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Tribal Legacies and the State: Re-examining Post-Merger Policing Governance in Khyber

Muhammad Ilyas
PhD scholar, Department of Political Science, University of Peshawar
Dr. Muhammad Ayub Jan
Associate Professor, Department of Political Science, University of Peshawar

ABSTRACT
This paper revisits policing governance in Khyber as a state periphery after the merger and problematizes the mainstream literature, which analyses it through the lens of state absence or failure. These models inadequately explain everyday governance in the state peripheries. To assess these ideas, Khyber act as a strategic case, owing to its postcolonial and post-merger administrative reforms. The paper examines the prevailing routine policing practices rather than the law in the abstract. For this purpose, empirical data was collected through qualitative interviews and field observations across all four Tehsils of the district Khyber, with respondents drawn from three distinct groups: police officials, local elders, and experts. This paper proposes that policing legitimacy is mutually negotiated and relational, rather than legally conferred, thereby enabling policing to operate through dual authority under formal and informal rules. Thus, governance is multi-scalar and hybrid, shaped by local norms and national security logics. The study is relevant for policing reform and state-building in the peripheral contexts. The paper demonstrates that policing in the state peripheries is not evidence of state failure, but functions through negotiated sovereignty.

***Key Words*: Policing, Erstwhile FATA, Formal-Informal Governance**

Introduction

Post-merger, Khyber is a district of Peshawar division, in Khyber Pakhtunkhwa Province, located at the center of the former FATA. Khyber is surrounded by the Kabul River and the Koh-e-Suffaid mountain range to the north, the Peshawar District to the east, and the Kurram Agency to the west. To the northwest lies Afghanistan, while the south is Orakzai and the northeast is Mohmand Agency. The area of the Khyber is 2,576 square kilometers. Khyber is home to beautiful streams like Bara River, Choora River and Khyber "Nullah". The terrain is rugged, though with stunning valleys like Rajgal, Maidan, Bara, and Bazar. The Tirah region is noteworthy, with valleys near the sources of Bara River. The Rajgal and Maidan valleys merge at Dwa-Toi, forming Bara Valley. The major tribes living in Khyber are Afridis, Shinwaris, Mulaguris and Shilmanis. The Afridis are the dominant tribe in the Agency, and they are divided into eight sub-clans: Qamber Khel, Malikdin Khels, Kuki Khels, Aka Khels, Zakha Khels, Sepah, Kamar Khel, and Adam Khel. The people of Khyber are predominantly Sunni muslims.

District Khyber, being an agency of the former FATA, has a unique administrative and legal position under the Frontier Crimes Regulations (FCR) with *Maliks* (tribal elders) previously having indirect rule. Since the British era, the former FATA was 'differently governed', conceding limited political rights to the tribals. The collective responsibility and detention of tribals for an indefinite period under the political agent, as both a judicial and executive authority, were the most controversial provisions of the governance system imposed under the FCR. Dissenting voices were raised against the FCR repeatedly, which afforded limited rights to the people of FATA after independence. However, the 25th constitutional amendment was a

watershed development that constitutionally merged FATA with Khyber Pakhtunkhwa (KP), promising constitutional rights, judicial reforms, and the extension of provincial institutions (such as the police, courts, and local government).

The merger of FATA into KP, though a good omen for governance, still carries a lot of challenges and complexities due to its tribal structure, geostrategic location and the limited presence of the state in the past. The foremost challenges include: the friction between state laws and tribal customs; slow institutional transition, and administrative confusion. Thus, the merger process is a moment of transformation, not just legal, but *social and political*, where old and new systems coexist.

The Newly Merged Districts (NMDs) are currently at a crossroads towards sociopolitical and governance transformations. Therefore, this paper asks: How do tribal structures shape governance, authority, and state legitimacy in Pakistan's peripheries? In this study, by "tribal structures", We mean the customary institutions of *Hujra, Jirgas, and Maliks*. Understanding the tribal structures are crucial for understanding the complexities of governance in the NMDs.

We chose Khyber as a case study for empirical data collection. Currently, Khyber is a newly merged district, previously called an agency, located to the west of Peshawar, South of Mohmand tribal district and north of Orakzai district. It shares a border with Afghanistan towards the west. The total area of Khyber is 2,576 square kilometers. According to the 2017 census, the population of Khyber district is approximately 1 million (986,973), of whom approximately 51% are men and 49% are women. Four major tribes live in Khyber, Afridis being the biggest tribe, Shinwaris, Shalmanis and Mulaguris. Strategically, Khyber is an important district as it controls the major trade routes via the Torkham border point. Khyber as a case study is ideal for two reasons. First, its geographical location: Its central location among the NMDs and a major trade route with Afghanistan. Secondly, its closer proximity to the provincial capital makes it a prime site for implementing governance reforms.

