

BLACK LAW (FCR) IN FEDERALLY ADMINISTERED TRIBAL AREAS (FATA) OF PAKISTAN

Before going to enlighten the black law (Frontier Crimes Regulation 1901), let's first familiarize you with the FATA (Federally Administered Tribal Areas of Pakistan).

A tribal region in northwest of Pakistan bordering with Khyber Pakhtunkhwa and Balochistan provinces of Pakistan's is called the Federally Administered Tribal Areas (FATA). FATA share its border with Khyber Pakhtunkhwa in the east and south and with Afghanistan to the west and north. The Federally Administered Tribal Areas comprises of seven tribal agencies (districts) i.e. Bajour, Mohmand, Khyber, Kurram, Orakzai, North Waziristan & South Waziristan and six frontier regions (FRs) i.e. FR Peshawar, FR Kohat, FR Bannu, FR Lakki, FR Tank & FR Dikhan.

The region is almost entirely inhabited by the Pashtuns, who also live in the neighboring provinces of Khyber Pakhtunkhwa and Northern Balochistan. According to 2011 estimates its total population is 4,452,913 (4.4m) which is 2% to 2.4% of Pakistan's population. Only 3.1% of the population resides in the established townships, which is thus the most rural administrative unit in Pakistan.

The FATA literacy rate is 22%, which is far below the national rate of 56%. 35.8% of men and only 7.5% of women receive education, compared to a national 44% of women.

FATA is directly governed by Pakistan's federal government through a special set of laws called Frontier Crimes Regulations (FCR). Overall FATA is headed by Governor Khyber Pakhtunkhwa (KP) and each agency by Political agent (PA).

What is Frontier Crimes Regulation (1901)?

Frontier Crimes Regulation (FCR) was enacted in 1901 by the British Raj (Govt) in the Pashtun-inhabited tribal areas in the Northwest of British India. They were specifically devised to counter the opposition of the Pashtuns to British rule especially in Khyber Pakhtunkhwa (Former NWFP), Baluchistan and all the tribal areas. The main objective of the FCR was to protect the interests of the British Empire.

After the independence of Pakistan in 1947, Khyber Pakhtunkhwa (KP) got rid of it in 1956 on the commencement of 1956 constitution. Baluchistan was released from its clutches when 1973 constitution was enforced. Malakand and Dir were rescued of FCR in 1973. More than a century later, today FATA is the only hostage of frontier crimes regulations.

FCR Some Points & Concerns:

Frontier Crimes Regulations (FCR) comprises a special set of laws of [Pakistan](#), which are applicable to the [Federally Administered Tribal Areas](#) (FATA) of northwestern Pakistan. The law states that

- Three basic rights are not applicable to the residents of FATA i.e. [appeal](#) (the right to request a change to a [conviction](#) in any court), Wakeel (the [right to legal representation](#)) and Daleel (the [right to present reasoned evidence](#)).
- One of the worst irregularities of the FCR is the collective punishment clause (No. 21), which is imposed on anyone in the tribal areas for a crime committed by him or her relative, spouse, or even any other person from the same tribe and area (Amnesty International 2008). In case of any crime by a person, his or her whole family/tribe is made responsible for the act, can be arrested or their property seized.
- Under the draconian FCR, the political agent or his deputy, the assistant political agent, enjoys unchecked powers – both executive and judicial. There is no regulatory mechanism to check misuse of power by the political agent which often results in serious human rights violations.
- Under the FCR, suspects are tried by a tribal *Jirga* or council which submits its recommendations regarding conviction or acquittal to the political agent. The political agent makes a decision regarding conviction or acquittal and is not bound by the Jirga's recommendations. The orders of the political agent cannot be challenged before the higher courts.
- Under section 23 of the FCR, all the members of a village are considered responsible for a murder if a dead body is found in their village. Under

section 22 and 23, fines are imposed on the entire community for the crimes of a single person.

- In section 56, if fines are not paid by relatives, then the property of an offender is sold to realize the amount due.

The FCR has been characterized as “draconian”, a “black law”, “illegal”, “unconstitutional” and “un-Islamic” by the people and the courts. The FCR was enacted by the British colonialists as an instrument to overpower the local people and to stop any rebellion by the Pashtuns.

The residence of FATA, students, political activist protested and sit in many times against FCR in the province, in the capital Islamabad to get rid of this draconian law.

In August 2011 President Asif Ali Zardari enacted a presidential order to amend the FCR, However, the changes have been widely criticized and the political administration accused of lacking the will to implement and enforce the FCR as revised in 2011.

FCR is considered the violator of human rights and a major hindrance in development of the tribal areas by its people. In this contemporary era there is a need to support the complete closure and dismantle of the FCR, so that FATA may be brought under the purview of the Constitution of Pakistan in the same manner as it applies to all Pakistan. The people of FATA deserve the same fundamental rights that the rest of Pakistan enjoys. In the tribal areas “Rule of Law” should be established and “Rule of Man” should be abolished.

References:

https://en.wikipedia.org/wiki/Federally_Administered_Tribal_Areas

https://en.wikipedia.org/wiki/Frontier_Crimes_Regulations

<http://utmani.blogspot.com/p/under-construction-1.html>