A REPORT OF THE CSIS PROGRAM ON CRISIS, CONFLICT, AND COOPERATION

Subnational Governance, Service Delivery, and Militancy in Pakistan

Authors
Robert D. Lamb
Sadika Hameed

June 2012

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CSIS | CENTER FOR STRATEGIC & INTERNATIONAL STUDIES

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PREFACE

It is easy to find reasons to be pessimistic about the U.S-Pakistan relationship and the health of the Pakistani state. The fact that Osama bin Laden lived in relative comfort in Abbottabad for so long suggests the state apparatus was malignant, inept, or both—either protecting him and lying about it to us and its own people, or unaware of his presence entirely, depending on the state institution in question. Pakistanis themselves were appalled, not only that the Americans were right that bin Laden was in Pakistan, but that their own military did not or could not prevent the Americans from raiding their territory to get him. If the Americans could enter Pakistani airspace and take bin Laden's body away, could the Indians do the same and take down Pakistan's nuclear deterrent?

The bin Laden raid was a huge blow to the military's prestige, but it brought into focus an even more serious issue. Even as it continues to compete with India to its east and Afghanistan to its west, Pakistan—a country with an active nuclear weapons program and a cadre of young military officers who are not as sympathetic to an American partnership as some in the older generation—faces serious threats within its borders as well. Pakistan has long been a refuge for anti-Indian and anti-Afghan militants and terrorists. More recently, however, anti-Pakistan groups have been growing in strength, and despite some early successes against them, it has become increasingly apparent that the military does not have the capacity to defeat them—despite the enormous investment the Pakistani state has made in the military. To fund operations and to continue enabling its senior officers to live with reliable electricity, running water, good salaries, and nice houses in secure gated communities—unlike almost any other Pakistani—the military absorbs about a quarter of the government's budget per year and earns additional money though state-owned companies. Yet thousands of troops and tens of thousands of civilians have been killed by militants since 2009, and this weak defense has shaken Pakistanis' confidence in their military.

But while Pakistan does seem to be facing an existential crisis from internal threats, there is danger in overstating the case. What Americans hear about Pakistan is all about Islamic extremists, terrorism, nuclear weapons, hardliners in the military and intelligence services, and Pakistan's fights with India and Afghanistan. American policymakers have worked hard to win Pakistan's assistance in the war in Afghanistan, but many are wondering what the return on investment has been. Some have considered threatening the flow of aid and reimbursements as a way to get Pakistan to "behave like adults" (as one policy staffer told me) and stop harboring the Taliban, the Haqqani network, Lashkar-e-Taiba, and other militant groups attacking American, Afghan, or Indian targets. Pakistanis cringe at such talk, not only because it treats them as if they can be bought but also because it is not clear that the military could dismantle those militant groups even if it wanted to. A knowledgeable American officer recently observed, in a discussion on background, that "if Pakistan attacked the Haqqanis, Pakistan would be defeated militarily." Given that Pakistan is already struggling against Tehrik-e-Taliban Pakistan (TTP), Baloch nationalists, and other internal threats, it is unrealistic to think it will shift resources away from combatting those groups

to help combat groups that are not threatening Pakistan itself. (Even still, Pakistan has, at the request of the United States, gone after a good number of al Qaeda and anti-Afghan insurgents, though not as many top leaders as requested.) Criticizing Pakistanis for failing to do what they do not have the capacity to do, and threatening to take away the aid they would need to build that capacity, does not seem to be a sound approach to preventing the kind of disaster we all fear: anti-American militants or hardliners in the military gaining access to nuclear materials or weapons due to a collapse of state control over the arsenal.

It would be better to support those within the Pakistani establishment, and those in civil society, who can act as a counterweight to the hardliners and extremists or as a bulwark against the factors driving militancy in their country. Most Pakistanis probably do not want their country supporting proxy armies to fight their battles—they want their army to be strong enough to fight them directly. Most Pakistanis probably do not want their military dominating the government—they want their civilian government to be capable enough to run the country well. And most Pakistanis probably do not want Islamic extremists telling them how to live—they want their country to have laws that respect Islam without limiting their democratic freedoms. But policy on militancy is still dominated by some hardliners from Inter-Services Intelligence, the military establishment has not been willing to relinquish the resources the civilian government would need to build its capacity, and Islamists have often managed to cow reformers into silence through campaigns of assassination and intimidation.

This report does not focus primarily on Pakistan's existential threat and the problems related to the military establishment. Rather, it considers whether the way Pakistan is governed is contributing to its inability to face these threats and whether there is any hope that its governance could be strengthened enough to face them successfully. It finds, first, that Pakistan's governance problems are not caused by militancy, and its problems with militancy are not directly caused by its governance problems, but improving governance will be necessary (though not sufficient) to counter militancy. Second, while Pakistan's governance problems are extensive and will take a long time to overcome, they are not in principle insurmountable, especially in light of recent trends: the military's prestige has declined, the civilian government is likely to complete its full term, the judiciary is increasingly independent, civil society is increasingly confident even in the face of militant intimidation, and recent reforms have put in place a set of institutions and incentives that are likely to contribute to improvements in the future. Pakistan's moderates, reformers, and democrats are playing an active role in these developments, and while there is little the United States can do to help them directly, there are ways it might keep them from becoming marginalized.