The study is qualitative and relies on literature review, and *field-based evidence,* which includes Semi-structured interviews (with local elders, officials, and civil society, etc.), Participant observation (Jirgas, police-community interactions) and field notes and informal conversations.

The paper argues that Khyber's governance remains *hybrid* and co-produced through *negotiation between tribal hierarchies and formal state institutions.* In the context of Khyber, "hybrid governance" refers to the active participation of the local authority through the customary institutions of *Hujra, Jirga, and Maliks* in dispute resolution, despite the presence of formal institutions of the police and judiciary. Similarly, the merger has not erased the prior informal order; rather, it has layered new institutions atop existing ones, produced *overlapping and negotiated forms of rule*. Thus, this study contributes to both theoretical debates on governance in *areas of limited statehood or hybrid orders* and an empirical understanding of how post-merger governance actually functions on the ground. In this regard, Khyber serves as a test case of how hybrid governance unfolds in Pakistan's frontier zones.

The next part of the paper discusses the theoretical framework, including the ungoverned spaces and hybrid governance. The theoretical framework is followed by the empirical analysis, which examines tribal structure and state authority. In the next section, the implications for governance and state legitimacy in Pakistan's peripheries are discussed. Finally, the paper is concluded by summarizing the findings and reflecting on policy and theoretical implications.

The study is crucial because understanding Khyber helps rethink *how governance operates in peripheral regions globally*, not as failed or ungoverned, but as *plural and negotiated*. The study is equally important for the ongoing post-merger reform process, integration, policing, and

development of the area. It is an attempt to bridge the tribal legacies, policing, and anthropology of governance in the state peripheries.

Conceptualizing Governance Legacies in Former FATA as State Periphery

The governance of Pakistan's former Federally Administered Tribal Areas (FATA), now merged into Khyber Pakhtunkhwa (KP) as the Newly Merged Districts (NMDs), has long been conceptualized through the lens of *absence*: absence of the state, absence of law, and absence of modern governance (Ijaz & Jafri, 2021; Munir & Ahmed, 2024). Scholarly and policy discourses frequently categorize such areas as *"ungoverned" or "lawless spaces"*, framing them as security threats or governance vacuum (Groh, 2006; S. A. A. Shah et al., 2017). However, this binary view governed versus ungoverned fails to capture the *complex realities of authority, legitimacy, and order* in the former FATA as a State periphery.

This study challenges this conventional understanding by involving a multi-conceptual approach, such as *new institutionalism, negotiated legitimacy*, and that shape a *multi-scalar hybrid governance,* while situating the discussion within the enduring tribal structures and customary practices of Khyber district. The aim is to reconceptualize governance in Pakistan's frontier regions as a hybrid and negotiated process, rather than a void of authority.

While conceptualizing the governance of former FATA, it is important to trace it back through historical legacies and the colonial foundations of frontier governance. Colonial governance models, particularly the FCR, institutionalized indirect rule and segmented sovereignty in the tribal frontier, leaving lasting effects on postcolonial governance. These legacies produced *dual systems of authority* formal state administration and informal tribal self-governance that continue to define political legitimacy and governance capacity in the post-independence era. Pre-merger, the postcolonial turbulence in the former FATA was prescribed as state's failure to establish legitimacy in the frontier, which was further linked to its reliance on colonial administrative logics (Hayat, 2009) .The colonial and postcolonial authorities relied on tribal militias and hybrid sovereignty to control the periphery, reinforcing non-centralized governance (Akins, 2020a). Thus, the governance in the former FATA of Pakistan is historically shaped by *colonial path dependencies*, paving a way for a *hybrid political order* where the state's legitimacy is continuously negotiated through inherited traditions of control.

