

# The Impacts of War and Violence on Pashtunwali: A Case Study of FATA

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## Abstract:

Pashtun society was or is a typically passive, peace loving or literature loving society with its own complete code of life that is Pashtunwali. Pashtunwali governs all the aspects of tribal life in Pashtun society but with foreign intervention in Afghanistan in 1979 rippled the silent waves in Pashtun society. In short the consequences of Soviet invasion in 1979 and shoddier law and order situation; since that time, in Pashtun areas harmed the well establish norms and values of the Pashtun society. Cross border movements, sanctuaries and base camps on the either side of the Durand Line, movement of arms and ammunition, financial and logistic support created and formulated the sense of militancy and violence in Pashtun society, which accustomed the values and commencements of Pashtunwali. This study is designed to introduce Pashtunwali in original form through the available literature and discussed the main commencements of Pashtunwali. Violence and war in Pashtun areas are briefly discussed to provide basis for the study. The impacts of war are the main focus of this study that is being comparatively discussed with effects upon the customary law of Pashtun society.

**Key words:** Violence, War, Pashtunwali, FATA, Cross Border and Customary Law.

## Introduction:

The war and violence in Afghanistan since 1979 not only effect Pashtun culture in Afghanistan but the violent conflict also encompasses the “Federally Administered Tribal Areas (FATA)” of Pakistan, which has altered the overall depiction of the region in a period of war. The war transported both structural changes (institutional including social institutions, economic and political institutions) as well as thematic changes (values and codes including Pashtunwali, religious values and others) repercussions for the area. The conference systematized by “FATA Research Centre”, in Islamabad on the theme “*Extremism and Radicalization in FATA: Impacts on Culture*” emphasizes more on the future one i.e. thematic variations in the culture of Pashtun culture in FATA (Kilcullen, 2011). In this study it is not the focal point, that why and how the war reached to the region of FATA. But here attention is placed over its inferences, so that to find a safe passage to duck further compensations in this respect.

Literature and accomplishment art “are the widows to a culture and reflection of life. Culture is presented and preserved through literature and art. Values, codes, social trends and traditions are truly represented by art and literature” (Bobbitt, 2007). So, in this linking, “impact on culture is parallel to the impact on literature, poetry, performing art and vice-versa. The changing trends have been reflected in Pashto poetry and other literature in the conflict laden areas of FATA, Khyber Pakhtunkhwa and parts of Balochistan” (Abbas, 2014). The mainstream individuals of the literary records, unambiguously poets, lectured the prevailing circumstances in the region of FATA. Their “writings are dominant by themes of violence and terror. By dividing literary people we get two broad categories; in the time of transitions of any sort in a society some of the literary figures welcome new trends” while the others denounce.

The fundamental skirmish in FATA has alienated the critics in “two parts where some of the writers, mostly new writers, often praised the actors of the conflict while most of them

condemn both the violence and the actors involved in it. Thus the conflict engendered new themes and genres in art and literature produced in tribal regions of Pakistan especially in FATA” (Gunaratna & Nielsen, 2008).

However it is important to highlight the governing forces, which govern safely most of the rural/tribal or loosely governed areas by the central government. Prior to highlight the code of life of Pashtuns, it is important to have a glance over structure of the Pashtun society.

### **Structure of Pashtun Society**

The written law has been conceived is a product of the modern state. Most of us think that instructions as being primarily endorsed by the legislature and administrative agencies. We perceive that courts are the primary adjudicative institutions with the help of those laws have been enforced. This is our fundamentally incomplete perception that law in the nation state be formulated by the legislative body and be enforced by the court with the help of state bureaucrats. The reason for my argument is that it will not fit in examining groups at the peripheries of these nation states. These peripheral groups have their own laws; that provide them a good arrangement of order in life without (state) law (Robert C. Ellickson, 1991).

