



SWAT VALLEY'S POST-TALIBAN RECONSTRUCTION, LEGAL PLURALISM, AND THE LESSONS THIS CASE HOLDS FOR CONFLICT-AFFECTED STATES

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Abstract

Few post-conflict cases offer as much analytical value as Swat Valley, one of the only territories in the contemporary world where a Taliban-affiliated insurgency was militarily expelled and civilian governance subsequently restored by the state. This paper examines what that recovery actually produced — what the Pakistani state managed to rebuild, what it failed to transform, and why both halves of that story matter beyond Pakistan's borders. Drawing on a post-conflict governance framework supplemented by legal pluralism theory, the study traces reconstruction across security normalisation, physical infrastructure, the justice sector, education, and community life. It situates the Swat insurgency within a longer history of legislative and judicial failure — from the Enforcement of Sharia Act 1991 through the contested Nizam-e-Adl Regulations of 1994, 1999, and 2009 — and argues that the Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM), whose fighters' socio-demographic profiles have been analysed by Amin (2009), was not simply an ideological movement but a governance competitor that filled specific institutional vacuums the Pakistani state had created. The paper then compares Swat's trajectory with Afghanistan's experience under Taliban rule since 2021, a juxtaposition that brings the significance of state-led recovery into unusually sharp relief. The central argument is that Swat's reconstruction succeeded in visible, measurable terms while leaving the structural causes of insurgency substantially unaddressed. The conditions for renewed militancy were never fully dismantled, as events following the Afghan Taliban's 2021 return to power would demonstrate. The paper draws implications for scholars working in post-conflict governance and for policymakers confronting Taliban-affiliated movements elsewhere.

Keywords: *Swat Valley, TNSM, TTP, Post-Conflict Governance, Legal Pluralism, Nizam-e-Adl, Taliban, Reconstruction, Pakistan, KPK, Peacebuilding, State Legitimacy*

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1. Introduction

There is a moment, familiar to anyone who has spent time in post-conflict settings, when the shooting stops and a different, quieter crisis begins. The guns are silent, the military has declared victory, and then the harder question arrives: what exactly has been won, and what still needs to be built? In Swat Valley, that moment came in the summer of 2009, when Pakistani forces completed Operation Rah-e-Rast and declared the valley cleared of Taliban fighters. What followed was not peace — not yet — but something more complicated: the task of governing a traumatised society whose three million displaced residents were slowly returning to homes that had been searched, bombed, or occupied, in a place where the very institutions that had failed them before the conflict were now being asked to perform better.

The Swat case deserves to be taken seriously as a global reference point, and it has not been taken seriously enough. In a world where post-conflict reconstruction efforts routinely stall, where international interventions in Iraq and Afghanistan produced outcomes that fell well short of their stated ambitions, and where the question of how states recover from Taliban-style governance has become one of the most practically urgent questions in the discipline, Swat offers something rare: a documented, if uneven, success. State authority was genuinely restored. Schools were rebuilt and reopened, including girls' schools. Markets recovered. Tourists eventually returned to a valley they had fled. None of that was inevitable.

But the Swat case is valuable precisely because it is not a simple success story, and treating it as one would be to miss its most important lessons. Beneath the visible markers of normalisation, the structural conditions that had enabled insurgency in the first place — judicial inaccessibility, contested legal frameworks, socioeconomic inequality, the legitimacy deficit of formal state institutions — were never adequately addressed. And when the Afghan Taliban returned to power in Kabul in August 2021, those unresolved conditions became acute again, as TTP fighters regrouped across the border and renewed their pressure on a valley that reconstruction had stabilised without truly transforming.

This paper makes three connected arguments. First, the Swat insurgency — rooted in the TNSM before it evolved into the TTP Swat chapter — was as much a governance crisis as an ideological one, and understanding it requires engaging with the specific legal and institutional history of the Malakand region, from the Enforcement of Sharia Act 1991 through the successive Nizam-e-Adl Regulations that shaped both the conflict and the peace that followed. Second, the reconstruction achieved genuine results in physical terms but failed at the institutional level, most critically in the justice sector, and this failure was not incidental but structural — it reflected a political economy of reconstruction that prioritised the visible over the transformative. Third, comparing Swat with Afghanistan under Taliban governance since 2021 reveals, by contrast, what state-led post-extremist

recovery can and cannot achieve, and why the presence or absence of a functioning state matters more than almost any other variable in post-conflict outcomes.

The paper proceeds as follows. Section 2 develops the theoretical framework, drawing on post-conflict governance scholarship and legal pluralism theory. Section 3 provides contextualised historical background on the TNSM and the conditions from which the Swat Taliban emerged. Section 4 analyses the legislative and judicial history central to understanding both the insurgency and the reconstruction. Section 5 examines the reconstruction across five dimensions. Section 6 draws the Afghanistan comparison. Section 7 identifies global lessons. Section 8 concludes.

