

Legal Implications of Pakistan's 26th Constitutional Amendment: A Critical Analysis

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ARTICLE INFO	ABSTRACT
<p>Keywords:</p> <p><i>Political representation, Constitutional reforms, Federal governance, Electoral integration, Fundamental rights, Judicial review, Legislative challenges, Socio-political dynamics</i></p> <hr/> <p>Corresponding Author: Fazail Asrar Ahmed Email: fazailkh11@gmail.com</p>	<p><i>The 26th Constitutional Amendment of Pakistan represents a significant milestone in the country's constitutional evolution, primarily addressing the longstanding demand for enhanced political representation in the former Federally Administered Tribal Areas (FATA). This study critically examines the legal and socio-political implications of the amendment, focusing on its impact on fundamental rights, federalism, and governance. Through an analytical framework, the research explores the amendment's alignment with constitutional principles, potential conflicts with existing provisions, and the challenges of practical implementation. The study employs a qualitative approach, utilizing constitutional texts, judicial precedents, and comparative analysis to assess the amendment's implications. Key findings highlight its role in promoting inclusivity and addressing historical disenfranchisement, while also identifying legal ambiguities and governance challenges. The research underscores the importance of clear legislative frameworks and effective administrative measures to ensure the amendment's success. By situating the 26th Amendment within Pakistan's broader constitutional history and comparing it to similar reforms in other federal systems, the study offers valuable insights into its significance for strengthening democracy and fostering national integration. This critical analysis provides a comprehensive understanding of the amendment's potential to shape Pakistan's political and legal landscape while highlighting areas requiring further attention.</i></p>



Introduction

Pakistan's history of constitution and politics seems to have met its calling when it passed the 26th Constitutional Amendment. A long-pending demand for representation and integration of the erstwhile FATA with the national mainstream is also addressed. FATA has traditionally been neglected and was, until very recently, subject to the colonial-era Frontier Crimes Regulation (FCR), which operated outside the ambit of the constitution and deprived the residents of fundamental constitutional protection and development. Five years after the merger of FATA into KP under the 25th Amendment, it was evidently essential to have adequate representation for the region in the parliament. The 26th Amendment attempts to correct this imbalance by increasing the seats for tribal districts in the National Assembly and the KP Provincial Assembly. The amendment is aimed at redressing the balance, doing some penance if you like, and making the changes to the document, the core of the whole nation, that will help swing the balance back towards inclusion and give stability to a nation wrenched apart for the last few decades fighting amongst warring factions from a region where wars and apartheid have been regularly in the forefront of the headlines for far too long (Asia, 2024).

This study aims to examine, critically, the legal and socio-political consequences of the 26th Constitutional Amendment with a specific focus on their impacts on fundamental rights, federalism, and governance. It investigates whether the amendment meets historical grievances of the tribal people and provides sustenance in political integration. The study also assesses the implications of the amendment, such as governance inefficiencies, administrative bottlenecks, and resource constraints. Highlighting a regional context, the research emphasizes constitutional amendments as significant sources of change for governance systems in Pakistan and the impact of the 26th Amendment in the context of the constitutional evolution agenda (Tariq Aqil, 2024; Faisal et al., 2023).

This study is important because it surveys how the amendment may apply to some of the essential areas of representation and equity. It adds to the continuing conversation on constitutional changes in Pakistan and provides a framework for those changes as a means of national unity and regional equity. The study also shows difficulties of selecting proper actors of constitutional change in regions politically and administratively fragmented. This analysis critically engages with constitutional texts, judicial precedents, and the socio-political context to provide a nuanced understanding of how the amendment has facilitated democratic governance and political stability in Pakistan.

The research is driven by two main hypotheses: 1) the 26th Amendment successfully redresses the historical under-representation of people from FATA and facilitates national integration and, 2) the Amendment brings new governance and political challenges that will require vigorous policy responses. Motivating the study are several research questions: To what extent does the 26th Amendment reflect the constitutional values of Pakistan, particularly principles of federalism and equality? Increased representation means increased power for FATA, now what are the socio-political and legal implications of that for FATA? What difficulties may surface that could serve as a hindrance to the amendment and how can those be mitigated to maximize effectiveness?

This is a qualitative, legal, and socio-political study. Based on constitutional documents, legislative discussions, court rulings, and scholarly writings, it examines the 26th Amendment's effects. The thesis also involves a comparative analysis with other federal systems to find out the lessons from them applicable in Pakistan. Such an approach allows us to understand the law, politics, and governance aspects of the amendment. Through this research, I expect to understand how the 26th

Amendment aids in political inclusion/fairness and what the limits and obstacles of this success are. The research hypothesizes that although the amendment represents an important advance towards making amends for past injustices, real success will depend on incentives in governance and administration

This article is divided into different sections. This sub-section review of literature comes after the third sub-section, which is the introductory section. The following sections examine the legal ramifications of the 26th Amendment, specifically its consistency with constitutional principles and its inherent conflict with others. It then delves into the socio-political consequences, particularly of the ruling, elections, and how the amendment regulates the tribal people. Even so, the difficulties that process the effectiveness of this program are discussed in depth, finding out obstacles and recommendations. Primarily, the conclusion consolidates its findings while also providing short notes on the implications that the amendment holds for Pakistan's constitutional and political architecture.