This work analyzes the Pashtunwali or Pashtunwali, which is the tribal code of the Pashtuns, from different perspectives. The Pashtuns are the ethnic group of about fifty million that occupies a larger territory across Afghanistan and Pakistan. The problem with Pashtuns is that, they never integrated completely into a state (Ahmad, 1980). The conflict in Afghanistan and Pashtun areas of Pakistan has attracted attention to the Pashtuns, as their members were prominent in both the quasi-government and the Taliban. The Pashtunwali is a central element of Pashtun identity: indeed, it is said to be a Pashtun is to follow the Pashtunwali (Khyber. ORG, 2014).

Pakistan and Afghanistan are both internationally recognized states of which Pashtun are the important part. There is no centralize government in Afghanistan; thus state laws were never fully enforced in Pashtun’s area. In the case of Pakistan, state laws are never enforced in some areas of Pashtun’s. Furthermore Pakistani criminal and civil law does not apply, even nominally, in the Tribal Areas of the Northwest Frontier Province (Ahmad, 1980).

In Pakistan Pashtuns are the inhabitants of Khyber Pakhtunkhwa, Northern Balochistan and Karachi. Historically most part they inhabited remained independent and remains out of the sphere of centralized government (Sultan-I-Rome, 2014). Geographically it is difficult to access to Pashtun inhabited areas for the state law enforcement agencies. The difficulties are multiplies by the lake of modern communication system in these areas. Thus in such an individualistic and tribal society how peace be maintained? How the law and order be regulated? How the action of the people be controlled for the establishment of peace? And most importantly; how independence is maintained? To answer all these questions Dr. Sultan-I-Rome has a simple answer. That Pashtunwali is the code of life of Pashtuns which have the solution of all these problems.

Dr. Sultan-I-Rome wrote that, “Despite the fact that the society remained tribal and individualistic to some extent, the lives and action of the people had been regulated and ruled by unwritten but will-defined and well-known customs, norms, codes and rules called *Pukhtu* also written as *Pashto* and *Pakhtu*, which is also the name of the language of the people” (Sultan-I-Rome, 2014).

Pashtuns squeeze an earliest “traditional, spiritual, and communal identity tied to a set of their moral codes and guidelines of behavior. Pashtunwali not only promotes justice, self-respect, independence, love, forgiveness, hospitality, revenge and tolerance toward all. It is also

considered a personal responsibility of every Pashtun to discover and rediscover Pashtunwali's essence and meaning. Pashtunwali is a customary law. The term customary laws denotes to a familiar shared understanding and perception of right and wrong, way of life, behavior and moral values in a social group. Customary laws also include principles, rules, procedures and systems for conflict resolution" (The International Legal Foundation, 2004). Different writers had given different definitions of Pashtunwali and Pashtun.

According to Mountstuart Elphinstone, "Their [Pashtun's] voices are revenge, envy, avarice, rapacity and obstinacy; on the other hand, they are fond of liberty, faithful to their friends, kind to their dependents, hospitable, brave, hardy, frugal, laborious and prudent; they are less disposed than the nations of their neighborhood to falsehood, intrigue and deceit" (John C. Griffiths, 2001).

Mountstuart Elphinstone provides an explanation to the term Pashtun and its characteristics. This definition is more reflective for Pashtunwali rather than Pashtun. Robert Kaplan a commentator and writer stated that; "Only Pathans could have invented a game that requires a man to pick up a butterfly mine and toss it in the air without losing a hand. Only Pathans could make walking through a minefield a test of manhood" (Kaplan, 2001).

Robert Kaplan's explanation is only about the talent and bravery of Pashtun while it could not be applied to Pashtun social, religious and economic aspects of life. Although Robert Kaplan shows the character of the Pashtun honor, but it was rightly explained by Khushal Khan Khatak, through his poetry in 17<sup>th</sup> Century when he wrote;

"Glory's the hazard, O man of woman born!

The very name Pakhtun spells honor and glory

Lacking that honor what is the Afghan story?

