

# **PAKISTAN: NO END TO HUMANITARIAN CRISES**

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## PAKISTAN: NO END TO HUMANITARIAN CRISES

### EXECUTIVE SUMMARY AND RECOMMENDATIONS

With three years of devastating floods putting the lives and livelihoods of at least four million citizens at risk, and military operations against militants displacing thousands more in the conflict zones of Khyber Pakhtunkhwa (KPK) province and the Federally Administered Tribal Areas (FATA), Pakistan's humanitarian crises need urgent domestic and international attention. Since the democratic transition began in 2008, some progress has been made, but much more is needed to build the federal and provincial governments' disaster and early recovery response. Efforts to enhance civilian ownership and control have also had mixed results, particularly in the conflict zones, where the military remains the dominant actor. To effectively confront the challenges, the most urgent tasks remain to strengthen the civilian government's capacity to plan for and cope with humanitarian crises and to prioritise social sector and public infrastructure development. It is equally important that all assistance and support be non-discriminatory and accompanied by credible mechanisms for citizens to hold public officials accountable.

The military's suspicions of and animosity toward foreign actors undermine efforts to improve the humanitarian community's coordination with government agencies, and allegations that humanitarian aid is a cover for foreign intelligence activity threatens staff and beneficiaries' security. Radical Islamist lobbies, including militant groups opposed to donor involvement, exploit the gaps in assistance. Sporadic, selective, and heavy-handed military operations have, in 2012 alone, displaced hundreds of thousands, particularly in FATA's Khyber Agency. While conflict-induced displacement is now on a lesser scale in KPK's Malakand region than in the spring of 2009, when a major military offensive against Swat-based militants displaced 2.8 million, the army's failure to root out militancy has resulted in constant displacements.

In 2010, countrywide floods affected some twenty million, with massive destruction to infrastructure and livelihoods. Heavy monsoon rains in the following year further weakened dams and irrigation infrastructure, flooding large parts of Sindh, particularly its southern districts, and Balochistan. A fragile infrastructure, combined with deforestation and climate change, has heightened the risk of

recurrent flooding. The 2012 monsoon season has already caused massive devastation in upper Sindh, Punjab's south-western districts of Dera Ghazi Khan and Rajanpur and parts of eastern Balochistan.

Conflict- and flood-induced displacement has brought economic hardships – and the state's limited capacity for development and service provision – into sharp relief. It has also increased the potential for conflict, with radical Islamist groups gaining ample opportunities to recruit those most affected by humanitarian crises. In areas of displacement in KPK and FATA where the military still holds sway, short-term security objectives often determine eligibility for state assistance. Additional restrictions have been placed on the activities and access of international and local NGOs and other humanitarian actors, particularly since the May 2011 U.S. raid that killed Osama bin Laden near a major military academy in Abbottabad. While radical jihadi organisations, such as the Jamaat-ud-Dawa (JD) – the renamed Lashkar-e-Tayyaba (LeT) – are operating freely, using their charity fronts to win support, the state's failure to provide adequate and timely assistance is aggravating public resentment, undermining its credibility and that of its international partners.

More than three years after the military declared victory over Swat-based militants, soldiers remain deployed in KPK's Malakand region. While their presence on the streets creates a semblance of security, the military's dominant role in maintaining order, reconstructing public infrastructure and determining the post-conflict agenda undermines civilian government capacity. The rule of law has also been undermined, particularly by the Actions (in Aid of Civil Power) Regulations 2011 for both FATA and the Provincially Administered Tribal Areas (PATA), of which Swat is a part. These regulations give the military the authority to detain militant suspects indefinitely, including in internment centres that reportedly house over 1,100 detainees, thus violating constitutionally guaranteed fundamental rights of fair trial and legal appeal. Similarly, the Nizam-e-Adl Regulation 2009, imposing Sharia (Islamic law) in PATA, undermines basic legal rights and excludes the region from the constitutional mainstream.

The social impact of flood- and conflict-induced displacements is no less severe. In Sindh, economic deprivation resulting from recurrent floods has provoked a spike in crime that could spiral into a major law and order problem, while creating opportunities for jihadi organisations to exploit public alienation. Tackling the causes and consequences of these humanitarian crises goes beyond humanitarian action and will require state policies that promote more equitable social and economic development and guarantee legal protections and political inclusion.

## RECOMMENDATIONS

### To the Federal and Provincial Governments of Pakistan:

1. Prioritise building provincial- and district-level state capacity to respond to humanitarian emergencies, including by appointing permanent staff for all district disaster management units and providing them with the necessary training and technical and financial resources.
2. Mitigate the effects of future monsoon floods by prioritising irrigation and flood control infrastructure reconstruction.
3. Remove restrictions on local and international NGOs and their staff, including by:
  - a) resuming registration of international NGOs;
  - b) ending the 11th Army Corps' role in approving No Objection Certificates (NOCs) for local and international NGOs and their staff in Khyber Pakhtunkhwa (KPK);
  - c) directing the civil bureaucracy to phase out and ultimately end NOC requirements for international NGOs countrywide; and
  - d) easing the process for foreign NGO workers to obtain work visas.
4. Abolish any additional role, official or unofficial, of the military in determining the humanitarian agenda, in particular by:
  - a) excluding army representatives from beneficiary selection committees and ending the military's role in determining who is an IDP and who benefits from cash, housing and any other humanitarian assistance program; and
  - b) ending the military's role in designating areas as conflict- and/or flood-affected, replacing it by developing a standardised and transparent process of designating such areas with input from elected officials.
5. Ensure inclusive humanitarian assistance by:
  - a) demonstrating a strong commitment to the principle of voluntary returns by continuing assistance to those who choose not to opt for state-sponsored return operations;
  - b) extending Watan card (cash card) provision to all Federally Administered Tribal Areas (FATA) internally displaced persons (IDPs), within and outside camps;
  - c) using the Benazir Income Support Program (BISP) as a model for other cash assistance schemes countrywide;
  - d) extending assistance to residents fleeing militant violence in parts of FATA where the military has not intervened and thus not designated a conflict-zone; and
  - e) delinking government assistance to reconstruct houses and restart livelihoods in the flood-affected agricultural sector from proof of landownership or tenure and instead developing trust-based alternatives for proof of landownership or tenure where natural disasters have destroyed documentation.
6. Ensure accountable humanitarian assistance by:
  - a) investigating allegations of corruption in cash assistance programs thoroughly and taking action against any official seeking bribes for issuing Computerised National Identity Cards (CNICs) and Watan cards, or interfering in any way with disbursements;
  - b) investigating allegations of discriminatory assistance and ensuring that women and religious minorities in particular have unimpeded access to humanitarian assistance; and
  - c) developing a robust role for the national and provincial parliamentary public accounts committees and the National Oversight Disaster Management Council (NODMC) to oversee provision of assistance.
7. End FATA's and PATA's political and legal isolation by:
  - a) repealing the Nizam-e-Adl Regulation 2009 imposing Sharia in PATA;
  - b) repealing the Actions (in Aid of Civil Power) Regulation 2011 for FATA and PATA and disbanding all military-run internment centres in PATA;
  - c) withdrawing the draft Local Government Regulation for FATA;
  - d) releasing women and children detained on the basis of the collective responsibility clause of the Frontier Crimes Regulations (FCR) 1901;

- e) extending the jurisdiction of the Supreme Court and Peshawar High Court to FATA, as authorised under Article 247 of the constitution; and
- f) following through on pledges to incorporate FATA into the constitutional mainstream, replacing the FCR with the Pakistan Penal Code, Criminal Procedure Code and Evidence Act.

### **To the International Community:**

- 8. Prioritise building civilian disaster management capacity at the national, provincial and district levels.
- 9. Commit to international humanitarian principles by:
  - a) ensuring that relief and rehabilitation assistance is non-discriminatory and based on independent assessments of local needs, with beneficiaries identified according to civilian rather than military-determined criteria;
  - b) adhering to standard operating procedures (SOPs) developed by the UN Humanitarian Country Team (HCT), for example by refraining from providing assistance through the civil bureaucracy to IDP camps established in close proximity to areas of military operations; and
  - c) urging the government to amend its registration criteria to allow continued assistance to IDPs in need, who, for legitimate reasons, choose not to return to areas that the government no longer deems conflict-affected; and to extend assistance to residents fleeing militant violence in areas where the military has not intervened and that are thus not designated as conflict-affected zones.
- 10. Develop strong linkages with national NGOs and community-based organisations; help build their capacity to coordinate among themselves; and maintain closer and more regular interaction with local groups in developing policies and programs to better reflect needs on the ground.
- 11. Take measures to strengthen the Humanitarian Coordinator (HC) system, including by calling on the HC/Resident Coordinator (RC) to speak out more clearly in instances where humanitarian principles of impartiality, neutrality and operational independence are breached and by improving the capacity of the protection cluster to respond promptly when international standards of human rights are not complied with in addressing the humanitarian plight of the displaced.
- 12. Urge the government to give Watan cards to all FATA IDPs, within and outside camps, and support such a program, while insisting on a standardised and transparent process of designating areas in FATA as conflict- and/or flood-affected
- 13. Encourage the civilian government to adopt the FATA and PATA reforms in Recommendation 7 above, with all entities, particularly the UN Development Programme (UNDP), ending all support to *jirgas* (tribal assemblies) and Sharia-based dispute resolution mechanisms.
- 14. The Obama Administration should follow calls in the U.S. Congress to condition security assistance on unfettered humanitarian access, but the international community in general, and the U.S. more specifically should not allow frustrations with Pakistan's military to impede the urgent task of building the capacity of civilian institutions to respond to citizens' needs, especially in times of natural disasters and conflict-induced humanitarian crises.

**Islamabad/Brussels, 9 October 2012**

## PAKISTAN: NO END TO HUMANITARIAN CRISES

### I. INTRODUCTION

Pakistan confronts grave humanitarian challenges for a fourth consecutive year.<sup>1</sup> Military offensives against militant groups have displaced hundreds of thousands from the Federally Administered Tribal Areas (FATA), bordering south-eastern Afghanistan. Heavy monsoon rains have affected millions, causing death and massive damage to infrastructure and livelihoods, particularly in Sindh and Balochistan provinces. Government capacity to respond to such challenges has gradually improved, but the sheer scale and frequency of the crises demand significantly more investment of human, financial and technical resources in a still fragile state apparatus.

The national and provincial governments face the daunting task of providing basic services to the millions affected by the floods, while at the same time meeting the needs of those displaced by conflict, particularly in FATA and neighbouring Khyber Pakhtunkhwa (KPK). With radical Islamist lobbies, including extremist groups and allied madrasas (religious seminaries), exploiting the gaps in assistance and expanding their reach from the tribal borderlands to Sindh, they will also have to address the widespread political and economic alienation that has fostered underdevelopment and instability over decades, making the youth susceptible to jihadi recruitment.

Despite repeated, heavy-handed military offensives, extremist networks are still thriving, and militant violence continues. The conflict in FATA and KPK has displaced over four million people since 2008, with the military's 2009 spring offensive against militants in the Malakand

region alone responsible for 2.8 million.<sup>2</sup> Most have since returned home but still need assistance to reconstruct homes and restart livelihoods. In FATA, however, the exodus of internally displaced persons (IDPs) continues, because of repeated military operations and militancy, including in areas that had been declared cleared of militant groups. Many households have as a result been displaced for long periods and on multiple occasions. Thousands continue to seek security and livelihoods elsewhere. In September 2012, there were still over 700,000 registered IDPs in FATA and KPK.<sup>3</sup> This figure fails to reflect the enormity of the crisis, since only those fleeing officially notified conflict-zones are allowed to register.

Major natural disasters have been recurrent. After floods in 2010 had affected over twenty million nationwide, floods the following year affected more than another five million. In 2012 too, the monsoon season has destroyed infrastructure and livelihoods, provoking major population displacements and straining government capacity to meet citizens' needs. According to the National Disaster Management Authority (NDMA), monsoon rains have already affected close to 4.6 million nationwide, causing 440 deaths and damaging or destroying over 400,000 houses.<sup>4</sup>

Although building state capacity remains Pakistan's most urgent task, tackling the causes and consequences of conflict-related displacement and natural disasters goes far beyond humanitarian action. These crises have revealed not just the capacity limitations of the national and provincial governments, but also the extreme economic disparities in many parts of the country, the dependence of people on increasingly erratic sources of income, and the political marginalisation of many communities, not just in FATA and KPK, but also in Sindh, where rising crime levels could soon have serious security implications. Ultimately, the national government will have to develop and implement policies to promote more equitable social and economic development and also guarantee political inclusion.

<sup>1</sup> For earlier analysis of Pakistan's humanitarian crises and challenges, see Crisis Group Asia Briefings N°111, *Pakistan: The Worsening IDP Crisis*, 16 September 2010; and N°93, *Pakistan's IDP Crisis: Challenges and Opportunities*, 3 June 2009; and Crisis Group Asia Reports N°227, *Aid and Conflict in Pakistan*, 27 June 2012; N°196, *Reforming Pakistan's Criminal Justice System*, 6 December 2010; N°164, *Pakistan: The Militant Jihadi Challenge*, 13 March 2009; and N°178, *Pakistan: Countering Militancy in FATA*, 21 October 2009.

<sup>2</sup> Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit. See also "Pakistan – Complex Emergency, Fact Sheet, no. 1, Fiscal Year (FY) 2012", USAID, 19 March 2012, p. 2.

<sup>3</sup> "Pakistan Humanitarian Snapshot – IDPs and Floods 2012, UN Office for the Coordination of Humanitarian Affairs (OCHA), 17 September 2012.

<sup>4</sup> "Summary of Damages", NDMA, 3 October 2012.

The biggest obstacle to such reforms remains the civil and particularly military bureaucracies. Their control over the state's humanitarian response – ostensibly to ensure the success of counter-insurgency operations – extends to basic decisions on who may deliver and receive assistance – primarily in KPK and FATA, but now with potential to affect Sindh as well. Under similarly implausible invocations of national security, the civil-military bureaucracies have since 2011 further restricted the activities and staff of aid agencies, international and domestic NGOs and even diplomatic missions.<sup>5</sup> The military has also blocked and/or delayed democratic reforms to FATA's antiquated administrative system and assumed virtually unchecked powers of arrest and detention in FATA and the Provincially Administered Tribal Areas (PATA),<sup>6</sup> which includes Swat and six other KPK districts. This provides legal cover for gross humanitarian abuses, aggravating public resentment against the state that militant groups can exploit and undermining development of accountable governance, including the vital task of incorporating the tribal agencies into the constitutional mainstream.

This report builds on earlier Crisis Group reporting on flood and conflict-induced humanitarian crises in Pakistan, examining their political, social, economic and security implications, with an emphasis on FATA, KPK and Sindh. It is based on extensive field research, including interviews with the displaced, aid workers, officials, policymakers, international and domestic NGOs and other stakeholders.