2. Theoretical Framework: Governance Failure, Legal Pluralism, and Post-Conflict Reconstruction

2.1. From Infrastructure to Institutions: What Reconstruction Actually Requires

Post-conflict reconstruction has become, over three decades of intensive scholarship and field experience, an enterprise understood primarily as a governance challenge rather than a physical one (Berdal & Mousavizadeh, 2010; Call & Wyeth, 2008). The physical work — rebuilding roads, schools, hospitals — matters enormously and is often what reconstruction looks like from the outside. But it is the institutional work, restoring or creating courts that function, police that do not predate, civil services that deliver, and legislative frameworks that are legitimate in citizens' eyes, that determines whether physical recovery translates into durable stability.

Paris and Sisk (2009) identify a sequencing problem that runs through the post-conflict literature: states that prioritise rapid security and economic opening before building effective institutions tend to produce renewed conflict rather than consolidation. Swat illustrates the inverse version of this problem — a state that prioritised security and infrastructure while treating institutional reform as something to be addressed later, after things had settled down, only to find that things never fully settled down because the institutional conditions enabling conflict had not been resolved. Fuller's (1964) classic distinction between the morality of law and its actual delivery is pertinent here: a legal system that exists on paper but is inaccessible, slow, corrupt, or culturally illegitimate in practice is not functioning law in any meaningful sense.

2.2. Legal Pluralism and the Competition for Justice

The legal pluralism framework — developed by Griffiths (1986), elaborated by Merry (1988), and synthesised more recently by Tamanaha (2008) — offers a particularly useful analytical lens for the Swat case. Legal pluralism describes the condition in which multiple normative orders coexist within a single social field, each making claims to legitimate authority over the same population. In Swat before and during the Taliban period, this was not an abstract theoretical condition but an empirically vivid one: residents

navigated among state courts, Taliban courts, traditional Jirga processes, and the remnants of the old Malakand customary law simultaneously.

What the legal pluralism literature emphasises, and what is directly relevant here, is that the state's formal legal system does not automatically displace competing normative orders simply by asserting primacy. It displaces them, if at all, by outcompeting them in the eyes of ordinary people — by being faster, cheaper, more accessible, more predictable, and more trusted. When the state system fails on most or all of these dimensions, as Pakistan's formal judicial system did in Malakand for decades, it creates what Siddique (2013) describes in his landmark study as an 'alien justice' — a formal legal apparatus that is nominally present but functionally estranged from the population it is supposed to serve. The Taliban's justice system was brutal, but it was also local, swift, and in some respects more accessible to the poor than the courts it displaced (Fleischner, 2011).

Marsden (2005), writing about Muslim religious experience in Pakistan's North-West Frontier, captures something important about why simplistic accounts of Taliban ideology miss the texture of local religious and legal life. Religious identity in the Pashtun communities of Swat is complex, historically layered, and resistant to the kind of monolithic characterisations that external analysts often impose. The TNSM's demand for Sharia was not experienced uniformly as a fundamentalist imposition; for many residents, it was experienced as a demand for justice in a register that the state had consistently failed to provide in any register at all.

2.3. State Legitimacy and the Infrastructure of Governance

Michael Mann's (1984) distinction between despotic and infrastructural power remains one of the most productive analytical tools for understanding post-conflict state reconstruction. Despotic power — the capacity to coerce, arrest, punish, and control — can be restored through military operations, and in Swat it was. Infrastructural power — the capacity to reach citizens through functioning institutions, to penetrate social life with services and legible rules — takes far longer to rebuild and requires the willing cooperation of the population rather than simply its submission.

Kaplan (2010) frames the challenge as a legitimacy competition: where non-state actors have supplied governance functions, the returning state must earn back the trust it has forfeited, not simply demand it. Newberg (1995), writing about courts and constitutional politics in Pakistan more broadly, identifies a pattern in which the Pakistani state has historically oscillated between moments of judicial assertion and executive circumvention, producing an institutional culture in which the rule of law is more aspirational than operational. Swat's reconstruction inherited this broader institutional pathology and never fully escaped it.

Lederach's (1997) conflict transformation model adds a further dimension: sustainable peacebuilding requires transformation at personal, relational, structural, and

cultural levels simultaneously. The Swat reconstruction delivered structural change in its narrowest, most physical sense — infrastructure was repaired — but transformation at the relational level (trust between communities and the state), at the cultural level (how residents understood their relationship to authority and justice), and at the deeper structural level (judicial accessibility, land tenure, economic equity) remained unfinished business.