Literature Review

Both the general principles of constitutional amendments and their specific application in the context of Pakistan have been dealt with extensively in literature and therefore provide a robust context for the 26th Constitutional Amendment. The intellectual works, case law, and policy studies examined here provide a lens for understanding constitutional change, federalism, and representation in a way that quite literally can inform the far-reaching ramifications of a given amendment, both immediately and in the long run, on the legal and political landscape of Pakistan. There exists a substantial amount of literature about how constitutional amendments have affected polity in Pakistan. Hamid Khan (2024), however, by placing some of these events in a broader context, provides a constitutional and political history of Pakistan. Amendments, he argues, are made for political necessities of the day rather than for national interest in the long run, leaving gaps and contradictions in governance. This attitude emphasizes the importance of determining if the 26th Amendment truly tackles the social-political dissatisfaction it aims to fix or simply serves as a symbolic political display (Usman et al., 2021).

Particularly the studies of Ijaz Shafi Gilani point towards the delicate balancing act required in Pakistan between regional autonomy and national unity as an emerging theme in the literature on federalism in Pakistan. Pluralism, irrespective of differences, is essential to building democracy — federalism has been somewhat over-hyped in Pakistan; history suggests that it will be non-functional and will leave regions out in the cold. This is more applicable in case of FATA because it was outside the mainstream of constitutional framework of Pakistan until the peoples of FATA were incorporated in the province of KPK under the 25th Amendment. Gilani then offers her analysis as the framework to assess whether the 26th Amendment could truly build federalism through the integration of FATA into the state structure (Javed et al., 2021).

Scholarly works on representation highlight the historical exclusion of marginalized regions in Pakistan. Akbar Ahmed's (2024) *The Thistle and the Drone: How America's War on Terror Became a Global War on Tribal Islam* provides an in-depth analysis of the socio-political dynamics in tribal regions, including the impact of colonial-era policies like the Frontier Crimes Regulation (FCR). Ahmed argues that the lack of political representation and integration has perpetuated underdevelopment and conflict in FATA. This aligns with the premise of the 26th Amendment, which seeks to address these historical injustices by enhancing parliamentary representation for tribal districts.

The legal dimensions of constitutional amendments are extensively explored in the works of Fazal Karim, whose *Judicial Review of Public Actions* examines the judiciary's role in interpreting constitutional changes. Karim (2024) highlights the tension between parliamentary sovereignty and judicial oversight in Pakistan's constitutional framework. His analysis is particularly relevant for understanding the legal challenges that the 26th Amendment may face, including its alignment with fundamental rights and its implications for the distribution of power between the federal and provincial governments (Khan et al., 2020).

Governance challenges in FATA have been a recurring theme in policy analyses and reports by organizations like the United Nations Development Program (UNDP) and the National Commission for Human Rights (NCHR). These reports highlight issues such as weak institutional capacity, lack of infrastructure, and socio-economic disparities in the region. The 26th Amendment, while addressing political representation, does not directly tackle these governance challenges, raising questions about its practical effectiveness. These insights underscore the importance of complementing constitutional reforms with robust policy measures to ensure meaningful integration and development.

Comparative perspectives on constitutional reforms in other federal systems provide valuable lessons for Pakistan. Granville Austin's work on India's constitutional evolution highlights the importance of political consensus and administrative efficiency in implementing reforms aimed at integrating marginalized regions. Similarly, B.L. Fadia's analyses of federalism in India underscore the need for legal clarity and socio-economic development to complement political integration. These perspectives offer a framework for assessing the 26th Amendment's potential to achieve its objectives in the context of Pakistan's unique political and administrative challenges (Kanwel et al., 2020).

Despite the wealth of literature on constitutional amendments, federalism, and governance, there is limited scholarship specifically addressing the 26th Amendment. This gap highlights the need for a critical analysis that situates the amendment within Pakistan's broader constitutional and political discourse while evaluating its implications for governance and representation. By synthesizing insights from these diverse sources, this study contributes to a deeper understanding of the 26th Amendment's role in addressing historical grievances and shaping Pakistan's constitutional and political future.

Conceptual and Theoretical Framework

This study presents a conceptual and theoretical framework that links legal, political, and socio-economic aspects for a systematic presentation of the analysis of the 26th Constitutional Amendment of Pakistan. This conceptual framework demonstrates three significant constructs that help in defining the study by pursuing the legal nature of the amendment vis-a-vis the constitutional framework of Pakistan, addressing political inclusion and representation for the previously excluded area of Federally Administered Tribal Areas (FATA), and the challenge of governance that emerges as the amendment is applied. These constructs are embedded in literature on federalism and representation theory. Theoretical frameworks of federalism focus on the distribution of power and resources between a central and provincial government and thus provide a way to analyze how the amendment might balance national cohesion and regional equity. Real representation, by contrast, emphasizes how political inclusion is necessary for democratic governance and remedying past exclusion. Collectively, these frameworks explain how legal reforms relate to political integration and governance outcomes and highlight the potential of the amendment to transform the political landscape of Pakistan but identify the limitations to its

implementation. This holistic approach provides an in-depth and multi-layered analysis of how the amendment could affect constitutional law and the socio-political landscape.

Research Methodology

This research methodology for this study is qualitative and is based on legal and socio-political analysis to explore the outcomes of the 26th Constitutional Amendment of Pakistan. The study proposes a combination of doctrinal and socio-legal methods because both of them can provide a comprehensive understanding of the research problem. Doctrinal analysis examines constitutional texts, parliamentary records, judicial interpretations, and legislative debates and explores whether the amendment is valid in law (in whose eyes) and in accordance with constitutional principles. This socio-legal analysis contextualizes the amendment in the broader political and administrative context, based on policy documentation, historical accounts, and expert commentary to assess its effects on representation and governance. We choose materials according to their relevance for the main concepts of legal validity, political representation, and governance processes. It also carries out some de facto comparative analysis, holding up some examples from other federal systems as mirrors into which to learn for Pakistan. Following thematic analysis to identify patterns and relationships between the data collected, a specific and critical analysis of the opportunities and challenges is presented. This methodological approach was selected to offer an all-encompassing understanding of the amendment's meaning, ensuring a strong grounding to its conclusions and recommendations.

