



Testimony of Dr. Samina Ahmed, South Asia Project Director, International Crisis Group, to the House of Representatives Subcommittee on National Security and Foreign Affairs, Committee on Oversight and Government Reform hearing on “U.S. Aid to Pakistan: Planning and Accountability”.

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I want to thank Chairman John F. Tierney for holding this important hearing and inviting me to testify on behalf of the International Crisis Group on U.S. assistance to Pakistan. If utilized effectively, this assistance could help win hearts and minds in the struggle against violent extremism in Pakistan.

The Crisis Group has been in South Asia since December 2001, and has published reports directly relevant to the issues under this committee’s review. We are deeply concerned about the threats posed to regional and international security by violent sectarian and jihadi groups in Pakistan, which are presently attempting, with some success, to expand their influence beyond the Federally Administered Tribal Areas (FATA), the tribal belt bordering on Afghanistan, to the settled areas of the Northwest Frontier Province (NWFP).

We have repeatedly expressed concern about military-devised peace deals with violent extremists, which have helped entrench Taliban control and al-Qaeda influence in this area, undermining the gains made by the transition to democracy and the defeat of the military-supported religious parties in NWFP in the 2008 elections. The militants’ refusal to end their armed campaign, facing strong international pressure, particularly from the United States, the Pakistan armed forces launched a military operation, first against the extremists in NWFP’s Malakand division and has since then expanded operations to FATA’s South Waziristan agency. While the current military operation may well be a more extensive attempt to root out the Baitullah Mehsud network in South Waziristan, it remains an incomplete effort and could even prove counter-productive because of the military’s parallel efforts to reach or consolidate peace deals with rival Taliban groups, including some linked to the Haqqani network in North Waziristan agency.

The military operation has yet to be directed at the Afghan Taliban, the Haqqani network or al-Qaeda strongholds. However, it has already spurred a new round of internally displaced persons (IDPs), with little to show that the country has planned for that eventuality. While two-thirds of the nearly three million internally displaced have returned home in Malakand division, nearly a million remain displaced. Now, the ongoing operation has displaced more than one million FATA residents, mostly from Bajaur agency in the north and Waziristan in the south.

In our reports, we have repeatedly warned that the military's resort to heavy force, failure to address the full cost to civilians and refusal to allow full civilian and humanitarian assistance to the conflict-zones is counter-productive. The failure to meet the needs of FATA's IDP's and to provide effective relief, rehabilitation and reconstruction in Malakand division will reverse any gains made on the battle field and boost radical Islamist groups.

FATA is governed by a colonial-era body of law that isolates the region from the rest of the country, giving it an ambiguous constitutional status, denying political freedoms and economic opportunity to the population. The region was severely underdeveloped even before the rise of militancy. With no economic regulation or proper courts, a black economy has flourished, notably a pervasive arms and drugs trade. Violence is now contributing to poverty, with the lack of jobs making FATA's residents vulnerable to militant intervention.

The democratically elected government could, with international, particularly U.S. support, curb extremism through broad institutional, political and economic changes to FATA's governance. It must dismantle the existing undemocratic system of patronage driven by political agents--FATA's civilian bureaucrats—as well as tribal *maliks* (elders) who are increasingly dependent on the militants for protection. It must enact and the international community, particularly the U.S. should encourage a reform agenda that would encourage political diversity and competition, enhance economic opportunity and extend constitutionally guaranteed civil and political rights and the protection of the courts.

The U.S. has allocated significant funds for FATA's development, but most is channeled through unaccountable local institutions and offices. This severely limits aid effectiveness and may even impede rather than encourage democratization. Communities displaced by heavy-handed military operations in FATA may also be especially vulnerable to jihadi indoctrination unless the Pakistan government prioritizes relief and rehabilitation, with international, particularly U.S. support. Plans for relief, future reconstruction and resettlement must be based on broad consultation with local and provincial leaders, with the goal of sustainable provision of public services, economic infrastructure and civilian protection through civilian-led law enforcement and judiciary.

BACKDROP

Belying the Pakistan military's claims of successfully countering Islamist militant networks in FATA and NWFP, extremists have expanded their reach and now command unprecedented influence. Instead of effectively disrupting and dismantling these networks, the military's sporadic operations have raised the costs—human and economic—for civilians trapped in the violence between militancy and heavy-handed military force. With the militants undermining already dysfunctional state institutions in FATA, only bold political reform by the democratically elected government and a strategy, with the assistance of international partners, particularly the U.S., that puts the

interests of civilians first will help reestablish state legitimacy and curb the growing tide of militancy.

