

THESIS

UNGOVERNED SPACES: THE CHALLENGES OF GOVERNING TRIBAL SOCIETIES



By Ty L. Groh
Naval Postgraduate School



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NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

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GOVERNING TRIBAL SOCIETIES**

by

Ty L. Groh

June 2006

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**UNGOVERNED SPACES
THE CHALLENGES OF GOVERNING TRIBAL SOCIETIES**

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ABSTRACT

This thesis addresses the efforts of different regimes to establish their authority over the Pashtun ethnic group. The Pashtun are at the heart of the conflict in Afghanistan, which also reaches into northwestern Pakistan. They provide both an important and current example of why “ungoverned spaces”—geographic regions beyond the reach of central authority—have become such important topic among many of the world’s countries. People that exist within a sovereign state’s borders and outside the state’s authority present a potentially dangerous problem to both the state itself and the international community.

To address the challenges facing a state attempting to establish its authority over the Pashtun, this thesis identifies normative and organizational structures associated with rural Pashtun tribes and discusses how these factors impede the creation of central state authority. These factors are applied to three cases—concerning Britain, Pakistan, and the Soviet Union—which involved a modern government’s efforts to establish its authority over the Pashtun. In almost every case, the state failed when it either misunderstood the importance of these structural factors or willfully ignored them to pursue other interests. The most successful case occurred when the government of Pakistan focused on integrating the Pashtun through providing education, transportation and health services. The intent was to bring the Pashtun into Pakistan’s mainstream society. Unfortunately, this effort was short-lived due to the Soviet invasion of Afghanistan.

Looking beyond the Pashtun case, the research in this thesis suggests that policies focused purely on suppression, isolation, or accommodation are destined to fail in establishing state authority. The common failing of these three policies occurs when the state fails to understand the difference between establishing order and establishing authority. Most often, a policy focused on a give and take relationship with a tribe, leaning slightly towards more giving than taking, appeared to work best. Finally, the state must seriously consider its capacity to expand its authority—the lower the capacity, the longer it will take and the more accommodating (but not purely accommodating) the state must act.

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I. THE PROBLEM WITH “UNGOVERNED SPACES”

I believe these areas [ungoverned spaces] will play an increasingly important role in the war on terrorism as al Qaeda, its associated groups and other terrorist organizations use these areas as bases for operations.

**Vice Admiral Lowell E. Jacoby
Director, Defense Intelligence Agency**

Since the end of the Cold War, the world has witnessed a significant number of violent conflicts resulting from ethnic differences and a lack of state authority over its territory. As of 2006, the United States is heavily involved in two theaters of operations (Iraq and Afghanistan/Pakistan), Russia continues to battle resistance forces in Chechnya, there is a growing disparity between Beijing and the Muslims living in the Xinjiang province of China, Kashmir remains an unsettled and largely ungovernable region, the Balkans continue to be unstable due to ethnic differences, and the examples in Africa are almost too numerous to count. In each of these cases, states are struggling to establish the authority of a central government over ethnically fragmented societies.

Historically, the most troublesome areas exist where tribal societies, especially those with deeply entrenched tribal customs, live outside or resist the state's rule of law. The presence of these “ungoverned spaces” (regions not governed by central authority) within a state's borders challenges the state's authority and its exclusive, legitimate right to violence. Therefore, the conflicts between ethnic groups or tribes take on a violent, often uncontrollable character that negatively affects the entire state. This becomes even more salient when ethnically motivated regimes (e-g., Serbia under Slobodan Milosevic) come into power and begin to prey upon the weaker ethnic groups. Such actions often demand intervention by the international community and hasten the failure of the states in which they take place.

An additional consequence has been the migration of trans-national terrorist networks into areas lacking central authority, such as the attacks of September 11, 2001, demonstrated the continuing lethality of such networks. Therefore, it has become more important than ever to understand why these areas exist and how to supersede tribal custom with a state's central rule of law.

A key concern then is how states can establish their authority over the different ethnic groups and/or tribal regions within their borders when each is governed by different customs. This thesis, focusing on three different cases involving the Pashtun ethnic group and three separate central governments, develops the argument that the expansion of state authority is intimately connected to the state's ability to establish a central body of law that prevails over competing customary laws. One argument is that a state which is able to establish its authority (especially with respect to the exclusive use of violence) and successfully integrate its population under a common body of law will drive ethnic groups and/or tribes to turn to the state to settle intra-state conflicts. A second argument is that the population's acceptance of state authority will provide the state the necessary penetration to eliminate areas which would otherwise be beyond its control. Therefore, the question one must ask is, "Under what conditions can state authority successfully supersede tribal custom?"

A. WHY STATES SEEK TO ENFORCE A RULE OF LAW

Joel Midgal claims the relationship between a state (especially a new state) and its society is typically characterized by a battle to determine "who will set the rules".¹ In this context "law is power" and the ability to say, with authority, what is and is not legal becomes a vehicle for instituting change in and control over a society.² Therefore, a state typically faces strong opposition when it attempts to institute its own laws over top of tribal customary law as the primary rule of law.³

The acceptance of a rule of law by its people gives the state authority. Therefore, a state usually seeks to create and enforce all forms of law within its territory to clearly define its authority. The presence of a competing rule of law challenges that authority. States are especially concerned with the case of criminal law due to its close connection to the use of violence; to remain viable, the state must maintain a monopoly on the

¹ Joe Midgal, "Strong Societies, Weak States: Power and Accommodation," in *Understanding Political Development*, eds. Samuel Huntington, Myron Weiner and Gabriel Almond. Boston: Little, Brown (1987): 391 – 437.

² Lawrence Rosen. "Law and Social Change in the New Nations." *Comparative Studies in Society and History*, 20, no. 1 (1978): 3-4.

³ Olaf K. Caroe. *The Pathans*. New York: St. Martin's Press Inc (1958); John C. Griffiths. . New York: Frederick A. Praeger Publishers (1967); Louis Dupree. *Afghanistan*. Princeton: Princeton University Press (1978); Rosen, 1978.

legitimate use of violence.⁴ It is also important for a state to maintain order within its borders to appear strong and prevent the likelihood of intervention by other states.

To understand why it is difficult for a state to gain authority through the acceptance of its laws, one must look at the source of both the state's laws and the existing tribal customary law. Natural law theorists argue that it is morality which dictates a legitimate body of law. In this sense, if the state and the tribe have different definitions of moral behavior, then each will have different views on what law or custom should allow. Positivists argue that it is the institution—unconstrained by morality—that determines a legitimate body of law. Again, both the state and the tribe are likely to be vastly different institutions with different opinions on how law or custom should shape an individual's behavior. The case presented in this thesis represents a “hard case” because Pashtun tribal customary law is a well-established institution that defines what is right and wrong and is therefore both moral and legitimate.

Pashtunwali also represents a set of ideas that are directly linked to the tribe's identity. Therefore, it is no surprise that many scholars have noted that Pashtuns strongly resist any effort by a central authority to supersede or alter its tribal customs for fear that it would threaten their independence and their identity.⁵

B. EXPLANATIONS FOR RESISTANCE

Though there are many different ways to explain why a group or individual resists authority, this thesis uses three general explanations and one narrow, case specific explanation, which relates directly to the Pashtun ethnic group, to explain why a tribe or ethnic group resists the establishment of a central rule of law that supersedes customary law. The generalizable arguments used in this thesis are “Glue Theory”, Kahneman and Tversky's “Prospect theory”, and Weber's discussion about legitimate domination. The case specific argument is supported by Charles Lindholm's research on the Pashtun and includes his explanations of segmentary societies and the differences between nomadic and sedentary groups. These explanations provide the foundation to the theoretical framework (discussed in the next section) that will be used in this thesis.

⁴ Max Weber. “Politics as a Vocation,” excerpt from Patrick O'Neil and Ronald Rogowski, *Essential Readings in Comparative Politics*, New York: W.W. Norton & Company (2004): 34; Rosen, 5.

⁵ Caroe, 1958; Griffiths, 1967; Dupree, 1978; Rosen, 1978.

Glue theory is an anthropological theory that suggests the ways of the past greatly influence an individual's current behavioral norms inclines them to resist normative change. Glue theory therefore provides a logical argument that a tribe or ethnic group's customs impede state authority.⁶

Kahneman and Tversky's Prospect theory also supports the idea that normative factors can impede the establishment of state authority. Prospect theory suggests that "the pain of loss exceeds the pleasure from gains." People are less willing to get involved in situations where some form of loss is possible, despite an equal opportunity for some form of gain.⁷

Another element of Prospect theory suggests that "people adjust to gains more rapidly than losses. They re-normalize their reference point (what they consider to be the norm at that particular moment) after gains but not after losses."⁸ This applies to both material and normative gains or losses. For example, a man who receives a raise in his paycheck and then subsequently loses the raise a week later will become angry due to a cut in his pay. A man who loses half his salary due to company cutbacks will not be satisfied when he is later offered a 50% increase in his current pay, because it will still be 25% less than his original pay. From a normative perspective, a group that is used to governing its own affairs will be unhappy when the state no longer allows it. Later, when the state changes its policy and allows the group to govern itself within certain boundaries established by the state, the group will still be dissatisfied because they will not be wholly independent to govern themselves, as they had been in the past.

Finally, Prospect theory recognizes concessions made while bargaining are equivalent to losses and compensations are equivalent to gains. Therefore, concessions are far more difficult to make than compensation, and will never be perceived evenly.⁹ An example of this aspect is demonstrated by the unwillingness of the British to simply

⁶ Nina Swidler. "Brahui Political Organization and the National State," in *Pakistan's Western Borderlands: The Transformation of Political Order*, ed. Ainslie T. Embree. New Delhi: Vikas Publishing House PVT, Ltd (1977): 109.

⁷ Jack S. Levy. "Loss Aversion, Framing Effects, and International Conflict: Perspectives from Prospect Theory," *Handbook of War Studies II*, edited by Manus I. Midlarsky. Ann Arbor: University of Michigan Press (2000): 194.

⁸ Levy, 195.

⁹ Ibid, 209.

give territory it had fought for and won back to the Pashtun to get them to stop raiding British settlements. At the same time, the Pashtun did not want to submit to British rule of law in exchange for their protection. On both sides, the gains were always too small to warrant accepting the losses.

Charles Lindholm's characterization of segmentary societies (such as Pashtun tribes) supports the theory that tribal organizational factors impede the establishment of state authority. Lindholm defines segmentary societies as "a subtype of what are technically known as "acephelous" or headless societies."¹⁰ They differ from purely headless (non-hierarchical) societies in that they do have some internal organization and stratification. Often these positions of leadership are hereditary, as are the religious leaders (*mullahs*) in the different Pashtun tribes or clans.¹¹ In every case, these men are only allowed to lead so long as they act in the interests of the tribe. Therefore, it is nearly impossible for the state to engage a tribe or clan through one representative. The state is nearly forced to deal with each male member of the tribe individually, which requires a tremendous amount of time and resources, both of which are often in short supply.

Segmentary societies also possess normative factors that inhibit a state from successfully establishing centralized authority. Because segmentary societies are so independent, they differ from other forms of society in that they unite only when they feel they are losing influence over their own way of life. The interests of society are defined as preserving existing social structure and organization. Segmentary societies do not respond to a stagnant economy or society. Rather, preventing social change and maintaining the social status quo are actually the goals of a segmentary society.¹² This severely hampers a state's ability to offer social or economic progress as an incentive to accept state authority, and presents the state with a more cohesive enemy when attempting to supersede tribal custom with its own rule of law.

¹⁰ Charles Lindholm. "The Segmentary Lineage System: Its Applicability to Pakistan's Political Structure," in *Pakistan's Western Borderlands: The Transformation of Political Order*, ed. Ainslie T. Embree. New Delhi: Vikas Publishing House PVT, Ltd (1977): 41-66.

¹¹ James W. Spain. *People of the Khyber: The Pathans of Pakistan*. New York: Frederick A. Praeger, Inc (1963): 49.

¹² Lindholm, 60.

Lindholm also describes two subsets of the segmentary societies: nomadic and sedentary tribes. Both cases can be found within different Pashtun tribes. Nomadic tribes, which typically consist of shepherds, tend to be more conservative and very distrustful of outsiders, which has led to a protective form of arranged marriages between first cousins. This keeps tribal alliances within the trusted network of the father's immediate family (his son marries his brother's daughter). As a result, nomadic tribes are rarely subjected to new ideas and become deeply entrenched in their beliefs. These characteristics create both organizational and normative barriers to state authority. Because they are highly mobile, have fewer possessions, and tighter family relationships, they are better prepared to resist State authority. The State will have a difficult time penetrating the tight family structure to negotiate or influence them and the state has little to offer them in exchange for their acceptance of state authority.

Sedentary Pashtun tribes are often farmers (raising both crops and livestock) who are somewhat tied to their land and are thus more territorial. Their livelihood cannot be picked up and moved in response to a threat. People in these tribes have to be able to get along with their neighbors since they are unable or unwilling to move away. The need for collective defense of the tribal area and the fact that farmers often work together promotes a much more accepting and progressive atmosphere. Lindholm also suggests a divide among the sedentary Pashtun based on the interaction between nomadic and sedentary tribes.¹³ In between purely nomadic tribes and purely agrarian sedentary tribes living on the plains are sedentary Pashtun tribes living in the hills. The key difference between these two groups stems from their exposure to outside influences. Hill tribes are far more isolated, and far more inaccessible to outside influence, than plains tribes. This makes sedentary plains tribes less capable of resisting state policies aimed at gaining authority than either the nomads or the sedentary hill tribes. Although geography aids both the nomadic and the sedentary hill tribes, normative factors which are responsible for determining each tribe's dedication to its customary law will likely impede state efforts to replace that law with the state's own laws at all levels of Pashtun society.

Max Weber's theory of "legitimate dominance" explains how normative factors can affect authority and how it applies to a state and its people. According to Weber,

¹³ Lindholm, 43-46.

authority reflects the state's ability to rightfully or legitimately (in the eyes of its people) uses its power over its citizens.¹⁴ Though the state may have the ability to exert its power (violence) over its people without their consent, its authority only continues so long as the people are sufficiently accepting of that power. Therefore, states seek to establish authority in order to minimize the amount of force necessary to maintain order within its territory.

Weber divides authority into three types. The first is labeled "traditional domination." It defines the authority that is given to a leader (representing the State) simply because the people are accustomed to this role. The leader has always had this authority, so there should be no reason to question it. Because the authority was not given to the leader, there is very little legitimacy associated with this type. This particular type of authority is only valid until the people become dissatisfied with the leader's performance. Once this occurs, a shift typically occurs to Weber's second type of authority: "charismatic domination".

Charismatic domination means the leader has been given authority based on his personal qualities or actions. Charismatic domination represents a conscious choice by the people to give the leader authority over them. Because it was a conscious choice, a leader with authority based on this category maintains a higher form of legitimacy than the previous category.

The third category is "domination by virtue of legality." This category reflects a leader who has been given authority by a society based on a common set of laws. The leader is given authority because he has demonstrated or convinced the people that he is qualified to lead them in accordance with the laws governing society. This category also reflects a highly legitimate form of authority, hence the name "legal domination."¹⁵

Because states have little hope of gaining charismatic domination over ethnically fragmented or tribal societies, they are typically forced to pursue Weber's third category—legal domination. Therefore, states are often confronted with impeding organizational and normative factors. Organizational factors come into play when the state attempts to engage the tribe. These factors should influence how that engagement is

¹⁴ Weber, 35.

¹⁵ Ibid, 35.

conducted because in the past they have often determined how effective the state's policies were at gaining the tribe's or different ethnic groups' acceptance of its authority. Normative factors are involved because these determine how the state policies will be received by tribal members. If the state does not appear to be helpful to the tribe or appears as though it would change the tribe's culture, then the tribe will not be encouraged to support the state's bid for authority.

In the next section, this thesis establishes a number of different propositions relating to both normative and organizational factors that hinder a state's ability to establish its authority. These propositions make up the theoretical framework used in this thesis to analyze the three different case studies presented in Chapters III, IV, and V.

C. THEORETICAL FRAMEWORK

Three systematic and comparative case studies are presented in this thesis, each focusing on the interaction between the Pashtun ethnic group and a different central government, Great Britain (1849-1947), Pakistan (1947-Present), and the Soviet Union (1979-1989). The research presented here assumes that a state's attempt to exercise its authority over tribal societies is constrained by two structural factors: tribal organizational factors and tribal normative factors. These structural factors generate a number of propositions which should govern the success of state policy directed at establishing the state's authority in tribal regions.

Two propositions are associated with tribal organizational factors. First, government policy based on the tribe's social organization is more likely to be considered legitimate than those that disregard it because it allows the tribe to identify with the state and minimizes the possibility that the state will engage the tribe in a manner that is offensive to the tribe's culture or counterproductive because it deals with the wrong individuals. Second, government policy aimed at segregating or isolating tribes is likely to undermine the state's authority. Policies using segregation or isolation cultivate restive outsiders and/or spoilers who become accustomed to operating outside the state's authority. These policies also encourage support networks among the members of a tribe or ethnic group because they have shared cultural connections.

Tribal normative factors also generate two propositions. First, government policy that takes into account the tribe's perception of social justice is more likely to be

perceived as legitimate than that which does not. If the tribe's perception of the state's policy is unfair in terms of the tribe's customs and culture, then the tribe will likely resist. Second, customary norms, not religious beliefs, are what impede state authority as it is these norms that more concretely define the tribe.¹⁶

These four propositions represent the theoretical framework to be used in this thesis for analyzing state policies to establish authority in tribal regions. A section in each case study discusses the particular state policies that either violated or adhered to these propositions. These sections provide evidence that either confirms or rejects the validity of the framework and its effectiveness at evaluating state policy directed at tribal societies.

D. WHY THE PASHTUN PRESENT A RELEVANT CASE STUDY

Rural Pashtuns live in tribal societies and offer an excellent example of an ethnic group deeply committed to and defined by its custom. Their code, Pashtunwali, represents a form of legal and traditional authority. Pashtuns therefore represent a “hard case” for any government seeking to establish its central authority over tribal areas. Historically, rural Pashtuns have avoided being subjugated or integrated by a larger nation. However, this success does not indicate the Pashtun are unified in the absence of an external threat. Rural Pashtuns are typically in a constant state of intra-ethnic strife when their customs or independence is not threatened. What keeps the Pashtun from devolving into an intra-ethnic conflict that would ultimately cause their extinction is the presence and devotion to their tribal code of Pashtunwali. The specifics of Pashtun culture and Pashtunwali will be discussed in Chapter II. The important thing to note is that it has been nearly impossible for a central government to control them because of their social structure and their respect for their customary laws. In addition, Pashtuns are an empirically important case given their geopolitical location at the heart of state struggles in both Afghanistan and Pakistan.

¹⁶ Both Olaf Caroe and Louis Dupree have stated that the Pashtuns have molded Islam to fit into Pashtun custom. This does not mean that religion has no bearing on the relationship between a state and its people. Olivier Roy states, “Islam has always recognized that there is such a thing as a de facto power based on force, which may bring into being the whole machinery of the state with its own legal system and its penal sanctions.” For more information, reference: Olivier Roy. *Islam and Resistance in Afghanistan*. 2nd Edition. Cambridge: Cambridge University Press (1990): 49; See Chapter 2 below.

The Pashtun represent one of the largest ethnic groups in the world with an estimated 25 million members.¹⁷ With a significant number of people living in both Pakistan and Afghanistan, the ethnic group wields a great deal of influence in both countries. Yet, Pashtuns are not homogeneous. As an ethnic group, Pashtuns are divided into several different tribes, which represent larger groupings such as the Ghilzais or Durrani in Afghanistan and the Wazirs or Mahsuds in Pakistan. All members share a common language (Pashto), a common culture (largely based on Pashtunwali), and can trace their lineage back to the tribe's original founding father.

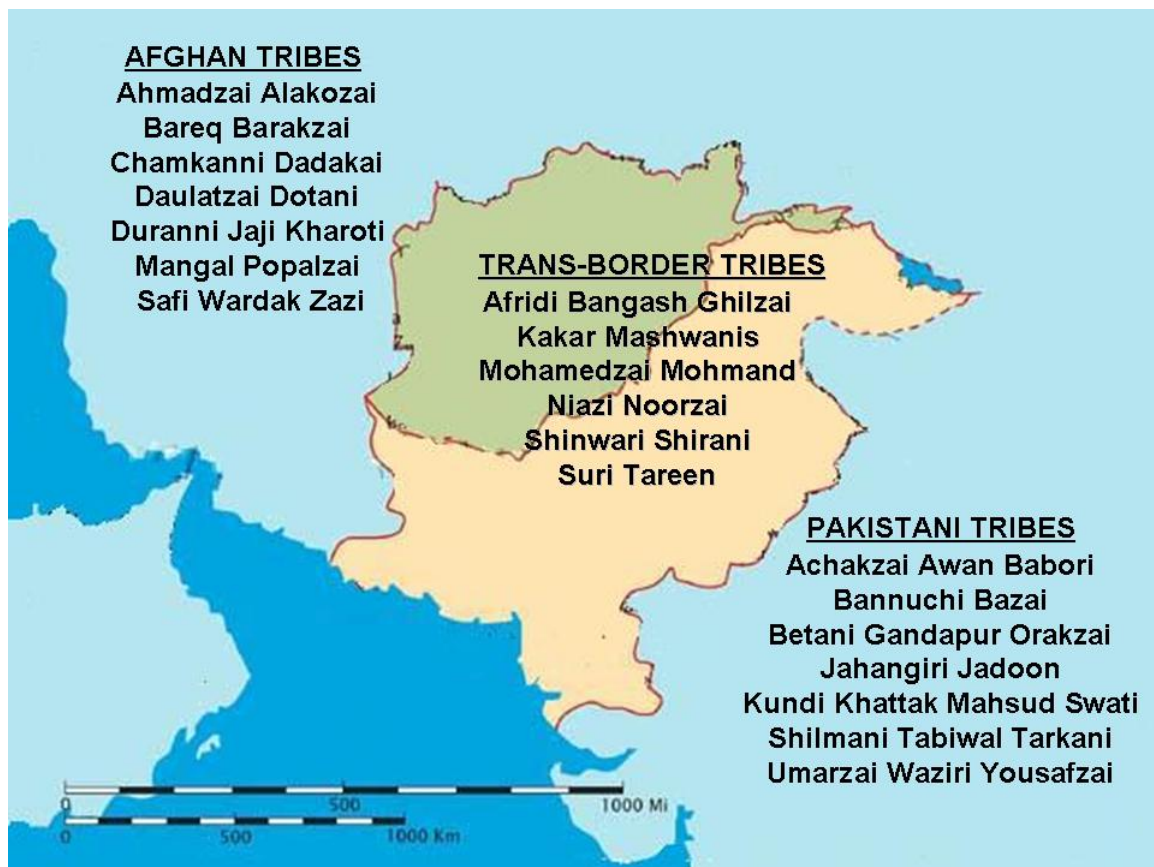


Figure 1. List of Pashtun Tribes¹⁸

¹⁷ Tribal population estimate from the CIA World Factbook. Accessed on 7 Dec 05 at <http://www.cia.gov/cia/publications/factbook/index.html>.

¹⁸ There are slight variations among different sources listing Pashtun tribes. This list excludes many clans that are now considered tribes. While this list comes from a compilation of the research in this thesis, the primary source was the website: <http://www.khyber.org/pashtotribes.shtml>. Accessed on 23 May 2006.

Each tribe is made up of different clans, which are also based on paternal lineage. A sub-clan is a smaller division of a clan, and represents a group of families that are co-located in a single village. A section represents a single family living in several different houses (for example, five brothers living in five different houses, each with his family). The smallest division is labeled as a sub-section, indicating a single house.¹⁹

Respect for their well-established, long standing tribal code (Pashtunwali) binds the numerous Pashtun tribes, especially the rural tribes, and constitutes them as a distinctive ethnic group. Palwasha Kakar characterized the role of Pashtunwali in Pashtun culture stating, “Through publicly enacting norms that fulfill the precepts of Pashtunwali, such as honor, hospitality, gender boundaries, and the institution of [the] jirgah (council), the Pashtun maintains a specific social order and furthermore sustains a religious-ethnic identity.”²⁰ Several states have attempted to intervene in Pashtun society and supersede Pashtunwali with a more progressive central rule of law, yet Pashtunwali continues as the rule of law for tribes living in rural areas. Pashtunwali also continues to serve as an important identifying trait for all Pashtuns, even though individuals living in different areas, urban or rural, choose to observe the traditions of the code somewhat differently.²¹

Though the entire tribe’s observance and commitment to Pashtunwali has changed over the years, it has changed in varying degrees. While urban Pashtuns have steadily become more progressive and relinquished their observance to Pashtunwali, those living in rural and mountainous areas tend to be more conservative. In a broader sense there has been little change among the rural Pashtun in their observance of Pashtunwali since the early 19th century. It is important to note that because of the diversity found among the rural Pashtun, it is impossible to *specifically* characterize Pashtun behavior in terms of

¹⁹ This is not a definitive break down of Pashtun tribal organization. However, for the purpose of this thesis, the organizational structure discussed by Akbar Ahmed will be used. For more information reference: Akbar S. Ahmed. *Social and Economic Change in the Tribal Areas: 1972-1976*. London: Oxford University Press (1977): 16; and Akbar S. Ahmed. *Pukhtun Economy and Society*. London: Routledge & Kegan Paul (1980): 84.

²⁰ Palwasha Kakar. *Tribal Law of Pashtunwali and Women’s Legislative Authority*. Islamic Legal Studies Program, Harvard Law School (2004). www.law.harvard.edu/programs/ilsp/kakar.pdf Accessed on 28 Oct 05

²¹ Ibid, 1-2

their observance of Pashtunwali. Therefore, the characteristics and behaviors ascribed to the rural Pashtun are somewhat generalized in order to more broadly encompass their affect on government authority.

Because this thesis focuses on “ungoverned spaces”, an emphasis will be placed on rural Pashtuns and their response to government policies designed to establish its authority. As stated above, there are different societies among the rural Pashtun, the most of which are nomadic tribes, sedentary hill tribes or sedentary plains tribes. The role of the urban Pashtun really only plays a significant role in the case study concerning the Soviet Union because the British case takes place prior to significant Pashtun urbanization and the Pakistan case takes place in the predominantly rural Tribal Areas.

E. RESEARCH DESIGN

By applying the proposed theoretical framework to the selected case studies (Great Britain, Pakistan, and the Soviet Union), this thesis seeks to answer the question, “Under what conditions can state authority successfully supersede tribal custom?” The cases have been selected to allow comparisons among three very different types of governments and different government policies. Great Britain represents a strongly democratic state with significant capacity to assist in establishing its authority. Pakistan represents a fledgling Muslim government. Though limited in its capacity, Pakistan’s leaders were more closely affiliated with Pashtuns suggesting Pakistan may more easily overcome ethnic and religious barriers to government authority. Finally, the Soviet Union was another super power (counting Great Britain as a super power during the 19th century), but represent the efforts of a communist government to establish its authority over the Pashtun.

The timeframe selected for these case studies represent policies directed by modern forms of government, which are intended to better reflect the challenges facing current governments in establishing their authority over “ungoverned spaces.”

Each of the three case studies will lay out the different policies, look at the success or failure of each policy with respect to its ability to establish State authority, and determine what effects the structural constraints listed above had on those policies. The sources used in researching the Pashtun and the three case studies were primarily secondary sources. The majority of those sources did contain the authors’ personal

reports on their first-hand experiences and observations in the region as well as quotations from, or references to, historical accounts from primary sources.

To determine what conditions allow a central government to supersede tribal custom, this thesis will focus on the efforts of the state to establish a rule of law superordinate to Pashtunwali. Each state's policies will be measured along a spectrum marked at one end by suppression and at the other end by accommodation. The mid point is marked by a policy of cooptation. Suppression is defined as a state policy aimed at imposing its rule of law with no consideration for tribal custom. Co-optation refers to a policy aimed at combining or incorporating different forms of tribal custom into a rule of law in order to gain tribal legitimacy. Lastly, accommodation is defined as a policy that allows the tribe to operate under its own rule of law.

A tribe's reaction to the state's policy on a rule of law will be grouped into one of three categories: acceptance, compromise, or rejection. Acceptance means the tribe considered the state's authority to be legitimate and was willing to relinquish its devotion to tribal custom. Compromise means the tribe elected to obey certain elements of law, but still adhered to some elements tribal custom. This particular element will be closely studied since it encompasses a wide variety of options which prove vital to answering the questions about the legitimacy of state policy and the conditions which allow a State to influence tribal custom. Finally, rejection means the tribe refuses to obey the central government's rule of law.

Though the application of this theoretical framework will not result in a definitive, generalized solution for understanding how a State can replace local practices with its own body of law, it will offer important specifics for establishing state authority among Pashtun tribes, and a framework that can be adapted to explain other cases.

The next chapter of this thesis will outline the tenets of Pashtunwali, the role of Pashtunwali in Pashtun society, and the characteristics which affect the Pashtun' response to central rule. The subsequent three chapters contain the individual case studies. Chapter VI will compile the results from the different cases and provide an analysis of the different policies, draw conclusions based on their effectiveness, or ineffectiveness, discuss whether or not the structural barriers noted in the theoretical framework apply in all cases, and provide a conclusion and policy recommendations based on the findings.

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II. WHY PASHTUNS RESIST CENTRAL AUTHORITY

The Pashtun is never at peace, except when he is at war.

