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Background: Historical Perspective

Introduction

The Federally Administered Tribal Areas (FATA) in Pakistan is the locality which is bordering Afghanistan to the north-west, the province of Baluchistan to the South and Khyber Pakhtunkhwa to the east. The total area of the region of FATA is 27,220 square kilometers i.e. 10,507 square miles.

The Federally Administered Tribal Areas are comprised of seven units (called agencies), i.e. Bajaur, Mohmand, Orakzai, North and South Waziristan, Khyber, Kurram and six Frontier Regions, FR Kohat, FR Tank, FR Lakki, FR Bannu, FR Dera Ismail Khan and FR Peshawar. According to the census of 1998 Pakistan, the total population of FATA was 3.3 million. However, it is now estimated and claimed by political circles of FATA and intellectuals of the region that FATA has a population of 10 million and above.

Federally Administered Tribal Areas are administered by the Frontier Crimes Regulation (FCR), which was introduced under the British Government of India way back in 1901. The tribal areas are represented both in Senate and the National Assembly of Pakistan. However the constitution averts parliamentarians from legislating for FATA.

People of FATA were initially given universal suffrage and the right to vote in the 1997 general elections. Formerly, because the reach of the Political Parties Order (2002) had not been extended to tribal areas, contenders from FATA were not allowed party membership and could only compete as independent candidates. The reach of the Political Parties Order was extended to FATA in 2011 and political parties participated extensively in 2013 voting.

The administrative, judicial and electoral head of every agency is the political agent (PA), handling far-reaching powers. At present, PAs are generally perceived to be dishonest and poor representatives of the peoples' will. Every agency, depending on its size, has 2 or 3 assistant PAs, 3 to 4 tehsildars and between 4 to 9 naib tehsildars with the necessary supporting staff.

Every FR is led by the District Coordination Officer (DCO) of relevant neighboring settled districts. Under the administration of every DCO is 1 assistant political agent (PA) and 1 or 2 tehsildars and naib tehsildars along

with the supporting staff. Every Agency has 2 or 3 thousand khasadars and levies forces and 5 to 9 wings of the Frontier Corps for ensuring security and law and order in the agency and on the Pakistan border.

Geographical Facts

FATA is the most impecunious part of the Pakistan, with per capita income of just half the national average. Only 34% of FATA residents manage to climb above the poverty line. The 7 agencies (districts) and 6 frontier regions (FRs) are as specified below. Khyber Agency was established first in 1879 followed by Kurram and then North and South Waziristan respectively:

1. Khyber, 1879
2. Kurram, 1892
3. North Waziristan, 1896
4. South Waziristan, 1896
5. Mohmand, 1951
6. Orakzai, 1973
7. Bajaur, 1973

After British annexation of the North West Frontier Province (NWFP, today's Khyber Pakhtunkhwa province) in 1849, it followed a closed-door strategy concerning its associations with borderland tribes. Non-aggression and non-intervention in inside tribal affairs were declared objectives of this strategy.

In 19th century, however, a transformation was observed when the concept of a "forward policy" was implemented, ensuing in permanent occupation of the Khyber Pass followed by the same in Gomal Zam and the Tochi Valley (1889-90). Occupation of Samana followed in 1891 and of Kurram Valley in 1892, followed then by more annexations. The rationale behind these measures was strategic in that they supported the British Empire from any potential Russian attack by forming a tribal "buffer zone". The British were only provoked by tactical considerations and had no interest in changing the way of life of the tribes in what is now FATA.

In 1901, the frontier districts of Peshawar, Kohat, Bannu and D.I. Khan, as well as Khyber, North and South Waziristan, and Malakand agencies were previously included as part of NWFP and ruled by the chief commissioner as an assistant of the governor general. The Frontier Crimes Regulation (FCR), initially written in 1872, was then enacted (in Mianwali and Cambellpur/Attock and other areas) and circulated later with some amendments. Since the independence of Pakistan in 1947, 3 new agencies have been formed from the existing tribal areas. In the early British-regulated areas, various small scale developmental projects in the social sector were initiated, and an allocation was set for creating awareness and educating tribal youth in the professional colleges. No other valuable developmental measures, however, have been pursued to develop the economic situation of the people

in FATA. On the other hand, majority of the development initiatives since then have only maintained the tribal bureaucracy or certain tribal elites.

The Amended Frontier Crimes Regulation, 2011

The Frontier Crimes Regulation (FCR) is an old law. Although modest modifications were made by the government in previous decades, the substance and structure of the regulation have remained essentially the same. Prior to 2011, the FCR was amended in 1928, 1937, 1938, 1947, 1962, 1963, 1995, 1997, 1998 and 2000. However, all amendments were minor in nature and substance.

In August 2011, however, the President of Pakistan Asif Ali Zardari signed and enacted the first-ever substantive amendments in the history of the FCR. The 2011 presidential order substantially altered the FCR, including amendments, insertions, substitutions and omissions. Many of the amendments were made in a detailed manner, inhibiting common readers and researchers from easily understanding their meaning and their impact on the FCR and the legal regime governing FATA. The text that follows this executive summary is the definitive updated legal text of the Frontier Crimes Regulation, incorporating all 2011 amendments.

This document should be beneficial to FATA citizens, researchers, lawyers, journalists, civil society organizations, political party members, government officials and others exercising powers under the FCR.

The 2011 political reforms included numerous and extensive amendments to the Frontier Crimes Regulation. The legal concepts and overarching structure of the regulation, however, remained essentially untouched. While most critics and many FATA citizens argue that additional political reforms are needed, the 2011 amendments to the FCR did introduce new concepts, strengthened pre-existing substantive and procedural law, and made some gains in terms of the political and human rights of FATA citizens.

Methodology

The main purpose of the research was to understand gaps in the current FCR Reforms and present community-determined changes to the Reforms. For this purpose Survey-questionnaire methodology was used to understand behaviors, beliefs and observations of the respondents and their responses were analyzed and interpreted. Non-Probability Technique; Convenience/Judgment Sampling was used for the research which is a method often used during preliminary research efforts to get a gross estimate of the results. In total, 525 respondents participated in the survey, 66% of the respondents were male and 34% of them were female respondents. The survey was conducted in the region of Bajaur and its adjoining areas. 72% of the respondents were from the Bajaur agency, 9% were

from Mohmand Agency, 8% from Khyber Agency, 6 % from Orakzai and 5% of the respondents were from other agencies

The survey was conducted among the respondents above the age of 16 years and 72% of the respondents were between the ages of 22 and 33. 18% of the respondents were younger than 21 years and 10% were above the age of 33 years. 47% of the respondents were illiterate, 41% were under Matric and only 12% of respondents were above matric. The mother's education of respondents was also asked in the survey questionnaire and as per the results 98% of the mothers were found to be either illiterate or under matric. Family income of 47% of the respondents was found in between 5001-10000, 40% between 1000-5000 and only 13% of the respondents had family income in between the slab of 10001-50000.

Amendments tested in the Survey

The awareness regarding the recently updated amendments was tested in the survey. The questionnaire consisted of a series of recently made updates in 2011 FCR Reforms. Some of the asked clauses included the information regarding:

- » Registration of a case
- » Right to bail
- » Appeal Process
- » Collective Responsibility
- » Complaint against false case and/or Information
- » Double Jeopardy

An overview of the comparative analysis of the clauses before and after the amendments is discussed underneath:

Registration of a case

Previously the accused ones were kept captive without the registration of the case and there was no record and documentation regarding the nature of the crime. As per the amendment, before taking any action against the accused person, the related authority has to register a case against him before taking any action. This amendment will not only help in the documentation of the nature of crime but will also aid the authorities in taking a quick action against a criminal. The criminal will be allowed to review the charges against him and the authorities will have to present him in front of the judiciary.

Right to bail

The amended FCR has an important reform that the people of FATA shall be provided with right of bail. With this right the people will get numerous benefits. The citizens of FATA are provided with the same right of appeal that the people of the rest of Pakistan are enjoying.

Before the right to bail, some unfortunate innocent people were considered guilty. The accused people were arrested by political agents as soon as they were accused for an act irrespective of the fact that whether they were guilty

or not. The accused, his family along with the tribe were punished soon after the blame was imposed. At times the accused person was not even aware of the charges against him and he had to stay behind the bars.

Through FCR reforms, the Tribal people can now have the right to bail. Now the accused can't be kept in the jail for a long period of time without the confirmation of the charges against him as he is provided with the right to bail. It is essential that the people get advantage from this amendment after getting awareness from it.

Appeal Process

Another important amendment is providing the accused with right to appeal against a decision. Before the amendment was made, a government official as a political agent was given superfluous powers. To appeal in front of a free and fair judiciary against the decisions made by the political agent was a lifelong desire of the Tribal people. The people can now appeal against the charges and allegations. A three member tribunal of FATA court headed by a chairman will be formed which will act as a high court or a watchdog to ensure civil rights guaranteed by the new amendments. According to this amendment, people are provided with an opportunity to object the decisions made by the political agents. This will allow them to prove themselves as innocents. This amendment will provide protection to the basic human rights of the people. Prior to these amendments, appeals were not heard in a justifiable manner because of the fact that the appeals were heard by the authority that has earlier deliberated and made a decision upon the case. This meant that the appellant was not given a fair opportunity to have their cases heard by an independent body so that the norms of justice are fulfilled. At times, during certain cases, it was observed that the commissioner (as a political agent and appellant authority) had to hear appeals against his own decisions. Right to justice was denied for the people of FATA. This loop hole in the system resulted in frustration by the appellant and very few appeals due to absence of a fair appeal system. Now the three member independent tribunal will have the equal powers as that of high court.

Collective responsibility

Before the amendments, the accused person along with his whole tribe was held responsible and penalized for a crime by the authority. They were at times arrested by the political agents and sometimes were heavily fined by them. The entire tribe was affected by an offense of a single member. The accused had no right to appeal or to get a bail.

Now only the accused person will be responsible for his mistakes and the rest of the tribe members will not be punished.

Complaint against false case and/or Information

During the past, the incidents of fraudulent cases were common. Before the amendments, the people were neither provided with the right to bail nor were they allowed to appeal against the decisions made by the political agents.

So if a person was accused of a crime that he didn't commit and he was punished for it, the decision used to remain the final one.

According to the amendment a person found in false case registration will be held accountable in the court of law. He will be punished and the accuser will be entitled with compensation in such cases.

Double jeopardy

The FCR reforms of August 2011 has a new amendment which states that if an accused after prosecution has been acquitted or punished then he cannot be charged for the same offense. This means that there is a single punishment for a single mistake. If the amended reforms are implemented and people become aware of its benefits, the system of judiciary in FATA will enter into a new era of justice. This amendment will protect the people from a stringent system of justice and will be provided with their basic human rights.

Research Overview (Consolidated)

The survey questionnaire was divided into various parts including:

- » Awareness of FCR Reforms and amendments
- » Discrepancies in the FCR programme
- » Perceptions of FATA residents regarding the FCR reforms
- » Community determined goals regarding the implementation of Reforms

The findings of the survey implied that half of the respondents were aware of term "Frontier Crime Regulation". More than half of the respondents mentioned that they know that amendments have been made recently in the law.

Majority of the respondents stated that they know about the recent amendments in "Registration of the case", Penalty against false complaints", Right of Appeal", freedom from double punishment" and Political agent to be audited by Audited General of Pakistan" clauses in the FCR whereas most of the respondents stated that recently no updates are made in the clauses for "Legal protection for the accused", defendant will be entitled to adequate compensation in criminal matters" and Right of Bail" in recent FCR reforms. More than half of the respondents stated that Women, children below 16 and those aged above 65 shall not be arrested or detained under Collective Responsibility and agreed that women and children should be exempted from territorial responsibility. The respondents also mentioned that clause under which tribes will not be arrested under the Collective Responsibility have been updated recently.

Out of total respondents of 525, most of the respondents had a consensus that there are Gaps in the existing FCR Reforms while the remaining negated the statement and

more than half of the respondents stated that they will talk to their family and friends about FCR Programme. Most of the respondents stated that the implementation of FCR Programme will be resisted by Landlords, wealthy people, Pressure Groups and old Jirga system. Majority of the respondents stated that “lack of understanding of rights”, “Low literacy rate”, “Lack of Judiciary systems” and “Lack of political will to implement the FCR programme” are going to be big hindrances in the implementation of FCR programme.