Historical Context and Overview of the 26th Amendment

Amendments to Pakistan's constitution reflect the need for changes in response to the political, social, and economic challenges the country has undergone throughout its history. The most recent and durable constitution is of 1973, albeit also heavily edited, suggesting a vacillation and mix between centralizing and de-centralizing tendencies and a scramble for power in and between the center and the provinces. Over the years, the urge for constitutional changes has been fundamentally determined by the necessity to balance the contrary demands for stricter national integration and increasing provincial independence. Eighth amendment (1985)—The first fundamental modification reasserted the powerful executive office of the presidency and gave the president the power to dissolve the National Assembly. This change embodied a concentration of power that was undone by the 13th Amendment and the 14th Amendment, where legislative supremacy was reestablished, and the powers of the president were diminished. These amendments thus replace a tradition of centralism with an equilibrium of federalism and representation, aware of the friction between a strong center and provincial independence in Pakistan. Federalism-related amendments, especially those regarding the representation of marginalized regions, have remained at the heart of constitutional development in Pakistan. For example, the 18th Amendment (2010) devolved powers away from the federation to the provinces, rolled back the concurrent list, and increased provincial autonomy. The need to provide checks and balances in representation and address regional disparities in political power is why this historical context of constitutional amendments from 1950 to 2020 matters. The development of constitutional amendments, though focused on short-term political circumstances, has always promoted federalism and broadening the influence process that reached its logical conclusion in the 26th Amendment (De Schweinitz et al., 2023).

The 26th Constitutional Amendment has its origins in the historical political and social exclusion of the Federally Administered Tribal Areas (FATA), a region that first governed under colonial-era laws, particularly the Frontier Crimes Regulation (FCR). FATA existed on the outside of the

Pakistani constitutional framework, with no representation in the National Assembly or the Provincial Assemblies for its tribal areas. Their exclusion brought decades of political exclusion and socio-economic marginalization, worsening the region's underdevelopment and instability. Not only tribal areas devoid of rights and privileges granted to other regions but also secluded from political decision-making affecting the future of territories across the country. These grievances provide context to the roots of the 26th Amendment. The 2018 merger of the Federally Administered Tribal Areas (FATA) with the Khyber Pakhtunkhwa (KP) province was the first significant move to mainstream those areas within the national structure through the 25th Amendment (Bazmi, 2022).

Even with this historic step, residents of FATA continued to remain the least represented group in the national and provincial legislatures. At the same time, given the continuing problems of governance, development, and political integration in the region, the demand for political representation became only more pressing. This underrepresentation was seen as a political problem that needed solving, so the 26th Amendment sought to give more political voice through the province to former FATA. The 26th Amendment was endorsed by the ruling political parties, such as the ruling Pakistan Tehreek-e-Insaf (PTI) government under Prime Minister Imran Khan, tribal leaders, and others from the locality of FATA, where political integration of their regions is high on their agenda. While the amendment was a bipartisan effort, some also expressed reservations about the impact of the new arrangement on governance and how resources will be distributed from the state taxpayers to the merged areas. Discussions on practical implementation of the amendment, like the number of seats to be allocated to tribal areas in the National Assembly and Provincial Assemblies, were conducted during the passage of the amendment through the legislative process. The 26th Amendment was finally passed as a means of ensuring these areas receive equal representation (Adeney, 2012).

Some hallmark provisions in the 26th Constitutional Amendment came to light to improve the political representation of this underrepresented territory, i.e., FATA, over time in the political landscape of Pakistan. It is also where some of its major highlights lie, one of them being the allocation of increased seats to the merged tribal areas in the National Assembly and the Khyber Pakhtunkhwa Provincial Assembly. The step, according to the experts, has brought the tribal regions into the mainstream political setup of Pakistan by giving its people direct representation in the legislature. In particular, the amendment added 16 additional seats to the National Assembly (12 to KP tribal areas and 4 to KP PA). The seats were regarded as progressive towards integrating and giving political equality to the tribal areas, which had been disconnected from the larger national political narrative since the mid-20th century. Besides the greater degree of representation that the amendment called for, the amendment also carried provisions for extending constitutional rights and other legal matters to the tribal population—bringing them up to par with the rest of the country (View, 2024).

This amendment also dealt with its administrative and legal integration into KP, as this was a critical testament to the fact that political and legal changes would be followed through with changes in governance. Under the colonial-era governance structures, the tribal areas were largely ignored, and the 26th Amendment ensured that they received the same rights and protections, including resource transfer, education, and health, as the rest of Pakistan. These clauses indicate an overall approach to encourage bilateral amalgamation, comfort political and socioeconomic dissimilarities, and absorb equality amongst Pakistan's multiple regions. Nevertheless, whilst the amendment marks a momentous stride forward, its success will be contingent on the successful implementation of such provisions and the central and provincial government's capacity to meet

the aforementioned governance challenges that will remain present, despite the proposed reforms. Hence, the amendment serves as both a symbolic and practical step towards a more inclusive and representative political landscape in Pakistan (Bangash, 2024).

