks of Past Agreements

If peace is to be measured in terms of the number of attacks on the military and paramilitary forces, then the tribal areas remained mostly peaceful in the immediate aftermath of signing of peace agreements. However, target killings of tribal elders, sporadic attacks on government installations, torching and bombing of girls' schools, beheadings of alleged criminals, closing down of barbershops, bombing of CD shops and intermittent displays of force by the militants continued.

The decisions on the peace agreements in the tribal areas were made entirely by the military. The basic flaw with the agreements, both in Ahmadzai Wazir and Mehsud areas, was that they were between the military and the militants and focused mainly on areas of concern for the military, i.e., attacks on security forces personnel. In return, the militants were offered a free hand in the area. Such agreements also gave an equal status to the militants as a party vis-à-vis the state. The government further undermined its position by signing the pact in the quarters of the militants which according to the tribal traditions of *Nanawatay* meant that the government was responsible for the entire crisis.

The process of 'militant-military agreements' has gradually eroded the local tribal and administrative structures. Agreements with the military also bolstered disregard for other government institutions by

the militants, fuelling a perception among them that if the military could be co-opted, other government institutions could be conveniently ignored.

The Miranshah agreement of 2006 was signed with the tribal militants of North Waziristan from a very weak position. The military had started vacating the check-posts even before the agreement was inked. The text of the agreement is also a testimony to the fact, demanding a lot of the government in exchange for the militants stopping attacks on military installations. This agreement signed between the militants and military appeared to be aimed at appeasement rather than peace. The Shakai agreement proved to be the first step on a slippery slope in legitimizing the status of the local militants as power brokers and further eroded the administrative channels.⁴⁹

The initial peace agreements were cobbled together in extreme secrecy, to the extent that even the names of the signatories were not known in some accords such as the Shakai agreement. The text of the agreement were neither available to the public nor the media.

Since the insurgency has regional and international implications, various stakeholders, NATO and the US in particular, were not taken on board regarding peace overtures with the militants. Consequently even when an agreement with the militants was in the works, US drones strikes continued inside Pakistan. These strikes not only violated Pakistan's sovereignty but also undermine the state's ability to ensure the promised peace and cessation of hostilities.

No verification mechanisms were put in place to ensure that the militants follow through on their commitments, such as not indulging in cross-border infiltration. Weak enforcement mechanisms were in place in case the militants reneged on any promise under a peace agreement. This was mainly because the militants were armed to the teeth and the tribes that were expected to enforce the agreements lacked the capacity and the weapons to match the militants' force. It was obvious from the outset that the local tribal elders could pose little challenge to the militants who were fighting troops from armies of nearly 50 countries in Afghanistan.

Future Strategy

The fact that all these 'peace' agreements were followed by military operations against the militants in the same area is a testimony to their failure. There are also inherent problems in dealing with the militants. Firstly, the Pakistani Taliban was founded as a militant armed organization and, unlike the Irish Republican Army (IRA) or Hezbollah, lacked a political wing. Secondly, they were not structured and hierarchical but horizontally compartmentalized. Hence, agreements in one or more agencies could not be taken as a comprehensive peace deal. Thirdly, the ideologically motivated non-state actors did not believe in borders and boundaries; fighting for causes and not countries. The following factors need to be considered in the future to make any agreement in the tribal areas successful:

- In most of the previous agreements, the government negotiated from a position of weakness, demanding too little and offering too much. A predetermined sense of siege drove the government negotiators to agree to the militants' terms in a rush. This not only left the militants walking away with more than they had hoped for, but also led to eventual military operations against the same after the collapse of the agreements that compounded the miseries for the local population. Any future agreement would have to be signed from a position of strength. The government should remember that the militants would fear a breakdown of talks as much as the government does.

- The local tribes/population that bore the brunt of collapse of the so-called peace agreements were not involved in the agreements. As stated earlier, the agreements were between the military and the militants. There is a pressing need to consult the local population as well as civilian institutions in making the key decisions about the terms of the agreements.
- A glance at past agreements in Waziristan shows that the only objective that the state wanted to achieve was to secure an end to attacks on the security forces. It seemed to have been taken for granted that if there were no more attacks on the security forces everything else would automatically fall into place. That has not happened. On the contrary, as a result of these agreements, the militants grew in strength to such an extent that they did not brook dissent from the local population, and undermined public welfare through schools, hospitals and development projects. The civilian administration and the peaceful citizens of the tribal areas would have to be involved in the key decisions regarding the peace agreements so that the agreements are not on the terms of military and the militants alone but also consider the concerns of the local population. A peace that only aims at a ceasefire between militants and the military aims too low. The objective must be the welfare of the population and a state of affairs for the local people where access to rights such as health, education and a dignified existence are guaranteed, development takes place and dissent is not countered by force.
- All previous deals with the militants, with the exception of the Swat agreement, were hammered out under the umbrella of a dictatorial regime with minimum input from political forces. Any future peace deal requires political endorsement for legitimacy.
- The military's presence in civilian areas is a magnet for the militants. The army should be deployed along the Pak-Afghan border and at the FATA-KPK boundary. This deployment should be carried out in a phased manner. However, the army may be utilized for specific surgical operations with a precise timeframe and objective.
- There should be an independent structure and mechanism to disarm and demobilize the militants and reintegrate them into society. The program should involve surrender of all weapons other than rifles and pistols that the tribal people traditionally carry.

