



RESEARCH PAPER

**Barriers in the Formalization of Land Records in Erstwhile FATA,
Pakistan**

¹Sharif Khan* and ²Noor Sanauddin

1. PhD Scholar, Department of Sociology, University of Peshawar, KP, Pakistan
2. Associate Professor, Department of Sociology, University of Peshawar, KP, Pakistan,

***Corresponding Author:** sharifbangash143@gmail.com

ABSTRACT

The formalization of land records in Pakistan's former Federally Administered Tribal Areas (FATA), now integrated into Khyber Pakhtunkhwa Province of Pakistan, has faced resistance and systemic barriers. This qualitative case study aims to explore issues and challenges in land reforms in District Kurram, using in-depth interviews and focus group discussions with tribal elders, local residents, judicial officers, police officers, public prosecutors and lawyers. Thematic analysis identified key challenges, including a lack of historical land records, disputes over collective land ownership, reliance on traditional dispute resolution (*Jirga*), and widespread mistrust of formal institutions. Women's systematic exclusion from inheritance rights and share in land further complicates the process. The association of shared land with shared identity of the clan is another barrier in the way of land reforms. The study recommend community engagement initiatives and policies that integrate local customs with formal legal frameworks to achieve equitable land governance in post-merger FATA.

KEYWORDS FATA Merger, Land Records, Women Inheritance Right, Trust Deficit, Communal Land as Identity and Unity

Introduction

The formalization of land records in Pakistan's former Federally Administered Tribal Areas (FATA)—now merged into Khyber Pakhtunkhwa Province of Pakistan—represents a critical yet deeply contested reform effort (Ullah et al., 2025). For decades, land ownership in the region was governed by the colonial era law, known as the Frontier Crimes Regulation (FCR), which upheld tribal customs and informal practices over codified laws (Gohar & Sajid, 2024). Land was commonly held under collective ownership (*Shamilat*) by clans or tribes, with disputes resolved through *Jirga* under the oversight of Political Agents, a senior bureaucratic of federal government of Pakistan and tribal elders (*Maliks*). This customary system relied on oral agreements and lacked formal documentation, creating ambiguity in land ownership and impeding access to legal protections in the tribal areas (Khan et al., 2022).

The 2018 constitutional merger sought to extend Pakistan's legal and administrative structures to the tribal districts, including the introduction of formal land titling. However, this process has encountered significant resistance due to cultural norms, administrative shortcomings, and public mistrust in state institutions (Ullah & Hayat, 2018). Many locals fear that formalization will erode traditional authority and expose them to taxation or legal disputes. Some of the influential tribal elites, who benefited from the status quo, often resist reforms. Furthermore, decades of state neglect have left the region without cadastral maps, trained personnel, institutional

coordination, making land demarcation and titling an enormous challenge (Usman, 2022).

Moreover, structural issues such as collective ownership, the absence of individualized titles, and lack of documentary proof have left most land claims ineligible for registration. The slow pace of digitization, overlapping institutional mandates, and insecurity in certain areas further complicate implementation (Khan et al., 2023). Courts are often perceived as slow, unfamiliar, especially by those with little exposure to formal legal systems. As a result, many disputes over the land continue to be resolved informally, weakening the legitimacy of state-led reforms (Noorani & Khan, 2025).

Women, in particular, remain marginalized in the process of land reforms, as tribal customs deny them inheritance and ownership rights, leaving them outside both formal and informal protections (Ahmed et al., 2016). In some cases, government institutions themselves have been accused of illegally acquiring land, exacerbating local grievances and triggering conflict. Thus, the formalization of land in former FATA is not only a legal and administrative endeavor but also a profound cultural and political challenge (Zeb & Nawab, 2023).

Literature Review

The formalization of land records in Pakistan's erstwhile Federally Administered Tribal Areas (FATA) is a complex and deeply entrenched issue rooted in the region's historical governance framework, cultural traditions, and institutional limitations (Ibrahim & Ali, 2024). Historically, the former FATA operated outside Pakistan's mainstream legal and administrative structure under the Frontier Crimes Regulation (FCR), a colonial-era law that excluded the region from formal legal and land recording systems (Ahmed & Jawad, 2020). This legal vacuum led to a complete absence of documented land titles, with property rights managed informally through tribal customs and unwritten agreements. The lack of a cadastral record has obstructed state initiatives to formalize land ownership (Waris et al., 2021). The cultural and institutional dominance of the *Jirga* system in former FATA has also posed a significant barrier to the formalization of land. *Jirga* traditionally regulate land matters based on oral testimonies and community consensus, often disregarding codified laws. While efficient in resolving disputes swiftly, these systems operate without formal accountability and often resist state-led reforms, viewing them as intrusions into tribal autonomy (Bilal, 2020).