## II. HUMANITARIAN CRISES AND STATE CAPACITY

### A. MILITANCY AND MILITARY OPERATIONS

In the first five months of 2012, fresh military operations against the Lashkar-e-Islami, a radical Deobandi group, displaced more than 52,400 families from Khyber Agency.<sup>7</sup> In mid-March 2012, the UN High Commissioner for Refugees (UNHCR) was registering as many as 10,000 people a day; by August 2012 the number of IDPs from Khyber Agency was 300,000, the agency's largest displacement since military operations against the militants began in mid-2008.<sup>8</sup> While many of those displaced by earlier military operations in northern FATA's Mohmand and Bajaur agencies had returned home by 2011, there were still 742,209 registered IDPs in KPK and FATA in mid-September 2012.<sup>9</sup> Most of the displaced were from South Waziristan, Khyber, Kurram and Orakzai agencies, where military operations have been repeatedly conducted since 2009.

Few have chosen to live in IDP camps. The overwhelming majority, as many as 90 per cent, have opted instead to stay with relatives or in rented accommodations, largely because tents provide limited protection from the inclement weather. Large families are often cramped in a single room with insufficient or non-existent sanitation or electricity and predictably adverse health consequences, particularly for women, who, in this tribal society, are confined to the home. Few can afford the high cost of healthcare in private clinics, the most commonly available health facilities.<sup>10</sup>

With international aid funding drying up,<sup>11</sup> very little assistance is provided to IDPs living with host communi-

<sup>5</sup> For more detail, see Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit.

<sup>6</sup> PATA comprises the districts of Buner, Chitral, Lower Dir, Upper Dir, Malakand, Shangla and Swat, as well as the Tribal Area adjoining Mansera district and the former state of Amb, administered since 1975 under a separate criminal and civil code from the rest of KPK.

<sup>7</sup> "Pakistan Khyber Agency Displacement", OCHA, 31 May 2012, p. 1. FATA's seven administrative units, known as tribal agencies, include Bajaur Agency, Kurram Agency, Orakzai Agency, Mohmand Agency, Khyber Agency, North Waziristan Agency and South Waziristan Agency.

<sup>8</sup> The 2008 operation had ended with a peace deal the military brokered between Lashkar-e-Islami (LI) and a rival Barelvi militant group, Ansarul Islam. When the deal collapsed, the military intervened again in September 2009, displacing 56,000 to 100,000 people in less than a month. "UNICEF Pakistan Update – Displacement in KP/FATA: Needs and Response", UNICEF, 13 August 2012. See also Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit., p. 6, and Briefing, *Pakistan: The Worsening IDP Crisis*, op. cit., p. 3.

<sup>9</sup> "Pakistan Humanitarian Snapshot", OCHA, op. cit.

<sup>10</sup> "UNICEF Pakistan Update", op. cit., 18 June 2012, p. 2.

<sup>11</sup> In September, humanitarian agencies faced a \$95 million funding shortfall for relief assistance to IDPs and returnees in FATA and KPK through the end of 2012. "Pakistan Humanitarian Bulletin", OCHA, issue no. 8, 17 September 2012, p. 3. Crisis Group email correspondence, IOM emergency officer, 27 September 2012; also "Humanitarian Operational Plan, Janu-

ties. Aid agencies are further stretched by the continued demand for humanitarian assistance in areas of return. Yet there too, persistent insecurity is hampering public and private infrastructure reconstruction and the resumption of livelihoods. Nor is the situation likely to change so long as the military resorts to heavy-handed action against some militant groups, while entering into peace deals with others.<sup>12</sup>

## B. NATURAL DISASTERS

The UN Development Programme (UNDP) ranked Pakistan in its latest human development index 145th out of 187, falling in the category of “low human development”. In 2012, 22.6 per cent of the population lives on less than \$1.25 a day.<sup>13</sup> According to the Mahbul ul Haq Centre’s 2012 report, an estimated 29.2 per cent, more than 52 million people, live in poverty, lacking health, education and other basis services,<sup>14</sup> with underdevelopment generally more acute in the rural areas and smaller provinces.<sup>15</sup> Such hardships and disparities have been accentuated by humanitarian crises, such as recurrent floods, making the building of state capacity all the more urgent.

Heavy monsoon rains in 2010 triggered floods that affected 20.5 million people, leaving at least eight million homeless, and causing massive damage to infrastructure country-wide.<sup>16</sup> A year later, with 800,000 households still lacking permanent shelter and over a million relying on food assistance, monsoon rains again flooded most of Sindh and parts of Balochistan.<sup>17</sup> Of the 5.2 million affected, including some 250,000 children, an estimated 35 per cent had suffered from the 2010 floods. In both provinces, almost 10,000 schools and close to half of all health facilities were damaged.<sup>18</sup>

According to the Pakistan Floods 2011 Early Recovery Framework, prepared by the government and the UN, the livelihoods of 40 per cent of households in the largely agrarian flood-hit regions were adversely affected.<sup>19</sup> Standing water compounded the initial losses to the rural economy, with a quarter of the land still under water in late November 2011. Unable to plant crops and forced to sell whatever healthy livestock they had left, many small farmers migrated to cities, swelling the ranks of the urban poor. The loss of assets and income gave rise to child labour and human trafficking.<sup>20</sup>

In September 2012, heavy rainfall led to flash floods in hilly areas, and rising water levels in rivers to floods and breaches of dykes and barrages. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the most affected were Punjab’s south-western districts of Dera Ghazi Khan and Rajanpur; Jacobabad, Shikarpur, Khashmore, Larkana, Sukkur, Qambar-Shahdadt, Dadu and Badin in Sindh province; and Balochistan province’s Jaffarabad, Naseerabad, Jhal Magsi, Loralai and Qila Saifullah districts.<sup>21</sup> The rains have also caused massive damage to agriculture, including, for example, destroying 70 per cent of the cotton crop in Dera Ghazi Khan and standing crops on 1.3 million acres in the affected districts of Balochistan.<sup>22</sup> Some 350,000 people were shifted to over 500 relief camps on an emergency basis in Sindh and Punjab.<sup>23</sup>

Settlements on fertile land along riverbanks have heightened the scale of destruction, with derelict infrastructure, deforestation and climate change increasing the risk of recurrent flooding.<sup>24</sup> In tackling the causes and consequenc-

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ary-December 2012”, 3rd Quarterly Revision, OCHA, April/May 2012, p. 62.

<sup>12</sup> Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit.

<sup>13</sup> “Human Development Report 2011, Sustainability and Equity: A Better Future for All”, UNDP, 2011.

<sup>14</sup> “Human Development in South Asia, 2102”, Mahbul ul Haq Human Development Centre, Islamabad, 2012.

<sup>15</sup> For instance, KPK’s literacy rate, at 50 per cent, falls below the national average. See “Highlights: Economic Survey 2011-12”, Economic Advisor’s Wing, Finance Division, Government of Pakistan, Islamabad, at [www.finance.gov.pk](http://www.finance.gov.pk).

<sup>16</sup> Crisis Group briefing, *Pakistan: The Worsening IDP Crisis*, op. cit., pp. 3-4.

<sup>17</sup> “Ready or Not: Pakistan’s resilience to disasters one year on from the floods”, OXFAM, 26 July 2011, p. 1.

<sup>18</sup> “UNICEF Pakistan Update – 2011 Floods: Early Recovery in Sindh and Balochistan”, UNICEF, 17 May 2012, p. 1. “Pakistan Humanitarian Crises in 2011 – Natural Disasters: Sindh/Balochistan Flash Floods”, Humanitarian Information Unit,

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U.S. Department of State, 25 January 2012. See also, “Pakistan Floods 2010 – Preliminary Damage and Needs Assessment”, Government of Pakistan, Asian Development Bank and World Bank, November 2010.

<sup>19</sup> “Pakistan Floods 2011 – Early Recovery Framework”, Government of Pakistan and UN, January 2012, p. 3.

<sup>20</sup> Crisis Group interviews, journalists and NGO workers, Sindh province, July 2012. See also “Sharp rise in human trafficking in Sindh province”, Integrated Regional Information Networks (IRIN), 21 March 2012; “Pakistan: Floods uncover evidence of feudalism’s impact on poor”, IRIN, 17 February 2011.

<sup>21</sup> “Monsoon Update – Pakistan”, OCHA, issue 9, 14 September 2012, p. 1.

<sup>22</sup> Saleem Shahid, “Floods cause Rs18 billion loss in Balochistan”, *Dawn*, 23 September 2012. Zahid Gishkori, “Devastating monsoon: if 2010 flood was epic, 2012 rain is record buster”, *The Express Tribune*, 13 September 2012.

<sup>23</sup> “Pakistan Monsoon Update Situation Report”, no. 2, OCHA, 3 October, p. 2.

<sup>24</sup> See “Annual Flood Report 2010”, Federal Flood Commission, power and water ministry, Government of Pakistan, 2010, pp. 9-10; and “Pakistan Floods 2010: Preliminary Damage and Needs Assessment, op. cit., p. 13. See also Alice Thomas and Roy Herrmann, “Pakistan: Flood survivors still struggling to recover”, Refugees International, 31 August 2011, p. 3.



es of monsoon-triggered floods, the government, its international partners and civil society actors will have to adopt measures that go beyond traditional humanitarian assistance.

The federal government has announced relief packages for flood-affected areas in Sindh, Punjab and Balochistan, including a 2 billion rupee (more than \$21 million) relief package for upper Sindh, 710 million rupees (\$7.5 million) of which are to be released immediately.<sup>25</sup> On 23 September, Prime Minister Raja Pervez Ashraf also announced a two billion rupee relief package for Balochistan's flood affected.<sup>26</sup> With donor fatigue rising, however, foreign humanitarian assistance may not be as forthcoming as in 2010. Lack of funding had already undermined early recovery activities aimed at restarting livelihoods and boosting resilience among communities affected by floods.<sup>27</sup> It may also undermine disaster preparedness, with humanitarian aid agencies unable to replenish emergency relief stocks.

## C. STATE CAPACITY

### 1. Disaster Response

#### *State structures*

The coalition government led by the Pakistan Peoples Party (PPP) inherited a dysfunctional and unaccountable military-dominated disaster response apparatus. The Musharraf military regime had set up the Federal Relief Commission and the Earthquake Reconstruction and Rehabilitation Authority (ERRA) in the aftermath of the 2005 earthquake, with a mandate limited to earthquake-affected parts of KPK and Azad Jammu and Kashmir (AJK). Operating outside parliamentary purview and headed by serving generals, both institutions were exempted from external oversight and accountability.<sup>28</sup> In March 2007, the NDMA was created as the executive arm of the National Disaster Management Commission, the apex body for managing disasters nationwide. Even after the restoration of democracy in 2008, the NDMA was headed by a general and was

widely criticised for failing to plan an appropriate response ahead of the 2009 IDP crisis in KPK and the 2010 floods.<sup>29</sup>

The eighteenth constitutional amendment (April 2010) devolved disaster management to the provinces, potentially providing an opportunity to design a locally adapted disaster response apparatus.<sup>30</sup> Without such an apparatus, however, "areas affected by the floods represented a hodge-podge of local political and governance arrangements, most of which were highly personalised in function and reflective of individualised iterative histories rather than a coherent and standardised national and/or provincial framework".<sup>31</sup>

In late 2010, parliament passed the National Disaster Management Act, leaving NDMA and the National Disaster Management Commission as the federal level. After the floods in 2010, the National Disaster Oversight Management Council was created as an independent body, tasked with overseeing flood-related activities.<sup>32</sup> The NDMA, however, has no provincial or district authority.<sup>33</sup>

In each province, a Provincial Disaster Management Authority (PDMA) devises and oversees implementation of a provincial disaster management plan, revised annually, and operates under the Provincial Disaster Management Commission chaired by the province's chief minister. A district disaster management unit (DDMU), chaired by the district's administrative head, is "the district planning, co-ordinating and implementing body for disaster management". It is expected to coordinate with PDMA, providing information and executing any task related to disaster management the provincial government deems necessary.<sup>34</sup> DDMUs are also tasked with recovery, rehabilitation and reconstruction in the aftermath of natural or manmade disaster. Since 2009, after the army operation in Malakand,

<sup>25</sup> "Sindh flood affectees get Rs2b package", *The Nation*, 17 September 2012.

<sup>26</sup> Saleem Shahid, "Rs 2.6 bn for relief and rehabilitation", *Dawn*, 24 September 2012.

<sup>27</sup> By early September 2012, the \$440 million Floods Early Recovery Framework was only 11 per cent funded, with \$46.6 million. "Pakistan Early Recovery Framework 2012: Requirements, Commitments/Contributions and Pledges per Cluster as of 6 September 2012" (appeal launched on 8 February 2012), Financial Tracking Service, OCHA, 6 September 2012.

<sup>28</sup> Crisis Group briefing N°46, *Pakistan: Political Impact of the Earthquake*, 15 March 2006, pp. 4-6.

<sup>29</sup> In June 2011, the government appointed Dr Zafar Iqbal Qadir, a senior bureaucrat, director general of NDMA, the first step in asserting civilian control over disaster response and preparedness. Khawar Ghumman, "Grade 21 officer to head NDMA", *Dawn*, 1 June 2011.

<sup>30</sup> "Pakistan 2010 Flood Relief – Learning from Experience: Observations and Opportunities", NDMA, 12 April 2011, p. 1.

<sup>31</sup> Stacey White, "The 2010 Flooding Disaster in Pakistan: An Opportunity for Governance Reform or another Layer of Dysfunction?", Center for Strategic and International Studies, September 2011, p. 4.

<sup>32</sup> The NODMC reports to the Council of Common Interest on which the prime minister and province chief ministers sit. "NODMC set up to oversee aid", *The Nation*, 20 August 2010.

<sup>33</sup> "Pakistan 2010 Flood Relief – Learning from Experience", op. cit., p. 1. In Pakistan's bicameral parliament, the National Assembly, the lower house, is directly elected, and the Senate, the upper house, is indirectly elected.

<sup>34</sup> "National Disaster Management Act, 2010", Senate Secretariat, Government of Pakistan, 11 December 2010, pp. 7-15.