Besides historical legacies, the tribal structures, authority, and the social dynamics also play a crucial role in the governance of former FATA. Tribal society in ex-FATA remains *deeply hierarchical and collective*, organizing power through *clan, lineage, and customary codes (Pashtunwali)***.** These internal structures profoundly shape governance outcomes and the extension of state authority. Based on the social structure, Groh examines how normative and organizational structural factors associated with rural Pashtun tribes impede a state's efforts to establish authority. He argues that governance policies aligned with *tribal social organization* respecting local norms and leadership are more likely to achieve legitimacy (Groh, 2006). Asghar Khan conceptualizes FATA's governance as *society-centric*, where tribal social autonomy and cohesion *resist external authority* and shape governance effectiveness (Khan, 2022). Hence, governance in the state peripheries is most effective when informal tribal authority and formal state institutions are co-constitutive the state's legitimacy depends on its recognition of tribal governance traditions.

Owing to historical legacies, social structures, and policy interventions, postcolonial governance in Pakistan's tribal borderlands is emerging as *multi-scalar* and *hybrid*, involving overlapping networks of state institutions, tribal authorities, and religious actors. This results in shared sovereignty and blurred lines between formal and informal governance. Stepputat and Hüsken & Klute provide comparative insights, showing that such hybrid orders are common across

borderlands where *state capacity is limited* but social regulation persists (Hüsken & Klute, 2010; Stepputat, 2013)**.** Akins and Yousaf regarded the system as a *hybrid governance* arrangement under the FCR, where state-appointed Agents governed through tribal elders, *Maliks* (Akins, 2020b; Yousaf, 2019). Therefore, governance in the state peripheries is best understood as a *layered system* of negotiated authority, in which state power is exercised through and dependent on *tribal intermediaries and local governance norms*.

Having identified the governance dynamics in borderland peripheries, these areas are not *passive recipients* of state policy but *active sites of negotiation and resistance*. Tribal elites and local actors mediate, reinterpret, and sometimes contest the state's authority, shaping its legitimacy in the process. Eilenberg and Kim show that local group structures determine how peripheries negotiate incorporation and resist unwanted forms of state intervention (Eilenberg, 2009; Kim, 2023). The elite capture and competition in FATA both constrain reform and reshape governance legitimacy, as traditional leaders negotiate new roles in the post-merger setting (Khan, 2022; A. Shah, 2018). Thus, governance in Khyber and similar peripheries is a *process of continual negotiation*, where state legitimacy is co-produced through *local agency, elite bargaining, and adaptive resistance***.**

Borderlands like Khyber are characterized by enduring center periphery asymmetries economic, political, and cultural that both challenge and define the legitimacy of the state. The post-merger reforms aim to correct these asymmetries but often reproduce them. Hayat and Nugent emphasize that "*margins are not voids* but *productive spaces of state formation"*, where legitimacy must be rebuilt through inclusion and service delivery (Hayat, 2009; Lertchavalitsakul & Meehan, 2019). Thus, state legitimacy in the post-merger tribal areas depends on how effectively the state *addresses inherited asymmetries and redefines its relationship* with tribal society through participatory and equitable governance.

In the context of post-merger Khyber, governance reflects the global pattern of hybridity in the peripheries, negotiated legitimacy, and asymmetry**.** The tribal social order, colonial governance legacies, and geopolitical context collectively shape how state authority is extended, contested, and legitimized in Pakistan's erstwhile FATA as a state periphery. This framework, therefore, positions Khyber as a test case of negotiated statehood a frontier where governance is continually redefined through the interaction of tribal legacies and the state**.** Therefore**, s**ynthesizing on these perspectives, showing how state and non-state actors co-produce authority through negotiation and adaptation and acknowledging tribal legitimacy, rooted in social cohesion and cultural norms, as a parallel source of authority to state structures.

Existing literature on Pakistan's peripheries remains dominated by *security-centric and state-centric narratives* that depict FATA and similar regions as governance vacuums or security threats (e.g., Rashid, 2008; Fair, 2014). However, such accounts overlook the *local dynamics of governance* the everyday negotiations, hybrid institutions, and culturally embedded practices that sustain social order in the absence of full state control. This study addresses this theoretical and empirical gap by re-examining the frontier not as a "failed" or "ungoverned" region, but as a *site of alternative governance and negotiated sovereignty*; grounding analysis in primary qualitative data from Khyber, revealing how local actors manage security, justice, and social regulation within hybrid arrangements; and bridging international and local perspective**s** by linking it with the empirical realities of Pakistan's tribal borderlands. Hence, the study contributes to both the theoretical debate on governance in limited statehood and the policy discourse on post-merger integration in Pakistan's NMDs. It challenges reductive binaries of presence/absence, order/disorder, and state/non-state, offering an interesting understanding of governance in the state peripheries.

