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# PAKISTAN: SHORT-SIGHTED POLICIES HINDERING U.S. GOALS

Military operations in Pakistan's Federally Administered Tribal Areas (FATA) continue to displace thousands of civilians. The role of the Pakistani military in the humanitarian response as well as allegations of human rights abuses in its counterinsurgency operations, have yet to be scrutinized, particularly by the U.S. government. Simultaneously, U.S. development funding in the FATA is not having its intended impact, while projects that could significantly improve the lives of hundreds of thousands of Pakistanis are not receiving enough support. While Refugees International recognizes the complexity of the U.S. role in the region, greater oversight of humanitarian and human rights issues should inform the U.S. government's strategic partnership with Pakistan.

## AN ONGOING CRISIS

The UN estimates the current number of displaced at 1.24 million, of whom at least 130,000 have left conflict zones since the start of the year. This is in addition to the 1.7 million Afghan refugees hosted by Pakistan. With the recent closure of most internally displaced persons (IDP) settlements by the military, the Jalojai camp in Peshawar now holds approximately 107,000 people. The humanitarian community estimates funding needs at about \$540 million for the next six months, one of the world's largest humanitarian appeals in terms of funding required per month. Yet in contrast to last summer, donors have been slow to respond to the appeal. As of late March only 10 percent of the appeal was funded, 60 percent of which came from the United States alone.

## MONITOR THE MILITARY

The challenges facing Pakistan in its military operations against the Taliban, Al Qaeda militants and their affiliates are daunting. The government is attempting to regain control over large swathes of land taken over by militants that have routinely engaged in egregious human rights violations

## POLICY RECOMMENDATIONS

- The U.S. government should take all necessary steps to ensure that U.S. assistance is not provided to Pakistani military units credibly alleged to have committed gross human rights violations.
- The U.S. Congress should ensure that U.S. development funding for the FATA is commensurate with the local government's ability to absorb it, and without channeling it through the Pakistani military.
- The U.S. Congress should increase funding for UN programs supporting the integration of Afghan refugees in Pakistan as well as compensation programs for civilian victims of the armed conflict.
- The U.S. government should support UN efforts to establish a field office of the UN High Commissioner for Human Rights in Pakistan.
- The UN Office for the Coordination of Humanitarian Affairs should dedicate staff to document violations of humanitarian principles.

against the local population. The United States has provided Pakistan over \$11 billion in direct military support since September 11, 2001, but sensitivities around the volatile relationship have led the United States to refrain from publicly expressing concerns about critical humanitarian and human rights issues. The Pakistani military has executed its offensive in destructive ways and its dominant role in civilian humanitarian activities should receive much greater attention from the United States. It is in the interest of the United States to have a civilian-led response to the displacement crisis to address the needs and protect the rights of vulnerable Pakistanis.

The Special Support Group (SSG) – headed by a military general leading 1,800 army troops – is tasked with coordinating humanitarian assistance. The military authorizes or denies access to aid organizations to certain parts of the country, determines which displaced populations are eligible for assistance and actively participates in reconstruction efforts, including with USAID funding in some areas. The military is also present in camps for the displaced, fearing infiltration by Taliban elements. In Jalozai camp, the army has set up its own humanitarian distribution network parallel to the one organized by the UN, and conducts regular searches, contravening humanitarian norms. At times, military units have asked for the names of aid organizations' beneficiaries, breaching the neutrality of humanitarian work. Furthermore, UN officials reported that the army has in some cases prevented them from rebuilding destroyed houses perceived to belong to militants.

Most aid organizations have adopted a pragmatic stance, opting for constrained access to populations rather than no access at all. In some cases this has led them to compromise their independence. For example, the UN funded transportation for returning families to Malakand, despite privately acknowledging the “involuntary nature of some of the returns.” In the words of the head of one aid group, “our pragmatism has slipped into complicity.”

The humanitarian community has had some success in advocating with the military for greater access and operational flexibility, like the registration of tribes from South Waziristan in the FATA, which the government had initially rejected. Nevertheless those concessions have not fundamentally altered the overall dynamic. As one UN senior official said, “Low level quiet diplomacy is not working.” These issues need to be tackled at a higher political level and within the donor community. Initial signs indicate that UN Special Envoy Jean-Maurice Ripert is reluctant to challenge the Pakistani government on humanitarian concerns. Moreover, based on conversations with U.S. officials,

humanitarian concerns are not a sufficiently high priority in U.S.-Pakistan bilateral discussions.

According to international human rights organizations, the Pakistani military has engaged in a pattern of violations of human rights and humanitarian law in its response to militant activities. Refugees International was informed of the failure of the military at times to provide adequate advanced warning for civilians to evacuate areas designated as military targets before military operations ensued. The military operations then reportedly consisted of indiscriminate bombings and shelling based on the logic that non-combatants had evacuated, leaving civilians caught in the crossfire and causing extensive civilian casualties according to human rights groups.