KPK has created a Provincial Reconstruction, Rehabilitation and Settlement Authority (PaRRSA) to oversee resettlement and rehabilitation in conflict-affected areas.<sup>35</sup>

The 2010 act does not apply to FATA. However, its precursor, the National Disaster Management Ordinance 2007, was extended to FATA in 2008, establishing the FATA Disaster Management Authority (FDMA) to lead disaster risk mitigation, response and early recovery, under the guidance of the FATA Disaster Management Commission headed by the governor. The political agent (or district coordination officer in FATA's Frontier Regions) is in charge of the response to a disaster within a tribal agency, with the assistance of FDMA staff based in the area.<sup>36</sup> FATA's Disaster Management Plan for 2012 proposed the creation of a dedicated unit at the agency level – an Agency Disaster Management Authority (ADMA) – similar to a DDMU, and called for greater involvement at the village level in disaster risk reduction and response.<sup>37</sup>

Until the 2010 floods, the KPK PDMA alone had acquired some operational capacity to respond to conflict-induced displacement. Nationwide, most PDMAs existed only on paper and thus lacked the ability to oversee an emergency response effectively. While the Punjab PDMA, for example, required NGOs to obtain No Objection Certificates (NOCs) for every project, it had, according to an international aid worker, “neither the experience nor the capacity to process these” when the 2011 floods occurred.<sup>38</sup>

In Sindh, a haphazard approach, with no credible coordination or joint mechanisms between the NDMA, PDMA and DDMUs, led to poor execution both in relief and rehabilitation programs, aggravated further by the lack of coordination between the provincial government and NGOs, and even between various NGOs. “Donors and NGOs did not prioritise the state's role as central”, said Jami Chandio, a Hyderabad-based activist and scholar. “Everybody was doing their own thing. A major opportunity to improve conditions was lost”. The largest NGOs, he contended,

reached only a small percentage of people affected; as many 80 per cent were not provided help.<sup>39</sup> Moreover, the Sindh PDMA did not properly map needs in the most affected areas. Instead, the provincial government, donors and NGOs focused on “high visibility activities”, such as repairs to main roads.<sup>40</sup> Public advocacy and awareness-raising were similarly weak, contributing to the limited attention the province received as compared to KPK and Punjab in both the national and international press as well as from the national government and its international partners.

Pakistan's disaster management structure, from the national to the district level, has received some support from UN agencies under a joint One UN Disaster Risk Management (DRM) program.<sup>41</sup> The U.S. Agency for International Development (USAID) has funded efforts through the International Organisation for Migration (IOM) to improve NDMA's response capacity by donating equipment and financing the hiring of qualified personnel, including the recruitment of a group of national experts.<sup>42</sup>

State capacity has gradually improved during the democratic transition. According to UNDP, Sindh and Balochistan's PDMAs were more involved during the 2011 floods than in 2010.<sup>43</sup> Provincial-level disaster management authorities, headed and largely manned by bureaucrats on loan from other departments, are hiring more permanent staff.<sup>44</sup> But much more is needed to build disaster and early recovery response capacity, from national to local level. This includes giving the district coordination officer (DCO), the senior bureaucrat, who serves as ex-officio head of a DDMU, adequate technical and financial resources and well-trained, permanent staff. The KPK government's failure to appoint dedicated staff at the district level is said to have been detrimental to disaster management and relief

<sup>35</sup> “PaRRSA at a glance”, government of Khyber Pakhtunkhwa, 2012, p. 5.

<sup>36</sup> “Build Back Disaster Resistant”, FDMA and FATA Secretariat, December 2010, p. 64. KPK's federally appointed governor exercises executive authority as the president's representative. The political agent, appointed from the federal bureaucracy as the head of the administrative system of a FATA agency, has enormous executive, judicial and financial powers. For more on FATA's administrative setup, see Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit., p. 2.

<sup>37</sup> “FATA Disaster Management Plan 2012”, FDMA, 2012, pp. 23–24.

<sup>38</sup> Crisis Group interview, Islamabad, June 2011. For detailed analysis of NOCs and their impact on NGOs and humanitarian and other donor-supported work, see Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit.

<sup>39</sup> Crisis Group interview, Hyderabad, July 2012.

<sup>40</sup> Crisis Group interviews, humanitarian workers, activists and journalists, Hyderabad, Sukkur and Mirpurkhas, July 2012.

<sup>41</sup> For details, see “One UN Disaster Risk Management Programme”, UNDP Pakistan at <http://undp.org.pk/one-un-disaster-risk-management-programme.html>.

<sup>42</sup> Crisis Group interview, emergency officer, IOM, Islamabad, 10 April 2012. The funding is part of USAID's \$5.8 million NDMA Support Project. See USAID website: [www.usaid.gov/pk/db/sectors/humanitarian/project\\_129.html](http://www.usaid.gov/pk/db/sectors/humanitarian/project_129.html); also “IOM Hands Over U.S. Donated Tents to Pakistan's National Disaster Management Agency”, press briefing, IOM, Islamabad, 17 February 2012.

<sup>43</sup> Crisis Group interview, Hidayatullah Khan, program officer, Crisis Prevention and Recovery Unit, UNDP, Islamabad, 13 April 2012.

<sup>44</sup> Crisis Group interview, Zulfiqar Ali Shah, director for relief, operation and coordination, PDMA, KPK government, Peshawar, 17 July 2012.

coordination.<sup>45</sup> For example, any district official below the DCO may hold the district disaster management officer (DDMO) portfolio, in addition to any other portfolios under his or her charge. “We send DCOs lists of the NGOs and their projects, but then it depends on how busy and how interested he or she is in coordinating and monitoring their activities”, said an official.<sup>46</sup>

#### *Invoking national security*

Since the May 2011 U.S. raid that killed Osama bin Laden close to a major military academy in Abbottabad, the military’s suspicions of and animosity towards foreign actors, particularly international NGOs, has impaired efforts to improve the humanitarian community’s coordination with government agencies, including disaster response institutions, and further undermined the effective delivery of assistance. The U.S. Central Intelligence Agency’s use of a vaccination program in KPK to collect DNA samples of children in bin Laden’s Abbottabad compound has provided the military’s intelligence agencies with justification to more aggressively target international NGOs, despite many such entities having publicly condemned the CIA’s methods.<sup>47</sup> Radical Islamist lobbies, including militant groups opposed to donor involvement, have also exploited the episode. Allegations that humanitarian assistance is a cover for foreign intelligence activity are undermining staff and beneficiaries’ security.<sup>48</sup>

With relations between the military and international humanitarian actors at an all-time low, disagreements between the civil bureaucracy and humanitarian actors range from needs assessments, through when to halt emergency relief aid and transition into an early recovery phase, to which national and local institutions donors should channel funds through. Provincial contingency plans, prepared ahead of the monsoon season in 2011 had “got everyone talking again”, according to a donor representative.<sup>49</sup> But by waiting over five weeks after the onset of the 2011 floods before launching a formal appeal for humanitarian assistance, the federal government effectively barred international aid agencies access to flood victims.

While the contingency plans were based on inaccurate estimates of rainfall, they nevertheless provided PDMA and DDMUs an opportunity to gain experience in planning, as well as to specify the role of different government agencies, the military and humanitarian actors before (preparedness), during (rescue and relief) and after (rehabilitation and reconstruction) the 2011 floods. Moreover, an attempt was made to increase civilian ownership and control, albeit with mixed results, particularly in the conflict-hit regions. KPK’s plan, for instance, stressed civilian leadership, with KPK’s chief minister and the PDMA director general responsible for the flood response and relief operation. The military, theoretically, would “only assist civil administration in [the] rescue phase of floods [o]n formal requisitioning of [the] Army in flood relief operation”.<sup>50</sup> Yet, as is evident from the additional curbs on international NGOs in KPK (described below), the military still calls the shots in most of the province, including on NOC approvals and rejections.

Bureaucratic restrictions on NGOs and other international actors will likely undermine the humanitarian community’s ability to respond to the current or any future humanitarian emergency. The finance ministry’s Economic Affairs Division (EAD) has yet to finalise new guidelines for international NGO registration and functioning. Until it does, organisations cannot register, which is a prerequisite for obtaining visas for staff and for obtaining NOCs.<sup>51</sup>

In August 2012, NDMA had initiated weekly policy coordination meetings with humanitarian actors and relevant government departments, a step in the right direction for enhancing information sharing and an understanding of roles and responsibilities in the event of a disaster.<sup>52</sup> In response to the September 2012 floods, the government has also asked humanitarian aid agencies for assistance in providing immediate relief assistance and in conducting multi-sector initial rapid assessments in seven of the worst flood-affected districts, Punjab’s Dera Ghazi Khan and

<sup>45</sup> Crisis Group interviews, PDMA representatives, KPK government, Peshawar, 17 July 2012.

<sup>46</sup> Crisis Group interview, Zulfiqar Ali Shah, director for relief, operation and coordination, PDMA, KPK government, Peshawar, 17 July 2012.

<sup>47</sup> InterAction, a group of 190 U.S.-based NGOs, voiced its strong “object[ion] to any attempt – whether by a foreign government or local authorities – to co-opt humanitarian work for any purpose other than to provide life-saving assistance to people in need”. “Interaction statement on staged vaccination campaign in Pakistan”, 25 July 2011.

<sup>48</sup> See Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit.

<sup>49</sup> Crisis Group interview, Islamabad, May 2012.

<sup>50</sup> “Monsoon Contingency Plan 2011”, KPK PDMA, June 2011, pp. 44-49. Anticipating the 2012 monsoon season, the KPK government allocated 1.25 billion rupees (over \$13 million) for flood relief under its Monsoon Contingency Plan. Abdur Rauf, “Flood preparedness: Govt allocates Rs1.25 billion for monsoon contingency plan”, *Express Tribune*, 19 June 2012.

<sup>51</sup> NGOs that arrived in the country in the aftermath of the 2005 earthquake were given a five-year registration instead of the indefinite registration granted previously. These international NGOs have to renew their registration, while those lacking registration have to wait for EAD to announce the new regulations. Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit., pp. 12-13.

<sup>52</sup> Crisis Group interviews, international humanitarian aid workers, Islamabad, August-September 2012.

Rajanpur districts, Jacobabad, Kashmore and Shikarpur in Sindh and Jaffarabad and Naseerabad in Balochistan.<sup>53</sup>

It is uncertain if the thaw in Pakistan's relations with the U.S. after it reopened NATO supply routes to Afghanistan in July 2012, and the subsequent U.S. release of a \$1.2 billion reimbursement from the Coalition Support Fund (CSF) will result in the civil-military bureaucracies easing constraints on humanitarian work.<sup>54</sup> The Obama Administration should follow calls in the U.S. Congress to condition security assistance on unfettered humanitarian access. In May 2012, the Senate Appropriations Subcommittee approved a bill that would subject economic, law enforcement and military aid to certification by the secretary of state that Pakistan is "providing humanitarian organisations access to detainees, internally displaced persons, and other Pakistani civilians affected by the conflict".<sup>55</sup>

However, the U.S., and the broader international community, should not allow frustrations with Pakistan's military to impede support to civilian institutions to meet citizens' needs, especially in times of natural disaster and conflict-induced humanitarian crises. This is particularly important in the case of the FATA and KPK IDPs. Denied adequate assistance and absent any other source of livelihood (as described below), they have little choice but to rely on radical Islamist organisations.

## 2. Shrinking humanitarian space

IDPs from FATA and KPK are registered and authorised to receive state aid, as well as some UN relief such as tents and food rations, if they belong to government-notified conflict zones. This means that communities and families fleeing militant strongholds where the military has yet to intervene are not provided relief.<sup>56</sup> However, as an IDP vulnerability profiling (IVAP) conducted by UN agencies and NGOs revealed, many of those registered had not fled

the conflict from government-notified conflict zones.<sup>57</sup> According to an employee of a Peshawar-based NGO working in the FATA and KPK IDP-hosting areas, "in reality the political agent decides who, from an agency under his jurisdiction, should be registered, regardless of whether the area has been notified as conflict-affected or not".<sup>58</sup> In February 2012, government authorities agreed to use IVAP data to update beneficiary lists but did not include IDPs from areas not officially notified as conflict zones.<sup>59</sup> Who gets assistance is thus not need-based, but defined by short-term security objectives. Assistance is discontinued once the military and FATA's administration declare an area safe.

Although the FATA Secretariat signed a voluntary return agreement with the Humanitarian Country Team (HCT) in 2010, no nationwide policy commits all relevant actors to a voluntary, safe and dignified return of the conflict displaced as required by the Guiding Principles on Internal Displacement.<sup>60</sup> Military-directed return operations fail to guarantee sustainable returns, since premature decisions to declare regions cleared of militancy often result in subsequent operations and additional displacements. There have, for instance, been multiple displacements and returns in Bajaur, Mohmand and Khyber agencies. Distribution of assistance only upon return or in areas of origin compels returns even when security is elusive and conditions to restart livelihoods are absent – and thus results in renewed displacement.

<sup>53</sup> "Humanitarian Bulletin – Pakistan", OCHA, issue 8, 17 September 2012, p. 1.

<sup>54</sup> The CSF is the primary source of U.S. security funding, reimbursing the military for operations against FATA-based militant groups, while also linked to NATO's use of Pakistani sea-ports, airfields and ground lines of communication to supply NATO troops in Afghanistan. Pakistan closed the ground lines of communication in November 2011 in response to a NATO airstrike in Mohmand Agency that killed 24 Pakistani soldiers. For more detail on CSF, see Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit., pp. 7-9.

<sup>55</sup> "FY2013 State, Foreign Operations, and Related Programs Appropriations Bill", U.S. Senate Appropriations Subcommittee, 24 May 2012, p. 202.

<sup>56</sup> Crisis Group Briefing, *Pakistan: The Worsening IDP Crisis*, op. cit., pp. 7-8.

<sup>57</sup> "Pakistan: Returns continue in some areas but comprehensive IDP policy needed", Internal Displacement Monitoring Centre (IDMC), 31 May 2011, p. 4. Established by the Norwegian Refugee Council in 1998, IDMC monitors conflict-induced displacement worldwide.

<sup>58</sup> Crisis Group interview, Peshawar, July 2012. For more analysis on flawed registration of FATA's IDPs, see Crisis Group Briefing, *Pakistan: The Worsening IDP Crisis*, op. cit.

<sup>59</sup> A number of NGOs are revising their beneficiary identification using IVAP data. Crisis Group interviews, program director, KwendoKor, Peshawar, 17 July 2012; IVAP member, Islamabad, April 2012.

<sup>60</sup> Crisis Group Briefing, *Pakistan: The Worsening IDP Crisis*, op. cit., pp. 5-7. The HCT is comprised of the Humanitarian Coordinator and heads of cluster-lead UN agencies and NGOs. The Returns Task Force, chaired by UNHCR and FDMA, gives it guidance. The UN cluster approach is part of an effort to enhance coordination and accountability in a humanitarian response by assigning a lead UN agency to each sector, such as health, education and protection. On return policy agreements, see "Return Policy Framework for Internally Displaced Persons (IDPs) from the Federally Administered Tribal Areas (FATA)", FATA secretariat and UN humanitarian coordinator, 23 June 2010. KPK authorities signed a similar agreement with HCT in 2009; also, "Pakistan: Returns continue", IDMC, op. cit. For the Guiding Principles, see [www.ochchr.org/EN/Issues/IDPersons/Pages/Standards.aspx](http://www.ochchr.org/EN/Issues/IDPersons/Pages/Standards.aspx). These now have the status of "soft" law.