This research was part of a broader project, "Governance and Militancy in Afghanistan and Pakistan," that produced two other reports that are being published simultaneously: a literature review on religion and militancy in the region, and a report on governance and strategy in Afghanistan. This project began in early 2010 and took place during an important transition period—both in the way the United States approached Afghanistan and Pakistan, and in the management structure through which our program at CSIS studied it. The study period coincided with the "surge" in U.S. military forces and civilian staff in Afghanistan, the emergence of a new strategic framework for Pakistan, the death of Osama bin Laden (which led to the collapse of that framework), and the announced drawdown of troops from Afghanistan—making the subject of this research a bit of a moving target. But the study also began just as Rick Barton and Karin von Hippel, codirectors of the Post-Conflict Reconstruction (PCR) Project, left CSIS for jobs in the government. I was acting director until Mark Quarterman joined CSIS to lead the program's transition in September 2010,

and a few months later we relaunched the PCR Project as the Program on Crisis, Conflict, and Cooperation (C3). With the transition complete, I became program director in October 2011.

This transition would not have been possible without the support and encouragement of Craig Cohen, CSIS vice president of research and programs, and CSIS president and CEO John Hamre. I am grateful as well to Mark Quarterman for his leadership during this critical period; to Justine Fleischner, Farha Tahir, Sadika Hameed, and Joy Aoun for research assistance and administrative support; to program interns Zeina Boustani, Edgar Chavez, Gaina Dubuisson, Dana Grinshpan, Laura Hickey, Michele Hong, Katherine Hubbard, Nida Jafrani, Kathryn Mixon, Denise St. Peter, Shiza Shahid, Sarah Smith, Lauren Soelberg, Aisha Toor, and Brent van Weereld; and to Liora Danan for last-minute feedback on the final product.

Six contributors produced background papers that informed the analysis in this report. As an adjunct fellow, Mehlaqa Samdani produced the Khyber case, led research on governance reforms and general background, and organized the September 2010 field visit. Justine Fleischner, program coordinator and research consultant to PCR, produced the Swat case. C3 senior research consultant Stacey White produced the case on the flood response. As consultants, Wajahat Ali researched the politics of reform, Danny Cutherell produced the Chitral case, and S.R. Mehboob produced the Southern Punjab and Khyber-Pakhtunkhwa cases.

Coauthor and research associate Sadika Hameed joined CSIS midway through the project, managed the review and revision process, made two six-week trips to Pakistan to check facts and do scores of interviews, and made direct and significant contributions to the final manuscript. This project would not have been completed without her. A number of people were extremely helpful in connecting us with key contacts; we are particularly grateful to Ejaz Haider in this regard. Countless others in Washington, Islamabad, Lahore, Karachi, and Peshawar helped in many ways large and small, and I wish we had the space to thank them all by name. Many of the U.S., Pakistani, NATO, and other international officials interviewed for this project have requested anonymity or have asked that their specific views not be cited directly, and we have endeavored to respect those requests. I take full responsibility for all errors of fact or omission.

Finally, this research would not have been possible without the generous support of the Ploughshares Fund, the Henry Luce Foundation, and the Carnegie Corporation of New York. I am extremely grateful to Haleh Hatami at Ploughshares, Toby Volkman at Luce, and Steve del Rosso at Carnegie for their financial and intellectual contributions to the PCR Project in the past and their continuing support of C3 today. Haleh accompanied us on one of our research trips to Islamabad and greatly enhanced the experience with her intelligence and good nature. The views expressed in this report are solely those of the authors and do not represent the opinions of any other individual or institution.

Robert D. Lamb
Washington, D.C.
June 2012

EXECUTIVE SUMMARY

This report presents the results of a study on the link between the rise of militants and the quality of subnational governance in Pakistan: whether a link exists and, if so, what the United States can do about it, if anything. Its basic finding is that Pakistan's governance problems are not caused by militancy, and its problems with militancy are not directly caused by its governance problems, but improving governance will be necessary (though not sufficient) to counter militancy. Pakistan's governance problems are extensive and will take a long time to overcome. But they are not insurmountable, and recent trends offer reason for hope: the military's prestige has declined, the civilian government is likely to complete its full term, the judiciary is increasingly independent, civil society is increasingly confident even in the face of militant intimidation, and recent reforms—the Local Governance Ordinance of 2001 and the Eighteenth Amendment to the constitution—have put in place a set of institutions and incentives that are likely to contribute to improvements in the future.

The United States has little influence over Pakistan's domestic politics and policies, but it can help to reinforce these positive trends by working to empower Pakistan's reformers, moderates, and democrats (who prefer that public policies be developed and implemented through peaceful or democratic means) and to marginalize Pakistan's hardliners and extremists (who encourage the use of violence or proxy armies). The U.S. government should continue civilian assistance and security cooperation. But for the United States to contribute positively to improvements in governance and reductions in militancy, Congress should pass a law requiring that no U.S. support goes to any military or intelligence units that are credibly accused of having links with terrorism, and it should allow civilian aid to continue in a way that helps build the capacity of civilian institutions to provide services and manage the economy.

Findings

In many places in Pakistan, the national, provincial, and district governments have no significant presence, provide inadequate services, are corrupt, or abuse citizens in other ways. In those places, informal systems and practices often play a governance role, and in a subset of those areas hybrid systems have been set up to give official sanction to informal authorities or practices (e.g., alternative dispute resolution by *shari'a* courts). Moreover, many civil society and international aid organizations provide services throughout Pakistan.

Very little is known about militant activities that do not involve violence, but this study turned up scant evidence that local service provision by militants is either widespread or welcomed. There are significant gaps in governance and service delivery in many places, and in at least some cases this has provided an opportunity for militants to win some local support by attempting to fill those gaps (e.g., resolving disputes and enforcing shari'a by TNSM in Swat and by Lashkar-e-Islam

in Khyber). But this is the exception, not the rule. Most militant groups provide few essential or emergency services, if any. Most militants are no better at governing than the Pakistani state is. And most of those that have tried to govern have quite rapidly alienated the communities they controlled. In short, Pakistani militants are not very good governors, service providers, or first responders.

