

ROLE OF MALIK IN TRIBAL SOCIETY: A DYNAMIC CHANGE AFTER 9/11

Dr. Muhammad Akbar Malik *

Abstract

In Pukhtoon society 'Malik' (the Tribal Chief) remained a key figure in all social and political activities. His influence in society was so deep-rooted that his words in any matter were final and acceptable even for the warring parties, whenever he acted as an arbitrator. He remained a source of inspiration and command in society and every one gave due respect to his words. Malik on behalf of his clan/tribe, was a chief spokesman who used to deal with other tribes and the government and acted as the best source for enforcing loyalty for the government in war-ridden areas of FATA. The government in return paid handsome benefit for their allegiance. After 9/11, Pakistan became a frontline state in war on terrorism causing a great change internationally, and particularly in the Tribal areas. Due to the presence of US and NATO forces in Afghanistan, the tribal areas have become a safe haven for Al-Qaeda, Taliban and other foreign militant groups. This growing militancy has resulted in undercutting the Maliks influence and control in their respective areas and anarchic situation everywhere in Tribal areas. This paper will focus on Maliks role in Pukhtoon society in general and in tribal areas in particular and highlight the factors leading to their ineffectiveness and losing prestige in their respective areas. To review and promote the role and influence of Maliks in this war zone, it is necessary to analyze that how they can safeguard the government interest and handle the militancy in this region effectively.

Key Words

Malik, Tribal Areas, War on Terror, Pukhtoons, Taliban.

FATA is a collection of seven semi-autonomous 'agencies,' and six 'frontier regions, having 27,220 square kilometers area and shares a 600 km border with Afghanistan. Predominantly, FATA has the Pukhtoon population of 3.17 million locals and some 1.5 million refugees from Afghanistan and continues to be the center of global attention in the wake of the United States (US) invasion of

* Professor and Chairman of Department of Pakistan Studies at Islamia University, Bahawalpur.

Afghanistan in 2001. In recent years, FATA has become a bone of contention between the US and Pakistan, as US incursions into FATA have produced a war of words and even direct confrontations between US and Pakistani forces on the border. FATA is also considered home to many Al-Qaeda operatives, especially the numerous “foreigners” from the Arab world, Central Asia, Muslim areas of the Far East, and even Europe who flock to this war zone for training, indoctrination, and sometimes respite from repression at home. All the seven tribal agencies are headed by Political Agents (PAs), who exercise significant executive, judicial, and revenue powers and rule through tribal leaders which are known as Maliks.¹

Malik in FATA Society and his Role

Historically, Pukhtoon society was shaped by hereditary tribal chiefs (*Maliks*) along with a traditional code of honor (*Pukhtoonwali*). This un-written code is the keystone of the arch of the Pukhtoons' social fabric. The *Pukhtoonwali* embraces all the activities from the cradle to the grave. The British colonial administrators in India tried to control the Pukhtoons by various methods; proxy wars, installation of ‘friendly’ governments and direct intervention. The failed attempts of direct rule encouraged British to introduce the Sandeman system, whose effect was the raising of tribal levies, or *Khasadars*, which survives even today. In return London stationed troops granted these areas a semi-autonomous status as a reward for tribal acquiescence to colonial rule.²

Consequently, the British built roads and infrastructure with the help of local *Maliks*, who could control the loyalties of the tribes. The *Maliks* got large grants and subsidies.³ The British also issued a Frontier Crimes Regulation (FCR) in 1901, replacing the earlier generation of laws. It was a typical colonial device of vesting the executive with judicial powers introduced to enable the former to be an absolutist source of power in the area. The FCR is a set of draconian laws more in tune with medieval times than the 21st century. “The most notorious sections of the regulation are 21-24 which deal with the issue of collective territorial responsibility. These are particularly problematic clauses which have empowered the Political Agent—the principal representative of the federal government in tribal areas to punish an entire tribe or clan for crimes committed on its territory by imposing fines, arresting individuals, seizing and even demolishing property anywhere in the country.”⁴