Majority of the participants stated that Wealthy people, Landlords and People with political influence will get the most benefit from FCR Programme. Majority of the respondents did not agree that FCR Reforms programme is extremely good for the society. The respondents also disagreed that FCR Reform Programme will help in providing justice to the poor, eliminating corruption, improving the governance system and will improve the access of justice in the region. The respondents also disagreed that FCR Programme will enhance the political environment of the region and majority of the respondents’ disapproved that the reforms will improve participation of women in societal activities. There was a diverse opinion on the question that there are no Gaps or shortcoming in the FCR programme after the reforms, however, majority of the respondents disagreed to the statement.

The respondents urged the need to completely renounce the Black Law of FCR serving solely the corrupts and politicians and added that it is high time that a more civilized law in accordance to Islamic Principles and the Constitution of Pakistan should be imposed.

FATA has been underprivileged disowned and deprived of all the civic amenities of which other parts of the country benefit from. The termination of the FCR law would bring ray of hope to future of the region that has a distressful and disturbing history.

Female Respondents

The survey was conducted among 178 female respondents between the ages of 16 years to 33 years.. Majority of the female respondents were illiterate and almost all of the mothers of respondents were found to be illiterate or under matric. The information about family income of the respondents was also collected which showed that majority of the respondents had family income less than 10,000. Majority of the female respondents stated that they have never heard about “Frontier Crime Regulation and were found to be aware of recent changes in the law of FATA. Most of the respondents stated that they know about the amendments that have been incorporated in “Registration of the case”, “Penalty against false complaints” and “Freedom from double punishments” clauses in recent FCR reforms whereas the participants denied about any knowledge about updates made in the clauses for “Legal protection for the accused”, “Right of

Appeal” and “Right of Bail” in recent FCR reforms. Most of the female respondents stated that the law which stated that Women, children below 16 and those aged above 65 shall not be arrested or detained under Collective Responsibility has been updated recently and almost half of the respondents agreed that updates in the law has been made regarding that; women and children should be exempted from territorial responsibility. Majority of the respondents mentioned that clause under which tribes will not be arrested under the Collective Responsibility has been updated recently. Majority of the respondents gladly mentioned that in the recent FCR reforms it is added that Political agent will be audited by Audited General of Pakistan.

Out of total female respondents of 178, most of the respondents stated that there are Gaps in the existing FCR Reforms. Majority of the female respondents stated that they will talk to their family and friends about FCR Programme and added that the implementation of FCR Programme will be resisted by Landlords, wealthy people, Pressure Groups and old Jirga system. Majority of the respondents stated that “lack of understanding of rights”, “Low literacy rate”, “Lack of Judiciary systems” and “Lack of political will to implement the FCR programme” are going to be big hindrances in the implementation of FCR programme.

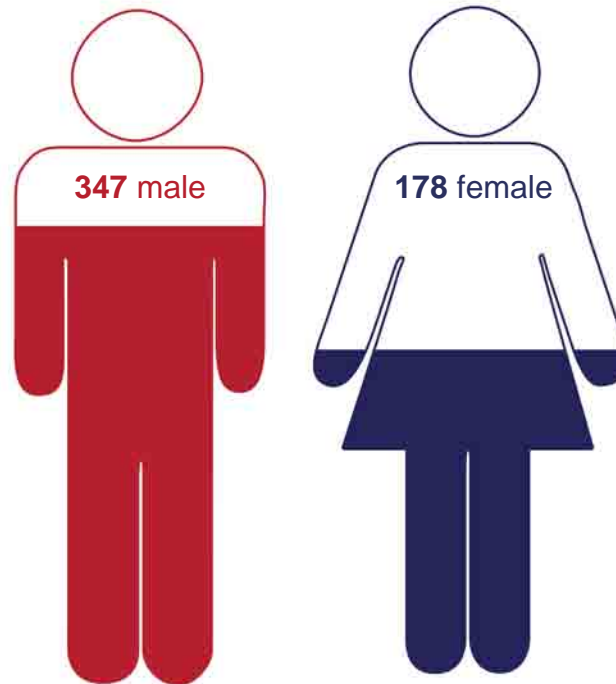
More than half of the female respondents agreed that there are huge gaps or shortcomings in the FCR programme. Majority of the participants stated that Wealthy people, Landlords and People with political influence will get the most benefit from FCR Programme. Many of the respondents strongly disagreed with the statements that FCR Reforms programme is extremely good for the society. More than half of the female respondents mentioned that Reforms in FCR program will not change anything for them and will not be helpful in improving the situation of justice, eliminating corruption and enhancing political environment of the region. Almost 40% of the female respondents were positive about the statement that their role in the society will be increased after the recent reforms. Majority of the respondents stated that there are Gaps and shortcoming in the FCR programme and many of them were found to be of the view that this law should be altogether replaced with some other form of governance system which caters the demands and needs of the public of FATA.

However it was interestingly noticeable that the findings of the survey affirmed that Female respondents of the survey perceive the FCR reforms Programme a little bit better and beneficial for the General Public as compared to the consolidated view of this research. Despite having shortcomings in the reforms, a bit positive view regarding the FCR reforms was evident in the responses by the females as compared to the consolidated view in the research.

Research Findings (Consolidated)

Demographics		Percentage
Gender		
Male	347	66%
Female	178	34%
Age Group		
16-21	92	18%
22-27	206	39%
28-33	175	33%
More than 33	52	10%
Education		
Illiterate	245	47%
Under Matric	214	41%
Above Matric	66	13%
Mothers Education		
Illiterate	258	49%
Under Matric	259	49%
Above Matric	8	2%
Family Monthly Income		
1000-5000	210	40%
5001-10000	245	47%
10001-50000	70	13%
Above 50000	0	0%
Location		
Bajaur	375	71%
Mohmand	47	9%
Khyber	43	8%
Orakzai	33	6%
Any Other	27	5%

Demographics



survey was conducted among 347 male respondents and 178 female respondents.

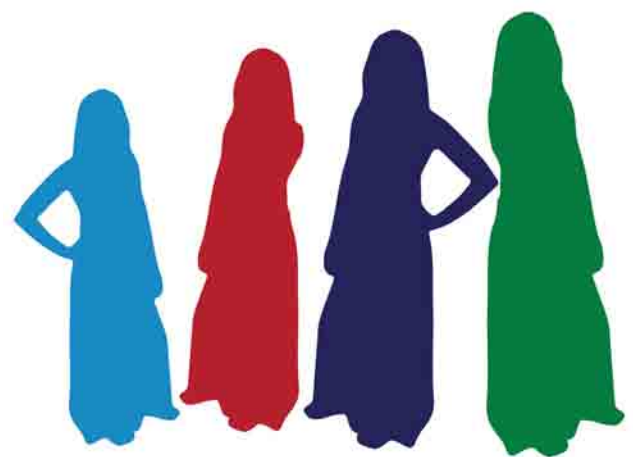
Consolidated Response



Age	16-21	22-27	28-33	Above 33
Participants	92	206	175	52

The survey was conducted among the respondents above the age of 16 years 92 respondents were of the age between 16-21 years, 206 respondents were of the age between 22-27 years, 175 respondents were between the age group of 28-33 years and 52 participants were above the age of 33 years.

Female Respondents



Age	16-21	22-27	28-33	Above 33
Participants	37	43	49	49

The survey was conducted among the respondents above the age of 16 years. 37 respondents were of the age between 16-21 years, 43 respondents were of the age between 22-27 years, 49 respondents were between the age group of 28-33 years and 49 respondents were above the age of 33 years.

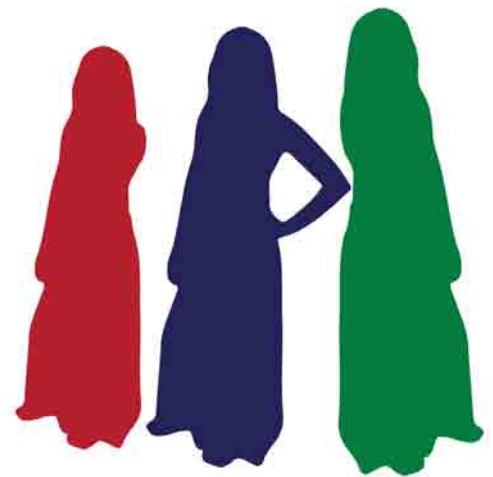
Education



Education	illiterate	under Matric	above Matric
Participants	245	214	66

Out of total respondents of 525, most of the respondents i.e. 245 respondents were illiterate, 214 were under Matric and only 66 respondents had education above Matriculation.

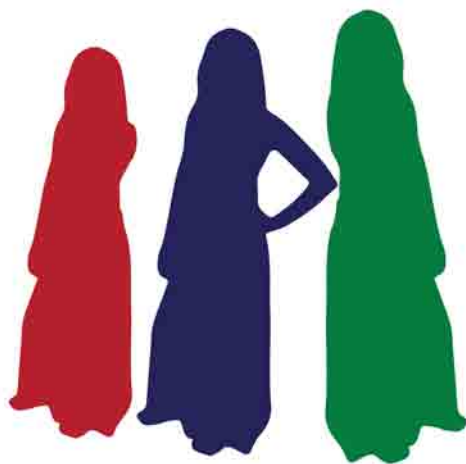
Education



Education	illiterate	under Matric	above Matric
Participants	99	71	8

Out of total respondents of 178, most of the respondents i.e. 99 were illiterate, 71 respondents were under Matric and only 8 respondents had education above the level of Matriculation.

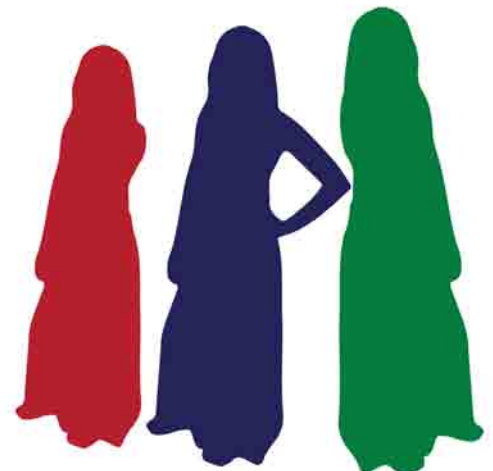
Mother's Education



Education	illiterate	under Matric	above Matric
Participants	258	260	8

The Mother's Education of respondents according to the survey resulted that 258 respondents had illiterate Mothers, 259 had Mothers with the education level of Under Matric whereas only 8 respondents had Mothers with education level above Matriculation.

Mother's Education



Education	illiterate	under Matric	above Matric
Participants	116	59	3

The Mother's Education of respondents according to the survey resulted that 116 respondents had illiterate Mothers, 59 had Mothers with the education level of Under Matric whereas only 3 respondents had Mothers with education level above Matriculation.

Family Monthly Income



Income	1k-5k	5k-10k	10k-50k	Above 50k
Participants	210	245	70	0

Family income of 210 respondents was found in between 1000-5000, 245 respondents had Family Income between 5001-10000, 70 respondents had family income in between the slab of 10001-50000 whereas none of the respondents had Family Income above 50000.

Family Monthly Income



Income	1k-5k	5k-10k	10k-50k	Above 50k
Participants	125	43	10	0

Family income of 125 respondents was found in between 1000-5000, 43 respondents had Family Income between 5001-10000, 10 respondents had family income in between the slab of 10001-50000 whereas none of the respondents had Family Income above 50000.

Location (Agency)



Location	Bajaur	Mohmand	Khyber	Orakzai	Any Other
Participants	375	47	43	33	27

The survey was conducted in the region of Bajaur and its adjoining areas. 375 respondents were from the Bajaur agency. 47 respondents were from Mohmand Agency, 43 respondents were from Khyber, 33 respondents were from Orakzai and 27 respondents were from other agencies.