Pashtun Proverb

The purpose of this chapter is first to familiarize the reader with the Pashtun by providing a brief overview of Pashtun culture and the main tenets of Pashtunwali. Second, this chapter will discuss Pashtun resistance in terms of the explanations used to develop this thesis' theoretical framework in order to establish a basic understanding of what drives Pashtun behavior, especially in response to the actions of a state trying to establish its authority.

As discussed in Chapter I, Section C, the normative and organizational structures of Pashtun society impede the state's ability to exercise authority over these regions. However, these factors serve to do more than impede state efforts. They are also sources of Pashtun resistance. This chapter develops in detail the elements of Pashtun normative and organizational structures that cause Pashtuns to resist centralized, non-tribal authority and as a consequence impede government ability to extend its authority to Pashtun lands.

Though there are numerous Pashtuns living in urban areas of both Pakistan and Afghanistan, the vast majority live in rural areas, which include the "ungoverned spaces" that present such a challenge to states today. Therefore, the discussion on Pashtuns contained in this chapter refers only to rural Pashtuns. For simplicity rural Pashtuns, which include both nomadic and sedentary societies, will be referred to as simply "Pashtuns." In the instances where it is important to distinguish between the different sects of the rural Pashtun, specific references will be made.

A. PASHTUNWALI AS A NORMATIVE STRUCTURE

The home of the Pashtun is found in the region of what is now southeast Afghanistan and northwest Pakistan. This region has been a crossroads for countless conquerors and is an environment of stark contrasts with snow capped peaks, fertile river valleys, and barren plains. As a tribal culture, they identify themselves in terms of familial ties and commitments. Social, political, and economic activities exist within this sphere and prevent government oriented institutions from gaining a foothold in tribal

areas.²² Despite the fact that the Pashtun's homeland is an easy area to invade, no country has been able to truly conquer it.²³ During the period of the 19th century Great Game, both Great Britain and Russia struggled and failed to subject the Pashtun to State authority.²⁴ Even today, the Federally Administrated Tribal Areas which are predominantly inhabited by the Pashtun are exempt from Pakistani law.

To understand the Pashtun, it is important to first understand their tribal code known as Pashtunwali, which translates as "the way of the Pashtun". First and foremost, Pashtunwali is about honor (*nang*). The Pashtun's concept of honor is not derived from a western society's modern definition of honor which is based on morality or justice, but rather from a close, unquestionable observance of Pashtunwali. In the past, this difference has created a great deal of tension between Pashtuns and those states attempting to establish their own rule of law. The concept of justice is wrapped up in a Pashtun's maintenance of his honor. Action which must be taken to preserve honor, but contradicts or breaks the laws of a state would seem perfectly acceptable to a Pashtun. In fact, his honor would demand it.²⁵ "[Pashtunwali is] an uncompromising social code so profoundly at odds with Western mores that its application constantly brings one up with a jolt."²⁶ A Pashtun must maintain the code to maintain his honor and to maintain his identity as a Pashtun.²⁷

Though there are many elements that comprise this tribal code, the main tenets of Pashtunwali include *badal*, *nanawatai*, and *melmastia*. *Badal*, often considered the strongest pillar of Pashtunwali, demands that a Pashtun seek revenge or retaliation for any slight against his stature, most often regarding his gold, woman and land (*zar*, *zan*, and *zamin*). A blood feud ensues where the basic premise is similar to "an eye for an eye", because the response is somewhat determined by the nature of the injury or insult.

²² Dupree, 415.

²³ Ibid, xiii.

²⁴ The Great Game entailed a battle for supremacy over Central Asia between England and Russia from 1813-1907. For more information, read: Peter Hopkirk. *The Great Game: The Struggle for Empire in Central Asia*. New York: Kodansha America, Inc (1994).

²⁵ Charles Allen. *Soldier Sahibs*. New York, Carrol & Graf Publishers, Inc (2000): 119.

²⁶ Ibid, 13.

²⁷ Griffiths, 46-47.

However, in many segmentary societies (Pashtuns included) some form of restitution can be offered as a settlement to avoid bloodshed.²⁸ In a situation where it is difficult or impossible to achieve *badal*, then a Pashtun will seek *baramta*, which refers to the idea of holding a person or possession hostage in order to obtain an acceptable form of restitution. This practice proves most effective when the person seeking restitution is able to capture someone or something belonging to the same family that has done him injury.²⁹ A man is much more likely to make restitution if his son is being held hostage than if it is his second or third cousin. *Nanawatai* requires the individual to risk both life and property in order to shelter and protect any person, friend or enemy, who asks for sanctuary. Seeking *nanawatai* from an enemy is considered to be “the ultimate humiliation” requiring the individual to present himself “with his women unveiled carrying the Koran upon their heads to offer a few sheep to his enemy to seek his pardon.” Finally, *melmastia* demands that any Pashtun offer any traveler or guest food, shelter, and protection if it is requested.³⁰

Two other tenets which play a major role in Pashtunwali are *namus* and *jirgah*. *Namus* demands that a man’s property and his women’s honor be defended and *jirgah* refers to a council. Under the latter tenet, the Pashtun use a truly Greek form of democracy giving all those entitled to participate in the *jirgah* an equal voice and an equal opportunity to be heard. Though it is true that more eloquent or more passionate individuals are more likely to influence the council, any action to be taken must consider the interests of the tribe or the clan first, and that of the individual second.³¹

A Pashtun’s identity is strongly tied to his adherence to Pashtunwali. “This is a stringent code, a tough code for tough men, who of necessity live tough lives,” according to Louis Dupree. “Honor and hospitality, hostility and ambush, are paired in the [Pashtun] mind. The values of [Pashtunwali] and of the Muslim religion, modified by local custom, permeate in varying degrees all [Pashtun] groups.”³² Dupree’s statement

²⁸ Lindholm, 41-66.

²⁹ Caroe, 350.

³⁰ Spain, 47.

³¹ Henry Bellew’s *A General Report on the Yusufzais* published in 1864, is outlined by George Allen, 94-97.

³² Dupree, 126-127.

neatly sums up the relationship between a Pashtun and Pashtunwali. It establishes the importance of the code by explaining how the values it creates within Pashtun society are encompassed in nearly every aspect of an individual Pashtun's life and how its observance gives the individual his identity. Pashtunwali defines both action and reaction to most circumstances of social interaction.

However, it is very important to capture the significance of the phrase "modified by local custom" with respect to Islam. Both Dupree and Caroe acknowledge that a Pashtun is committed to being a Pashtun first and a Muslim second. This indicates that the code of Pashtunwali and the religion of Islam have an important connection among Pashtuns. One may either be influenced or altered by the other, but Pashtunwali still plays the dominant role between the two. For example, the way Pashtuns carry out the tenet regarding the protection of a woman's honor reflects Muslim tradition, but the concept of blood revenge is a clear contradiction of Islam. The Koran, Sura 4:92-93 states that "it is not for a believer to kill a believer unless it be by mistake. He who hath killed a believer by mistake must set free a believing slave, and pay the blood-money to the family of the slain, unless they remit it as a charity."³³ This possibly explains the fact that *badal* is often settled by restitution rather than by punishing the offender. Yet despite Islamic prohibitions on the practice of blood feuds, *badal* is often practiced in segmentary societies like that of the Pashtun. Whether this explains that the blood feud derived from Muslim tradition or was derived from the need to curb the destructive nature of the Pashtun's segmentary societies is inconclusive.

If a Pashtun breaks the code of Pashtunwali, he has only one of two options. Either the Pashtun is forced to declare *nanawatai* and be humiliated and stripped of his honor, or the Pashtun is ostracized by the tribe and forced to flee the tribal area. This puts an individual Pashtun in a dangerous position because he no longer has familial ties to protect him from being robbed or killed.³⁴ Therefore, all Pashtuns, especially those living in the rural and mountainous areas, take the observance of Pashtunwali very seriously.

³³ Caroe, 397; Dupree, 104.

³⁴ Niloufer Qasim Mahdi. "Pukhtunwali: Ostracism and Honor among the Pathan Hill Tribes," in *Ethology and Sociobiology*, 7 (1986): 153.

B. PASHTUN ORGANIZATIONAL STRUCTURE

A Pashtun tribe acts as one entity where every member shares collectively in the fortunes and failures of any individual.³⁵ There are no taxes within the tribe. As noted in the previous chapter, Charles Lindholm characterizes Pashtun tribes as segmentary or headless societies. However, the Pashtun differ from purely headless societies in that they do have some internal organization and stratification. Henry Bellew, who spent more than a decade living among the Yusufzai Pashtun during the mid-nineteenth century, wrote that, “communities were governed by *Maliks* or elders, who were in turn subordinate to the tribal chief or *Khan*. But the power of both *Khans* and *Maliks* was restricted by a remarkably democratic system of decision making based on the institution of the *jirgah*.”³⁶ Olaf Caroe described the Waziri Pashtuns as “being subdivided into a number of branches, they do not acknowledge the authority of a hereditary or single chief, but have numerous *Maliks* who hold a little authority; and these are chosen with the consent of the branch to which they belong.”³⁷

Tribal hierarchy is based on familial ties and roles rather than political affiliation. The fact that Pashtun society is segmented into different levels of affiliation means that allegiance is determined in the following order: immediate family (sub-section), external family (section), sub-clan (village), clan, and tribe. This also means that anyone outside the immediate family can possibly be considered an enemy.³⁸ “As a result of Pashtunwali...most [Pashtun] males become acquainted with weapons in their early childhood and develop a keen sense of marksmanship.”³⁹ The Pashtun’s affinity for weapons has plagued every state’s attempt to enforce its own rule of law over top of Pashtunwali.

Though there are some slight differences in the internal organization of different tribes, the exception to the practice of ruling by consensus occurs when a tribe is threatened by an external force. In such a case, the tribes combine their strength and

³⁵ Caroe, 350.

³⁶ Henry Bellew is quoted in Allen, 96.

³⁷ Caroe, 395.

³⁸ Griffiths, 59.

³⁹ Jeffery J. Roberts. *The Origins of Conflict in Afghanistan*. Westport: Praeger Publishing (2003): xiii.

appoint a leader whom they follow without question. All grievances existing within the tribe are effectively put on hold, and a form of military-like order is established under a skilled and experienced leader allowing it to focus on fighting a common enemy. This is true at all levels ranging from a section to an entire tribe.⁴⁰ This tradition of unity in times of crisis, likely born out of the desire to survive, strengthens Pashtun resistance against state authority.

Both the complex Pashtun tribal structure and the independent nature of the different levels within a Pashtun tribe increase the tribe's inclination and ability to resist state authority. A state does not have the luxury of having a specific individual, or even a small group of individuals, on whom it can focus its efforts. Instead, a state intent on establishing its authority may have to embark upon a very broad and deeply penetrating process of engaging the vast majority of individuals making up the tribe. This characteristic minimizes the effectiveness of attempts by the state's to "divide and conquer", which means an excessive amount of time and resources must be committed in order to integrate the Pashtun into the state.⁴¹

Lindholm's subsets of segmentary tribes, nomadic and sedentary, can be found within different Pashtun tribes. Ahmed Akbar further defines these subsets stating, "Pashtun society may be divided into two categories: 1) acephelous, egalitarian groups, living in low production zones (nomadic tribes and sedentary hill tribes), and 2) those with a ranked society living on irrigated lands, usually within larger state systems (sedentary plains tribes). Nang is the foremost symbol of the former society, as qalang (taxes) is of the latter."⁴² Akbar indicates here that *nang* is not as important among plains Pashtuns which supports the notion that these Pashtuns are less strict in their observance of Pashtunwali.

Typically, nomadic tribes and sedentary hill tribes are far more successful at resisting state authority. These groups tend to live in relatively inaccessible terrain and are almost completely self-sufficient. Nomadic tribes are highly mobile and have thus

⁴⁰ Caroe, 395.

⁴¹ Dupree, xiii.

⁴² Ahmed Akbar. *Religion and Politics in Muslim Society: Order and conflict in Pakistan*. Cambridge: Cambridge University Press (1983): 8.

been able to escape punitive expeditions carried out by the state aimed at enforcing its rule of law. Though sedentary hill tribes are often tied to their land, the inaccessibility of their land makes it difficult for the state to sufficiently coerce or influence them. In both cases state authority is plagued by its lack of presence.⁴³ Nomadic tribes and sedentary hill tribes remain passionately dedicated to Pashtunwali and typically reject any idea which suggests that some other form of law should apply.

Sedentary plains tribes are similar to the sedentary hill tribes in that they are often tied to their land. Because they are located in more accessible regions, and are unable—or unwilling—to move, plains Pashtun are subjected to outside influences more often and more easily. The presence of new ideas has somewhat permeated the plains Pashtun culture, which has softened their interpretation and adherence of Pashtunwali. This also explains why states have had more success in engaging the plains Pashtun in the past—they live in areas that do not allow them to escape the effects of state policies.

Ultimately, it is the Pashtun themselves who determine the required level of dedication to Pashtunwali. The isolation of nomadic and sedentary hill tribes supports strict adherence to Pashtunwali. The circumstances surrounding the existence of sedentary plains tribes have led to a more relaxed observance of Pashtunwali, which explains why nomadic tribes and hill tribes often look down upon the plains tribes as lesser Pashtuns because of their more lenient views towards the code.⁴⁴

The characteristics of rural Pashtuns explain why the more isolated tribes tend to be more resistant to state authority. The combination of mobility, inaccessibility and tightly knit social organization makes it difficult for the state to penetrate them. This is not to say that plains Pashtun do not resist state authority, they do. The next section will discuss the possible reasons for this resistance.

C. RESISTANCE THEORIES IN THE PASHTUN CONTEXT

It is easy to accept the notion that most people fear change. History (including recent history) reveals that the Pashtun typically resist when a state or an occupying force use violence to compel them to submit to a central authority. Any symbol representing change, such as an external rule of law or a reward in exchange for changes in behavior,

⁴³ Lindholm, 43.

⁴⁴ Caroe, xiv-xv.

only serves as a rallying point for Pashtun resistance. Chapter I developed several explanations for why normative and organizational structures can impede state efforts to exercise its authority over ethnic groups. These theories also help explain why ethnic groups, particularly the Pashtun, resist such efforts. This section develops these explanations, focusing first on normative structure then on organizational structure.

Pashtuns highly value and have grown accustomed to their independence; they have preserved their way of life for centuries, despite the efforts of some very powerful forces to alter it. Though there have been times when parts of Pashtun society has experienced short durations of subjugation by alien forces, Pashtuns were permitted to conduct their lives in accordance with Pashtunwali. Independence is the historical norm for Pashtuns.

Anthropologists have used the fear of change to construct a theory that claims that the presence of past norms makes it difficult to create or accept changes in behavior. Nina Swidler refers to this notion as “glue theory.”⁴⁵ Therefore, a group should resist a change that is being imposed on it against its will. If independence from external rule is the historical norm for the Pashtun, then efforts to change that norm should generate resistance.

Prospect theory offers additional reasons at the level of individual cognitive psychology for why humans resist change. Human beings assess their present situation against a cognitive reference point based on their past attainment of particular material possessions or normative standards. In terms of prospect theory, independence from authority would represent the reference point for a Pashtun’s existence. Tribal independence, with respect to the observance of Pashtunwali, is the point of reference that determines what constitutes a loss or gain.⁴⁶ Prospect theory expects that individuals who suffer losses with respect to their reference point will undertake risky behavior to regain what has been lost or to prevent future losses. Put into context, the risk of losing tribal independence should outweigh the possibility of improving tribal social welfare or increasing economic opportunities that would be gained by accepting state authority, and thereby sacrificing some element of Pashtunwali. Any concession in tribal independence

⁴⁵ Swidler, 109.

⁴⁶ Caroe, 403.

should exceed any compensation offered in return for submission to state authority. If the state forces the Pashtun to submit to its authority through overwhelming force, any amount of independence the state returns to the Pashtun that still leaves the purity of Pashtunwali in question, will not likely satisfy their desire for independence.

Prospect theory also expects that a gain that an individual acquires with respect to his or her reference point immediately is internalized as a new, higher reference point. Therefore, any state reward, such as new roads or improved protection, aimed at helping the Pashtun perceive the possible benefits of ceding further control to state authority should instantly become a new reference point. Per Prospect theory, the Pashtun should expect roads and protection but not accept diminished autonomy or accept them as a reward for increased support of the state. The state should only find it a waste of resources to offer such an incentive without requiring some kind of exchange—preferably towards interdependence or integration—eventually leading to an expansion of state authority.

With respect to understanding the impact of organizational structure on Pashtun motivations to resist, Charles Lindholm's theory of segmentary societies is particularly helpful. Segmentary societies differ from other forms of society in that they do not unite in response to a stagnant economy or society (which is actually the goal of a segmentary society), but when they feel they are losing influence over their own way of life.⁴⁷ This characteristic explains why Pashtuns are so difficult to co-opt. They are willing to take money or benefits in exchange for promises to alter their behavior and to be more in line with the state's rule of law, but will not hesitate to break the contract if it contradicts Pashtunwali. Pashtuns refuse to change their way of life, because it means they would no longer be honorable and would no longer have an identity.⁴⁸ Though these elements of segmentary societies appear to be strengths, there are also negative elements at work.

A segmentary society becomes destructive when it lacks a common enemy. Because segmentary societies often have an evenly distributed amount of wealth among the different sub-levels, power and influence are evenly spread within the society. This often means that any conflict between two groups typically ends in a stalemate with no

⁴⁷ Lindholm, 60.

⁴⁸ Griffiths, 1967: 59; Spain, 1963: 46-47.

logical conclusion because they are so evenly matched. The lack of an empowered leader within the society, who can legitimately decide a conflict's outcome, means the tribe faces the possibility of being weakened by internal strife and bloodletting. This is one explanation why tribes permit restitution rather than revenge to settle a conflict in order to avoid weakening the tribe through constant infighting.⁴⁹

The normative and organizational structural factors present in Pashtun society have presented states with similar strategic and tactical problems for over a century. Now that a basic foundation of Pashtun social behavior and organization has been established, the goal of the next three chapters is to document the affect they have had on state authority and identify the causal factors of Pashtun resistance. Each case study will provide sufficient background information on the circumstances surrounding the relationship between the Pashtun and the state, and then list the significant policies used by the state to establish its authority. Finally, each case study will analyze the policies in the context of the theoretical framework listed in Chapter I in order to determine the relevance of the framework's propositions and possibly determine conditions which allow state authority to supersede tribal custom.

⁴⁹ Lindholm, 41-66.

III. BRITISH CASE STUDY

First comes one Englishman, as a traveler or for shikar; then come two and make a map; then comes an army and takes the country. Therefore it is better to kill the first Englishman.

Pashtun Proverb

A. INTRODUCTION

This case study lays out the policies of a modern, western, democratic government which aimed to establish its authority among the Pashtun. The first section provides an overview of why the British became involved with the Pashtun and quickly details the circumstances under which the British and the Pashtun were operating. The next section describes the various policies used by the British to establish their authority over the Pashtun and their results. These policies, listed in chronological order, demonstrate the experimental evolution of British policy motivated by the desire to protect their interests in the region and the challenges in dealing with the Pashtun. The third section evaluates the effects of normative and organizational structural factors on British policies using the framework described in Chapter I. Though history reveals that the British were ultimately forced out of what today is called the Northwest Frontier Province (NWFP) of Pakistan, when the British left the Indian sub-continent in 1947, they struggled for over 100 years to establish their authority on the Northwest Frontier (NWF).

B. BACKGROUND

By the 19th century, the British economy had become dependent on its markets in India. Because the money Great Britain generated from its trade with India surpassed all other sources of revenue, British interests in India shaped England's strategic planning for nearly 200 years.⁵⁰ Great Britain desired control the Indian sub-continent so that the resources and markets found there could be maximized.

As early as 1717, Russia began looking for ways to expand its interests and influence in Central and South Asia in hopes of tapping into the markets of India.⁵¹ The

⁵⁰ Roberts 2003: 21.

⁵¹ Henry S. Bradsher. *Afghanistan and the Soviet Union*. Durham: Duke University Press (1985): 9.

British, fearful of losing their hold on the Indian sub-continent, began to push outwards in order to secure their interests in India. Because India is well protected from invasion by natural barriers—the Himalayas and the Indian Ocean—the primary invasion route comes from the northwest, through modern day Afghanistan. It was this desire to create a “buffer” from the advancing Russians that forced Great Britain to engage the fierce, often un-yielding people they called “the Pathans”.⁵²

Politically, British efforts on the NWF were designed to counter Russian diplomatic advances in western Afghanistan. When it appeared the Russians began to gain a foothold in the court of the Afghan Emir, Dost Muhammad, in the 1830s, the British removed him from the power and replaced him with the former Afghan ruler and British sympathizer, Shah Shuja. Once the change was complete, the British signed a tri-partite treaty with the Sikhs (the current ruling tribe in India) and the Afghans in hopes of keeping the Russians out of Kabul. Unfortunately, Shah Shuja had no popular support and the Afghans’ disdain was only increased by the British who put him in power.⁵³ When the Afghan people revolted against Shah Shuja, the British were unable to protect his position having failed to install sufficient forces in Kabul. As a result, British soldiers (including their wives and children) living in Kabul—16,000 in all—were forced to retreat. Of those 16,000, only one man succeeded in escaping to the British compound in Jalalabad.⁵⁴ The slaughter of so many British triggered the first Anglo-Afghan war and demonstrated the ruthless and tenacious behavior of the Pashtun. The British, having been forced to pull back from the NWF, were determined to return and bring order to the NWF and protect their interests in India.

C. BRITISH TRIBAL POLICIES

British concern over the defense of India created a period of administrative experimentation on the NWF. Although the British were initially welcomed by the Pashtun as liberators freeing them from the cruel oppression of the Sikhs, stabilizing British authority on the NWF proved to be very difficult. The people living on the NWF

⁵² “Pathan” is the Hindustani word for Pashtun that the British learned from their experiences in India. For an in-depth discussion about the different names meaning “Pashtun”, reference Caroe.

⁵³ Paul E. Roberts. *History of British India under the Company and the Crown*. 3rd Ed. London: Oxford University Press (1952): 316-317.

⁵⁴ Ibid, 319-321.

had never been subjected to any true form of central authority, they had always been left to govern as they saw fit. The British encountered a society that was quite different from the tribes they had encountered in the Punjab. The structural organization and normative behavior of the Pashtun—especially the fierce, trans-border hill tribes—were far more resistant to British authority than the ethnic groups living in the Punjab. Therefore, the British were forced to create new administrative policies in order to persuade the Pashtun to recognize British authority.

Fortunately for the British, the men initially charged to bring order to this “lawless” region were British officers who proved to be exceptionally qualified for the job. These early leaders, known to the British as “the Paladins”, were both fierce warriors and shrewd diplomats. The Paladins commanded the respect of the Pashtun, especially those from the hill tribes, due to their skill in combat and their understanding of Pashto (the language of the Pashtun) and Pashtunwali. Having spent ample time among the Pashtun prior to the establishment of settled areas, these British officers built reputations as fierce warriors during the First Sikh War (the war that freed the Pashtun from Sikh domination) while becoming accustomed to Pashtun culture. Armed with these two invaluable tools, the Paladins accomplished what no others had—to penetrate Pashtun society and gaining its respect. The following sub-sections list the major policies used by the British in their effort to bring the Pashtun of the NWF under their authority and the outcomes associated with those policies.

1. Indian Penal Code

The rule of law in British India, known as the Indian Penal Code, was created under a European concept of justice. The Code, consisting primarily of laws determined by Western values, aimed to enforce a British rule of law on the inhabitants of the Indian sub-continent and suppress any other form of law or custom that did not comply. The people living in the areas that had been under British influence for over 200 years recognized the Code as legitimate. However, in the more remote areas of British India, the Indian Penal Code was vastly different than the existing rule of law. This was especially the case on the NWF, a tribal area inhabited mostly by Pashtuns where Pashtunwali represented the legitimate law of the land.

In 1848, the British moved back into Peshawar intent on regaining control of the NWF. The “Punjab Commission”, made up of both civilians and military officers, was created to administrate the region. The Punjab Commission operated in the same manner as any other provincial administration in India and assumed responsibility for all legal matters, law enforcement, tax collection, and public service projects.

British authorities in India offered no exception to the Punjab Commission, assuming that the current policies were sufficient to extend British authority to all regions and ethnic groups. They were to govern the NWF under the same guidelines as the other provinces on the sub-continent, regardless of organization or customs associated with any specific ethnic group. “A Chief Court was set up in Lahore and, equally with all the others, the Pathans of the Frontier were expected to bring a society which sought redress through blood-feud within the smug formalisms of the British Indian law.”⁵⁵ The only concession, if it can be counted, was that the leadership in India consented to assign many of its best officers into the region.

a. Policy Results

Though the British encountered only minor resistance over the paying of taxes, the Pashtun sternly resisted the enforcement of the Indian Penal Code. Because the Pashtun did not perceive the Code as a fair representation of the law, they would either ignore it or evade it. “The law frequently outraged strongly held convictions”, especially when the penalties for breaking a law was not justified by Pashtunwali.⁵⁶ What the British failed to understand initially was that Pashtunwali typically demands compensation for the victim rather than the punishment of the offender.⁵⁷ The British, realizing the Indian Penal Code would not work in the Pashtun tribal area, began to experiment with different policies aimed at achieving some form of compromise.

2. The Close Border Policy

In 1849, Sir John Lawrence advised the British government in India that the occupation of Afghanistan would be far too costly an endeavor. Lawrence believed that Afghanistan was a quagmire and that letting the Russians get bogged down there would

⁵⁵ Caroe, 331.

⁵⁶ Ibid, 352.

⁵⁷ Ibid, 355.

only protect British interests in India.⁵⁸ As a result, the British initiated the “Close Border” policy. Initially designed as a containment strategy, the Close Border policy sought to avoid the potentially costly operation of extending British presence into Afghanistan by establishing borders where they had never existed, segregating the plain tribes from the hill tribes, and creating settlements in areas of strategic or economic value. Administratively, the policy focused on bringing the inhabitants of the settled areas of the NWF under the existing Indian Penal Code.

The first order of business was to create “settled areas” on the plains of the NWF, where its fertile valleys would bring revenue in the form of taxes and the geography would make it easier to enforce British authority. The Pashtun living on the plains initially welcomed the British, seeing them as liberators from the oppressive and cruel Sikhs. As the British began to establish cantonments (military compounds) and establish lines of communication, the plains Pashtuns were relatively accepting of British penetration into their lands. Because the plains Pashtuns gained greater independence relative to their existence under the Sikhs, saw opportunities to increase trade, and were subjected to less suppressive administrative policies after Sikh domination had been eliminated by the British, British presence on the NWF initially seemed advantageous.

Within these settled areas, the British required the Pashtun to pay taxes in exchange for the construction of the roads, forts, and towns which would offer these Pashtuns better economic opportunities. Of course, the improvements in infrastructure were intended to expand British control of the NWF. Though the British were welcomed at first, when the British began to exert their authority in the region in ways that contradicted Pashtunwali, Pashtun resistance began to increase. Some tribes began to refuse to pay taxes and Pashtuns charged by the British with crimes would never be turned over to the authorities.⁵⁹

The Close Border Policy focused solely on the plains and sought to segregate the settled areas from the pastoral Pashtun communities found in the surrounding hills.⁶⁰ “No attempt was made to advance into the highlands, or even to secure the main passages

⁵⁸ Roberts 2003, 16.

⁵⁹ Caroe, 346; Allen, 231.

⁶⁰ Caroe, 346.

through the mountains such as the Khyber Pass.”⁶¹ These Pashtuns were deemed too difficult to bring under British authority.

In cases where tribes refused to fully submit to British administration, individuals were either fined or charged with a crime in accordance with the Indian Penal Code. If the individual refused to pay the fines or surrender to British authorities, the British would confiscate money or goods from the offender or his family. If this course of action failed, the British would bypass the Indian Penal Code and adopt customary Pashtun practices such as *rivaj* or *baramta*. *Rivaj* was typically the first option and involved holding the entire tribe responsible for any individual offenses. If this failed, then *baramta*, the act of taking a male member of the tribe hostage, was used to gain compliance with the Code. If these actions proved unsuccessful, the British would either launch a punitive expedition against the tribe or blockade the tribe’s location until the tribe made restitution.⁶²

Another aspect of the Close Border Policy, often used on the more resistant hill tribes, called for British officers to contract services from different tribes in an attempt to co-opt them. One example, led by Major Thomas Macaulay, involved contracting a Mahsud and Wazir militia to police the Gumal Pass. In exchange for their cooperation, the tribes would receive a stipend for their services based on the amount of traffic through the Pass and the release of a number of Mahsud and Wazir hostages being held to guarantee restitution for tribal offenses under the tradition of *baramta*.

The resistance to British authority on the NWF stemmed mostly from the tribes living in the hills surrounding the settled areas. The hill tribes were skilled warriors who were unaccustomed to the idea of central authority.⁶³ They were often in conflict with neighboring tribes, which began to involve the British when their exploits pushed the establishment of order in the settled areas. Occurrences which would have been understandable under Pashtunwali, such as theft or murder, were seen by the British as lawlessness.⁶⁴

⁶¹ Caroe, 329.

⁶² Allen, 231.

⁶³ Caroe, 395.

⁶⁴ Roberts 2003, xiii.