3. The TNSM, Its Fighters, and the Conditions That Made Insurgency Possible

3.1. The TNSM: Origins and Evolution

Understanding the Swat Taliban requires understanding the movement from which it grew. The Tehrik-e-Nifaz-e-Shariat-e-Mohammadi was not born in the post-9/11 environment that dominated Western analytical attention; it had roots reaching back to the early 1990s and to a specific set of grievances about legal administration in the Malakand division. Founded by Sufi Muhammad in 1989, the TNSM initially organised around a single, focused demand: the implementation of Sharia law in Malakand, which its leaders characterised as both a constitutional right under the Pakistani state's own Islamic provisions and a practical necessity given the dysfunction of the formal legal system in the region.

The movement's early history is bound up with the specific legal anomaly of Malakand's status. Unlike most of Pakistan, Malakand had operated under a special administrative regime dating to the colonial period, and the transition to Pakistan's regular legal framework had been incomplete and contested. The Enforcement of Sharia Act 1991 had promised a degree of Islamisation of the legal system nationally, but its implementation in Malakand was both delayed and disputed, producing a legal landscape that was neither the customary system residents had historically relied on nor the Sharia system the TNSM demanded nor the formal Pakistani legal system that was supposed to govern the rest of the country.

Sufi Muhammad led thousands of TNSM volunteers across the border to fight alongside the Afghan Taliban following the US invasion in October 2001 — an episode that demonstrated both the movement's military capacity and its transnational ideological orientation. The aftermath of that campaign, which resulted in catastrophic losses and Sufi Muhammad's arrest, created the conditions for the more radical Fazlullah-led faction to take over the movement's direction in Swat.

3.2. Who the Fighters Were: Amin's Socio-Demographic Analysis

Any serious analysis of the TNSM as a governance competitor rather than simply a terrorist organisation must engage with the empirical question of who its members were and why they joined. Amin's (2009) socio-demographic study of TNSM combatants in post-9/11 Afghanistan provides some of the most granular available data on this question. His analysis reveals a fighter profile that does not fit the common Western characterisation of Taliban recruitment as primarily driven by poverty, ignorance, or external manipulation.

The combatants he analysed came from a range of socioeconomic backgrounds and included individuals with formal education; their motivations were varied, combining religious commitment, community solidarity, economic incentive, and in some cases coercion.

What Amin's analysis particularly illuminates is the degree to which TNSM mobilisation was embedded in existing social networks — family ties, madrasa connections, community relationships — rather than being organised through purely hierarchical command structures. This has direct implications for reconstruction: dismantling the organisation's military capacity does not automatically dissolve the social networks through which it recruited and operated. Those networks persisted after 2009, which helps explain why TTP resurgence in Swat after 2021 was possible even in a valley that had been formally pacified for more than a decade.

The socio-demographic picture Amin paints also complicates simplistic accounts of the TNSM as purely an instrument of rural poverty or of foreign manipulation. Swat was not, before the insurgency, an especially impoverished part of Pakistan relative to the national baseline; it had functional schools, a domestic tourism economy, and a history of relative stability under the Wali system. What it had lost, after the merger with Pakistan and the imposition of an inaccessible formal legal system, was a functioning mechanism for dispute resolution that residents trusted. That absence was at least as important as poverty in driving TNSM support.

3.3. The Social Landscape: Ahmed's Pakhtun Economy

Akbar Ahmed's (1980) foundational study of Pakhtun economy and society provides an essential backdrop for understanding why the TNSM found the audience it did. Ahmed documents the deep structural tension within Pashtun society between what he characterises as the egalitarian ideal embedded in Pakhtunwali — the code of honour, hospitality, and reciprocity that governs social life — and the reality of significant economic inequality, particularly in agricultural regions where large khans controlled land that smaller farmers and tenants worked on terms set by those with power.

This tension matters for the insurgency analysis because the Taliban's appeal in Swat was not uniform across social strata. For some segments of the population, particularly smaller landholders and tenants with grievances against the landowning class, Taliban courts offered something the formal system had never provided: a forum in which the poor could bring claims against the wealthy and sometimes win. This is deeply uncomfortable from an analytical standpoint, because it means that the reconstruction needed to address not just the Taliban's violence but the class grievances the Taliban had partially captured. A post-conflict governance programme that rebuilt the legal system in ways that continued to serve elite interests was always going to face a legitimacy problem.

4. The Legislative and Judicial History: From the Enforcement of Sharia Act to the Nizam-e-Adl Regulation

4.1 The Constitutional Framework and Its Islamic Provisions

Pakistan's Constitution of 1973, with its successive amendments, provides the formal legal framework within which the Swat insurgency and reconstruction must be understood. The Constitution's Islamic provisions — including the declaration of Islam as the state religion, the requirement that all laws be brought into conformity with the Quran and Sunnah, and the establishment of the Federal Shariat Court — created a structure in which the relationship between state law and Islamic law was permanently contested rather than settled. The Federal Shariat Court's authority to review legislation for conformity with Islamic principles, and the Supreme Court's appellate jurisdiction over it, produced a legal architecture that was constitutionally coherent in theory but procedurally complex in practice.