7. General/Holistic Approach

Any peace deal in the future would be short-lived if the context in which violence is perpetrated remains unchanged. So far, peace deals have been signed by both parties to gain time, only to resume fighting a few months later. For a comprehensive peace accord, the following steps should be taken:

- The government requires strong action to purge the areas of criminal elements who have found safe havens in the tribal belt in order to wean off support for the militants, and to prevent them from setting up their own 'justice systems'.
- Peace can be tenuous at best in any area where human rights are not respected and the people feel that they do not have a stake in the system. FATA has long remained a hub of criminal activity and weapons and narcotics trafficking. The state institutions should be strengthened to deal with these problems instead of leaving the people to fend for themselves. The people should have a say in the decision-making process through the traditional and administrative forums.

- Some analysts hold that the local government system of 2001 abolished the executive magistracy system, which was an important tool for maintenance of law and order. In the absence of magistracy, a vacuum is created which has weakened the writ of the government. The space created by the peace agreements could have been better utilized in the presence of executive magistracy.
- The insurgency in Afghanistan is mainly indigenous and the stability of the Karzai regime cannot be guaranteed from Islamabad. The Ghilzai tribes in southeastern Afghanistan, which are the main support base of the Taliban, are not represented in the Afghan government. The Karzai government is mainly composed of Tajiks, Uzbeks and Durrani Pashtuns. The insurgency may be difficult to stamp out unless the Ghilzais are included in the Kabul government.
- FATA should be integrated into mainland Pakistan through a constitutional package involving extension of the Political Parties Act to the region. In no way should the rights of a citizen residing in FATA be less than those enjoyed by Pakistani citizens elsewhere in the country. The state should not have a separate system for FATA. Policing and action against criminals and militants should be the domain of the state and the tribesmen should not be asked to police or hunt for criminals.
- Writ of the higher judiciary should be extended to FATA.
- The powers of the President under articles 246 and 247 of the constitution in respect to FATA should be given to parliament.
- Pakistan should effectively demonstrate that FATA is not a safe haven for militants with extra-territorial aims. For that, Durand Line should be strengthened and the territorial integrity of Pakistan safeguarded.
- Given the proven failure of the military solutions, it is time to engage those elements within the Taliban ranks who are amenable to abandoning violence. The 'irreconcilables' should be isolated and forcefully dealt with.

8. Conclusion

Pakistan's tribal areas have been blinking on the global radars for all the wrong reasons. The militancy in these areas is growing and has implications not only for Pakistan but also has regional and international repercussions. To contain this militancy, Pakistan has taken various measures, which have not worked. These steps could not succeed because of the archaic administrative set up in the tribal belt, the emphasis on military means and absence of political support for policies, actions under external compulsions rather than on account of domestic needs, trans-national character of the insurgency and negotiating from a position of weakness.

Pakistan needs a comprehensive counter-insurgency policy based on three pillars: military, political and economic. Priority should be given to integrate the tribal areas into Pakistan through political and administrative reforms. Such policies should prioritize national interest with strong political and public backing. Institutions need to be strengthened to enable the people to not only live in peace but also to access justice.

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- ⁵ This study would not have been possible without the help of numerous individuals. I owe a special debt of gratitude to Rustam Shah Mohmand (Pakistan's former ambassador to Afghanistan); Khalid Aziz (former Chief Secretary); Afrasiab Khattak (peace ambassador ANP); Fayaz Toru (Home Secretary KPK); Tariq Hayat (Political Agent Khyber Agency); Dr. Shamshir Ali (MPA from Swat); Haider Ali (MPA from Swat); Dr. Kamal (President of Shaheed Bhutto Foundation); and Aarish Khan (political scientist with SDPI). The role of the NIM administration in providing a very cozy environment at the institute and an intellectual ambiance to complete this paper could not be emphasized enough.
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