To the degree militants have won support in communities where they have provided services, that support has come as a result of either desperation (the recipients would have taken help from any source) or intimidation, neither of which has offered deep or lasting support. In many cases, that support has come from tribal or sectarian linkages, alliances of convenience, or religious inspiration, none of which has much to do with service provision. Instances when militant-provided services have created converts to the cause are the exception. Most militants, therefore, do not receive much lasting benefit from service provision, dispute resolution, disaster response, or other "state-like" activities. It is not even clear that militants linked to charities get much credit for their charitable work; anecdotal evidence suggests the charities get credit *as charities,* but there is little evidence to suggest that such credit accrues to the militant movement behind them. The gains from charity are mainly tactical or operational (e.g., facilitating recruitment or gaining access to charitable donations). But with few exceptions, that has not generally translated into significant strategic advantages, such as lasting public support or territorial control.

The fact that governance gaps can be filled by militants for tactical and operational advantages, but that those advantages derive mainly from desperation or intimidation and not conversion or conviction, suggest that it is possible to crowd out even the militants' limited gains with improvements in local governance from any non-militant source—the state, tribal or traditional institutions, hybrid (formal–informal) systems, civil society, the private sector, or international donors—as long as the benefits accrue to the communities themselves in real terms.

Recommendations

The United States might be limited in its ability to directly improve subnational governance in Pakistan, but it can help to keep reformers and moderates from becoming marginalized, and thereby offer indirect support to Pakistani efforts to improve and reform governance. The U.S. government should take the following steps.

Stay engaged. U.S. policymakers in the Obama administration and Congress should recognize that Pakistan does have many reformers and moderates within its security establishment, civilian government, and society at large. It is in the interest of the United States to empower those who abhor militancy (particularly those who do not see Pakistan's and America's security to be incompatible in principle) and to marginalize those who support it (particularly those anti-American elements in and out of government). The U.S.-Pakistan relationship is difficult today, and there are calls on both sides for disengagement. But the benefits of continuing, and indeed deepening, engagement outweigh the costs. Within Pakistan's security institutions today there is an incipient recognition of the need to reform, modernize, and professionalize. Maintaining or deepening military-to-military engagement would position the United States to encourage those attitudes and help to crowd out at least some of the more hardline views within the security establishment. Maintaining or deepening engagement in development and diplomacy would likewise empower those professionals and moderates within the Pakistani government and civil service who want

Pakistan to be—and to be viewed internationally as—a responsible state; to disengage now would be to abandon them, which certainly is not in the U.S. interest.

Give Kerry-Lugar a chance. The U.S. development programs in Pakistan implemented under the Kerry-Lugar-Berman act are still too new to be judged for the degree to which they can make a real difference in Pakistan's capacity for service delivery. In their overall design, however, they are a step in the right direction. There are serious concerns among U.S. policymakers about the Pakistani state's capacity to maintain stability. While the fear of state failure is sometimes overblown, it undoubtedly is in the U.S. interest for Pakistani government institutions to function well in general, as a well-functioning government would inspire less opposition. To the degree U.S. aid works to that end, therefore, it should be maintained: it is difficult to see how cutting aid to Pakistan would contribute to the U.S. interest in a capable Pakistani state. Any changes to Kerry-Lugar should be designed to strengthen capacity or reduce contributors to instability—not remove the possibility to strengthen capacity.

Withhold aid from military units linked to extremists. Pakistan needs a strengthened civilian government, and more empowered reformers and moderates in the government and the military, to counterbalance the influence of the more anti-American or hardline elements in the ISI and army. Withholding aid from reformers and moderates to punish extremists would serve only to empower hardliners. Civilian aid will not do much to improve governance in general, but in any institutions where Kerry-Lugar might help to improve administration and project management, for example, it could have the small but significant effect of empowering non-political civilians. That said, it is reasonable to argue that U.S. aid should not be funding any entity within Pakistan that acts against U.S. interests. It would make sense to craft a law that restricts funds from units of the security forces and intelligence services with credible links to terrorism. Putting such a law in place could help to marginalize at least some of those hardliners without painting the entire security establishment and civilian institutions with the same brush. That would probably be a much more effective approach, and could still satisfy the hunger in the U.S. Congress for a way to condition aid to Pakistan on good behavior. Based on the "Leahy Law" restricting funds to human rights abusers, such a law might read: "None of the funds made available by this or any other Act may be provided to any unit of the security forces or intelligence services of a foreign country if the United States government has credible evidence that such unit maintains connections with an organization known to conduct terrorist activities against the United States or its allies."

Add trade to aid. The Pakistan-American Enterprise Fund has been proposed to reprogram some Kerry-Lugar funds to support Pakistan's private sector with an emphasis on financial capital and technical assistance to small and medium businesses (which constitute about 90 percent of private enterprise in Pakistan and contribute about 40 percent to its GDP). Private sector development is certainly key to Pakistan's economic recovery—which itself is a key factor in Pakistani stability—and such a fund would be helpful. But the United States would contribute to Pakistan's recovery even more by making it less expensive for Pakistani businesses to export their products to the U.S. market; the U.S. government, therefore, should lower tariffs on Pakistani imports, which would improve Pakistan's economy without harming the American economy.

1 INTRODUCTION

Since 2009, at least 30,000 Pakistanis have been killed in violent confrontations with nonstate armed groups (or "militants") operating in their country.[1] Pakistanis have been killed injured in suicide attacks, forcibly recruited by militant leaders, harshly punished by militants' self-declared judges, forced from their homes and communities during battles between warring factions, and feared for their safety and their children's futures. Clearly, Pakistanis have every reason to be concerned about the militants living within their borders.

For Americans, the consequences of militant violence in Pakistan are also obvious. Every day in Afghanistan, U.S. troops and civilian officials are killed or injured in attacks from groups whose leaders are based in Pakistan and whose fighters often come from Pakistan. After May 2011, when a U.S. covert operation killed al Qaeda leader Osama bin Laden in Pakistan, many questions were raised about the role of the Pakistani establishment in harboring dangerous terrorists.