In the sword alone lies our deliverance" (Stephen Tanner, 2002)

Salma Shaheen in *Ruhi Sandaray: (Tapay) (Pashto)* stated that Pashtu or Pakhtu is not the name of language but it is also the code of life of Pashtuns. Pashtunwali is the name of culture and civilization, with which the life of each Pashtun is regulated. It is the collection of ethics and behaviors, slightly deviation from those ousted the one from Pashtu (Shaheen, 1994).

The term of ousting is further explained by Dr. Sultan-I-Rome as, "... it is observed deeply the entire life of Pakhtuns passes in saying that ' *daa Pakhtu dah*' (it is Pakhtu) and ' *daa Pakhtu nah dah*' (it is not Pakhtu) is ousting from Pakhtu and the constitution of *Pakhtunwali*" (Sultan-I-Rome, 2014).

Thus Salma's explanation provided that one can be ousted from Pashtunwali not only on the bases of language but also of action against the culture and costumes of Pashtuns. But this explanation does not answer the question that; is deviation from single custom can also oust a Pashtun from Pashtunwali, while the ousting person is following all of the other values of Pashtunwali? This explanation also not provided the sense of a true Pashtun.

For this reason the explanation given by Ashruf Altaf Husain has quit solid answer in this logic. According to him "The word *Pakhto* stands for hospitality, generosity, bravery, truthfulness, straightforwardness, keeping of promise, moral courage on claiming one's right, sacrificing one's life for personal as well as national honor, dying in the name of religion, and a number of other desirable attitudes and worthy traditions. To say that one is not a true '*Pakhtoon*' implies that one is devoid of all these virtues and is, therefore, regarded a term of abuse" (Asif Khan, 1963).

Ashruf Altaf Husain's definition provided a new angle, as he introduced a new term "True Pashtun". From this definition one can perceive that deviation from a single value of

Pashtunwali does not expel someone at all from Pashtu. It also gives the perception that ousting is conditioned with the complete deviation from Pashtunwali. A person deviating from a single value of Pashtu is regarded as not a true Pashtun and a person who follows the entire values of Pashtu be regarded as True Pashtun. Ashruf Altaf Husain is also supported by the Pashtu traditional *Tapay*, as one of these *Tapay* is as,

*Pa Pashtu ting Pashtun walar dai*

*Ba la Pashtu na mani Pashtun mara Pakhtana*

Translation: The Pashtun stands definitely on Pashtu

The Pashtun lady does not accept a husband without Pashtu.

In the above local folk (*Tapay*) more emphasis is laid over Pashtu or Pashtunwali for being Pashtun. As it is the desire of every female to have husband, that has a proper position and respect in society. In this local folk one is not ousted from Pashtunwali, for slight deviation but it is clear that a slight deviation also caused loss for respect in Pashtun society. This fact is clarified by Palwasha Kakar as “by obeying to Pashtunwali a Pashtun possesses honor (*izzat*), without honors he is no longer considered a Pashtun, and is not given the rights, protection, and support of the Pashtun community” (Kakar, 2014).

*Pashtunwali* regulates the conduct of life in Pashtun society, quite as government law in peripheral areas. Olivier Roy describes that “*Pashtunwali* is much more than just a system of beliefs and tribal practices; it is both a code and an ideology” (Olivier Roy, 1990). In many ways it is analogous to an unwritten legal system. Roy believes *Pashtunwali* as a body of common law which has evolved its own consents and foundations. The principle purpose of *Pashtunwali* is to maintain social-equilibrium within the tribe, resolving and preventing disputes over “zar, zan and zamin” (gold, women and land) within the region.

## **Structure of Pashtoon Society**

### **1. Khyber Pakhtunkhwa**

The composition of Pashtun society “is more of an urbanized society relative to the tribal structure of the tribes. But that tribal culture still stands its grounds in FATA and PATA, settled districts of Pakhtunkhwa are more of an urbanized society with an ever-growing ratio of working middle class. With more attention towards education, health and other basic necessities to the citizens, government of KPK is trying hard to remove the tag and stain of violence and militancy from the Pashtoon society. Pakhtunkhwa government support for the army action in Swat is formidable act in the face of the religious aspirations in the province and also the society” (Khattak, 2017).