Lau (2006), in his systematic study of Islam in Pakistan's legal system, traces the evolution of this constitutional framework and identifies its key tension: the Islamic provisions were largely included to satisfy political constituencies rather than to create a workable system of Islamic adjudication, and the result was an institutional structure that satisfied neither secularist lawyers who wanted clear separation nor Islamist movements that wanted substantive implementation. The TNSM exploited exactly this gap — arguing, with some constitutional basis, that the state had promised Islamic law and had not delivered it.

The Federal Shariat Court Rules and the body of FSC judgments on the scope and content of Islamic law illustrate the institutional complexity this produced. The FSC developed a significant body of jurisprudence on matters ranging from interest prohibition to hudood offences, but its reach into areas like land reform — which it effectively blocked on Islamic grounds in the 1980s — had direct consequences for the agrarian inequalities that contributed to social unrest in regions like Malakand.

4.2. The Nizam-e-Adl Regulations: 1994, 1999, and 2009

The history of the Nizam-e-Adl Regulations is, in miniature, the history of the Pakistani state's failure to resolve the Malakand justice question. The first Nizam-e-Adl Regulation was promulgated in 1994 as a response to TNSM agitation, promising a degree of Sharia-based justice in Malakand. It was never effectively implemented. The Shariat Nizam-e-Adl Regulation of 1999 was a second attempt that met a similar fate. By the time the Nizam-e-Adl Regulation of 2009 was promulgated — this time as part of a government negotiation with Sufi Muhammad to secure a ceasefire — the pattern of promise and non-delivery had been established across three regulatory cycles spanning fifteen years.

The 2009 NAR was debated extensively in both the National Assembly and the Senate, as the Hansard records of that year document. The parliamentary debates reveal

the deep ambivalence within Pakistan's political class about whether the Regulation represented a reasonable accommodation of local legal traditions or a capitulation to militant pressure that would undermine the state's constitutional order. The Supreme Court of Pakistan and the Peshawar High Court had both issued judgments touching on the relationship between the Malakand's special legal status and the constitutional requirements of judicial independence and access to justice — judgments that created additional complexity for any attempt to implement the NAR in practice.

The NAR was eventually repealed following the 18th Constitutional Amendment of 2010, which brought Malakand fully under Pakistan's standard legal framework. This was, constitutionally, the right outcome — but it resolved the legal status question without resolving the practical justice question that had generated the TNSM in the first place. The state had, once again, made a decision about the formal framework while leaving the institutional capacity to deliver justice substantially unchanged.

4.3 Hallaq and the Impossibility of the Islamic State

Wael Hallaq's (2013) *The Impossible State* provides a theoretical framework that helps explain why the TNSM's demands for Sharia, however politically understandable, were structurally irresolvable within the modern state form. Hallaq argues that the modern state — with its territorial sovereignty, bureaucratic administration, professional legal corps, and separation of religion from governance — is constitutionally incompatible with classical Islamic governance, which was premised on different assumptions about authority, law, and community. The demand for an 'Islamic state' in the modern sense is, in his analysis, a category error: it combines an Ottoman-era institutional form (the modern state) with a pre-modern normative framework (classical fiqh) in ways that cannot be made coherent.

This is not simply an academic point. It helps explain why successive Pakistani governments could not satisfy the TNSM's demands even when they wanted to: the political system, the constitution, and the international legal order within which Pakistan operates do not permit the kind of governance the TNSM sought. What they could have done — and what they consistently failed to do — was make the formal legal system fast, accessible, and trustworthy enough that its alternatives lacked mass appeal. Abou El Fadl (2004), writing about Islam and democracy, reaches a complementary conclusion: the challenge in Muslim-majority polities is not to resolve the theoretical relationship between Islamic and democratic governance, but to build institutions that ordinary citizens experience as both just and legitimate.

4.4 The Human Rights Record

The Human Rights Commission of Pakistan's Annual Reports for 2007 through 2010 document in considerable detail the human cost of both Taliban governance and the military operation that displaced it. The HRCP's reports record the systematic destruction

of schools, the elimination of women from public life, targeted killings, the operation of parallel courts applying summary punishment, and the displacement of the civilian population. They also document concerns about the military operation itself — searches, detentions, allegations of extrajudicial violence, and the conditions faced by the three million displaced persons — that complicate any uncritical celebration of the state's 'victory.'

These records matter for reconstruction analysis because they establish what the state was being asked to reconstruct: not simply damaged infrastructure but a society that had experienced systematic violation of basic rights from multiple directions simultaneously. The HRCP reports from 2009 and 2010 also document the early reconstruction period, noting the gap between official claims of normalisation and the continued vulnerabilities experienced by residents, particularly women, in the valley.

