

Advocacy for Sustainable Policy and Implementation Reforms – Khyber Pakhtunkhwa (ASPIRE-KP)

Roundtable Report on Issues in Merged Districts

Date:

- **Session 1: November 30, 2024**
- **Session 2: December 24, 2024**

Venue: IM Sciences Institute, Hayatabad, Peshawar

Organized by: Aspire-KP

Theme: "*Bridging Gap through Justice: Post-Merger Role of Legal Fraternity*"

1. Introduction

1. Following the symposium held on September 29, 2024, ASPIRE-KP promptly initiated the process of engaging stakeholders through formal correspondence, supplemented by detailed recommendations for implementation. Additionally, Aspire-KP organized two significant sessions of the Roundtable on "*Issues in Merged Districts*" to address the critical challenges faced by the region following the integration of the Federally Administered Tribal Areas (FATA) into Khyber Pakhtunkhwa (KP) in 2018. These sessions were convened to explore legal, advocacy, and policy-driven strategies to ensure that commitments made during the merger process are fulfilled.
2. **First Session (November 30, 2024):** Focused on mobilizing the legal fraternity to advocate for the rights of the people of the merged districts, this session underscored the importance of holding federal and provincial governments accountable. The event served as a platform for esteemed Advocates of the Supreme Court and High Court, as well as former and current office holders at the provincial and national levels, to deliberate on unresolved issues. Key issues discussed included unmet financial commitments for development and the redetermination of resource distribution under the mandate of the National Finance Commission (NFC).
3. **Second Session (December 24, 2024):** Expanded the audience to include parliamentarians, elected Tehsil Chairmen, and representatives from academia and legal circles to develop a broader, more inclusive consensus on resolving the challenges in the merged districts.
4. Aspire-KP reaffirmed its commitment to addressing the concerns of the merged districts during its formal launch in August 2024. This Roundtable marked a significant continuation of its efforts to propose sustainable solutions to the long-standing issues plaguing the region.

2. Objectives

- The objectives of the Roundtable were designed to address the pressing challenges faced by the merged districts and mobilize support from the legal fraternity. These included:
 1. **Positioning Legal Expertise:** Exploring ways to leverage the collective wisdom of the legal fraternity in addressing the critical issues of the merged districts.
 2. **Advocacy for Rights:** Mobilizing the legal fraternity to advocate for the rights of the people in the merged districts, ensuring their voices are heard at the national and provincial levels.
 3. **Legal and Advocacy Avenues:** Investigating options for articulating the case of the merged districts through effective advocacy and legal strategies to compel the federal and provincial governments to fulfill their commitments.
 4. **Superior Court Interventions:** Evaluating the advisability of seeking intervention from the Superior Courts to address the genuine and persistent issues affecting the merged districts.
 5. **Addressing Development Challenges:** Formulating actionable strategies to tackle critical developmental challenges, including unmet financial commitments, infrastructure gaps, and socio-economic inequalities.
 6. **Highlighting Regional Plight:** Identifying additional modalities for raising awareness and drawing attention to the struggles and unmet needs of the people in the merged districts.
- This comprehensive approach was aimed at ensuring that both immediate and long-term solutions are identified and implemented to uplift the merged districts and integrate them effectively into the provincial framework.

3. Participants

- **November 30, 2024 - First Session:** The Roundtable included three key groups:
 1. **Opinion Leaders from Merged Areas:**
 - Mr. Shaukatullah Khan (Former Governor KP, Bajaur)
 - Mr. Noor ul Haq Qadri (Former Federal Minister, Khyber)
 - Mr. Ghazi Gulab Jamal (Former Federal Minister, Orakzai)
 - Mr. Hameedullah Jan Afridi (Former Federal Minister, Khyber)
 - Maulana Salih Shah (Former Senator, South Waziristan)
 - Mr. Ghazan Jamal (Former MPA, Orakzai)
 2. **Senior Members of the Legal Fraternity:**
 - Mr. Shumail Ahmad Butt (Former Advocate General, KP)
 - Mr. Qasim Wadud (Former Additional Advocate General, KP)
 - Mr. Ali Gohar Durrani Advocate
 - Mr. Danish Afridi Advocate
 - Mr. Issaq Ali Qazi Advocate
 - Mr. Noor Alam Khan Advocate
 - Ms. Sabiha Iqbal Advocate