The British also encountered problems when members of the hill tribes began to farm areas that were deemed “settled” but refused to acknowledge British authority or pay taxes on the land. The hill tribes were especially troublesome because they were so inaccessible that it was nearly impossible to bring them to justice.

a. Policy Results

Pashtuns continued to resist the use of the Indian Penal Code as the rule of law, but the use of Pashtun customs such as *rivaj* and *baramta* made British efforts to enforce the law appear more in line with customary law. This policy delegated the task of settling a dispute from British administrators to the tribe itself and used tribal custom to inflict punitive measures on the Pashtun. Though these tactics often proved successful, they did not promote legitimate British authority among the Pashtun tribes.⁶⁵ Though it would appear that the Pashtun demonstrated some level of acceptance of the policy due to its success, the threat of a punitive expedition or a British blockade on the tribe was the primary motivator for the tribe to settle the dispute through its customs. The British had to constantly offer rewards or punishments in order to maintain order which indicates they did not possess authority.

However, certain aspects of the Close Border Policy did have some success. The contract extended to the Mahsud and Wazir tribes for policing the Gumal Pass (mentioned above) gave Major Macaulay the authority to deal with those tribes. He instituted a blockade of the entire Mahsud tribe when some of its members kidnapped a single Hindu child from a nearby settlement under British control. The blockade lasted for six months until the leading *Malik* of the Mahsud tribe personally found the child and returned it, saying, “For God’s sake take this curse away from us.” The absence of attacks on the blockade suggests that the Mahsud tribe fully acknowledged the British right to exert such authority under the circumstances.⁶⁶

The years under the Close Border Policy witnessed a steady escalation of tribal violence on the NWF. In the first twenty years, the British had to launch 11 punitive expeditions on the NWF to enforce their authority. In the following five years,

⁶⁵ Caroe, 348-349.

⁶⁶ Evelyn Howell. *Mizh: A Monograph on Government’s Relations with the Mahsud Tribe*. Simla: Government of India Press (1931): 5.

12 punitive expeditions were required.⁶⁷ Because the Close Border Policy did not bring order to the NWF, it did not adequately protect British interests from Russian invasion and forced the British to consider other options. Though the British recognized the need for various adaptations along the way, they accepted the lack of centralized authority and continued to apply the Close Border Policy for over 30 years.

3. Frontier Crimes Regulation

A significant change to the Close Border Policy occurred in 1872 when the British decided to modify the application of the Indian Penal Code by introducing a new policy called the Frontier Crimes Regulation. This policy sought to address the nearly impossible task of holding Pashtuns accountable for their actions under the Indian Penal Code. Frontier Crimes Regulation shifted British policy from a more suppression oriented form of co-optation to a more accommodating form of co-optation. Criminal or civil cases occurring in the settled areas were subjected to a hybrid system of British law and tribal custom. British administrators would appoint a jury of several tribal elders for adjudication. “[The jury] was not bound by law of evidence, and was expected to arrive at its decision through its own methods.” The jury improved the legitimacy of British authority by incorporating Pashtunwali into its decisions and the requirement that all parties involved approve the members selected to sit on the jury. Because of this policy, many more individuals were brought to justice and order in the settled areas improved.⁶⁸

a. Policy Results

After over 20 years of administration, the British realized that their understanding and interpretation of justice differed greatly from that of the Pashtun. In order to improve tribal support of British authority, the Frontier Crimes Regulation was enacted. By integrating British law and Pashtun custom, the Pashtun demonstrated some degree of acceptance of the Regulation, indicated by the fact that it dramatically increased the number of individuals being brought to justice.⁶⁹ Despite the fact that it was not a true *jirgah*, the policy gained legitimacy from the fact that the elders selected to adjudicate the case had to be approved by both sides of the dispute. Though it appears

⁶⁷ Caroe, 348.

⁶⁸ Caroe, 372.

⁶⁹ Ibid, 354.

that this policy was a success on the surface, Olaf Caroe labeled it a failure stating, “The Regulation satisfied neither the law nor the custom. It became merely an easy means of punishing crime as from the state, with being a recognition of the [Pashtun] idea. It failed to administer custom on the basis of tradition, and it fell between the two stools.”⁷⁰

4. The Forward Policy

When Russian diplomatic efforts in Afghanistan appeared to be gaining strength in 1879, the British felt the need to expand their influence beyond the existing settled areas in order to create a stronger buffer against Russian invasion. The British government in London was unwilling to enter into any defensive alliances with the Afghan government and did not want to escalate the situation by responding to Russian aggression in Persia and northeast Afghanistan. The only message the British government wished to send the Afghan leadership was that it respected Afghan independence and that it had no intention of interfering in matters within Afghan borders. British administrators in India needed a new policy that would inspire Afghan confidence in Britain by demonstrating that the British intended to permanently occupy the territory on the NWF.⁷¹

To strengthen the buffer between India and Afghanistan, the British began to expand their influence along the Afghan border, focusing primarily in Baluchistan, under the new Forward Policy. Designed by Sir Henry Rawlinson ten years earlier, it had three main objectives: 1) to occupy Quetta, 2) to gain control of the Afghan area east of the Hindu Kush mountain range (see Figure 1 below), and 3) to establish permanent relations with the government in Kabul.⁷² To accomplish this, the Forward Policy sought to increase the infrastructure of the NWF, facilitate the mobilization of British troops, and speed reaction to areas where British control was weak.

Based on the previous success of the Forward Policy in Baluchistan, under the direction of Major Robert Sandeman, the British elected to extend the use of this policy into the NWF. The Policy specifically aimed to co-opt the tribes within designated

⁷⁰ Caroe, 354.

⁷¹ Sarvepalli Gopal. *British Policy in India: 1858-1905*. Cambridge: Cambridge University Press (1965): 215.

⁷² Dupree, 404.

settlement areas. Tribes accepted responsibility for border security as assigned by British authorities and agreed to deny sanctuary to tribal members deemed as outlaws by British law. As in Baluchistan, the British promised an annual allowance based on the tribe's adherence to these agreements. In later years, this allowance (money) was replaced by appointments for tribal members in the British-India Army, the local militia, or tribal police.⁷³

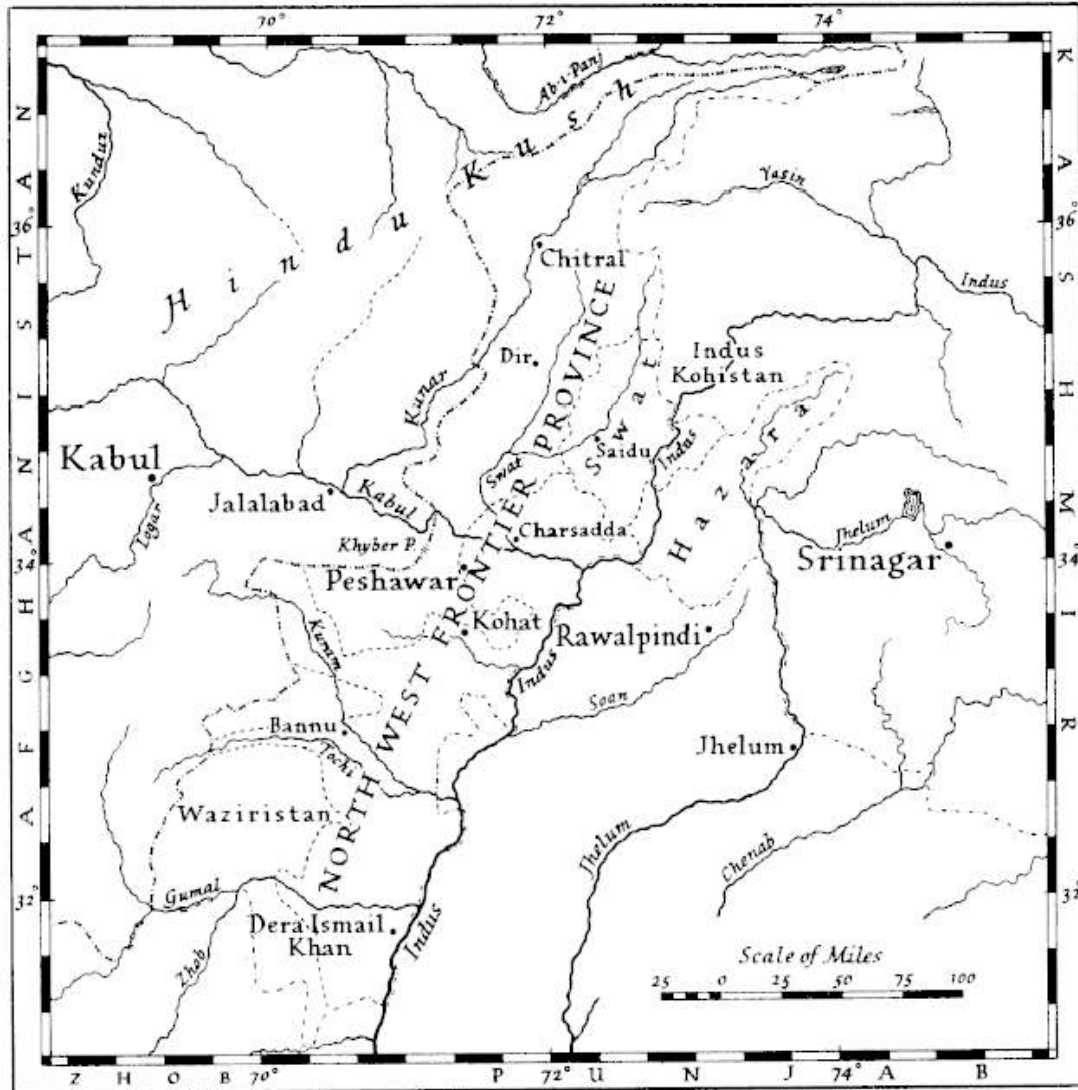


Figure 2. Northwest Frontier of British India
<http://www.khyber.org/images/places/swatstate/5b.jp>. Accessed on 30 May 06)

⁷³ These appointments were considered very prestigious by the Pashtuns, and were more coveted than the money allowances previously being offered. Caroe, 348-350.

In 1893, London demanded that punitive expeditions in Afghanistan be cancelled and emphasized that the Forward Policy only applied to the region east of the border agreed upon by Sir Mortimer Durand and the Afghan Emir, Abdur Rahman (see Figure 3).⁷⁴ British troops were not to be used in Afghanistan unless the Emir agreed that British forces were necessary to instill or restore order. Annexation was to be abandoned in order to guarantee that the treaties signed by the Afghan and Russian governments promising to respect the borders and sovereign territories of each respective country would remain in effect.⁷⁵

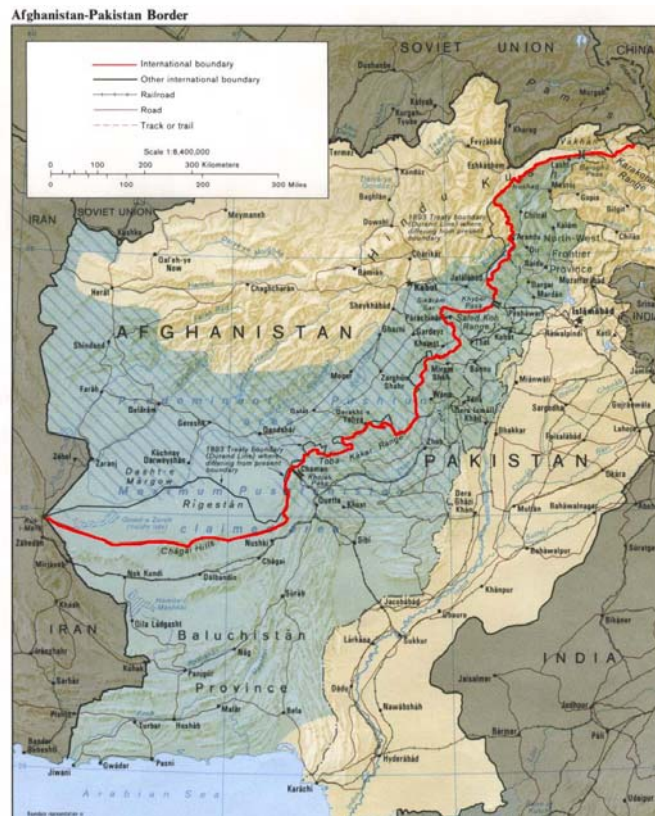


Figure 3. Durand Line

(http://www.worldpress.org/specials/pp/afghan_pak_border_map.htm. Accessed on 30 May 06)

⁷⁴ The Durand Line continues to stand as the political border between Afghanistan and Pakistan. Initially agreed upon in 1893, and then later defined as “the boundary between the territories of the Government of India and those of the Amir of Afghanistan” in 1895 and 1896, the border agreement involved the ceding certain districts to the Amir in exchange for his pledge not to interfere in Swat, Bajur, Dir, or Chitral regions or with the Afridi, Wazir, or other frontier tribes. For more information see Roberts 1967: 490-493 and Gopal: 218-219.

⁷⁵ Gopal, 215-220.

a. Policy Results

When the British opted for the Forward Policy, they did not adequately consider the reasons for its success in Baluchistan. First, the tame nature of the terrain allowed British forces to establish dependable networks for transporting both goods and soldiers. Second, Major Sandeman had an advantage working in Baluchistan because the introduction of the Forward Policy was the first administrative contact between the British and the tribes of Baluchistan. The British had already learned that the local administrative policies utilized in the Close Border policy were ineffective. “Sandeman had a clean slate on which to write; [on the NWF] there were many scribblings on the board recording [British] dealings with the Yusufzais, Mohmands, or Wazirs, and they could not be wiped out overnight.”⁷⁶ And third, the tribes in Baluchistan were neither as fierce nor as war-like as the hill tribes on the NWF and they had an existing, recognized hierarchy in the tribe, which meant that the Baluchistan tribes were less effective in their resistance and would follow the tribal leader if he was co-opted by the British. Therefore, the successes of the Forward Policy in Baluchistan could not be repeated on the NWF.⁷⁷ The British learned that the Forward Policy was only effective when British forces could penetrate the tribal areas in order put down any group that challenged its authority.

Though the British did have some measure of success in establishing order among the plains tribes, they still were unable to establish their authority in the region. Because the plains tribes were clearly outmatched by British forces and did not have the luxury of being able to relocate, they were forced to accept British authority and resist in a more subversive manner.⁷⁸

As the Forward Policy pulled the British deeper into the NWF, resistance increased among Pashtun tribes. The establishment of the Durand line, settled areas, and permanent lines of communication were all signals perceived as “a deliberate menace to a long cherished independence.”⁷⁹ After over 60 years of engaging the Pashtun on the

⁷⁶ Caroe, 378.

⁷⁷ Ibid, 377.

⁷⁸ The subversive tactics used will be covered in the next section.

⁷⁹ Caroe, 387.

NWF, and almost 30 years under the Forward Policy, recorded raids increased from 56 in 1907, to 99 in 1908, to 159 in 1909.⁸⁰ Open resistance was steadily increasing and requiring more active pacification. What little legitimacy British authority maintained over the Pashtun living on the NWF slowly waned as the years of living under British authority passed.

5. Indirect Rule and the Maliki System

The policy of Indirect Rule was enacted at the same time as the Forward Policy. Indirect Rule allowed tribes to manage their own affairs and directed British administrators to settle any official grievances through tribal custom.⁸¹ The British also created the Maliki System, modeled after the Sikh tradition of working through selected Pashtun agents within the settled areas to communicate with trans-border tribes. Under this policy, agreements acknowledging British authority were signed by tribal elders or *Maliks*. Declarations of good will and friendship were signed by both parties. It involved British agents administering their respective tribal regions through the *Maliks* and was intended to improve the legitimacy of British authority by delegating administrative duties to tribal *Maliks*. The British would pay out allowances for good behavior or demand reparations for deviant behavior directly to or from the *Maliks*. This allowed *Maliks* to distribute rewards or to collect fines according to the Pashtun custom of *nikat*.⁸²

The success of this policy in Baluchistan under Major Robert Sandeman inspired the Punjab Commission to switch to Indirect Rule and the Maliki System in cooperation with the Forward Policy—the fusion of the two would later be known as the Sandeman System.

b. Policy Results

The British underestimated Pashtun commitment to independence. Hill tribes viewed Indirect Rule as the first step in ceding permanent authority to the British. Even in situations where a tribe was theoretically better off under the British system with respect to economic opportunity or quality of life (from a Westerner's perspective), the

⁸⁰ Dupree, 431.

⁸¹ Caroe, 399.

⁸² Ahmed 1983, 18.

hill tribes still resisted. As described by Olaf Caroe, “the effort was inspired by a deep-seated instinct which drove the tribe at all costs to resist subjection and to preserve their own peculiar way of life.”⁸³ Fueled by the strong distrust of outsiders and their fierce commitment to independence, the hill tribes viewed any acceptance of a change pushed on them from an external source as “the beginning of the end of their licensed freedom and were determined such things should not be.”⁸⁴ Therefore, the Pashtun would simply take the allowances promised under the Forward Policy, accept British authority in situations where it did not challenge Pashtun independence and resist when they felt their customs were at risk.

Though the Maliki System enabled the British to maintain a somewhat acceptable level of order on the NWF, it ultimately failed to establish legitimate British authority. In 1900, Major D.L.R. Lorimer, an officer in the Khyber Rifles, advised the Punjab government that “the Maliki system imported from Baluchistan would not work among the democratic Wazir tribes.”⁸⁵ Though Mr. W.R.H. Merk, Chief Secretary of the Punjab government, was initially in favor of the policy, he later recanted when he observed that the policy was “unsuited to Waziristan...that the main feature of the of the Sandeman system—penetration and occupation—had never been introduced, and that the whole attempt to secure control through the Maliks had really broken down, when in 1894 nothing was done to those who killed the Maliks by whom the murderers of Mr. Kelly were handed up to justice.”⁸⁶

Indirect rule required British support and protection of the *Maliks* responsible for enforcing order on the NWF, but the British failed to do so. In Baluchistan, the infrastructure and geography made it easier to protect the *Maliks*, whereas in Waziristan, the lack of infrastructure and British influence made it nearly impossible to protect them.⁸⁷

⁸³ Caroe, 397.

⁸⁴ Ibid, 399.

⁸⁵ Howell, 29.

⁸⁶ Ibid, 29-30. Mr. Kelly was a Public Works Department officer who was murdered by two Mahsuds. Under the auspices of Indirect Rule, the two offenders were tried and convicted of murder. The resentment by the Mahsud tribe of the Maliks who brought these men to justice resulted in three of the Maliks being killed, two being banished, and the others were forced to flee. For more information, reference Howell, 14.

⁸⁷ Caroe, 399.

The Maliki system also failed because it allowed the *Maliks* responsible for coordinating between the British and the hill tribes living in the trans-border area to subvert British efforts to expand their influence and coordinate resistance efforts against British authority.⁸⁸ British officers in charge of administering the different regions did not have enough manpower to accomplish their bureaucratic duties and spend enough time with the people inhabiting their particular settled area. Therefore, the *Maliks*, appointed by the British, were often unsupervised in their dealings with the trans-border tribes and were allowed to cause trouble for the British to further their own interests.⁸⁹

Because of their connection to the British, the *Maliks* had a tremendous amount of influence among the tribes. *Maliks* often served as a conduit of resistance, organizing disturbances in one area in order to help tribes being pressured by the British in another. Though the British later realized this was happening, they continued to use the Maliki system to make contact with remote trans-border tribes.⁹⁰ The British dependence on the Maliki System prevented the British from directly engaging the tribes in the ways initially used by the Paladins that allowed them to establish the beginnings of authority over the Pashtun.

Though the British ultimately failed to establish their authority on the Indian sub-continent, demonstrated by the release of the colony in 1947, the British policies listed above did show some varying signs of success. Most often, the British were able to establish an adequate sense of order, defined as a manageable amount of violence, when the following three elements were present: 1) outstanding and committed leadership, 2) passable terrain, and 3) the incorporation of Pashtunwali into the rule of law. As the British struggled to find a policy that would transform order into authority, they moved incrementally away from suppression and more towards accommodation, allowing the Pashtun tribes to govern themselves under the supervision of a British administrator.

⁸⁸ Robert Warburton. *Eighteen Years in the Khyber: 1879-1898*. London: John Murray (1900): 322-323.

⁸⁹ Warburton, 318.

⁹⁰ Ibid, 322-323.

D. THEORETICAL FRAMEWORK APPLIED TO BRITISH POLICIES

The objective of this section is to apply the theoretical framework outlined in Chapter I to the collection of British policies in the Tribal Areas in order to clarify the sources of Pashtun resistance and to judge the validity of the framework. Success, in terms of policy, is defined as state action which promotes state authority over the tribes. The end result should enable the state to establish a common rule of law for all its citizens and to gain/maintain a monopoly on the legitimate use of violence within its borders.

1. Organizational Factors

a. *Government Tribal Policy should be based on the Tribe's Social Organization*

The British policy of using the Maliki System violated this proposition. When the British sought out tribal *Maliks* (or appointed them) and had them sign documents which indicated the tribe would submit to British authority, the British clearly demonstrated they did not understand the social organization at work in Pashtun tribes. The practice only frustrated the British due to the Pashtun's lack of respect for the contract. Even though tribal *Maliks* were more than willing to enter agreements and accept incentives from British agents, none of the Pashtun felt obligated to respect British authority. "Being subdivided into a number of branches, they do not acknowledge the authority of a hereditary or single chief, but have numerous *Maliks* who hold a little authority; and these are chosen with the consent of the branch to which they belong."⁹¹ When the British tried to empower these *Maliks*, the effort only succeeded so long as each *Malik* acted in the interest of the tribe.

The British overestimated the ability of the *Maliks* to speak for the tribe as a whole. Because a Pashtun's honor comes from his observance of Pashtunwali, there was no shame or dishonor for breaking such a contract under convenient circumstances.⁹² No Pashtun accepted the notion that a *Malik* had the authority to enter into a contract on behalf of anyone other than himself. The concept of central authority was viewed as restrictive to tribal independence and was thus to be avoided.

⁹¹ Caroe, 395.

⁹² Ibid, 351.

When the British tried to directly apportion out gifts to individuals based on behavior or performance rather than hereditary status, the policy failed because it violated the tribe's social organization based on the custom of *nikat*. *Nikat* required that the gifts be given to the tribe rather than to an individual. This made it nearly impossible for the British to engage Pashtuns on an individual level using Western style bargaining techniques. The gifts being offered were either rejected or caused the receiving member more grief than the gift was worth. Appointments to positions of responsibility or honor, such as the British army, tribal militia, or the tribal police were often rejected by the individuals selected by the British due to rank or status within the tribe. *Nikat* prevented the British from cultivating certain behaviors based on incentives. "So fixed is this tribal notion of direct shares according to their hereditary system that it has usually been found impractical to go around it, for instance matters of promotion, reward for good service or penalties for misconduct. Any attempt to issue rewards or penalties without respect to *nikat* would be met with sullen resentment, ending perhaps in the desertion of the aggrieved, or even bloodshed."⁹³ The complex nature of this custom isolated the Pashtun from British efforts to instill trust and confidence and served only to highlight the differences between the two cultures. In the end, the use of monetary incentives or appointments to positions of respect or influence provided no encouragement for the Pashtun to accept British authority.

b. Government Tribal Policy aimed at Segregating or Isolating Tribes undermines State Authority

The Close Border policy was a deliberate attempt to segregate tribes living in the areas that were deemed strategically or geographically unimportant. Unfortunately, this policy continued, even during the Forward Policy to an extent. By segregating the nomadic and sedentary hill tribes living on the NWF from the administration of the tribes living within designated settlement areas, the British created pockets of resistance within the territory they were attempting to govern. Though the British tried to co-opt the hill tribes by giving contracts for certain duties, they expected nothing in regards to order outside the settled areas. The lack of penetration and the strong sense of custom and tradition among the hill tribes made it easier for them to resist

⁹³ Caroe, 403.

British authority. The hill tribes were mostly undeterred from raiding the villages on the plains, despite the fact that the British had claimed responsibility for their protection. Each raid that escaped punishment only demonstrated the lack of British authority.

The Pashtun living on the plains were inspired by the resistance of the hill tribes, which further challenged British authority in the settled areas.⁹⁴

2. Normative Factors

a. Government Tribal Policy should consider the Tribe's Perception of Justice in the Establishment of State Authority

The British use of the Indian Penal Code was a failure with respect to this proposition. The British were unable to force their value system on the Pashtun. An excellent example was the common pursuit of *badal* in accordance with Pashtunwali. Throughout their occupation of the NWF, the British struggled against this Pashtun custom which acknowledged that it was perfectly legal to murder an individual in the pursuit of revenge.⁹⁵ The British definition of authority did not allow for random murders to occur throughout the NWF. If the British did not have a monopoly on violence, then by Western standards, their authority would have been in question. The British also struggled with the idea that “blood money” being given to the victim’s family would be preferable to punishment. These notions did not resemble justice in a Western sense. Yet, any other form of justice only undermined British efforts to gain authority.

It took the British 20 years to realize that their definition of justice did not fit in Pashtun society. One Pashtun *Malik* told the British administrator that the aim of any social or political system should be to produce “a fine type of man, therefore, let us keep our independence and have none of your law and order and your other institutions but stick to our customs and be men like our fathers before us.”⁹⁶ Only a life lived in accordance with Pashtunwali could produce a fine Pashtun.

Eventually, the British began to shape their policies to appeal to the Pashtun sense of justice. The introduction of a more co-optative policy like the Frontier Crimes Regulation, and a more accommodating policy like Indirect Rule demonstrated

⁹⁴ Caroe, 336.

⁹⁵ Roberts 2003, xiii.

⁹⁶ Caroe, 397.

the British had changed their priorities from establishing a legitimate rule of law by Western standards to a legitimate rule of law by Pashtun standards.

Though the legitimacy of British authority improved under the Forward Policy and Indirect Rule, the British had other obstacles to overcome. Tribes were still reluctant to hand over a Pashtun to face punishment, not because it would be unjust, but because it would violate the principles of *melmastia* and *nanawatai*. The British had to be careful to ensure the punishment fit the crime under tribal law. In the instances when this did not occur, the elders or *Maliks* responsible for delivering the sentence would face serious consequences from their own tribe (as described earlier).

These additional barriers to British authority suggest why British attempts to co-opt the Pashtun justice system under Pashtunwali ultimately failed.⁹⁷ The complexity of Pashtun custom made it difficult for the British to know for certain whether the barriers were due to Pashtun resistance to British authority or dedication to Pashtunwali.

In the few instances when the British did manage to establish temporary authority, it was due to the actions of British agents who had previously earned the respect of influential, tribal elders. Each occasion involved an exceptional leader with a reputation for prowess in combat and strong cultural awareness.⁹⁸ Most importantly, by subscribing to the Pashtun' definition of justice, the British were able to achieve some level of authority by the Pashtun. Guided by their sense of honor and justice, the Pashtun were compelled to submit when faced with a situation where British policy was conducted in accordance with Pashtunwali.⁹⁹

Over time, the British did subscribe to more accommodating policies with regards to this proposition, but ultimately failed to establish their authority. The failure can be attributed to Prospect theory, which explains that any concession by one side is considered a loss. The British had to face the fact that resources were limited and that

⁹⁷ Caroe, 354.

⁹⁸ Warburton, 318; Caroe, 331;

⁹⁹ In one situation, Herbert Edwardes coerced the Wazir hill tribe to pay taxes for the lands they occupied in a settled area. By putting the assessment of the value of the land onto a powerful Pashtun Malik, the man was bound by honor to be truthful in his estimation of the value of the land his tribe occupied. For the complete story, reference Caroe, 335-337.

they needed to hold onto what they had because they did not have what was needed to expand their control by force or to sufficiently engage the Pashtun on a level that would cultivate the acceptance of British authority at the grass roots level.¹⁰⁰ Sedentary plains tribes living in the settled areas received compensation from British authority in the form of increased security from raiding tribes, which suggests one reason why they resisted less than those tribes living outside the settled areas. Tribes living outside the settled areas viewed British authority purely as a concession because their freedoms had been reduced without compensation.

In the 98 year process (1849-1947), the British never fully relinquished authority back to the Pashtun. Instead, they steadily modified their administration of the region just enough to maintain some semblance of order. Both the sedentary and nomadic tribes cherished their independence because it allowed them to follow their customs. The compromises required by the British contradicted those customs and failed to offer a way of life that was recognizably better than what they had experienced in the past. Because the sedentary tribes had been used to the cruel treatment and subjugation of the Sikhs, the concessions required by the British were initially accepted. British concessions were less oppressive than those of the Sikhs. However, sedentary Pashtuns later resisted British authority because it failed to provide a way of life that seemed better than life under Pashtunwali.

Prospect theory also explains why the Pashtun were unsatisfied with each concession the British made with respect to Pashtunwali. Per Instant Endowment Effect (the near instantaneous normalization of any compensation), compensation offered by the British was immediately accepted as the new norm, while the loss of Pashtun independence (the Pashtun concession) drove them to resist British authority.¹⁰¹ This is why situations such as this rarely find a happy medium. Compensation offered by the British would have had to provide sufficient and sustained improvements in Pashtun society in order to counter the Instant Endowment Effect and begin the process of recognizing British authority. The advantages enjoyed by the Pashtun under British

¹⁰⁰ Warburton details the expense just to keep the Khyber Pass open. He estimated that the cost exceeded the benefits by nearly seven times. For more information, reference: Warburton: 330.