Location (Agency)

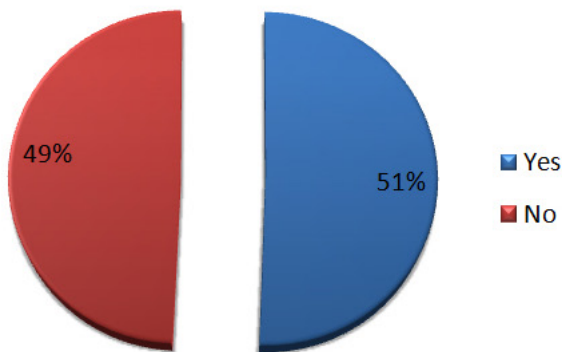


Location	Bajaur	Mohmand	Khyber	Orakzai	Any Other
Participants	119	22	19	9	9

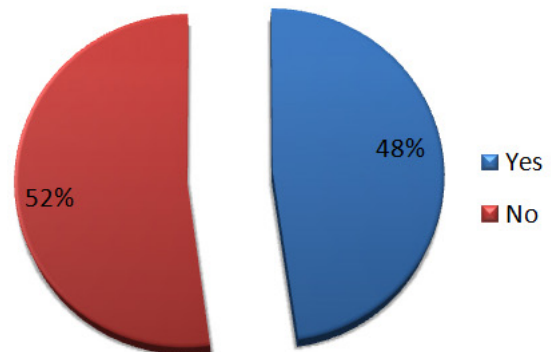
The survey was conducted in the region of Bajaur and its adjoining areas. 119 respondents were from the Bajaur agency. 22 respondents were from Mohmand Agency, 19 respondents were from Khyber, 9 respondents were from Orakzai and 9 respondents were from other agencies.

Awareness of FCR Reform and Amendments

1. Have you heard the term “Frontier Crime Regulation”?

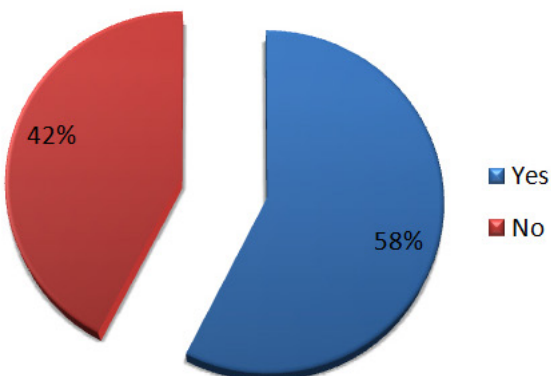


51% of the respondents stated that they have heard the term “Frontier Crime Regulation” and 49% of the total respondents stated that they have never heard about “Frontier Crime Regulation”.

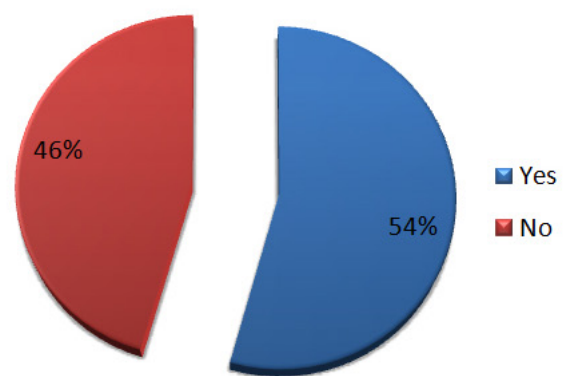


48% of the respondents stated that they have heard the term “Frontier Crime Regulation” and 52% of the total respondents stated that they have never heard about “Frontier Crime Regulation”.

2. If Yes, do you know there have been recent amendments made to FCR?



58% of the respondents mentioned that they know that amendments have been made recently in FCR and 42% of the respondents were of the view that they are not aware about the recent amendments in FCR.



54% of the respondents mentioned they know that amendments have been made recently in FCR and 46% of the respondents were of the view that they are not aware about the recent amendments in FCR.

3. If No, what is the law being followed in FATA.

Most of the respondents who mentioned that they are not aware about FCR Program added that Law of the Jungle is being followed in the region. The respondents further mentioned that law in their region is being enforced by the following.

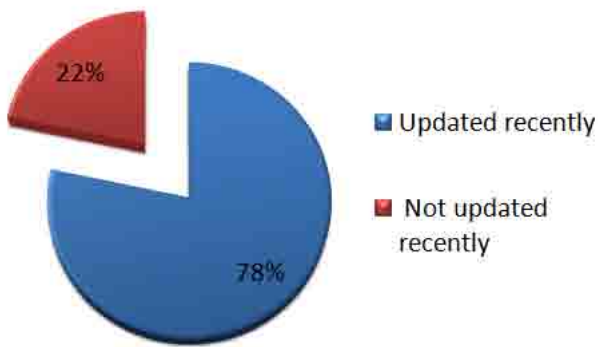
- » Political Agents
- » Jirga Leaders
- » Maliks (Tribe Heads)
- » Khasdars

Half of the female respondents mentioned that they are unaware about FCR Program. When they were asked what is the law being followed in FATA most of them responded that Jirga System is followed. The respondents added that Maliks and Political Agents of the regions are considered to be the supreme authorities.

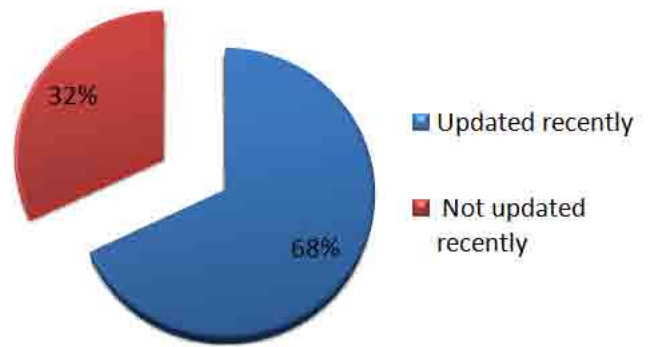
Few of the respondents mentioned that law system of every area varies and influential leaders and rich people of the society have jurisdiction over it.

4. Do you know which of the following elements of FCR were updated recently?

a. Registration of the case

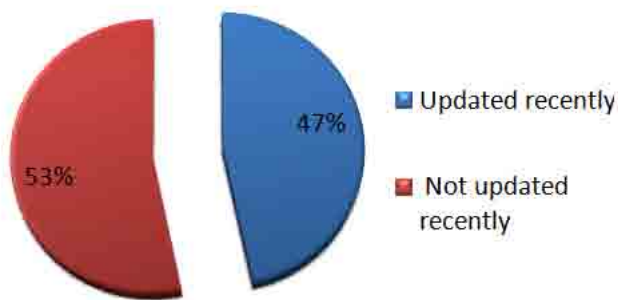


78% of the respondents mentioned that amendments have been incorporated in “Registration of the case” in recent FCR reforms. 22% of the participants stated that this amendment is not updated recently.

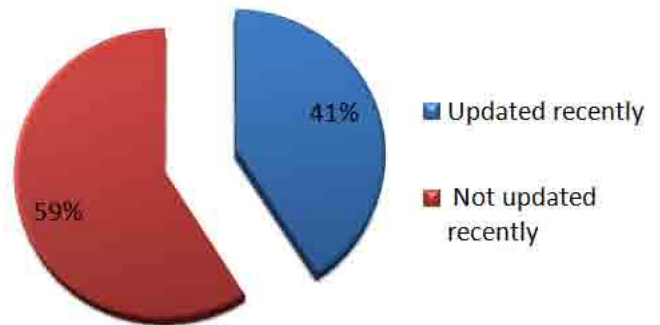


68% of the respondents mentioned that amendments have been incorporated in “Registration of the case” in recent FCR reforms. 32% of the respondents stated that this amendment is not done in the recent reforms.

b. Legal protection for the accused



53% of the respondents mentioned that recently no updates are made in the clause for “Legal protection for the accused” whereas 47% respondents stated that there has been a change in the law of legal protection for the accused.

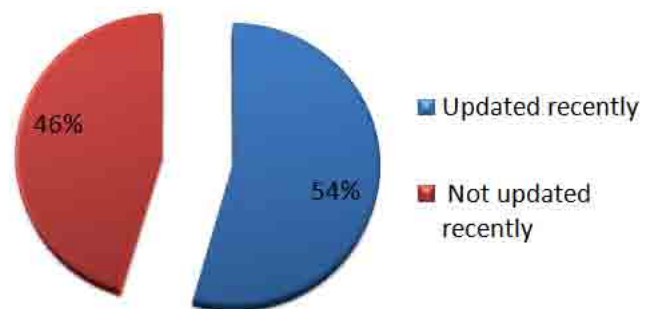


59% of the respondents mentioned that recently no updates are made in the clause for “Legal protection for the accused” whereas 41% respondents stated that there has been a change in the law of legal protection for the accused.

c. Penalty against false complaints

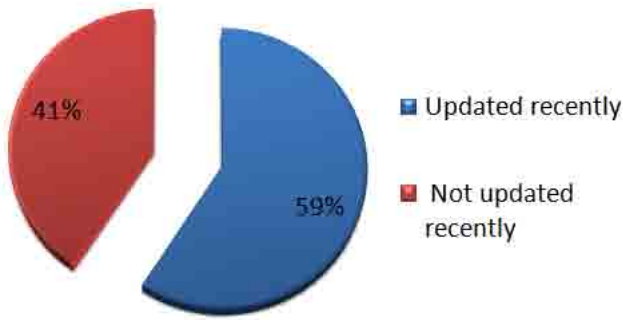


58% of the respondents were of the view that changes have been made in the recent reforms regarding “Penalty against false complaints” however 42% of the respondents stated that no such change has been incorporated in the reforms.

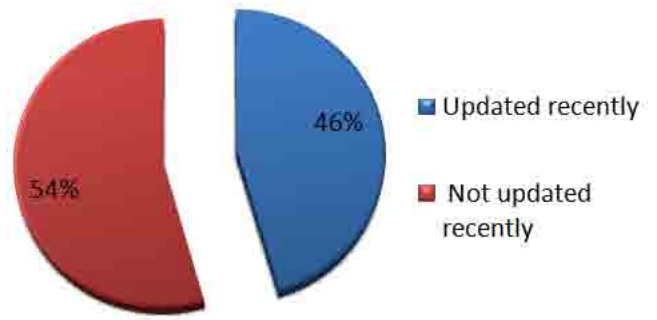


54% of the respondents were of the view that changes have been made in the recent reforms regarding “Penalty against false complaints” however 46% of the respondents stated that no changes have been incorporated in the reforms.

d. Right of Appeal

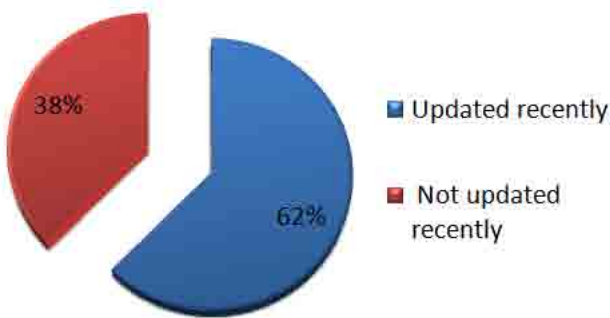


59% of the respondents mentioned that the law for “Right of Appeal” has been updated in recent reforms and 41% of the respondents gave contrary statement.