Responding to humanitarian crises resulting from counter-insurgency operations in Kurram and Mohmand agencies in 2011, the FDMA set up IDP camps, but only within the two conflict-affected agencies. Intended to restrict the movement of the conflict-affected, this was justified on the grounds that it provided more accessible relief and also mitigated the prospects of protracted displacement. In Kurram Agency, FDMA set up the New Durrani camp near Saada town, which housed 20,764 IDPs in early September 2012.<sup>61</sup> In Mohmand Agency, the Nahqi camp was opened in early 2011 and closed in October 2011, giving the population of over 4,000 IDPs no choice but to return home.<sup>62</sup> A second camp, Danishkol, was set up for only six weeks. Highlighting the difficulty of humanitarian aid agencies obtaining timely access to IDPs, OCHA expressed concern about lack of freedom of movement for those wishing to leave Mohmand.<sup>63</sup>

A lessons-learned exercise by humanitarian aid agencies found that insecurity as well as delays and refusals in obtaining government authorisation to enter FATA impeded humanitarian assistance. Restrictions on female staff in particular hampered the provision of relief and protection to women and children, who form the majority of camp populations. The exercise also revealed that military search operations within camps and the “constant presence of [the political agent’s] staff in the camps” also restricted humanitarian agencies’ operational independence and ability to guarantee impartial assistance and monitor the safety of areas of return.<sup>64</sup>

A return operation for the displaced from Kurram Agency, planned for April 2012, was postponed until June, when IOM assisted the return of 2,541 families. It has since been put on hold, as ongoing military operations have prevented the conditions for return agreed upon between the FATA Secretariat and humanitarian agencies.<sup>65</sup> As military offensives fail to root out militancy and as insecurity persists, few are prepared to return voluntarily. For example, only 9,294 of 69,279 registered families from South Waziri-

stan, around 13 per cent, opted to take part in a return operation initiated in December 2010.<sup>66</sup>

Yet, even as needs increase, the access of humanitarian agencies to areas where conflict-affected families require assistance is increasingly limited, both on and off camp and in areas of return. The military and FATA’s civil bureaucracy tightly monitor the movement of national and international aid workers in KPK and restrict their entry into FATA. Local NGOs are required to obtain NOCs for projects linked to relief or undertaken in conflict-notified areas. Even local NGOs that have a track record of working in FATA have encountered delays in obtaining authorisations for work in the region. In some cases, they have no choice but to go ahead and complete projects before the official authorisation to initiate them is given.<sup>67</sup>

In KPK, the army’s 11th Corps uses PDMA’s offices to control humanitarian activity by decisions on “project NOCs” (approving a project document and the project’s implementation) and “movement NOCs” (authorising staff to travel to the project site, usually only required for international staff).<sup>68</sup> In June, KPK’s home and tribal affairs department issued a notice requiring all NGOs to submit details of international staff and Pakistani employees accompanying them fifteen days prior to a site visit.<sup>69</sup> This will likely hamper responsiveness further.<sup>70</sup> In Punjab and Sindh, where bureaucratic constraints are less stringent, security threats, including abductions of aid workers, limit humanitarian agency operations.<sup>71</sup> In August, the International Committee of the Red Cross (ICRC) halted all relief, protection, rehabilitation, and economic programs, as well as detainee visits, due to deteriorating security conditions after a UK staff member was beheaded in Balochistan’s capital, Quetta, in April. It will continue to treat those wounded in fighting and aims to reopen a surgical field hospital in Peshawar that was closed when militants abducted that staff member in January.<sup>72</sup>

<sup>61</sup> Crisis Group email correspondence, Faiz Muhammad, chief coordinator IDPs, KPK PDMA, 3 September 2012. See also, “Fortnightly report: FDMA activities in progress”, FATA Disaster Management Authority, 8 July 2011.

<sup>62</sup> “Fortnightly report”, op. cit., 24 June 2011; “IDPs Nahqi camp closed”, *The Nation*, 19 October 2011.

<sup>63</sup> “Pakistan: Mohmand Displacements situation report”, OCHA, 4 February 2011, p. 2.

<sup>64</sup> “Standard Operating Procedures (SOP) Establishing IDP camps and supporting off-camp IDPs in Pakistan”, Humanitarian Country Team, 23 September 2011, “Annex 1. Lessons Learnt from Mohmand and Kurram IDP response experience”.

<sup>65</sup> Crisis Group email correspondence, emergency officer, IOM, 3 September 2012.

<sup>66</sup> “South Waziristan agency returns”, FDMA, 9 August 2012; “FATA IDPs Statistics”, FDMA, 6 July 2012.

<sup>67</sup> Crisis Group interviews, local NGO employees, Peshawar, July 2012.

<sup>68</sup> Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit., p. 13.

<sup>69</sup> Umar Farooq, “Security move: KP govt issues fresh directives to foreigners”, *The Express Tribune*, 25 June 2012.

<sup>70</sup> On 9 September, for instance, Orakzai’s political agent asked four NGOs, including partners of USAID and the UN, to stop work in the agency until given NOCs from the 11th Corps through the FATA Secretariat. “Ashfaq Yusufzai, “Four NGOs stopped from working in Orakzai”, *Dawn*, 20 September 2012.

<sup>71</sup> Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit., p. 12.

<sup>72</sup> “Pakistan: ICRC activities to continue on a reduced scale”, ICRC press release, 28 August 2012. See also, “ICRC halts most Pak aid after beheading”, Reuters, 29 August 2012.

Islamic charities, attached to the mainstream Islamic parties but also associated with radical jihadi groups, do not face the same impediments and are thus able to operate where humanitarian agencies are prevented from doing so. For instance, the Jamaat-e-Islami's welfare wing, Al-Khidmat, provides assistance in the Jalozai IDP camp in KPK. It has also been allowed, most likely with military approval, to establish a camp close to Jamrud in Khyber Agency, where it offers relief and transportation to the displaced.<sup>73</sup> The Jamaat-ud-Dawa (JD), the renamed Lashkar-e-Tayyaba (LeT) terrorist organisation responsible for the November 2008 Mumbai attacks, has also provided IDP assistance through its charity front, the Falah-e-Insaniyat Foundation (FIF).<sup>74</sup>

The 2011 floods allowed the JD to extend its reach to southern Sindh, which has large Hindu communities. "The JD has its vested interests", said a Badin-based female humanitarian worker.<sup>75</sup> The FIF reportedly imparted Islamic education at a relief camp in Badin catering to 2,000 IDPs. "We have taught them *namaaz* (Islamic prayer), as well as the required prayers to recite before and after a meal. Even the Hindus sit in the session", said a FIF volunteer at the camp.<sup>76</sup> In April 2012, the organisation also announced its intention to launch a series of welfare and development projects in volatile Balochistan, where most international NGOs are prevented from working.<sup>77</sup> Restricting humanitarian aid agencies' ability to work not only gives radical Islamist organisations opportunities to fill the breach, but also is indicative of the military's continued patronage of its anti-India and anti-Afghanistan jihadi proxies.

### III. RELIEF, REHABILITATION AND RECONSTRUCTION

#### A. CASH ASSISTANCE

##### *Relief*

Cash disbursements have become an integral part of state relief and rehabilitation efforts for conflict- and flood-affected IDPs. These schemes were initiated during the 2009 military operations in KPK's Malakand district, with 387,178 registered IDP households receiving 25,000 rupees (around \$300) each in assistance.<sup>78</sup> The Geneva-based Internal Displacement Monitoring Centre (IDMC) described the scheme as "an efficient way of reaching the majority of IDPs who have sought refuge outside camps".<sup>79</sup> Effective delivery, however, has been undermined by the inherently flawed IDP identification criteria discussed above and selective distribution, as well, allegedly, by corruption.

After the 2010 floods, the government launched a new cash disbursement scheme, the Citizens' Damage Compensation Program (CDCP). Jointly financed by the federal and provincial governments, its first phase cost \$400 million.<sup>80</sup> The government disbursed 20,000 rupees (around \$240) through cash cards, called Watan cards, to over 1.7 million families from government-notified flood-affected areas.<sup>81</sup> A World Bank-funded assessment published in March 2011 found that over 90 per cent of card holders surveyed said they received the payment in full.<sup>82</sup>

However, the manner in which flood-affected areas were identified resulted in discriminatory disbursement of assistance and in some instances reportedly provided opportunities for corruption. In the absence of a standardised and transparent process, political considerations at times seemed to determine whether local officials chose to declare an area flood-affected or not. In some KPK districts,

<sup>73</sup> Ibrahim Shinwari, "23 killed in LandiKotal explosion", *Dawn*, 17 June 2012, and "Kukikhel areas of Tirah fall to militants", *Dawn*, 11 June 2012. On Jamaat-e-Islami, see Crisis Group Report N°216, *Islamic Parties in Pakistan*, 12 December 2011.

<sup>74</sup> The Musharraf government banned LeT, a signatory to al-Qaeda's global jihad, in 2002. Renamed JD, the group has not been banned and remains active.

<sup>75</sup> Crisis Group interview, Hyderabad, July 2012.

<sup>76</sup> Saba Imtiaz, "JD included religious lessons with flood relief", *The Express Tribune*, 26 October 2011.

<sup>77</sup> Owais Jafri, "JD plans development, welfare projects in Balochistan", *The Express Tribune*, 18 April 2012.

<sup>78</sup> 43,069 registered IDPs from South Waziristan also received 5,000 rupees (around \$60) a month for six months in 2009. Figures provided to Crisis Group by Tariq Malik, chairman, NADRA, 11 September 2012. See also, "The WATAN Scheme for Flood Relief: Protection Highlights 2010-2011", UNHCR and Protection Cluster Working Group, 2011, p. 12.

<sup>79</sup> "Pakistan: Displacement caused by conflict and natural disasters, achievements and challenges", IDMC, 10 January 2012, p. 8.

<sup>80</sup> "The WATAN Scheme for Flood Relief", op. cit., p. 10. See also, "World Bank approved \$125 million for flood victims", *Daily Times*, 31 March 2011.

<sup>81</sup> Figures provided to Crisis Group by Tariq Malik, chairman, NADRA, 11 September 2012. See also, "Watan Cards – Over Rs. 6 bn disbursed among flood victims", *Dawn*, 17 January 2012.

<sup>82</sup> "Emergency Project Paper on a Proposed Credit in the Amount of SDR 79.5 million (U.S. \$125 million equivalent) to the Islamic Republic of Pakistan for a Flood Emergency Cash Transfer Project", World Bank, 16 March 2011, p. 12.

local committees identified beneficiaries.<sup>83</sup> In other districts, the DCO submitted a list of flood-affected areas for the National Database and Registration Authority (NADRA) to then identify affected households. Both systems had weaknesses.

In its assessment of CDCP's first phase, the UN protection cluster noted that the local committees "were not always fair, representative or transparent". By some accounts, local authorities tended to exclude minority groups from the Watan scheme, including Christians in KPK and Hindus in Sindh.<sup>84</sup> According to NADRA's chairperson, however, 15,960 minorities were among CDCP's first phase beneficiaries, while 5,205 more are eligible to receive compensation under the second phase. Beneficiaries complained of a "commission mafia" that, they said, included some local NADRA officials seeking bribes for issuing CNICs and Watan card and guards outside some ATM kiosks demanding cash bribes to allow customers to use the facility.<sup>85</sup>

The CDCP entitled all households in a notified flood-affected area to assistance – even those that had not been affected by the floods and those that had left the area but had yet to change the address on their national identity card.<sup>86</sup> While individuals who had access to local influential actors were able to tap assistance funds even if they were not directly affected, the CDCP and the KPK's local committee-led system failed to account for new arrivals, including IDPs who had fled conflict as well as nomadic populations. Isolated villages likewise risked being overlooked.<sup>87</sup> In Sindh, the local bureaucracy's disbursement of assistance was also marred by camp closures, aimed at forcing IDPs to return home.<sup>88</sup>

Women did not benefit directly, since CDCP support was usually channelled through a male head of household, unlike the Benazir Income Support Program (BISP).<sup>89</sup> Instead

of trying to register as women-led households, many joined a male relative's household, in which they risked not receiving an equal share.<sup>90</sup> The scheme has been revised to include 186,423 women-headed households among second-phase beneficiaries. According to a national women's rights NGO, those who register have become "a distinct category for relief and rehabilitation workers and agencies, and are recognised in almost all government and non-governmental initiatives", including the Watan scheme.<sup>91</sup> The BISP has also enabled the government to channel cash aid to women in the floods' aftermath. More than a million BISP beneficiaries in flood-affected areas received 4,000 rupees (roughly \$47) in addition to BISP monthly allocations and regardless of entitlement to flood relief under the Watan scheme.<sup>92</sup> BISP, by reaching the poorest of the population via women, contributes, in humanitarian emergencies and otherwise, to women's economic, social and political mobility.<sup>93</sup>

#### *Rehabilitation and reconstruction*

State assistance to reconstruct homes in flood- and conflict-affected areas has been more problematic. Too little too late, it has stalled rehabilitation and reconstruction, provoking renewed displacement and forcing many poor households deeper into debt. The CDCP's second phase, aiming to reach 1.1 million families, was launched in September 2011, over a year after the onset of the 2010 floods.<sup>94</sup> The government also reduced cash support from the 80,000 rupees (about \$840) total initially announced to 40,000 rupees (\$420), disbursed in two instalments.<sup>95</sup> Similarly, the assistance scheme to reconstruct homes damaged or destroyed during military operations in the Malakand region and in FATA's Bajaur and Mohmand agencies (the Housing Uniform Assistance Subsidy Project, HUASP) started over a year after the declared end of those opera-

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<sup>83</sup> These local committees included a local revenue employee, a schoolteacher, a nominee of the area's provincial parliamentarian and in certain areas a military official. "PaRRSA at a glance", government of Khyber Pakhtunkhwa, 2012, p. 18.

<sup>84</sup> "The WATAN Scheme for Flood Relief", op. cit., pp. 21, 26. Crisis Group interviews, humanitarian workers, lower Sindh, July 2012.

<sup>85</sup> Crisis Group email correspondence, 1 September 2012; interviews, villagers, Sindh, July 2012.

<sup>86</sup> Crisis Group interview, Zulfiqar Ali Shah, director, relief, operation and coordination, PDMA, KPK government, Peshawar, 17 July 2012.

<sup>87</sup> "The WATAN Scheme for Flood Relief", op. cit., pp. 14, 21, 25.

<sup>88</sup> Crisis Group interviews, humanitarian workers, Hyderabad and Sukkur, July 2012. See also, "State of Human Rights in 2011", Human Rights Commission of Pakistan (HRCP), March 2012, p. 282.

<sup>89</sup> The Benazir Income Support Program (BISP) is a national social safety net program launched in 2008 to give a monthly

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cash disbursement of 1,000 rupees (\$10-\$11) to female heads of household subsisting on less than 6,000 rupees (around \$70) a month. See BISP website, [www.bisp.gov.pk](http://www.bisp.gov.pk).

<sup>90</sup> Crisis Group interview, NGO workers, Peshawar, 17 July 2012. IRC and UNHCR protection clusters reported some cases where NADRA staff had refused to register divorced and widowed women. "Briefing paper on flood-displaced women in Sindh province, Pakistan", IDMC, June 2011, pp. 8-10; and "The WATAN Scheme for Flood Relief", op. cit., p. 24.

<sup>91</sup> "Effects of 2010 Floods on Women in Pakistan: A Scoping Study", Aurat Foundation, January 2011, p. 19.