Pakistan retained the *Maliki* system, which the British introduced to create reliable local elite. This special status was codified in treaties that required *Maliks* (tribal elders) to keep the border passes open for trade and strategic purposes and in return granted allowances and subsidies which they could distribute among their tribes. The Indian Independence Act of 1947 abrogated the special treaties. Pakistan opted not to keep the troops in the region, after the *Maliks* of Khyber, Kurram and South and North Waziristan Agencies signed an Instrument of Accession with Governor General, Mohammad Ali Jinnah in return for continued

allowances and subsidies, autonomous status, with Governor General's direct administrative jurisdiction.⁵

FATA today is formally a part of Pakistan but more closely resembles a colony whose population lives under laws and administrative arrangements that set it apart from the rest of the state. It is this "process of imposed definitions, misperceptions and insensitive institutional imperatives [that] continue to hamper stability, economic improvement and self-determination" in tribal areas.⁶ The PA grants to tribal elders and the status of *Malik* (with the consent of the governor), prevails authority on the basis of male inheritance. But the PA can also arbitrarily withdraw, suspend or cancel a *Malik's* status if he deems that the individual is not serving the interest of the state. *Maliks* receive financial privileges from the administration in line with their tribe's cooperation in suppressing crime, maintaining social peace and in general supporting the government. Other privileges include nomination to Agency Councils or other local government institutions; appointment to the Jirga (Council of Elders) established under the FCR for adjudicating Civil and Criminal cases; and periodic access to the highest echelons of government, including the governor, the Prime Minister and the President, to represent the interests of their respective tribes. The governance structure of FATA is perceived by many as a factor in the rise and success of militancy in the region.⁷

FATA as an Incubator of Extremism

Taliban insurgency has been spreading extensively in FATA after the rise of Taliban regime in Afghanistan and the occupation of the same country by US in 2001 after 9/11 attacks on World Trade Center. Imported money, arms and ideology have done much to generate the current Taliban militancy, in part by inverting power relations between *Maliks* and *Mullahs*, and undermining time honored tribal institutions. The failure, in recent years, of traditional authorities to enforce a number of ceasefire agreements negotiated by the army with local militants points out the need for entirely new, more effective political and administrative structure.⁸

The militants targeting of Political Agents and tribal *Maliks*, resulted in the collapse of the Political Agent system in several southern tribal agencies.⁹ Mirali and Miramshah *tehsils* (sub-districts) in North Waziristan are completely under the sway of the regrouped militants, as several officials have been kidnapped or killed. The Mujahidin Shura of North Waziristan not only banned tribal elders from meeting officials but also targeted pro-government tribal elders by killing more than 150 *Maliks*.¹⁰

When bypassing the authority of the Political Agent armed, operations are conducted in FATA, the military inadvertently disempowered its traditional conduit of influence in the tribal areas. Taking the first transitional activism, one

might imagine the governance reform which charges the *Maliks* with broad political responsibilities, qualified by a set of legal norms of equity and transparency; and a development program which, in turn, reinforces the *Malik* system by using tribal leaders as conduits for aid delivery.¹¹

The Emergence of an Alternative Leadership after 9/11

The fleeing al-Qaeda and Taliban elements, settled into the tribal belt, after US invasion of Afghanistan, along with young fighters, celebrated their part in battles in Afghanistan and later against the Pakistani military—sought to fill the power vacuum by leading their own militias. Al-Qaeda declared a jihad against Musharraf in August 2007, and, in April 2009, an al-Qaeda leader called for a mass mobilization against the Pakistani government.¹²

Taliban leaders apparently feared that in the event of conflict between the militants and the Pakistani Government, tribal elders could form anti-Taliban *lashkars* (private army) and turn the local population against the militants. Thus, even though the Taliban Consolidated Power in the first half of the 2000s, it was in fact contributing to its own unpopularity. About two hundred of the *Maliks*, or leaders, of the Mehsud and Ahmadzai Wazir tribes in South Waziristan, who had acted as bridge between the Pakistani government and the tribes, were either killed, forced to leave the area, or made to keep silent. In FATA more than 100 *Maliks* were assassinated since 2004 on suspicion of spying for the US or for the government and many others left Waziristan to find shelter in the cities. The *Maliks* under threat, refused the protection of the state, as this would have been contrary to tribal honor.