Methodology: Triangulating the theory with Empirical Data on Tribal Legacies and Governance in Khyber as a State Periphery

The study intends to understand the *meanings, experiences, governance and policing dynamics* in a complex sociopolitical setting like Khyber which is going through transition. For this purpose, a qualitative design was adopted, as it enables in-depth exploration of local perceptions, lived experiences, and power dynamics that cannot be captured through quantitative surveys. The adopted methodology is in better position to *understand the tribal structures and borderland dynamics that shape governance, authority, and state legitimacy.*

The methodological framework was guided by an extensive review of literature on frontier governance, hybrid political authority, and post-merger institutional transitions. The literature review helped identify key themes like *state integration, local legitimacy, and informal governance networks*. The key theoretical ideas, like *hybrid governance* and *borderland politics,* informed my interview design and coding framework. It is important to note that the review also identified *gaps in the understanding* of how reforms are experienced by local actors at the community level. In light of insights from the literature, a qualitative and exploratory method was designed to capture the local complexities of governance in the state peripheries.

A qualitative, exploratory design was adopted to collect in-depth data on how governance is experienced, negotiated, and contested in Khyber District. During data collection, the *observational and informal discussions* were also used to supplement interview findings. We kept the method and content of the enquiry questions flexible to accommodate emerging subjects in the field. The study aimed to achieve a *rich, contextually grounded understanding* rather than statistical representativeness; hence, we based our selection of participants on the same context.

The study employed purposive non-probability sampling to select participants with direct knowledge or lived experience of governance transformation in Khyber. The participants were divided into three main categories, such as I. *Local elders (Maliks)* representing tribal authority, II. *Police officials* to discuss formal governance and law-enforcement reforms. III. *Experts, including Academics, lawyers, and journalists,* to capture the expert view on governance dynamics. A total of 27 participants were interviewed with equal number from each category.

Khyber District was chosen as the representative case due to its unique historical, political, and geographical significance. Its border with Afghanistan makes it a primary site of cross-border interactions and tribal governance traditions. Moreover, Khyber has both *traditional tribal institutions* and *newly merged formal institutions* of governance following the 25th Constitutional Amendment. Thus, the case of Khyber will serve as a *microcosm* for understanding broader national challenges in integrating the former FATA region. Besides, it's close geographical proximity and the researchers' personal familiarity with the region also facilitated access and trust-building during fieldwork.

The fieldwork was conducted over several months, from December 2024 to March 2025, using semi-structured, in-depth interviews and participant observation. Ethical considerations of informed consent, confidentiality and data protection were ensured specially. We kept the language and structure of the questionnaire flexible, simple and open ended for the sake of understanding of the respondents. After data collection and transcription were complete, we started a systematic process of thematic coding and analysis. For thematic analysis, we used NVIVO software. After identifying the key terms, important accounts, and themes, we entered them into Microsoft Office and manually verified each detail.

In sum, this qualitative, field-based methodology enabled an in-depth understanding of how policing governance, authority, and legitimacy are constructed and contested in Khyber's evolving political landscape. The approach provided *rich empirical evidence* and *multiple perspectives* on the post-merger governance transition that is discussed in the next section of the paper.

Tribal Legacies of Governance in Khyber

The current governance structure of Khyber cannot be understood without analyzing it in its long-standing position within the state periphery. Historically administered as part of the Federally Administered Tribal Areas (FATA), Khyber remained institutionally marginal to Pakistan's formal state apparatus, governed instead through indirect rule, selective intervention, and reliance on customary authority structures (Khan, 2022). This peripheral status shaped not only administrative arrangements but also social norms, political authority, and security patterns that continue to influence governance practices after the merger with Khyber Pakhtunkhwa.

Khyber's peripheral positioning was not merely geographical but greatly political. "Successive colonial and post-colonial regimes treated the region as a buffer zone first against imperial rivals and later in the context of regional conflicts involving Afghanistan" (Q. Fazlullah, personal communication, February 2, 2024). In the post-colonial era FATA functioned as a strategic backyard where the state prioritized control over integration, stability over development, and convenience over institutionalization (D. Afridi, personal communication, February 20, 2024). This governance logic limited the expansion of the bureaucracy, judiciary, and political institutions, reinforcing the authority of tribal intermediaries (elders) while relieving the state of direct responsibility for service delivery and the protection of rights. This strategic use of space produced a governance vacuum in which informal institutions flourished, but it also entrenched a culture of administrative neglect and selective legality through political agents. The legacies of this arrangement continue to shape public perceptions of the state, even in the post-merger era.