In former FATA, property inheritance is typically confined to male lineage, with women rarely asserting legal claims (Sanauddin et al., 2016). In addition, land is often considered communal or clan-based, with no individualized titling. While this structure fosters internal cohesion, it conflicts with formal legal standards that require defined boundaries and individual titles for legal recognition. Collective ownership complicates efforts to demarcate, register, and tax land and often leads to intra-clan disputes (Farhan, 2019).

The role of the Pakistani government in formalizing land records in tribal areas has been largely ineffective. Despite the 2018 constitutional merger of FATA into Khyber Pakhtunkhwa of Pakistan bureaucratic inertia, lack of technical infrastructure and weak coordination between various administrative departments have hindered meaningful progress (Huma, 2020). Digitization projects remain incomplete and land settlement surveys are marred by inconsistencies and lack of local engagement (Iqbal & Khan, 2022). Moreover, the widespread lack of trust in formal courts further complicates land

governance in tribal areas. The formal courts are often perceived as slow, corrupt and inaccessible, especially for those unfamiliar with procedural laws. This mistrust drives individuals to continue relying on traditional dispute resolution forums (Junaid, 2018).

Several others tribal societies in the world face similar barriers in the process of land reforms. For example, after the independence, the Government of Mozambique wanted to transform informal ownership of land into formal one. However, the Mozambique efforts faced challenges due to colonial and post-independence history (Knox & Tanner, 2019). Under Portuguese Rule, land was seized without regard for customary tenure, and after independence in 1975, nationalization policies further weakened traditional systems without establishing a strong formal alternative (Anderson, 2000). This left vast rural areas without cadastral records, hindering land administration and dispute resolution. Despite the 1997 Land Law recognizing customary land rights, chiefs and elders also continue to govern land through unwritten norms, often resisting state procedures to retain influence. Resultantly, this dual system—state law and traditional authority—created inconsistencies and obstructs the institutionalization of land records (Peters, 2009).

Similarly, in Tanzania, land formalization faced resistance and mistrust, particularly in rural areas (Rutherford, 2017). Although the 1999 Land Acts introduced village land certificates and individual titles, many communities viewed these processes as bureaucratic, elitist and disconnected from local realities. Complex procedures, limited legal literacy and inaccessible land offices deter formal registration (Wily, 2011).

In Afghanistan, land governance crisis stems from a history of weak formal administration, especially in rural areas where oral agreements and tribal customs have long prevailed. Decades of conflict—destroying records, displacing populations, and weakening institutions have created overlapping claims and tenure insecurity (Murtazashvili & Murtazashvili, 2021). Likewise, public mistrust in land registration programs is widespread. Many Afghans view initiatives by ARAZI Afghanistan Independent Land Authority and others as tools for land grabbing or taxation rather than protection. Rural communities often rely on informal arrangements rooted in kinship, avoiding formal systems seen as corrupt and inaccessible (Bagai, 2014).

Like in other countries, the Yemen Government also struggled to initiate land reforms to secure people land property rights. However, the people in tribal societies of Yemen have very lack of trust in its state institutions (Unruh, 2016). Long-standing political instability, corruption, and weak governance in Yemen have eroded the public trust in state institutions. Formal land titling is seen as costly, bureaucratic, and easily manipulated by elites or land mafias, especially in rural areas (Juneau, 2010). As a result, people often rely on oral agreements and traditional systems. Gender inequality in land inheritance is a deeply rooted issue in the tribal society of Yemen, reinforced both by cultural norms and the dominance of tribal jurisprudence. Female heirs are frequently pressured to cede their inheritance to male relatives to preserve family unity or uphold tribal honor (Hussein, 2012). In such a socio-cultural environment, even when legal provisions exist, implementation remains weak or symbolic at best.

In northern Albania, the *Kanun of Leke Dukagjini*, a customary practice, continued to shape land relations and dispute resolution (Leka, 2016). Though unofficial, tribal elders and village councils are still trusted in some rural areas to mediate disputes and uphold inheritance norms. These informal mechanisms, while accessible, often conflict with statutory law and hinder the formalization of land tenure (Sallaku & Jojic, 2009).

Moreover, Albania courts are widely viewed as slow, overwhelmed and vulnerable to corruption. Many land cases remain unresolved, pushing citizens to rely on informal systems. This is especially harmful for marginalized groups like women, who face greater legal insecurity (Velu, 2015).

In short, literature shows that the transition from traditional, customary and clan-based land ownership in tribal societies across the world is never smooth. Local people usually resist any effort to formalize land ownership and record. This study was designed to explore the local contextual, cultural, administrative and legal factors which continue to work as barriers is mainstreaming FATA, especially in terms of land reforms and formalization of land record.