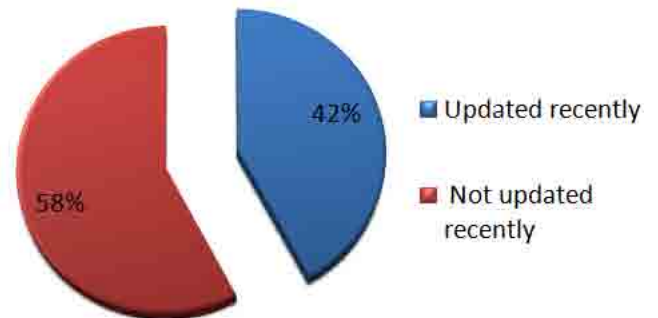


46% of the respondents mentioned that law for “Right of Appeal” has been updated in recent reforms and 54% of the respondents gave contrary statement

e. Right of Bail

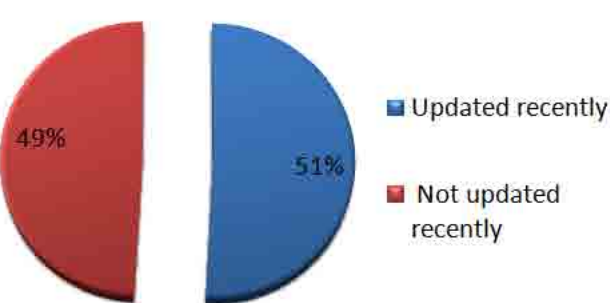


62% of the respondents stated that changes have been made in the law for “Right of Bail” and 38% respondents rated that there has been no recent update.

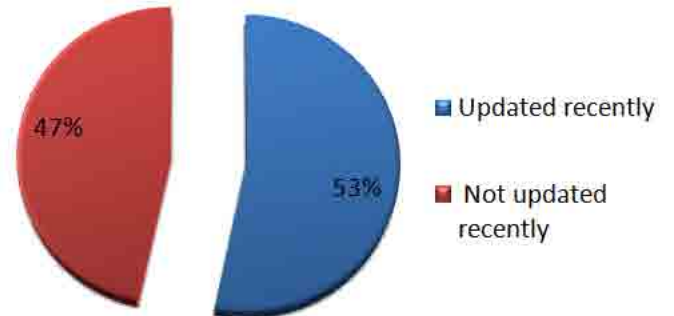


42% of the respondents stated that changes have been made in the law for “Right of Bail” and 58% respondents rated that there has been no recent update.

f. Freedom from double punishments (only one penalty for a crime)

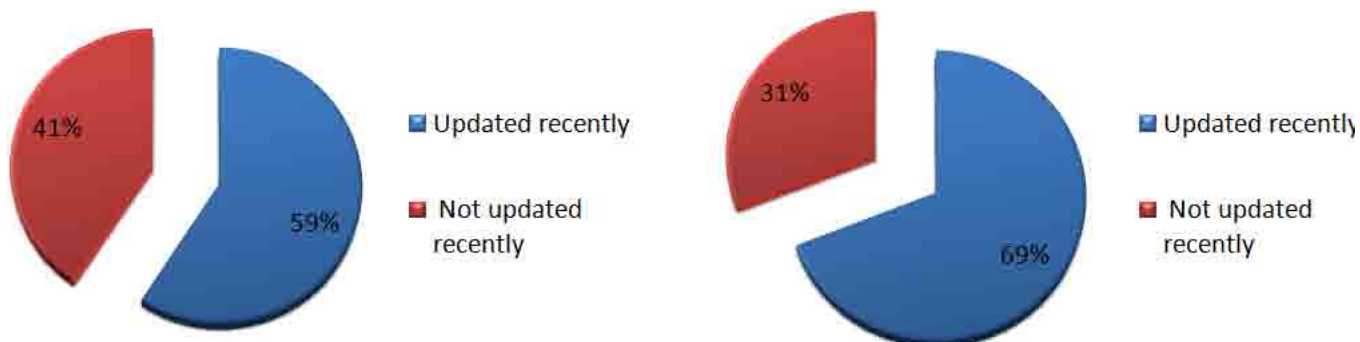


51% of the respondents stated that the law for freedom from double punishment has been updated in the recent reforms however 49% of the respondents mentioned that no changes have been made in FCR in this regard.



53% of the respondents stated that the law for freedom from double punishment has been updated in the recent reforms however 47% of the respondents mentioned that no changes have been made in FCR in this regard.

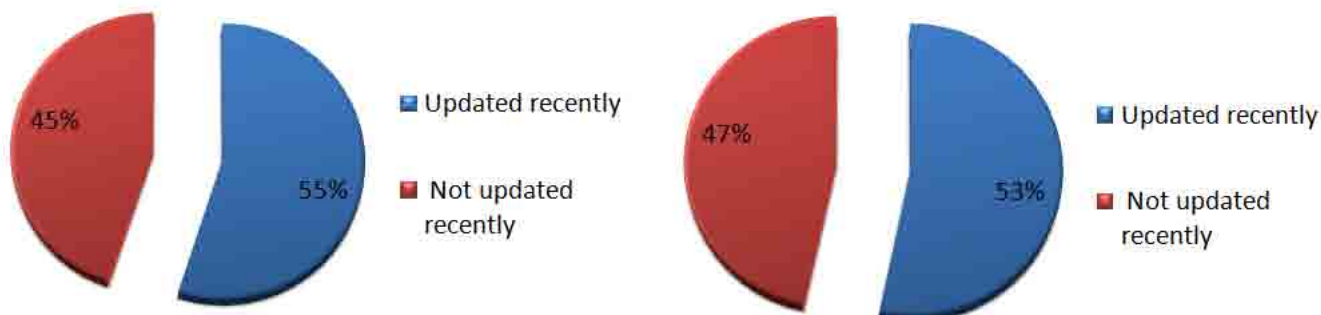
g. Women, children below 16 and those aged above 65 shall not be arrested or detained under Collective Responsibility



59% of the respondents stated the law, Women, children below 16 and those aged above 65 shall not be arrested or detained under Collective Responsibility has been updated recently whereas 41% respondents did not agree that there has been any such update.

69% of the respondents stated that the law which stated that Women, children below 16 and those aged above 65 shall not be arrested or detained under Collective Responsibility has been updated recently whereas 31% respondents did not agree that there has been any such update.

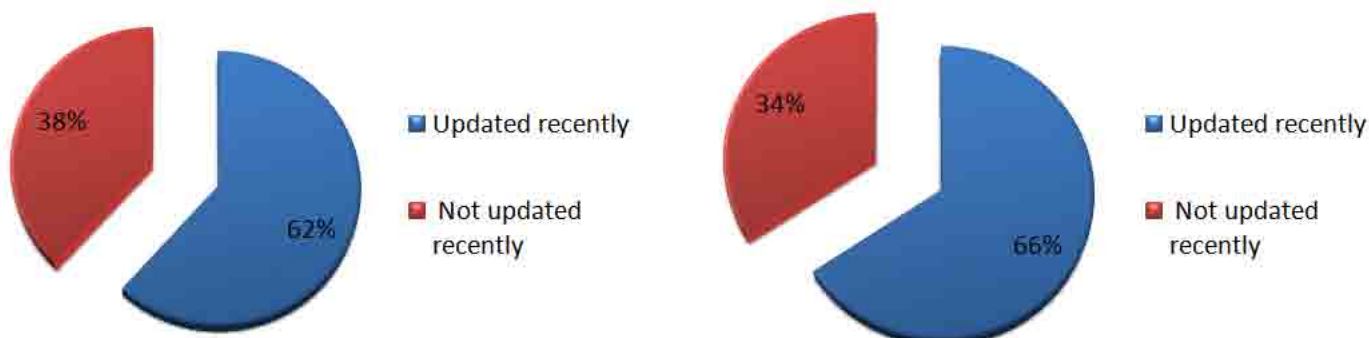
h. Women and children would be exempted from territorial responsibility



55% of the respondents agreed that updates in the law has been made regarding that women and children should be exempted from territorial responsibility whereas 45% of the respondents mentioned that no updates have been made in this regard.

53% of the respondents agreed that updates in the law has been made regarding that women and children should be exempted from territorial responsibility whereas 47% of the respondents mentioned that no updates have been made in this regard.

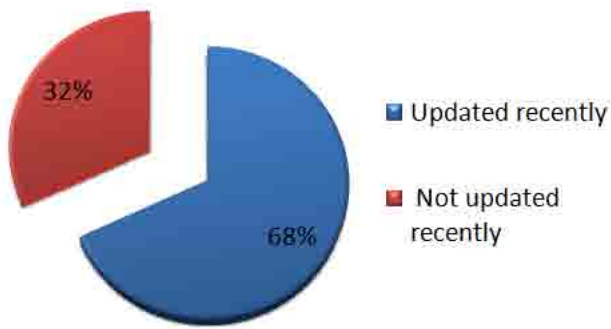
i. The whole tribe will not be arrested under the Collective Responsibility clause.



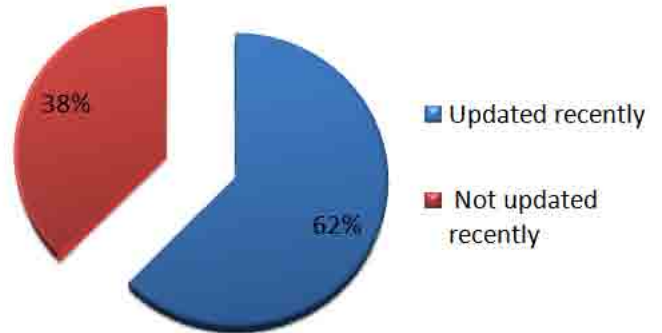
62% of the respondents mentioned that clause under which tribes will not be arrested under the Collective Responsibility has been updated recently whereas 38% respondents did not agree to that opinion

66% of the respondents mentioned that clause under which tribes will not be arrested under the Collective Responsibility has been updated recently whereas 34% respondents did not agree to that opinion.

j. For the first time the funds at the disposal of the Political Agent shall be audited by Auditor General of Pakistan

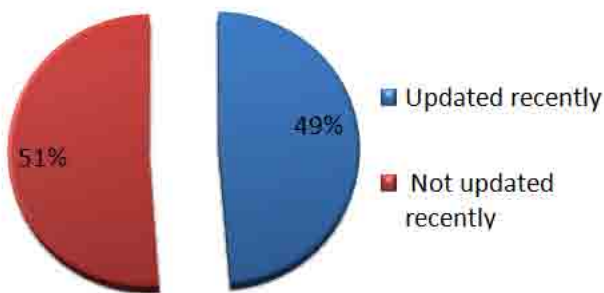


68% of the respondents were of the view that in the recent FCR reforms it is added that Political agent will be audited by Auditor General of Pakistan whereas 32% respondents stated that there has been no such update recently.

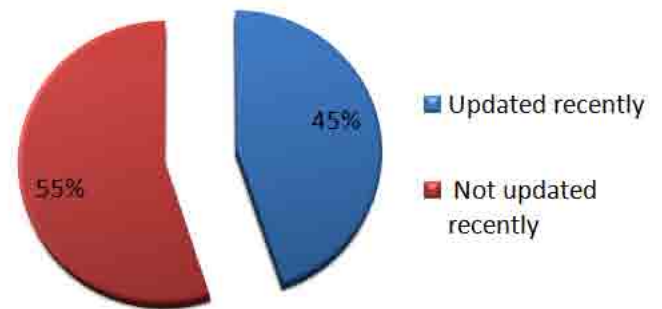


62% of the respondents were of the view that in the recent FCR reforms it is added that Political agent will be audited by Audited General of Pakistan and 38% respondents stated that they have been no such updates recently.

k. As per new section the defendant will be entitled to adequate compensation in criminal matters and compensatory costs in civil matters

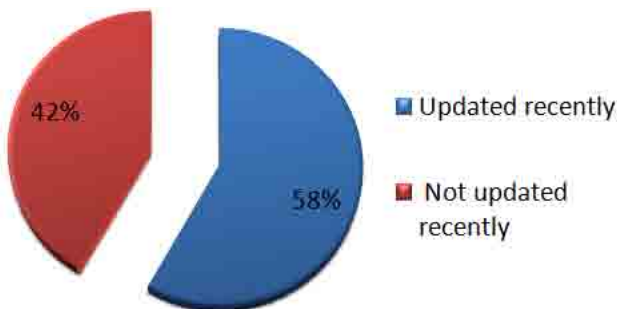


49% of the respondents agreed that there has been an update as per new section that defendant will be entitled to adequate compensation in criminal matters and compensatory costs in civil matters whereas 51% respondents did not agree that there has been any such update.