Khyber's location along the Pakistan–Afghanistan is crucial in shaping its security landscape. "The border facilitated the growth of informal and illicit economies, including the cross-border trafficking of drugs, goods and terror" (Firdos, 2021). These activities flourished under weak regulatory oversight and were often embedded within tribal networks that provided protection, mediation, and dispute resolution. The transit economy became a critical source of livelihoods for many households, further complicating the state's efforts to impose formal controls.

Central to this peripheral governance was the Frontier Crimes Regulations (FCR), which institutionalized collective responsibility, discretionary punishment, and executive dominance over judicial oversight (Yousaf, 2019). The FCR empowered political agents and tribal elites while marginalizing ordinary residents, particularly women and weaker social groups. Although formally abolished following the merger, the rationales behind the FCR continue to influence governance practices in Khyber. Many residents perceive post-merger administrative institutions as reproducing older patterns of arbitrariness, albeit under new legal frameworks (M. Jan, personal communication, August 3, 2024). This perception complicates state efforts to establish rule-based governance and undermines confidence in formal justice mechanisms.

The former *Khasadar* force, recruited locally and embedded within tribal structures. While *Khasadars* enjoyed social familiarity and local legitimacy, they were widely criticized for inadequate training, limited capacity, and perceived involvement in criminal activities (L. Akbar, personal communication, March 15, 2024). Their integration into the KP Police following the

merger exposed tensions between professional policing standards and localized security practices. Public perceptions of incompetence and criminality among former *Khasadars* have contributed to an erosion of trust in formal law enforcement, complicating the state's efforts to establish legitimacy through policing reforms (N. Naseer, personal communication, February 26, 2024).

Moreover, land disputes remain a major source of conflict and a key area in which tribal authority continues to assert its relevance. "Land ownership and usage in Khyber have long been regulated through customary norms rather than formal cadastral systems" (A. Manaan, personal communication, August 2, 2024). Disputes over land are typically resolved through tribal elders and Jirgas, drawing on precedent, lineage claims, and negotiated settlements. The introduction of formal land administration and courts has generated uncertainty because there are no land records available with the revenue department.

Prolonged militancy and counterinsurgency operations further eroded governance structures in Khyber. "Armed groups exploited institutional gaps, social grievances, and the absence of effective civilian administration to establish parallel systems of control. Militancy disrupted traditional authority structures while simultaneously drawing upon tribal networks for recruitment, protection, and legitimacy" (N. Naseer, personal communication, February 26, 2024). The militarization of governance during this period weakened civilian institutions and normalized exceptional measures, leaving enduring impacts on state society relations (D. Afridi, personal communication, February 20, 2024).

Collectively, these dynamics illustrate how tribal legacies continue to shape governance in Khyber. Rather than disappearing with constitutional integration, informal authority structures, customary norms, and peripheral governance logics persist, creating governance complexities. These legacies both enable and constrain state-building efforts in Khyber.

From Tribal Order to Post-Merger Governance Context

In April 2018, "The Supreme Court and High Court Extension of Jurisdiction to Federally Administered Tribal Areas Act, 2018" was assented to by President Mamnoon Hussain, followed by the 25th constitutional amendment, which was passed through the parliament and KP assembly (Gurmani, 2018). To fill the legal gaps concerning policing in the former FATA, the KP government promulgated two Acts, namely "The Khyber Pakhtunkhwa Levies Force Act, 2019" and "The Khyber Pakhtunkhwa *Khasadar* Force Act, 2019", on September 16, 2019. These Acts granted legal cover to both *Khasadar* and *Levies* force in the NMDs. Through these acts, Levies and Khasadars were merged with Khyber Pakhtunkhwa police, which redefined the institutional, administrative, and functional mechanisms and structures for adaptation to constitutional developments.

The tribal elders were not happy with this development and regarded the merger as haphazard, unconstitutional and against the wishes of the people of FATA.