It might not be immediately clear to most Americans, however, why they should care about how Pakistan is governed. While Pakistanis certainly suffer from the behavior of corrupt or inept government officials—who demand bribes, commandeer public resources, act on private grudges, carry out sectarian attacks with impunity, or fail to give public servants the resources and support they need to do their jobs—most Americans probably consider Pakistan's internal problems to be none of their business.

In recent years, however, a number of policymakers, analysts, and journalists have recognized that governance will indeed be a critical factor in determining how well Pakistan can respond to the growing challenge of militancy, a challenge that is increasingly seen as an existential threat to the Pakistani state. While the likelihood of state collapse is too often exaggerated, Pakistan's geostrategic location and its growing nuclear weapons arsenal do offer reasons to be concerned that a collapse of the state or a loss of control over its nuclear materials would have serious consequences for U.S. (not to mention regional) security. The way Pakistan is governed will have an important effect on its ability to hold strong against the onslaught of violence within its borders, and to make and implement policies that will maintain its stability: to respond to crises, to maintain national unity in the face of external threats, to manage sectarian tensions, to attract the loyalty of most Pakistanis, to improve the quality of life, and to hold the military accountable for addressing urgent national security priorities, such as the security of its nuclear arsenal, its ability to defend against India, or its fight against insurgents.

The way Pakistan is governed will also have an important effect on how it relates to the United States and to its neighbors, especially Afghanistan and India. There are anti-American elements throughout Pakistani society. In particular, the younger generation of military officers, who never have trained with Americans, tend to be less favorably inclined toward the United States than their

1. This is a commonly cited figure in Pakistan.

older counterparts, many of whom received their early military education in the United States. As that new generation comes into positions of power, that will have important implications for U.S.-Pakistan relations. Hardliners in the military and elsewhere believe it is in Pakistan's interest to project influence in Indian and Afghanistan however it can, including by supporting nonstate armed actors dedicated to attacking Indian, Afghan, and other international targets as a matter of national policy. To the degree those hardliners dominate the governance landscape, regional stability will be difficult to achieve, especially as those proxy armies become increasingly independent.

This report is one of the outputs from a CSIS study of the link between the rise of militants and the quality of subnational governance in Pakistan: whether a link exists and, if so, what the United States can do about it, if anything.[2] Its basic finding is that Pakistan's governance problems are not caused by militancy, and its problems with militancy are not directly caused by its governance problems, but improving governance will be necessary (though not sufficient) to counter militancy. Pakistan's governance problems are extensive and will take a long time to overcome. But they are not insurmountable, and recent trends offer reason for hope: the military's prestige has declined, the civilian government is likely to complete its full term, the judiciary is increasingly independent, and civil society is increasingly confident even in the face of militant intimidation. Moreover, recent reforms have put in place a set of institutions and incentives that are likely to contribute to improvements in the future:

- The Local Governance Ordinance (LGO) of 2001 devolved significant authority from the provinces to the districts; abolished the position of the provincially appointed District Commissioner (DC); divided the DC's executive powers among an elected mayor, an appointed coordinating officer, and multiple executive officers; and separated its executive from its judicial powers. The LGO reforms generally improved Pakistanis' perceptions of service delivery and inclusion in many areas, at least for a while, and built new institutional constituencies (e.g., district judges) for the separation of powers. The LGO lapsed in January 2010 when Pakistan's National Assembly unanimously passed the Eighteenth Amendment to the constitution, one of the most important reforms in Pakistan's history.
- The Eighteenth Amendment cleared up some long-standing jurisdictional issues; devolved responsibility for dozens of services from central to provincial ministries; empowered provincial governments to design their own local governance systems; and required (for the first time under a civilian regime) that provinces hold local elections. Because none of the provinces have held local elections or passed legislation establishing new local governance systems, real ambiguities have existed regarding where local authority lies. This was a problem particularly during the response to the 2010 and 2011 floods. In all provinces, the politics of how to structure local governance still has not been settled. Nonetheless, the unanimity of the Eighteenth Amendment's passage, the fact that local elections are now constitutionally required, the desire of many in government and civil society to improve and reform governance, and the institutionalization of constituencies for the separation of powers all make it more likely than not that the

2. This research was conducted between March 2010 and February 2012. See Robert D. Lamb, "Governance and Militancy in Afghanistan and Pakistan," project executive summary, CSIS, May 2011, http://csis.org/publication/governance-and-militancy-afghanistan-and-pakistan; Robert D. Lamb, *Political Governance and Strategy in Afghanistan* (Washington, D.C.: CSIS, 2012); Mariam Mufti, *Religion and Militancy in Pakistan and Afghanistan: A Literature Review* (Washington, D.C.: CSIS, 2012); Stacey White, *Government Decentralization in the 21st Century: A Literature Review* (Washington, D.C.: CSIS, 2012).

> Eighteenth Amendment reforms eventually will take place, although a clear risk remains that an entrenched political class will seek to weaken or slow reform. If implemented, these reforms would be conducive to stability.

Most militant groups in Pakistan have not relied on governance and service provision to gain access to areas or populations that are operationally or strategically useful to them. Instead, they have used intimidation or personal connections such as tribal or kinship networks. Some have exploited grievances related to weak or corrupt governance (e.g., recruiting victims of police extortion), and a subset of those groups have offered security, justice, education, disaster assistance, or (very rarely) health care in an effort to win the support and protection of a community. Within that subset, service provision has given some militants certain tactical and operational advantages, such as access to potential recruits (e.g., in free religious schools) or sources of funding (e.g., through front charities). But with a few exceptions, that has not generally translated into significant strategic advantages, such as broad public support or lasting territorial control. Militants, it seems, are no better at service provision than the Pakistani state. They often squander their gains by turning too heavy-handed against local populations or becoming as corrupt as the government officials they were trying to displace, alienating their former beneficiaries. To the degree they win popular support, it is due less to the appeal of their ideology than to the fact that people who live in desperate or humiliating circumstances generally accept help when it is offered, regardless of the source.