### **2. Pashtun Society in Federally Administrated Tribal Area (FATA)**

FATA is much behind in term of main-streaming in the state as compare to KPK and required “to be stream-lined to accept the modern day realities of society and human rights. FATA is being governed by federal authorities through FCR, a British era legacy of colonial India. A system of bureaucrats led by a presidential nominee governed and ruled FATA without any political representation. Political Agent (PA), Assistant Political Agents (APAs), Tehsildar, Khasadar, Levis Force, militia force and scouts at their disposal to maintain law and order. Before 9/11 political agent in FATA was the most powerful man, the most influential man in FATA. FATA is a closed society as compared to KPK with centuries-old of customs and traditions still followed and very easy to hijack and manipulate the tribal Pashtunwali for one’s own interest” (Petzschmann, 2010).

## **Administrative Variances of KPK and FATA**

There are variances in the administrative setup of Khyber Pakhtoonkhwa and FATA. This may be the foremost reason behindhand “many fault lines in FATA. FATA is governed under FCR which is a draconian law. Only political parties act is extended to FATA recently a year ago. FATA is again divided into agencies and frontier regions. There are seven Agencies and six Frontier Regions, and FCR deals with both separately. The ratio of education and health development is nothing as compared to KPK” (Parveen, Dasti, & Khan, 2016). The aggressiveness and violence “is on rise in FATA. Drone attacks and suicide bombings are a norm now and people are now more used to comfortable with the explosions and killings and destruction. The agitation has dried down in the people against these actions and the National Party Govt. in KPK did a great job in diverting the people from violence and militancy to development and infrastructure build-up” (Hamilton, 2008).

### **Afghan crisis**

#### **Soviet Invasion (1979-1989)**

Soviet Union argued Afghanistan on the excuse of “helping the Communist Regime of Kabul against the adversaries which are Muslim factions of Afghan society. Pakistan and Arab World with the financial and military support by the Americans and Europeans stood against the mighty Soviets and shaped a new world order after the war ended in 1989 and the collapse of USSR in 1991” (Cooley, 2002). USA and Europe finished that “conflict look like a Communism vs. Islam war and exhausted all their sources to cut down the Red Bear in Afghanistan. With the start of war in Afghanistan around 3.5 million Afghan refugees crossed over the Pakistani border and lived in refugee camps in Pakistan. With the withdrawal of Soviets, Afghanistan already destroyed and destructed, a new phase of civil war erupted that engulfed the whole country in a new wave of terror” (Rashid, 2012).

#### **Afghanistan Civil War (1989-1996)**

The Soviet pulling out, the independence fighters were leftward with no adversary and they underway the power fight for the government in “Kabul under many banners. Many established militant groups like Hizb-e-Islami of Gulbadin Hikmatayr, group of Abdur Rasheed Dostam, and the Northern Alliance of Commander Ahmad Shah Masood, started the struggle for power that engulfed the whole Afghanistan. That civil war resulted in more destruction and more destruction. The result of that power struggle was that these groups had divided Afghanistan into many parts and each group has its own area of influence” (Jones, 2010).

#### **Taliban and Afghanistan (1996-2001)**

Taliban appeared in the middle of Civil War from the region of Qandahar underneath the headship of Mullah Muhammad Omar. The foremost leitmotif of Taliban Drive was “to ensure justice and to enforce Islamic Shriah in the boundaries of Afghanistan first and then the whole world with the passage of time. They implemented the Islamic law in the areas they captured or conquered. Taliban rose to height of their power in 1997 when they were ruling over 90% of Afghanistan and only minor clashes were took place at the far most border regions of Afghanistan. During the Taliban Regime although there were peace and stability but the basic human rights were violated and a sense of insecurity prevailed among the masses” (Rashid, 2002). Whether Taliban government was a “Fascist regime or not but it certainly behaved like one. They supported a major terrorist outfit Al-Qaeda and shown hospitality to its leader and its major cadres. Afghanistan was the base camp of Al-Qaeda and USA also hit a camp with missiles in Khost province of Afghanistan. In the meanwhile, September 11 came and rocked the whole world while Al-Qaeda claimed and owned its responsibility. With 9/11 USA and Allies declared war on Afghanistan and thrown out the Taliban govt. in 2001” (Burke, 2004).