<sup>92</sup> "The WATAN Scheme for Flood Relief", op. cit., p. 31.

<sup>93</sup> Since computerised national identity cards are required to become a BISP beneficiary, more and more women are obtaining that document, which also registers them as voters.

<sup>94</sup> "PaRRSA at a glance", op. cit., p. 19.

<sup>95</sup> "Ready or Not", OXFAM, op. cit., p. 10.

tions and has yet to be completed.<sup>96</sup> Delivery has also been uneven.

85 per cent of beneficiaries were compensated in Malakand division by January 2012,<sup>97</sup> but the presence of an army representative in the beneficiary selection committees for Watan cards and HUASP in the region shows that counter-insurgency dictates continue to prevail over civilian needs. Families of alleged militants or of alleged Taliban sympathisers have been denied assistance, while the army's 11th Corps still controls the process of granting or denying NOCs to national and international NGOs.<sup>98</sup>

Countrywide, government assistance to reconstruct homes and restart livelihoods in the flood-affected agricultural sector has been linked to proof of landownership or of tenure and has thus often missed the most vulnerable segments.<sup>99</sup> Lacking or losing property deeds and other relevant documentation, many victims of floods and/or conflict risk losing out on state assistance. Efforts should be made to develop trust-based alternatives for proof of landownership or tenure where natural disasters have destroyed documentation, such as validation of residence by the local community. While many returning widows and women-headed households have had difficulties in reclaiming the land they owned or lived on, because they did not have such documentation, landlords renting out accommodation and agricultural land have claimed the aid their tenants were entitled to. In Sindh, tenant farmers even fear their landlords will ask them to pay for the losses to crops or to reimburse the money they borrowed to buy seeds. Large landowners have also reportedly taken labourers' Watan card funds as part of their debt repayment.<sup>100</sup>

Since the floods have also washed away markers demarcating plot boundaries, and rural land records are not properly maintained, property disputes have swamped Sindh's lower courts. Small landowners and farmers complain of intimidation by larger, more influential landowners who are exploiting the situation to seize land by force.<sup>101</sup> Muslim squatters have forcibly occupied several Hindu tem-

ples in Sindh's lower districts, but Hindu communities are hesitant to appeal to the police and courts, fearing this could provoke religious tensions and conflict.<sup>102</sup>

Despite these flaws, some state-funded reconstruction endeavours are impressive. The Sindh government, for example, has funded 43 "model" villages, for a total of 750 million rupees (around \$830,000), diverting some money from the Poverty Alleviation Fund.<sup>103</sup> Built several feet higher and better constructed than those destroyed in the floods, these villages have superior drainage systems and are linked to major roads.<sup>104</sup> As they were constructed with local labour, in some cases entirely female, costs have been kept down even as jobs have been provided.<sup>105</sup> While mostly financed by the Sindh government, the model villages have received some donor support.

For the CDCP's second phase, provinces affected by the 2010 floods conducted surveys of damaged households to identify those entitled to government assistance. Under USAID's \$45 million 2010-2015 Assessment and Strengthening Program (ASP), designed to assist local organisations in managing development funds, the Rural Support Programs Network (RSPN) took part in verifying samples of surveys in 80 districts nationwide and found that the lists were largely accurate.<sup>106</sup> The UK's Department for International Development (DFID) support includes funding to the International Rescue Committee (IRC), the protection cluster co-lead, to reinforce the cluster's capacity to report and address cases of discrimination in assistance.<sup>107</sup> The World Bank's contribution to the CDCP, the Flood Emergency Cash Transfer Project, includes a financial education component to inform beneficiaries on how to use the Watan cards, to avoid being fooled into selling their cards or paying a fee in exchange for assistance in access-

<sup>96</sup> This assistance included \$2,000 (Rs. 160,000) for a damaged house, and \$5,000 (Rs. 400,000) for a destroyed house. See PDMA/PaRSA website at [www.pdma.gov.pk/PARRSA/huasp\\_update.php](http://www.pdma.gov.pk/PARRSA/huasp_update.php); also "PaRRSA at a glance", op. cit., pp. 14-17; and Crisis Group Briefing, *Pakistan: The Worsening IDP Crisis*, op. cit., p. 10.

<sup>97</sup> See PDMA/PaRRSA website.

<sup>98</sup> "PaRRSA at a glance", op. cit., pp. 16, 17. Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit.

<sup>99</sup> "Ready or Not", OXFAM, op. cit., p. 12.

<sup>100</sup> "Briefing paper on flood-displaced women in Sindh province", op. cit., p. 8. "State of Human Rights in 2011", op. cit., p. 313. "Ready or Not", OXFAM, op. cit., p. 30.

<sup>101</sup> Crisis Group interviews, NGO workers, farmers, villagers, journalists and social activists, upper and lower Sindh, July 2012.

<sup>102</sup> Crisis Group interviews, NGO workers and residents, lower Sindh, July 2012.

<sup>103</sup> The Poverty Alleviation Fund is the lead governmental funding source for poverty alleviation programs, which include provisions for microcredit, community-based infrastructure and energy projects, local capacity building and social mobilisation through public-private partnerships. See website, [www.pfaf.org.pk](http://www.pfaf.org.pk).

<sup>104</sup> The houses, most comprising two rooms, a veranda, a bathroom and hand-pump, are slightly elevated to avoid water entering and have thatched roofs, appropriate for Sindh's hot summers. Crisis Group observations, TilloPahore model village, Shikarpur district, July 2012.

<sup>105</sup> The cost of building a two-room home has been 83,000 rupees (between \$900-\$950). Crisis Group interviews, residents and village managers, TilloPahore model village, Shikarpur, July 2012.

<sup>106</sup> Crisis Group interview, Shandana Khan, CEO, RSPN, Islamabad, 8 May 2012. For details on the ASP, see RSPN website at [www.rspn.org/our\\_projects/asp\\_strengthening.html](http://www.rspn.org/our_projects/asp_strengthening.html).

<sup>107</sup> Crisis Group interviews, Islamabad, June 2011 and May 2012.



ing the cash – a recurrent complaint to the IOM-hosted humanitarian call centre.<sup>108</sup>

### *Paying the bill*

Provincial and federal governments entirely funded the CDCP's first phase and have provided \$100 million to its second phase.<sup>109</sup> A number of donors have also supported the cash assistance programs. USAID contributed \$44 million to the IDP cash support program between July 2009 and June 2010 and is the largest donor to the CDCP's second phase, contributing \$190 million to the \$580 million scheme, which also receives funding from DFID and the Italian government.<sup>110</sup> However, some donors are wary of such humanitarian aid. After the 2010 floods, the EU offered to reallocate €104 million it had earmarked for other programs and to add 10 million in additional funds, but the federal government reportedly refused, demanding fresh funds to be channelled exclusively through the CDCP.<sup>111</sup> "At the time the government lost a lot of good-will and \$1 to \$2 billion dollars in potential aid", said a donor representative.<sup>112</sup> Circumventing schemes like CDCP does little for transparency or to limit misuse. Donors could better ensure aid is most effectively disbursed by supporting them but also imposing stringent oversight mechanisms.

Donors should also urge the government to extend the Watan scheme to FATA's IDPs, which would help to bypass the hurdles to effective assistance created by the civil and military bureaucracies that have denied basic need to hundreds of thousands. They should likewise call on the government to revise the IDP registration process, which currently fails to take into account the full scale of the displacement, including by excluding those fleeing militant strongholds where the army has yet to intervene, or from areas the military does not deem to be conflict-affected.

As social welfare programs based on cash transfer such as the BISP expand, they provide a database on some of the most vulnerable segments of the population, allowing for swifter and better-targeted emergency assistance.<sup>113</sup> The

government must, however, guarantee stringent monitoring of funds, including through a more active role for the NODMC. Cash transfer programs are the most effective way of disbursing timely and effective assistance and must not risk becoming politically controversial within Pakistan and with the donor community.

## **B. MISSED OPPORTUNITIES**

### **1. Sindh**

#### *The floods' impact*

As in KPK, the 2010/2011 floods in Sindh destroyed roads, hospitals, health clinics, schools and other key buildings. Very few were rebuilt even to their original state. "The question of upgrading does not even come up", said a Hyderabad-based social activist.<sup>114</sup> The Sindh government plans to release 100 million rupees (around \$1.1 million) in every district for rehabilitation and reconstruction. However, residents fear that should another major calamity occur the money would be diverted to relief and camp management – just as development funds for the province were diverted after the 2010/2011 floods, with infrastructure construction consequently stalled.<sup>115</sup> With the 2012 monsoons causing severe damage to several districts in upper Sindh, there is sufficient cause for such concerns.

Sindh's districts in the southern belt, such as Badin, Mirpurkhas, and Umerkot, which have lower levels of development in general, were hit much harder by the 2011 floods than the northern districts and have yet to receive the assistance needed for recovery and rehabilitation.<sup>116</sup> Humanitarian and other programs of NGOs, including international NGOs, have been concentrated in upper Sindh since at least the 1990s. Residents of lower Sindh attribute this to political neglect, since only one member of the provincial cabinet is from the south.<sup>117</sup> There are also perceptions of religious discrimination, given lower Sindh's large Hindu communities.

The southern districts have received significantly less international assistance than the north. In districts such as Mirpurkhas, for example, there has been some donor-funded roadwork but negligible repair and reconstruction of

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<sup>108</sup> Crisis Group interview, emergency officer, IOM, Islamabad, 10 April 2012. See also, "Emergency Project Paper on a Proposed Credit in the Amount of SDR 79.5 million (U.S. \$125 million equivalent) to the Islamic Republic of Pakistan for a Flood Emergency Cash Transfer Project", World Bank, 16 March 2011, p. 20.

<sup>109</sup> "PaRRSA at a glance", op. cit., pp. 18-19.

<sup>110</sup> "Cash Support Program for IDPs"; "Citizens' Damage Compensation Program", both USAID Pakistan, www.usaid.gov/pk. "World Bank Approved \$125 million for flood victims", *Daily Times*, 31 March 2011.

<sup>111</sup> Crisis Group interview, EU delegation, Islamabad, May 2012.

<sup>112</sup> Crisis Group interview, Islamabad, May 2012.

<sup>113</sup> That humanitarian and development aid actors, such as UNDP for its Malakand Peace and Reconciliation Programme, are

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considering using the BISP database being compiled through a nationwide poverty targeting survey based on a poverty score card system, shows its value. Crisis Group interview, program officer, Crisis Prevention and Recovery Unit, UNDP, Islamabad, 8 May 2012.

<sup>114</sup> Crisis Group interview, Jami Chandio, Hyderabad, July 2012.

<sup>115</sup> Crisis Group interviews, NGO workers, journalists and villagers, across Sindh, July 2012.

<sup>116</sup> Crisis Group interviews, NGO workers, activists, farmers and villagers, southern Sindh, July 2012.

<sup>117</sup> Crisis Group interviews, Mirpurkhas, July 2012.

homes.<sup>118</sup> Likewise, damaged bridges, water and drainage canals and river embankments in rural areas have seen few if any repairs. While the Sindh government has awarded contracts for road reconstruction, with more expected, the results are visible only in major towns and cities. Moreover, reconstruction has been plagued by allegations of corruption. A local journalist asserted it was “an open secret” that contractors inflated the prices of cement and other material in bills submitted to the government and donors.<sup>119</sup>

Sindh’s drainage system was gravely damaged in the 2010/2011 floods. The Left Bank Outfall Drain (LBOD) project, launched in the mid-1980s with support from the World Bank, Asian Development Bank (ADB), DFID and several other donors, was meant to address water-logging and salinity and improve drainage and irrigation systems, with particular emphasis on Nawabshah, Sanghar and Mirpurkhas in central and southern Sindh.<sup>120</sup> According to residents there, its canals were not dug deeply enough, and were not properly maintained.<sup>121</sup> This especially affected the southern belt’s districts such as Badin, Mirpurkhas, and Umerkot. “The LBOD is a disaster, but the World Bank and UNDP love it”, said a Badin-based NGO worker, reflecting a view shared by many NGO colleagues and villagers in lower Sindh.<sup>122</sup> The national and provincial governments, with donor support, should prioritise reconstructing and strengthening canals, drainage systems, including LBOD, bridges and embankments, the acute fragility of which, as the current flood damage shows, continue to expose much of the province to the risks of another major flood.

After the 2010 and 2011 floods, schools in the affected areas were closed to accommodate IDPs. When students and teachers returned, they found infrastructure and materials damaged or vandalised, with no funds allocated for repair. As a result, dropout rates escalated. In the current or any future floods, the government should not use schools to host flood-hit IDPs.

Much of Sindh is heavily dependent on agricultural exports; agriculture, for example, accounts for roughly 98 per cent of the economy in Mirpurkhas. Cultivation has declined in 2011-2012, since flood-affected small farmers were not given adequate supplies of inputs such as seeds and fertiliser or technical support. They were forced to buy seeds on the black market, often at double the normal price. Nor are there any insurance schemes for agricultur-

al damage, including to crops and livestock.<sup>123</sup> Moreover, while urban populations have access to loans from banks and other financial institutions, most rural populations do not, relying instead on very limited microfinance options. “The rural economy is not recognised as the backbone of [Sindh’s] economy”, said a Mirpurkhas-based farmer.<sup>124</sup> Women, who till most of the land as their primary source of income, are particularly affected. Farmers and other residents have thus far unsuccessfully called on the government to provide tax breaks to the agricultural sector.

Donor-supported efforts to revive agricultural production have had limited results. For example, a USAID-funded program in December 2010 to sponsor sunflower cultivation, particularly on the right bank of the Indus, yielded high levels of oilseed, but since this was the first time the crop was produced at such levels, growers had a difficult time finding a market.<sup>125</sup> Nor have donors fully tapped local capacity while designing and implementing programs. “The impression is that Sindh has a weak civil society or none. So in every district you have NGOs from KPK and Punjab doing the job that local NGOs should be doing”, said a Sindh-based NGO worker.<sup>126</sup>

According to a Mirpurkhas-based humanitarian worker, “OCHA had a meeting with dozens of groups from all over Sindh, for the purpose of data collection. It was successful. But when it came time to do work on the ground, the donors said, ‘we cannot work with you because you do not have the capacity’. There are groups who have been doing work in Sindh for twenty years. This has hugely damaged the image of the donor community”. A local NGO worker said, “local communities know where the natural water routes are and how and where agriculture and homes will be affected the most. If you don’t consult them when planning infrastructure development, how are you going to build it right?”<sup>127</sup>

Communities in Sindh believe that elements within the Punjabi-dominated federal civil service are discriminating against the province. “The PPP is seen as a Sindhi party and this government as a Sindhi government”, said a humanitarian worker. “So [bureaucrats] tell us, ‘This is your government, so ask them for help’”. According to a Hyderabad-based member of the Pakistan Fishers Forum, “the 2011 floods did not get the same level of attention as the

<sup>118</sup> Ibid.

<sup>119</sup> Crisis Group interview, Hyderabad, July 2012.