In addition, the military operations also created the conditions for the emergence of new actors who have deep influence on the society: charismatic young men who fought in Afghanistan and are not tribal leaders by lineage or election and whose power and legitimacy are based on the irrecently acquired wealth—either Arab money or the exorbitant compensations paid by the army—and their ability to fight and fill the power vacuum opened when the Taliban began its decapitation campaign. It resulted in the killing of more than 600 *Maliks* or tribal chiefs since 2007¹³ or according to another source till 2009.

During the increasing “Talibanization” in both North and South Waziristans, the tribal *Maliks* (Chiefs) lost considerable power to the local clerics who mobilized the local people for *jihad* in Afghanistan and against the Pakistani Army. Many *Maliks* were killed and replaced with clerics permanently altering the social fabric in some parts of FATA.¹⁴

Even after Pakistani military operations inside the FATA, many of the *Maliks* are reluctant to return. One *Malik* from the Mamond tribe was assassinated on his way to a meeting with the Prime Minister in July 2008.¹⁵ A

group of *Maliks* from the Mehsud tribe arrived at the office of COAS General Kayani in a car with blacked out windows to prevent the Taliban from identifying them.¹⁶

The present situation is similar to that of Afghanistan in the 1980s where the *Mullahs* gained autonomy in the Pashtun rural areas after the elimination, or marginalization, of the *Khans* and the absence of the writ of the government. This led, in the 1990s, to the emergence of the Taliban as a social movement. The shift is in the structure of power from the political administration to the army and from the *Maliks* to the militants. The new status of the *Mullahs* is as arbitrator between the tribes and the state has given assurance to the local Taliban who became an alternative leadership. As *Maliks* were eliminated by the Taliban or reduced to irrelevance, the vacuum was filled by *Mullahs* or clergy, who developed independent revenue streams and no longer needed the *Maliks* for financial support. Initially, in the 1980s, the *Mullahs'* money was funneled into the area for the Mujahedeen. Later, the money came from al-Qaeda in exchange for hiding and sheltering its members as well from smuggling, drug-running, and local protection rackets.¹⁷

The deals with the army gave the militants an upper hand. The Shakai deal was not a surrender *Taliban*. In Shakai, the army came to meet Nek Mohammad in a JUI-F madrassa where he said: "I did not go to them, they came to my place. That should make it clear who surrendered to whom?"¹⁸

The militants described the deal as a "reconciliation," which means in tribal code accepting the other group as equally powerful and legitimate. By signing the deals with the militants, the army gave them legitimacy and allowed them to consolidate. The tribal society has been reshaped around the militants, who succeeded where the government and the traditional institutions had failed and have been able to carve out enclaves of alternative power. They have capitalized on the local anger at the general lawlessness and gangs of bandits and in doing so; they have become an alternative moral authority. The Pakistani Taliban thus have established alternative centers for the administration of justice and the settling of disputes, displacing the tribal Jirga and elders. The role of the tribal elders was effectively buried when the implementation of Sharia was announced by the Taliban in March 2006 in South Waziristan.¹⁹

This new Taliban leadership, which is accessible and efficient, has tried to build a power base within the population, particularly among the young tribals and the disadvantaged segments of the society to offset the resentment of the elders against the arbitrary and severe rule of the Taliban. Unemployment, the sense of alienation, the slow pace of development projects resulting in the absence of benefits for the local population, and the military operations radicalized many of the young tribals to join the Pakistani Taliban. Some of the educated young tribals also support them. Moreover, in the tribal society, businessmen are considered

weak, while to be a Taliban is a good occupation as apart from the financial incentive, it gives power and respect.²⁰

In the reckoning (or perhaps rationalization) of some *Maliks*, harboring foreign militants as “guests” and refusing to surrender them made the Wazirs better Pukhtoons: “In our customs and traditions, we can die but never even think of handing over our guests to their enemy. Tribal people fought against their own security forces for almost three years in the North Waziristan Agency but did not compromise on their traditions.”²¹