3. **Aspire-KP Team:**

- Mr. Mohammad Shehzad Arbab, Chairman ASPIRE-KP
- Mr. Habib Ullah Khan
- Mr. Himayat Ullah Khan
- Mr. Sahibzada Saeed Ahmad
- Mr. Arbab Muhammad Arif
- Mr. Zafar Iqbal Khan
- Mr. Hifzur Rehman

- **December 24, 2024 - Second Session:** This session included an expanded set of participants:

4. **Members of National Assembly (MNAs):**

- Mr. Sajid Khan (NA-26, Mohmand)

5. **Provincial Assembly Members (MPAs):**

- Mr. Anwar Zeb Khan (PK-20, Bajaur-II)
- Mr. Ajmal Khan (PK-21, Bajaur-III)

6. **Tehsil Local Government Chairmen:**

- Dr. Khalil Ur Rahman (Nawagai, Bajaur)
- Mr. Bilal Khan (Razmak, North Waziristan)

7. **Academia:**

- Professor Dr. Jamil Chitrali (Director, IPCS, University of Peshawar)

4. **Program Outline**

- The Roundtable agenda was structured to encourage open dialogue and propose actionable solutions. Key sessions included:
 - Recitation from the Holy Quran
 - Welcome Address by Chairman Aspire-KP
 - Presentation: *"Issues and Challenges in Merged Districts"*
 - Open Forum: Views from Legal Fraternity and Stakeholders
 - Vote of Thanks

5. **Opening Remarks by Chairman ASPIRE-KP**

The Chairman of Aspire-KP, Mohammad Shehzad Arbab, welcomed the participants and emphasized the critical importance of addressing the challenges faced by the merged districts. The following key points were highlighted:

- **Introduction:** The Chairman expressed gratitude to the distinguished advocates for their commitment to addressing the pressing issues of the merged districts. He explained that the Roundtable aimed to explore legal remedies, strategic advocacy, and actionable solutions to uphold the promises made during the merger of FATA with KP. The audience was informed that the 2018 merger represented a promise of inclusion and equality for the people of the merged districts. However, many commitments, such as the 3% allocation from the Federal Divisible Pool, remained unfulfilled, hindering progress in critical sectors, including infrastructure, healthcare, and education.

- **Role of ASPIRE-KP:** The Chairman elaborated on the role of ASPIRE-KP as an independent platform advocating for evidence-based policymaking and actionable solutions. He apprised the participants of the outcomes of a recent symposium, which highlighted significant gaps in financial commitments, challenges in judicial integration, and the resurgence of militancy. He emphasized the essential role of the legal community in addressing these challenges effectively.
- **Call to Action:** The Chairman underscored the need for the legal fraternity to hold the state accountable, ensuring that promises made are translated into impactful actions. He stressed the importance of filing court petitions, initiating public interest litigations, and leveraging strategic advocacy to amplify the voices of the merged districts. He further emphasized the necessity of long-term strategies, including legal monitoring and legislative reforms, to achieve justice for the region.
- **Final Thoughts:** The Chairman emphasized that the theme of the Roundtable, *"Bridging Gap through Justice: Post-Merger Role of Legal Fraternity,"* served as a compelling reminder of the pivotal role the legal community must undertake to transform the promises of the merger into a lived reality for the people of the merged districts. He urged the legal experts to recognize that justice is not merely a principle but a crucial bridge connecting these regions to equitable development and enduring peace.

6. Presentation on Issues and Challenges of Merged Areas and Way Forward

Issues and Challenges of Merged Areas

- **Unfulfilled Financial Commitments:** The federal government had pledged to allocate 3% of the Federal Divisible Pool (FDP), equating to PKR 100 billion annually for ten years, to support the development of the merged areas. Unfortunately, this commitment has not been fulfilled. Provinces like Punjab, Sindh, and Balochistan have not contributed their shares, thereby severely hindering progress. This lack of funding has resulted in delays in critical development projects, exacerbating the hardships experienced by residents of the merged districts.
- **Infrastructure and Services Gaps:** The merger raised high expectations for improvements in infrastructure and basic services. However, delays in financial disbursements have resulted in minimal progress in healthcare, education, and road development. Consequently, residents continue to endure inadequate facilities and a diminished quality of life, further deepening their sense of marginalization.

7. Proceedings

First Session - November 30, 2024

The session opened with recitation from the Holy Quran, followed by a welcome address by Aspire-KP Chairman Mohammad Shehzad Arbab, who outlined the merger's commitments. Aspire-KP team presented an analysis of the region's developmental lags, highlighting the unmet 3% Federal Divisible Pool (FDP) allocation and financial constraints in vital sectors like law, justice, and local government.