There is little that the United States can do to directly improve governance in Pakistan, but by maintaining official engagement through both military and civilian channels, and being careful about who gets U.S. aid within Pakistan, it can help keep Pakistani reformers, moderates, and democrats from becoming marginalized, and thereby offer indirect support to their efforts to improve and reform governance.

Research Method

To carry out this research, CSIS staff and consultants traveled to 16 cities and regions in Pakistan and Afghanistan and interviewed more than 250 civilian and military officials, legislators, judges, academics, journalists, lawyers, business managers, development professionals, activists, religious leaders, community elders, tribal leaders, and other members of civil society, individually and in focus groups, to explore a wide range of issues related to governance and militancy. An extensive literature review of militant groups in Afghanistan and Pakistan mapped out the militant terrain and identified what was known about the ideologies, objectives, strategies, tactics, and evolution of such groups.[3] The interviews and focus groups, and a review of studies on local governance in the region, were designed to gather qualitative data on the main governance problems; their effects on local attitudes toward state, nonstate, militant, and foreign actors; and the status and likely evolution of ongoing governance reforms. In both countries, information was collected about security, justice, health, education, and disaster-response activities that were undertaken by formal (state), informal (traditional or tribal), hybrid (formal–informal), civil-society, militant, and international institutions operating at the provincial and district levels.

The analysis of governance in Pakistan focused on the relationships among state weakness, regional insecurity, and the rise of militancy, and reviewed ongoing efforts to reform subnational

3. Mufti, *Religion and Militancy in Pakistan and Afghanistan*.

governance, particularly the devolution of powers under the Eighteenth Amendment to the constitution and the Local Governance Ordinance (LGO) of 2001, which lapsed in early 2010. Additionally, six cases of governance, at multiple levels of analysis, were studied for a more detailed understanding of the relevant dynamics:

- *Khyber-Pakhtunkhwa* (KPK) Province, formerly North West Frontier Province (NWFP), plus three different subnational governance systems within KPK's sphere of influence:[4]
    - *Chitral* district, a settled area of KPK, formerly governed as a Provincially Administered Tribal Area (PATA), with little militant activity;[5]
    - *Swat* district, a settled area of KPK, still treated as a PATA, with substantial militant activity;[6] and
    - *Khyber* agency, a Federally Administered Tribal Area (FATA), governed by the Frontier Crimes Regulation of 1901 (FCR) under the (federally delegated) authority of KPK's governor, with significant militant activity;[7]
- *Southern Punjab,* a region of Punjab Province, with increasing militant activity;[8] and
- the *flood response* by local, national, international, and militant actors in 2010.[9]

The overall research design was motivated by a recognition that problems of governance and militancy in societies in conflict rarely involve state actors and nonstate combatants only; usually, traditional institutions, criminal organizations, private influence networks, civil society organizations, and foreigners are involved as well.[10] For that reason, the absence of effective governance by state actors would not necessarily imply the existence of a political vacuum that militants could exploit. Throughout Pakistan, many different types of groups challenge state authority at the subnational level, and some provide services and security to communities—at varying degrees of quality—in places where the state is absent or malign.

This project, therefore, studied what services were provided by formal, informal, hybrid, international, and militant groups, to see how those services compare, and what that comparison implies for efforts to negotiate stable governance arrangements:

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4. S.R. Mehboob, "Governance and Militancy in Pakistan's Khyber Pakhtunkhwa Province," CSIS background paper, December 2011, http://csis.org/publication/governance-and-militancy-pakistans-khyber-pakhtunkhwa-province.

5. Danny Cutherell, "Governance and Militancy in Pakistan's Chitral District," CSIS background paper, November 2011, http://csis.org/publication/governance-and-militancy-pakistans-chitral-district.

6. Justine Fleischner, "Governance and Militancy in Pakistan's Swat Valley," CSIS background paper, October 2011, http://csis.org/publication/governance-and-militancy-pakistans-swat-valley.

7. Mehlaqa Samdani, "Governance and Militancy in Pakistan's Khyber Agency," CSIS background paper, December 2011, http://csis.org/publication/governance-and-militancy-pakistans-khyber-agency.

8. S.R. Mehboob, "Governance and Militancy in Pakistan's Southern Punjab Region," CSIS background paper, December 2011, http://csis.org/publication/governance-and-militancy-pakistans-southern-punjab-region.

9. Stacey White, "The 2010 Flooding Disaster in Pakistan: An Opportunity for Governance Reform or another Layer of Dysfunction," CSIS background paper, September 2011, http://csis.org/publication/2010-flooding-disaster-pakistan.

10. See discussion in Robert D. Lamb, "Formal and Informal Governance in Afghanistan," paper submitted as a companion to *Afghanistan in 2011: A Survey of the Afghan People* (Kabul: Asia Foundation, 2011), forthcoming.

- What does governance look like at the subnational level? Who makes decisions, resolves disputes, and provides essential services (e.g., state institutions, political patrons, tribal or religious leaders, militant groups, charities, internationals, etc.)?
- What is the relationship between service providers and recipients? What motivates those who provide services, and what motivates people to support or oppose them?
- Do problems of local governance (such as corruption, ineffectiveness, or elite capture) contribute to the rise of militancy? Does providing services give militants any lasting influence among key communities? Where they exist, do parallel or "shadow" governments give militants any strategic or operational advantages against the state or other local governance institutions?