Legal Implications of 26th Constitutional Amendment

Impact on Fundamental Rights

This article examines the profound legal consequences of the 26th Constitutional Amendment, specifically regarding the status of the strengthened representation of the tribal areas and its compatibility with the constitutional ideals of Pakistan, especially equality. Article 25 of the Constitution of Pakistan, which guarantees that all citizens are equal before the law, is one of the fundamental elements of the Constitution of Pakistan. The main outcome of the amendment is that the tribal areas, which have been out of the political system for decades, will enjoy the same legislative representation status as the other parts of Pakistan. The amendment seeks to restore historical underrepresentation of the FATA region by increasing the number of seats in the National Assembly and the Provincial Assembly of Khyber Pakhtunkhwa, thereby standing firm on the constitutional principle of equality in representation (Dawn, 2024).

But the amendment does rest on the stirrings of equality in the first place, although that principle can raise legal tension with other parts of the Constitution. For example, if the redistribution of parliamentary seats causes a change in the proportionality of representation, there may be a clash with existing arrangements, particularly regarding the federal-provincial balance of power. The extension of full political rights to the erstwhile FATA also means that they now have the same constitutional status as any other part of the country, which has implications for the applicability of a number of provincial acts and the relationship between regional and national legal frameworks. And in addition to that, although the increase in representation seems like a confirmation of having a right to participate, it can also be seen in correlation to how it fits within the other architecture of the political system in the country. This would lead to friction with other regions, especially those with prior complaints over seat and resource distribution, which can be seen as an intrusion into the rights of larger or time-honored regions. So, the amendment is in tune with the basic right of representation but needs to be handled in a manner that it does not conflict with Pakistan's larger legal and constitutional edifice, especially when it comes to equal rights among regions and regional proportions of political power (Bilal, 2024).

Judicial Interpretations and Challenges

The 26th Amendment, like any major change to the Constitution, will most likely face analysis and definition by the courts. Since there is no judicious framework in Pakistan that entrenches the constitutional interpretation and application of provisions creating human rights, the Pakistani judiciary may be asked to interpret the legality and constitutionality of the amendment as and when the conflicts arise in its enforcement. Historically, the role of the judiciary in Pakistan has been that of examining constitutional amendments and probing if they conform with the basic structure of the Constitution. The most significant precedent is *Zafar Ali Shah v. Pervez Musharraf* (2000), in which the Supreme Court exercised jurisdiction to review even those amendments passed by the legislature. The Parliament has the power to amend the Constitution, but these amendments cannot change the basic structure of the Constitution: The Court This precedent would indicate that limited opposition to intent to integrate FATA may be faced by the 26th Amendment, but the

judiciary might examine or receive details in terms of the proportionality of the new representation in view of equality, federalism, and distribution of powers under the constitution (Yousaf, 2024).

Such legal challenges could be brought by political players or regional actors who may challenge the redistribution of legislative seats or the efficacy of the amendment's integration measures. Furthermore, a challenge to the amendment could be based on whether it preserves the former Khyber Pakhtunkhwa (KP) as an autonomous province by increasing representation in such a way that the power balance between the province and the federal center is affected. The question then becomes whether this expanded representation really reflects a sincere effort to improve the political rights of the tribal areas or whether it is part of a broader strategy of political consolidation at the national level. The judiciary also might have to deal with the notion of conflict between the votive purpose of political integration and the need for province/country independence when it comes to a phrasing of the amendment affecting previous federal arrangements. This possible inflection point for judicial involvement underscores the long struggle between the legislative sausage and the judicial condom, where the latter may have a role in shaping the scope and ramifications of the amendment as it makes its way through the sausage-making process (Shahzad & Shahzad, 2024).

Federalism and Autonomy

Of all these legal implications, the most significant one concerns the impact of the 26th Amendment on Pakistan's federalism defined in terms of provincial autonomy against the background of national control over the provinces. Federalism in Pakistan has been a permanent and perennial contest and tussle over the powers: who takes what, when, and how between the center and the provinces? The 2010 18th Constitutional Amendment, which devoted wide-ranging powers to the provinces, was a big change towards enhancing provincial autonomy. By placing Federally Administered Tribal Areas (FATA) within the provincial territory of Khyber Pakhtunkhwa, the 26th Amendment has brought the region into the fold of national lawmaking—with implications for provincial autonomy and resource governance within the province. The 26th Amendment is, on the face of it, a political integration and inclusion measure; however, it also adds more burden on provincial capacity, governance, and political dynamics. The incorporation of new areas into an economically compromised Khyber Pakhtunkhwa beset by problems of governance is likely to be a test they cannot meet without considerable administrative and financial reallocation. Another aspect is the one-third increase in the number of parliamentary representatives for FATA within KP and the degree to which the provincial government will still enjoy powers to govern localities at the local level. With the increasing involvement of provincial legislation on FATA, it is not unlikely that issues of resource distribution, administrative control, and protection of fragile regional interests could come to the fore where the central government would always be in a more than dominating position.

It is for this reason that the 26th amendment challenges the concept of federalism in Pakistan by preferring a balance of national and regional interests over balancing the rights of citizens and the state. According to the federalist theory, a federal system works only when there is a proper equilibrium of power and independence. Pakistan Case & FATA incorporation in WP NP & country must not be held hostage by federal policy/demands but consider a special insight approach through the remaining socio-political context of the province. Conversely, then, a solution that wants to balance the aspiration or aspiration of Khyber Pakhtunkhwa with the requirement for national unity and integrity will have to provide functional means for government structures, resources, and legal shelters that are informed by the geographical space and socio-political history of the tribal regions. The legal ramifications of the 26th Amendment reflect a

larger trade-off between the idealism of a single nation versus the proposition of local autonomy in a federal context where each territorial region has specific political and governance priorities. As for whether or not the amendment succeeds, that will be the subject of how it is engaged with in the courts, and the balancing of both the principles of federalism and both interests of the province and nation will be, or rather should be, tentatively protected (Bukhari et al., 2024).