¹⁰¹ Levy explains that when two sides are bargaining, concessions are seen as losses and compensations are seen as gains, therefore, the compensations are valued less than the concessions: 209.

authority were not sufficient to overcome their feeling of loss. The Pashtun wanted their independence back and the British wanted to protect their interests in India by establishing British authority on the NWF.

The British decided to attempt to instill order on the NWF, which would lead to the expansion of their authority. As the British became more flexible in their application of law, the establishment of order on the NWF steadily improved. Almost immediately, the British learned that the suppression of tribal customs would not promote order on the NWF. By shifting the responsibility, and more importantly, the interpretation of justice onto tribal elders, the number of individuals being brought before civil and criminal courts increased.¹⁰² From the British perspective, this meant that British authority was expanding and that social order was improving. However, as the tribes adjusted to each new policy instituted by the British, similar problems continued to arise. This suggests that the Pashtun never acknowledged British authority on the NWF. Therefore, British experiences on the NWF demonstrate that authority cannot be gained solely through a process of law.

b. Customary Norms, not Religious Norms are what impede State Authority

Pashtuns are better characterized by their dedication to tribal custom than to Islam.¹⁰³ In particular, the British interaction with the Mahsud tribe (regarded as one of the most resistant to authority) supports this argument. Often times, the Mahsuds respected British agents more when they were tough in the implementation of their policies. Olaf Caroe noted that the Mahsuds were more attached to tribal custom than to Islam. "I do not think any Mahsud would regard it as other than truthful, and even flattering to be told that he was a Mahsud first and a Muslim afterwards."¹⁰⁴ Honor, prowess in combat, and justice with respect to Pashtunwali were far more important qualities in a leader than his being a Muslim.¹⁰⁵

The British did not consider the tribes to be fanatical, and there was no evidence that the Pashtun hated the British because they were foreigners or non-Muslim.

¹⁰² Caroe, 354.

¹⁰³ Caroe, 410.

¹⁰⁴ Ibid, 397.

¹⁰⁵ Caroe, 331. Warburton, 315.

The bottom line was that the Pashtun were being forced to alter their way of life due to British presence and that the Pashtun were fiercely determined to resist British subjugation in order to preserve their independence.¹⁰⁶

E. CONCLUSION

Prior to 1839, the Pashtun had relatively little contact with Europeans. When the British arrived on the Northwest Frontier of British India, the Pashtun welcomed them, offering them traditional Pashtun hospitality and showing respect for their Christian beliefs and practices. However, once it was understood that the British not only intended to stay, but also to change Pashtun social customs in order to instill a British form of order, the Pashtun changed their opinion. “By the end of the 19th century, Europeans [were] considered not only infidels, but also enemies who threatened [Pashtun] independence.”¹⁰⁷ This reaction suggests that the Pashtun did not initially associate the British with other groups that had previously attempted to exert their authority over them. It was only after the British began to establish their permanence and their authority in the region that the Pashtun began to employ tactics aimed at resisting British control and preserving their traditional way of life.

Pashtun resistance to the Indian Penal Code proved to the British that a policy involving suppression would fail to gain both order and authority on the NWF. This began an evolutionary process designed to produce a policy that would first bring order to the NWF, and later expand British authority. However, what the British found in their experiences with the Pashtun was that the establishment of order did not easily lead to the establishment of authority.

From a normative perspective, British policies rewarded the Pashtun for minimizing the amount of violence directed against the settled areas. These policies did not seek to integrate or co-opt the Pashtun, creating a situation of interdependence. Therefore, the Pashtun were comfortable receiving subsidies for not being violent and were given more and more freedom to exist under their own rule of law. The increase in violent acts over time indicates that many Pashtun tribesmen considered the arrangement

¹⁰⁶ Caroe, 399.

¹⁰⁷ Roberts 2003, 21.

too large a sacrifice with respect to their way of life. Faced with limited capacity, the British were forced to sacrifice the pursuit of authority for order.

From an organizational perspective, British policies were not nearly broad enough to allow them to adequately influence the Pashtun. Again, limited by their capacity, the British were unable to engage the number of people necessary to convince the Pashtun of the benefits of accepting British authority. The use of the Maliki System corrupted the message being spread by the British and allowed the *Maliks* to use the resources, intended by the British to convince the Pashtun to accept British authority, for their own benefit.

The next chapter offers a similar case study with a significant change addressing the possibility that the cultural divide between the British and the Pashtun could have been somewhat responsible for Pashtun resistance of British authority. The next chapter also offers a case of a state—Pakistan—attempting to bring the Pashtun under its own national identity rather than establish an imperialistic colony.

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IV. PAKISTAN CASE STUDY

You want to know whether I am first a Pashtun, a Muslim, or a Pakistani. I have been a Pashtun for 2,000 years, a Muslim for 1,400 years, and a Pakistani for 30 years. Therefore, I will always be a Pashtun first.

Wali Khan

A. INTRODUCTION

The following case study addresses the policies associated with a fledgling, Muslim state trying to establish its authority over the areas within its borders inhabited by the Pashtun. Bent on integration and the establishment of a national identity, Pakistan has had the advantage of identifying with the Pashtun on the grounds of common religion.

Similar to the previous chapter, this case study is broken down into three main sections: a historical background establishing the context for the case, a description of Pakistan's policies and their outcomes, and an analysis of Pakistan's policies using the theoretical framework. The lack of permanent government presence in the Federally Administered Tribal Areas (FATA-the primary location of rural Pashtuns in Pakistan) prior to Pakistan's current military operations (a result of the intense international pressure caused by Al Qaeda's attacks on the US in 2001) indicates the lack of success of Pakistan's past policies. However, the current concern of the International Community over "ungoverned spaces" is likely to inspire broader and more dedicated attempts to establish Pakistan's authority over the FATA. Therefore, it is likely the policies outlined in this chapter may be changing rapidly over the next decade.

B. BACKGROUND

Since partition from India in 1947, Pakistan has been plagued by three main issues: the threat from India on its eastern border, especially in the Kashmir region; Pashtun nationalism stemming from the cleavage of the ethnic group by the Pakistan-Afghanistan border; and Afghanistan's attempts to recover its Pashtun brethren and gain access to a sea port on the Indian Ocean. The focus of this chapter is to look at the policies Pakistan's central government has directed towards establishing authority in the Tribal Areas of western Pakistan, why they succeeded or failed, and what conditions

prevented the establishment of state authority. Though this case study reveals several different explanations for Pashtun resistance, Pashtun nationalism represents a central theme in the Pashtun' opposition to Pakistan's central government.



Figure 4. Pakistan-Afghanistan Border
<http://www.khyber.org/images/maps/pakistanbordercartoon.jpg>. Accessed on 30 May 06)

From the beginning, the Government of Pakistan realized the need for order and stability in the Tribal Areas. It re-established the 1901 version of the British Frontier Crimes Regulation as the primary rule of law, which is still in effect today.¹⁰⁸ Up until 1976, Pakistan's policies regarding its administration of the Tribal Areas mostly modeled

¹⁰⁸ Azmat Khan. "FATA," in *Tribal Areas of Pakistan: Challenges and Responses*. Islamabad: IRPI (2005): 88.

British policy in the region.¹⁰⁹ Pakistan's first president, Mohammad Ali Jinnah—"the father of the nation"—strongly disliked the British policies used to keep the Tribal Areas in check and felt that the Pashtun must be integrated into Pakistan's society. Instead, Pakistan's leaders (after Jinnah's death in 1948) followed the British example by keeping the Pashtun dependent on state allowances and subsidies, failing to commit to Jinnah's vision of integration.¹¹⁰ However, the Government did make some subtle, yet important, changes to its tribal policy. Though the Government of Pakistan has always understood it could only establish state authority through development rather than subjugation or pacification, concerns about national security would continually distract or subvert efforts aimed at incorporating the Pashtun people into modern Pakistani society.

Though the continuous threat from India shaped many of Pakistan's domestic policies, Afghanistan was often equally responsible for shaping state policy by inciting unrest and discontentment in the Tribal Areas. Because the Durand Line separated the Pashtun living in Afghanistan and Pakistan politically rather than geographically, the Pashtun living in the Tribal Areas were still closely connected. A land-locked Afghanistan constantly fanned the flames of Pashtun nationalism in hopes of gaining access to the Indian Ocean from a sympathetic and independent Pashtunistan (see Figure 4).¹¹¹ In the 1960s and 1970s, the unrest in Afghanistan caused by tribal politics and the rise of communism convinced Pakistan's government that the Tribal Areas could not be left to their own way of life. Yet, when the Soviets invaded Afghanistan and the puppet Afghan government again appealed to Pashtun nationalism, Pakistan was forced to sacrifice its policies aimed at incorporating the Tribal Areas in favor of state security. During this period, the land of the Pashtun would once again become a buffer, much like the buffer between Great Britain and Russia in the Great Game, to protect Pakistan from Soviet expansionism.

¹⁰⁹ James W. Spain "Political Problems of a Borderland," in *Pakistan's Western Borderlands: The Transformation of Political Order*. Ed. Ainslie T. Embree. New Delhi: Vikas Publishing House PVT, Ltd (1977): 11-12.

¹¹⁰ Rashid A. Khan. "Political Developments in FATA: A Critical Perspective," in *Tribal Areas of Pakistan: Challenges and Responses*. Islamabad: IRPI (2005): 30.

¹¹¹ Roberts 2003, 122.

Unfortunately, the damage to Pashtun society in the Tribal Areas from over a decade of war with the Soviets completely destroyed the progress made earlier by Pakistan's government. Once the Soviet threat disappeared, Pakistan's capacity to begin the slow process of developing the Tribal Areas was further hampered by a nuclear arms race with India and a major cutback in funding by the United States. Pakistan's government practically ignored the Tribal Areas until the terrorist attack of 11 September 2001 sparked new American and international interest in the Tribal Areas. As of today, Pakistan is currently involved in what could still be described as a Forward Policy. Focusing on regaining control and establishing order in the Tribal Areas, Pakistan has been moved to center stage in the U.S. war on terrorism.



Figure 5. Pashtunistan.
(<http://www.khyber.org/images/maps/pashtunistan.gif>. Accessed on 30 May 06)

Building on this short, historical overview of Pakistan's involvement in its tribal areas, the next section details the policies used to establish the government's authority. Several of Pakistan's policies are simply derivatives of British policies. Like the previous chapter, the policies are laid out in chronological order, with the exception of the last two (Frontier Crimes Regulation and the Maliki System). These two policies were enacted at partition and still remain in effect today.

C. PAKISTAN'S TRIBAL POLICIES

1. The Close Border Policy

When British rule ended in 1947, all the previous agreements and treaties between the British government in Delhi and the people of Tribal Areas came to an end. Under Pakistan's new constitution the Tribal Areas were given their independence, which required the Government of Pakistan to create new treaties and agreements with the tribes. The new Government of Pakistan recognized its weakness as a fledgling government and therefore elected to continue the British Maliki system and pursue a policy of accommodation. In exchange for continuing the British program of allowances and subsidies, the *Maliks* declared the Tribal Areas part of Pakistan, promised to aid Pakistan in a time of need, and "to be law abiding and to maintain friendly relations with the people of the settlement districts." President Jinnah withdrew Pakistan's armed forces from the Tribal Areas and allowed the Pashtun to handle their own affairs. On 15 August 1947, the Governor General of Pakistan gained jurisdiction over the Tribal Areas.¹¹² Pashtuns honored their promise to support Pakistan in a time of need by sending a *lashkar* (tribal militia) of Pashtun tribesmen from Waziristan rushed to Kashmir to fight against India in support of Pakistan's interests.¹¹³

Pakistan's initial policy in the Tribal Areas was almost an exact copy of the British Close Border Policy.¹¹⁴ Pakistan would extend its rule of law into the settled areas of the NWFP and Baluchistan, but the people living in the Tribal Areas were allowed to follow Pashtunwali.¹¹⁵ One significant difference was the role of the Political Agent (PA). Under the Pakistan's administration, the focus for the PA no longer centered on maintaining order. The PA's primary job was to promote and facilitate development projects—health, water, education, communication—in the Tribal Areas.¹¹⁶

In 1951, the Government of Pakistan pressed the *Maliks* for a new agreement that reflected Pakistan's desire to change its policy in the Tribal Areas to include a minimum

¹¹² Rashid A. Khan, 26.

¹¹³ Ahmed 1977, 9.

¹¹⁴ Spain 1977, 11-12.

¹¹⁵ Rashid A. Khan, 28.

¹¹⁶ Rashid A. Khan, 30.

amount of co-optation. The new policy included two important changes: 1) the Tribal Areas cease any interaction with Afghanistan, and 2) the people in the Tribal Areas facilitate the building of infrastructure.¹¹⁷ This was only a small change aimed at an incremental increase in the scope of the state's role in the Tribal Areas.

a. Policy Results

President Jinnah recognized the need for a methodical process—integration would not happen overnight. Jinnah's adoption of the former British policy allowed Pakistan to gain Pashtun support. However, the use of the Maliki system was not intended to be a permanent solution. Jinnah had intended for the PA to engage the tribes living in the tribal area on a much wider and more individual basis.¹¹⁸ Jinnah sought a policy of “peaceful penetration” and began the development of schools and hospitals. Despite the small scale of the original program, the development sparked some tribal integration allowing the incorporation of some of the tribal areas into the NWFP.¹¹⁹ However, the Pashtun likely accepted this policy because it did not require a change in their customs or social structure.

Unfortunately, Jinnah died within the first year of his Presidency. The political leaders who succeeded him did not have the same fundamental understanding as Jinnah and therefore elected to continue paying the allowances and subsidies to the people living in the Tribal Areas. Jinnah was right, as history shows the Close Border policy only ignored the ideal of socially integrating Pashtuns with the rest of Pakistan.

The change of policy in 1951 was designed to curb cooperation between the Pashtun in Pakistan with Kabul and accelerate the integration of the Pashtun. The enactment of this policy, which offered nothing to the Pashtun in return, led to increased tension between the Pashtun and Islamabad, further stirring the notion of Pashtunistan and eventually led Pakistan to close the border between the two countries in 1955.¹²⁰

¹¹⁷ Appendix VII, “FATA after Independence,” in *Federally Administered Tribal Areas of Pakistan*. Ed. Pervaiz Cheema. Islamabad: IRPI (2005), from Ministry of States and Frontier Regions, “S” Block Pakistan Secretariat Islamabad.

¹¹⁸ Ibid.

¹¹⁹ Spain, 1963, 159.

¹²⁰ Bradsher, 290-291.

2. One Unit Plan

A dramatic change in Government policy, leaning further towards the suppression side of co-optation, came in 1955 with the enactment of the One Unit Plan. This policy combined the NWFP, Baluchistan, Sindh, and the Tribal Areas into one province called West Pakistan.

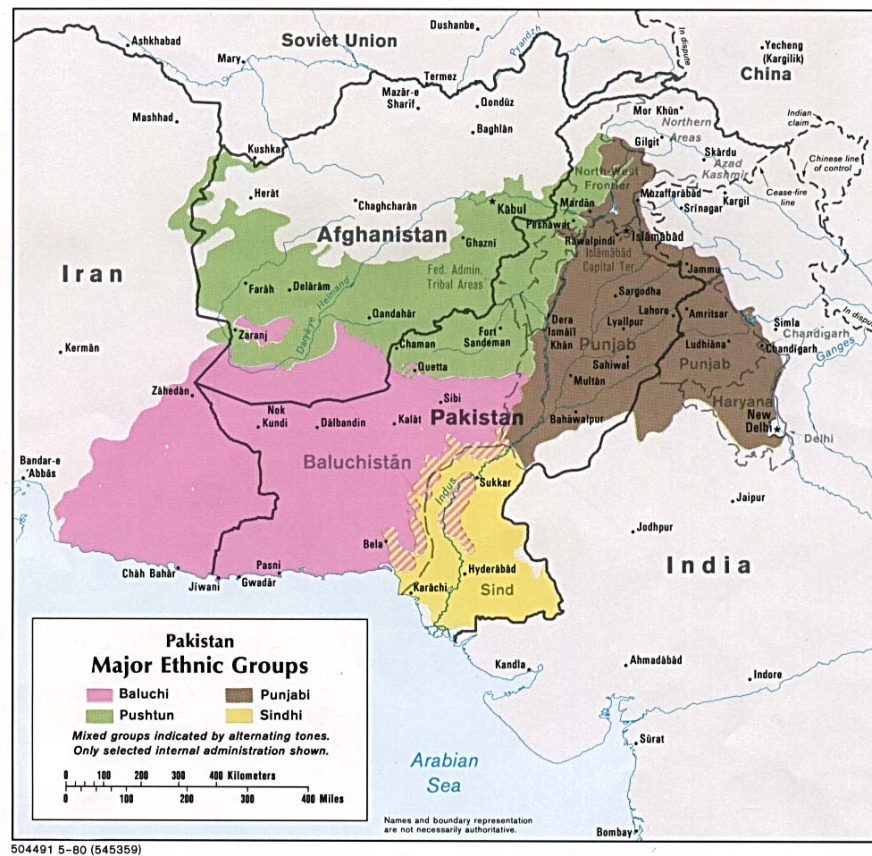


Figure 6. West Pakistan's Provinces and Ethnic Groups
(<http://www.khyber.org/images/maps/pakistanethnolinguisticmap.jpg>. Accessed on 30 May 06)

The Government of Pakistan enacted the One Unit Plan in hopes of accomplishing three things: 1) to promote a stronger, Punjabi dominated, central government; 2) to create a common identity for the people living in the newly formed West Pakistan; and 3) to appease the people of East Pakistan (modern-day Bangladesh) by creating the appearance

of more balanced representation between East and West Pakistan.¹²¹ In order to achieve this, the policy placed the responsibility for the administration of all three areas on the Governor of West Pakistan, acting as the Agent to Pakistan's President.

The Government of Pakistan delegated much of the responsibility for the administration of West Pakistan to its new Governor to allow the Government to focus on domestic issues such as the growing unrest in East Pakistan, and international issues such as the dispute with India over Kashmir.¹²²

a. Policy Results

Pakistan's attempt to consolidate the three main provinces of Sindh, Baluchistan, and the NWFP into West Pakistan failed to inspire a sense of unity among the different ethnic groups living in their respective regions. Each ethnic group resisted this policy and continuously fought to regain its previous administrative system, fearing that the state was trying to force a new, single political identity on all the different ethnic groups in the region.

The Pashtun felt that the One Unit Plan threatened their identity which inspired a renewed sense of Pashtun nationalism. The Afghan Pashtuns again began raising the notion of Pashtunistan, pressing the Pakistani Pashtuns by saying that their identity, values, and customs would be destroyed under the One Unit Plan.¹²³

In the former NWFP, the Government of Pakistan responded by suppressing any individual openly advocating Pashtun autonomy. This action deepened the resentment and the resistance of the Pashtun living in the area. The men being jailed for their opposition to the Government were seen by the people as "the true advocates of Pashtun interests". The One Unit Plan polarized the different ethnic groups in West Pakistan—the Sindhis, Baluchis, and Pashtuns—and gave them a common enemy, the state, to unite against.¹²⁴

¹²¹ Author interview with BGen (Ret.) Feroz Khan on 2 Mar 03. Monterey, CA.

¹²² Rashid A. Khan, 27.

¹²³ Leon B. Poullada. "Pashtunistan: Afghan Domestic Politics and Relations with Pakistan," in *Pakistan's Western Borderlands: The Transformation of Political Order*, edited by Ainslie T. Embree. New Delhi: Vikas Publishing House PVT, Ltd (1977): 133.

¹²⁴ Stephen Rittenberg. "Continuities in Borderland Politics," in *Pakistan's Western Borderlands: The Transformation of Political Order*, edited by Ainslie T. Embree. New Delhi: Vikas Publishing House PVT, Ltd (1977): 73.

In 1969, the Government of Pakistan yielded to the movements against the One Unit Plan and allowed the people to decide whether or not it should continue. The vote was overwhelmingly in favor of returning to the former provincial administration. Ethnicity and regionalism were re-emphasized as strong, deterministic factors within Pakistan, and are still extremely prevalent in Pakistani politics today.¹²⁵

3. The Forward Policy

Around 1960, Pakistan's policy in the Tribal Areas began to take on the appearance of the British Forward Policy. Until 1970, Government policy shifted away from suppressing the political identity of Pashtuns and began to offer limited co-optation. Pakistani troops were sent back into the Tribal Areas along with teachers and medical services. Punitive expeditions were still being conducted, but by aircraft rather than soldiers on the ground.¹²⁶ Roads were improved to facilitate troop movements and to develop settlements. The Government of Pakistan sought to engage the Pashtun on a broader level, reducing their alienation from the Government and offering modest improvements to their welfare and economy.¹²⁷

The Government of Pakistan has always understood that it would be difficult to elevate the standard of living in the Pashtun tribal areas to match those in the more modern areas of Pakistan. Though previous policies had been directed at integrating Pashtuns with the other areas of Pakistan by elevating the standard of living in the Tribal Areas, the Government of Pakistan instituted another policy around this same time to further encourage integration. The Government purposefully set out to co-opt certain Pashtun individuals by offering them opportunities for advancement in military and bureaucratic positions. The state also began to relocate Pashtuns, placing them in areas or jobs to create a situation where the Pashtun individual would begin to identify more with the state than with his ethnic group.¹²⁸ This action reflected a near-suppression policy, allowing only a small bit of co-optation from the fact that the individuals were not jailed but were re-introduced to societies in other regions.

¹²⁵ Rittersberg 73, Rasheed A. Khan, 29.

¹²⁶ Spain 1963, 160.

¹²⁷ Spain 1977, 22-23.

¹²⁸ Owen Bennet Jones. *Pakistan; Eye of the Storm*. New Haven: Yale University Press (2002): 139.

After 15 years under the One Unit Plan, the Government of Pakistan fully shifted its actions in the Tribal Areas to reflect the Forward Policy. It reinstated the former provincial administrations due to strong opposition throughout Western Pakistan. Returning more towards the accommodation side of co-optation, the territory of the NWFP was expanded, including Dir, Swat, Chitral, Malakand, and Hazara. The Tribal Areas were converted into the Federally Administered Tribal Areas (FATA), a collection of seven agencies including Mohmand, Kurram, Khyber, Bajaur, Orakzai, North and South Waziristan.

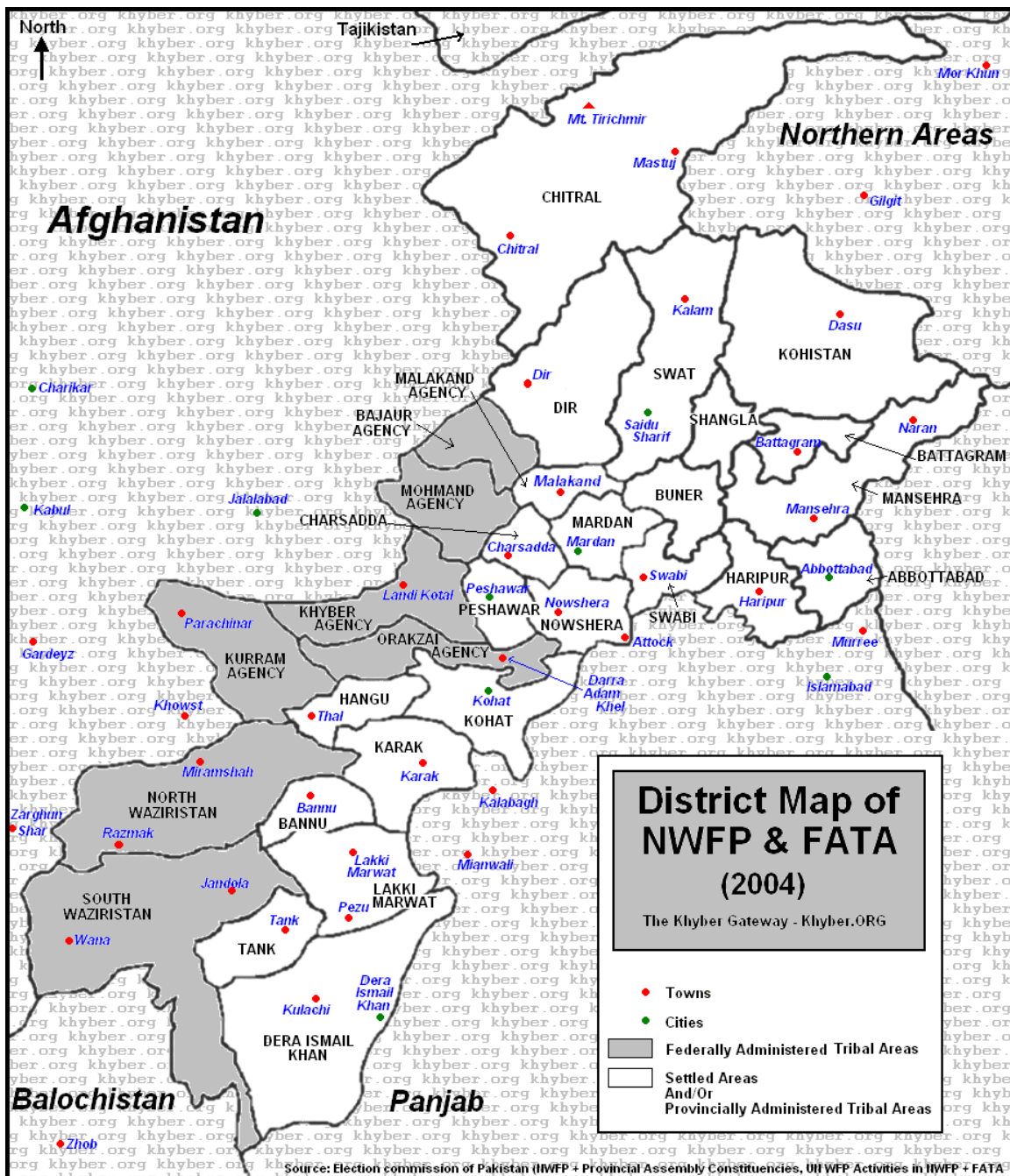


Figure 7. District Map of NWFP and FATA
<http://www.khyber.org/images/maps/nwfpmap01.gif>. Accessed on 30 May 06)

Each Agency was again assigned a Political Agent who was responsible for its administration.¹²⁹ Both Baluchistan and the NWFP became Provincially Administered Tribal Areas (PATAs), each with its own administration, while the responsibility for

¹²⁹ Ahmed 1977, 7.

administering the FATA would fall directly upon the Federal Government. Though the President delegated the administration of the FATA to the Governor of the NWFP, it desired to establish a direct link to the Federal Government for two reasons: 1) the significant security implications of the border between Pakistan and Afghanistan, and 2) the severe state of underdevelopment in the FATA would exceed the ability of the NWFP to modernize the region.¹³⁰

The state sought to penetrate the FATA in order to elevate the standard of living there to match the rest of Pakistan. New projects providing water, education, roads, electricity, and industry were springing up throughout the FATA. The FATA had the attention of all the high ranking government officials. Between 1972 and 1977, the development in the FATA and the NWFP began to marginalize the repeated attempts by Afghanistan to gain supporters for Pashtun nationalism. However, all these development programs were being supplied by the state with no demand on the Pashtun to change their customs. Pashtunwali was still the recognized law of the land and *jirgahs* were allowed to maintain order without interference from the Government.¹³¹

a. Policy Results

The Government's development programs in the Tribal Areas showed early signs of success under the Forward Policy, especially between 1972 and 1977. Pashtun life in general saw many improvements: improved economy, better health programs, and better education. Once the Government dissolved the One Unit Plan, relations with the Pashtun became much more amicable. The Pashtun accepted this policy whole heartedly because it provided them with social benefits and required nothing in return. The idea of Pashtunistan began to fade as Pashtuns realized that their lives were significantly better with the support of the state of Pakistan.¹³² This possibly suggests that the Pashtun were beginning to see the Government of Pakistan as *their* government, which would have been an incredible achievement for Pakistan.

The Forward Policy also had success in co-opting Pashtun individuals. The tradition of incorporating Pashtuns into society still continues today. As a result, the

¹³⁰ Rashid A. Khan, 29.

¹³¹ Spain 1977, 12.

¹³² Rashid A. Khan, 36-37.

Pashtun have gained a great deal of influence in Pakistan's Army, holding between 30% and 40% of the senior officer positions. Pashtuns also hold approximately ten percent of Pakistan's top bureaucratic jobs—which is an accurate representation based on their percentage of the population.¹³³ This aspect of the Forward Policy achieved a certain amount of compromise from the Pashtun and demonstrated that it was possible to create an atmosphere where a Pashtun was willing to forsake certain elements of Pashtunwali in exchange for integration.

Today, Pashtuns taking an active role in the Government provide a source of credibility among those living in the FATA and offer a deeper understanding of the cultural divide between the Pashtun and the Government.¹³⁴ These men, as well as those involved in other aspects of society, also provide a source of inspiration for individuals who are unsatisfied with their current lot in life. Providing an example that demonstrates one has options outside tribal life is a powerful instrument of change. However, this requires widespread, lateral engagement to ensure Pashtuns are aware of these opportunities and the individuals who have taken advantage of them. However, the continued use of the Maliki system as the conduit between the state and the tribes insulates the majority of Pashtuns from these examples of successful compromise.

One failure of the Forward Policy is that it did not succeed, or even make an attempt at establishing the state's rule of law for the FATA in accordance with the other provinces. Though it did bring the people of the FATA closer to the state, the Government made no demand on the Pashtun to change their rule of law. Pashtunwali continued to serve as the law of the land.¹³⁵ However, the failure of this policy must be qualified in that it was only in place for a short period of time before Pakistan's national security demanded a policy shift that would undermine the progress made under this policy.