For the purposes of this project, *governance* is defined broadly in terms of certain public activities: making decisions and rules, providing services, building and managing institutions, and managing or manipulating networks of influence. Given this definition, governance activities can be undertaken—sometimes well, sometimes poorly—not only by individuals associated with states and governments, but by a broad range of state and nonstate actors or institutions, from the local to the national level. The term *militant group* or *militants* is defined as any nonstate armed group that uses violence for political, social, or religious purposes; the term *militia* is reserved for traditional or tribal self-defense groups. *Militancy* refers to the existence or growth of the kinds of beliefs and attitudes that lead some people to join a militant group or to commit violence as part of a militant group.

The remainder of this chapter provides a brief overview of the U.S.-Pakistan relationship and recent developments that affect prospects for stability and improvements in governance. Chapter 2 offers a brief history of governance reforms to demonstrate the limits of what is possible and the significance of the two most significant reforms, the LGO and the Eighteenth Amendment, which it analyzes at some length. Chapters 3 through 5 survey the governance landscape in Pakistan, focusing in turn on formal, informal, and illicit organizations and activities that affect how Pakistanis are governed mainly at the subnational levels. The final chapter summarizes the findings and offers broad recommendations to U.S. policymakers for how best to influence the direction and pace of reform in Pakistan.

Background

A narrative regarding the link between governance and nonstate armed groups (terrorists, insurgents, or criminals) emerged soon after 9/11. In "fragile" or "failing" states—according to this narrative—weak, absent, or corrupt state institutions leave gaps in political legitimacy and the provision of services, and these gaps are sometimes filled by illicit groups. Those groups provide needed services to local populations who are abused, abandoned, or neglected by the state so that they can establish or broaden their base of support, control territory, become the de facto local government, or establish a safe haven from which they can plan and carry out attacks elsewhere, including against the American homeland. In other words, in this view, "state weakness" and "governance gaps" foster militancy. This narrative suggests a policy response—beyond direct targeting of militants—that emphasizes building the capacity of such states to provide essential services to their citizens or, more generally, to govern effectively and legitimately at the subnational level. Increasing state capacity would limit the opportunities for militants to exploit a "governance gap." This narrative—linking governance and militancy, then prescribing state capacity-building—was

the conventional way of analyzing "emerging" security threats from "fragile states" for much of the past decade.[11]

This form of analysis was applied to Pakistan in the U.S. Department of State's annual terrorism report published in 2006:

> For decades, the mountainous and sparsely populated Afghan-Pakistani border has been an autonomous area, with little control by Islamabad or Kabul. The Northwest Frontier Province (NWFP) and Federally Administered Tribal Areas (FATA) of Pakistan have been a safe haven for AQ [al Qaeda] fighters since the fall of the Taliban in December 2001. The FATA also includes Islamist groups and local tribesmen who continue to resist the government's efforts to improve governance and administrative control at the expense of longstanding local autonomy. Bringing government services to this region, and turning an AQ safe haven into a regularly administered province of Pakistan, remains an important objective in the global war on terror. Through substantial efforts since 2004, the Government of Pakistan has deployed more than 80,000 security forces into the FATA and made some improvements in health care, education, and social services. These operations have disrupted the terrorists but also affected tribal institutions in the area, requiring efforts to build new political and economic institutions.[12]

At that time, al Qaeda had already called for religious militants to overthrow the government of Pakistan by then, but developments two years later increased the concern about religiously motivated militants filling gaps in local governance as a deliberate strategy. In 2008, an armed group called Tehrik-e-Nifaz-e-Shari'at-e-Mohammadi (TNSM) replaced the Pakistani state in the Swat region of northwest Pakistan with a system of religious courts and enforcers promoting a very particular interpretation of Islamic law. From the outside, the TNSM appeared to have local support for the change.

In the Swat case, a major issue was access to justice. The formal system was so broken that disputes brought to the courts could languish for years or decades, even when bribes were paid as demanded. Some locals still remembered the system that had been in place before Swat was annexed into Pakistan in 1969, and believed it had functioned much better. Frustrated at the current system, many Swatis turned to TNSM's religious courts to resolve their disputes—even though they sometimes handed down extremely harsh sentences, such as floggings, amputations, and executions—partly because those courts were connected to respected religious authorities and partly because they resolved disputes very quickly.

The "rough justice" that became associated with TNSM's activities in Swat seemed to validate the narrative that bad governance by the Pakistani state was driving local communities into the hands of al Qaeda- and Taliban-affiliated militants who wanted to overthrow the government—and that the state's security forces were too weak to defeat even this relatively small, geographically limited, illegal group. Further validation of this "state weakness" narrative came in April 2009,

11. For the conventional view, see Office of the Coordinator for Counterterrorism, U.S. Department of State, *Country Reports on Terrorism 2005*, Washington, D.C. (2006); U.S. Department of Defense, *Building Partnership Capacity: QDR Execution Roadmap* (2006); and U.S. Department of Defense, *Quadrennial Defense Review Report* (2006). For an analysis of the conventional view, see Robert D. Lamb, *Ungoverned Areas and Threats from Safe Havens,* final report of the Ungoverned Areas Project (Washington, D.C.: Office of the Under Secretary of Defense for Policy, 2008), http://www.cissm.umd.edu/papers/display.php?id=306.

12. U.S. Department of State, *Country Reports on Terrorism 2005*, p. 20.

when TNSM broke the terms of its peace agreement with the state and took control of nearby Buner district. Many news reports at the time noted that Buner was just 70 miles from Pakistan's capital city, fueling speculation about an impending siege of Islamabad (despite the geological obstacles making that logistically impractical). Internationally, Pakistan was seen as a prime candidate for state disintegration.