5. What Reconstruction Actually Looked Like: A Dimension-by-Dimension Assessment

5.1. Security Sector Normalisation: Genuine but Fragile

The security dimension of the reconstruction was its most immediately visible achievement and, in the short to medium term, its most substantial one. Operation Rah-e-Rast succeeded militarily, and the subsequent presence of the Pakistan Army in the valley created the conditions in which displaced residents could return and physical reconstruction could begin. Checkpoints replaced Taliban roadblocks. Military-administered areas gradually transitioned to civilian policing. The daily experience of armed intimidation that had characterised Taliban rule was replaced by, at minimum, the visible presence of state authority.

The fragility within this achievement was structural. By 2011, approximately 2,500 individuals arrested during and after the military operation remained in military detention without civilian trial (Fleischner, 2011) — a practice that represented the state operating outside its own constitutional framework in the act of defending that framework. The KPK Police, to whom security responsibility was being transferred, lacked both the capacity and the institutional culture to fill the gap between military authority and functional civilian governance. Security had been won through despotic power; infrastructural power was being built much more slowly.

The Supreme Court of Pakistan and the Peshawar High Court had both issued jurisprudence on the constitutional requirements of detention, due process, and judicial independence that the military detention regime directly contradicted. The gap between constitutional principle and operational practice — a gap Newberg (1995) identifies as characteristic of Pakistan's legal history more broadly — was being reproduced in the reconstruction period with uncomfortable clarity.

5.2. Physical Infrastructure: Substantial but Unequal

The physical reconstruction of Swat was real and, by the standards of post-conflict infrastructure programmes, reasonably substantial. A Post-Crisis Needs Assessment conducted in 2009 provided the basis for a reconstruction programme supported by the provincial and federal government alongside international donors including USAID and the UAE. Roads were repaired, hospitals were rebuilt, schools were reconstructed, and utilities were restored in major population centres. By the early 2010s, approximately 1,600 public schools were operational across the valley, including a significant number serving girls — a restoration that carried political and symbolic weight both domestically and internationally.

The tourism revival deserves acknowledgment not merely as an economic achievement but as a governance signal. Swat's pre-conflict reputation as a domestically popular destination — its rivers, orchards, and mountain scenery had earned it comparisons to Switzerland that were hyperbolic but pointed to something real — meant that the return of domestic tourists functioned as a visible endorsement of security by people voting with their feet. By the mid-2010s, that endorsement had partially materialised.

Against this, the reconstruction's geographical unevenness cannot be ignored. Investment was concentrated in urban centres and road-accessible areas. Remote villages, already the most economically marginal before the conflict, received thinner and slower reconstruction. More fundamentally, the agricultural economy's structure — the land tenure arrangements that Ahmed (1980) had identified as generating deep social inequality — was left entirely untouched. Reconstructing roads and schools while leaving feudal land relationships intact is not structural transformation; it is physical restoration on top of an unreformed base.

5.3. The Justice Sector: The Most Consequential Failure

If there is one dimension of the Swat reconstruction that most clearly demonstrates the difference between surface recovery and structural transformation, it is the justice sector. The judicial dysfunction that had made Taliban courts attractive — the delays, the costs, the corruption, the perceived class bias of the formal system — was never substantively addressed. Courts reopened, but the conditions under which they operated were not materially different from the conditions that had produced a demand for alternative justice before the conflict.

The legal pluralism framework makes the stakes here explicit. Griffiths (1986) and Merry (1988) both emphasise that state legal systems do not achieve hegemony simply by asserting it; they achieve it by outperforming competing normative orders in the daily lives of ordinary people. Tamanaha (2008) extends this to observe that legal pluralism is not a transitional condition en route to legal uniformity but a persistent feature of societies with uneven institutional development. Post-conflict Swat remained deeply legally plural: state

courts, Jirga processes, informal mediation, and the residual authority of the Taliban's normative framework all competed for residents' dispute resolution decisions. State reconstruction that focused on formal court reopening without addressing the conditions that had made informal alternatives more attractive left this competition unresolved.

Siddique's (2013) analysis of Pakistan's formal legal system as 'alien justice' — a system that is formally present but culturally and practically estranged from the population — is particularly pointed in the Malakand context. The 18th Amendment's formal incorporation of Malakand into standard Pakistani legal administration resolved the constitutional anomaly that the TNSM had exploited but did not make the courts that resulted any more accessible, any faster, or any more trusted. The constitutional question was answered; the governance question was not.