At present, the state's writ in FATA is tenuous by design, not because of Pashtun or tribal resistance. The military is averse to changing FATA's ambiguous status since it has, since Pakistan's independence, used this region to promote perceived interests in neighboring Afghanistan through local and Afghan proxies. Nor is the centrally administered bureaucracy inclined to give up the perks and privileges—financial and political—of overseeing FATA's governance, absent legislative or judicial oversight. Islamabad's refusal to integrate the tribal areas into the constitutional framework has created a no-man's land where militants and criminals easily find safe havens.

FATA is directly governed by the federal government through an administrative and legal framework codified in the colonial-era Frontier Crimes Regulations (FCR) 1901, under which the federally appointed political agent, the senior most bureaucrat in an agency, exercises extensive executive, judicial and revenue powers, including the collective punishment of all or any members of a tribe for crimes committed on its territory. Political agents can grant or withdraw the status of *malik* (tribal elder), who then, with the agent's consent, receives financial privileges. FATA's legislators, elected to the federal parliament wield little authority and cannot even legislate on the tribal areas.

Dysfunctional and repressive governance has made FATA vulnerable to militancy. Local alienation resulting from an unaccountable and unresponsive administrative apparatus is readily exploited by the militants, who have also, as in Afghanistan, consolidated their powers by killing or coopting *maliks*, and dismantling or hijacking tribal forums such as *jirgas* and *hujras* (tribal councils). With much of FATA transformed into a no-man's land for government officials, civil society and local and international agencies, the civil bureaucracy too has ceded much of its authority to extremist groups, with political agents even known to channel development funds to the militants.

On 14 August 2009, President Zardari announced a FATA reform package, that would lift restrictions on political party activity, curtail the bureaucracy's arbitrary powers over arrest and detention; establish prisoners rights to bail; exclude women and children from the territorial responsibility clause; establish an appellate tribunal; and envisage audits of funds received and disbursed in FATA. While these proposed reforms are long overdue, with broader amendments needed if FATA is to stabilize, even this modest package needs the NWFP governor's assent on the president's directive and has been stalled by the military.

Yet the state's writ cannot be asserted over the region without instituting full provincial and constitutional rights, bringing FATA under the executive control of NWFP, with representation in the provincial legislature, with FCR repealed in its entirety. By incorporating FATA into NWFP under a uniform judicial system, the state will finally be able to ease the grip of religious extremists. The merger would also extend the provincial police force's jurisdiction over the territory.

Ending the military's policy of patronizing some Taliban groups and confronting others, the civilian government must take control over counter-terrorism policy. It will only be in a position to do so, however, if the democratic transition stabilizes. The Enhanced Partnership with Pakistan bill, by highlighting U.S. support for Pakistan's democratic transition, including civilian control of the military, has sent the right signal to an ambitious military leadership which is evidently reluctant to give up the perks and privileges of power.

COSTS OF CONFLICT

Although several extremist groups control large swathes of territory across FATA, militancy is not uniform. Some 40-plus Pakistani Taliban groups are loosely aligned under the Tehrik-i-Taliban Pakistan (TTP), now led by Hakimullah Mehsud. The TTP is loosely aligned to Punjab-based jihadi organizations such as the Lashkar-e-Tayyaba and the Jaish-e-Mohammad, the military's jihadi proxies in Kashmir. While the TTP also has links to the Afghan Taliban and al-Qaeda, the groups that comprise it operate independently, some attacking Pakistani security forces; others in FATA agencies such as North Waziristan are aligned to the Pakistani military, and focus their efforts on attacking Afghan and Western forces in Afghanistan.

While sporadic military operations against some Pakistani Taliban groups in FATA have displaced almost a million people, they have more often than not ended in short-lived peace accords with the militants, which have further empowered the extremists. In South Waziristan, for instance, the military reached successive accords with FATA based militants that allowed them to establish parallel Taliban-style policing and court systems, and facilitated the spread of Talibanisation across FATA and in NWFP's Malakand district. These included the April 2004 deal with Nek Mohammad, who was killed in a U.S. drone attack and then a series of deals with his successor, Baitullah Mehsud, the latest in May 2008.