Legal experts provided updates on existing petitions in the Supreme Court and Peshawar High Court, advocating for directives to compel federal and provincial governments to honor their commitments.

Key Decisions:

- **Legal Team Leadership:** Mr. Shumail Ahmad Butt was appointed to lead the legal efforts.
- **Future Session Planning:** Another session was planned to involve parliamentarians and Tehsil Chairmen.

Second Session - December 24, 2024

The second session included discussions on legislative and legal advocacy and featured broader participation from political representatives and local government officials. Members raised concerns about delayed development and the resurgence of militancy.

Deliberations and Options Discussed During the Roundtable Sessions

The challenges faced by the merged districts were presented as issues of national significance requiring immediate action. A Roundtable was convened to deliberate on various key questions, including:

1. How the expertise of the legal fraternity in Khyber Pakhtunkhwa could support critical issues in merged areas.
2. The options available to articulate the grievances of people in merged areas effectively.
3. Whether judicial intervention through the High Court or Supreme Court of Pakistan should be pursued.
4. Additional modalities to highlight the plight and marginalization of residents in the merged districts.

The discussion was divided into several actionable areas:

Judicial Remedies and Legal Interventions

- Exploring the legal implications of unmet financial commitments by federal and provincial governments.
- Assessing the feasibility of approaching the Supreme Court or High Courts to enforce these commitments.
- Examining the constitutional basis for initiating public interest litigation to compel government obligations.

Strategic Litigation and Advocacy

- Identifying potential petitioners, including civil society organizations, tribal elders, and local representatives, to file legal challenges.
- Establishing a strong legal team and support network for judicial proceedings, including amicus curiae briefs from subject matter experts.
- Evaluating the risks and benefits of pursuing litigation versus alternative dispute resolution mechanisms.

Policy and Advocacy Outside the Courtroom

- Collaborating with Bar Associations to garner support for the cause of merged districts.
- Leveraging media platforms and public opinion to generate pressure for fulfilling financial and developmental commitments.
- Developing a cohesive narrative to emphasize the socio-economic impacts of unfulfilled promises on the merged areas, as well as their broader implications for the province and the nation.

Key Decisions:

1. **Legal Action:**
 - Prepare and file a comprehensive case in the Peshawar High Court.
2. **Collaborative Advocacy:**
 - Secure commitments from all stakeholders to lobby for the region's development.
3. **Legislative Proposals:**
 - Draft a Bill urging the federal government to fulfill its financial pledges to the merged districts.

Long-term Legal Strategies

- Creating a framework for sustained legal monitoring to ensure the implementation of the 25th Constitutional Amendment and the Tribal Decade Strategy.
- Drafting legislative reform proposals to safeguard the integration process and protect residents' rights in merged areas.
- Exploring the possibility of filing a class-action lawsuit on behalf of residents in merged districts to claim compensation for delayed development and unfulfilled commitments.

Key Highlights

The challenges faced by the merged areas are substantial, but they can be addressed through collective efforts by the legal fraternity, policymakers, civil society, and other stakeholders. The deliberations from the Roundtable aimed to shape a comprehensive strategy that incorporates judicial action, proactive advocacy, and long-term legislative solutions. These measures are essential to realizing the promises made during the merger process and ensuring meaningful progress for the merged areas.

8. Conclusions and Recommendations

Legal Advocacy:

- The legal team will prepare a unified Power of Attorney to consolidate efforts.

- Aspire-KP will facilitate coordination between petitioners, including parliamentarians and local government officials.

Resolutions:

- Parliamentarians and Tehsil Chairmen will table resolutions in their respective assemblies and councils to demand fulfillment of financial commitments.
- They public representatives from the Merged Districts will also adopt a multifaceted approach, including awareness campaigns, engagement with national forums, utilization of traditional and social media, and active collaboration with policymakers. Additionally, efforts will be made to mobilize communities, foster partnerships with academic institutions and think tanks, and establish citizens' oversight committees to ensure accountability and sustained advocacy.

Next Steps:

- An All-Parties Conference will be convened to address the issues in merged districts.
- By January 7, 2025, a bill will be drafted, highlighting the moral and constitutional imperatives for honoring merger commitments. This bill will be prepared for tabling in the National Assembly.