The U.S. Department of State has documented reports of arbitrary or unlawful killings by government agents, including targeted killings of individuals accused of crimes as a result of excessive physical abuse while in custody. The Human Rights Commission of Pakistan (HRCP) reported between 300 and 400 extrajudicial killings by security forces during counterinsurgency operations in 2009, reports of which continue in 2010. In part because of the prevailing insecurity in areas of combat and in part because the military restricts access to journalists and civil society groups, it is difficult to document human rights violations. A number of activists in Pakistan expressed fear to Refugees International of reporting on military abuses.

According to the U.S. Leahy Amendment, no assistance can be provided to a foreign security force unit if there is credible evidence that the unit has committed gross violations of human rights. In order for the U.S. government to be in compliance with the Leahy Amendment in Pakistan, it must review the human rights record of Pakistani security force units that are potential recipients of U.S. assistance. The Pentagon is not exempt from this requirement. In a hearing before the Senate Appropriations Subcommittee on State and Foreign Operations on March 25, U.S. Defense Secretary Gates publicly stated that he was mindful of the Leahy Amendment yet it was unclear that it was actually being implemented. The request by President Obama for an additional \$1.496 billion in security assistance for Pakistan for FY2011 makes thorough vetting of Pakistani military units a priority.

Meanwhile, the Pakistani government denies that an armed conflict exists in Pakistan. In informal settings Pakistani government officials make references to the “armed conflict.” Indeed, one senior official told Refugees International that Pakistan “is at war.” Formally, however, the Pakistani

government avoids using the word “conflict” so as to preclude the application of the Geneva Conventions.

The UN has asked the Pakistani government to allow the establishment of a field office of the UN High Commissioner for Human Rights (OHCHR) without success. The United States should also engage the Pakistani government on this issue and encourage visits to the country by the UN Special Representative on the Human Rights of IDPs and the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions.

In the meantime, the UN Office for the Coordination of Humanitarian Affairs (OCHA) should play a stronger advocacy role and document adherence to humanitarian principles, including the safety of civilian populations and aid workers. Civil-military guidelines recently drafted by OCHA with NGOs are a positive step, although it remains to be seen whether the Pakistani military acknowledges the guidelines or their importance.

## REGISTRATION AND RETURNS

Refugees International has repeatedly expressed concern that the Pakistani military is registering people based on whether or not they come from “notified areas” (i.e. conflict affected) and not based on need. The government of Pakistan has recently given permission to the UN to determine vulnerability-based criteria to register displaced populations from areas not designated as conflict-affected. It is now up to UN agencies to come up with a mechanism to determine who is entitled to the provision of services, but the government still refuses to register vulnerable families who do not meet the military’s criteria. Those not registered by the government will not receive government cash assistance. It is difficult to know how many conflict-affected families are unregistered, but in Jalozei camp alone aid groups report thousands of unregistered individuals who come from areas either not designated as in conflict or who may have come outside the “allowed” timeframe. The United States has already disbursed \$44 million to the government of Pakistan for cash cards, yet has been unwilling to demand that the financial support to displaced populations be given on the basis of need.

The humanitarian community has concerns that those displaced from the tribal areas will be pressured to return in the spring. Similar to what happened last summer with the displaced from Swat and Buner, unofficial declarations from military officials have hinted at the need for the displaced to return soon, especially in South Waziristan, Khyber and Bajaur agencies. Yet the security situation in those

areas remains unstable. The United States must engage Pakistan to commit to voluntary and safe returns.

Returns can’t happen safely or in good conscience if people have nothing to return to. While the infrastructure damage was relatively low in the Malakand division of the North West Frontier Province (NWFP), FATA tribal areas, particularly Bajaur and South Waziristan, have experienced major destruction and loss of civilian life. While a similar situation is closely monitored in Afghanistan, there is little attempt in Pakistan to document abuses by parties to the conflict or to compensate the victims. A compensation mechanism for loss of residential property by the Provincial Disaster Management Authority is currently covering the Malakand division but not the FATA. A majority of affected families may not benefit, however, since they did not own the homes they inhabited that were destroyed. The United States should urge the Pakistani government to expand the compensation program to include these families and to include the FATA once the situation has stabilized. The United States should provide funding to support that expansion.