"I maintain that the merger was illegal. According to Article 247 of the Pakistani Constitution, a merger can only happen with the consensus of tribal leaders and the president. There should have been a consensus before proceeding, but the decision was made behind closed doors and rushed through in just two days on a Sunday, which is typically a non-working day. The merger happened without any agreement, causing trouble for everyone in FATA, from the Maliks (tribal chiefs) to ordinary citizens. The merger has created many problems. If they were serious about the merger, they should have provided a 10 to 20-year transition period"(malik Salahudin, personal communication, February 15, 2024).

The people of Khyber complain mistreatment on the part of federal and provincial government, lack of funds, infrastructure and access to services. They are not happy with the government policies of formalizing the transit trade, banning arms and opium trade (which was formerly allowed in certain parts of Khyber. They feel proud of being "*Azad Qabayli*" means" independent tribal. *Azad Qabayili* means we were autonomous. "We had our own customs like *Jirga, Teega* (ceasefire), and our own *Masharan* (tribal councils)" (A. Manaan, personal communication, August 2, 2024). It was observed that Maliks still vehemently oppose and want to revert to the merger because they were the prime beneficiaries of the previous system.

People expected changes in security infrastructure after the merger, including the introduction of formal courts, policing reforms, and the dismantling of informal authority structures. However, "Khyber still has a tribal structure and is used to the centuries-old *Jirga* system. Currently, the tribals strive to maintain their *Jirga* system and resolve land disputes on their own, as well as going to the courts" (L. Akbar, personal communication, March 15, 2024). Thus, it is not the failure of the reform process, but the strong bond of people with the traditions that does not let the formal institutions succeed.

Thus, Khyber historically functioned through traditional tribal governance mechanisms rather than Weberian state authority. The governance was based on customary law, kinship ties, and social consensus, rather than on bureaucratic rational-legal systems prevalent in the rest of the country. Hence, the post-merger moment was a structural rupture from the past but not a complete institutional breakup, as the tribal customary structures were still strong and functioning in Khyber. The merger was a moment that introduced new actors rather than eliminating old ones. As the Khyber undergoes transition, tribal norms and formal procedures are intervening in the development of governance structures.

Negotiating Legitimacy Between Tribal Elders and the New Administrative Apparatus

In organic tribal societies, the essence of 'legitimacy' is somewhat more lenient; it cannot be defined solely in legal terms (Ramsbotham & Wennmann, 2014). In Khyber, due to the autonomous security governance style, legitimacy is more akin to social acceptance of authority than to a mere legal obligation. For instance, the role of *Masharan, Jirga, Hujra and Pashtunwali* is a part and parcel of the policing system in Khyber, though there is no mention of these in the formal law. Thus, legitimacy in Khyber is relational and situational, produced through interaction between elders (who represent the geography and traditions) and state officials (who represent formal law). In this context, both sides, such as the elders and the officials, seek legitimacy. The elders seek recognition and relevance, while the state actors seek compliance and stability. "The police cannot perform their duties without the support of local elders, be it a murder case, or a land dispute or the assigned duties in the polio campaign" (Q. Fazlullah, personal communication, February 2, 2024). Therefore, the order and governance in Khyber is produced through mutual consensus.

Accomplishment of Legitimacy on the Part of Tribal Elders in the Post-Merger Era

Tribal elders try to accomplish legitimacy by keeping the Jirga system relevant in Khyber. Although, *Jirga* is already deeply entrenched in the tribal society. Even the police attempt to refer cases to *Jirgas*. Partly, this is due to the efficiency, public trust, and low cost of *Jirga* procedures. "When someone comes to the police station to register their complaint, the SHO calls us (the local elders) and assigns us the case to solve" (S. Ali, personal communication, February 22, 2024). Very few cases, especially those highlighted in the media, are referred to the courts. Police cannot manage family disputes and land disputes without the support of local elders. The elders have dedicated their time and energy to addressing issues affecting their respective tribe. They regard it as a matter of pride and honor to represent their tribe and

Tappa (Sub-tribe). For instance, the tribal elders routinely gather nearby the Tehsil offices to check if there is an issue they need to solve. Tehsil offices are places where the court, police Station, and the respective local and tehsil administration offices are located. They gather to help people resolve disputes through *Jirga* or obtain protective bail.

Moreover, Khyber still exhibits many characteristics of a tribal society. Every tribe and sub-tribe has its own chieftains who are responsible for defending their tribes. The tribal system is well-organized, so community mobilization for these *Maliks* is easier. In 2024, *Kokikhil* organized its tribesmen and blocked the Pak-Afghan highway for more than two months to demand the repatriation of their tribe back to *Tirah*. Pak-Afghan highway is a very busy trade route, yet they were able to fulfil their demands through the government. The tribal elders as serve of both advocates for their tribe and negotiators with state authorities.