Material and Methods

This study analyzed challenges in the formalization of land records in the tribal districts of Khyber Pakhtunkhwa Province, Pakistan. The researchers adopted qualitative research methodology with in-depth interviews and Focused Group Discussion as tools of data collection. A total of 54 study participants were selected from all three tehsils of District Kurram- one of the seven tribal districts of Khyber Pakhtunkhwa Province, which include judicial officers, police officers, public prosecutors, lawyers, *Maliks*, and local tribals, who are the main stakeholders to challenges to judicial system. It is worth noting that, in case of government officers/officials, the researchers selected only participants with at least one year of professional experience in the tribal districts. For local residents, the researchers selected those participants who had registered their cases in the formal courts and police stations, mostly related to land disputes.

The collected data was first transcribed and translated into English language. Each transcript was carefully reviewed to make sure that the transcript accurately represents the perspectives of the participants. Thematic analysis technique was used to analyze the collected data. During the data analysis, the researchers carefully reviewed the data to familiarize themselves with the data and identify categories and themes of the study. The following results are derived from the perspectives shared by the participants.

Results and Discussion

The main findings of this study have been divided into five sub-heading focusing on the historical absence of land records, lack of public trust in the intentions and legal system of the government, peoples attachment and preference for traditional *Jirga* over court system, deep seated patriarchal structures which restrict women's access to property, and the tribal word-view which see the communal /shared land as the pride, unity, and identity of the clan.

Historical Absence of Formal Land Records

A major challenge in formalizing land records in former FATA is the lack of historical documentation of land ownership. Under the Frontier Crimes Regulation (FCR), land transactions were based on oral agreements and communal ownership, without formal records. As a result, the government faces the difficult task of starting land mapping from scratch, without legal titles or documented lineage. This gap has led to the reliance on oral testimonies and tribal affiliations as valid land claims. So, the

historical absence complicates the implementation of formal land laws, as local customs often conflict with the new legal framework. In this regard, a participant of this study stated that:

"In tribal districts, there was no record of land system except in some parts of District Kurram and North Waziristan. The land property was owned collectively and was divided orally or verbally, which is now a serious challenge for government to demarcate and register land on the owner name." (Rehman Ullah, local tribal, 40)

It is observed that lack of a formal land registry in tribal areas, where land was distributed verbally, complicates efforts to formalize ownership. Without documentation, legal demarcation is challenging, leading to disputes and resistance. While discussing the issue, Muhammad Akbar, Senior Civil Judge Kurram explained that:

"In tribal districts, elders never needed formal documentations; and the land was passed down through bloodlines, not through files and any other legal documentation. In post-merger scenario, there are hurdles to legalize the land records, which further lead to confusion and disputes over the land." (Muhammad Akbar, Senior Civil Judge Kurram, 49)

Reliance on oral traditions for land inheritance, with tribal elders managing land based on kinship and honor. In the post-merger legal framework, this undocumented history creates challenges in aligning traditional property with state requirements.

The discussion shows that locals resist state-led reforms, believing tribal mechanisms best protect their identity and dignity.

Lack of Trust in Courts and Awareness and Formalization of Land Records

Decades of neglect and broken promises of government with the tribals have created skepticism toward the land laws in tribal districts. Many participants of the study believe that registering land will lead to taxation, dispossession, or surveillance. This mistrust is worsened by a lack of public education campaigns explaining the benefits and procedures of land formalization, which is one of the major issues of tribal for several decades. As a result, local tribals often resist the formalization of land laws. In this regard, Noor Zaman, District Public Prosecutor stated that:

"There is lack of awareness among the local tribals and most of them do not know about the legal procedures of the formal justice system. That's why they instead of contacting the formal courts and other legal institutions, are stuck to their old traditional justice system." (Noor Zaman, District Public Prosecutor, 55)

The lack of awareness has created many challenges for the local communities and state legal institutions which highlights the need for better education and access to legal resources regarding land ownership and rights. To continue the discussions, Malik Ilyas Haji also shared his thoughts in the following words:

"We as tribals do not expect anything [good] from the state. Since the creation of Pakistan, the government has given nothing to tribals except pushing them into war. " (Malik Ilyas Haji, a tribal leader)

A civil judge serving the area also referred to the issue of trust and elaborated that:

"Due to informal and oral distribution and ownership of land, some of the tribals do not trust in practice state laws. They view that they do not trust in state institutions except their tribal customs which protect their rights and dignity." (Muhammad Kamran, Civil Judge Kurram, 41)