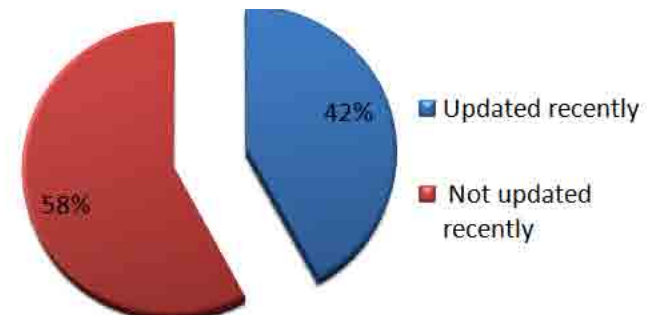


45% of the respondents agreed that there has been an update as per new section that defendant will be entitled to adequate compensation in criminal matters and compensatory costs in civil matters whereas 55% respondents did not agree that there has been any such update.

l. No person shall be deprived of his/ her property without adequate compensation as per prevailing market value



58% of the respondents stated the updates have been incorporated in the recent reforms in this clause of property and 42% of the respondents stated no recent updates have been made in this regard.



42% of the respondents stated the updates have been incorporated in the recent reforms in this clause of property and 58% of the respondents stated no recent updates have been made in this regard.

5. Are you aware of any other amendments made to FCR? If Yes, kindly mention below.

The respondents shared following amendments which are made in recent FCR reforms.

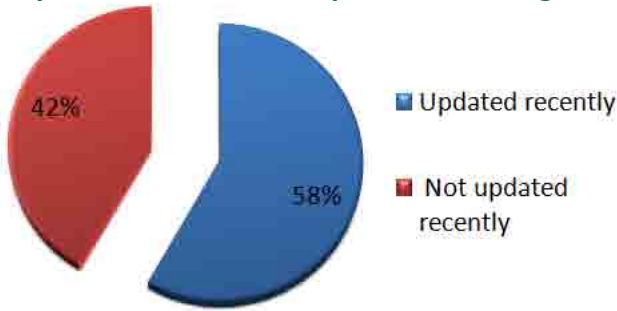
- » Punishment upon crime will be given only when crime is proved
- » Know about your crime in 24 hours.
- » Challenge the wrong case
- » Punishment according to crime
- » Freedom of Speech and Law out of the hands of PA

The female respondents were unaware of any other amendments made to FCR.

Discrepancies in the current reforms

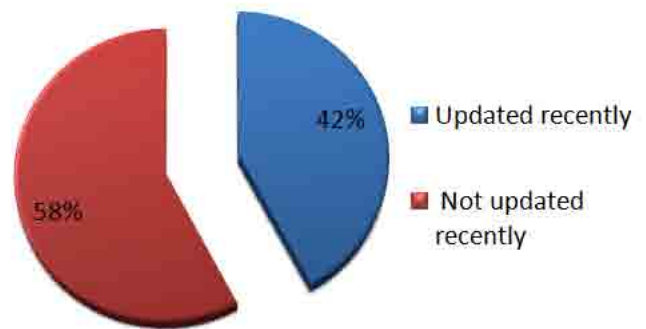
Consolidated

1. Do you think there are Gaps in the existing FCR Reforms



Out of total respondents of 525, most of the participants i.e. 63% stated that there are Gaps in the existing FCR Reforms while the remaining 37% negated their opinion.

Female



Out of total respondents of 178, most of the participants i.e. 58% stated that there are Gaps in the existing FCR Reforms while the remaining 42% negated their opinion.

2. Do you think there are Gaps in the existing FCR Reforms? If Yes, Can you kindly highlight them below:

Most of the respondents mentioned that FCR itself is wrong and they named FCR as Black Law and Law of the Jungle in which basic rights of people are violated.

Many of the respondents suggested that authority of Political Administrator should be minimized as extra power and authority is misused quite often. The respondents were of the view that people are afraid of PA (Political Agents) because of his powers and authority in the region.

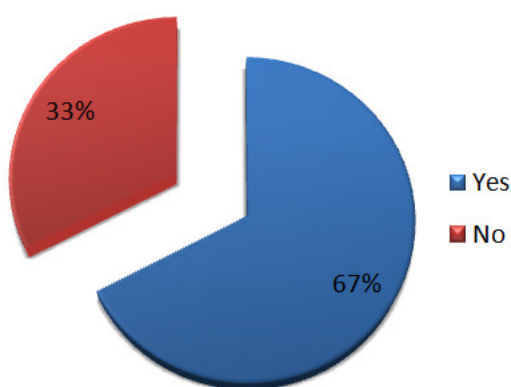
Just a few respondents stated that FCR amendments are good and results will be positive if implementation of these reforms is done properly.

The respondents suggested that opinion of general public should be given as primary importance while making further amendments and reforms.

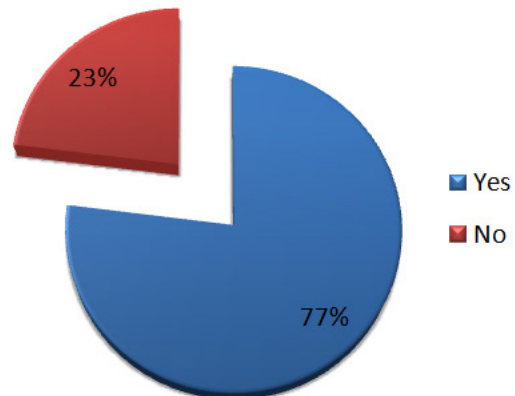
The respondents shared following gaps in the existing FCR Reforms:

The female respondents mentioned that most of the FCR amendments are good and results of these amendments will be positive if implementation of these reforms is done properly. The respondents shared their view that women are given special importance in the recent reforms in FCR. Many of the respondents shared their view that political administration has given extra powers in FCR. The respondents suggested that authority and unnecessary powers of political agent should be curtailed.

3. Will you go and talk to your family and friends about FCR Programme



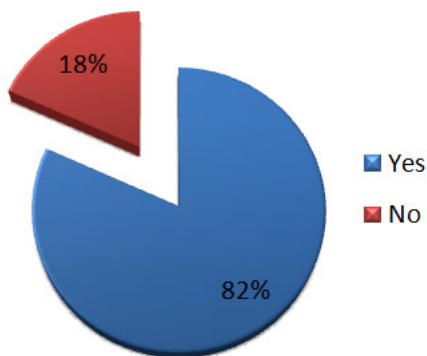
67% of the respondents stated that they will talk to their family and friends about FCR Programme while the remaining 33% respondents stated that they will not talk to their family and friends about FCR Programme.



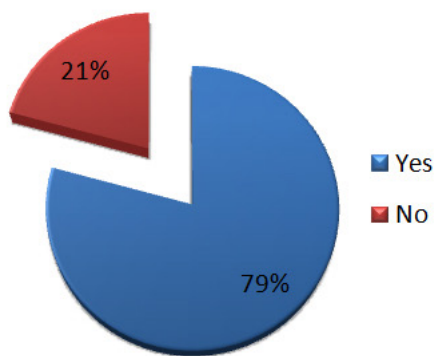
77% of the respondents stated that they will talk to their family and friends about FCR Programme while the remaining 23% stated that they will not talk to their family and friends about FCR Programme.

4. What do you think will be or are implementation issues for FCR Programme?

a. Resistance from Landlords

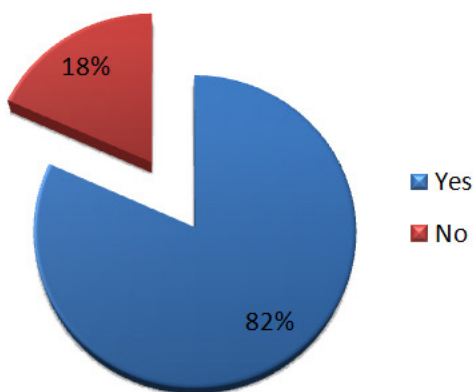


82% of respondents stated that the implementation of FCR Programme will be resisted by Landlords while only 18% of the respondents stated that landlords will not react on the implementation of FCR Programme.

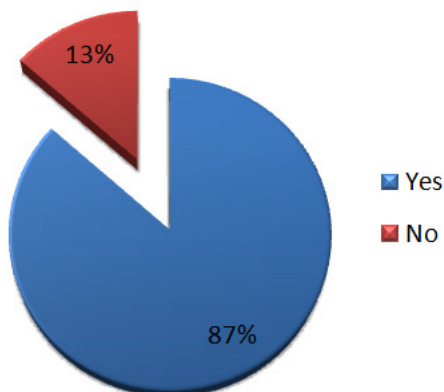


79% of respondents stated that the implementation of FCR Programme will be resisted by Landlords while only 21% of the respondents stated that landlords will not react on the implementation of FCR Programme.

b. Resistance from Wealthy People

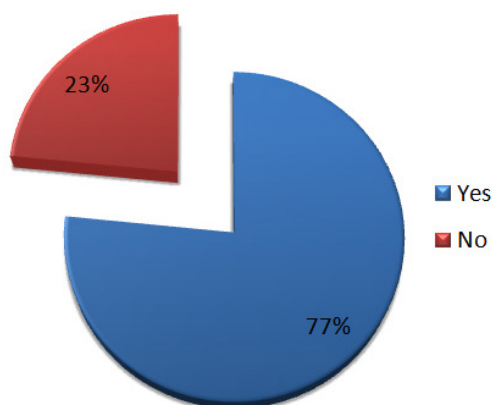


82% of respondents stated that the implementation of FCR Programme will be resisted by wealthy people while only 18% of the respondents stated that wealthy people will not resist on the implementation of FCR Programme.

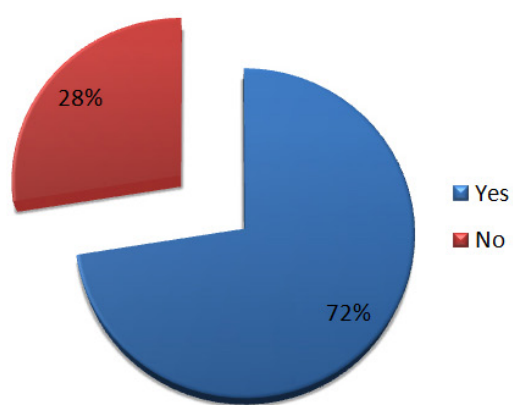


87% respondents stated that the implementation of FCR Programme will be resisted by wealthy people while only 13% of the respondents stated that wealthy people will not react on the implementation of FCR Programme.

c. Resistance from Jirgas (non-formal judiciary system)

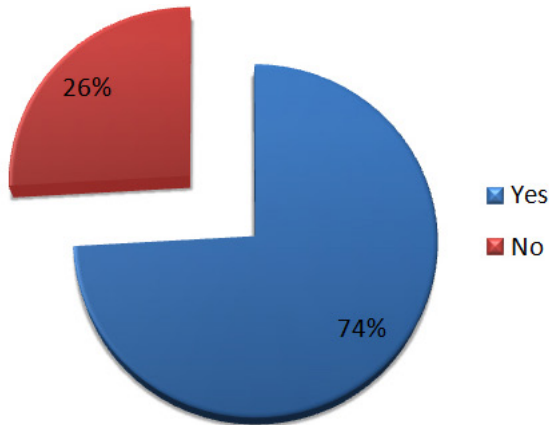


77% of the respondents believed that there will be resistance from old Jirga system whereas 23% of the respondents stated that there will be no resistance from Jirgas.