## **Operation Enduring Freedom in Afghanistan (2001)**

The attacks on Twin Towers and Pentagon in USA resulted in a full-fledged war named as “operation infinite justice initially but later on started with the code name Operation Enduring Freedom. USA and NATO alliance thrown out the Taliban regime and placed a puppet govt. in Kabul. Taliban were thrown out of power but not eliminated and they are now gathering strength in hibernation” (Williams, 2004). The 11 years long war was “still continued and the west is fed up with the Afghan crisis. With no positive outcome but more violence, more militancy, more terrorism, more human right abuses, more destruction, Operation Enduring Freedom is a failure. The situation is same as it was in 2001 with only Osama Bin Laden eliminated but his followers are there and the Taliban are there with more vigour while US led NATO is now tired and fed up” (Shaw, 2005).

### **Post NATO Exit Scenario 2014**

America and NATO forces promised the vacation of Afghanistan in 2014, to the then President of Afghanistan Hameed Karzai’s government. Karzai was the president of Afghanistan “whose writ moves with the USA and NATO forces. While Taliban remained silent and gathering strength in the last 10 years, they are coming out now with more rigour and power. With the exit of USA and NATO, Karzai will not be able to cope with Taliban, and a new civil war will break out that would be resulted in a Taliban govt. with the Taliban Regime again placed in Kabul, the same old story will be repeated. More violence, more militancy with a sense of conquest it will be much more destructive and unbearable” (Rashid, 2013).

### **Afghan Crisis and Penalties for Pashtun Society of KPK and FATA**

Afghanistan is a multi-ethnic country with Pashtun in majority and “other ethnicities like Uzbeks, Tajiks, Hazaras and Balochs in minority. At the time of Soviet invasion of Afghanistan there were no Central Asian Republics but only USSR. The main resistant force against the Soviet invasion of Afghanistan was the Pashtoon section of Afghan society. Those Uzbeks, Tajiks, Turkmens in Afghanistan supported the Soviet invasion and also helped the RED ARMY. A resistance was prepared by motivating young men from all over the Muslim World to fight The Soviet Union” (Rashid, 2008). They were competent in “the border areas of Afghanistan and Pakistan. Their sanctuaries were there; they camped there and got training. They got weapons and ammos and the fighting plan by ISI-CIA instructors. This continued till 1990. With the Soviet withdrawal USA/CIA abandoned Afghanistan and they were left in lurch. Then in civil war they accompanied Taliban regime. After US invasion in 2001, they again ran to Afghan-Pak border areas” (Sheehan, 2008).

### **Sanctuaries and training camps in FATA**

Training campgrounds and asylums were shaped on Pashtun “side of Pakistan by manipulating the hospitality in Pashtoonwali. Foreign militants came and stayed there, got training and went to fight the Soviets in Afghanistan. They got used to society and when Soviet exited the Afghanistan, they came back to Pakistan and started living in FATA. They got married, had children and a started a new life. But their presence in FATA in cultivated a sense of militancy in Fata, because they are battle hardened militants and trained also” (Nawaz & de Borchgrave, 2009).

### **Financial, material and logistic support through FATA**

The character of Pashtun tribes “from the Pakistani side of the Durand line was of very much important to the defeat/withdrawal of Soviet troops from Afghanistan. Af-Pak border is a porous border and the tribes living on the either side of border have blood/business relations between them. All the support for Mujahedeen against the Soviets funnelled through this region.

This support also created a sense of closeness to the Mujahedeen” (Johnson & Mason, 2008). These preparation campsites during the Soviet Invasion become safe havens for the now guerrillas and periods old freedom battalions and guardians of humanity.