Historically, land disputes in tribal areas were resolved through *Jirga* (council of elders). This traditional forum was deeply rooted in tribal culture, providing quick, flexible, and socially accepted form of dispute resolution. In contrast, the newly introduced formal courts are seen as distant, slow, expensive, and culturally alien. Many people view the formal judicial system with suspicion, believing it to be corrupt, biased toward the powerful, and incapable of understanding tribal customs. There is a widespread perception that those who have political connections or financial resources can manipulate court decisions, whereas ordinary citizens have little chance of securing justice. In such situations, land formalization becomes extremely difficult. In this context, Nazem Paracha as local tribal explained the issues in following words:

"We have always settled our disputes through Jirga because it is quick and fair. Now, they are telling us to go to courts, but who has the money or time for that? The court system is slow and waste time on paperwork. People like us do not even understand how it works." (Nazem Paracha, local tribal, 31)

There is contrast between the efficiency of *Jirga* and the formal courts system. Tribal community finds the legal system inaccessible due to its complexity, cost, and unfamiliar procedures. This highlights a major barrier for people, many of whom are uneducated of court processes, reinforcing their preference for traditional mechanisms. During interview, Intezar Hussain as local tribal shared his thoughts as follow:

"The courts are not made for poor people. If you don't have a lawyer or political support, you will lose the case, no matter how right you are. This is why many of tribals still prefer the Jirga. At least, there, tribal voices are heard, and justice is not sold." (Intezar Hussain, local tribal, 39)

There is perception that the formal justice system favors the elite and politically influential. Legal outcomes in courts often depend not on truth or fairness, but on money and influence. In contrast, the *Jirga* is seen as a space where even the poor can speak, reinforcing its credibility among the locals. Another participant, Hamad Ullah said that:

"I tried to take a land issue to the court, but the process was confusing, and the officials did not guide me. I felt like an outsider in my own case. In our tribal traditions, justice is given in days, while in formal courts, even years pass and nothing happens." (Hamad Ullah, local tribal, 51)

It shows that formal justice system alienates and confuses the tribals. The lack of procedural clarity and guidance from officials makes tribal citizens feel powerless. Compared to the swift and culturally relevant justice of *Jirga*, the courts are seen as unresponsive and detached from the realities of tribal life.

In short, the formalization of land records in former FATA is challenged by deep-rooted mistrust in formal courts. Tribals prefer traditional *Jirga*, which is seen as quicker, culturally relevant, and more affordable. Formal courts, in contrast, are viewed as slow, expensive, and biased toward the wealthy and politically connected. Most tribals think that courts are not made for poor that is why they settled their disputes through *Jirga*. So,

such kind of belief discourages locals from turning to formal institutions. Additionally, the formal courts disregards for tribal customs which fuel further their alienation.

Due to historical absence of state law and institutions to deal with issues of land in tribal areas, the local people of the region has developed negative perceptions towards the state and its legal institutions.

It is can be safely said that the formalization of land records in former FATA faces significant challenges due to deep distrust in state institutions, rooted in years of neglect and broken promises. Many tribals fear that land registration could lead to taxation, land seizure and government surveillance. The lack of awareness about legal procedures, many prefer traditional dispute resolution. This mistrust is exacerbated by the government failure to educate locals about the benefits of land formalization. A lack of communication has created a barrier to implementing land laws.

Impact of Traditional *Jirga* System on the Formalization of land Records

Many tribal people view the introduction of formal land records as a threat to traditional customs that have governed land for centuries. In former FATA, land disputes were settled by the *Jirga*, which holds significant legitimacy. Many locals prefer *Jirga* decisions over state courts and view state interventions in land matters as interference. This leads to widespread resistance to formal land reforms, especially from elders who fear losing influence, and tribal communities that see state law as western mission. Ajmal Hussain as local tribal expressed his thoughts as follows:

"We strictly follow our tribal elders' decisions in land matters. If land of local tribals goes on paper, what will be the use of our tribal customs and Jirga system? The matters of land are resolved by tribal elders effectively than state institutions." (Ajmal Hussain, local tribal, 50)

Local people prefer traditional methods to resolve land disputes, fearing that involving state institutions will put their land at risk. Muzamil Hussein as local tribal shared his thoughts in the following words that:

"The state legal laws and systems are alien to our tribal customs. The government of Pakistan is trying to bind us with laws we didn't make and do not know about. We believe that the only solution of our land issues is our tribal customs and Jirga system." (Muzamil Hussain, local tribal, 38)

Local tribals, unfamiliar with state land laws, rely on traditional practices, leading to misconceptions about the formal legal system in the post-merger context.

It is concluded that in former FATA, formalizing land records faces resistance due to the dominance of tribal customs. Land disputes are settled by the *Jirga*, where elders hold more authority than state courts. Locals view state surveys and documentation as interference, fearing a loss of influence over traditional practices. Tribals think that formal land records would disrupt their customs. The tribal unfamiliarity with state laws and trust in the *Jirga* system fuels resistance to formal legal frameworks.