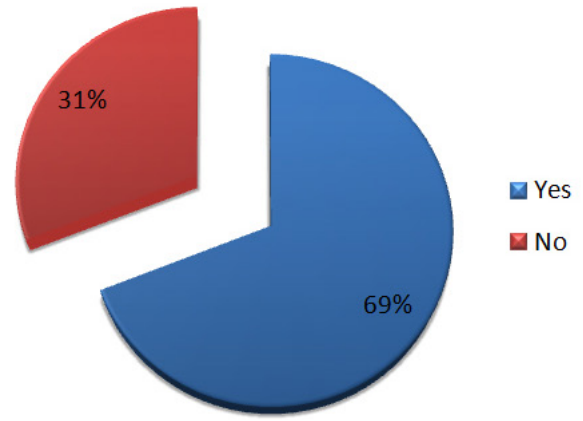


72% of the respondents believe that there will be resistance from old Jirga system whereas 28% of the respondents stated that there will be no resistance from Jirga's.

d. Lack of understanding of rights

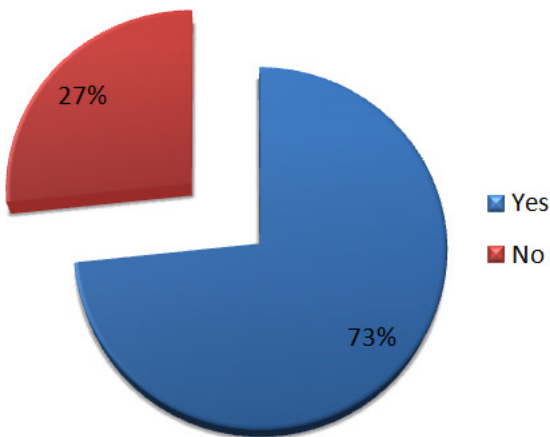


74% of the respondents stated that lack of understanding of rights will be a big hindrance in the implementation of FCR programme while rest 26% of the respondents negated the thought.

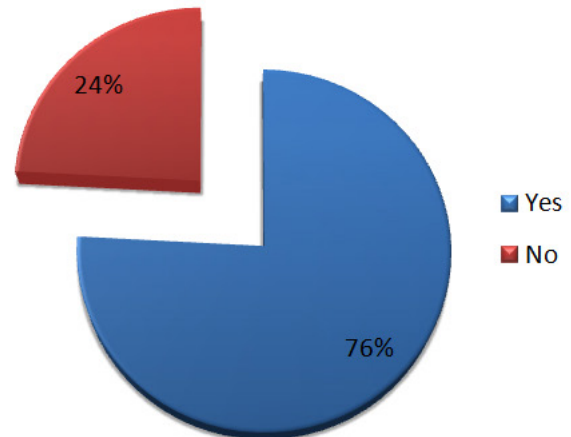


69% of the respondents stated that lack of understanding of rights will be a big hindrance in the implementation of FCR programme while rest 31% of the respondents negated the thought.

e. Lack of Judiciary systems

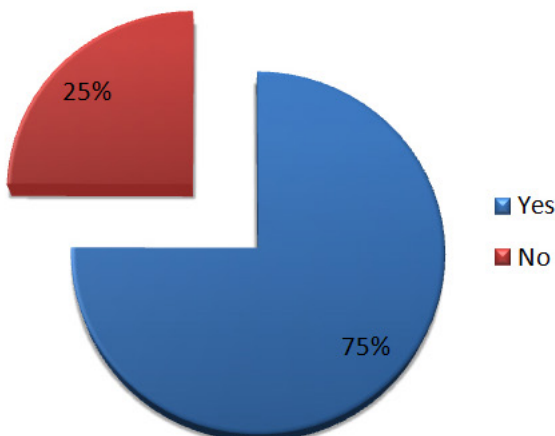


73% of the respondents stated that lack of proper judiciary system is an obstacle in the implementation of FCR programme and 23% of the respondents stated that lack of judiciary will have no impact on the FCR programme.

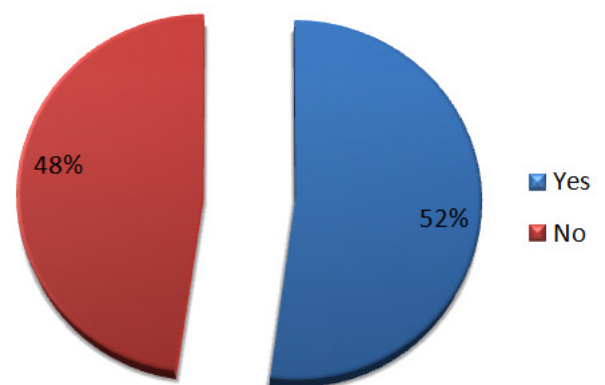


76% of the participants stated that lack of proper judiciary system is an obstacle in the implementation of FCR programme and 24% of the respondents stated that lack of judiciary will have no impact on the FCR programme.

f. Lack of political will

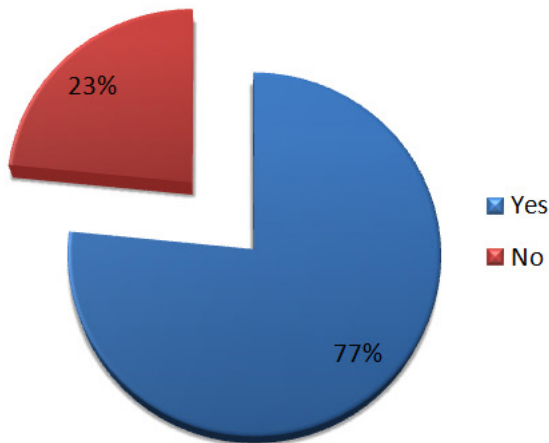


75% of the respondents were of the view that lack of political will has a negative impact on the FCR programme while 25% stated that lack of political will have no effect on the Programme.

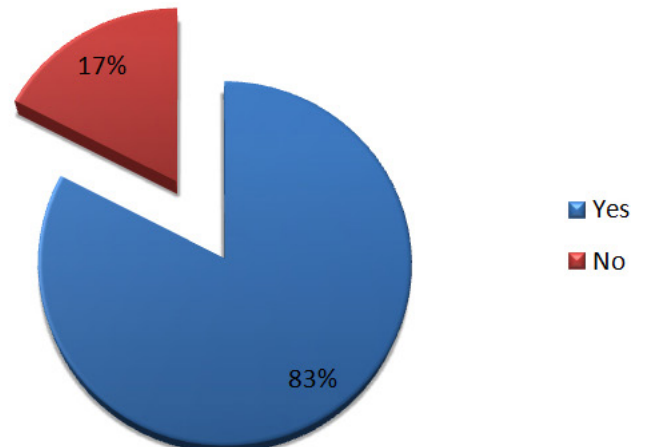


52% respondents were of the view that lack of political will has a negative impact on the FCR programme while 48% stated that lack of political will have no effect on the Programme.

g. Low literacy rate

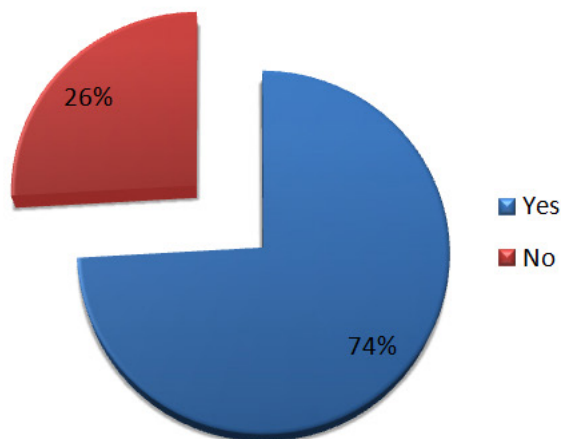


77% respondents were of the view that Low literacy level will have a negative impact on the FCR programme while 23% stated that it will have no effect on the Programme.

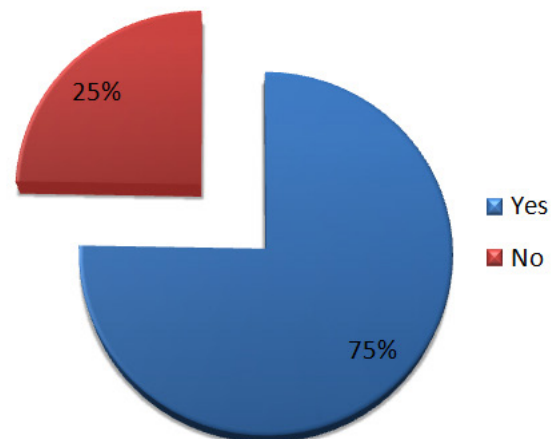


83% were of the view that Low literacy level will have a negative impact on the FCR programme while 17% stated that it will have no effect on the Programme.

h. Pressure Groups



74% of the respondents stated that pressure groups will affect the FCR programme while 26% of the respondents stated that pressure groups will have no effect on FCR programme.



75% of the respondents stated that pressure groups will affect the FCR programme while 25% of the respondents stated that pressure groups will have no effect on FCR programme.

5. What do you think will be or are implementation issues other than discussed above for FCR Programme?

Most of the respondents mentioned that MNAs, Political Agents and Jirga leaders all are united in dictating their policies and enforcing law of their own i.e. promoting feudalism and Jirga system. The respondents described their views that few rich and influential families are getting benefits from FCR.

Many respondents mentioned that most of the population of tribal areas is illiterate and are unaware about their basic rights and duties. The respondents suggested that government should devise a strategy and should focus on creating awareness about FCR and the recent FCR reforms.

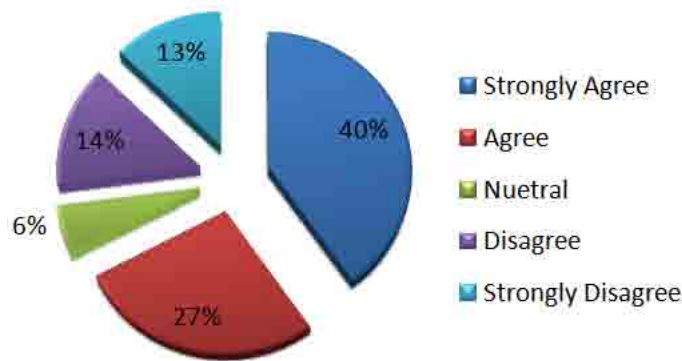
Most of the female respondents mentioned that awareness campaign should be launched by government regarding FCR and the recent Reforms in the FCR.

Few of the respondents mentioned that few rich and influential families are getting benefits from FCR and they are devising laws and reforms for their personal interests and gains.

Perceptions of FATA residents regarding the FCR reforms

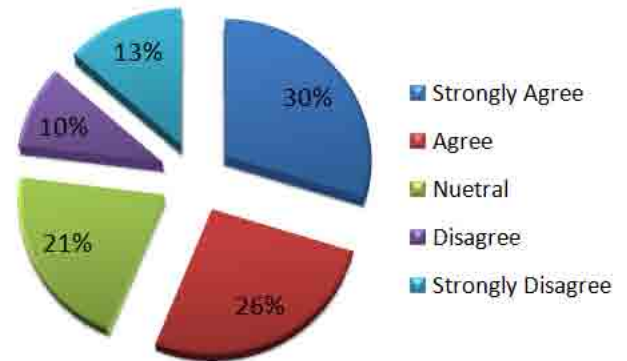
1. There are Huge Gaps or shortcoming in the FCR Programme

Consolidated Response



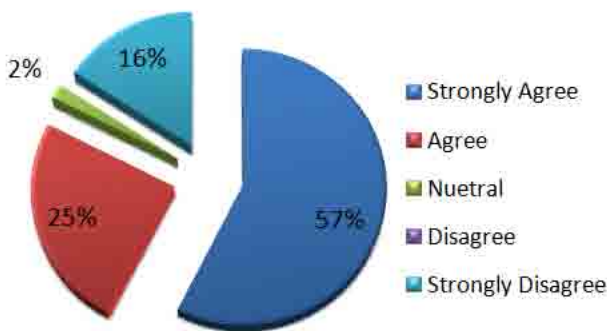
40% of the respondents strongly agreed, 27% agreed, 6% respondents were neutral to the asked statement whereas 14% respondents disagreed and 13% respondents strongly disagreed that there are huge gaps or shortcomings in the FCR programme.

Female Response

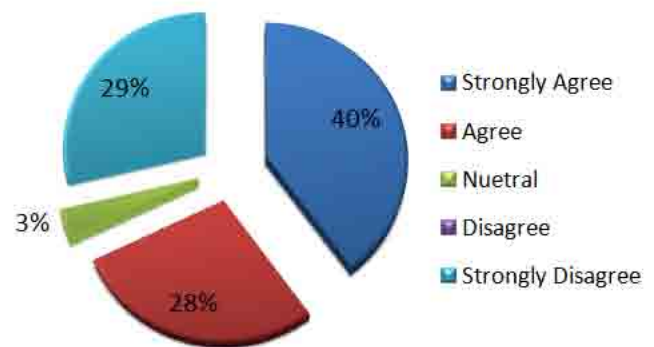


30% of the respondents strongly agreed, 26% agreed, 21% respondents were neutral to the asked statement whereas 10% respondents disagreed and 13% respondents strongly disagreed that there are huge gaps or shortcomings in the FCR programme.