4. Policies to Address the Communist Threat in Afghanistan

In April of 1978, the Communist sponsored Khalqi faction successfully overthrew the sitting ruler of Afghanistan. As a result, Pakistan was forced to alter its policies in the

¹³³ Spain 1963, 158-159;

¹³⁴ Caroe, 410.

¹³⁵ Spain 1977, 22-23.

Pashtun tribal areas. Development programs were cut to support a growing need for state security. The new Afghan regime sought legitimacy under the guise of Pashtun nationalism sensing a loss of support from conservative Pashtuns. By supporting another push for an independent state of Pashtunistan, the Khalqi government hoped to mobilize the Pashtun on both sides of the border in order to solidify its hold of the Afghan government.¹³⁶

When the Soviet Union invaded Afghanistan in 1979, Pakistan shifted its policy in the FATA to one of pure accommodation in order to maximize state security. Pakistan's new policy had two objectives: 1) to cultivate an effective, asymmetric fighting force capable of engaging Soviet forces, and 2) to do so in a covert manner that would prevent the Soviet Union from perceiving Pakistan as an aggressor. In order to accomplish this, Pakistan began to funnel weapons and money to the Pashtun fighting in the trans-border region. Though illicit activities had always been present in the virtually lawless border region, Pakistan's tacit support of "smuggling, drug trafficking and gun running" in the Tribal Areas allowed these practices to become highly profitable.¹³⁷ Pakistan's few social programs in the FATA were overwhelmed as nearly 3.5 million Pashtun refugees from Afghanistan sought refuge in Pakistan.¹³⁸ Keeping the border open was in Pakistan's best interest, because it allowed the Afghan resistance to find sanctuary within Pakistan's borders, protecting them from Soviet attacks.

a. Policy Results

Pakistan's decision to sacrifice the development strategy of its Forward Policy in the FATA to protect itself from Soviet invasion proved to be successful. The Government of Pakistan played a key role in the victory of the Afghan resistance against the Soviet Union. The Pashtun accepted this policy since it demanded nothing in return and only offered them more independence. However, it led to two long term problems that Pakistan is still dealing with today.

First, the open border and the acceptance of Afghan refugees led to problems of over-population, unemployment, pressure on grazing land, and reduced law

¹³⁶ Rashid A. Khan, 38.

¹³⁷ Ibid, 39.

¹³⁸ U.S. Department of State, Bureau of South and Central Asian Affairs, "Background Note: Afghanistan." Accessed on 2 Mar 06 at <http://www.state.gov/r/pa/ei/bgn/5380.htm>.

and order leading to a rise in militancy and terrorism.¹³⁹ Because Pakistan did not have the capacity to provide for the social welfare of the Pashtun living in the FATA, the Pashtun were less inclined to look to the state for support. As a result, the Pashtun no longer associated the Government of Pakistan as having any power or influence in the region.

Second, because “jihad, drugs, and gun running became the main source of livelihood for the local people”, an alternate economy grew out of the FATA and reduced the Pashtun’ dependence on government subsidies and allowances. The resistance fighters and their supporters were able to carve up the region into fiefdoms and further alienate the Pashtun’ recognition of Government authority.¹⁴⁰ It also provided the Pashtun with a cache of weapons that could later be used in support of Pashtun interests rather than state interests.

5. Post Soviet Invasion Policy

Once the Soviets left Afghanistan, Pakistan returned to a form of the Forward Policy. Where the previous Forward Policy had focused on co-optation through penetration and integration, the Post-Soviet Forward Policy focused on accommodation in hopes of gaining more influence in Afghanistan and preserving Pakistan’s strategic depth with India.¹⁴¹ A friendly neighbor on Pakistan’s western border would allow Pakistan to focus its instruments of national power on its eastern border. The rise of the predominantly Pashtun-led Taliban movement gave Pakistan confidence that Afghanistan, under Taliban rule, would allow Pakistan greater strategic depth.¹⁴² This led to Pakistan becoming one of only three states recognizing the Taliban regime in

¹³⁹ Maqsoodul H. Nuri. “Soviet Withdrawal: Security Implications for Pakistan,” in *Tribal Areas of Pakistan: Challenges and Responses*. Ed. Pervaiz Iqbal Cheema and Maqsoodul Hasan Nuri. Islamabad: Islamabad Policy Research Institute (2005): 130

¹⁴⁰ Rashid A. Khan, 39.

¹⁴¹ Strategic Depth is defined as the proximity of the State’s strategic security assets to its enemy. For more information reference Peter R. Lavoy and Stephen Smith, “The Risk of Inadvertant Nuclear Use between India and Pakistan,” Center for Contemporary Conflict (3 mar 2003), accessed on 3 Mar 2006 at <http://www.ccc.nps.navy.mil/rsepResources/si/feb03/southAsia2.asp>.

¹⁴² Owen B. Jones. *Pakistan: Eye of the Storm*. New Haven: Yale University Press, 2002: 2.

Afghanistan.¹⁴³ The Pakistan-Afghanistan border remained open, which further fused the connection between the Pashtun living along the Durand Line.

During this period, Pakistan purposefully elected not to reign in the Afghan resistance fighters living in the FATA. The momentum of the resistance force had reached such a level that it would require a significant amount of effort to demobilize it. Though the money which dried up after the Soviets retreated, the alternate economy continued to exist. One speculation is that Pakistan recognized the power and effectiveness of the resistance fighters and had hoped to harness that force to use as weapon in support of other state interests. Therefore, the state did nothing to slow it down or to stop it.¹⁴⁴ Instead, Pakistan used the state intelligence service, ISI, to manipulate the different factions of the Afghan resistance, through the apportionment of money or weapons, to ensure one sect did not gain too much power. By keeping the different resistance groups from joining into one powerful entity, Pakistan's government felt it could avoid the "Palestinization" of the resistance camped within its border.¹⁴⁵

In December of 1996, the President of Pakistan implemented a significant policy change with regard to representation and voting rights for the people of the FATA. The President declared that the right of universal adult franchise would be extended to the people living in the FATA. This change reflected a further shift in policy towards co-optation. It was hoped that Pashtuns would be more inclined to participate in government and begin to identify with the other people of Pakistan by getting the right to vote for Pakistani legislation and government candidates. This policy also increased the representation and influence of the people from the FATA in Pakistan's National Assembly. Pashtuns were given a say in the laws being created for and applied to Pakistan's population outside the FATA, but those laws had no effect on those people living within the FATA.

¹⁴³ "Pakistan's Support for the Taliban." Daily press briefing issued by the Office of the Spokesman, U.S. Department of State. Available online at <http://www.state.gov/r/pa/prs/ps/2001/3739.htm>. Accessed on 3 Mar 06.

¹⁴⁴ This idea was taken from a lecture by Vali Nasr, on 6 Mar 06, during his class on Islamic Fundamentalism at the Naval Postgraduate School.

¹⁴⁵ Roy, 22.

a. Policy Results

Pakistan's desire to influence the politics in Afghanistan in order to gain strategic depth on its western border caused Pakistan to lose sight of its goal of integrating the Pashtun of the FATA into Pakistan's mainstream society. Leaders from the Afghan resistance were able to increase their power and authority under this policy due to the absence of the state in the FATA.

The unregulated border between Pakistan and Afghanistan allowed extremist groups, such as the Taliban and Al Qaeda, to expand their networks of support and increase their influence among the Pashtun. The rise of the Pashtun dominated Taliban in Afghanistan did in fact reduce Pakistan's concerns about strategic depth, but proved to be a short-sighted policy with respect to the overall security of Pakistan.

Some experts believe the Government of Pakistan hoped to harness the resistance fighters in order to use them as a weapon—an instrument of state power.¹⁴⁶ Therefore, Pakistan continued to cultivate the resistance group in the FATA by minimizing the state's presence, but ultimately failed to control it. The Taliban, which was mostly comprised of Pashtun orphans who were educated in the *madrasas* (seminaries) in the FATA during the Afghan *jihad*, sympathized with Pakistan, but were not beholden to Pakistan. The Taliban continued to administer to the religious needs of the Pashtun communities in the FATA, providing them with an excellent source of recruitment and allowed them to expand their influence throughout the region.¹⁴⁷

The Government's decision to sacrifice the integration of the Pashtun living in the FATA in exchange for increased influence in Afghanistan created a vacuum in the region that was filled by other individuals and organizations. Pashtuns ended up focusing their allegiance regionally, which likely reinforced Pashtun identity rather than Pakistani identity.

On the positive side, the introduction of Adult Franchise did serve to better connect the state with the people living in the FATA. Over 2 million voters

¹⁴⁶ Humayun Khan. "The Role of the Federal Government and the Political Agent," in *Tribal Areas of Pakistan: Challenges and Responses*. Ed. Pervaiz Iqbal Cheema and Maqsoodul Hasan Nuri. Islamabad: Islamabad Policy Research Institute (2005): 115.

¹⁴⁷ This idea was taken from a lecture by Vali Nasr, on 6 Mar 06, during his class on Islamic Fundamentalism at the Naval Postgraduate School.

registered to partake in the elections of 1997. This policy succeeded in the sense that it demonstrated to the people that they had some say in the Government and that their vote counted. Unfortunately, this right has very little meaning in the FATA because the laws of Pakistan do not extend into the FATA. It did lay the ground work for getting people involved in the process being used in the rest of Pakistan, but there will not likely be a sense of ownership until the Pashtun are faced with consequences or benefits from their participation.

6. Post 9/11 Policy

The next major change in Pakistan's policy towards the FATA came after 11 September 2001. Because the attack on the World Trade Center and the Pentagon in the United States was linked to a terrorist organization operating in the border areas between Pakistan and Afghanistan, the United States made it clear that Pakistan would either alter its policy regarding its control of the FATA or be labeled a threat. As expected, the Government of Pakistan sided with the United States and allowed U.S. forces to set up forward operating locations inside Pakistan. The Government of Pakistan also began a campaign of suppression to establish Government authority in the FATA by force. On the domestic front, President Musharraf publicly stated three tasks to improve Pakistan's national security: 1) the FATA must be absorbed by the state—the divisions in law and order must become the same as the rest of Pakistan, 2) Al Qaeda's operations must be forced out of the FATA, and 3) Pakistan must prevent the U.S. from having to take direct action against the trans-national terrorist networks operating in Pakistan.¹⁴⁸

To achieve President Musharraf's current national security objectives, Pakistan has begun the process of permanently establishing authority within the FATA. President Musharraf has declared that the tribal custom of *melmastia* will not be extended to terrorists.¹⁴⁹ The Pakistani Army has begun to close the border between Afghanistan and Pakistan, making it more difficult to cross. Pashtuns are no longer allowed to simply come and go as they please. Though this does not mean the border is no longer porous, it has slowed the number of border crossings significantly. Pakistan has also instituted "search and screening" operations with the objective of flushing out the terrorist networks

¹⁴⁸ Address delivered by General Tariq W. Ghazi in 2005, translated by BGen (Ret.) Feroz Khan.

¹⁴⁹ Nuri, 133.

in Pakistan. These operations mostly involve Pakistan's Regular Army, but *lashkars* consisting of different Pashtun clans have been formed throughout the FATA. The Government of Pakistan has begun to play one Pashtun tribe off another in order to establish order and authority.

a. Policy Results

The success of the current policy in the FATA under President Musharraf cannot yet be judged as a success or failure. Pashtun reaction varies widely across the scale between resistance and acceptance. The source of the resistance stems mostly from Pashtun tribes with deep connections to Afghan tribes or the Taliban. Some resistance also stems from anti-U.S. sentiment in the region over the current situation in Afghanistan. However, Pakistan has recommitted itself to gaining order in the FATA. President Musharraf's agenda is specifically designed to re-establish the authority of the state within the FATA and bring the people living there into modern Pakistani society.

To date, the Government of Pakistan has over 70,000 troops deployed along the Pakistan-Afghanistan border. Military operations, aimed at rooting out Al Qaeda operatives and establishing order, have been ongoing since January 2004. Some Pakistani experts fear that these operations will weaken the Government's credibility and slow development projects. However, the Pakistani military has only met stern resistance from the Pashtun living in North and South Waziristan. The operations that have been conducted in the other areas of the FATA have been met with the tacit cooperation of the Pashtun tribes living in those areas.¹⁵⁰

7. Frontier Crimes Regulation

The Frontier Crimes Regulation (FCR), as revised in 1901 by the British, was adopted in 1947 by Pakistan's new government and (with only minor modifications) is still in effect today. This is a contradictory policy since it has elements of both accommodation and suppression with regards to government policy. At one end, it reflects accommodation because it allows Pashtunwali to exist as the primary rule of law in the FATA. However, it also reflects suppression because of the enormous power it affords to the PA to punish and administrate the people of his political district without regard for the civil rights afforded to other Pakistanis.

¹⁵⁰ Nuri, 139-140.

Though the FCR is an expansive document, this section will only highlight certain elements that are relevant to this thesis. With respect to the Pashtun themselves, the FCR has three important and empowering aspects. First, the FCR made it legal to kill an individual if it is in accordance with Pashtunwali. Second, the Government is allowed to ban political demonstrations. Third, it used to be legal for a private citizen of the FATA to accuse an individual of breaking the law, to have him arrested under the authority of the FCR, and to be imprisoned for up to five years—all based solely on suspicion. The last practice was outlawed in 1963 due to its abuse by *Khans* and *Maliks* who used the law to increase their wealth and land.¹⁵¹

The FCR also gives the Political Agent (PA) a tremendous amount of latitude in dealing with the tribes living within the FATA. The PA administers the tribes living within his designated Political Agency “in accordance with tribal customs”. For the most part, the PA does not interfere with domestic issues; those are left to the tribes and their code of Pashtunwali. Under the provisions of the FCR, the PA gains an enormous amount of power over the tribes. First, the PA is authorized to use the tribal custom of *baramta* when dealing with hostile tribe members, which includes seizing any amount of property or arresting any number of individuals he suspects are responsible for illegal acts. Second, the PA may confiscate the property of any individual arrested. Third, the PA can prevent an individual, or even an entire clan/sub-clan, from communicating or interacting with any other individual or clan/sub-clan. Fourth, if the PA determines that a settlement presents a threat to the state, he can order it to be destroyed and force the people living there to move. Fifth, the PA can order any person in the FATA to prevent the murder of an individual it perceives to be in danger or to prevent any act of sedition. If the individual appointed fails, he can be imprisoned for three to six years. The PA is also allowed to determine the conditions under which the individual will be imprisoned (whether it is to be hard labor or not).

The FCR also empowers the PA in a judicial capacity. Though it is true that a *jirgah*, whose members are typically *Maliks* or prominent elders selected by the PA, is given the responsibility to investigate both criminal and civil cases in order to deliver a

¹⁵¹ Kahlid Aziz. “The Frontier Crimes Regulation and Administration of the Tribal Areas of Pakistan,” in *Tribal Areas of Pakistan: Challenges and Responses*. Ed. Pervaiz Iqbal Cheema and Maqsoodul Hasan Nuri. Islamabad: Islamabad Policy Research Institute (2005): 124-126; Spain 1963, 155.

judgment, this judgment is only a recommendation that must be approved by the PA. Once the PA has made a decision, no appeal can be made.¹⁵²

a. Policy Results

The FCR was never a policy for promoting integration. The broad scope of power given to the PA combined with the relatively small amount of government oversight was designed to pacify Pashtun tribes rather than establish state authority. However, the fact that the majority of cases handled by the FCR are adjudicated in accordance with Pashtunwali allows a sense of ownership for the Pashtun. Therefore, the state plays upon Pashtun dedication to “this code of honor whose sanctity and inviolability the tribesmen cherish above everything.”¹⁵³ Pashtuns accept the FCR because it exists under the auspices of Pashtunwali. The power of the state allows it to continue using the FCR despite some Pashtun resistance, but it does not improve the authority of the state’s rule of law.

The FCR prevents the Government of Pakistan from making any progress towards integrating the Pashtun of the FATA into Pakistan’s primary rule of law. The FCR was created to be a “powerful weapon in the hands of the administration to show its efficiency and effectiveness and to bowing the heads of the tribesmen.” It is an accepted tool of subjugation because it preserves some elements of Pashtunwali. Any action that does not appear to be in accordance with Pashtunwali is simply perceived as an unjust action made by the state. “A former advocate general of Pakistan once said on the floor of the Senate that in the tribal system there is no [lawyer], no [argument] and no [appeal].”¹⁵⁴ Most often, the PA is required to carefully administrate his area using a combination diplomacy and force. Although it does not happen often, the indiscriminate use of the FCR by the PA does not portray the state as a just administrator and only serves to further delineate the state’s definition of justice from the Pashtun’s definition under Pashtunwali.

¹⁵² Mumtaz A. Bangash. “FATA: Towards a New Beginning,” in *Tribal Areas of Pakistan: Challenges and Responses*. Ed. Pervaiz Iqbal Cheema and Maqsoodul Hasan Nuri. Islamabad: Islamabad Policy Research Institute (2005): 62-63.

¹⁵³ Azmat Khan, 89.

¹⁵⁴ Bangash, 65.

8. The Maliki System

A second policy the new Government of Pakistan adopted from the British and still uses today is the Maliki System. As previously stated, the new Government was eager to ensure the people living in the Tribal Areas were going to willingly join the new state. Therefore, the Government accommodated the tribes by continuing the Maliki System because it provided a method of connecting the state to the tribes without the requirement of new agencies and new administrations aimed directly at penetrating the Tribal Areas to make contact with the people there.¹⁵⁵ The Maliki System gave Agency administrators the ability to engage an entire tribe through one single individual. The title of *Malik* has always been bestowed on a family and handed down from generation to generation. A second title, called a *Lungi* has the same function as a *Malik*, but the position has never been hereditary.

a. Policy Results

The Maliki System separates the state from its people in the FATA. The state selects *Maliks* and *Lungis*; they are not representative of the people. This system enabled tribal *Maliks* to put their interests first and created a barrier between the Pashtun (the beneficiaries) and the Government (the benefactor). Allowances and subsidies were still apportioned in accordance with each individual's hereditary standing within the tribe. An individual could count on receiving a specified amount, regardless of whether he was a model citizen or a delinquent. Therefore, the program offered no incentive to change or progress which is why the Pashtun accepted the policy.

Pakistan's decision to continue its use of the Maliki system following President Jinnah's death was reinforced by the use of the same system in Afghanistan. Leaders in the Government of Pakistan perceived that the Afghan government was successfully using the Maliki system to enforce its authority.¹⁵⁶ What the Government of Pakistan failed to realize was that the Afghan government was not concerned with elevating the other tribes to the same level as the Pashtun living in Kabul. The Afghan government, which was dominated by Pashtuns at the time, wanted to solidify Pashtun power while keeping the other tribes pacified.

¹⁵⁵ Rashid A. Khan, 27.

¹⁵⁶ Ibid, 31.

“Even after five decades of independence the tribal population remains largely disenfranchised with the *Maliks* playing the role of intermediaries in the politics of patronage.” The Maliki System failed (and still fails today) to bridge the gap between the state and the people of the FATA for two reasons. First, because these individuals are not elected representatives, it separates the people from their Government and inhibits integration. Second, the Maliki System only motivates and inspires cooperation among the *Maliks* and *Lungis*, because it allows them to exploit the system for their own benefit.¹⁵⁷

When looking at the social and administrative policies of Pakistan, two obvious points come to mind. First, Pakistan’s ability to establish state authority has been a function of state capacity, and second, Pakistan must commit to engaging the tribes at the “grass roots” level. This level of engagement was the vision of Pakistan’s first President, Mohammad Ali Jinnah. Jinnah understood that subsidies and allowances paid out in exchange for good behavior would never bring about change or integration.¹⁵⁸ Though isolating the Pashtun tribes and allowing them to govern themselves independent of the laws of the state minimized the violence originating from the Tribal Areas, it also solidified Pakistan’s ethnically fragmented society. Though the Pashtun living in the Tribal Areas were residing within Pakistan’s borders, their isolation meant that they would never identify themselves as Pakistanis instead of Pashtuns.

D. THEORETICAL FRAMEWORK APPLIED TO PAKISTAN’S POLICIES

The objective of this section is to apply the theoretical framework outlined in Chapter I to the collection of Pakistan’s policies in the Tribal Areas in order to clarify the sources of Pashtun resistance and to judge the validity of the framework. Success, in terms of policy, is defined as state action which promotes the state’s authority over the tribes. The end result should enable the state to establish a common rule of law for all its citizens and to gain/maintain a monopoly on the legitimate use of violence within its borders.

¹⁵⁷ Iftikhar H. Malik. *State and Civil Society in Pakistan: Politics of Authority, Ideology and Ethnicity*. New York: St Martin’s Press, Inc. (197): 21.

¹⁵⁸ Rashid A. Khan, 30.

1. Organizational Factors

a. *Government Tribal Policy should be based on the Tribe's Social Organization*

The Maliki System violates this proposition. As stated in Chapter III, Pashtun tribes have a horizontal hierarchical structure. The custom of using a *jirgah* to decide important tribal business indicates a democratic tradition and that the Pashtun value a society based on the equality of men within the society.

This is not to say that certain individuals do not have more influence than others during a *jirgah*. Eloquence, heroism, and status (defined as wealth, influence in other areas, or even a representative status with the central government) can all be characteristics that increase the value of a man's advice and strengthen his position during a *jirgah*.¹⁵⁹ Despite such men being selected by the tribe as a *Malik* or *Khan*, it did not grant them the authority to make decisions on the tribe's behalf. The Maliki system suggests that the British, and later the Pakistanis, misinterpreted this influence as authority.

At a broader level, the One Unit Plan also violated this proposition. The independent nature of the Pashtun tribes caused them to resist this policy because it was perceived as an attempt by the state to marginalize the Pashtun identity under the auspices of eliminating regional and political identity. From a Pashtun perspective, the regional government of West Pakistan indicated that the central government regarded Sindhis, Baluchis, and Pashtuns as a whole. What little connection the Pashtun had with the Government of Pakistan was being diffused by the addition of two other ethnic groups. Pashtuns were incapable of thinking in terms of "West Pakistani" interests. The social structure of the Pashtun could only consider Pashtun interests. This suggests that a government would have to achieve a high level of integration, allowing an ethnic group to identify with the state before instituting a policy like the One Unit Plan.

b. *Government Tribal Policy aimed at segregating or isolating Tribes undermines State's Authority*

The Government of Pakistan has had predictable successes and failures based on this proposition. First, the decision to remove the state's soldiers from the

¹⁵⁹ Henry Bellew's *A General Report on the Yusufzais* published in 1864, which is outlined by George Allen, 94-97.

Tribal Areas immediately following Partition and the formal request by President Jinnah that the Tribal Areas join the new state of Pakistan—indicating that the Tribal Areas actually had a choice—both conveyed that the Government considered the people living there to be on an equal footing with the rest of the people of the state. No other province would have soldiers actively deployed to keep the peace, and the people were being asked to decide their own fate. Both of these actions were deliberately aimed at including the Tribal Areas, and therefore resulted in reasonable successes.

A second predictable success—though it was limited—came with the institution of the Forward Policy. Government presence was reinstated in the Tribal Areas in two ways: 1) soldiers to signify the state's monopoly on violence, and 2) teachers and medical services to elevate the social welfare of the people. The violence that was common in the Tribal Areas demanded that the state step up the amount of security within the region. If a state does not have a monopoly on violence, people are forced to submit to the most powerful actor in the area which essentially erases the legitimacy of the central government. The increase in social programs during the early to mid 1970s strengthened the link between the state and the people and allowed the people to recognize the benefits of state integration. Proof of this policy's success was found in the fact that Afghanistan's efforts to inspire Pashtun nationalism during the 1970s failed due to the Pashtun' perception that life in Pakistan was better than in Afghanistan.¹⁶⁰ Unfortunately, the rise of the Soviet threat curtailed this policy.

A third success relating to this proposition was the policy of relocating Pashtuns to other locations within the State of Pakistan. Co-optation was willingly accepted in cases where Pashtuns were being appointed to key political and military positions within the state. Those individuals who were geographically re-located also demonstrated less resistance because they were being re-located against their will and did not have their traditional support network available. Being distanced from their families, the state became the primary source of the individuals' social support and welfare. The individuals were forced to interact with other ethnic groups both socially and professionally which further encouraged integration.

¹⁶⁰ Rashid A. Khan, 36.

A major failure, with respect to this proposition is the continued use of the FCR. The FCR, by design, segregates and isolates the people living in the FATA from the rest of the people in Pakistan by placing Pashtuns under a vastly different rule of law. Certainly, the Pashtun believe that it is better to live in a world where Pashtunwali governs people's behavior, but it undermines the authority of the state by reinforcing the notion that Pashtunwali supersedes Pakistani law. The use of the FCR also solidifies the Pashtun identity and socially isolates Pashtuns from the people living in the other provinces of Pakistan.

A second policy that violated this proposition occurred when the Government of Pakistan withdrew from the FATA and began to support resistance groups fighting against the Soviets in Afghanistan. The effect was that authority was ceded by the Government to the leaders of the resistance that were physically present and gained a monopoly on violence in the region. The economy built on guns and drugs further distanced the connection between the state and the people, allowing resistance leaders to become the region's benefactors rather than the state. Religious needs were being fulfilled by schools cultivating extremist behavior with the tacit support of the Government. Without state regulation or monitoring, terrorist training camps were able to spring up and flourish in the FATA. Though the initial policy was selected due to the need to prioritize state security, the continued support of this policy after the Soviets left Afghanistan suggests it was either a policy based on short term rather than long term goals or a gross miscalculation of the state's ability to control the resistance groups.

2. Normative Factors

a. Government Tribal Policy should consider the Tribe's Perception of Justice on the establishment of State Authority

The use of the PA in the administration of the FATA fails to satisfy this proposition. The PA's ability to appoint *Maliks* or *Lungis*, recommend increases or decreases in individual allowances, pay large sums of money to individuals to help him pursue his own interests, and grant contracts for services to certain tribes or families gave the PA an enormous amount of leverage in the FATA.¹⁶¹ Because Pashtun society operates on the custom of *nikat* (the apportionment of entitlements based on hereditary

¹⁶¹ Humayun Khan, 110.

standing within the tribe, clan, or family), any appointment, contract or reward that was granted outside this custom creates resentment. Though these powers, granted by the state, greatly expand the PA's ability to maintain order and peace in his political district, their use often casts an unfavorable light on the actions of the Government.

Pashtuns have no influence on who is appointed as a PA. Therefore, there is no sense of representation. Though the PA is supposed to govern in accordance with tribal custom under the FCR, the PA is not accountable under Pashtunwali—he is not a member of the tribe, and his judgments are not the result of a *jirgah*. Though the PA maintains *power* over the tribes through the use of his broad administrative and punitive powers, these powers work against his ability to gain *authority*.

The One Unit Plan also violated this proposition. This policy, created by the state without the participation of the people of West Pakistan, attempted to establish a common administrative identity among three different ethnic groups. To the people living in the newly formed province of West Pakistan, the One Unit Plan was simply a case of the state using its authority over its people to strengthen the state's control over them. Because the three affected ethnic groups were all opposed to the policy, it worked against the state's desire to establish its authority.

A final case that opposes this proposition stems from Pashtun concern about what is driving current Pakistani policy in the FATA regarding border security. Pakistani political opposition groups on the NWFP and the FATA perceive the current government policy of closing off the border with Afghanistan and removing Taliban and Al Qaeda forces from the FATA are being driven by U.S. policy. Pakistan's efforts to change the Pashtun norms in the FATA, norms that were once tacitly supported by the Government of Pakistan, have led to growing anti-American sentiment. The severe anti-American sentiment spreading throughout the region only makes it more difficult for the Government of Pakistan to accomplish its goal of rooting out terrorist networks and re-integrating the FATA with the state.¹⁶² Because Pashtuns see the Government's actions as *American* policy, they resist state efforts to establish order in the FATA and are less likely to give legitimacy to state authority in the region.

¹⁶² Nuri, 132.

b. Customary Norms, not Religious Norms are what impede State Authority

Because Pakistan is a Muslim state, there have been few instances of resistance towards policy based on religious norms. The current situation in the Government has forced President Musharraf to engage the religious right in order to marginalize the externally controlled liberal movements in Pakistan.¹⁶³ Because the two primary liberal parties in Pakistan (the Pakistan People's Party under Benazir Bhutto and the Muslim League under Nawaz Sharif) have essentially been frozen due to their leaders exile, President Musharraf's party (the Kings party) must deal with the political groups like the Muttahida Majlis-e-Amal (MMA—United Action Front—is a religiously motivated political group made up of Pashtuns and concentrated on the NWFP) to gain a sufficient majority for getting things done in the Government. Though there has been some opposition to Government actions, the Government of Pakistan has been able to maintain its authority over the MMA.

In the FATA, the primary problems between Pashtuns and the Government are based on customary norms. As is clearly evident from the case study in the previous section, Pashtun commitment to Pashtunwali and Pashtun desire to maintain independence are clearly responsible for the barriers to Government authority.