### **Ideological Issues**

Tribes in FATA were and are more spiritual than the developed areas of KPK, and laid more stress on their Pashtun culture also. They retorted to “the call of Jihad vehemently and also supported the Mujahedeen and later on the Taliban govt of Afghanistan, these ideological issues are also the cause of violence and militancy in FATA and in Pashtoon society in general. There is more value given to religion than culture in FATA. People are more attached to religion and religious thoughts and have close affiliation to jihadist organisations and Islamic institutions” (Mufti, 2012).

### **Pashtun Society and Armed Culture**

Substantial stream of weaponries and ammunitions in Pashtun society “in the last three decades is also a consequence of the Afghan crisis. Russian Assaults Rifles AK-47, AK-56 are in so much abundance in Pashtun society that its intensity can’t be imagined. Ship load of these weapons were funneled to Afghanistan through Fata for the Afghan Jihad. Weapon Industry of Darra Adam Khel is another example of weaponization of Pashtun society which is located in Frontier Region Kohat” (Roberts, 2009).

### **Trans -border struggle movement**

Pak-Afghan boundary is a permeable border. Radicals used to irritated “it for cross border strikes. They have decades old relations and sympathisers and a lot of friends. The scenario created a lot of confidential and covert relations. The struggle against the US le Nato is carried on by the same people who fought against the Soviets; they still have the contacts in border areas of Pakistan. And Taliban in Afghanistan have followers in Pakistan who also wanted to impose Islamic Shriah in Pakistan, just following the foot step of Afghan Taliban. The impact of trans-border militant struggle by Taliban on Pashtoon society in Pakistan is the growing ratio of violence and militancy in Pakistan due to close geographic proximity” (Rana, 2013).

### **Conclusion**

Pashtun society was and is a characteristically submissive, harmony loving or literature loving society “with its own complete code of life that is Pashtoonwali. Pashtoonwali governs all the aspects of tribal life in Pashtoon society but with foreign intervention in Afghanistan in 1979 rippled the silent waves in Pashtoon society. In short the consequences of Soviet invasion in 1979 and still continued operation enduring freedom of US led NATO Forces are forth coming. Cross border movements, sanctuaries and base camps on the either side of the Durand line, movement of arms and ammunition, financial and logistic support created and formulated the sense of militancy and violence in Pashtoon society. Another aspect is the administrative structure of Fata which make it very much prone to the extremism. The non-violent political/social movement started by Khan Abdul Ghaffar Khan named as Khudai Khidmatgar Tehreek has helped a lot in making the settled areas of Pakhtoonkhwa peaceful and pacific and more liberal society. FCR did not permit the political activities in Fata and that was the main reason in the political backwardness of the people in Fata. Govt., for eradicating the violence and militancy from the tribal section of Pashtoon society, has to do away with the notorious FCR and bring FATA in mainstream to start developments there and to give them what belongs to them i.e. national identity and pride and a sense of a common citizen just like any other Pakistani national. The issue of militancy in Pashtoon society is needed to be answered seriously

keeping in mind the scenarios in settled districts of KPK where the ratio of militancy and violence in society is much low as compared to FATA. Keeping in mind the close geographic proximity of FATA to Afghanistan it becomes crystal clear that the peace in FATA is directly proportional to the peace and stability in Afghanistan with FCR in place. Once FCR is done away, it will be much easier to bring the reforms and fundamental changes in this region". The peacetime in normally Pashtun society transports peace in the entire area that in turns transport in the mandatory harmony and agreement in this region of the World. The inconsistencies of the damaged administrative organization transported down the entire system in FATA in the last 17 years in the wake of 9/11.

The permanency concern quiet remaining in Afghanistan was a source of major anxiety connected to the peace in Pashtun society because Pashtun are living over the two sides of Durand Line and these are abundant connected to each other and also affiliated. The nonviolent solution to the Afghanistan crisis can transport the peace and stability in the Pakistani side of Pashtun society.

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