<sup>120</sup> For details, see “Project completion report on the Left Bank Outfall Drain Project (stage 1) in Pakistan”, Asian Development Bank, December 2000.

<sup>121</sup> Crisis Group interviews, Sindh, July 2012.

<sup>122</sup> Crisis Group interviews, Hyderabad and Mirpurkhas, July 2012.

<sup>123</sup> A Sindh-based farmer noted: “If a factory in an urban area catches fire, the owners get everything. This is discrimination. We have to have crop and livestock insurance”. Crisis Group interview, Hyderabad, July 2012.

<sup>124</sup> Crisis Group interview, Hyderabad, July 2012.

<sup>125</sup> Crisis Group interview, Shikarpur, July 2012. For more detail on the program, see Mohammad Hussain Khan, “Sunflower acreage up in Sindh”, *Dawn*, 28 February 2011.

<sup>126</sup> Crisis Group interview, Hyderabad, July 2012.

<sup>127</sup> Crisis Group interviews, Hyderabad, July 2012.

2010 floods did because [the former] affected Sindh the most".<sup>128</sup> With floods once again devastating large areas, Sindhi alienation will inevitably grow if these grievances are not addressed.

Perceptions of discrimination in a province that has long suffered from ethnic conflict between Sindhis and Mohajirs are also acquiring dangerous overtones.<sup>129</sup> During the 2010 floods and after monsoon floods again hit parts of Sindh in 2011, many flood-affected IDPs from the predominantly Sindhi rural areas moved mainly to the ethnically mixed urban centres of Karachi, Hyderabad and Sukkur. Several NGO workers claimed that the Mohajir-dominated Muttahada Qaumi Movement (MQM), although a coalition partner of the Sindhi-dominated PPP, pressured Sindhi IDPs out of Karachi and Hyderabad to offset the potential political impact of larger Sindhi populations in the traditionally Mohajir-dominated cities.<sup>130</sup> Such an influx is likely again, as farmers in the flood-hit areas have no recourse other than to migrate to urban centres.

Most Sindhis believe that humanitarian crises in the province, while receiving much local coverage, have attracted significantly less national and international attention than those in KPK and FATA, and far less support for Sindhi as opposed to Pashtun IDPs, because there are no comparable fears of the spread of Islamist militancy. According to a Sindhi humanitarian worker, "Swat IDPs who came to Karachi were given plots because of the political motivation [of winning over Pashtun constituents], but the flood-affected in our own province were given nothing".<sup>131</sup>

### *Security implications*

While rural Sindh may not reflect the counter-insurgency imperatives of KPK and FATA, it nevertheless presents grave law and order challenges that could have ramifications for overall stability. Many residents complain of a sharp rise in economically-motivated crime, including armed robbery and kidnappings-for-ransom, a product of lost income. Moreover, longstanding tribal rivalries in upper Sindh are acquiring dangerous dimensions. With the floods forcing such tribes into the same vicinity, poorly managed relief camps have witnessed conflict and skirmishes. Civil society actors believe that the government's failure to revive the province's agrarian economy could

lead to the "virtual collapse of law and order, if something is not done now".<sup>132</sup>

The risk of the spread of radical religious extremism is also high. Punjab-based radical groups such as the Jaish-e-Mohammad<sup>133</sup> and Jamaat-ud-Dawa (JD), the renamed Lashkar-e-Tayyaba (LeT), are infiltrating northern Sindh, bordering on southern Punjab, and drawing recruits from the underdeveloped province. Their efforts also extend further south, as evidenced by old JD/LeT training camps in Sanghar and Hyderabad districts that have been converted into local headquarters, overseeing the JD's madrasas, charity wing, (the Falah-e-Insaniyat Foundation), health clinics and other facilities in those districts.<sup>134</sup> Karachi, a city of at least eighteen million, has seen rapid, unchecked expansion of jihadi madrasas since 2001. This has grave implications not just for law and order in the provincial capital and national financial hub, but also for internal and regional stability more broadly given the nexus between these madrasas and local, regional and transnational jihadi outfits.<sup>135</sup> A January 2011 report found 736 unregistered madrasas. Unregulated institutions there could draw many families fleeing flood-affected villages whose children need education and board.<sup>136</sup>

The province's literacy rate is 55 per cent, around the national figure but far lower in rural areas, with "lack of access, social attitudes, and poor quality of infrastructure and

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<sup>128</sup> Crisis Group interview, Ghotki-based NGO head, Hyderabad, July 2012.

<sup>129</sup> Based in Bahawalpur in southern Punjab, the Jaish-e-Mohammad was banned as a terror group after the 2001 attacks on the Indian parliament but continues to operate freely.

<sup>130</sup> Muhammad Amir Rana, *A to Z of Jehadi Organisations in Pakistan* (Lahore, 2005), p. 333. Crisis Group telephone interview, Muhammad Amir Rana, director, Pakistan Institute of Peace Studies, Islamabad, 28 September 2012.

<sup>131</sup> See Crisis Group Asia Report N°130, *Pakistan: Karachi's Madrasas and Violent Extremism*, 29 March 2007. In 2007, the Karachi city government estimated the population at around eighteen million, [www.karachicity.gov.pk](http://www.karachicity.gov.pk). The Karachi Chambers of Commerce and Industry puts it at twenty million, [www.kcci.com.pk](http://www.kcci.com.pk). The last census was in 1998.

<sup>132</sup> The January 2011 report was by Sindh's Criminal Investigation Department. Figures about mosques and madrasas in Karachi are widely disputed, given the absence of any systematic and rigorous registration or regulation. No independent agency, government body or even clergy-run madrasa boards has conducted a thorough and transparent survey. For more detail see Crisis Group Report, *Pakistan: Karachi's Madrasas*, op. cit., p. 5. Zia Ur Rehman, "Pakistan to act against unregistered madrasas", Central Asia Online, 5 January 2012. In December 2011, 56 students were found shackled in the basement of a Karachi-based madrasa, prompting condemnation by the Sindh Assembly, and calls within the national and provincial governments for stricter monitoring.

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<sup>128</sup> Crisis Group interviews, Hyderabad, July 2012.

<sup>129</sup> See Crisis Group Asia Briefing N°137, *Election Reform in Pakistan*, 16 August 2012; Report N°137, *Elections, Democracy and Stability in Pakistan*, 31 July 2007; and Briefing N°43, *Pakistan's Local Polls: Shoring up Military Rule*, 22 November 2005.

<sup>130</sup> Crisis Group interviews, Hyderabad, July 2012.

<sup>131</sup> Crisis Group interview, Hyderabad, July 2012.

educational services” as the main factors.<sup>137</sup> Exploiting this, jihadi madrasa networks have mushroomed beyond Karachi. “As you enter every district and major town from Hyderabad up to Sukkur, you will find a dangerous madrasa staring you in the face”, said a senior Hyderabad-based journalist.<sup>138</sup> Not only do these jihadi madrasas, much like Karachi’s, provide recruits for major militant groups, they also threaten Sindh’s long religious harmony tradition.<sup>139</sup> Hindu girls have reportedly been abducted to madrasas, forced to convert to Islam and marry Muslim men, an issue raised in the National Assembly by Sindh parliamentarians.<sup>140</sup> Reports that the rural madrasas contribute foot soldiers to militant groups in FATA are also receiving increased government scrutiny.<sup>141</sup> Without an adequate response to rising public needs, including restoring destroyed and damaged schools and providing livelihoods to the flood-affected in the countryside, Sindh’s jihadi madrasa sector could see yet another boom.

Instability, including deteriorating law and order and/or ethnic conflict, in rural Sindh could also provide the military with an opportunity to expand its political role in the province. Neither its presence nor its control over the humanitarian agenda is as palpable in Sindh as in KPK and FATA. Nevertheless, Sindh-based NGO workers contend that interference by the military’s main intelligence agency, the Inter-Services Intelligence directorate (ISI), is mounting.<sup>142</sup> Increased NGO and humanitarian activity is certainly providing the military with a pretext to expand its

role. For example, the ISI has devised a form, distributed to local organisations, seeking information on programming and personnel.<sup>143</sup> The military’s intelligence agencies are particularly active in areas of Sindh bordering Balochistan, where the army is conducting operations against Baloch dissidents.<sup>144</sup> Historically, the military has also conspired against its principal civilian opposition, the Sindhi-led PPP, including by supporting anti-PPP armed groups and local elites in upper Sindh.

The floods have also brought the province’s socio-economic make-up into sharp relief, including rural Sindh’s economic disparities, for example between large landowners and factory owners on the one hand, and peasants and labourers on the other. Sindh provides 70 per cent of the country’s tax revenue, 71 per cent of its gas and 56 per cent of its oil, according to the Sindh Board of Investment.<sup>145</sup> Yet these figures mask the levels of poverty and a sharp urban/rural divide that results in the concentration of most resources and capacity in Mohajir-dominated Karachi. This, if left unaddressed, will remain a driver of ethnic conflict.<sup>146</sup>

If the humanitarian crisis has laid bare extreme economic disparities between rural and urban Sindh and within the countryside, it also presents opportunities to address such concerns. Many humanitarian activists believe that the floods have generated greater political awareness, with previously marginalised groups, including women, more interconnected and more energetic in demanding that the state deliver basic services and security.<sup>147</sup> The provincial government and its international partners should now work to build state capacity to respond to these demands, prioritising health and education and the rebuilding of livelihoods if the people in this province are to continue to resist the lure of jihad, particularly from neighbouring Punjab.

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<sup>137</sup> “Promoting Private Schooling in Sindh”, Sindh Education Foundation (updated). The Foundation is a semi-autonomous organisation, established in 1992 under the provincial education department to undertake education initiatives in the province’s most deprived areas. For more details on the province, and Pakistan’s education challenges more generally, see Crisis Group Asia Report N°84, *Pakistan: Reforming the Education Sector*, 7 October 2004.

<sup>138</sup> Crisis Group interview, Hyderabad, July 2012. These observations were confirmed during visits to rural Sindhi districts.

<sup>139</sup> In October 2009, the then-U.S. ambassador to Pakistan, Anne Patterson, reportedly expressed concerns about militant recruitment in northern Sindh, in a cable released by the WikiLeaks website, writing: “The social fabric of northern Sindh is breaking down in similar ways [to southern Punjab, Karachi and Quetta], which could allow more extremist influence in the future. Groups such as LeT have graffiti emblazoned on buildings and schools openly inviting young recruits to join”. U.S. embassy, Islamabad, classified cable, “Extremism in southern Punjab and northern Sindh”, 23 October 2009.

<sup>140</sup> Zahid Gishkori, “Hindu girls being forcibly kept in Sindh madrasas”, *Express Tribune*, 15 March 2012.

<sup>141</sup> Militants apprehended in South Waziristan in 2011 were found to come from these madrasas. Sohail Chaudhry, “After DHA attack, Sindh’s madrasas may be under scrutiny”, *Express Tribune*, 22 September 2011.

<sup>142</sup> Crisis Group interviews, NGO workers, Hyderabad, Sukkur and Shikarpur, July 2012.

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<sup>143</sup> Crisis Group interviews, NGO workers, Hyderabad, July 2012.

<sup>144</sup> For detailed analysis of the conflict in Balochistan, see Crisis Group Asia Report N°119, *Pakistan: The Worsening Crisis in Balochistan*, 14 September 2006; and Briefing N°69, *Pakistan: The Forgotten Conflict in Balochistan*, 22 October 2007.

<sup>145</sup> See Sindh Board of Investment website, [www.sbi.gos.pk/sindh-economy.php](http://www.sbi.gos.pk/sindh-economy.php); also, “A Handbook for Doing Business in Sindh”, Sindh Board of Investment, Government of Sindh (undated).

<sup>146</sup> See, for instance, “Mohajir Suba: Nationalists warn government of bloodshed”, *The Express Tribune*, 20 May 2012; and Ali K. Chisti, “Old Sindhis, New Sindhis”, *The Friday Times*, 9 March 2012. For background on Sindhi-Mohajir tensions, see Crisis Group Report, *Elections, Democracy and Stability in Pakistan*, op. cit., p. 11; and Samina Ahmed, “The Military and Ethnic Politics”, in Charles H. Kennedy and Rasul Bakhsh Rais (eds.), *Pakistan: 1995-96* (Boulder, 1995).

<sup>147</sup> Crisis Group interviews, female villagers and women’s development council members, Mirpurkhas, July 2012; humanitarian workers across Sindh, July 2012.

## 2. FATA and PATA

### *Acknowledging the need for reform*

The security risks of broad public disenfranchisement remain most acute in FATA and KPK. According to the federal government's planning division, FATA is Pakistan's most underdeveloped region, with, for instance, a literacy rate of 17 per cent and an infant mortality rate of 87 per 1,000, significantly higher than the national average of 69 per 1,000.<sup>148</sup> As in Sindh, the key challenge is to respond to rising demands for basic services that have been badly affected by humanitarian crises. It is equally essential to address the political and economic alienation that has fostered underdevelopment and instability over the decades, forcing its population to search for security and economic prospects elsewhere and making its youth more vulnerable to jihadi recruitment. To do so, however, will require comprehensive constitutional and legal reforms.

The need for such reforms is broadly acknowledged by major stakeholders. In September 2010, the government, donors and UN agencies agreed on a peacebuilding strategy for FATA and KPK: the Post-Crisis Needs Assessment (PCNA). Potentially valuable, if accompanied by political, legal and administrative reforms, the PCNA lists four strategic objectives: (1) build responsiveness of the state to restore citizen trust; (2) stimulate employment and livelihood opportunities; (3) ensure the delivery of basic services; and (4) counter radicalisation and foster reconciliation. It acknowledges the necessity of political, legal and administrative reforms in FATA and in KPK's PATA to end alienation, poverty and lawlessness, and as a prerequisite for durable peace and development.<sup>149</sup>

While donors claim to closely align their programming with the PCNA's strategic objectives, there is growing discontent with their own inability as well as that of the World Bank's Multi-Donor Trust Fund (MDTF) to spend funds swiftly. Delays result from slow government approval, bureaucratic constraints and insecurity that impede access, implementation and adequate monitoring. The approval process for projects under the MDTF has, however, been simplified in 2012 and the pace of disbursements has increased.<sup>150</sup> But if other barriers remain in place, this could jeopardise not only further contributions to the MDTF but also support to the PCNA.

UNDP has proposed a \$222 million early recovery assistance framework – not yet endorsed by the government – to support IDP returns and help reverse the impact of conflict on FATA's infrastructure and local economy.<sup>151</sup> While the UNDP-sponsored framework may help meet some of the immediate reconstruction needs, however, donors must not be tempted to divert funding from the PCNA. Without an overhaul of the region's anachronistic administrative and legal setup, underdevelopment, extreme poverty, and political and legal disenfranchisement will likely continue to foster violent criminality and militancy. Displacement and humanitarian crises will also probably recur. While the PCNA bears a price tag of \$2.7 billion over a decade, the estimated cost of the necessary legal, political and administrative reforms is \$145 million<sup>152</sup> – a fraction of what continued instability in this region bordering Afghanistan would cost in terms of internal and regional stability.