Resistance against Tribal Women's Right to Inherit the Land Property

Women in former FATA rarely hold legal land rights. As per the tribal traditions, the collective land property could be only shared among the male members of family and giving share to women was considered as dishonor in tribal customs. Women who

wanted their share in land property were disregarded and the male of family would not have relations with them after they are being married as they brought stigma and dishonor to family. While Islamic and legal laws allows women to inherit property. The law of FCR ignores women right of land property. The formalization process provides an opportunity to empower women through documented ownership, but the traditional males in tribal districts remained a significant challenge to implement the land reforms. In this regard, Arifa as study participant shared her views in the following words;

"Being a tribal resident, I would say that in our tribal customs the owners of land property are consider only male members of the family, and women are disregarded to own land. Women, who demand their share in collective land property of family, face threats and relationship problems." (Arifa, female local tribal, 46)

In tribal customs, women are often excluded from land ownership and face threats or social backlash when asserting their rights. This fear of intimidation discourages them from claiming property. To further discuss the issues, Asma said that:

"If women want to maintain good relations with their fathers, brother and other male members of the family, then they should not demand their rights of land property of family. Women, who register their rights of share in collective property of family, are considered as cause of dishonor to family." (Asma, a local tribal female, 34)

The above quote highlights how emotional and cultural pressure discourages women from claiming inheritance, framing legal rights as disloyalty. Seeking land is seen not as justice but as betrayal, making women fear being labeled dishonorable.

In former FATA, women have long been excluded from inheriting land. Land ownership has traditionally been reserved for male, and any attempt by women to claim a share was seen as dishonorable. This practice is entrenched in tribal customs, which disregard women's property rights, despite Islamic and state laws permitting women to inherit land. The formalization of land records presents an opportunity to empower women, but deep-rooted patriarchal attitudes continue to impede this process. Women who seek their rightful share of land face significant social backlash and threats. Similarly, tribal cultural place pressure on women to forgo their land rights for their fathers and brothers.

Collective Ownership of Land as Tribal Identity and Solidarity of Clan

One of the main challenges in formalizing land records in former FATA is the traditional system of collective land ownership. Unlike individual land titles in settled areas, tribal land is often owned communally by entire tribes or clans, with no single person holding exclusive rights. This makes it difficult to fit into modern land registration systems that require individual ownership, legal documents, and clearly marked boundaries. Since land claims are based on oral agreements and centuries-old customs, providing legal proof is nearly impossible. As land becomes more valuable due to development, internal disputes rise. Many tribal elders fear that formalization will break up collective lands and erode their authority. This leads to widespread resistance, delays, and at times, hostility toward state efforts of formalization of land system. As in this regard, Muhammad Raziq as local tribal stated that:

"Tribals think that division of land is nothing but a way to divide and weaken them. Most locals in response to government demarcation of land policy claim that tribal land belongs to their

khel (tribe), not to person. We will never let anyone to divide the blood of our ancestors on a piece of paper." (Muhammad Raziq, local tribal, 44)

The local tribals have strong emotional and ancestral attachment to collective land ownership. Tribals believed that land is not a commodity, but a sacred heritage linked to the identity and unity of their *khel* (clan). They fear that dividing land legally will undermine tribal cohesion and ancestral bonds. While talking about the issues, Muhammad Nawaz as lawyer stated that:

"Tribals firmly believe that collective ownership of land is a great source of their unity and solidarity. If anyone tries to register their land, it is equal to split the blood relations. Such kinds of division will push local tribal to feuds that will last for generations." (Lawyer Muhammad Nawaz, 37)

In the tribal worldview, collective land keeps family ties strong, and any attempt to separate it into individual shares is seen as a betrayal that can trigger long-term conflicts among relatives. This highlights the fear of internal divisions and tribal enmity resulting from formal land registration. To continue the discussions, Malik Gul Zaman Haji also shared his words as follow:

"Being a tribal elder, I would say that collective land ownership is the soul of the tribe in our tribal area; the one who take it away, will result in the death of whole tribe." (Malik Gul Zaman Haji, 61)

It is true that collective land is not just economics but it is the spiritual and cultural foundation of the tribe. For the elder, losing this collective ownership is like losing the tribe identity. Further, it shows how deeply embedded the land is in tribal social structure.

The formalization of land records faces resistance due to the tribal tradition of collective land ownership. Unlike settled areas where land is registered to individuals, tribal land is shared among entire clans without written proof of ownership. This makes it difficult to align with state land laws, which require legal documentation and precise divisions. Tribes fear that individual registration will break their unity and especially the elders who fear that their influence communal control on land will reduce. Tribals fear that dividing land is seen as weakening the tribe and sparking internal conflict. Thus, formalizing land records without understanding these customs risks causing disputes. Any reforms must respect tribal values to avoid social unrest and ensure successful implementation.