5.4. Education: Genuine Recovery, Genuine Limits

The revival of education in Swat was the dimension of the reconstruction that received the most international attention, in large part because of Malala Yousafzai — the Mingora schoolgirl whose BBC dispatches had documented Taliban rule, who was shot on her school bus in 2012, and whose subsequent global advocacy and Nobel Peace Prize in 2014 made the valley's educational recovery a matter of international record. The attention was not misplaced. The Taliban had destroyed over 400 schools and imposed a comprehensive ban on female education; the reconstruction reversed both of these in measurable ways.

What the international narrative around Malala sometimes obscured was the uneven and incomplete character of the educational recovery on the ground. Access remained stratified by geography, with rural areas lagging urban centres in both reconstruction investment and enrolment. Quality improvements were limited by persistent shortages of teachers, particularly female teachers in conservative rural areas, and by the poverty of families for whom keeping children in school — especially girls — entailed real economic trade-offs. The HRCP reports from 2009 and 2010 documented ongoing concerns about children's access to education in areas still subject to military operations or where security remained unstable.

Lombardi (2006), writing about the relationship between state law and Islamic law in Egypt, makes an observation applicable here: education systems in Muslim-majority societies that ignore or delegitimise Islamic knowledge frameworks risk alienating precisely the communities they are trying to reach. The post-conflict schooling in Swat was largely secular-state in orientation, with limited integration of Islamic educational traditions. Whether this alienated communities or simply reflected their preferences is an empirical question the available literature does not fully answer, but it is one that reconstruction planners should have been asking.

5.5. Community and Social Reconstruction: The Most Neglected Dimension

Research conducted with communities in post-conflict Swat consistently identifies social disruption — the breakdown of networks, norms, and relationships through which daily life is organised — as a harm that reconstruction programmes systematically underaddressed (Hilhorst et al., 2021). Three million people had been displaced; relationships built across generations had been severed; trust between neighbours, between communities and the state, and between different class and ethnic groups had been damaged in ways that physical rebuilding could not touch.

Marsden's (2005) ethnographic work on religious experience in Pakistan's North-West Frontier is relevant here. He documents the richness and complexity of everyday Islamic practice in communities like those in Swat — practices of hospitality, scholarship, spiritual devotion, and community solidarity that the Taliban's version of Islamic governance actively disrupted. The reconstruction's failure to engage with this religious and cultural life, to support the forms of local authority and community practice through which social life was normally organised, was not merely an oversight. It reflected a reconstruction model that treated communities as beneficiary populations to be served rather than social actors to be engaged.

The Jirga, whatever its well-documented limitations — particularly its systematic exclusion of women from decision-making, which must be acknowledged honestly rather than explained away — retains a form of social legitimacy that no externally rebuilt formal court system can replicate in the short term. Yousafzai and Gohar (2005), in their analysis of the Jirga as an indigenous peacebuilding mechanism, argue that its cultural embeddedness is simultaneously its greatest strength and its greatest vulnerability: it works because it is socially rooted, and it can be manipulated precisely because it depends on social relationships rather than formal rules. A reconstruction programme that treated the Jirga as an anachronism rather than an institutional resource missed an opportunity to build on existing social capital in ways that formal institutions could not.

6. The Afghanistan Comparison: What Swat's Case Reveals When Placed Beside the Afghan Experience

6.1. Afghanistan Since 2021: Governance Without Recovery

The Afghan Taliban's return to power in August 2021 created the most directly relevant comparative case for Swat available in the contemporary literature. In Afghanistan, the state did not reclaim territory from Taliban forces; the state collapsed, and the Taliban became the governing authority, with no external actor positioned to undertake reconstruction and no internal institutional framework to constrain what the new government could do to its population.

The results have been documented extensively. The economy contracted by an estimated 20 to 30 percent between 2021 and 2023. Women were banned from secondary and higher education, excluded from most formal employment, and progressively

restricted in their movement and public presence. The International Crisis Group (2024) notes that the Taliban achieved a degree of surface stability — the fighting-season insurgency that characterised the Republic period largely ceased — but characterises this stability as the quiet of repression rather than genuine social reconciliation. International aid, which had financed approximately three-quarters of the Republic's government expenditure, was effectively cut off following the takeover, precipitating an economic collapse with severe humanitarian consequences (CFR, 2024; Felbab-Brown, 2024).

Hallaq's (2013) framework helps explain why the Afghan Taliban's governance produces what it does: an attempt to implement classical Islamic governance through the institutional apparatus of a modern state generates not coherent Islamic order but an unstable hybrid, simultaneously too coercive for ordinary social life and too institutionally weak to deliver the services populations require. What the Taliban can do is enforce compliance; what they cannot do, without the international recognition and resource flows that their ideology precludes, is build the infrastructural power that durable governance requires.