### *The state of reforms*

In August 2011, President Asif Ali Zardari signed a FATA reform package into law. A first modest step, it authorised political party activity, and reforming the Frontier Crimes Regulations (FCR) 1901 curtailed the bureaucracy's arbitrary powers of arrest and detention, exempted women and children from collective responsibility under the law, established an appellate tribunal and allowed for the auditor general to examine funds received and disbursed by the political agent.<sup>153</sup> The inability of the civilian government to enforce its will over the military and civil bureaucracies that in effect control the conflict-hit zone is evident in the failure to implement many of these reforms. "At present, these reforms exist only on paper – there are still women and children from FATA in prison in Dera Ismail Khan held under the FCR's collective responsibility clause".<sup>154</sup> Nor has the auditor general reviewed FATA's finances, since political agents have refused to share details of their agency development fund, derived from taxes levied on a number of products entering FATA,

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<sup>148</sup> "Annual Plan 2012-2013", Planning Commission of Pakistan, Islamabad, pp. 219-220.

<sup>149</sup> "Post Crisis Needs Assessment (PCNA) Khyber Pakhtunkhwa and Federally Administered Tribal Areas", Asian Development Bank, EU, UN, World Bank, Pakistan and KPK governments, FATA Secretariat, September 2010.

<sup>150</sup> Crisis Group interviews, donor representatives, Islamabad, April-June 2012.

<sup>151</sup> The \$222 million framework brings together over 100 projects to be implemented by local and international NGOs and UN agencies in four FATA agencies that have had most IDP returns. Crisis Group interviews, early recovery coordinator, Crisis Prevention and Recovery Unit, UNDP, Islamabad, 24 April 2012; OCHA, Islamabad, 3 September 2012.

<sup>152</sup> PCNA, op. cit., pp. 13, 136.

<sup>153</sup> Crisis Group Report, *Aid and Conflict in Pakistan*, op. cit., pp. 27-28. FATA is governed by an administrative and legal framework codified in the Frontier Crimes Regulations (FCR), 1901. For details of the FCR, see Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit., pp. 2-3.

<sup>154</sup> Crisis Group interview, human rights advocate, Islamabad, July 2012. Dera Ismail Khan is a KPK district, bordering on South Waziristan Agency

estimated annually at 300 million to 500 million rupees (almost \$3-5 million).<sup>155</sup>

Reforms in FATA will also remain ineffective in the absence of regular courts, including the higher judiciary, to enforce them. The appellate mechanism, presided over by federal bureaucrats, is not a credible alternative. Article 247 of the constitution authorises parliament to extend the jurisdiction of a provincial high court and/or the Supreme Court to FATA. It should do so without delay. This would have “a sobering effect on the political agent”, said Kamran Arif, co-chairperson of the independent Human Rights Commission of Pakistan (HRCP). “You have to put the fear of the law into the heart of the local bureaucracy”.<sup>156</sup>

In August 2012, President Zardari announced a draft Local Government Regulation for FATA, proposing the creation of local councils in some towns that would function like municipal committees.<sup>157</sup> Elected through adult franchise for four-year terms, council members would have authority over municipal planning and administration.<sup>158</sup> They would prepare an annual budget and levy taxes and could call upon the area’s political administration to assist in enforcing their decisions. Yet, the decision to vest considerable authority in the federation’s representative, the KPK governor, would undermine the devolution of power to the local level. The governor would be empowered to ensure that the councils were inspected at least annually; charge any expenditure to a council’s fund; suspend a council’s resolutions or orders if he believed them not in conformity with the law; and even dissolve a council after taking into account the findings of a committee of three members of the National Assembly and senators from FATA and of two of his officers. He would also be authorised to declare an area no longer a town and so end need for a local council there.<sup>159</sup>

Instead of introducing a system of local government that would only establish the semblance of political representation and local participation, Islamabad should repeal the FCR. President Zardari should abandon plans to introduce the regulation, and the government should instead take the necessary steps to overhaul an anachronistic governance system.

The need for reform in PATA is as acute, particularly in the Malakand region. More than three years after declaring victory over the Malakand-based Taliban, aligned with the Tehrik-e-Nifaz-e-Shariat-e-Mohammadi (TNSM), the military’s continued control over the region undermines its claims of a return to normalcy.<sup>160</sup> While militants no longer operate as openly as they did before the May 2009 military operation, residents in Malakand’s Swat district describe a “superficial sense of security”, with militants still active.<sup>161</sup> The military refuses to cede power to civilian authorities. “The army commander is like a political agent in uniform”, said a former Swat parliamentarian.<sup>162</sup>

The military also relies on *lashkars* (militias) it has armed and on “peace committees” and *jirgas* (tribal assemblies) to maintain law and order.<sup>163</sup> This has resulted in widespread abuse, including vendettas against rival tribes. Despite concerns about *jirgas* raised by the human rights community, including their often-brutal treatment of women,<sup>164</sup> UNDP considers them effective community dispute resolution mechanisms whose adjudicators can be trained and sensitised towards rulings that are “in accordance with the Constitution of Pakistan and human rights standards”.<sup>165</sup> UNDP also aims to link informal dispute resolution mechanisms with the Nizam-e-Adl Regulation 2009 that imposed Sharia (Islamic law) through *qazi* (Sharia) courts run by government-appointed judicial officers trained in Islamic law.<sup>166</sup>

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<sup>160</sup> For details of the military operation in Malakand region, including Swat, see Crisis Group Report, *Pakistan: The Militant Jihadi Challenge*, op. cit., pp. 13-14.

<sup>161</sup> Crisis Group interviews, Swat residents, Islamabad, April 2012.

<sup>162</sup> Crisis Group interview, Islamabad, 11 July 2012.

<sup>163</sup> The army has encouraged the setting up of unaccountable armed tribal militias and provided them logistical support, as well as supported community-level “peace committees” led by tribal leaders and/or local powerbrokers, to assist it in stabilising PATA and FATA.

<sup>164</sup> In a recent example, a *jirga* in a KPK village reportedly sanctioned men to publicly strip naked and physically abuse a 45-year-old woman because her son had allegedly had sexual relations with the wife of one of the men. See Alex Rodriguez, “Pakistan’s tribal justice system: Often a vehicle for revenge”, *The Los Angeles Times*, 1 August 2012.

<sup>165</sup> Crisis Group interview, Crisis Prevention and Recovery Unit, UNDP, Islamabad, 8 May 2012. “Strengthening Rule of Law”, UNDP Pakistan website at <http://undp.org.pk/strengthening-rule-of-law-in-malakand.html>. A goal of the four-year, \$15 million “Strengthening Rule of Law” project for Malakand, initiated in late 2011 and co-funded by the KPK government, is to encourage alternate dispute resolution through *jirgas* and court-appointed commissions. “Pakistan: Government of Khyber Pakhtunkhwa commits funds for UNDP’s Strengthening Rule of Law in Malakand project”, press release, UNDP, 18 April 2012.

<sup>166</sup> The regulation also created an appellate system, with a *Dar-ul-Qaza* (equivalent to the provincial high court) and a final appellate court, the *Dar-ul-Dar-ul-Qaza*, at the level of the Supreme

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<sup>155</sup> Crisis Group interview, government official, Peshawar, July 2012. See also Intikhab Amir, “Multi-billion rupee FATA fund out of auditors’ reach”, *Dawn*, 28 February 2012.

<sup>156</sup> Quoted in Crisis Group Report, *Pakistan: Countering Militancy in FATA*, op. cit., p. 14.

<sup>157</sup> “Federally Administered Tribal Areas Local Government Regulation, 2012”, draft available at [www.fata.gov.pk](http://www.fata.gov.pk).

<sup>158</sup> “Additional members representing traders, women or other special groups ... can be elected by the directly elected members of the municipal committee through secret ballot”. Ibid, p. 7.

<sup>159</sup> Ibid, pp. 6, 32, 40, 41.

As in FATA, millions of dollars in donor funds would only provide an incentive to sustain this unconstitutional system.

The Nizam-e-Adl was primarily the result of negotiations between the TNSM-linked Taliban and the military, subsequently endorsed by the provincial and federal governments. “The Nizam-e-Adl was needed to calm people down and show them that neither the ANP [Awami National Party, a secular Pashtun party that heads the KPK government] nor the PPP [the KPK coalition’s junior partner] are un-Islamic”, said a senior ANP member. “But it will have to be struck down eventually as a discriminatory law after a transition period”.<sup>167</sup> Yet, the longer the government takes to repeal the Nizam-e-Adl, the more it risks institutionalising discrimination against women and religious minorities and establishing a culture of rushed justice that may resolve cases quickly but not on merit or in the spirit of justice.<sup>168</sup>

Recent regulations risk pushing the reform agenda further back. In June 2011, pressured by the military, President Zardari promulgated identical executive orders, the Actions (in Aid of Civil Power) Regulation 2011 for FATA and PATA. These give the army exceedingly broad powers. Troops were authorised to detain any person in the notified area on grounds as vague as obstructing actions in aid of civil power “in any manner whatsoever”; strengthening the “miscreants” ability to resist the armed forces or “any law enforcement agency”; undertaking “any action or attempt” that “may cause a threat to the solidarity, integrity or security of Pakistan”; and committing or being “likely to commit any offence under the regulation”.<sup>169</sup> They also provide the federal and provincial governments or “any person” authorised by them with sweeping powers of indefinite detention. Retroactively applicable to 1 February 2008, they provide legal cover to the military’s gross human rights and other abuses, including illegal detention of hundreds of suspects.<sup>170</sup> The regulations will further legally isolate the tribal belt, as well as PATA.

Over 1,100 people who had been previously declared missing have been reportedly transferred to military-run internment centres in KPK under PATA’s Action in Aid of Civil Power regulation. Over 130 suspects have allegedly died in the security forces’ custody in Swat alone. Military and civil officials claimed these were caused by

“cardiac arrest”.<sup>171</sup> Contrary to law, however, the deceased were buried without post-mortems.

In September 2012, at a hearing on the spike in custodial deaths in Swat, the Peshawar High Court declared this practice to be illegal and ordered the director general of the provincial health department to form a standing medical board to conduct the post-mortems of all detainee deaths and submit the reports to the court’s registrar.<sup>172</sup> With bodies also turning up in and around the KPK capital, Peshawar, the court subsequently rejected reports that some of the deaths were from natural causes, arguing that “a man whose body is recovered from a gunnysack would not have died of starvation”. It also called an instance in which the military’s intelligence agencies had detained an individual whose body was delivered to his family two days later by the police a “detestable and inhuman act”.<sup>173</sup> Such instances imply that the military has resorted to “kill-and-dump” operations in PATA similar to those it employs in Balochistan.<sup>174</sup> Neither the Peshawar High Court nor the Supreme Court, however, has addressed the legality of the internment centres and the constitutionality of the 2011 regulations.

Custodial deaths and hasty burials are likely to magnify public resentment that militant groups can again exploit. The government should immediately close down the internment centres and repeal the regulations. It should also repeal the Nizam-e-Adl, extend the jurisdiction of the Supreme Court to FATA and replace the FCR with the Pakistan Penal Code, Criminal Procedure Code and Evidence Act.<sup>175</sup> Donors must continue to push for tangible reform in FATA and PATA alongside more transparency over aid disbursement. They must also understand the importance of staying true to international humanitarian principles if aid delivery is to serve the purpose for which it is intended.

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Court. See Crisis Group Reports N°196, *Reforming Pakistan’s Criminal Justice System*, 6 December 2010, pp. 23-24; and N°212, *Reforming Pakistan’s Prison System*, 12 October 2011, p. 3.

<sup>167</sup> Crisis Group interview, Islamabad, July 2012.

<sup>168</sup> The courts must decide criminal cases in four months and civil cases in six.

<sup>169</sup> Waseem Ahmed Shah, “New regulations give legal cover to detentions in tribal areas”, *Dawn*, 13 July 2011.

<sup>170</sup> Crisis Group Report, *Reforming Pakistan’s Prison System*, op. cit., p. 4.

<sup>171</sup> Akhtar Amin, “Govt, spy agencies to clear missing persons’ lists on weekly basis: PHC CJ”, *The News*, 28 August 2012.

<sup>172</sup> Akhtar Amin, “PHC takes suo motu notice of custodial deaths in security forces custody”, *The News*, 13 September 2012.

<sup>173</sup> Akhtar Amin, “Stop ‘kill-and-dump’ operations or govts may fall says PHC”, *The News*, 28 September 2012.

<sup>174</sup> For details of the Balochistan “kill-and-dump” operations, see, “Pakistan: Upsurge in Killings in Balochistan”, Human Rights Watch, 13 July 2011; also Crisis Group Report, *Pakistan: The Worsening Crisis in Balochistan*, op. cit.

<sup>175</sup> Under Article 247 (7), parliament can pass a law extending the jurisdiction of the Supreme Court or a High Court to FATA.

#### IV. THE COST OF INTERNATIONAL DIVISION

The lack of coherence among humanitarian aid actors, in both their messaging and engagement with government agencies – and tacit acceptance by some of discriminatory assistance to the flood- and conflict-affected – are undermining the donor community’s ability to promote international humanitarian principles “We donors, UN and NGOs are divided, and the foreign office, EAD [economic affairs division], and NDMA know very well how to play with these divisions”, said a donor country representative.<sup>176</sup>

The Humanitarian Country Team (HCT) was formed precisely for this purpose. Along with overseeing a coordinated humanitarian response among organisations that choose to participate in the cluster system, it is meant to promote “adherence by organisations that undertake humanitarian action in-country with humanitarian principles, Principles of Partnership, IASC [Inter-Agency Standing Committee] guidelines, and policies and strategies adopted by the HCT”.<sup>177</sup> But donors, UN agencies and NGOs see the HCT as too weak to ensure adherence to these principles and guidelines.<sup>178</sup>

In 2011, for instance, IDP camps set up in close proximity to areas of military operations raised concerns about impartiality and independence of humanitarian aid agencies, prompting the HCT to develop standard operating procedures (SOPs) for the establishment of camps and assistance to off-camp IDPs. According to these, humanitarian aid agencies should assist the government in providing assistance to IDPs only if it establishes camps at least 20km from an area of conflict and if it allows unhindered, continuous access to IDPs in camps and host communities. This is clearly contradicted in the Humanitarian Operation Plan (HOP), listing each humanitarian cluster’s strategy for 2012 with respect to FATA and KPK conflict IDPs, which includes New Durrani camp, only 15km from Kurram’s conflict zone.<sup>179</sup> Such cases, even if limited, may set dangerous precedents for future responses.

In early 2012, the HCT also endorsed SOPs that specified how humanitarian agencies should respond to a government request to assist IDPs returning to their areas of origin.