Discussion

The merger of ex-FATA into mainstream Pakistan necessitated the formalization of land record in the tribal districts. However, the efforts of the government in this regard have met with daunting challenges as people in the tribal districts hesitate to cooperate with the governance officials. This study explored a number of challenges to formalization of land which are most in agreement with previous literature. One such factor is the historical absence of written documentation. Land ownership was traditionally governed by oral agreements and communal practices, making legal recognition challenging. The reliance on kinship-based arrangements has led to ambiguous ownership claims and mistrust toward formal legal mechanisms. Many locals view state-imposed procedures as intrusive, leading to resistance. The lack of official land records exacerbates land disputes and complicates court proceedings, resulting in

delayed resolutions and undermining trust in the state legal system. As a result, many tribal inhabitants continue to rely on traditional justice systems. The study of Ahmed and Jawad (2020) aligns with the findings of present study which indicates that the formalization of land records in erstwhile FATA remains a complex issue rooted in its unique legal and administrative history. Under the Law of FCR, former FATA was excluded from Pakistan's mainstream legal and cadastral systems. That is why after the merger of former FATA, this historical gap has led to hinder state-led efforts to formalize land ownership. Likewise, in Mozambique, the formalization of land records has been hampered by its post-colonial trajectory. After independence in 1975, the state nationalized all land without establishing formal land administration. As a result, the government of Mozambique has been facing trouble to implement new reforms of land law (Anderson, 2000). Similarly, Afghanistan land governance issues stem from decades of conflict and weak formal administration. Land registration has historically been limited to urban areas, while rural areas relied on tribal customs (Murtazashvili & Murtazashvili, 2021). So, the prolonged instability have destroyed land records and left much of the country without secured land system..

Lack of public trust in state institution including court and revenue department couple with people's lack of awareness about the benefit of formalization of land record is another barrier identified by this study. Faisal and Usman (2023) have also explained that in tribal districts, public trust and awareness regarding land formalization remain low due to long-standing state neglect, legal illiteracy, and the dominance of *Jirga*. Many locals fear that engaging in formal registration may bring taxes or legal troubles. Similar issues appear in rural Tanzania, where communities often resist formal land titling. Despite legal reforms, many people see these systems as foreign agenda. Complex procedures, limited access to land offices and fears of land grabs even after titling discourage participation (Wily, 2011). In Yemen, public trust in land institutions is deeply undermined by political instability and corruption. Formal registration is viewed as costly and vulnerable to elite capture. Most people in rural areas rely on traditional agreements due to limited legal awareness and minimal state presence (Unruh, 2016; Dunbar, 2004). The dominance of the traditional *Jirga* system and the people's deep rooted trust and attachment with this informal institution is another factor due to which people in tribal areas are reluctant to accept the ongoing land reforms.

Earlier, Bilal (2020) has also explained that *Jirga* system remains a powerful institution that regulates land through oral agreements and collective decisions in former FATA of Pakistan. Though quick and widely accepted, it often bypasses formal legal standards and resists reforms, viewing state initiatives as threats to tribal autonomy. This is also true elsewhere in the world. In Albania, for example, customary law rooted in the *Kanun* (customary practice) still shapes land relations. Though unofficial, it continues to influence property transfers and dispute resolution. Elders and village councils often resolve land issues informally, sidelining the legal system and complicating efforts at land formalization (Sallaku & Jojic, 2009; Leka, 2016). Parallel to this, Mozambique also sees strong customary control over land. Chiefs and elders allocate land without formal records, even though the 1997 Land Law recognizes customary tenure. The coexistence of informal and formal systems often leads to confusion and resistance to land record formalization (Peters, 2009).

The strong hold of patriarchy in tribal areas in which women are neglected in issue of land inheritance has also surfaced as a reason for why tribal men do not accept the formalization of land record. The new system will ensure women's legal right and share in the collective property of the clan which being resisted by local people. Previous