Pakistani military forces went on the offensive against TNSM in Swat beginning in May 2009 and against other groups in South Waziristan beginning in October 2009, displacing a massive amount of people from both areas. Between 2.7 million and 3.5 million internally displaced persons (IDPs) were registered from NWFP in July, the largest internal population movement in Pakistan's history, and half of South Waziristan's population reportedly fled in October and November.[13] The offensive was more successful than many had expected. But in retaliation, the militants changed their tactics, unleashing a massive series of attacks against civilians and triggering a shift in the overall mood of the country. One journalist wrote that "political chaos, economic turmoil, and a deliberate shift in the terrorists' targets from security forces to civilians has virtually brought the country to a standstill," and summarized the state of Pakistan in 2009 with the following: "A massive trust deficit between the masses and the ruling elite, between the political and military establishments, and between the judiciary and the government is compounded by dwindling economic activity and the flight of financial and human capital."[14]

Alongside the *state weakness* explanation for militancy in Pakistan, however, stood an equally disquieting narrative: that militancy was due not to state weakness but to *state sponsorship*. Unlike the 2005 terrorism report's public portrayal of the Pakistani military as a full partner in the U.S. war against al Qaeda and the Taliban, this alternative view argued even then that not only had Pakistani state institutions, particularly the Inter-Services Intelligence (ISI) directorate, created, supported, or protected certain militant groups in the past—for example, they had assisted the Taliban in their rise to power in Afghanistan during the 1990s—but they also continued to do so today, in effect fighting on both sides of the U.S. wars. It was reported that the U.S. military considered the ISI to be an "associate force" of al Qaeda and the Taliban at least as early as 2007, and there were few doubts among terrorism and intelligence experts at the time about such connections.[15] If this *state sponsorship* view was correct, then the policy prescriptions implied by the *state weakness* view—building the state's capacity and promoting good governance—would not have any real effect on militancy in Pakistan; in fact, building the capacity of such a state might actually *improve* the state's ability to support militancy.

It has been clear for some time, however, that the *state weakness* and *state sponsorship* views are not mutually exclusive, given the divided nature of the Pakistani state and the multiplicity of militant groups in Pakistan. Some state institutions have almost certainly supported several Afghan Taliban and anti-Indian militant groups operating mainly in FATA and Kashmir, even as

13. Internal Displacement Monitoring Centre, "Pakistan: Millions of IDPs and returnees face continuing crisis," December 2, 2009.

14. Saeed Minhas, "Is Pakistan's Internal War Spinning out of Control?" *Tehelka Magazine* 6, no. 45 (November 14, 2009).

15. Chris Allbritton, "Guantanamo documents name Pakistan ISI as al Qaeda associate," Reuters, April 25, 2011; Daniel L. Byman, "The Changing Nature of State Sponsorship of Terrorism," Analysis Paper no. 16, Saban Center for Middle East Policy, Brookings Institution, May 2008; and Jayshree Bajoria and Eben Kaplan, "The ISI and Terrorism: Behind the Accusations," Backgrounder, Council on Foreign Relations, July 26, 2010, http://www.cfr.org/pakistan/isi-terrorism-behind-accusations/p11644.

the state's overall weakness opened space for other sectarian and anti-Pakistan militants to gain footholds in other communities throughout the country.

Ever since the battle of Tora Bora in December 2001, in which Osama bin Laden was believed to have escaped from Nangarhar Province in northeastern Afghanistan and into the tribal regions of northwestern Pakistan (found almost ten years later in Abbottabad, near Pakistan's military academy), the United States has considered Pakistan to be a sanctuary for al Qaeda's top leadership, whether in hiding or under official protection. The same has been said of the leaders of the Afghan insurgency. Mullah Mohammad Omar, former Afghan head of state under the Taliban regime, is believed to have left Kandahar in southern Afghanistan during Operation Enduring Freedom in October 2001 and escaped across the border, ultimately taking refuge in Quetta, in Pakistan's Balochistan Province. Jalaluddin Haqqani, the military commander during the very end of the Taliban regime, is believed to have escaped from Paktia or Khost in eastern Afghanistan and into North Waziristan around the same time. And Gulbuddin Hekmatyar, a major insurgent leader not formally allied with the Taliban, is believed to be using northwestern Pakistan as a safe haven for operations in Afghanistan.

The presence in Pakistan of so many Afghan insurgents and al Qaeda leaders raises questions for American policymakers about the intentions of Pakistan's leaders: are they simply unable to stop providing sanctuary to terrorists and insurgents, or is providing sanctuary an official policy? Given that Pakistan (and the United States) had actively supported some of these leaders during their fight against the Soviet occupation of Afghanistan in the 1980s, it is widely believed that at least some Pakistani state agents, especially in the intelligence services, are continuing to support their activities today, as either official, quasi-official, or de facto state policy. Repeated calls by Americans for the Pakistani state to stop supporting these groups, or to actively suppress them, have in fact been heeded: Pakistan has arrested dozens of mid-level and some top-level leaders from these groups.

But Pakistan faces direct threats from so many other sources that it would be surprising if Pakistan were willing to do much more to suppress both the anti-Pakistan militants that are increasingly seen as an existential threat to the state, and the Afghanistan-focused and anti-American (al Qaeda) militants that the United States has been most concerned about. In fact, its record of success against its own militants is mixed enough that is seems unlikely to have the capacity to fight both sets of militants even if it had the will.

Tension between the United States and Pakistan has always existed, but it has grown significantly since May 2, 2011, when U.S. special forces flew into Abbottabad from Afghanistan to raid the compound where bin Laden had been living. Bin Laden was found and killed, his body removed from Pakistan, his identity verified, and his remains buried at sea within 24 hours.

Bin Laden's death led many Americans and their representatives in the U.S. Congress to conclude two things: first, that the United States had accomplished one of its most important objectives in the war in Afghanistan, and therefore a significant and rapid withdrawal of American troops was a reasonable policy response; and second, that Pakistan is at best an unreliable and at worst a malign partner in the war against insurgents in the region and against terrorists worldwide, and therefore restricting aid to Pakistan unless it demonstrated better behavior was a reasonable policy response.