9. Key Takeaways, Progress Update and Tasks: Tracking Implementation

Progress Update

- Follow-up actions were initiated during the formulation of the report, and progress is already evident, with momentum building. On December 29, 2024, Chairman ASPIRE-KP, Mohammad Shehzad Arbab, participated in an in-depth interview on Khyber News regarding the merger of Ex-FATA. He elaborated on the situation leading up to the merger, emphasizing the collaborative efforts to engage all stakeholders and the subsequent approval processes from the Cabinet and both houses of Parliament. He highlighted the unmet commitments made to the people of FATA by the Federal Government and the provinces of Punjab, Sindh, and Balochistan. This failure has contributed to significant developmental delays and a lack of economic opportunities for the youth and residents of the region. He urged authorities and concerned citizens to acknowledge the hardships faced by the people of Ex-FATA and take action before it becomes too late.
- A resolution has been signed by the Members of Provincial Assembly (MPAs) from all political parties in Khyber Pakhtunkhwa and will soon be presented in the Provincial Assembly. The key features of the resolution include:
 - Between 2016 and 2018, a comprehensive process was undertaken that resulted in a collaborative agreement among all stakeholders. This agreement stipulated that for the next ten years, at least 3% of the Divisible Pool would be allocated to the merged districts through a Ten-Year Development Plan, later known as the Tribal Decade Strategy. The recommendations of the Sartaj Aziz Committee were approved by the Cabinet and endorsed by both houses of Parliament before the passage of the 25th Amendment to the Constitution of Pakistan. This initiative aimed to elevate Ex-FATA to parity with other

districts in the province and to address their marginalization with urgency. Unfortunately, this commitment has not been fulfilled, leading to disillusionment among the local population, which requires an immediate response.

- The Provincial Assembly believes that as a responsible nation, we cannot ignore the anxiety and disillusionment among the people of the Tribal Area.
- Therefore, the Provincial Assembly urges the Federal and all Provincial Governments to honor the commitments made during the merger expeditiously, addressing the despair and disillusionment currently affecting the people.

Tasks

To address the disillusionment and despair prevailing among the people of Ex-FATA, the following tasks need to be undertaken:

- **Urgent Attention:** The Federal and Provincial Governments must honor the commitments made at the time of merger and address the unfulfilled promises. The Federation must also announce an interim National Finance Commission (NFC) award immediately, considering the new geographical reality following the merger of Ex-FATA into Khyber Pakhtunkhwa. This interim award should be in place until the regular NFC award is announced, as required by the rules. The legitimate rights of Khyber Pakhtunkhwa have been delayed since 2018, necessitating a prompt resolution to address this outstanding issue.
- **Provincial Assembly Resolution:** On January 14, 2025, the Provincial Assembly of Khyber Pakhtunkhwa unanimously passed a resolution signed by MPAs from all political parties. It is now incumbent upon both the Provincial Government and the Provincial Assembly to take concrete steps to ensure the demands outlined in the resolution are effectively implemented.
- **Addressing Marginalization:** Concrete steps must be taken to address the marginalization of Ex-FATA and bring it at par with other districts of the Province.
- **ASPIRE-KP Team Meets Speaker of the Provincial Assembly of Khyber Pakhtunkhwa:** On 30 January 2025, a delegation from **ASPIRE-KP**, led by its Chairman, Mr. Mohammad Shehzad Arbab, called on the Honorable Speaker of the Provincial Assembly of Khyber Pakhtunkhwa. During the meeting, the delegation briefed the Speaker on the organization's ongoing initiatives and its commitment to playing a constructive and impactful role in policy formulation and advocacy.
- The team emphasized its mission to contribute to the province's development trajectory by addressing key challenges and fostering sustainable growth. **ASPIRE-KP** also expressed its readiness to provide technical expertise and support to the Speaker and the Provincial Assembly in resolving critical issues and advancing development priorities.
- The meeting underscored the importance of collaboration between civil society organizations and legislative bodies in driving meaningful progress for the province.

Future Directions

The following measures will be implemented to expedite progress:

- **Follow-up Meeting:** A follow-up meeting will be convened to review progress and discuss further action.

- **Progress Report:** A progress report will be posted on the ASPIRE-KP website, highlighting the achievements and challenges faced.
- **Stakeholder Engagement:** Stakeholders will be engaged to ensure that their concerns are addressed and their support is garnered for the initiatives undertaken.