research on this issues has established that women in Pakistan remain significantly marginalized when it comes to land ownership (Sanauddin, 2015; Sanauddin et.al., 2016). Despite Islamic Law, local customs rooted in patriarchal traditions routinely prevent women from claiming property. Cultural values of honor and tribal cohesion often justify these exclusions, leaving women dependent on males. A similar pattern is evident in Yemen where deeply ingrained patriarchal customs and conservative religious interpretations limit women's access to land, regardless of existing legal protections. Many women are pressured to give up their inheritance rights due to severe social consequences in tribal societies of Yemen (Hussein, 2012). Furthermore, in Tanzania, the law formally recognizes women land rights. However, in rural areas, customary norms often override statutory provisions. In Tanzania in general women and in particular widows and daughters frequently lose access to land after the death of a male guardian (McAuslan, 2009). A study by Farhan, (2019) indicates that land in former FATA maintaining social bonds, and does not align with the formal state systems that rely on personal land titles. Likewise, in rural Tanzania, the practice of shared village lands – used collectively for farming, grazing, or forestry, makes formalization difficult. Although group certificates and village land plans have been introduced to legalize these holdings, implementation has been inconsistent. Technical demands, such as mapping, combined with the challenge of obtaining community agreement, often delay the process (Deinlger & Binswanger, 2019). Similarly, Albania still grapples with the legacy of collective landholding inherited from its communist past. Under Law 7501, land was distributed without proper legal documentation. Many families co-own land parcels based on informal arrangements, making it difficult to assign legal titles (Shkurta, 2016).

Conclusion

This study has critically examined the challenges associated with the formalization of land records in Pakistan's former Federally Administered Tribal Areas (FATA), now merged into Khyber Pakhtunkhwa Province. The findings emphasize that the absence of formal land documentation, combined with communal ownership structures such as *Shamilat*, has severely hindered the implementation of formal land records. Key challenges identified include local resistance, especially from tribal elders, a widespread mistrust in state institutions, and the dominance of *Jirga*, which continue to shape land-related disputes. Additionally, the lack of coordination between relevant state institutions further exacerbates the difficulties of formalization. The study also reveals the significant gender disparities, as women remain excluded from land ownership and inheritance rights due to entrenched cultural norms. Lastly, the study also found that local tribal people have long associated land with identity and unity of the tribe/clan and division of land represent division of clan members due to which people resist any land reforms. .

Recommendations

Addressing these challenges and barriers to land reforms identified in this article requires the development of context-sensitive policies that integrate local customs while fostering trust in formal legal frameworks. A collaborative approach, involving active community participation and strengthening institutional capacity, is essential to overcoming these obstacles. This research offers crucial insights into land governance in the post-merger FATA, contributing to future policy reforms and land management strategies that promote fairness, inclusion, and sustainable development in the newly integrated tribal districts of Khyber Pakhtunkhwa Province of Pakistan

References

- Ahmed, G., & Jawad, S. (2020). A fundamental rights perspective of land reforms in Pakistan. *Pakistan Social Sciences Review*, 4(3), 315-324
- Ahmed, S., Ali, J., & Sanauddin, N. (2016). PATRIARCHY IN FAMILY CARE-GIVING: Experiences of Families of Children with Intellectual Disability In Pakistan. *JPMI: Journal of Postgraduate Medical Institute*, 30(1), 73-79.
- Anderson, P. S. (2000). Mapping land rights in Mozambique. *Photogrammetric Engineering and Remote Sensing*, 66(6), 769-776.
- Bagai, M. (2014). Challenges in Afghanistan: *The Journal of International Issues*, 18(2), 108-123.
- Bilal, S. (2020). *Challenges of land demarcation and dispute resolution in tribal districts of Pakistan. Journal of Rural Studies*, 12(2), 55-71.
- Deininger, K., & Binswanger, H. (2019). The evolution of the World Bank's land policy: principles, experience, and future challenges. *The World Bank Research Observer*, 14(2), 247-276.
- Dunbar, C. (2004). The unification of Yemen: process, politics, and prospects. *Middle East Journal*, 46(3), 456-476.
- Faisal, S. M., & Usman, M. (2023). *Unraveling the Constitutional Quandary: The Status of FATA Pre-Merger in the 1973 Constitution. Pakistan Journal of Law, Analysis and Wisdom*, 2(2).
- Farhan, H. (2019). *Examining the barriers to effective land demarcation in Pakistan's tribal regions. Journal of Asian Land Studies*, 17(3), 90-105.
- Farooq, U., & Shakir, A. (2022). Assessing the effectiveness of land dispute resolution mechanisms in tribal districts. *Pakistan Journal of Social Sciences*, 43(2), 150-166.
- Gohar, S. & Sajid, H. (2024). Exploring the Reforms Journey of FATA in Pakistan through Various Regimes (1947-2018). *Journal of Asian Development Studies*, 13(2), 1845-1852.
- Huma, R. (2020). *The effects of poor land record management on disputes in Pakistan's tribal areas. Journal of Law and Environment*, 9(3), 101-116.
- Hussein, D. (2012). Legal reform as a way to women's rights: the case of Personal Status Law in Yemen. *OIDA International Journal of Sustainable Development*, 3(1), 21-46.
- Ibrahim, M., & Ali, S. (2024). Analyzing the socio-political and economic impacts of the 25th constitutional amendment in Pakistan: A critical study. *International Journal of Contemporary Issues in Social Sciences*, 3(3), 1662-1672.
- Iqbal, S., & Khan, A. (2022). Economic dependency and lack of legal awareness: Barriers to women's land rights in KP's tribal regions. *Journal of Gender and Law*, 19(2), 88-103.
- Junaid, M. (2018). *Land disputes in Pakistan: The critical role of land demarcation and record accuracy. Journal of Property Research*, 15(1), 38-54.