Socio-Political Implications

Representation and Inclusivity

The 26th Constitutional Amendment is key for the elimination of decades-old political disenfranchisement of people in ex-Federally Administered Tribal Areas (FATA). The political context in Pakistan, as it stood prior to the merger of FATA with Khyber Pakhtunkhwa (KP) and its erstwhile territories being amended, had the tribal areas at a disadvantage politically. Through abolishing the colonial swath of territory represented in the Parliament, the 26th Amendment was directly addressing the democratic deficit facing both, as they were only able to contribute half of their size at the time for much of the history before its large-scale political rights. The amendment provided for extra seats for the erstwhile FATA in the two houses as well as the provincial assembly to ensure that the people of those areas, who had been the most deprived of a political voice, participated now as stakeholders in the decision-making process to shape the country. This change in representation is not simply an exercise in political inclusion but a fundamental aspect of the nation-building process across the country. Integrating restored regions into the political sphere is essential for strengthening national unity, mitigating imbalances between territories, and enhancing social cohesion.

The amendment represents a historic evolution away from the tribal areas as separate places toward recognition of their inclusion as parts of Pakistan. Stronger representation of these areas increases levels of political inclusion, which is essential to citizenship and belonging, and enables the people of these areas to have a voice in events and decisions that govern their lives. Furthermore, representation in government can help mitigate the socio-economic injustices faced by the tribal people by advocating for their rights and interests at the national and provincial levels. The important thing is the amendment has almost ended the political integration, but it makes the capital integration of the political and social dynamics of tribal areas into the national politics difficult. Different customs, laws, and governance practices apply in these tribal areas, which were not always congruent with the formal political institutions in Pakistan. The challenge is about how to ensure that the special identity of the region survives and thrives as part of the whole nation without stripping off the uniformity and integrity needed for forming and operating a nation. However, the amendment is still seen as a crucial step in creating inclusion and rectifying the lingering inequities in representation in political powers (Shah, 2024).

Electoral and Governance Challenges

Although the tribal areas of the country have certainly benefited from political representation under the 26th Amendment, its practical application remains challenging, especially concerning the electoral boundaries and budget. Careful and accurate demarcation will be needed to create a new single electoral constituency for FATA in each of the National and Provincial Assemblies. Redrawing electoral boundaries in these areas may, however, prove to be difficult since it will require reconciling distinct demographic, tribal, and geographical characteristics of the erstwhile FATA areas with the electoral framework currently in use at Khyber Pakhtunkhwa. However, reserving seats in a fair manner and avoiding gerrymandering will be important to preserving the

electoral process. And this additional, permanent allocation of resources to previously unrepresented areas present its own set of real challenges. The erstwhile FATA was an ungoverned territory with no requisite infrastructure, health, education, and governance structures available in other regions of Pakistan. Though there are expectations that the central and provincial governments will remedy these disparities through resource allocation for development, infrastructure projects, and social services with the increase in political representation.

Nonetheless, the limits of the provincial government to handle these escalated responsibilities raise the question, especially in a province with already diminishing competencies like Khyber Pakhtunkhwa, which is struggling in the mutual distribution of resources between the Centre and provincial governments. In addition, significant administrative work is required to implement governance reforms in the newly integrated regions. In that scenario, the provincial government of Khyber Pakhtunkhwa will need to include the tribal areas in its administrative setup, which could entail broader governance structures as well as the necessary training of local civil servants. The regions had been subject to the Frontier Crimes Regulation (FCR), which meant that legal and administrative issues were not governed by the same formal law that existed in other areas of Pakistan. Moving from the FCR to a more formalized legal structure under the national system will face not just logistical challenges but cultural ones too. While the amendment lays the groundwork for political representation, it will still take planning and resources and different administrative arrangements to assimilate these regions (Haq, 2024).

Public Perception and Political Consensus

Different stakeholders, including political parties, civil society, and the population affected by the constitutional and political welfare measures stemming from the 26th Amendment, may have different interpretations and reactions towards it. The mix of hope around political inclusion and doubt about its practicalities ultimately means the picture on the amendment remains unclear. The amendment for the tribal population, however, is mainly viewed as a long-standing chance for representation and political engagement. The people of FATA, who have been kept out of the legislative process and deprived of representation for decades, embody such appreciation and see the increased space to parliament and local governments as a small step towards addressing their socio-political and economic grievances. It is this empowerment that is critical to creating a sense of national ownership and political maturity in the region. Yet, while the tribal areas may appreciate this move, when it comes to reactions from other political actors and regions of the country, the responses have been mixed at best. Political parties in Khyber Pakhtunkhwa fear that the influx of representatives with electoral support from FATA will put a further strain on already stretched provincial resources and dilute the right of representation of other political parties with no constituency in the provincial assembly. There have been fears on the ground, particularly in KP, where locals have been plagued by resource shortages and poor governance, about how the new seats will affect the province's contentious political landscape. Another challenge is the threat of political patronage, and many parties feel that the merger of the tribal areas might change the balance of power and enable new coalition partners to emerge and disrupt the status quo.