6.2. The Structural Differences That Explain Divergent Trajectories

Comparing Swat with Afghanistan at the level of outcomes — one recovered, the other did not — risks obscuring the structural differences that made those outcomes likely before the first stone was rebuilt. The most fundamental difference is the survival and functionality of the Pakistani state. Swat's reconstruction was undertaken by a democratic government with constitutional obligations, civil society partners, an independent judiciary (however imperfect), international relationships, and a political incentive to demonstrate governance capacity in a valley that had become internationally emblematic. None of these conditions exist in post-2021 Afghanistan.

Abou El Fadl (2004) argues that the challenge in Muslim-majority polities is not to resolve theological debates about Islamic governance but to build institutions that citizens experience as both just and legitimate. Pakistan failed at this in Malakand for decades, which is why the TNSM found the constituency it did. But it retained the institutional framework — the courts, the legislature, the civil service, the federally funded education system — within which the attempt to build such institutions could be made. Afghanistan under the Taliban lacks even this framework; the institutions that existed were swept away in 2021, and what replaced them is oriented toward ideological control rather than institutional service delivery.

The educational comparison remains the sharpest single point of contrast. Swat's reconstruction made the restoration of girls' education a political priority backed by measurable investment. The Afghan Taliban's government banned girls from education beyond primary level — a policy that, as Hallaq (2013) would note, has no clear basis in classical fiqh and reflects a particular political faction's priorities rather than any coherent

Islamic legal tradition. This divergence is not coincidental; it reflects the difference between a state that must answer to constitutional obligations and international norms and an authority that answers only to itself.

6.3. How Afghanistan's Taliban Return Destabilised Swat's Recovery

The 2021 Afghan Taliban victory had consequences for Swat that were both predictable and severe. The TTP — the Pakistani Taliban, whose origins lay in the same TNSM networks that had produced the Swat insurgency in the first place (Amin, 2009) — had maintained a presence across the border and used Afghan territory as a sanctuary during the years of relative pacification in Swat. The Taliban's return to power removed the pressure that even a fragile, aid-dependent Afghan Republic had exerted on cross-border militant activity.

Terrorist attacks in Pakistan increased by over 60 percent between 2021 and 2025, with KPK bearing a disproportionate share (ICG, 2025). Swat experienced the return of targeted killings, extortion, and militant reactivation in ways that directly threatened the normalisation achievements of the preceding decade. By early 2026, Pakistan-Afghanistan relations had deteriorated to open military confrontation, with Pakistani airstrikes inside Afghan territory and the Taliban government's explicit support for TTP producing a regional security environment that made Swat's future, once again, genuinely uncertain.

This trajectory demonstrates the limits of a reconstruction that succeeded at the valley level but failed to account for the regional context in which the valley exists. The HRCP's documentation of the 2007-2010 period captures the human costs of both Taliban governance and the military response to it; a reconstruction that truly reckoned with those costs would have invested more heavily in the judicial and institutional reforms that might have reduced the valley's vulnerability to renewed insurgent recruitment, rather than assuming that security gains alone would prove durable.

7. Global Lessons: What Scholars and Policymakers Can Take from the Swat Experience

7.1. Governance Failure Generates Its Own Demand for Alternatives

The single most important lesson from Swat is the one that is most uncomfortable for state-centric reconstruction programmes: when governance fails in specific, identifiable ways — when courts are inaccessible, when land rights are unenforceable, when the poor cannot get justice against the powerful — it generates demand for alternatives. The TNSM did not create that demand; it captured and channelled demand that already existed. Any reconstruction that removes the supply of alternative governance without transforming the state's governance performance is not addressing the problem. It is deferring it.

Fuller's (1964) concept of the inner morality of law — the procedural conditions that make law legitimate rather than merely coercive — provides a useful practical

checklist for what reconstruction justice reform needs to achieve: laws must be publicly accessible, prospective rather than retroactive, consistent, possible to comply with, and actually administered in ways that match their stated content. Pakistan's formal legal system in Malakand failed most of these criteria most of the time. Reconstruction that did not address this failure was always going to be structurally incomplete.

7.2. Legal Pluralism Is a Governance Problem, Not a Cultural Curiosity

The legal pluralism literature — Griffiths (1986), Merry (1988), Tamanaha (2008) — is sometimes treated in policy circles as a descriptive academic framework with limited operational relevance. Swat demonstrates otherwise. The coexistence of state courts, Jirga processes, Taliban courts, and customary law in Malakand was not an exotic anthropological feature to be documented and set aside; it was the governance reality within which reconstruction was operating, and ignoring it produced the outcome one would expect: a formal reconstruction that improved the state's visible governance profile without addressing the normative competition that had produced the insurgency.