E. CONCLUSION

Pakistan's policy decisions regarding the Tribal Areas appear to reflect a choice between what the state wants to accomplish—the establishment of its authority through integration—and what the state must do to maintain its national security. In the past, the decision of whether or not to use the FATA as a security buffer or to integrate the people living there into mainstream society has been a conscious choice made at the domestic level. However, the events of September 11th, 2001, suggest that this decision is no longer domestic. The concerns of the West (principally the United States) suggest that Pakistan's policies aimed at segregation and isolation may no longer be an option. The United States' support of Pakistan's operations in the tribal areas, reflected in its \$3

¹⁶³ Dr. Mumtaz Ahmad highlighted that the Muttahida Majlis-e-Amal's surprising acquisition of 20% of the seats in the national Parliament and its aspirations of "Taliban-like" practices are a source of concern for many moderate Muslims. These comments were made during a presentation on 18 Nov 05 in Paris, France.

billion aid package, indicates the United States' willingness to help Pakistan ensure it has the capacity necessary to deal with this monumental task.

Looking at the history of Pakistani policy in the FATA, many of the challenges faced by the British have also affected Pakistan's policies. From a normative perspective, the Pashtun were used to receiving government subsidies in exchange for order. Despite the realization of President Jinnah that it would ultimately prove to be counter-productive, Pakistan, due to its limited capacity, had to continue to supply the same subsidies to avoid conflict with the Pashtun. In terms of Prospect theory, government subsidies had been incorporated as a societal norm, and taking it away would be considered a loss, and a probable cause for resistance.

History has shown Jinnah was right about the destructive results of such a policy. Though Pakistan has succeeded in minimizing the amount of violence in the FATA using subsidies, those payments have failed to inspire integration and state authority. Pakistan still does not enforce its laws on the people in the FATA because of past resistance, a lack of capacity in view of its external threats, and its desire to avoid conflict on its northwestern border. Instead, Pakistan has chosen to isolate the Pashtun in the FATA in hopes of protecting the rest of its citizens. From an organizational perspective, Pakistan, like the British, has relied on the Maliki System to connect the Pashtun to the state. The Maliki System violates Pashtun social organization by attempting to engage a society without a hierarchical power structure through a single individual. The maliks typically pursue their own interests rather than serving in the interest of the state.

In many ways, British policies have created difficult barriers for Pakistan to overcome. Being a new state with very little capacity, Pakistan had to rely more on its abilities to influence the Pashtun through diplomacy than military forces or money. The one thing Pakistan did have was a common ground rooted in Islam. However, when state policy called for changes in tribal customs, the Pashtun resisted, much like they did with the British.

The next chapter looks at the interaction between the Pashtun and a communist government. The Soviet Union, much like the British, had more resources available for establishing its authority over the Pashtun. The Soviets' typical emphasis of the poorer, working class, its proclaimed commitment to atheism, and its desire to expand Soviet

culture to its satellite states provided three very different approaches to the same problems which confronted both Great Britain and Pakistan.

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V. SOVIET CASE STUDY

*My spirit will remain in Afghanistan, though my soul will go to God.
My last words to you, my son and successor, are: Never trust the
Russians.*

**Abdur Rahman Khan
Amir of Afghanistan, 1880-1901**

A. INTRODUCTION

This case study provides an analysis of the policies used by the Soviet-sponsored communist government in Kabul between 1979 and 1989. Though technically the ruling regime in Afghanistan was the communist party in Kabul, the Kremlin was ultimately directing its policy. Like the previous two case studies, this chapter discusses the specific policies used by the ruling regime in Kabul to establish its authority, their outcomes, and presents an analysis of those policies using this thesis' theoretical framework.

This particular case study is different from the others because Soviet policy was directed at almost all of the ethnic groups in Afghanistan. Though the Soviets did not specifically direct policy to counter Pashtun resistance, this case study remains relevant because the Pashtun made up a significant majority of the population and the resistance movement on the eastern frontier primarily consisted of Pashtun tribesmen. Therefore, the purpose of this chapter remains the same as the previous two: to lay out the different Soviet policies, explain their successes and failures, and determine the relevance of the theoretical framework outlined in Chapter I.

Because the Soviet case takes place in fairly recent history, and the policies were so different than those of the British or the Pakistanis, it becomes a valuable addition to this thesis. It is important to note that very few Soviet policies were ethnically based. Most Soviet policies were very broad in scope and similarly threatened each ethnic group's way of life. Because the Pashtun constituted the majority of the population—40% is a common estimate—and headed six of the seven primary resistance parties, an

assumption will be made that the Pashtun taking part in different resistance groups responded to Soviet policy in a manner commensurate with Pashtun custom.¹⁶⁴

B. BACKGROUND

A review of the literature reveals that most scholars of the Soviet invasion and occupation of Afghanistan agree about the events that took place between 1979 and 1989. These experts agree it is almost impossible to determine exactly why the Soviet Union decided to invade Afghanistan. The offense minded argument is that the Soviet Union wanted a port on the Indian Ocean, near the oil rich countries of the Persian Gulf. The defense minded argument stems from the desire to curb the rise of Islamic ideology in Central Asia. This argument also supports the notion that the Soviets feared that Islamic Fundamentalism could successfully rival or even usurp the spread of Marxist ideologies. A third argument claims the invasion was simply Moscow's attempt to seize an opportunity to expand Soviet influence in South Asia based on the weak standing of the Afghan government and the relative little regard for the State in the West. Finally, a fourth argument suggests that it was an attempt to honor the Brezhnev Doctrine, the obligation of all Communist parties to support and sustain one another.¹⁶⁵ However, one thing that is certain is that the Soviets understood the Communist government in Kabul was failing.¹⁶⁶

Regardless of Moscow's true motives for invading Afghanistan, there is no doubt that the Soviets (Russians) were no stranger to this particular part of the world. Unlike the British, the Soviets had been involved with the Afghan people for nearly two centuries. "The Soviet leadership badly miscalculated Afghanistan's potential for sustained tribal rebellion. Soviet academics warned against the invasion, and Moscow's

¹⁶⁴ Gilles Dorronsoro. *Revolution Unending: Afghanistan: 1979 to the Present*. London: C. Hurst & Co Ltd (2005): 15, 151. The lack of an accurate census leaves the actual number of Afghan Pashtun uncertain, but most sources agree the number was around 40%. The six Pashtun parties were based out of Peshawar and were supported by Pakistan. Ahmad Shah Masud, a Tajik, led the seventh primary resistance group.

¹⁶⁵ Milan Hauner. *The Soviet War in Afghanistan: Patterns of Russian Imperialism*. Philadelphia: University Press of America (1991): 87-89; Bradsher, 137-160; Thomas T. Hammond. *Red Flag over Afghanistan: The Communist Coup, the Soviet Invasion, and the Consequences*. Boulder: Westview Press (1984): 130-140.

¹⁶⁶ Bradsher, 153.

special advisor in Kabul was highly skeptical, but these were a minority.”¹⁶⁷ Instead, Soviet leadership decided the benefits of occupying and annexing Afghanistan would eventually outweigh the costs. This decision set in motion a campaign the Soviet Union was unprepared to win.

The communist government’s position in Kabul was tenuous in 1979. Moscow recognized the regime’s vulnerability and decided to intervene to prop up a new communist regime under its control. Afghanistan’s ruling party (a communist party), the People’s Democratic Party of Afghanistan (PDPA), was becoming more and more unpopular.¹⁶⁸ The PDPA was split into two factions: the Khalqis, who were in power at the time of invasion, mostly came from the rural areas of Afghanistan and consisted of a number of minority ethnic groups integrated in with the Pashtun majority, and the Parchamis, who were predominantly non-Pashtun and represented the wealthier, urban Afghans. Throughout Afghan history, the rural Afghans have been more influential. The Khalqis were far more nationalistic than the Parchamis and far more rebellious. Therefore, when the Soviets decided to intervene, they backed the Parchami faction because it was easier to control.¹⁶⁹

After the invasion, the Soviets set up a puppet regime in Kabul headed by Babrak Karmal. Karmal played no part in the coup d’ etat that unseated the sitting president, Hafizullah Amin, from power, arriving from Central Asia the day after the invasion of Kabul ended. This emphasized the fact that Karmal was merely the mouthpiece for Moscow and that the Kremlin was in charge of the Afghan government.¹⁷⁰

At the time of the Soviet invasion, the Soviet military had two primary objectives: 1) to gain and maintain control of Kabul, while ensuring the line of supply and communication between the city and the Soviet Union remained open; and 2) to disrupt and destroy logistical support to Afghan resistance forces.¹⁷¹ Initially, the Soviets

¹⁶⁷ Hauner, 108.

¹⁶⁸ Edward Girardet. *Afghanistan: The Soviet War*. New York: St Martin’s Press, Inc (1985): 135.

¹⁶⁹ M. Hassan Kakar. *Afghanistan: The Soviet Invasion and the Afghan Response, 1979-1982*. Berkeley: University of California Press (1995): 59.

¹⁷⁰ Kakar, 69.

¹⁷¹ Bruce J. Amstutz. *Afghanistan: The first Five Years of Soviet Occupation*. Washington DC: National Defense University Press (1986): 143-144; Hauner, 93.

succeeded in gaining control of Kabul, and other population centers, yet the majority of Afghan society lived in the rural areas.

To establish their role as the central authority in Afghanistan, the Soviets used a number of different policies ranging from suppression to accommodation. Initially, the Soviets used three policies: the suppression of Afghan resistance in the cities, the “Sovietization” of the urban areas in Afghanistan, and the creation of a Soviet controlled Afghan army. These policies were characterized in a speech by Louis Dupree at the annual meeting of the American Anthropological Association where he said, “the Russians are not trying to control Afghanistan, but to destroy it; their aim is not to kill the Afghans, but to drive them out of the country.” Dupree later coined the term “migratory genocide” to describe Soviet actions.¹⁷²

All three of these policies failed to establish the Soviet-sponsored regime’s authority and resulted in the mass exodus of non-communist Afghans out of Afghanistan. At the same time, a migration of most communist Afghans to the Soviet-controlled urban areas, especially Kabul, took place. These failures motivated the Soviets to later use policies directed at accommodation and co-optation, but the brutal nature of the invasion and occupation soured many relationships and made it difficult to change course. These attempts were further complicated by the fact that the Afghan resistance, the majority of who were Pashtuns, were fiercely committed to their independence and were not readily willing to submit to Soviet authority, regardless of whether it was achieved through suppression or accommodation.

C. SOVIET TRIBAL POLICIES

1. Infiltration and Suppression of Resistance in Major Cities

The Soviet plan for taking control of Afghanistan first focused on gaining control of the Afghan government and Afghan urban areas. The Soviets used many of their Central Asian forces to gain control of the urban centers, hoping the Afghans would more readily identify with soldiers from their northern borders, seeing them as fellow Asians rather than Soviet invaders.

¹⁷² Speech by Louis Dupree at the annual meeting of the American Anthropological Association, Washington, D.C., 5 December 1980.

The Soviets gained almost immediate control of Afghanistan's major cities—Kabul, Kandahar, and Herat. Shortly after the invasion, the Soviets began to infiltrate existing national and local governments to aid in the suppression of any uprisings or resistance in urban areas. Using the Khidamat-e-Atla't Daulati (KhAD), the Soviet-sponsored Afghan secret police, the Soviets began to root out resistance sympathizers through the use of “arbitrary arrest, torture, imprisonment, and execution.”¹⁷³

KhAD forces penetrated every level of government and established a presence in every residential area. This enabled the Soviets to begin randomly picking up individuals suspected of opposing the government and “to destroy the life of anyone suspected of resistance.” Through the use of torture and the threat of violence to families, KhAD forced individuals to admit their ‘guilt’, and then used those confessions to publicly justify its actions.¹⁷⁴ The depth of KhAD's penetration into the Afghan government meant that “no Afghan, with the exception of Karmal, was beyond its reach.” Serving as both judge and jury, KhAD rarely acquitted people arrested for crimes against the government.¹⁷⁵

In addition to the KhAD forces working within society, the Soviet forces set up roadblocks to keep resistance fighters out of the cities and established curfews to make it more difficult to conduct resistance operations at night.¹⁷⁶ All forms of resistance were discouraged. Any efforts to demonstrate against the Karmal regime were met with harsh consequences. Even demonstrations led by school children were suppressed by KhAD forces firing into the crowd. When business owners attempted to go on strike in opposition to the government, KhAD forced them to re-open under the threat of being taken to jail. Determined to rid Afghanistan of resistance fighters, the Soviets continued to use this policy in urban areas throughout the occupation.

The Soviets, continually plagued by strong resistance forces in Kandahar and Herat, resorted to bombing and shelling resistance strongholds in these two cities. When

¹⁷³ Quoted in J. Laber, and B. Rubin. *A Nation is Dying, 1979-1987*. Evanston: Northwestern University Press (1988): 77.

¹⁷⁴ In addition to “normal” methods of torture, “males were threatened with having their wives or female relatives sexually assaulted in their presence.” Kakar, 163.

¹⁷⁵ Kakar, 156-164.

¹⁷⁶ Bradsher, 209.

these efforts failed, Soviet forces conducted “a brutal, block by block, WWII style assault”, but still failed to rid the cities of resistance.¹⁷⁷ Finally, in 1987 and 1988, the Soviets began political assassinations, “the sort of tactic usually chosen by the weaker side in an irregular conflict.”¹⁷⁸

An exception to this policy of suppression was made shortly after the Soviet’s solidified their position in Afghanistan’s urban areas. Though initially, the Soviets wanted to get rid of the *mullahs*, they later realized that these men could promote the Karmal regime. Karmal portrayed himself as a religious man, going daily to prayers at the mosque in Kabul. Karmal also invited all the *mullahs* in Afghanistan to a conference in July 1980 in an attempt to gain their support. Ultimately, Moscow wanted to control the *mullahs* and to “obtain the appearance of religious sanction for government policies, including quoting the Koran to contend that fighting for the Karmal regime was accomplishing the injunction of God.”¹⁷⁹ This policy demonstrated a movement from pure suppression to co-optation and showed that the Soviets did not believe the people of Afghanistan could be conquered through military force alone.

a. Policy Results

While the Soviet infiltration of the Afghan government succeeded in completely penetrating every level of administration, the Soviet decision to place Babrak Karmal at the head of the government failed to produce a legitimate government. Elected by the people to serve two terms in parliament, he was an important and respected individual prior to the invasion (and a Durrani Pashtun). However, the Soviets attempted to simply install him as the leader of Afghanistan without any process of legitimation. After killing Amin and taking control of the government, Karmal was flown into the country from the Soviet Union to assume control. Because there was no attempt by the Soviets to gain the political support of the Afghan people and because Karmal did not arrive in country until four days after the coup took place, Afghans saw him as a puppet of Moscow.¹⁸⁰ “[Karmal’s] presence alongside the Red Army is so small that it attracts

¹⁷⁷ Hammond, 165.

¹⁷⁸ Hauner, 95-96.

¹⁷⁹ Bradsher, 233.

¹⁸⁰ Kakar, 67-75; Hammond, 100.

no attention.”¹⁸¹ Outside Karmal’s political faction, the Parchamis, he had no authority, and without Soviet protection and the Soviet army, Karmal had no control of the country. Resistance to Karmal’s regime began immediately.

The decision to use Soviet soldiers from Central Asia backfired. The Afghans did not perceive the Soviet invasion as any less hostile because there were a significant number of Central Asian soldiers. In fact, this plan actually worked against the Soviets. The Soviet Central Asians identified with the Afghans due to their ethnic and religious ties, and came to respect the Afghans for struggling so hard to accomplish what they themselves had failed to do.¹⁸²

The policy of suppression in Afghan urban areas had mixed results. The heavy-handed tactics used by the Soviets and the KhAD quickly minimized the amount of resistance by the urban Afghans. The policy managed to rid the major cities of resistance sympathizers by driving them out, imprisoning them, or killing them. Though the ruthlessness of this particular policy enabled the Soviets to gain some measure of control in the urban areas, it did not inspire the people to accept the authority of Karmal’s regime. Instead, such brutal tactics inspired those of questionable loyalty to the Karmal regime and those with no political affiliation to sympathize and aid resistance forces when possible.¹⁸³ In addition, the flood of Afghan communist refugees coming from the countryside into the more protected cities made it easy for resistance fighters to gain entrance into the cities.¹⁸⁴

The mass movement of resistance sympathizers from urban areas to the rural areas of Afghanistan also had consequences for the Soviets. Though the Soviets were initially successful in their efforts to subdue the Afghan resistance outside urban areas, largely due to the decision to strike early before the passes into Pakistan were open, it was only a matter of weeks before resistance forces regained control of the countryside. The flight of resistance sympathizers into the countryside bolstered their

¹⁸¹ Quote by an unnamed Afghan author during the Soviet occupation. Kakar, 68-69.

¹⁸² Hammond, 101-102.

¹⁸³ Girardet, 180.

¹⁸⁴ Bradsher, 209.

numbers. This allowed resistance forces to establish footholds in the areas surrounding Kabul. Because of this, PDPA members were under a constant threat of attack, even inside Kabul.¹⁸⁵

The persecution of Afghan religious leaders (*ulema*) between 1978 and 1979 made it impossible for the Soviet controlled regime to re-establish the trust of the *ulema*. The Soviets failed to control legitimate Afghan religious leaders (those who couldn't be bought), and the majority of the *ulema* openly denounced the Soviet occupation, branded Karmal an atheist, and refused to submit their services to the Soviets.¹⁸⁶ The Soviets' successful policy of co-opting the *ulema* in Central Asia would not be available in Afghanistan. Though the Soviets managed to co-opt a few *mullahs*, the majority of them spread the message of *jihad* against the Soviets.¹⁸⁷

2. Sovietization of Afghan Society

The second of the initial three Soviet policies involved the "Sovietization" of Afghan society, which attempted to move away from the initial policy of suppression. This policy was directed exclusively at urban areas where the Soviets maintained more control over the people. The intention of this policy was to co-opt Afghans by exposing them to the advantages of Soviet culture. Children's organizations were used to train and indoctrinate Afghan children in communist principles. Government-controlled unions were instituted for all ordinary workers to expose them to the Soviet system and to allow the government to keep a firmer hold on Afghanistan's labor force. Women's organizations were also started to teach and indoctrinate them about the advantages of Soviet society. Significant bonuses, including chauffeur driven cars, rapid promotions, housing benefits, higher salaries, and travel opportunities to the Soviet Union and Eastern Europe, were offered to those partaking in these programs. In addition to these measures, the Afghan media was put under the control of the Soviet Union. Sixty percent of the broadcasts on Radio Kabul originated in the Soviet Union during the occupation.¹⁸⁸

¹⁸⁵ Kakar, 74.

¹⁸⁶ Bradsher, 233.

¹⁸⁷ Ibid, 247.

¹⁸⁸ Hammond, 152.

Under this policy, the Soviets also directed changes in Afghanistan's educational system. Afghan textbooks were replaced with books printed in the Soviet Union that re-wrote Afghan history. Religious studies were replaced with Marxist/Leninist ideologies. Many young children between the ages of six and ten were taken from their homes and sent to the Soviet Union and the Eastern Bloc for educational opportunities and further exposure to Soviet culture. At the university level, grants and scholarships to schools in the Soviet Union were awarded to students. By 1981, "Afghanistan represented the largest contingent of students in the Eastern Bloc from any developing country." The only way for children or young adults to escape Soviet indoctrination and continue their education was to seek out religious schools, *madrasas*, in Pakistan.¹⁸⁹ "By mid 1983, roughly 90% of the students at Kabul University were women, [and] only 10% were members of the PDPA. Most of the anti-communist males had either escaped or had been drafted."¹⁹⁰ The majority of Afghans supporting the Sovietization policy were PDPA members, and those opposed to Sovietization had been forced to leave to escape persecution.

The Soviets instituted massive reforms in the distribution of land. The intention of this part of the policy was to gain the support of the peasants and thereby gain a foothold in the rural areas of Afghanistan. Initially planned as a co-optive policy, land was taken from the *Khans*—or tribal leaders—and given to the younger, poorer men of the rural tribes in hopes of fostering trust for the government and separating these individuals from tribal customs. When the younger farmers resisted the distribution, the Soviets changed to a more suppressive policy, forcing their changes on society through physical intimidation and attacking certain elements of Afghan custom such as "burning religious books, tearing the veils off women and mocking villagers at prayer."¹⁹¹

a. Policy Results

Initially designed as a co-optive policy, Sovietization demonstrated Soviet understanding that a policy of pure suppression would not succeed in establishing Soviet authority in Afghanistan. However, the Soviets grossly misjudged the effect

¹⁸⁹ Girardet, 142-148; Bradsher, 228-229.

¹⁹⁰ Girardet, 142.

¹⁹¹ Girardet, 110.

Sovietization would have on the Afghans. To a Pashtun, Sovietization was an attempt by the central government to change the Pashtun way of life. One example is illustrated by the fact that Pashtuns were unwilling to accept the redistribution of land. The Soviets' hoped that taking the land from the wealthier, often older, members of the tribe and giving it to the poorer, younger members would inspire cooperation and support for the communist regime.¹⁹² However, this violated the tribal custom of *nikat*, which established that all things are apportioned according to heredity and the tribe's social order. A second example was the fear that the Sovietization of the school systems would brainwash their children. Therefore, both resistance sympathizers and neutral families took their children out of public schools.¹⁹³

Because Sovietization was seen as a method of forcing the Afghan people to change their customs in favor of Soviet social order, the policy failed to create legitimacy for the regime. In addition, any Afghan seen taking favors or participating in the new social programs instituted under this policy, including the significant number of Afghan youth sent to the Soviet Union and the Eastern bloc, were only seen as traitors or collaborators.¹⁹⁴

3. Creation of a Soviet-Afghan Army

The third of the three initial Soviet policies was driven by the Khalqi domination of the Afghan army. The Soviets did not trust those loyal to the Khalqi party, feeling they were too nationalistic. Therefore, the Soviets disbanded the Afghan army and began to recruit its own Afghan army. The intention of this policy was to allow the Soviet forces in theater to provide security for the regime and to enforce Soviet policy in the urban areas while the Afghan forces pursued resistance fighters in the countryside in order to drive them from Afghanistan. Initially, this policy appeared to be an effort to co-opt Afghan men; including them in the occupation would give them a stake in the new government's success.

When the Soviets began to recruit men for the Afghan army, very few Afghans volunteered. This drove the Soviets to change their recruiting methods from a co-optive

¹⁹² Girardet, 110.

¹⁹³ Ibid, 142.

¹⁹⁴ Ibid, 142.

strategy to a suppressive policy. “The method of recruitment resembled more a system of kidnapping. Since the draftees were unwilling to join, the authorities dispatched army units to search houses for them. Units of the army roamed the cities for that purpose. Conscription also became a purpose of the military expeditions in the countryside. Draft dodgers were fired upon when they attempted to flee conscription.”¹⁹⁵

Failing to generate the numbers desired for their Afghan army, the Soviets instituted new policies which called for the return of any soldier that served in the armed forces between 1968 and 1978, increased the conscription period from two years to three, and broadened the scope of acceptable recruits to include boys as young as 14 years of age.¹⁹⁶ These policies only added to the exodus of Afghan men to Pakistan and Iran.

a. Policy Results

This Soviet policy ultimately strengthened the Afghan resistance. When the invasion occurred, many Afghan Army units, previously loyal to the PDPA, actually fought against the invasion and then later deserted to join the resistance, taking their weapons with them. These desertions caused the Soviet commanders to stop issuing powerful tactical weapons such as anti-tank rockets and anti-aircraft missiles to the Afghan units to ensure they would not be used against Soviet tanks and aircraft.¹⁹⁷

Forced conscription led Afghan families to encourage their young men to flee. These young men were driven to the folds of the Afghan resistance or to the refugee camps in Pakistan where they attended the *madrasas*—the primary recruiting ground for the resistance. Recalled reservists either left the cities, much as the younger men had done, or they reported for duty in order to get their issued weapon and then deserted to join the resistance.¹⁹⁸

The failures of this policy were accentuated by the Soviets’ move from co-optation to suppression. This move only worsened the relationship between the Soviet-sponsored regime in Kabul and those Afghans that were initially neither supportive nor resistant to the Soviet occupation.

¹⁹⁵ Kakar, 169.

¹⁹⁶ Kakar, 169-173; Girardet, 137.

¹⁹⁷ Bradsher, 206-7; Amstutz, 144.

¹⁹⁸ Kakar, 169-173.

4. Provincial Division

In August of 1980, the Soviets created a new policy to better administrate and control the regions outside Kabul. This policy also suggested a move from suppression to co-optation. Afghanistan's 28 provinces were divided into eight administrative districts. An Afghan PDPA official was put in charge of each district and given command of the provincial governors. In addition, a Soviet military commander was assigned to each district to serve as an advisor to the district chief.

Although the head of each zone was given special power to resolve administrative, political, and security issues, his real job was that of a social liaison officer. By spending money and exerting pressure, the regime was able to summon community elders to meet with him. The program was a resort to conventions according to which rulers in time of crisis would seek the cooperation of community elders in repairing the broken chains of social order. The heads of the zones would lecture the elders on the goodwill of the regime and the advantages that would be theirs once peace and security were restored.¹⁹⁹

Though this policy suggests that the Soviets believed gaining the support of village elders would improve their legitimacy among the tribes, the Soviets continued to use harsh, suppressive policies under the guise of an attempt to improve social relations with the tribes in each district.²⁰⁰

a. Policy Results

The administrative policy of dividing Afghanistan's 28 provinces into 8 administrative districts under a Zone Chief and a military adviser failed. These districts were designed as military districts rather than civil districts. The focus became the security of the district and civil affairs were pushed aside. Ultimately, this policy was designed to "pacify the country." However, because the Soviet military advisor was not bound to support the efforts of the Afghan district chief, the people did not respond to the chief's attempts to mend the widening gap between the people and the government.²⁰¹ Tribes continued to resist overtures made by the representatives of the Karmal regime.

¹⁹⁹ Kakar, 193.

²⁰⁰ Ibid, 193.

²⁰¹ Ibid, 193.

By 1982, many Soviet officials acknowledged that Kabul had a very tentative hold on Afghanistan and that at least 18 of the 28 provinces were predominantly under the control of the resistance.²⁰²

5. Forceful Pacification

While the Soviets consolidated their hold of the urban areas in Afghanistan during the early stages of the invasion, they also made an attempt to gain control of the eastern region of Afghanistan. By striking in the East in the spring of 1980, before the snow in the mountain passes between Afghanistan and Pakistan had melted, the Soviets hoped to prevent resistance fighters from escaping into Pakistan and isolate them in the hills surrounding the cities and villages from which they fled.²⁰³ The Soviets were intent on either suppressing or eliminating the Afghan resistance in the countryside from the start of the invasion.

Because their plan for using the Afghan army to suppress the resistance outside the urban areas failed, the Soviets were unable to maintain their initial momentum in rural Afghanistan. By the early summer of 1980, Afghan resistance fighters were making gains in the countryside.²⁰⁴ This led to a steady increase of violence being used against the resistance. When resistance fighters attacked the outposts, Soviet-sponsored forces retaliated by randomly firing on the surrounding villages. Farming or any other outdoor activity became extremely dangerous. The intent of this coercive strategy was to create tension between the resistance and local Afghans.²⁰⁵

The Soviets set up military posts in strategic areas in order to penetrate the Afghan frontier in the east. This particular aspect of Soviet policy combined elements of suppression with co-optation. Afghan mercenaries were hired by the Soviets to man the outposts. These mercenaries were highly paid and were allowed to steal from the nearby towns and villages. The Soviets also enlisted the support of Pashtun tribal militias in the eastern region. Previous Afghan regimes had a tradition of contracting out security to tribal militias. Because they were such good marksmen and tacticians, these militias

²⁰² Amstutz, 135.

²⁰³ Girardet, 33-34.

²⁰⁴ Ibid, 180.

²⁰⁵ Kakar, 174.

were often better than the regular army units. This tradition was especially successful when Afghanistan's leader possessed authority in the eyes of the tribes. However, Karmal's regime had no credibility or respect. Therefore, Karmal had to pay the tribal militias for their services and was not guaranteed of their loyalty.²⁰⁶

By December 1980, the Soviets had built 40 outposts between Kabul and Jalalabad. The Soviets shifted their focus to the eastern frontier, hoping to cut off the main supply routes from Pakistan. "Hoping to reduce the number of attacks on the posts, the Soviets nearly abandoned their practice of unprovoked shelling of the inhabited areas. But if the *mujahideen* fired at either the military posts or Soviet troops elsewhere, the invading forces adopted scorched earth tactics. Tanks and helicopter gunships would furiously shell targets in regions from which shots had been fired." Using less direct methods, the Soviets continued to pressure villagers in the region to stop supporting the resistance fighters.²⁰⁷

Main supply routes from Pakistan located in regions that made them difficult to secure were bombed and cleared. Buildings and vegetation within 150 meters of the road on either side was removed. This made it easier for Soviet forces to patrol these roads. The rules of engagement were not restrictive; patrols were given the authority to kill any individual found inside the 150 meter buffer area.²⁰⁸

Understanding that the primary source of resistance was coming from Pakistan, and that the border area was far too large to control with the number of soldiers deployed to Afghanistan, the Soviets attempted to create a "no-man's land" along the Durand Line. This strategy had two objectives: first, to rid the border area of resistance fighters, and second, to intimidate Pakistan into stopping its support for the resistance. The Soviets used aerial deployed mines and patrols by helicopter gunships to slow the traffic along the border. This had drastic effects because these measures did not differentiate between those individuals going to the NWFP in search of asylum from resistance forces coming back into Afghanistan.²⁰⁹

²⁰⁶ Payment was often in the form of either money or weapons. Kakar, 174.