The amendment garnered widespread support from civil society and advocacy groups who saw it as a way to ensure political equality and development across all regions of the country. A broader agenda to promote social justice, inclusive governance, and the rights of minorities; some perceive the move as part of Pakistan's vision. Nevertheless, anxiety regarding the actual amendment of the amendment remains. Civil society groups insist stakes in the development of the new merged regions must go beyond political representation and also extend to better governance, education, healthcare, and infrastructure provision. Overall, the 26th Amendment has established a broad

political consensus for the need for more inclusivity and representation of marginalized territories. But the real measure of the success of the amendment would be how it is asserted and pursued at ground level. It will be a tough challenge for the government to live up to the expectations of political empowerment and socio-economic development on one hand and respect the distinct character and rights of existing provincial structures on the other, if the integration process is to avoid the risk of resulting in a centralism. How the perception scalar lifts or drops off is going to depend primarily on how the government manages to deliver on this. Provided that these challenges are well handled, the 26th Amendment will prove to be a landmark in Pakistan's political history, paving the way for a more just, integrated, and democratic society (Desk, 2024).

Comparative Analysis

International Comparisons

Where Pakistan stands more or less alone is that it is making quasi-military constitutional reforms that seek to deepen political representation and address historical grievances of political deprivation/dropping out regions. Other federal states have had parallel reforms to bring in neglected groups, to remedy regional disparities, and to enhance national cohesion. But Pakistan can learn from these international examples that shine through against crossing the constitutional and legal implications of the 26th Constitutional Amendment. A leading case in this regard is the merger of Jammu and Kashmir with the main Indian polity. India had abrogated Article 370 of its Constitution in 2019 that gave special status to Jammu and Kashmir and made it a territory under the law and political purview of India. This move drew controversy by trying to change the region's past of exclusion while facilitating more political integration. Along with the extension of full constitutional rights, a decision was taken with the vesting of constitutional rights within the region, akin to what has been done within the 26th Amendment of Pakistan, whereby FATA is sought to be incorporated into Khyber Pakhtunkhwa. The Indian example, as I have signaled elsewhere, is also different in several essential respects—not least, of course, the reason for the enacting of such a provision under the Indian Constitution and the political motivations behind it, but both have in common an aim to enhance political representation for regions long subjected to exclusion.

The development of Spain provides a relevant, if somewhat parallel, case where, over the last four decades, the integration of the Basque Country and Catalonia into Spain has been a gradually responsive politics of representation, devolution, and recognition of regional identity. The objective of Spain's constitutional reforms has been to provide a considerable degree of autonomy to these regions without excluding them from the national orbit. The Spanish way offers lessons, however, in how to manage federal arrangements in such a way that they accommodate the need for regional identity without undermining national cohesion. In a similar manner, the 26th Amendment of Pakistan aims to include FATA while providing space for regional autonomy within a greater federal setting. Finally, the experience of Canada in regard to its Indigenous peoples provides one additional example. There was an important Indigenous rights and participation element to the 1982 patriation of the Canadian Constitution. Reforms centered on building political arenas for Indigenous peoples, acknowledgment of their unique status, and economic development in their territories. The lesson for Pakistan here is that political representation means little unless it is coupled with economic and social development in politically marginalized areas. However, these international examples provide Pakistan with key lessons learned. For one, successful integration is by way of multiple tracks, including legal changes, economic capital, and cultural acknowledgment. Explaining pacification may not be enough to go hand in hand with political representation, along with governance, development, and regional

identities. The political and social integration of erstwhile excluded regions involves the careful balancing of regional ambitions and regional demands for autonomy. Finally, these cases illustrate the need for a transparent and inclusive consultation of the local population guaranteeing that reforms are accepted and sustainable, what can be called the social contract (Desk, 2024).

Regional Dynamics

The 26th Amendment is a crucial component of the national integration of societies that were once known as the FATA into the provincial and national blueprint of Pakistan and has very relevant ramifications for regional stability and development. Along with Airbnb witnessing a surge in hosts from traditional sectors, the amendment is also a vital shift not just in domestic politics but can significantly alter the power balance in the region along with its local balancing act. This inclusion of FATA may, internally, allow for improved political stability in Pakistan. This represents a significant improvement to the national fabric because the amendment responds to the very long-held grievances of the tribal areas that were largely kept outside the purview of national governance, so that now, communities that had been so far removed from the mainstream can finally have the inclusion in the national fabric that is so vital to their allegiance. Such measures can lessen the attractiveness of extremism and insurgency to where it has often flourished in the past because of political and economic marginalization. Bringing FATA into the legislative net means that it can never be a zone of exclusion again and that more political representation for the people of these areas will create a greater identification with the national political and social agendas, furthering the nation-building process. Furthermore, the infusion of FATA to Khyber Pakhtunkhwa may change the political dynamics of the province itself, which has experienced its own fair share of challenges (these include persistent socio-economic underdevelopment, the scourge of insurgency, and pressure on already limited resources). Now with the integration of FATA, the provincial assembly will be having a more diverse representation, hence a plurality of interests, and the provincial government will have to modify its policies to cater to these new interest demands. This, in the short run at least, can only strain provincial resources, governance, and administration. Should these challenges be left unattended and unresolved, it could turn into a pressure cooker within the province, possibly destabilizing the internal structure of government in Khyber Pakhtunkhwa.