These include requiring official assurances that the area of return is secure, an assessment by the UN Department of Safety and Security (UNDSS) of safe access of humanitarian staff, and IDP community leaders’ confirmation of the information; a comprehensive government returns plan; and access of humanitarian staff and of a multi-cluster mission to assess needs.<sup>180</sup> “The HCT has failed to convey a strong message and act in a unified manner”, said a HCT member.<sup>181</sup>

The Humanitarian Coordinator (HC), who leads the HCT, is also the resident coordinator (RC), heading the UN system in the country, roles that have proved difficult to reconcile.<sup>182</sup> The HC/RC’s mandate to ensure UN support to the state’s development plans has often made the task of separating humanitarian assistance from a political/security agenda more difficult. The absence of a UN Office of the High Commissioner for Human Rights (OHCHR) in Pakistan has further weakened humanitarian actors’ ability to defend humanitarian principles of impartiality, neutrality and operational independence.<sup>183</sup>

“Recently, OCHA has put in a lot of effort to strengthen the HCT. UN agencies are now regularly attending HCT meetings, and there seems to be a greater commitment to upholding humanitarian principles. To what extent this improvement can withstand another humanitarian emergency is another question however”, said an HCT member.<sup>184</sup> The international community must strengthen the Humanitarian Coordinator system, including by calling on the HC/RC to speak out more clearly in instances where humanitarian principles of impartiality, neutrality and operational independence are breached, and by improving the capacity of the protection cluster to respond promptly when international standards of human rights are not complied with in addressing the humanitarian plight of the displaced.

In 2003, international NGOs involved in disaster response activities established the Pakistan Humanitarian Forum (PHF) to represent them within the broader humanitarian community. While it includes more than half of all international NGOs in Pakistan, it only acquired its own staff in 2011 – an important step in strengthening its potential as a coordinating body capable of actively lobbying gov-

<sup>176</sup> Crisis Group interview, Islamabad, April 2012.

<sup>177</sup> “Guidance for Humanitarian Country Teams”, Inter-Agency Standing Committee, March 2009, p. 2. Established in June 1992, the IASC is an inter-agency forum for coordination, policy development and decision-making among UN and non-UN humanitarian agencies involved in humanitarian response. See [www.humanitarianinfo.org](http://www.humanitarianinfo.org).

<sup>178</sup> Crisis Group interviews, Islamabad, February-April 2012.

<sup>179</sup> “Pakistan Humanitarian Action Plan January to December 2012”, draft, OCHA, 2012.

<sup>180</sup> Standard Operating Procedures (SOP) Regarding support for ‘return’ of Internally Displaced Persons (IDP) to their Area of Origin”, Humanitarian Country Team, 10 February 2012.

<sup>181</sup> Crisis Group interview, September 2012.

<sup>182</sup> Currently the UNDP resident representative is the HC/RC.

<sup>183</sup> The presence of an OCHCR human rights adviser was discontinued in 2009, and the UN Secretary-General has not appointed a new special envoy for assistance to Pakistan since Rauf Engin Soysal left in 2011.

<sup>184</sup> Crisis Group interview, Islamabad, 29 August 2012.



ernment, UN agencies and donors.<sup>185</sup> National NGOs lack a comparable forum, and many presently rely on OCHA to voice their concerns.<sup>186</sup> PHF should prioritise the development of strong linkages with national NGOs and community-based organisations (CBOs), and help build their capacity to coordinate among themselves, to hold state institutions to account and to lobby for policy reform. Closer and more regular interaction with local groups would also help donors and international NGOs develop policies and programs that better reflect needs on the ground.

However, disunity among donors will remain a major impediment to effective humanitarian action. Many choose not to attend formal donor meetings, either because they lack staff dedicated to their aid portfolio, or because they deal with the government directly. During the 2009 IDP crisis in Malakand, a number of donors created an informal forum, the “like-minded donors’ group”.<sup>187</sup> While that group has effectively shared information since, it has failed to adopt a unified stance on many key issues. For instance, it decided not to fund any assistance for Kurram agency’s IDP camps because of barriers to adequate monitoring and doubts about whether assistance would reach the most needy. However, USAID, disregarding the decision, provided Food for Peace funds in 2011, citing the humanitarian imperatives.<sup>188</sup>

The one way to ensure that humanitarian principles are respected, while the humanitarian needs could be met of conflict-IDPs, both within and outside camps, is through direct cash transfers. Instead of channelling funds through unaccountable institutions such as the FATA Secretariat or through an equally unaccountable military and civil bureaucracy within the agencies, donors should urge the government to extend the Watan scheme to FATA’s IDPs, both within and outside IDP camps. They should also call upon the government to revise the guidelines for IDP registration to ensure that all IDPs, on and off camp, including those in areas not designated as conflict-affected, stand to benefit.

However, the greatest impediment to humanitarian aid is arguably the overemphasis of donors’ home countries on counter-insurgency, stabilisation and development in the areas bordering Afghanistan. According to a donor country representative, “protecting humanitarian principles

takes a back seat”, rendering hollow international rhetoric on respecting humanitarian principles. “NATO members press Pakistan to destroy militant safe havens, but when it does and the consequence is population displacement, the same countries say, ‘You’ve got a crisis on your hands that you can’t handle, so we’ll give the UN and NGOs money to do it’”, said a UN agency representative.<sup>189</sup> While the money is too often far from adequate for the humanitarian needs created by a military operation, the military uses indiscriminate force, which in itself undermines humanitarian principles.

The Pakistani civil-military bureaucracies’ aversion to international NGOs and to the international presence more generally also remains a major hindrance. The delayed formal appeal for humanitarian assistance after the 2011 floods, for instance, prevented international humanitarian aid agencies from initiating relief activities during the first five weeks after the monsoon rains flooded parts of Sindh and Balochistan. By the time an appeal for funds was finally launched in September 2011, media and donor attention had died down.<sup>190</sup> Similarly, Islamabad has not renewed the appeal for funds for conflict IDPs since February 2010, even though needs remain acute. By the end of September 2012, the \$289.6 million Humanitarian Operational Plan (HOP) for the year, revised in April to reflect increased needs due to the influx of IDPs from Khyber Agency, faced a \$95 million shortage.<sup>191</sup>

Instead of depending on slow, often politicised appeals in a country that faces recurrent humanitarian emergencies, and to guarantee stable funding, donors should increase their contribution to pooled funding mechanisms such as the UN’s Central Emergency Response Fund (CERF) and Emergency Response Fund (ERF). Established in Pakistan in August 2010, ERF focuses on providing initial funding in emergencies to national or local NGOs.<sup>192</sup> Disbursing \$37.6 million since its creation, the fund received no con-

<sup>185</sup> PHF has 51 members. Crisis Group interview, Aine Fay, PHF chair, Islamabad, 29 August 2012.

<sup>186</sup> Crisis Group interviews, national NGO employees, Islamabad and Peshawar, June-July 2012.

<sup>187</sup> DFID, ECHO, Norway, Canada, AusAid and USAID (Food for Peace and Office of U.S. Foreign Disaster Assistance) are members.

<sup>188</sup> Crisis Group interviews, members, like-minded donors group, Islamabad, April 2012.

<sup>189</sup> Crisis Group interviews, Islamabad, April 2012.

<sup>190</sup> Less than half the appeal was funded. “Flash Appeal – Pakistan Rapid Response Plan Floods 2011 (September 2011-March 2012): Total Funding per Donor (to projects listed in the Appeal) as of 25 April 2012”, Financial Tracking Service, OCHA; see also Alex Rodriguez, “Pakistanis’ distrust of foreigners impedes aid groups”, *The Los Angeles Times*, 14 January 2012.

<sup>191</sup> Crisis Group email correspondence, IOM emergency officer, 27 September 2012; also “Humanitarian Operational Plan, January-December 2012”, 3rd Quarterly Revision, OCHA, April/May 2012, p. 62.

<sup>192</sup> CERF is a global fund that helps UN agencies and IOM meet gaps in funding. With over \$94 million in 2011, the UK was the largest donor; the U.S. contributed only \$6 million. In 2011, Pakistan was CERF’s third largest recipient (\$32.4 million). “CERF activities in 2011”, Central Emergency Response Fund, UN, 2011, pp. 3-4.

tributions from August 2011 to July 2012.<sup>193</sup> Since then, it has received some donor pledges, including \$800,000 from the Norwegian government.<sup>194</sup> Greater donor support would allow the ERF to disburse funds quicker than it has in the past, while also building local NGO disaster response capacity.<sup>195</sup>

Humanitarian aid agencies and donor countries should lobby the Pakistan government to agree upon a Common Humanitarian Action Plan (CHAP), so as to ensure that all stakeholders agree on the context in which humanitarian emergencies arise and to provide a better understanding of roles and responsibilities.<sup>196</sup> Updating the humanitarian action plan instead of launching separate appeals would help donors make more predictable funding allocations, ensure political buy-in and guarantee a more timely response.

## V. CONCLUSION

Given Pakistan's recurrent humanitarian crises, the question about long-term priorities answers itself. By hindering international humanitarian actors' access to populations in need, the military-civil bureaucracies are undermining efforts to help citizens cope in the aftermath of humanitarian disasters. The federal and provincial governments should limit bureaucratic constraints on the functioning of NGOs and UN agencies, including by phasing out and then ending NOC requirements.

The government should acknowledge the important role that NGOs, local and international, can play, accepting them as partners in confronting the challenges posed by humanitarian crises. Many such organisations have a track record of working at the grassroots; their ability to reach needy and marginalised communities fills the considerable gaps in state delivery of services, particularly during emergencies.

The response to these humanitarian crises has revealed the capacity limitations of the national and, in particular, provincial governments, the extreme underdevelopment in many parts of the country and the dependence of people on erratic sources of livelihood. Jihadi organisations and their allied madrasas have consistently exploited these conditions. Building state capacity, therefore, remains Pakistan's most urgent task, not only to meet citizens' needs, but also to prevent the growth of extremist networks that threaten internal and external stability. Enhancing humanitarian response capacity will require improving coordination between national, provincial and local government agencies. Islamabad must also strengthen oversight mechanisms for provision of assistance, giving a more active role to parliamentary public accounts committees and the overarching NODMC.

Given the magnitude of needs, timely appeals by Islamabad for funds are equally crucial for attracting donor attention and raising funds for distinct but complementary HCT-led responses and government interventions. However, humanitarian needs will go unmet in the absence of a coordinated approach by all humanitarian aid actors involved – governmental and non-governmental. Assistance to the millions of conflict- and flood-affected must not be held hostage to the ups and downs of Pakistan's foreign relations or to the international community's wider geopolitical imperatives.

Strategies to mitigate the impact of conflict and natural disasters must be developed around the objective of building the civilian administration's preparedness and response capacity through extensive engagement with the national and provincial legislatures and credible civil society actors. Greater unity among humanitarian aid actors in support-

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<sup>193</sup> Crisis Group email correspondence, Laksmi Noviera, ERF manager, OCHA, Islamabad, 18 July 2012. While it has not received any U.S. funding, ERF's largest contributor between August 2010 and August 2011 was India (\$20 million) followed by the UK (\$7 million). "Emergency Response Fund Pakistan: Progress Report August 2010 and August 2011", OCHA, p. 5.

<sup>194</sup> Crisis Group interview, Annette Hearn, coordination unit head, OCHA, Islamabad, 3 September 2012.

<sup>195</sup> ERF is also open to UN agencies and international NGOs but is not often solicited by these organisations that have other means of obtaining greater funding. Crisis Group interview, Laksmi Noviera, ERF manager, OCHA, Islamabad, 7 February 2012.

<sup>196</sup> Crisis Group interviews, UN agencies and donor representatives, Islamabad, April-September 2011. See "The Consolidated Appeals Process", Inter-Agency Standing Committee, [www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-sub-sidi-swg\\_cap-cap](http://www.humanitarianinfo.org/iasc/pageloader.aspx?page=content-sub-sidi-swg_cap-cap).

ing a civilian-led state response is essential for ensuring that humanitarian assistance is guided by needs and vulnerabilities, not the perspective of military or security gains. The military has played far too prominent a role in determining how humanitarian aid is provided, undermining citizens' trust in the state's ability to help in times of need. However, tackling the causes and consequences of conflict-related displacement and natural disasters goes beyond humanitarian action and ultimately requires state policies that promote political representation and legal protection, as well as equitable social and economic development.

**Islamabad/Brussels, 9 October 2012**



## APPENDIX B

### GLOSSARY

**CDCP**

Citizens' Damage Compensation Program, government cash disbursement scheme to the flood affected.

**CERF**

UN's Central Emergency Response Fund.

**DDMU**

District Disaster Management Unit.

**ERF**

UN's Emergency Response Fund.

**ESF**

U.S. Economic Support Fund.

**FATA**

Federally Administered Tribal Areas, comprising seven administrative districts, or agencies, and six Frontier Regions bordering on south-eastern Afghanistan.

**FCR**

Frontier Crimes Regulations, a draconian, colonial-era legal framework adopted in 1901 and retained after independence in 1947 to govern FATA.

**FDMA**

FATA Disaster Management Authority.

**HCT**

Humanitarian Country Team (comprised of the Humanitarian Coordinator and of heads-of-cluster lead UN agencies and NGOs).

**HUASP**

Housing Uniform Assistance Subsidy Project, a state assistance scheme to reconstruct homes damaged or destroyed during military operations in Malakand division and in FATA's Bajaur and Mohmand agencies.

**JD**

Jamaat-ud-Dawa, the renamed Lashkar-e-Tayyaba (LeT), responsible for the November 2008 Mumbai attacks.

**MDTF**

Multi-Donor Trust Fund, a World Bank administered pooled funding mechanism to supplement bilateral funding for PCNA implementation created in 2010.

**NADRA**

National Database and Registration Authority.

**NDMA**

National Disaster Management Authority.

**NOC**

No-Objection Certificate, a requirement placed on foreign nationals in order to travel and/or implement aid projects in Pakistan.

**NODMC**

National Oversight Disaster Management Council created in 2010 as an independent body tasked with overseeing flood related activities.

**OHCHR**

Office of the High Commissioner for Human Rights.

**OFDA**

USAID's Office of U.S. Foreign Disaster Assistance.

**PaRRSA**

Provincial Reconstruction, Rehabilitation and Settlement Authority created by the KPK government in June 2009 to oversee resettlement and rehabilitation in the conflict-affected areas of the province.

**PATA**

Provincially Administered Tribal Areas, comprising the districts of Buner, Chitral, Lower Dir, Upper Dir, Malakand, Shangla and Swat, as well as the Tribal Area adjoining Mansera district and the former state of Amb, administered since 1975 under a separate criminal and civil code from the rest of KPK.

**PHF**

Pakistan Humanitarian Forum.

**RSPN**

Rural Support Programs Network (the umbrella structure assists its twelve member RSPs in capacity building, policy advocacy and donor relations).

**TNSM**

Tehrik-e-Nifaz-e-Shariat-e-Mohammadi, a Swat-based Sunni radical group, responsible for sending thousands of fighters to help the Taliban after U.S.-led attacks on Afghanistan in October 2001.

**UN OCHA**

United Nations Office for the Coordination of Humanitarian Affairs.

**UNHCR**

United Nations High Commissioner for Refugees.