## GO SMALL IN THE FATA

The displaced, the vast majority of whom come from the tribal areas bordering Afghanistan, do not receive nearly as much attention from the government as the displaced families from Malakand division did last summer. While great efforts were made by the Pakistani government to register millions of displaced Pakistanis from the North West Frontier Province, government officials treat the FATA as distant and distinct. The archaic Frontier Crimes Regulations governing the FATA – and authorizing in some cases collective punishment – have been kept in place because of the ongoing conflict. Yet, the United States should be conscious that its objective to strengthen the civilian authorities and establish the rule of law in the tribal areas is futile without political reform, a stated concern of the Pakistan Enhanced Partnership Act.

The US Agency for International Development (USAID) should ensure that U.S.-funded development projects in the FATA are small and manageable. Over the past several years the U.S. has committed hundreds of millions of dollars to development projects in the FATA, an unstable area located along the border with Afghanistan. This is an area of strategic importance and central to the ongoing military operations, and is now experiencing large-scale displacement. The U.S.-funded projects are intimately linked to the planned returns for hundreds of thousands. In an attempt to strengthen the Pakistani government, the Obama administration decided a year ago to shift USAID funding

from American contractors and aid organizations directly to the Pakistani government and local non-governmental organizations.

The situation in the FATA, however, continues to be highly volatile as military operations ensue. As a result, USAID officials and international aid organizations are unable to access most of the region. Based on interviews with a wide range of officials, the recently created FATA Secretariat, the civilian authority governing the seven FATA agencies, has minimal capacity to oversee projects and its operations lack transparency. According to the first of several public auditing reports on U.S. development funding in the FATA by the USAID Office of Inspector General, “little real progress ha[s] been made to date to build capacity of either FATA governmental entities or FATA NGOs.”

The failure of large-scale FATA development programs is a result of the prevailing insecurity and the inability of the FATA political agents or local organizations to absorb, implement and monitor the funding. Successful programs in the FATA are small and targeted. It is imperative that future development projects are commensurate with the capacity of local actors to manage the projects.

USAID in Pakistan is under tremendous pressure to deliver results and this has led to what an aid worker called “staggering dysfunctionality.” While the desire to strengthen Pakistani institutions is welcome, the initial decision to remove USAID’s ability to choose between Pakistani and international aid organizations was counter-productive. Moreover, the emphasis on delivery at all costs has led to questionable outcomes: USAID has given \$55 million to the Pakistani military, via the FATA Secretariat, to build a road in South Waziristan. Other donors, most notably Saudi Arabia, have also reportedly given the Pakistan army money for reconstruction. The U.S. Congress should question whether channeling money through the Pakistani army is the best use of development assistance and to what extent it fits in with U.S. government objectives to strengthen civilian capacity.

## AFGHAN REFUGEES

Amidst the humanitarian crisis it is easy to forget that Pakistan is host to one of the world’s largest refugee populations. More than 1.7 million Afghans remain in Pakistan, including 700,000 in settlements, and the vast majority is unlikely to return to Afghanistan any time soon. Yet the legality of their stay remains unclear, since they hold Proof of Registration cards valid only through 2012.

It is in the U.S. interest that Afghan refugees are given a more predictable future, which should include the possibility of long-term integration. Afghanistan cannot absorb an additional 1.5 million people, most of whom are landless. Likewise, ongoing violence in both countries means the potential for population movement back and forth. The UN Refugee Agency (UNHCR) in Pakistan has a small budget of \$9 million for Afghan refugees, but its focus is on advocacy rather than service delivery. In 2010, the UN would like to register new family members of Afghan refugees and issue all of them “smart” cards, a form of identity that also affords greater legal protection.

In a context where donor governments, and in particular the United States, are looking for cost-effective and accountable development projects in Pakistan’s northwest, the Refugee Affected and Hosting Areas (RAHA) program stands out and should be strongly supported. Several internationally funded pilot projects visited by Refugees International were benefiting both the Pakistani communities that have hosted Afghan refugees for decades, as well as the Afghan refugees. The programs, such as maternal health services and construction of water pipelines and paved roads, were determined by the communities which provided 20 percent of the funding, thus ensuring community ownership.

But the funding that has been made available to UNHCR thus far is running out and the RAHA program is at risk of having to discontinue its projects. The U.S. Congress should ensure that sufficient additional funding is made available for the RAHA program in FY2011.

## CONCLUSION

The United States and other donors’ desire to support the Pakistani military to perform civilian duties because “it can get the job done” is shortsighted. While the Pakistani army may have the capacity to implement reconstruction programs, especially in unstable areas, its dominant role is preventing its civilian counterpart from performing such responsibilities. This is particularly relevant in the FATA, where the U.S. should find ways to strengthen the civilian government and enhance the overall development of this impoverished area, on the basis of communities’ levels of vulnerability and need instead of military expediency.

*Patrick Duplat and Renata Rendón assessed the humanitarian situation in Pakistan in February 2010.*