²⁰⁷ Kakar, 225-226.

²⁰⁸ Girardet, 34-35.

²⁰⁹ Girardet, 37; Armstutz, 144.

However, much like the urban areas, the less suppressive strategies were all created after the suppressive strategies had been put in place.

a. Policy Results

The Soviets' pursuit of subjugating the people on the Afghan frontier proved to be short-sighted. What the Soviets initially considered a success, driving out those who were not willing to yield to Soviet authority, ended up only contributing to the support of the Afghan resistance. Consistently, the Soviets made choices that would only pacify the frontier in the short term.

Though the construction and manning of outposts throughout the frontier signaled a longer term strategy, the random shelling of innocent villagers to stop resistance attacks on the outposts did not contribute to Soviet legitimacy. Soviet doctrine which directed forces to retaliate against attacks by the *mujahideen* by randomly attacking nearby Afghan villagers succeeded in persuading the *mujahideen* not to attack Soviet outposts from the nearby villages, but the attacks continued and later became more cautious and more difficult to effectively retaliate against.²¹⁰ In addition, the policy only served to emphasize the ruthlessness of the Soviet invaders and inspired villages, who may have been neutral towards the occupation, to actively seek *badal* (revenge) against the Soviets.

The Soviets managed to successfully co-opt many poor, disenfranchised Afghans by making them mercenaries and using them to man the outposts along the eastern frontier. The posts where the mercenaries were based were successful in countering overt attacks by the *mujahideen*, so the *mujahideen* infiltrated them covertly and destroyed them from within. Each time this occurred the Soviets simply re-installed new forces and the whole process started over.

The Soviets' brutal methods to pacify the frontier by gaining control over the roads and main supply routes also failed to convince neutral Afghans to accept Soviet authority and failed to give the Soviets the control they desired. Roads into Kabul were

²¹⁰ Kakar, 226.

often closed, starving the city of food and fuel. The *mujahideen* slowly gained control of many of the roads, and the Soviets had to simply accept the fact due to a lack of capacity to respond.²¹¹

By the third year of occupation, the Soviets had almost completely lost control of the supply routes. Though the Soviets managed to establish a “no man’s land” between Afghanistan and Pakistan, they did not have the capacity to monitor the entire border sufficiently to prevent the *mujahideen* from crossing. Supply caravans were able to move throughout the countryside with little to no resistance.²¹² Though the Soviet army, with its tanks and helicopters, demonstrated the ability to successfully engage the *mujahideen* forces in virtually any location, the duration of Soviet presence was so short that it was nearly meaningless. It was the *mujahideen* that were in control of the countryside.²¹³

The Soviet strategy to pacify the frontier through the use of force only served to enrage the population. Though it seems that burning crops and villages, intimidating the people, and occasionally engaging the *mujahideen* (when they could find them) would possibly have weakened the resistance over time, the *mujahideen* continued to grow in strength because of the collateral damage inflicted on those who were not directly involved in the resistance.²¹⁴

6. Divide and Conquer Pacification

When the Soviets realized they could not defeat the resistance militarily, they decided to revert to a flexible policy of subversion, co-optation, and accommodation. Because the Kremlin had decided that a significant increase of Soviet troops was not an option, “the systematic application of KGB-style subversion—the use of psychological and economic pressures, informers, agents, financial pay-offs, imprisonment, threats and privileges—[represented] an increasingly effective weapon in the government’s efforts to attract or split loyalties among the tribes, ethnic groups, exiled political parties and resistance fronts.” The Soviets focused on using existing rivalries between the Pashtun

²¹¹ Kakar, 228.

²¹² Girardet, 28.

²¹³ Bradsher, 210.

²¹⁴ Ibid, 211.

tribes located on the eastern frontier, in hopes of playing one tribe or clan off another.²¹⁵ One practice involved empowering one tribal or clan faction over another by offering the one side the money and weapons necessary to defeat the other.²¹⁶

The Soviets also began to play upon the rivalries between Afghanistan's numerous ethnic groups. The Soviets formed a coalition of different ethnic groups to oppose Pashtun domination. The Soviets also tried to engage the minority Shi'a sect found among the Hazaras by appealing to Iran for support.²¹⁷

Ultimately, the Soviets intended to replace the enmity felt by the vast majority of Afghans towards the Soviet invaders by stirring up the long-established rivalries already present in Afghanistan.

a. Policy Results

Frustrated with their failures to establish control of the Afghan countryside, Soviet efforts to adopt more co-optive and accommodative policies on the Afghan frontier were met with mixed results. The first major attempt by the Soviets was to send the new Minister of Tribal Affairs, Fayz Mohammad (a Pashtun), out into the Afghan frontier to make use of his knowledge of common cultural and tribal customs and mores to convince tribal elders to stop their support of the *mujahideen* and to allow the Soviets access to their military outposts. Though Mohammad managed to get many of the Pashtun elders to agree to allow Soviet forces to gain access to their outposts, Mohammad was killed by the tribal police force. The Soviets and the PDPA only responded by claiming that the murderers violated Pashtunwali by failing to grant Mohammad *melmastia*. The tribes responded by stating that Mohammad "abandoned Pashtunwali when he sided with the invaders and distributed money. The code, therefore, did not apply."²¹⁸

In another instance, the Soviets successfully convinced some tribes in the Paktia province not to join the *mujahideen* by promising them that Soviet forces would not intrude on their tribal territories. However, when the Soviets later found themselves

²¹⁵ Girardet, 132.

²¹⁶ Kakar, 177.

²¹⁷ Hauner, 96.

²¹⁸ Kakar, 175.

pursuing or engaging *mujahideen* forces in the agreed neutral areas, the tribes joined the *mujahideen* in fighting the Soviets.²¹⁹

When the Soviets successfully co-opted Afghan leaders, those leaders typically lost the support of their followers when they tried to convince them to help the Soviets.²²⁰ When the Soviets tried to play on the divisions in tribal or ethnic factions, many of these groups would often pledge their loyalty to the Soviets in exchange for money and weapons and then later desert to support the *mujahideen*.²²¹

The Soviets failed to grasp the common practice of segmentary societies to put aside internal enmity towards a collective enemy. Therefore, most Soviet successes in gaining the support of tribes on the Afghan frontier were only temporary and only valid until it no longer served the tribe's interest.

7. Reverse Forward Policy

By the end of 1984, the Soviets had managed to establish a 50 kilometer wide "no-man's land" along the Durand Line. However, the flow of supplies and resistance fighters from Pakistan continued to plague Soviet efforts to gain control of Afghanistan. Realizing that the true strength of the resistance was found across the border in Pakistan, the Soviets began attacking targets on both sides of the border in order to intimidate Islamabad and to suppress resistance efforts to fight inside Afghanistan. The Soviets also began to conduct covert operations inside Pakistan, including terrorist bombings in Peshawar and infiltrating Soviet agents into the refugee camps.

By 1987, the Soviets had regained some control over the Durand Line, but the effectiveness of the resistance had become more lethal. Frustrated, the Soviets began attacking civilian areas in the NWFP and continued to support terrorist activities inside Pakistan. This policy was intended to influence the political leadership of Pakistan. Without Pakistan, the Soviet's believed the Afghan resistance would dry up.²²²

²¹⁹ Kakar, 176.

²²⁰ Amstutz, 148.

²²¹ Kakar, 177.

²²² Hauner, 93-94.

a. Policy Results

The use of collaborators to penetrate resistance groups based in the refugee camps and to either inform the Soviets about their plans or to kill powerful resistance leaders proved to be quite effective. Because so many young men were fleeing conscription, it was easy for the Soviet agents to penetrate these groups.²²³

The overt attacks on refugee areas in Pakistan, however, failed to hinder Pakistani support and only served to stiffen the resistance. External support in the form of military training and the distribution of more sophisticated weapons (most notably anti-aircraft missiles) were provided to the *mujahideen* because of these attacks.²²⁴

Though Islamabad was deeply concerned about the presence of Soviet agents operating inside its northwestern border and some of Pakistan's urban areas, the popular support for the *jihād* against the Soviet invaders was strong. In addition, the support of the United States and Saudi Arabia provided Pakistan with the ability to counter Soviet efforts under this policy. Therefore, this Soviet strategy really lacked the teeth it needed to sufficiently convince Pakistan to withdraw its support of the *mujahideen*, and provoked a response which ultimately doomed Soviet efforts to stamp out the resistance.

8. Migratory Genocide

The policy of "migratory genocide" focused on pushing Afghans opposed to Soviet occupation out of the country. This policy reflected pure suppression and left Afghans with only one of two choices: to accept Soviet occupation, or to flee to one of the neighboring countries.²²⁵ This particular policy reflects the greater objective sought by most of the other suppressive Soviet policies mentioned above.

In the beginning, the Soviets pushed out the opposition through terror tactics such as torture, imprisonment, random violence, and execution. Once the cities were somewhat under control and the majority of the Afghan opposition was pushed out into the countryside, the Soviets expanded operations from the urban areas to the countryside. Ground operations supported by helicopter gunships attacked suspected locations of

²²³ Amstutz, 146.

²²⁴ Hauner, 93-94.

²²⁵ Girardet, 202.

resistance forces. After the first year of occupation, Soviet policy changed to allow greater suppression of resistance forces. Attacks were no longer responses to resistance operations. Any village *suspected* of helping the resistance was burnt to the ground, had its crops razed and its livestock killed. The Kremlin, it appeared, had decided that demoralizing the civilians capable of supporting the resistance would rid the countryside of resistance sympathizers. Without food or shelter, these people were forced, like many others, to flee to Pakistan or Iran.²²⁶

a. Policy Results

Much like the observations regarding the Soviets' attempt to pacify the Afghan frontier through the use of force, the Soviets elected to focus on short-term goals rather than successfully establishing Soviet authority over the people of Afghanistan. It seems that the Soviets believed that the Afghans would simply leave their homeland, never to return, or accept Soviet domination and abandon their social and tribal customs that had dominated Afghan society for centuries. Initially, it appeared that this specific Soviet policy, which provided the basis for most of the other policies used during the occupation, had spectacular results. "Faced with a policy that offers little choice other than outright submission, five million Afghans or more have fled from their homeland to Pakistan, Iran and elsewhere in search of asylum. That is nearly one Afghan in three."²²⁷

However, history reveals that this suppression-based policy failed. Although the Soviets managed to drive nearly five million Afghans out of Afghanistan, it did not stop the refugees from fighting back. The *mujahideen*, trained and armed by foreign countries equally interested in causing the Soviets to fail in their mission to occupy Afghanistan, were better equipped and better trained due to their presence in Pakistan. Therefore, it is possible to conclude that the Soviet policy of "migratory genocide" greatly contributed to the *mujahideen's* success in making the war too costly (both politically and monetarily) for the Soviets to continue.

D. THEORETICAL FRAMEWORK APPLIED TO SOVIET POLICIES

The objective of this section is to apply the theoretical framework outlined in Chapter I to the collection of Soviet policies in the Tribal Areas in order to clarify the

²²⁶ Girardet, 35-36; Amstutz, 145.

²²⁷ Girardet, 202.

sources of Pashtun resistance and to judge the validity of the framework. Success, in terms of policy, is defined as state action which promotes the state's authority over the tribes. The end result should enable the state to establish a common rule of law for all its citizens and to gain/maintain a monopoly on the legitimate use of violence within its borders.

1. Organizational Factors

a. *Government Tribal Policy should be based on the Tribe's Social Organization*

Though the Soviets had the benefit of observing the successes and failures of different British policies for over 100 years in this area and different Pakistani policies for over 30 years, the Soviets failed to learn from others' mistakes. In many ways, the Soviets made the same mistakes as the British when they tried to make arrangements with tribal elders in exchange for their neutrality or submission. Similar to the failures of the Maliki System in the previous two chapters, Pashtun tribal elders did not have the power to commit the entire tribe to any sort of arrangement without a general consensus.

This fact was highlighted when Minister Fayz Mohammad was killed by members of a Pashtun tribal police. The tribal police (arobaki) "is authorized to undo a settlement that it believes its elders have negotiated against the interests of the tribe. As it maintains other service groups—mullahs, shepherds, and millers—the tribe maintains the arobaki to enforce the decisions of the jirgahs and a host of other decisions affecting the community. Supported by the community, the arobaki is a force against disorder."²²⁸ Therefore, the Soviets were doomed to make the same mistakes as the British and the Pakistanis by failing to understand Pashtun customs with respect to the tribe's social organization, and that the acceptance of Soviet authority by any single individual did not guarantee that all would accept it.

The Soviets also violated the proposition concerning the importance of tribal social organization, as well as the proposition demanding consideration for the tribe's perception of justice (which will only be discussed in this section to avoid reiterating the point later), when they attempted to Sovietize Afghan farmers. The poor peasant farmers resisted taking land from *Khans* or other wealthier landowners because it

²²⁸ Kakar, 176.

violated the custom of *nikat*. Per Pashtun custom, each individual had a specific lot in life and it would be against Pashtunwali to upset that balance. Were one to accept the re-apportionment of the land by the Soviets, it would likely have spawned a “blood feud” and demanded some reprisal under the custom of *badal*. When the Soviets resorted to violently enforcing the new land distributions, it was clear they did not understand this particular aspect of Pashtun custom, or that they possibly believed they could simply erase the custom through suppression and violence. In either case, such a policy would not likely have inspired Pashtuns to accept Soviet authority.

b. Government Tribal Policy aimed at segregating or isolating tribes undermines State Authority

The Soviet policy of “migratory genocide” was specifically designed to segregate and isolate individuals who were not supportive of Soviet authority. The Soviet failure in terms of this proposition ended up strengthening the resistance of the *mujahideen*. First, the Soviet attempt to close the border between Afghanistan and Pakistan failed. The Soviets were not sufficiently manned to obtain such an objective and the result was the creation of a sanctuary and training ground for the *mujahideen*. In addition, the increasing number of refugees that the Soviets pushed out of Afghan urban and rural areas only provided the *mujahideen* with greater numbers of recruits.

Second, it was impossible for the Soviets to completely isolate the *mujahideen* from Afghan urban or rural areas. The policy of concentrating on the urban areas suggests that the Soviets did not understand Afghan demographics. The vast majority of the Afghan population lived outside the cities. Therefore, by attempting to isolate the cities from the rural areas, the Soviets were focusing their efforts on the wrong area if their objective was to establish Soviet authority over Afghanistan.

The relatively small force size of the Soviet invasion/occupation force suggests the Soviets understood they were undermanned and should therefore focus on gaining control of the urban areas. This mindset appears to originate from a more European perspective that suggests that capturing a country’s capital and urban areas will cause the rest of the country to submit to the invasion force. However, in a non-industrial country with the majority of its citizens living in the countryside, this policy would never

succeed in establishing Soviet authority. Instead, useless search and destroy missions aimed at the attrition of *mujahideen* forces in the rural areas of Afghanistan were conducted with little effect.

In addition, the Soviets failed to completely isolate the urban areas under their control from the *mujahideen*. Afghan urban dwellers that were secretly unsupportive of the Soviet invaders would assist the *mujahideen* in gaining access to urban areas and carrying out attacks against the Soviets or members of the PDPA. Outside the urban areas, the *mujahideen* controlled the vast majority of the rural areas, despite the Soviets' advanced weapons and tactics. By isolating the urban areas, the Soviets could never have expanded their control outside the cities on a permanent basis. Because of domestic political pressure, the Soviets were in a race against the clock to gain control of Afghanistan, and the *mujahideen* only had to continue to resist and force the Soviets to continue to operate from within the urban areas in order to ultimately reclaim their homeland from the Soviets.

The third failure of Soviet policy with respect to this proposition was the purge of all "anti-communist" government officials. "One of the greatest problems in Afghanistan always had been a shortage of trained, capable administrators to run the government and the economy." Because there were so few capable members of the Parchami faction of the PDPA, the Soviets immediately ran into problems with government operation. Capable individuals were replaced with young PDPA party members, lacking both the experience and the training to effectively manage the government. In this sense, the isolation of capable individuals undermined Soviet authority because it prevented them from creating a credible government that could encourage support for the Soviet-sponsored regime.

2. Normative Factors

a. Government Tribal Policy should consider the Tribe's Perception of Justice on the Establishment of State Authority

Almost every Soviet policy that involved the use of suppression violated this proposition. From the beginning it was clear that the Soviets had no intention of limiting their tactics and strategies to ensure they were perceived as just by the Afghans. Hassan Kakar, a prisoner of the Soviet regime in Afghanistan, accurately framed one aspect of Soviet policy that violated this proposition. "The violence that the Soviets and

their compliant Afghans perpetrated could not remain unchallenged by a people whose value system demands that they take revenge. The Afghans also considered it their right to use violence since the Soviets had left no alternative to change the regime they had imposed.”²²⁹ It appears that the Soviets believed that the use of overwhelming suppressive force would eventually lead the Pashtun, and the other Afghans, to submit to Soviet authority. Though this may have proved to be true, the Soviets did not have the political will to sustain the Afghan occupation long enough for this policy to be effective.²³⁰

The Soviet conversion to forced conscription is a specific example of how the Soviets violated the Pashtun sense of justice. By 1982, this aspect of Soviet policy significantly damaged the already poor image of the Soviet invaders. Many of the men who had joined the PDPA to avoid military service were being forced into the army. Schools were practically devoid of young males, and the Afghan people scorned the Soviets for the brutal tactics they used to enlist soldiers to fight the *mujahideen*.²³¹

The Soviet choice to pursue short-term goals, such as acquiring an army of sufficient size to either eliminate the *mujahideen* or to prevent them from conducting insurgency operations in Afghanistan, were consistently chosen over attempts to instill confidence and trust in the Soviet-sponsored regime in Kabul. Soviet policies were typically short on co-optive or accommodating strategies that would be considered just and legitimate by the different tribes and ethnic groups of Afghanistan. Instead, the Soviets favored suppressive strategies that would force Afghans to submit and at the same time foster hatred and distrust for other Soviet actions.

The atrocities attributed to the Soviet invasion and occupation often countered Soviet efforts to pursue more co-optive or accommodative policies. Soviet policies in Central Asia were working against Soviet forces as soon as the invasion began. “Once the Russians were seen to be assuming direct control like a would-be conquering army—the collapse of the Afghan army was accelerated by massive refusals

²²⁹ Kakar, 199-200.

²³⁰ Hauner, 110.

²³¹ Girardet, 137-145.

to fight for a Russian-installed regime.”²³² The majority of Afghan people did not trust the Soviets and viewed their actions as unjust. Tribal elders were often over-ridden when they entered into agreements of support or neutrality for the Soviets. The *mullahs*, for the most part, were also unwilling to accept Soviet or PDPA efforts to gain their support.

The Soviet decision to predominantly use terror and intimidation tactics, even before the invasion began, meant that any policy the USSR would use in Afghanistan would struggle with regards to the Pashtun sense of justice. The Russians already had a somewhat negative reputation from their exploits during the Great Game based on their efforts to conquer Central Asia and influence Afghan politics. The bias against the Soviets was not necessarily anti-imperialism, it was due to the fate of Central Asia and the fact that Afghans did not want to see history repeat itself in their country. Therefore, it was likely that no Soviet policy, no matter how accommodating, could have established Soviet authority in a manner that would have been perceived as just by the Pashtun, or any other Afghan.

b. Customary Norms, not Religious Norms are what impede State Authority

In his book *Revolution Unending*, Dorronsoro makes the claim that the presence of religious norms is what binds the *mujahideen* together in their *jihad* against the Soviets. However, he fails to note the norm surrounding segmentary societies that binds tribes, and even ethnic groups, together when facing a common threat to deeply entrenched social customs and mores. Though it is possible that religious norms did indeed provide the glue between the different ethnic groups and tribes of Afghanistan during the anti-Soviet *jihad*, it is also important to consider the possibility that religion only provided a common ground that had the appearance of binding the *mujahideen* together as one fighting force.

The most significant piece of evidence that counters this notion was the presence of in-fighting between the different *mujahideen* groups on the eastern frontier. These groups were predominantly all Sunni Muslims, and despite their common religious background, they were mostly divided along ethnic and regional boundaries, they mostly fought as separate units with little cooperation, they often fought amongst each other and

²³² Bradsher, 205.

later engaged in a struggle for control of the state as Soviet domination waned. When the Soviets retreated from Afghanistan, a bitter struggle for control of Kabul ensued. Despite a common religion among the majority of Afghans, ethnicity and tribal affiliation once again became the binding force among the different groups fighting for control of the State.

E. CONCLUSION

From the beginning it appeared that the Soviets were intent on forcing the diverse, fragmented, multi-ethnic population to conform to the Soviet communist mold. Suppression became the primary tool for establishing Soviet authority. Because the social practices of the Karmal regime, and later the Najibullah regime, were in stark contrast to the well established customs of the different ethnic groups, especially the independent Pashtuns, the Afghans resisted Soviet and PDPA efforts to establish their authority. Though the rural population was indifferent to the ascension of the PDPA in 1978, it was when the Soviets tried to establish their authority in the urban and rural areas that the real problems began.

The Soviet plan to terrorize, imprison, or execute all non-conformers in Afghanistan caused many of those who were ambivalent about the Karmal regime were pushed to support the *mujahideen*. Shortly after the invasion, the Soviets recognized the need for less suppressive tactics. In some cases the Soviets attempted to institute more co-optative policies such as offering support to mullahs, land reforms to benefit the poor, and the Sovietization of Afghanistan's civil society. However, these policies were either instituted too late (support for the mullahs), or in direct contrast to local custom (land reforms and social programs).

An important lesson to be learned from Soviet efforts to subdue resistance forces in Afghanistan is that suppression is not a policy that will allow a central government to legitimately dominate its people under what Weber characterizes as "charismatic domination" or "domination by virtue". This form of domination only can hope to gain legitimacy by existing so long that the leader of the central government gains legitimacy in the sense of "traditional domination."²³³

²³³ Weber, 34-35.

The Soviet decision to focus on the urban areas was driven by the limited number of soldiers allocated for occupying Afghanistan. The failure to recruit, train, and equip an indigenous force capable of either suppressing or eliminating the *mujahideen* and their supporters made it impossible for the Soviets to adequately control the countryside and slow or stop the spread of the insurgency. Most Soviet failures were followed with harsher, more brutal suppression which only encouraged the insurgency. Another lesson that can be learned from the Soviet experiences in Afghanistan is that limited geographical control, combined with ever-increasing suppressive tactics, stiffens resistance.

In the end, the Soviets failed to conquer Afghanistan because Moscow and the Soviet people lost the political will to succeed. The *mujahideen*, with the aid of the United States, Saudi Arabia, Pakistan, and Iran, succeeded in making the war too costly for the Soviets with too little benefit. The Kremlin's lack of desire to commit more resources suggests that the strategic value of Afghanistan did not provide enough incentive.

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VI. ANALYSIS AND CONCLUSIONS

My sons and successors should not try to introduce reforms of any kind in such a hurry as to set the people against their ruler...they must adopt all these gradually as the people become accustomed to the idea of modern innovation.

Abdur Rahman Khan
Amir of Afghanistan, 1880-1901

A. INTRODUCTION

The cases presented in the previous three chapters have provided detailed descriptions of the policies used by three different central governments to establish authority over a Pashtun society residing in “ungoverned spaces” within their territory or sphere of interest. Though the government in each case study was significantly different from the other two, the one thing all three had in common was the ethnicity of the people living in the region.

Chapter I posed the question, “Under what conditions can state authority successfully supersede tribal custom?” This question led to the development of this thesis’ theoretical framework which is based on the existence of barriers that divide a tribal ethnic group from the state in which it lives. A review of several different explanations for tribal resistance to state authority divides the causes of these barriers into two categories: organizational factors and normative factors. Within each category there are two propositions that this thesis proposes a government should consider when engaging tribally-based ethnic societies:

Organizational Structural Factors

1. Government policy based on the tribe’s social organization is more likely to be considered legitimate than those that disregard it.
2. Government policy aimed at segregating or isolating tribes is likely to undermine the state’s authority.

Normative Structural Factors

3. If the tribe’s perception of the state’s policy is unfair in terms of the tribe’s customs and culture, then the tribe will likely resist.
4. Customary norms, not religious beliefs, are what impede state authority.

The purpose of these propositions has been to pose a set of considerations that would help define the conditions under which an ethnic group will either accept or reject government authority.

Chapter II provided an in depth look at the organization and customs of the Pashtun. The Pashtun have an established social hierarchy that extends from the family up to the tribal level. Tribal leaders, *Khans*, do not possess enough authority to direct the tribe without a consensus. In this sense, the Pashtun are quite democratic in the way they handle tribal affairs.

The rural Pashtun are a segmentary society that can be divided into three separate groups: nomadic tribes, sedentary hill tribes and sedentary plains tribes. Both nomadic tribes and sedentary hill tribes tend to be more isolated, more resistant to authority, and more dedicated in their observance of Pashtunwali—the Pashtun tribal code. Sedentary plains Pashtun have traditionally been farmers who live on the highly accessible plains of the tribal areas. Because of their location, they are typically less isolated, less resistant (yet still resistant), and less rigid in their interpretation of Pashtunwali.

Pashtunwali provides the normative and organizational structure for the majority of the Pashtun living in the rural areas of Pakistan and Afghanistan. In this setting, a Pashtun's life is governed by his observance of the code. Pashtunwali gives a Pashtun his identity. Without it, an individual is ostracized from the tribe (even his family), stripping him of his support network which provides for his welfare and security.

Organizational and normative factors associated with the rural Pashtun society have been the source of friction between the Pashtun and any entity desiring to impose its own authority over them. Chapters III, IV, and V presented three different case studies to analyze different policies used by three very different governments to establish its authority.

B. CASE STUDY SUMMARY AND ANALYSIS

1. Great Britain

The British, motivated by the desire to protect their resources and profitable markets in British India from the Russians, extended their influence into the Indian sub-continent's northwest frontier. This area, mostly inhabited by the Pashtun, was vital to the British because it was the most likely Russian invasion route.

For nearly 100 years the British directed a number of different policies intended to secure the northwest frontier by bringing the Pashtun living there under the control of British authority. Almost immediately, the British realized they were faced with a daunting task that required some degree of flexibility in their policies. The evolution of British policy in the region can best be characterized as a steady conversion from suppression to accommodation. The outcomes of the different policies traced a similar path moving from total rejection to moderate forms of compromise and acceptance. Table 1 contains a summary of these policies, defining the type and outcome in terms of the scale discussed in Chapter I.

BRITISH POLICY	TRIBAL RESPONSE	PROP 1 Social Organization	PROP 2 Should not Segregate	PROP 3 Perception of Justice	PROP 4 Custom over Religion	OUTCOME	
Indian Penal Code	S	r	N	Y	N	n/a	-
Close Border Policy	S/C	c	N	N	N	n/a	-
Frontier Crimes Regulation	C	c	Y	N	Y	Y	*/-
Forward Policy	A	c	N	Y	Y	Y	*
Indirect Rule	A	a	Y	Y	Y	Y	*
Maliki System	C	c	N	Y	N	Y	*

TYPE	RESPONSE	PROPOSITION	OUTCOME
S: Suppression	r: Rejection	Y: Policy Complied	+ : Established State Authority
C: Co-optation	c: Compromise	N: Policy did not Comply	* : Established Temporary Authority
A: Accommodation	a: Acceptance		- : Failed to establish Authority

Table 1. British Policy Summary.

Despite their attempts to blend their administration of the region with tribal customs, the British were never able to establish their authority in a way that permitted the British to establish their rule of law or to gain a monopoly on the violence in the Pashtun areas. Though the British ultimately failed in their quest to successfully govern the Pashtun, there are a number of important lessons that can be learned from their experience.

Early British policies such as the extension of the Indian Penal Code and the Close Border policy to the NWF were forced on the British field commanders under the direction of the British government in India. These actions suggest the political leadership wrongly assumed that the Pashtun would accept British laws using carrots and sticks—the carrots being improved infrastructure and personal protection from British troops, and the stick being the threat of violence from British soldiers for not complying with British laws.

As indicated in the table above, suppressive policies failed to extend British authority into the NWF. Though the Close Border policy managed to gain some cooperation from a number of the sedentary plains tribes, the British failed to successfully isolate or deter either the nomadic tribes or the sedentary hill tribes that were accustomed to raiding nearby villages in the settled areas. The plains Pashtun saw little improvement in their personal security and were reluctant to sacrifice their commitment to Pashtunwali. It was almost impossible for the British to bring unlawful individuals to justice under the Indian Penal Code because of the Pashtun customs of *melmastia* and *nanawatai*.

The most significant failure of British policy was its consistent misperception of the importance of Pashtun social structure (Proposition 1). Simply put, it appears the British continued to use a shoe that would not fit. Culminating in the establishment of the Maliki System, British policy consistently sought out individuals that seemed to have enough influence within the tribe to facilitate the actions taken by the British. These actions suggest the British were strongly influenced by the role certain Pashtun men played in the *jirgah*. As stated in Chapter II, certain Pashtun men did have more influence over the tribe, but the British overestimated the ability of one, or even a few men, to direct the actions of the entire tribe.

Also related to Proposition 1, the British failed to understand the importance of an individual's social standing based on the custom of *nikat* (heredity). British attempts to circumvent *nikat* and reward individuals for their performance or cooperation only caused friction within the tribe, which was most often directed at the individual receiving British favors. Hoping to eventually gain the trust of individual Pashtun men, the British continued to engage in these actions throughout their time on the NWF. Unfortunately,

these actions highlighted the differences between the two cultures and demonstrated that the British did not really understand, or care about, Pashtunwali. Yet despite the British failings with the Maliki System and their attempts to circumvent *nikat*, there were some successes in British policy with respect to normative factors that provide important lessons.