2. Wealthy people and Landlords will get the most benefit from FCR Programme

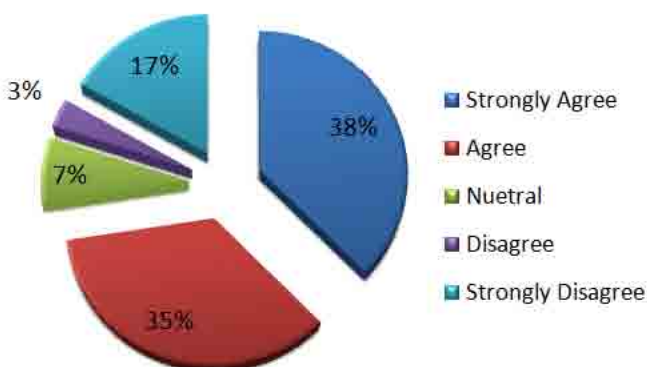


57% of the respondents strongly agreed, 25% agreed, 2% respondents were neutral to the asked statement, none of the participants disagreed to the asked statement whereas 16% respondents strongly disagreed to the notion that wealthy people and landlords will get the most benefit from FCR programme.

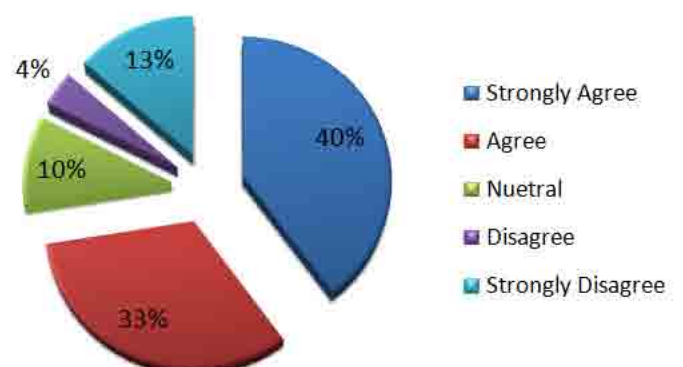


40% of the respondents strongly agreed, 28% agreed, 3% respondents were neutral to the asked statement, none of the participants disagreed to the asked statement whereas 29% respondents strongly disagreed to the notion that wealthy people and landlords will get the most benefit from FCR programme.

3. People with political influence will get the most benefited from this programme

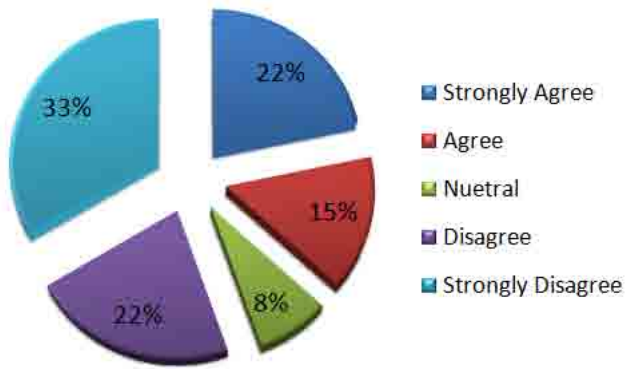


38% of the respondents strongly agreed, 35% agreed, 7% respondents were neutral to the asked statement whereas 3% respondents disagreed and 17% respondents strongly disagreed that People with political influence will get the most benefited from this programme.

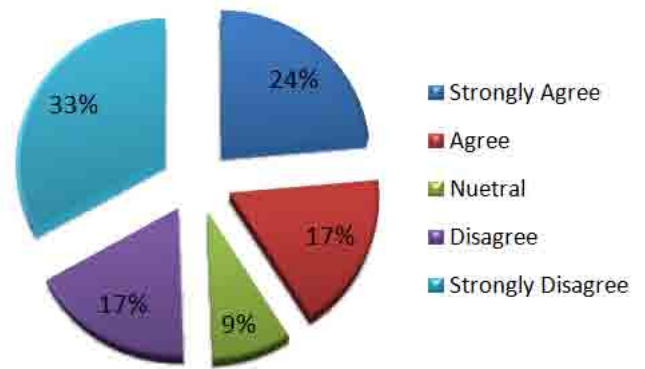


40% of the respondents strongly agreed, 33% agreed, 10% respondents were neutral to the asked statement whereas 4% respondents disagreed and 13% respondents strongly disagreed that People with political influence will get the most benefited from this programme.

4. General Public will get the most benefit out of this programme



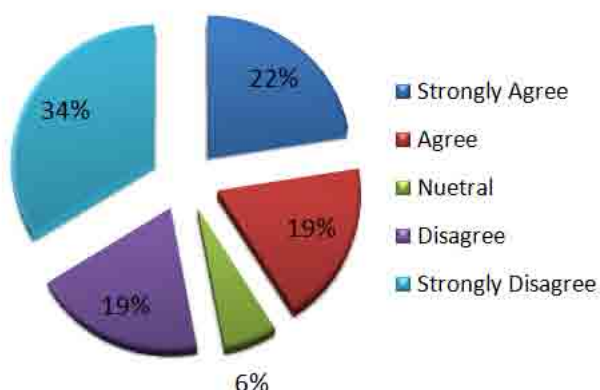
22% of the respondents strongly agreed, 15% agreed, 8% respondents were neutral to the asked statement whereas 22% respondents disagreed and 33% respondents strongly disagreed that General Public will get the most benefit out of this programme.



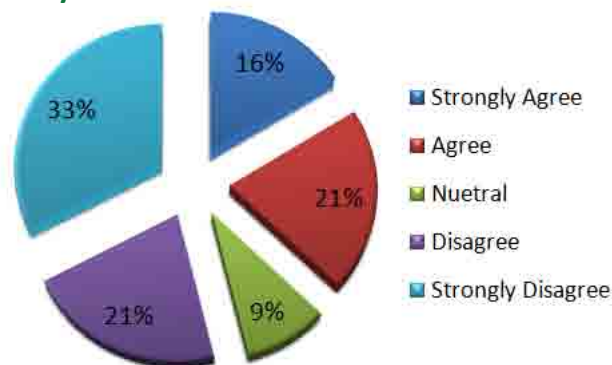
24% of the respondents strongly agreed, 17% agreed, 9% respondents were neutral to the asked statement whereas 17% respondents disagreed and 33% respondents strongly disagreed that General Public will get the most benefit out of this programme.

Community determined goals regarding the implementation of reforms

1. FCR Reforms programme is extremely good for the society

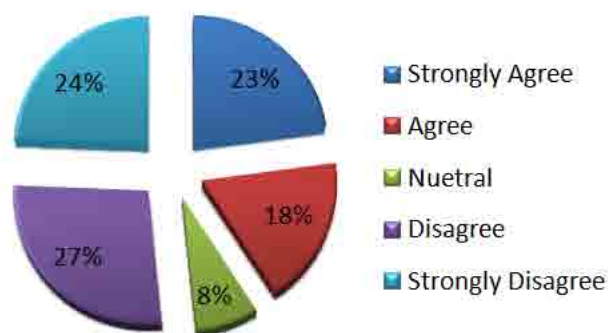


22% of the respondents strongly agreed, 19% agreed, 6% respondents were neutral to the asked statement whereas 19% respondents disagreed and 34% respondents strongly disagreed that FCR Reforms programme is extremely good for the society.

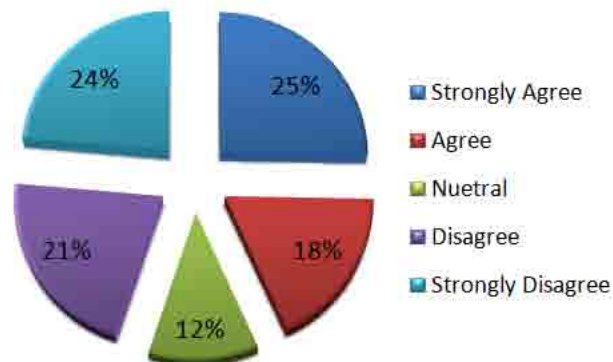


16% of the respondents strongly agreed, 21% agreed, 9% respondents were neutral to the asked statement whereas 21% respondents disagreed and 33% respondents strongly disagreed that FCR Reforms programme is extremely good for the society.

2. FCR Reform Programme will help to improve justice in the region

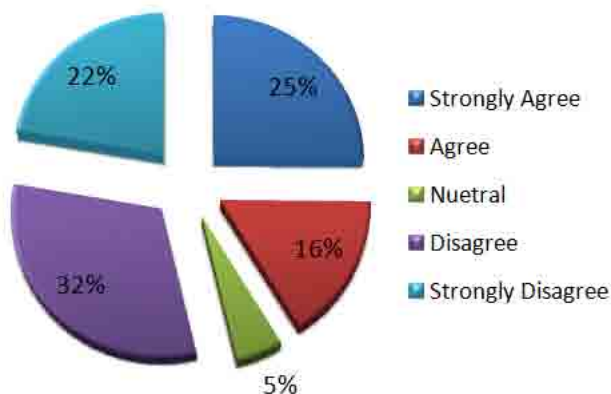


23% of the respondents strongly agreed, 18% agreed, 8% respondents were neutral to the asked statement whereas 27% respondents disagreed and 24% respondents strongly disagreed that FCR Reforms Programme will help to improve justice in the region.

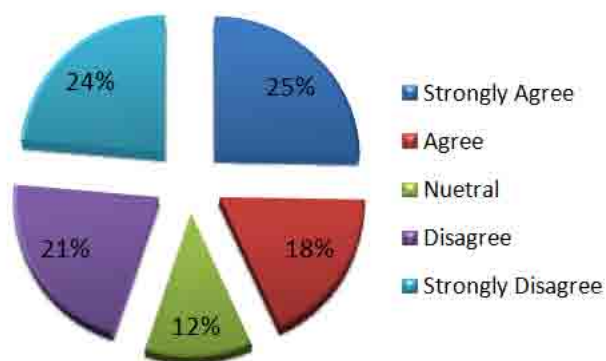


25% of the respondents strongly agreed, 18% agreed, 12% respondents were neutral to the asked statement whereas 21% respondents disagreed and 24% respondents strongly disagreed with the statement that FCR Reform Programme will help to improve justice in the region.

3. FCR Reform programme will provide justice to the poor

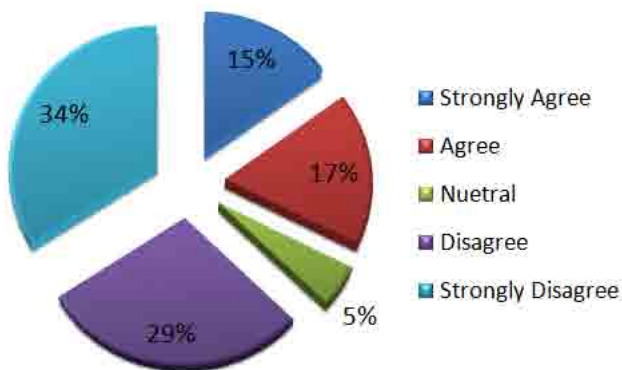


25% of the respondents strongly agreed, 16% agreed, 5% respondents were neutral to the asked statement whereas 32% respondents disagreed and 22% respondents strongly disagreed that FCR Reforms programme will provide justice to the poor.