When there is a policy intervention on the part of the state, e.g. when the state feels a need of military operation, these elders are the first point of contact. They act as intermediaries with the state. For instance, last year, the *jirga* of local elders mediated between the government and the militants to maintain peace in their area (Shinwari, 2025). The local elders ensure that their customs and traditions are not violated. Even the state cannot neglect the importance of engaging these elders. It is because these elders hold immense social influence, moral authority and deep knowledge of local realities. Thus, local traditional realities cannot be neglected when articulating security governance in a state periphery.

Administrative Dependence on Informal Authority Warrants a Hybrid Governance as the Emerging Order

The district administration and police also rely on elders for intelligence gathering, mediation, and conflict management. The administration has already developed a symbiotic relationship with them. The government uses various informal forums for dispute resolution. E.g. both the police and the elders have a tacit agreement not bring the issues related to women to the courts. Similarly, land disputes are ultimately resolved by tribal elders. “Police run anti-encroachment drives, polio campaigns and intelligence gathering through the support of locals; otherwise, it is impossible to perform these actions as Khyber is a very vast area” (Z. Ahmad, personal communication, February 15, 2024).

While this interdependence is unavoidable in current circumstances, given the lack of resources, infrastructure and awareness in Khyber. However, it also reflects capacity gaps, violations of rights, and a deficit of trust. Therefore, in such situations, pragmatic governance demands the overlapping and maintenance of informal, traditional governance mechanisms alongside the protection of basic rights. It does not reflect a policy failure but rather the fact that the state governs through tribal authority as much as it needs to, as well as through legal authority.

Since the British era, FATA has been governed under a dual authority structure, comprising the informal authority of tribal elders and *Maliks* and the formal authority of political agents. In the post-colonial era, it retained its path dependence, even in historical junctures such as the extension of the Political Parties Act in 2011 or the FATA merger in 2018. The informal local institutions still exert their authority on governance at the multi-scalar level. Besides society, these informal institutions are embedded within formal frameworks. For instance, to engage *Jirga* system they formulated DRCs (dispute resolution councils), but they will never accept any demand from the locals regarding the border control. This implies that the state also selectively incorporates the customary authority. Thus, the governance of Khyber is best understood as hybrid rather than transitional. The state unadmitted incorporates hybridity into governance

because it provides short-term stability. However, the question of long-term governance is still unresolved.

On the one hand, hybrid governance appears socially acceptable and financially viable; on the other, ignoring tribal authority risks weak compliance. As people become accustomed to traditional systems. People neither know the formal mechanisms nor want to comply with their procedural implications. "An old man who was summoned in a land dispute case, tore down the court order and threatened to beat the policemen if he did not step out of his property" (Q. Fazlullah, personal communication, February 2, 2024). Similarly, those convening private *Jirgas* possess immense social clout within the society. Moreover, Jirgas are part of *Pashtunwali and Riwaj*, and the police are unable to rout it out. Rather, it will risk further strengthening of these parallel justice systems and eroding public trust in the government institutions. Thus, the existing rationale and empirical data both support the hybrid governance style in Khyber.

Discussion: Re-examining the Policing Governance in Khyber as a State Periphery

It is important to note that informality in policing is not something inherited, rather it is first produced by the British colonial power and then reproduced by the state itself. For instance, the selective enforcement of orders, political patronage of certain classes within tribal society, and security exemptions reinforce informal governance. Thus, informality becomes a tool of control, not an obstacle to it. Therefore, Khyber reflects a peripheral status in which sovereignty is uneven, negotiated, and strategically vague.

These dynamics also challenge the narratives that frame frontier regions as "ungoverned" or "lawless," suggesting instead that Khyber is subject to a distinct mode of governance characterized by partial formal and informal authorities. Positioning these observations within broader theoretical discussions on statehood, this study aligns with scholarship that criticizes the unitary state model and emphasizes the relational and extended nature of sovereignty in postcolonial (Eilenberg, 2009; Lertchavalitsakul & Meehan, 2019). In this study, policing in Khyber does not imply state failure but reveals a traditionally rooted governance mechanism in which authority is exercised through mediation, accommodation, and selective intervention, as formal and informal institutions interact in the way narrated by Helmke and Levitsky (Helmke & Levitsky, 2004)**.**