The regional stability would have a far-reaching impact on Pakistan other than the implementation after the successful passage of the 26th Amendment. Domestic Governance and the Tribal Areas The political integration of the tribal regions would also help to improve domestic governance, something that should appeal to international stakeholders keen to see a stronger, more stable Pakistan. For one, a more politically united and stable Pakistan would undoubtedly improve its regional stature domestically, vis-à-vis its eastern neighbor India, and even its western one, Afghanistan. The ties with Afghanistan, in particular, are the most important. FATA integration aligns with the bigger agenda of tackling the issue of militancy having a spillover effect for Afghanistan. In tackling FATA's underrepresentation and promoting political stability in Pakistan, the 26th Amendment may also contribute to wider stabilization efforts in the region. But whether these reforms will succeed will depend on whether Pakistan manages to rein in cross-border militancy and not allow the FATA integration into Pakistan to be used to increase tensions with Afghanistan. If Pakistan succeeds in its attempt to transform FATA into a region with greater political stability and greater economic development, it could become a model for addressing these issues elsewhere in South Asia, particularly in association with the difficult problems associated with tribal rule and insurgency.

The amendment could also change Pakistan's internal equation with other provinces, especially those that have, historically, been feeling deprived or left out. More seats for FATA in the National Assembly also fuel a shift in power dynamics within Pakistan's federal framework, where some provinces, who may perceive the wholesale redistribution of seats as a direct challenge to their entrenched modes of political capital, may respond negatively. Seats for FATA are likely to be viewed by provinces with larger populations or more entrenched political structures as an intrusion into their political power share, complicating interprovincial relations. It has broad ramifications for regional development. The smooth transition of FATA into the folds of the country is an opportunity for the Pakistani state to ramp up investments in infrastructure and development, education, health, and economic development in the tribal areas. This will pay significant dividends for both Pakistan and the region in narrowing clientelist relations and having long-lasting peace. But for these initiatives to be successful, it is imperative that the government can live up to its promises and that these newly represented areas become well-resourced and prioritized (Abu, 2024).

Challenges and Critiques

Legislative Gaps and Ambiguities

The 26th Constitutional Amendment is a significant advancement towards improving political representation and the integration of the erstwhile FATA within the ambit of national and provincial governance, but the text of the Amendment carries the potential for legislative loopholes and ambiguous language that may detract from its effectiveness. This provision in the amendment to increase representation is also one of the biggest challenges, like it is not clear from where they will get the number of additional staff, among other things, which are practically needed. However, while the amendment does allocate seats in the National and Provincial Assemblies for FATA, it does not define a systemic manner of transferring political power along the political spectrum or specify whether elections will be held in the form of an assembly or another given unit of constituency in these new constituencies. There is vagueness in which regions are represented in practice, leading to discrepancies in implementation.

There are also fears that missing clarity over how FATA would be merged into Khyber Pakhtunkhwa's political and administrative apparatus means there is confusion over what local governance bodies were supposed to do. The amendment, for instance, fails to provide a roadmap for decentralization or to explain how political structures such as the FATA, which was under the Frontier Crimes Regulation (FCR), will evolve into the more formalized institutions applied elsewhere in the country. Uncertainty surrounding these transitions is likely to reinforce the disparate application of the law, leaving parts of FATA or identifiable groups outside of any deals, arrangements, or decisions. Moreover, there are apprehensions about the vagueness over the limits of provincial autonomy and the impact the new constituencies will have on the power dynamics in Khyber Pakhtunkhwa. The amendment sets out to connect FATA to the provincial assembly, but there is more work to be done in defining the intersectionality of this new power arrangement with that of established constituencies in KP. However, in the absence of clarity, this might exacerbate the tensions between the newly represented tribal areas and existing political units becoming part of the province (Cheema & Cheema, 2024).

Implementation Hurdles

There are no trivial administration and bureaucratic hurdles to overcome in the working out of the 26th Amendment. Implementing the amendment will succeed only if the provincial and national

governments learn to manage the reconfigured political landscape. But the administrative apparatus in Pakistan has repeatedly been lethargic and cumbersome to accommodate such sweeping transformations, especially when it comes to parts of the country that had had different legal systems till recently, such as the erstwhile FATA region. Perhaps the most daunting challenge for implementation has been the need to replace the system in the tribal areas of the FCR with the ordinary legal and administrative structures used in the rest of Pakistan. It requires, besides changing linguistic policies at the legislative level, also restructuring local governance institutions, training new officials, and designing and implementing law enforcement mechanisms. The transition process will be slow and fraught with difficulties due to the lack of infrastructure and administrative capacity in FATA.

Furthermore, the administration of FATA entering the fold of Khyber Pakhtunkhwa will take a lot of coordinating efforts between conservative, national, and local actors. It is also possible that, with new responsibility in hand, the provincial and federal government bureaucracy may be unable to manage all the new responsibilities in time, resulting in more delays in providing promised reforms like infrastructure, social welfare programs, and economic investments in these newly represented areas. Such delays can make the political fruit of the 26th Amendment a fleeting one, which in turn can embed the very socio-economic disparities the amendment was intended to address. There's been another issue: insufficient resources for carrying out the amendment. Certainly, they need to deal with the policy implications of better representation and greater expectations for development and political inclusion, but the reality is that Pakistan's provincial and national governments continue to suffer from an acute fiscal squeeze. Unless resources are allocated in a transparent manner and a well-thought-out plan is developed to facilitate the integration of the recently merged areas, the 26th amendment will amount to no more than a symbolic act, one that fails to change the lot of FATA peoples (editorial, 2024).