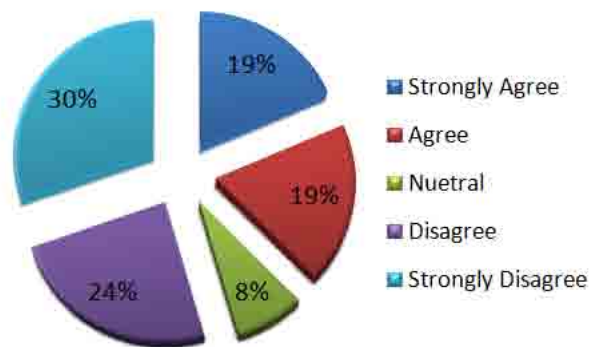


22% of the respondents strongly agreed, 18% agreed, 10% respondents were neutral to the asked statement whereas 29% respondents disagreed and 21% respondents strongly disagreed with the statement that FCR Reform programme will provide justice to the poor.

4. FCR Reforms programme will help in eliminating corruption

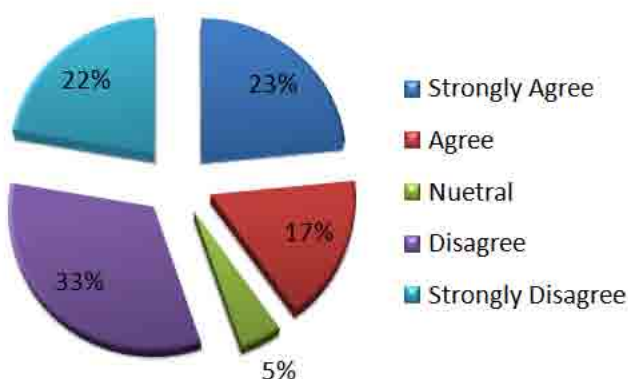


15% of the respondents strongly agreed, 17% agreed, 5% respondents were neutral to the asked statement whereas 29% respondents disagreed and 34% respondents strongly disagreed that FCR Reforms programme will help in eliminating corruption.

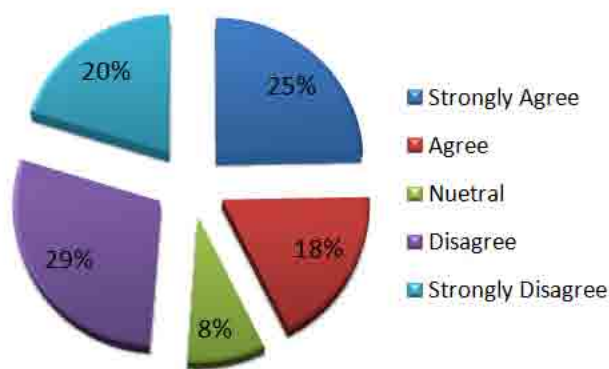


19% of the respondents strongly agreed, 19% agreed, 8% respondents were neutral to the asked statement whereas 24% respondents disagreed and 30% respondents strongly disagreed with the statement that FCR Reforms programme will help in eliminating corruption.

5. FCR Reforms programme will improve the governance system

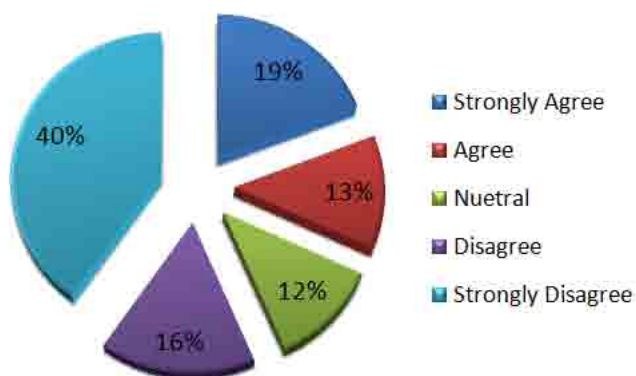


23% of the respondents strongly agreed, 17% agreed, 5% respondents were neutral to the asked statement whereas 33% respondents disagreed and 22% respondents strongly disagreed that FCR Reforms programme will improve the governance system.

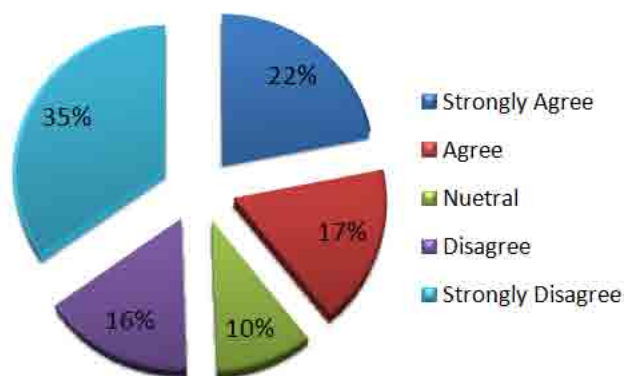


25% of the respondents strongly agreed, 18% agreed, 8% respondents were neutral to the asked statement whereas 29% respondents disagreed and 20% respondents strongly disagreed that FCR Reforms programme will improve the governance system.

6. FCR Reforms programme will improve participation of women in societal activities

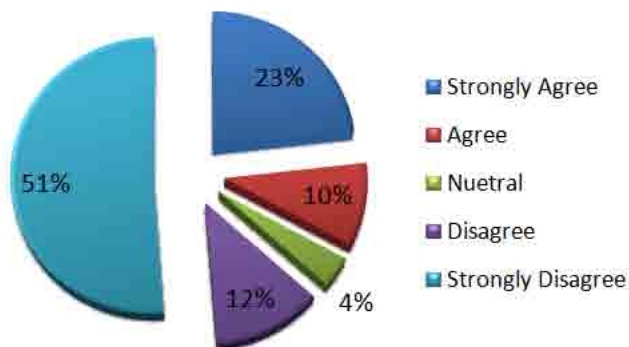


19% of the respondents strongly agreed, 13% agreed, 12% respondents were neutral to the asked statement whereas 16% respondents disagreed and 40% respondents strongly disagreed that FCR Reforms programme will improve participation of women in societal activities.

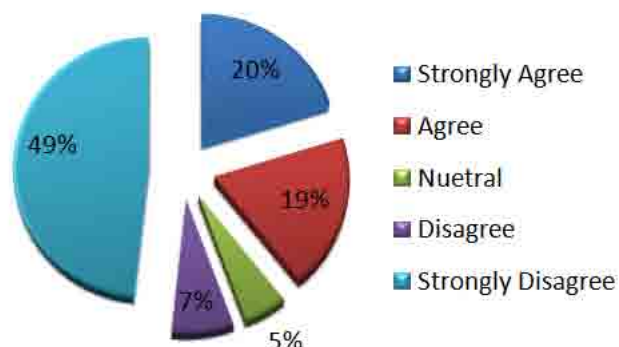


22% of the respondents strongly agreed, 17% agreed, 10% respondents were neutral to the asked statement whereas 16% respondents disagreed and 35% respondents strongly disagreed that FCR Reforms programme will improve participation of women in societal activities.

7. FCR Reform Programme will enhance the political environment of the region

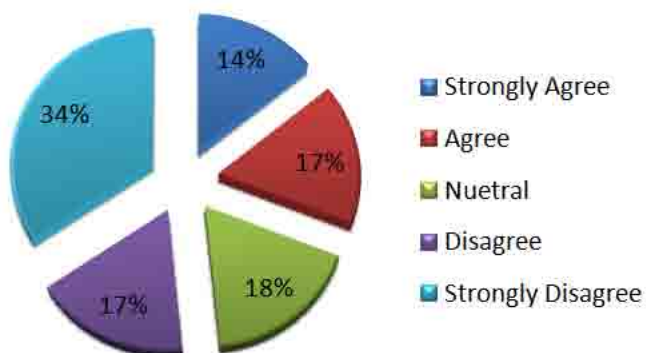


23% of the respondents strongly agreed, 11% agreed, 4% respondents were neutral to the asked statement whereas 12% respondents disagreed and 51% respondents strongly disagreed that FCR Reform Programme will enhance the political environment of the region.

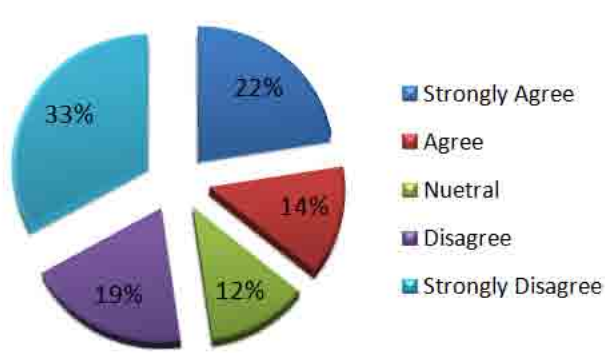


20% of the respondents strongly agreed, 19% agreed, 5% respondents were neutral to the asked statement whereas 7% respondents disagreed and 49% respondents strongly disagreed that FCR Reform Programme will enhance the political environment of the region.

8. There are no Gaps or shortcoming in the FCR programme after the reforms



14% of the respondents strongly agreed, 17% agreed, 18% respondents were neutral to the asked statement whereas 17% respondents disagreed and 34% respondents strongly disagreed that there are no Gaps or shortcoming in the FCR programme after the reforms.



22% of the respondents strongly agreed, 14% agreed, 12% respondents were neutral to the asked statement whereas 19% respondents disagreed and 33% respondents strongly disagreed that there are no Gaps or shortcoming in the FCR programme after the reforms.

Way Forward

Majority of the respondents termed FCR as a black law like a tunnel with the dead end because most of them were either unaware about the FCR program itself or were not updated on the recent FCR reforms properly. To built confidence of the people in FCR program; involvement of Local Leaders, Administrators and Political Agents should be ensured for any future amendments and changes in FCR program and the laws of FATA. By engaging people for future reforms through policy level dialogue with Political Agents and Administrators of the agencies, social cohesion can be pertained in the region.

Advocacy sessions have been taking place in Bajaur Agency that has made people more aware about FCR Law and its Recent Reforms, the people from rest of the agencies of FATA also need advocacy programs and sessions to augment awareness about their basic rights and rules & regulations that are being imposed in the region.

1. Can the FCR programme be improved? If yes can you tell us how?

Most of the respondents termed FCR as the law of Jungle and Black Law and mentioned that FCR programme is exploiting their rights and should be uprooted from the region. The respondents added their view that FCR programme cannot be improved through amendments.

Most of the respondents affirmed that the Law of FCR is like a tunnel with a dead end. The program has so many defections and inconsistencies that it cannot be improved. The participants added that FATA is part of Pakistan then why can't the same policies and law be implemented in this part of the world.

The respondents urged the need to completely renounce the Black Law of FCR serving solely the corrupts and politicians and added that it is high time that a more civilized law in accordance to Islamic Principles and the Constitution of Pakistan should be imposed.

FATA has been underprivileged disowned and deprived of all the civic amenities of which other parts of the country benefit from. The termination of the FCR law would bring ray of hope to future of the region that has a distressful and disturbing history.

However a few respondents also shared their view that improvements can be made to FCR programme. They mentioned that authority and powers of Political Agents should be minimized and public should be given easy access to the courts. The respondents further suggested that system of Maliks, Khasdars and PA's should be replaced with the system of Lawyers, Police and Courts.

The respondents mentioned that monitoring and evaluation of FCR programme should be done on regular basis to gauge the performance and implementation part of FCR.

Most of the respondents mentioned that FCR programme can be improved by ensuring that FCR and the reforms in FCR are being followed without discrepancies and hurdles. The respondents suggested that women should be given more protection in the society.

Few of the female respondents shared that authority and powers of Political Agents should be minimized and public should be given easy access to the courts. The respondents further suggested that opinion of general public should be taken before any further reforms or amendments.

2. What Amendments/additions you will recommend for Future FCR Reform?

Most of the respondents mentioned that FCR programme is not the perfect and right program for the people of FATA and added that some other system of governance and laws should be implemented that may cater the needs and demands of the public.

Many respondents added that FCR programme should enable people to get their basic rights of Education, Health, and Justice which should promote other development projects for the region. The respondents suggested that general public, especially youth should be educated about the FCR program and they should be given full authority to make reforms at their own.

Most of the female respondents mentioned that FCR program should be focused on promoting education system, health reforms and should play its role in the development of the region.

Many female respondents were of the view that more focus should be given to education of youth and women.

Few female respondents mentioned that FCR programme is not protecting the general public of the region and this program is only providing support to the corrupt influential people of the society.



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