The steady evolution of British policy in terms of appealing to a Pashtun sense of justice (Proposition 3) provided the British with significant improvements in attaining order on the NWF. British policy after 1872 made gains in this category. The British steadily sought legitimacy for their policies through the use of Pashtun custom.

The Frontier Crimes Regulation (FCR) was the first example which demonstrated the British understood the importance of creating a system which appealed to a Pashtun's sense of justice. By borrowing the legitimacy of village *Maliks*, the British created a hybrid system of justice to enforce their laws. The second example was the expansion of this concept into the policy of Indirect Rule which allowed Pashtun tribes to settle both criminal and civil cases without interference from the British. Although these policies increased the number of people being brought before tribal courts, the Pashtun were not afraid to intimidate the *Maliks* or seek revenge against them should they rule in a manner that either appeared to serve British interests over Pashtun interests or was deemed an unsuitable interpretation of justice under Pashtunwali.

From the British perspective, both the FCR and Indirect Rule improved the level of civil order on the NWF. The Pashtun participated in the imposed judicial system to a much higher degree, which was a positive sign, despite the increase in violent acts by Pashtun tribesmen and the subsequent British expeditions to punish them. In the end, these policies ultimately failed to establish British authority.

It appears the British used Indirect Rule in an attempt to minimize the violence directed at British symbols of authority. Unfortunately, the use of subsidies in conjunction with the establishment of Indirect Rule created a scenario where the tribes became satisfied receiving money from the British in exchange for not engaging in violent behavior. Per Prospect theory, once this practice became the new reference point for Pashtun dealings with the British, any concession of independence would be interpreted as a loss. A second, and more important lesson that can be taken from this

failure is that bribes can backfire if they only ask an individual to refrain from doing something rather than ask an individual to change in a more proactive way, because the individual re-normalizes his reference point, making it more expensive and more difficult to bribe the same individual later. The failure of the other policies in this particular category made it impossible for the British to succeed in gaining Pashtun recognition of British authority without significant changes in the resources allotted to accomplish the mission.

With respect to Proposition 4, British experiences with the Pashtun prior to 1848 allowed them to gain an understanding of the way Islam has been adopted into existing Pashtun customs. This avoided the pursuit of policies designed to appeal to the religious aspect of Pashtun culture.

2. Pakistan

Pakistan has been in a constant struggle to establish itself as an autonomous, unified state since its partition from British India in 1947. Its borders with India in Kashmir and with Afghanistan along the Durand Line are still under some contention today. Pakistan's security has been under constant threat both internally and externally. Pakistan's rivalry with India over Kashmir and ethnic divisions, such as Pashtun nationalism, threaten Pakistan's sovereignty.

Looking at Pakistan's policies to extend its authority over regions dominated by the Pashtun, state security and state capacity have been two considerations most responsible for directing Pakistan's government. From the beginning, Mohammad Ali Jinnah, the Father of the Nation, recognized the need to integrate the Pashtun with Pakistan's other ethnic groups. Unfortunately, Jinnah's untimely death and a variety of externally imposed security considerations pushed this priority to the background. Until the events of 11 September 2001, Pakistan had pretty much accepted the need to segregate the Pashtun from Pakistan's mainstream society. After it was discovered that Al Qaeda was responsible and that Osama Bin Laden was using the Pashtun tribal areas as his primary base for operations, Pakistan realized it no longer had the option of ignoring this area.

Table 2 illustrates the different policies used by Pakistan's government to establish its authority in the Pashtun areas which today are known as the Federally

Administrated Tribal Areas (FATA). This table depicts the policies in chronological order, with the exception of the last two—the FCR and the Maliki System. These two policies were enacted in 1947 and are still in use today.

The legacy created by British policies and Pakistan’s delicate security situation have greatly affected the policies directed towards the Pashtun living in the Tribal Areas. With the exceptions of the Close Border Policy which helped convince the Pashtun to become a part of Pakistan and the Forward Policy which took place in the 1970s before the communist coup in Afghanistan, none of Pakistan’s policies have contributed to the establishment of state authority. Because the post 9/11 policy is still being used by Pakistan’s government, it is impossible to say whether or not it is a success, but there has been some evidence that the Pashtun tribes are accepting state authority on some levels.

PAKISTANI POLICY	TRIBAL RESPONSE POLICY TYPE	Social Organization PROP 1	Should not Segregate PROP 2	Perception of Justice PROP 3	Custom over Religion PROP 4	OUTCOME	
Close Border Policy	A	a	N	N	Y	Y	*
One Unit Plan	S/C	r	N	Y	N	Y	-
Forward Policy	C	c	Y	Y	Y	Y	*
Afghan Communist Threat	A	a	Y	N	Y	Y	-
Post-Soviet Invasion	A	a	Y	N	Y	Y	-
Post-9/11	S/C	r/c	N	Y	N	Y	?
Frontier Crimes Regulation	S/C	c	Y	N	Y	Y	-
Maliki System	C	c	N	N	Y	Y	-

TYPE	RESPONSE	PROPOSITION	OUTCOME
S: Suppression	r: Rejection	Y: Policy Complied	+ : Established State Authority
C: Co-optation	c: Compromise	N: Policy did not Comply	* : Established Temporary Authority
A: Accommodation	a: Acceptance		- : Failed to establish Authority

Table 2. Pakistani Policy Summary

Though the Pakistan case is still ongoing, Pakistan’s previous policies present some important lessons based on both success and failure.

From an organizational perspective, Pakistan’s biggest policy failure, its use of the Maliki System, originated as a holdover policy from the British. *Maliks* who served

as the ‘middle man’ between the state and the tribe prevented the state from engaging the Pashtun on a broad enough base to gain their support. Instead, the *Maliks* have been able to use government incentives appropriated for gaining Pashtun support to further their own personal agenda. The corruption of this system is further exacerbated by the presence of Political Agents (PAs) who are appointed government officials assigned the task of administering the political districts in the Tribal Areas. Political Agents have little government oversight and a great deal of power with regards to both rewards and punishments. The combination of these two policies suggest that Pakistan has, like the British, attempted to mold Pashtun organization into the government’s structure—a clear failure of Proposition 1.

A second failure of Pakistani policy with respect to Proposition 1 was reflected in the One Unit Plan. This particular policy attempted to force a new political structure on the Pashtun, as well as the other non-Punjabi ethnic groups of western Pakistan. By appearing to incorporate the social structure of the different ethnic groups into one, at least in political terms, Pakistan seemed to neglect the importance of each ethnic group’s social structure. The One Unit Plan resulted in stern resistance by all ethnic groups and ultimately forced the state to abandon the policy in 1970. Though this policy ended in failure, it led to some significant reforms in state policy which produced the successful, yet short-lived, Forward Policy.

For ten years the increase in education and medical facilities under the One Unit Plan hinted that the state understood the need for change. With the enactment of the Forward Policy, Pakistan switched to a plan focused on integrating the Pashtun living in the Tribal Areas and ending the segregating policies of the past.

Unfortunately, Pakistan’s government felt the need to abandon the Forward Policy when the communist People’s Democratic Party of Afghanistan (PDPA) successfully overthrew the sitting Afghan president. Threatened first by the Afghans and later by the Soviets, Pakistan changed its policy to use the Pashtun as a foil against communism. In this instance, Pakistan willingly overturned its integration policy in order to protect the state. History shows that this decision succeeded in keeping the Soviets from invading Pakistan and preserved the state’s strategic depth with respect to India.

Though the decision to segregate the FATA from Pakistan represented a willful violation of Proposition 2 above, the decision to continue this policy up until 2001 suggests Pakistan's government felt the Pashtun were a better weapon if they were left alone. As a result of this isolation, the Pashtun of the FATA drifted further away from mainstream society in Pakistan. Despite limited efforts, such as granting the people of the FATA the right to vote on Pakistani laws and to elect representatives from the FATA to participate in the government, the Pashtun have not developed a sense of connection to the state or to the other people of Pakistan. Therefore, the authority of the state over the FATA remains non-existent.

From a normative perspective, the Pakistani government has undermined its authority through the use of Political Agents. Mentioned earlier, the use of these agents demonstrated a lack of recognition for the importance of Pashtun social organization. The use of PAs also violated the Pashtun conception of justice, indicated in Proposition 3. Because the PAs have always been appointed, they have not been accepted as representatives of the Pashtun in their respective political districts. Though the PAs are appointed to administrate their respective districts and represent the government, they are the representatives of the state. Without some legitimacy with the Pashtun, actions by the PAs that contradict Pashtunwali or are perceived as acting in their own interests are associated with the state, which further undermines state authority.

The current operations in the FATA are yielding mixed results. The incorporation of medical services with the military forces assigned to establish order have been welcomed, and even aided, by some Pashtun tribes. This indicates the state may be making gains with respect to establishing its authority. However, there are still tribes that resist such actions and claim that the Pakistani government is only carrying out the will of the American government. In addition, the unrest attributed to religious movements in Pakistan has been gaining momentum over the past few years. Yet it is difficult to tell if these groups, many of which are made up of Pashtuns, are truly affiliated through religious ties or if they are bound by ethnic ties under the guise of religious unrest. In this case, the results of the post 9/11 policy will have to be evaluated further in the future.

A successful policy used by Pakistan that does not fall neatly within the four propositions has been the incorporation of the Pashtun into both the military and the

government. In both cases, the state has gained a certain amount of ‘buy in’ from these individuals that inspires confidence in other Pashtuns and creates a level of connectivity between the state and the people. However, the behavior of these individuals becomes critical, for if they are seen to be violating their observance of Pashtunwali their importance will be marginalized and they will be characterized as either weak or without honor.

3. Soviet Union

For ten years, the Soviet Union invested a significant amount of resources in its efforts to acquire Afghanistan as another satellite communist state. Though the Soviets quickly gained control of the significant urban areas, they learned that the real threat was from the Afghan countryside. Soviet forces armed with technologically superior weapons maintained a significant advantage over the Afghan *mujahideen* in all force-on-force engagements. However, the tenacity of the resistance fueled by countries such as the United States and Saudi Arabia evened the playing field and forced the Soviets into a bitter struggle that they eventually lost.

SOVIET POLICY	TRIBAL RESPONSE POLICY TYPE	Social Organization PROP 1	Should not Segregate PROP 2	Perception of Justice PROP 3	Custom over Religion PROP 4	OUTCOME	
Securing Urban Areas	S	r	N	N	N	N	*/-
Sovietization	S/C	r	N	Y	N	Y	-
Soviet-Afghan Army	S/C	r	n/a	Y	N	n/a	-
Provincial Division	S	n/a	N	N	Y	n/a	-
Forceful Pacification	S	r	N	N	N	Y	-
Divide and Conquer Pacification	S/C	r/c	N	N	N	Y	-
Reverse Forward Policy	S	r	N	N	N	n/a	-
Migratory Genocide	S	r	N	N	N	n/a	-

TYPE	RESPONSE	PROPOSITION	OUTCOME
S: Suppression	r: Rejection	Y: Policy Complied	+ : Established State Authority
C: Co-optation	c: Compromise	N: Policy did not Comply	* : Established Temporary Authority
A: Accommodation	a: Acceptance		- : Failed to establish Authority

Table 3. Soviet Policy Summary

Soviet policies were almost exclusively designed to suppress the Afghan people who did not support the communist regime. Following a policy labeled as “migratory genocide”, the Soviets seemed to focus on pushing out all those opposed to a communist government. Though there were a few exceptions, even these policies ended up being altered to become more suppressive than co-optive or accommodative. The table below contains a list of the different policies. Unlike the other two tables, these policies are not necessarily in chronological order because the Soviets used a variety of different policies at the same time.

Despite the enormous technical advantage the Soviets had over the *mujahideen*, most of whom were rural Pashtuns, the Soviets eventually left Afghanistan in defeat. At this point it is important to note that the *mujahideen* had an enormous amount of help from the United States, Saudi Arabia and Pakistan and that the introduction of Stinger missiles (man portable, surface-to-air missiles) severely hampered the Soviet use of helicopters. With the exception of securing Afghan urban areas during the invasion, Soviet policy failed to establish even temporary authority. Based almost solely on suppression, these policies violated each of the four propositions in almost every case. Though Soviet policies offer little in the way of positive examples that could be used by other states, these policies do offer excellent examples of what not to do when trying to establish state authority.

Like both the British and the Pakistanis, the Soviets attempted, and failed, to negotiate specific arrangements with tribal elders. Though there were a few instances where the agreements were upheld, in almost all cases the agreement was abrogated as soon as it no longer served the tribe’s interest. In many cases, the tribes would feign support in order to acquire weapons or money.

The Soviet policy to ‘Sovietize’ the rural farmers by establishing collective farms and taking land from the wealthy and giving it to the poor failed for the same reasons the British failed in their attempts to circumvent the custom of *nikat*. Holding to their social structure, the Pashtun farmers refused to take land from the *Khans*. Frustrated, the Soviets taunted, threatened, and eventually forced many poor Pashtun farmers to accept the land under threat of violence.

The Soviet policy of ‘migratory genocide’ presents strong evidence in support of Proposition 2. Initially aimed at Afghan urban areas and then later expanded to include much of the countryside, this Soviet policy sought isolation and segregation over integration. Through brutal acts of terror and intimidation, the Soviets attempted to push out those they perceived to be against the communist regime. Despite the fact that over five million Afghans left their country, the Soviets were incapable of maintaining any semblance of control over any areas other than a few major cities.

The violently suppressive nature of the majority of Soviet policies violated the Pashtun sense of justice. The Soviets, who attempted to disguise themselves under the puppet regime of Babrak Karmal—a well-known Durrani Pashtun—were seen as invaders by the majority of the Afghan people. When the Soviets finally started to consider the importance of more co-optive policies, such as Sovietization, creating a Soviet-Afghan army, or approaching Pashtun tribes in hopes of playing one off another, the people were distrustful and unwilling to cooperate. Due to the injustices committed during the invasion and the initial phase of the occupation, it was unlikely that the Soviets would ever gain authority over the Pashtun or any other Afghans.

In an effort to appeal to the religious aspects of the resistance, the Soviets specifically set out to co-opt Muslim religious leaders. In most Muslim societies, the state gains its legitimacy from the religious scholars, or *ulema*. This concept fails in rural Pashtun society because the *ulema* are seen to oppose Pashtunwali.²³⁴ The policy also failed because very few members of the *ulema* and very few *mullahs* supported the Soviets—and those who did were immediately discredited. The infighting among the different resistance groups during the war against the Soviets also demonstrates the importance of ethnic affiliation over religious affiliation. Though the significant majority of resistance groups were Sunni Muslims, they fought one another based mostly on ethnicity and somewhat on regional alliances. These divisions combine to illustrate the relevance of Proposition 4 on the establishment of state authority, that tribal custom trumps religion as a source of identity.

Though their own policies severely hampered Soviet success, it must also be noted that the Soviets lacked the capacity to adequately accomplish their objectives under

²³⁴ Roy, 48.

the policies they had selected. Whether or not the Soviets could ultimately have succeeded is impossible to know, but it is obvious that the Soviets were reluctant to change their approach because they continued to use suppressive policies up until their withdrawal in 1989.

C. COMMON GROUND

This section has two goals. The first is to identify the policies that have apparent similarities in all three cases and determine why the particular policy failed or succeeded based on how each state pursued the particular policy or if there was another factor that came into play. The second is to look at the relationship between each of the four propositions and the outcome of each policy and then to compare it across the three cases. This comparison will be used to determine which propositions are the most influential on state policy.

1. Similar Policies

Based on the findings from each of the cases, two similarities can be found: 1) the attempt by the state to expand its influence through the development of infrastructure in Pashtun tribal areas, and 2) the attempt to engage a single representative who each state believed could legitimately speak on behalf of the tribe.

First, each state instituted a policy that expanded the infrastructure of Pashtun tribal areas. All three regimes expanded infrastructure in order to improve troop movement, gain control over local violence, and increase security. Yet this commonality aside, the three regimes differed in the other reasons for infrastructure improvement. The Soviets had no other motive than security, whereas the British sought to appeal to the sedentary Pashtun through the prospect of improved commerce and protection. Pakistan also developed infrastructure aimed at improving education and medical services. This policy differed in the fact that it sought to integrate the Pashtun into Pakistan's society, where the British policy sought only to provide services and the Soviet policy sought only to subjugate or eradicate the resistance.

Second, all three states attempted to engage the Pashtun through tribal leaders. In this example, all three states created a similar policy. This suggests that each state misinterpreted Pashtun social structure, yet the reason for this misinterpretation is unclear. Whether it occurred due to the state's pre-determined bias that each tribe would

have a representative similar to the state's representative who had the authority to speak for the tribe or because of the state's lack of capacity to broadly engage the Pashtun is impossible to determine without further research. The important point here is that engaging the Pashtun ethnic group in a way commensurate with its social organization is vital, verifying the validity of Proposition 1—that a state should engage a tribe based on its customary social organization.

2. Correlations between Propositions and Outcomes

By comparing the outcome of each policy—23 of which were measurable—with its adherence to the propositions in the theoretical framework, a positive correlation arises between Proposition 2 (states should not isolate or segregate) and Proposition 3 (states should consider the tribe's perception of justice). Compliance with both propositions yielded an increase in state authority in every case. Failure to comply with both propositions resulted in a failure to establish authority in all but four cases (see Table 4 below). Though these four instances question the importance of the proposed correlation, each of these four instances have important considerations that explain their deviation.

POLICY COMPLIANCE WITH PROPOSITION 2 / 3		
	OCCURRENCES	OUTCOME
Y / Y	3	*
Y / Y	0	-
Y / N	3	*
Y / N	10	-
N / N	1	*
N / N	6	-

PROPOSITION

Y: Policy Complied

N: Policy did not Comply

OUTCOME

+ : Established State Authority

* : Established Temporary Authority

- : Failed to establish Authority

Table 4. Outcome Summary for Proposition 2 (states should not isolate or segregate) and Proposition 3 (states should consider the tribe's perception of justice)

The only policy that disregarded both of these propositions and still managed to establish temporary authority was the Soviet policy designed to secure the urban areas in Afghanistan. Under this policy the Soviets were able to establish temporary authority in Kabul, and to a lesser degree in other urban areas. However, this policy pushed a significant number of people out of the urban areas (those opposed to Sovietization or the occupation) and left mostly Soviet sympathizers behind. This policy motivated many of the people who fled from the urban areas to either join or support the resistance, and contributed to the decrease of Soviet control (although it was already limited) in the rural areas.

There were three instances where a state made a gain in expanding its authority without complying with both Proposition 2 and 3. The first instance occurred under the British Frontier Crimes Regulation, a policy which had two outcomes. Under this policy, the British continued to segregate the Pashtun living on the plains from the Pashtun living in the hills. In the plains areas, the British managed to gain a small degree of authority over the plains Pashtun by offering sufficient compensation in the form of security and increased economic opportunities. The presence of the hill Pashtun, who were not offered any compensation or subjected to the Regulation, eventually undermined that authority, as the British were unable to provide security for the plains tribes against the hill tribes. This suggests that the British ultimately failed to establish their authority because of the continued segregation between the hill tribes living outside the settled areas from the plains tribes living within the settled areas. Had the British expanded their efforts to include the hill tribes, it is possible that sufficient compensation could have been provided to convince the hill tribes to also begin to accept British authority.

The second instance occurred under the British Maliki System. Under this policy, the British were able to establish temporary state authority because the Maliki System—the appointment of tribal *Maliks* by the British to facilitate in the administration of the tribes—created some degree of order over the Pashtun. However, as stated in the British case study, this policy ultimately failed to establish more permanent authority because it did not allow the British (who were lacking the necessary resources) to engage the Pashtun on the level required to inspire their acceptance of British authority.

The third instance is found when the Pakistanis had to choose segregation to get the Pashtun to willingly accept the addition of their land into the new state of Pakistan. Pakistan's president, Mohammad Ali Jinnah, understood that his fledgling state lacked the capacity to force the Pashtun living within Pakistan's borders to submit to the new state's authority. Therefore, Jinnah directed the government to segregate the Pashtun under the Close Border Policy and allow them to exist under the authority of Pashtunwali. This policy succeeded in temporarily establishing the state's authority, but did not facilitate the state's ability to expand its authority by superseding Pashtunwali with its own rule of law. Ultimately, this policy failed to integrate the Pashtun with Pakistan's mainstream society.

Based on the policy outcomes and the considerations provided above, it is reasonable to suggest that there should be an emphasis on complying with Proposition 2 and 3 when prescribing policy aiming to expand state authority. The next section will build on this discussion by considering the importance and validity of the conclusions drawn above on cases outside the Pashtun ethnic group.

D. BEYOND THE PASHTUN CASE

This thesis has focused solely on identifying the barriers that impede the establishment of state authority in Pashtun areas. However, four conclusions can be drawn from the case studies presented in the previous chapters that could be applied in any situation where a state desires to expand its authority into "ungoverned spaces." First, suppression does not create an environment that contributes to the state's authority. If the state has to continually suppress its people, it is not fostering its legitimacy among the people. Under such a policy, the state remains outside society and will likely fail to supplant, in a positive way, local customs with state institutions or a central rule of law.

Though suppression may allow the state to temporarily control the region and establish its own form of order, the length of that control will be dependent on the amount of resources the state is willing to commit to maintain it. The span of that control becomes a function of the state's capacity which in turn depends on both the resources available and the ability for the state to maintain its political will, characterized by both domestic and government support. Such policies do not establish state authority; though they may, given sufficient capacity and will, establish state power.

Second, neither isolation nor accommodation creates authority. In either case, the critical link between the people and the state is broken. To establish and maintain its authority, the state must create an atmosphere that convinces its people that the state will provide for their personal security and welfare in a way that does not threaten their way of life. At the same time, the state must promote a sense of representation and/or participation in the government. By accomplishing this, the state extends its identity to its people which would allow for their acceptance of the state's authority, though it is impossible to predict the time required.

Third, if the state's capacity is limited, either for fiscal or political reasons, its policies must lean more towards the accommodation side of co-optation (but not all the way to accommodation for reasons stated above) and the state must allow more time for establishing the policies that will lead to the expansion of state authority. If the state pushes too hard or too fast, its people will likely resist or make larger demands. In either case, the state's limited capacity would cause such policies to fail.

Fourth, a state needs to understand the difference between establishing order versus authority. Prospect theory explains why any group would resist a different rule of law that is seen to entail a loss of cultural or political autonomy. Therefore, allowing them to follow their own customs would likely minimize the friction between the group and the state. However, the state must be willing to accept some resistance and unrest in order to achieve the adequate level of integration necessary to establish its authority. Policies designed only to establish order focus less on integration and could likely pursue a strategy that would lead to isolation, accommodation, or even suppression.

Based on these points and the analysis of each case's policies, the next section will discuss the validity of the theoretical framework used in this thesis and identify any shortfalls associated with it.

E. VALIDITY OF THE THEORETICAL FRAMEWORK

In the data presented in the three tables summarizing the successes and failures of each state, there is only one instance, the Forward Policy used by Pakistan, which managed to satisfy all four propositions of the framework. At first glance, this appears to negate the validity of the framework. However, the short duration of this particular policy presents a possible exception. Pakistan was making significant gains at integrating

the Pashtun of the FATA under this policy, but it is impossible to say if it would have succeeded in establishing Pakistan's authority if it had continued for more than six years.

Outside of this example, none of the states' policies satisfied all four propositions and none were able to establish their authority with any sort of permanence. In the cases where there was only temporary authority, each example represents a situation where the state was able to establish some semblance of order or compromise. There were no examples found in these three cases where the Pashtun accepted the state's rule of law over their own customary laws. The lack of a positive case which demonstrated a state policy that followed all four propositions and subsequently succeeded in establishing the state's authority casts some doubt on the framework's validity. Because the rural Pashtun have never been successfully integrated into a state's mainstream society, the only way to resolve this issue would be to apply this framework to other tribal ethnic groups.

The last area of the framework that comes into doubt is the point made in Proposition 4. Though many scholars agree that the Pashtun are more closely tied to their customs than to Islam (Roy, Caroe, Dupree), it is debatable whether the divide would simply be too great for a non-Muslim state to establish its authority over the Pashtun or any other Muslim tribal society. Neither the British case nor the Soviet case provide an example of a non-Muslim state being able to sufficiently integrate the Pashtun into their society to the point where they would accept the state's authority. Yet, the failure of the Pakistani government to succeed in establishing its authority over the Pashtun leaves the point open for debate—the lack of a positive case for a state establishing its authority over the Pashtun raises the question of whether it was a failure of policy or a lack of religious commonality.

F. CONSIDERATIONS OUTSIDE THE FRAMEWORK

The research used in developing this thesis also revealed two additional considerations that could greatly influence the state's ability to establish its authority over an ethnic group. The first point is attributed to the physical geography of the region. Though geography varies significantly across the different areas associated with "ungoverned spaces", it represents a general concept that may affect the state's ability to extend its influence into the region. Such difficulties only aid the group's resistance to state authority and increase the cost and time it will likely take for the state to succeed.

The second point centers on the quality of the agent that has been charged with executing the state's policies. An agent that understands the group's customs, has the authority to make adjustments to the policy based on cultural considerations, and has previously earned the group's respect provides the state with a significant advantage. The Paladins, the British officers who were initially sent into the NWF to establish British authority, managed to succeed in establishing their authority over the Pashtun. In each case, these men had previously established themselves as fierce, skilled warriors and gained an understanding of the intricacies of Pashtun culture and language. This allowed them to take into account the importance of tribal norms and social structure, which supports the validity of the proposed theoretical framework presented in this thesis. However, this only represents one case and requires more research to flush out the actual implications of how the agent affects state authority.

G. CONCLUSION

The purpose of this thesis has been to identify the factors which impede the establishment of a state's authority over an ethnic group with deeply entrenched tribal customs. Because it focused on the Pashtun ethnic group, many of the findings apply only to this region and this ethnic group. The framework has been specifically designed to inductively evaluate cases of states involved in attempting to gain authority in rural Pashtun areas. The theoretical framework offers a starting point in either the development or the evaluation of policy.

Most importantly, the analysis of the three case studies produced the following four broad points that should strongly be considered by any state engaging a group living in an "ungoverned space": 1) suppression fosters resistance instead of authority, 2) neither isolation nor accommodation generates state authority, 3) limited capacity requires more accommodative co-optation and more time, and 4) policies must focus on establishing authority and not only order. Though these findings do not sufficiently encompass all the considerations necessary for creating a policy to extend state authority in tribal regions, they do provide, like the framework, a starting point for developing such policies.

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GLOSSARY

<i>Badal</i>	A principle of Pashtunwali; it demands that a Pashtun seek revenge for any act considered offensive to the individual
<i>Baramta</i>	A principle of Pashtunwali; the act of taking goods or individuals hostage in order to gain restitution for a grievance
<i>Jirgah</i>	A principle of Pashtunwali; the requirement to settle tribal concerns through a democratic forum of Pashtun adult males
KhAD	Khidamat-e-Atla't Daulati; Soviet administrated Secret Police in Afghanistan
Khalqi	Majority faction within the PDPA; tended to be more nationalistic; marginalized by the Soviets during the Soviet Invasion of Afghanistan; mostly rural Pashtun
<i>Khan</i>	Pashtun tribal leader
<i>Lashkar</i>	An armed tribal militia
MMA	Muttahida Majlis-e-Amal (United Action Front); a religiously motivated political group made up of Pashtuns and concentrated on the NWFP
<i>Madrasa</i>	A religious school or seminary
<i>Malik</i>	A tribal elder given some authority to make decisions within the tribe; the title is hereditary and would be passed on from generation to generation
<i>Melmastia</i>	A principle of Pashtunwali; it demands that a Pashtun give hospitality to all who should ask for it
<i>Mujahideen</i>	An Islamic resistance fighter engaged in <i>jihad</i>
<i>Mullah</i>	A Muslim religious leader; head of a mosque
NWF	Northwest Frontier (the Northwest region of modern day Pakistan)
NWFP	Northwest Frontier Province; created by Great Britain in 1901, it remains as one of the four provinces of modern-day Pakistan
<i>Namus</i>	A principle of Pashtunwali; it demands that one's property and the honor of one's women (both relatives and wives) be strictly guarded
<i>Nanawatai</i>	A principle of Pashtunwali; it demands that a Pashtun give sanctuary to all who should ask for it
<i>Nang</i>	Honor, obtained through the observance and adherence to Pashtunwali

<i>Nikat</i>	Tribal custom which dictates rewards and punishments based on an individual's hereditary standing within the tribe
PA	Political Agent; a government office, used by both the British and the Pakistani governments, to oversee and administer political districts
PDPA	People's Democratic Party of Afghanistan (Communist Party)
Parchami	Minority faction within the PDPA; favored by the Soviets during the Soviet Invasion of Afghanistan; mostly urban Pashtun
<i>Lungi</i>	Similar to a Malik, but the title is not hereditary
<i>Qalang</i>	Rents or land taxes paid to the State
<i>Rivaj</i>	A principle of Pashtunwali; places accountability on the tribe rather than the individual
Sikh	Indian ethnic group who are often found in the Indian military
Strategic Depth	The proximity of a State's strategic assets to its enemy
<i>Ulema</i>	The Muslim clergy

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