It is important to note that policing in Khyber operates across multiple levels. Domestically, kinship networks, *Jirgas* and community mediations shape governance. At the national level, governance is defined by the integration of political processes, police reforms, and counterterrorism frameworks. On the other hand, Khyber is lying on a crossroad between Peshawar and Afghanistan. Local, national, and transnational dynamics shape the governance of Khyber. Being on the border, Khyber has experienced different phases of militancy, military operations, and peace. "The situation of Khyber is closely connected with Afghanistan: if there is peace, we are at peace, if there is war, we also have turbulence here" (L. Akbar, personal communication, March 15, 2024). Moreover, most people in Khyber are engaged in transit trade. Any development on both sides of the border affects the local economy of Khyber. Thus, police practices are shaped by competing, yet interconnected, rationalities across these scales.

This study suggests that legitimacy in tribal areas is shared between local tribes and the government, as both continue to provide parallel policing mechanisms to support formal policing. For instance, in Bazar Zakhakhil valley of Khyber, policing is performed by a local private group named "Tauheed ul Islam" under the tacit support of the government (K. Ahmad, personal communication, February 23, 2024; Q. Fazlullah, personal communication, February 2, 2024). Similarly, in certain areas the police cannot raid without the permission of local elders (Z. Ahmad, personal communication, February 15, 2024). These dynamics do not necessarily

reflect institutional weakness but a historically produced governance arrangement, which means that historically, there exists dual authority in the tribal areas. This dual authority has existed since the colonial era, which normalized indirect rule through FCR, embedding informality within formal state practices.

This study finds that the conventional view of policing in Khyber, which operates through a unified Weberian monopoly of force, warrants reconsideration. As routine policing practices, in Khyber, reveal a layered and negotiated governance arrangement, in which formal police institutions coexist with, and often depend upon, informal mechanisms of policing. Field evidence indicates that police authority in Khyber frequently operates through negotiation with local elders and selective enforcement, reflecting local power dynamics rather than statutory mandates. For instance, police avoid pursuing cases related to *Tor* (honour killing), unless it is highlighted in the media.

The paper implies that the constitutional and bureaucratic reforms focused on administrative and capacity-building ignore the relational and negotiated nature of authority in Khyber. For sustainable policing, it is important to engage with informal actors, as seen in the case of DRCs, polio campaigns, and the *Aman Lashkar* (peace committees that help the government fight terrorism). Thus, policing in Khyber demonstrates a form of hybrid, negotiated sovereignty, where the state governs not by eliminating informality but by managing it placing Khyber firmly within global debates on frontier governance rather than outside modern statehood.

Conclusion

The paper reassesses policing in Khyber by moving beyond binaries of state presence/absence and governed/ungoverned, combining literature and empirical data. During the fieldwork, I observed policing as a shared responsibility of tribal elders and the government, one that encompasses both traditions and laws. The empirical data show policing operates through negotiated, hybrid, and multi-scalar arrangements in a frontier context. The case of policing in Khyber reveals that the legitimacy in Khyber is negotiated and shared between the state and the tribes. It is not a consequence of law or the use force alone. Building upon this notion, authority is dual and relational, implying that formal policing coexists with informal governance. Moreover, when assessing policing in Khyber, one cannot ignore the multiscale perspective, shaped by local norms and national and transnational security agendas.

Theoretically, Khyber complicates dominant models of policing rooted in Eurocentric state theory. The study challenges the Weberian model and the concept of ungoverned spaces, highlighting that hybrid governance is not transitional or anomalous but is structurally embedded. Informality in policing is actively reproduced, first by British colonial power and later by the Pakistani state, as a strategy for managing peripheral populations, because it enables the state to exercise flexibility and maintain a permeable form of control.

Regardless of the theoretical debate, the state needs to build policing capacity, harmonies it with mainstream legal frameworks, and not ignore local realities to avoid the risk of failure. Reform efforts must engage with local legitimacy and informal institutions without romanticizing them. This study represents only District Khyber; comparative studies across the sister districts of the former FATA and other frontier regions of Balochistan are suggested to provide a more generic picture. Moreover, to have an in-depth view of policing, a longitudinal analysis of post-merger policing reforms is important. Finally, this study shows that policing in Khyber is not a sign of a weak state, but of a frontier mode of governance in which authority, legitimacy, and sovereignty are continually negotiated across formal and informal domains.

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