The practical implication is that reconstruction planners need to map the existing normative landscape before they design justice interventions, and they need to design interventions that engage with that landscape rather than simply asserting the state's formal supremacy over it. This might mean supporting community-based dispute resolution where it already commands legitimacy, reforming it where it excludes women or minorities, and connecting it to formal court processes rather than treating the two as competitors. Siddique (2013) documents in detail how Pakistan's formal legal system has historically failed to engage with informal justice mechanisms in productive ways; Swat's reconstruction reproduced this failure.

7.3. International Aid Must Build State Capacity, Not Substitute for It

The Swat reconstruction benefited from substantial international investment from USAID, UNDP, and bilateral donors, and the orientation of that investment — channelled through state institutions rather than around them — was broadly constructive. Schools and hospitals rebuilt by or through the government reinforced the state's legitimacy as a service provider rather than creating a parallel NGO governance sector. This contrasts favourably with reconstruction contexts, including post-2001 Afghanistan, where international aid was associated with a parallel system that often outperformed government but simultaneously undermined the state-building project.

The limitation of the Swat aid architecture was not its state-orientation but its sectoral focus: investment in physical infrastructure and education at the expense of justice sector reform, community governance support, and the longer-term institutional capacity building that durable recovery requires. Donors and governments working in post-conflict settings need to resist the pressure to demonstrate visible results through infrastructure while underfunding the less photogenic work of institutional reform.

7.4. The Fighters Come Back Through the Same Networks They Used to Recruit

Amin's (2009) finding that TNSM mobilisation was embedded in existing social networks rather than formal organisational hierarchies has a direct implication for reconstruction: dismantling the organisation does not dissolve the networks. The social relationships through which the TNSM recruited — family connections, madrasa affiliations, community bonds — persisted after 2009, and they provided the infrastructure for TTP resurgence after 2021. Reconstruction that does not engage with these networks — either by addressing the grievances they mobilise around or by building the social capital that competes with them — leaves them available for remobilisation.

Marsden's (2005) documentation of the richness of everyday religious and social life in North-West Frontier communities suggests that these networks are not simply militant infrastructure but the fabric of community life through which both insurgency and reconstruction must pass. A reconstruction programme that treats communities as beneficiary populations rather than social actors with agency, history, and existing institutional resources is likely to miss the most important levers of durable change.

8. Conclusion

Swat Valley should figure more prominently in global debates about post-conflict governance than it currently does. It is, in practical terms, one of the very few places in the contemporary world where a Taliban-affiliated insurgency was militarily expelled and something recognisable as civilian governance was subsequently rebuilt — with schools, courts, markets, and elected local government all eventually functioning again. Placed against Afghanistan's experience since 2021, that achievement looks genuinely significant. State-led post-extremist recovery is possible. Swat is the evidence.

But the Swat case carries a warning that its apparent success makes easy to overlook. The reconstruction rebuilt the surface of governance — infrastructure, security presence, service delivery in its most visible forms — without transforming its foundations. The judicial system that had failed Malakand's residents across three iterations of the Nizam-e-Adl Regulation was never fundamentally reformed. The agrarian inequalities that Ahmed (1980) documented as characteristic of Pashtun social structure were left intact. The social networks through which the TNSM had recruited, analysed by Amin (2009) as embedded in community rather than simply organisational relationships, persisted after the military operation. And the legal pluralism that Griffiths, Merry, and Tamanaha describe as a persistent feature of societies with uneven institutional development continued to characterise Malakand's normative landscape, with state courts competing for legitimacy against Jirga processes and residual Taliban authority.

When the Afghan Taliban returned to Kabul in 2021 and the TTP regrouped across the border, the conditions for renewed insurgency in Swat were available in ways they would not have been had reconstruction gone deeper. The HRCP reports of 2007 to 2010

document what the valley had suffered; the residents who lived through that period and rebuilt their lives afterward deserved a reconstruction that had been more honest about what depth of institutional repair was actually required.

For scholars, the Swat case is valuable as a refusal of simple narratives in either direction. It is neither a post-conflict success story to be celebrated nor a failure to be written off. It is a partial recovery — real, meaningful, impermanent, and instructive. The theoretical frameworks that illuminate it most clearly — Mann's infrastructural power, Lederach's conflict transformation levels, the legal pluralism of Griffiths and Tamanaha, Fuller's morality of law, Hallaq's impossible state — all point toward the same conclusion: reconstruction that addresses what governance looks like from the outside without transforming what it feels like from the inside is reconstruction that is vulnerable to the next disruption that comes along.

For policymakers, the implication is direct. The hardest work of post-conflict reconstruction is the work that does not show up in infrastructure indices or school enrolment statistics: making courts accessible to people who have never trusted them, reforming land tenure in ways that challenge powerful interests, engaging community institutions as governance partners rather than cultural obstacles, and sustaining the political commitment to institutional transformation long after the international cameras have moved on. Swat did not do enough of that work. The next post-Taliban recovery — wherever it occurs — cannot afford to make the same calculation.

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