After Baitullah was killed in a U.S. drone attack, while the military has taken action against his successor Hakimullah Mehsud, it has also continued the counter-productive policy of working with rival Taliban factions, including those led by Gul Bahadur and Maulvi Nazir. Although they are believed to be involved in the insurgency in Afghanistan and linked to al-Qaeda and the Haqqani network, which have safe havens in North Waziristan, the military entered peace deals with Bahadur, Nazir and other groups in the agency in 2006 and 2007. Nor has any attempt been made to disrupt, let alone dismantle, the Haqqani network in North Waziristan.

Almost one-third of FATA's approximately 3.5 million population has been displaced by the conflict, with the numbers increasing as the military expands its operations in the region. While indiscriminate military force has resulted in high civilian casualties, with exact figures impossible to calculate because the military restricts access by local and international humanitarian agencies to the conflict zones, most FATA IDPs have yet to receive adequate assistance or any compensation for the destruction of their properties and livelihoods. South Waziristan's IDPs, in particular, are even worse off than their

counterparts from Bajaur or Mohmand agencies. Disallowing the establishment of camps for IDPs from North and South Waziristan, often harassing host families, and registering IDPs selectively and thus providing relief selectively, the military, with the civil government working at its behest, is only helping the Taliban cause.

FATA's economy too has been badly hit by the conflict. Already extremely underdeveloped before the growth of militancy, it remains the least developed region in Pakistan, with 60 percent of its residents living below the poverty line. The state's failure to provide basic services and support economic activity is contributing to the growth of the insurgency. While criminality and militancy flourish in the absence of the rule of law, the civil bureaucracy's allocation of funds to local elites through a patronage system further retards sustainable growth and development. Set up by the Musharraf government in 2006, the FATA Secretariat and the FATA Development Authority control the planning and implementation of development plans but with very limited internal and external accountability. Yet these are the institutions through which the U.S. government is being urged to disburse its assistance, which, if effectively utilized, would go a long way to helping win hearts and minds and curb the growth of militancy in FATA.

GUAGING U.S. ASSISTANCE

In 2007, the Bush administration allocated and Congress approved \$750 million for FATA's development over five years, roughly \$281 million of which has been committed thus far but the amount actually expended since 2007 remains around \$75 million. Transparency and oversight issues, bureaucratic hurdles and insecurity have hampered assistance efforts. In September 2009, Congress passed the Enhanced Partnership with Pakistan Act, approving a tripling of non-military aid to Pakistan to about \$1.5 billion annually over five years, which also includes assistance for FATA development and calls for support to legal and political reforms in FATA.

USAID's Office of Transition Initiatives and implementing partners in FATA, working on projects aimed at enhancing capacity and strengthening citizen/state ties, work primarily through the federally controlled FATA institutions and civil bureaucracy, particularly the FATA secretariat and the political agents, who approve development contracts that are then awarded to local contractors through competitive bidding.

USAID and its implementing partners face the same hindrances that impede FATA's development in general. Much of FATA's middle belt, for example, is inaccessible due to violent sectarian conflict in Kurram and Orakzai agencies as well as ongoing military operations in Khyber, Bajaur and South Waziristan agencies.

Chairman Tierney has rightly identified the absence of basic accountability measures as a barrier to effective assistance. While USAID and implementing partners do have local staff on the ground within FATA, as well as multiple monitoring tiers involving foreign and local staff, the volatile security environment prevents expatriate staff from directly overseeing their work.

The main obstacle to effective aid delivery, however, lies in the defective state structures through which USAID and its implementing partners have to work---the dysfunctional FATA institutions and civil bureaucracy, including the FATA Secretariat and the political agents. Denied direct access to communities, international aid workers are forced to rely on the political agents, *maliks*, the FATA Secretariat and the FATA Development Authority, with this corrupt bureaucracy, and its handpicked clients benefiting from the absence of regulations and accountable system of delivery.

While some USAID-funded projects, by awarding development contracts to local NGOs, potentially enhance local civilian capacity, they still have to rely mainly on the political agents and *maliks* to gain access to areas and target programs. With the political agent and the FATA secretariat playing a central role in allocating and disbursing assistance, communities have little say in identifying and monitoring development projects.