Once hospitality is granted, to give it up under exterior pressure would demonstrate that Pukhtoons do not have mastery over their own circumstances. The deals signed with the army had no clause binding for the militants to deliver on Pakistanis to the government. To deny hospitality under an exterior pressure would also be seen as an infringement on freedom: “It is our land, our tradition to give shelter, and there should be no interference in our affairs.” A majority of Pakistanis continue to believe that Pakistan is fighting a war on behalf of US. Statements by the civilian government about this war need to be bolstered by arguments and actions to convince the population that the battle against militancy inside Pakistan is not a proxy war on behalf of any other power.²²

The economy of FATA has been politicized and structured so as to further the interests of two sets of competing elites: the official *Maliks* and the radical *Mullahs* (whose power has recently soared with the militant activities as a result of war in Afghanistan). Therefore, a new way of providing economic opportunities will need to be explored. If ordinary people are not given the opportunity to escape from this set of circumstances, there will be no change in FATA. A small number of elite and their limited political interest will continue to control the economy, in addition to who benefits from all new economic inputs into the area.

Pakistan also contributed to the creation of this vacuum by delegitimizing tribal leadership (largely inadvertently) by cutting peace deals with the Taliban in North Waziristan and South Waziristan. New opportunists subsequently moved in. The legitimacy of tribal structures has been a long-standing problem. The authority of *Maliks* as well as the Frontier Crimes Regulation, the system of justice established by the British Raj, are considered to be a corrupt way to rule out this region.²³

The Taliban have also benefited from the fact that the tribal system has been in decline since 1970s because the elders were increasingly losing ground to new generation of young and brash militants. Such a trend is hardly surprising under the onslaught of near constant war and accompanying waves of drug money and advanced small arms. Additionally, the entrance of the Army and its

direct dealings with tribes and militants has also dealt a further blow to the legitimacy and relevance of local *Maliks*.²⁴ Together with local Taliban, the foreign militants have also fought against the Pakistani Army, building blood-bonds between the foreign and local militants. However, due to the interference of foreign militants in local affairs, there is an increasing opposition to the presence of foreigners among tribal elders and some senior clerics in North Waziristan.²⁵

How to Change the Situation?

By taking the following steps, the Government can change the whole social and economic setup of FATA which will promote and popularize the *Malik's* role in this region:

- The construction of new roads and the introduction of better means of communication will be helpful to improve the economic conditions of this region.
- The government should provide security and other resources for the protection of all active *Maliks* in FATA to promote state interest in this war zone.
- Land for construction of new buildings and wells may be selectively provided to benefit the peace loving families, and these families may find ways to provide opportunities to maintain peace in the region.
- Education and health care facilities may be provided to everyone in FATA without any discrimination to enhance standard of living in this backward area.
- The government of Pakistan should provide all sort of aid to those *Malik* who in some areas are still able to grasp the levers to control the situation. This aid will likely be used to benefit selected, traditionally favored tribes and clans. The long-term socio-political impact of economic projects in FATA region may be helpful to change the war affected conditions of these areas.
- In the case of the tribal areas, this intermediate solution might involve gradual reforms to the FCR that would expand the domain of law and reduce the arbitrary powers of the state, but within that domain of law privilege the tribal *Maliks* and give them a role as the mediators through which the federal government can execute fiscal and police authorities. In such a way, the state would gradually establish a new basis of authority (law) before trying to change the hierarchical patterns of state and society interaction.
- The tribal *Maliks*, once meeting certain qualifications, would have broad executive authority within this framework of law. There are various means by which such a system might be implemented. The FCR in its current form provides for Councils of Elders, which could be institutionalized and granted more expansive authorities. Alternately, the

state could use the institution of the agency council, which was created in late 2004 (on a provisional basis) as a partially elected forum for promoting local governance, but which, at present, is little more than an institutional shell. Whether appointed or elected, these tribal leaders could then be granted a set of legally defined powers by which they are charged to keep order within their respective jurisdictions.

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