Political Polarization

Section 26 of the 26th Amendment seeks to bring the provinces of Pakistan together, but in doing so it may widen the gap of political polarization in Pakistan. The reservation of such constituencies from the erstwhile FATA areas, which are politically different from the remaining Khyber Pakhtunkhwa, can fuel tensions among various political traditions in the province. This could be driven by fears that the newly represented regions will politic a provincial response to matters in the interests that are not in the interests of the preexisting constituencies. Consequently, the extra seats could provoke local political actors in KP into political machines that threaten cohesion and hence the stability—of the province. In addition to this, the age-old political parties may use the newly owned boundaries for expanding their foothold. Meanwhile, the political amalgamation of FATA into KP is a faint achievement from a political standpoint to prime position particular customer climates from fresh represented areas by patronage politics, clientelism, and populist rhetoric. The logic behind the amendment is national unity and cohesion, but the parties might try to create a monopoly on this issue by creating a divide on the lines between tribal areas and the rest of the province, as they would like to earn their political honor by defeating the purpose of the amendment.

Furthermore, national political polarization is also aggravating the situation: the political process surrounding the implementation of the 26th Amendment closes it. The extra political seats in parliament may threaten the influence of the political parties across Pakistan, accusing the federal government of distributing resources and power and center-based favoritism. The national stage,

already rife with bitter partisanship, may be further divided as parties scramble to dominate the new constituencies in FATA. Moreover, tribal areas are characterized by complex socio-economic dynamics that could further complicate such measures and exacerbate political polarization. The tribal areas are inhabited by a variety of people with diverse ethnic, tribal, and cultural identities. Political parties can use cleavage to win elections, and internal conflicts will undercut attempts during political integration. In turn, the possibility for such divides complicates the political process concerning the 26th Amendment, and if mismanaged, could yield more political balkanization instead of a solution to the political rift (Sami, 2024).

Recommendations

To ensure the successful implementation of the 26th Constitutional Amendment and to mitigate the challenges outlined, several strategic recommendations should be considered:

1. **Clarification of Legislative Provisions:** It is crucial to provide greater clarity in the legal text of the amendment regarding the electoral and governance processes for the newly represented areas. This includes defining clear electoral boundaries, the role of local governance bodies, and the precise process for transitioning from the FCR to the regular legal system. Ensuring that the amendment is unambiguous will help prevent confusion and inconsistencies in its application (Desk, 2024).
2. **Strengthening Administrative Capacity:** Given the bureaucratic and administrative challenges involved in integrating FATA into Khyber Pakhtunkhwa, it is essential to invest in strengthening the capacity of local governments and administrative machinery. This could involve training government officials, establishing new institutions for local governance, and providing financial resources to the regions to ensure effective governance. Special attention should be given to building infrastructure and providing essential services, including healthcare, education, and security.
3. **Resource Allocation and Economic Development:** The successful integration of FATA requires significant investment in economic development to address the socio-economic disparities between the newly represented areas and the rest of Pakistan. This includes allocating resources for infrastructure projects, educational programs, and healthcare initiatives. Furthermore, ensuring that these areas receive equitable development opportunities will help consolidate the political gains of the amendment and create lasting change for the people of FATA.
4. **Inclusive Political Process:** To avoid political polarization, an inclusive and transparent political process must be fostered in both the newly integrated areas and Khyber Pakhtunkhwa as a whole. Political parties should refrain from using FATA's integration as a tool for political exploitation. Instead, they must engage in constructive dialogue to ensure that the interests of all constituencies, including the newly represented tribal areas, are adequately addressed. Furthermore, encouraging local leadership from the tribal areas to play an active role in politics can help ensure that the political representation is authentic and not dominated by external political forces.
5. **Public Awareness and Stakeholder Engagement:** Successful integration also hinges on the active participation of the people in the newly represented areas. Public awareness campaigns should be launched to educate the population about their new political rights and responsibilities. Additionally, the government should engage with local leaders, civil society organizations, and other stakeholders to ensure that the reforms reflect the aspirations of the people in these regions and that the process of political integration is perceived as legitimate and beneficial.

6. Monitoring and Evaluation: Finally, continuous monitoring and evaluation of the implementation of the amendment should be carried out. Independent bodies should be tasked with overseeing the progress of the integration, ensuring that the provisions of the amendment are being adhered to and identify any emerging challenges or gaps. Regular assessments will allow for adjustments to be made in response to unforeseen issues, thereby helping to fine-tune the implementation process (Dawn & Nadir Guramani, 2024).

Conclusion

The 26th Constitutional Amendment marks a historic step towards addressing the historical grievances of the FATA regions and integrating them into Pakistan's national political and governance frameworks. It represents an effort to bring about more inclusive and representative governance, aligning with the principles of federalism and equality enshrined in Pakistan's Constitution. While the amendment offers a path to greater political inclusion, it is not without its challenges, including legislative ambiguities, administrative hurdles, and the risk of political polarization. To ensure the success of this reform, Pakistan must focus on clarifying the legal provisions, strengthening administrative and governance structures, and ensuring that economic and social development follows suit. Political polarization must be carefully managed, with political parties playing a constructive role in the integration process. Additionally, engaging the local population and fostering public awareness will be crucial in ensuring that the reforms resonate with the people and contribute to nation-building. In the long term, the 26th Amendment holds the potential to transform FATA into a politically stable and economically viable region, thus contributing to the overall stability and development of Pakistan. However, achieving this potential will require careful planning, strong political will, and sustained efforts to address the challenges that lie ahead. Only through effective implementation and inclusive governance can the amendment fulfill its promise of greater representation, equality, and socio-political integration for the people of the former tribal areas.

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