The Pakistan government has urged the U.S. to channel funds directly to Pakistani state institutions to reduce the amounts spent on paying foreign personnel and other administrative costs. While U.S. Special Envoy Richard Holbrooke appears to be giving in to Pakistani pressure to route funds directly to the government in FATA, the Obama administration must recognize the pitfalls of working primarily through a civil bureaucracy, which is as averse to democratic reform as its military counterpart. Its lack of access to, and limited capacity in, FATA might have forced the U.S. government to rely heavily on the civil and military bureaucracy. But channeling money directly to and through these institutions will do more to alienate than win the hearts and minds of FATA's public. Expectations will rise but aid delivery will weaken further through inefficiency, wastage and corruption.

Instead, the U.S. should make the direct delivery of assistance contingent on reform of the region's dysfunctional and unaccountable institutions. Until officials are made accountable and representative, the U.S. government should continue using U.S. foreign aid contractors and international NGOs, who should be asked, in turn, to subcontract to local organizations that must consult local communities when planning projects. A distinction should also be made between for-profit contractors and consulting firms and non-profit international NGOs, with a preference given to those that are committed to development as opposed to financial gain.

Accountability and transparency should be enhanced to the extent possible. All USAID-funded programs should include external oversight mechanisms that are not dominated either by the political agent, FATA bureaucrats or the *maliks* and other elites who benefit from the bureaucracy's patronage. Oversight bodies should ideally include elected representatives and community-based groups. Because FATA's elected parliamentarians are neither credible nor effective actors, given the lack of jurisdiction over FATA's affairs, a greater oversight role should be given to the public accounts committees of the national and NWFP legislatures. Similarly, because most FATA-based NGOs and local communities often have little choice but to accept the directives of the bureaucracy and the pressure of the *maliks* or the militants, a greater oversight role could be given to

NWFP-based NGOs with a proven track record of working in FATA as well as other credible Pakistani NGOs.

FATA's bureaucracy will continue to resist reform because significant U.S. development assistance has already been channeled their way---and all the more so should they be given direct access to such assistance. Instead, the U.S. would be best served by balancing development aid in FATA with robust dialogue with Islamabad on long-term political reform, without which U.S. assistance will ultimately be ineffective---or worse, counter-productive. The sooner representative bodies are in place, the sooner the U.S. can ensure that taxpayers' money is not wasted or actually benefits militants.

Because the fate of FATA's IDPs will also determine if these insurgency-hit areas are saved or lost to the Taliban, the U.S. must discourage the military from entering into peace deals that will once again empower the extremists. At the same time, it should enable the government to provide the basic services and security that will prevent the jihadists from exploiting local alienation, particularly among the youth. To do so, it must work, as far as possible, with civilian institutions, and after meaningful consultation with local communities and NGOs.

Above all, the U.S. must:

- ❑ Develop meaningful dialogue with the government on broad institutional reform to FATA's governance, without which taxpayers' money is unlikely to achieve the desired results.
- ❑ Refrain from transferring control over development programs from international NGOs and other implementing partners to Pakistan government institutions until the FATA Secretariat, the FATA Development Authority and the office of the political agent are abolished and their authority transferred to the NWFP secretariat, relevant provincial line ministries and district departments.
- ❑ Establish financial oversight mechanisms over donor-funded programs that do not rely on the political agents and tribal elites but instead include more representative and independent bodies such as the national and NWFP-based NGOs with proven records of carrying out programs in FATA.
- ❑ Linked to political reform, establish mechanisms for community and civil society participation along with provincial and national ministries in design of comprehensive FATA development plans covering small farm assistance, accelerated infrastructure construction, social service delivery, vocational training programs for FATA's workers, particularly women, to make them more competitive in the local and national job markets, as well as support for civilian police, judiciary and the rule of law.
- ❑ Join the Pakistan government, the Office of the UN High Commissioner for Refugees and humanitarian NGOs in urgently preparing a comprehensive plan for IDPs in FATA, expanding assistance for those displaced by conflict that assures domestic and international humanitarian access and their settlement once citizen protection can be guaranteed.

- Condition military aid on demonstrable steps by the military to support civilian efforts in preventing FATA from being used by extremist groups, including the Haqqani network, the Afghan Taliban and Pakistani militants, to launch attack from Pakistani territory within its region and beyond; if the military does not respond positively, consider, as a last resort, targeted and incremental sanctions, including travel and visa bans and the freezing of financial assets of key military leaders and military-controlled intelligence agencies.