- Juneau, T. (2010). Yemen: Prospects for state failure–Implications and remedies. *Middle East Policy*, 17(3), 134-152.
- Khan, B., Ali, S., & Khan, A. (2023). A historical overview of reforms in the erstwhile Federally Administered Tribal Areas (FATA) of Pakistan. *Journal of Humanities, Social and Management Sciences*, 4(1), 1-10.
- Khan, B., Khan, A., & Ali, S. (2022). Reforms in the erstwhile Federally Administered Tribal Areas of Pakistan: a critical analysis. *Journal of Humanities, Social and Management Sciences*, 3(2), 104-115.
- Knox, A., & Tanner, C. (2019). Challenges in implementation of Mozambique's progressive land law. *Gates Open Res*, 3(1293), 1293.
- Leka, A. (2016). Property rights in Albania: Historical background and current issues. *Academic Journal of Interdisciplinary Studies*, 5(3), 34-47.
- McAuslan, P. (2009). Making law work: restructuring land relations in Africa. *Development and change*, 29(3), 525-552.
- Murtazashvili, J. B., & Murtazashvili, I. (2021). *Land, the state, and war: Property institutions and political order in Afghanistan*. Cambridge, UK: Cambridge University Press.
- Noorani, G. M., & Khan, H. U. (2025). *Merger of Federally Administered Tribal Areas: Mapping the Implementation of Administrative and Judicial Reforms*. *International Journal of Social Sciences Bulletin*, 3(2), 227-243.
- Peters, P. E. (2009). Challenges in land tenure and land reform in Africa: Anthropological contributions. *World development*, 37(8), 1317-1325.
- Rutherford, B. (2017). Land governance and land deals in Africa: Opportunities and challenges in advancing community rights. *Journal of Sustainable Development Law and Policy (The)*, 8(1), 235-258.
- Sallaku, F., & Jojiç, E. (2009). Dynamics of land-use and land-cover change in Albania: environmental consequences and policy response. *Research Journal of Agricultural Science*, 41(2), 190-198.
- Sanauddin, N. (2015). Proverbs and patriarchy: analysis of linguistic sexism and gender relations among the Pashtuns of Pakistan. PhD thesis submitted to the University of Glasgow. <http://theses.gla.ac.uk/6243/>
- Sanauddin, N., Chitrali, J. A., & Owais, S. (2016). Public Patriarchy: An Analysis of Women's Access to Education, Work and Politics in Pakistan. *Putaj Humanities & Social Sciences*, 23(1), 27.
- Shkurta, G. (2016). Albania versus European Court Decision on Property Conflicts. *Journal of the Association-Institute for English Language and American Studies*, 5(9), 14-23.
- Ullah, A., & Hayat, S. U. (2018). The merger of FATA with Khyber Pakhtunkhwa: An historical analysis. *Journal of Political Studies*, 2(25), 39-50.

- Ullah, N., Bashir, S., Nadeem, M., & Ibrahim, S. (2025). From Jirga to Civil Court: Navigating Land Justice in Post-FATA Khyber District. *Journal of Social Sciences Review*, 5(1), 499-508.
- Unruh, J. D. (2016). Mass claims in land and property following the Arab Spring: Lessons from Yemen. *Stability: International Journal of Security and Development*, 5(1), 6-6.
- Usman, S. M. (2022). FATA Merges into Pakistan's National System. *South Asian Survey*, 29(1), 103-118.
- Veliu, S. (2015). The Right of Property and its Juridical Protection-Albania Case. *European Journal of Interdisciplinary Studies*, 1(2), 73-79.
- Waris, A., Fayaz, S., & Khattak, A. K. (2021). Constitutional status of FATA: Pre & post-merger comparison of legal & administrative system. *Global Legal Studies Review*, 6(2), 1-6.
- Wily, L. A. (2011). 'The law is to blame': the vulnerable status of common property rights in sub-Saharan Africa. *Development and change*, 42(3), 733-757.
- Zeb, B., & Nawab, H. U. (2023). Federally Administered Tribal Areas (FATA) Reforms Unveiled: A Case Study of Tehsil Khar, District Bajaur, Khyber Pakhtunkhwa. *Annals of Human and Social Sciences*, 4(3), 280-298.