The Pakistani response to the bin Laden raid was twofold as well. Many Pakistanis, like many Americans, were frustrated to discover that their government either did not know that bin Laden

had been living in Abbottabad or did know but had been lying about it. Others were shocked to discover how easily their airspace was breached by the Americans, raising fears that the Americans—or the Indian military—could launch a similar raid against Pakistan's nuclear arsenal. On both sides, the recriminations between the two countries have been harsh, and U.S. aid to Pakistan has been under threat ever since.

Pakistan and the United States have had a complicated history, often described in terms of repeated marriages and divorces.[16] The most recent "divorce" took place after U.S. concerns about Pakistan's development of a nuclear weapon led it to end military sales and place other restrictions on relations with Pakistan beginning in the 1990s. The most recent "remarriage" took place when the United States turned to Pakistan for help toppling the Taliban regime in Afghanistan after al Qaeda leaders based in that country directed the 9/11 attacks against the United States. Given this history, building trust between the two countries has proven difficult.

Pakistan's elite—and much of its public—tend to view American foreign policy toward their country as primarily instrumental, with Americans using Pakistan as a partner when convenient and abandoning it when inconvenient. In the American view, Pakistani foreign policy is unreliable, with some Pakistani foreign policy elites accepting an American partnership—along with American money and weapons—without much commitment to American interests, and others, particularly in the Pakistani intelligence community, going as far as quietly supporting violent groups that target Americans and American strategic interests.[17]

That is not to say the two countries have no mutual strategic interests. Pakistan has often urged the United States to use its influence in India to help moderate its territorial dispute over Kashmir, a dispute that has led to three wars between India and Pakistan since they separated in 1947. Reducing the chances of direct war—conventional or nuclear—between India and Pakistan is an important interest shared by both Pakistan and the United States.

The fact that Pakistan owns nuclear weapons motivates a second shared interest: preventing a collapse of the Pakistani state or a takeover of the government by some insurgent or terrorist group. A "state failure" or a takeover by terrorists is undesirable from the American perspective because some such groups residing in Pakistan have repeatedly demonstrated their resolve—and ability—to attack the United States and U.S. allies in their homelands or U.S. and allied targets in Afghanistan. The fear is that anti-American groups might gain access to nuclear or radioactive materials and use them to attack Americans in the future. From the Pakistani perspective, attacks against the United States are much less of a concern; rather, Pakistan's political and military elites simply do not want to lose power to any group, whether they are terrorists, insurgents, or the Indian military. To the degree that a partnership with the United States helps them prevent the state's disintegration, Pakistanis will accept the help.

The difficulty with acting on these shared interests, however, is that the two countries do not assess or prioritize the threats in quite the same way. Pakistan has long seen India as its biggest security threat, so much so that other security issues have historically been secondary, including the

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16. Teresita C. Schaffer and Howard B. Schaffer, *How Pakistan Negotiates with the United States: Riding the Roller Coaster* (Washington, D.C.: U.S. Institute of Peace, 2011); see also Gordon Lubold, *Negotiating the Pakistani-U.S. Relationship, One Step at a Time* (Washington, D.C.: U.S. Institute of Peace, 2011), http://www.usip.org/publications/negotiating-the-pakistani-us-relationship-one-step-time.

17. "ISI has links with Haqqani network," *Daily Times,* April 21, 2011, http://www.dailytimes.com.pk/default.asp?page=2011%5C04%5C21%5Cstory_21-4-2011_pg1_2.

nonstate armed groups that increasingly attack Pakistani state targets. By contrast, the American relationship with India is both economic—in a way that is, on balance, mutually beneficial—and geostrategic, as India's rise as a regional power helps to keep China's rise in check, an important priority for many in the American foreign policy establishment. For the United States, in other words, India is a net benefit, while the nonstate armed groups in Pakistan are a proven threat.

Pakistan's strategic interests with respect to India on its eastern border have driven its foreign policy not only toward India but toward Afghanistan as well. Indian influence on Pakistan's western border with Afghanistan would leave Pakistan vulnerable to encirclement by its enemy to the east. Because Pakistan's military is much smaller than India's and its possession of nuclear weapons is already counterbalanced by India's, Pakistan has sought to neutralize India's conventional advantages in classic asymmetric fashion: by supporting (while denying it supports) nonstate armed groups willing to harass and attack India in its stead.[18] To minimize Indian influence and maximize Pakistani influence with the Afghan government, Pakistan has demonstrated a historical willingness to arm such groups to carry out attacks in Afghanistan as well.[19] The exact number of anti-Afghan and anti-Indian groups operating in Pakistan is unknown, and the proportion of those that have received or continue to receive quiet support from the Pakistani state is also unknown. What is known for certain is that the United States considers the activities of most such groups to be against its own strategic interests and ultimately against Pakistan's as well. Given that some formerly state-sponsored groups have begun attacking Pakistani targets, a growing number of Pakistanis agree with this assessment.[20] The United States and Pakistan both have interests in Afghanistan, and it is not clear, at least to many policymakers and publics in both countries, where those interests overlap.

As relations between the United States and Pakistan deteriorated in mid-2011, the United States suspended military aid, and by early 2012 it was not yet clear how the two countries would work out their differences.

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18. See Christine Fair, senior political scientist, Rand Corporation, Hearing of the Middle East and South Asia Subcommittee of the House Foreign Affairs Committee, "U.S.-Pakistan Relations: Assassination, Instability and the Future of U.S. Policy, Washington, D.C., January 16, 2008, http://www.carnegieendowment.org/files/testimony.pdf; Jayshree Bajoria, "Backgrounder: Pakistan's New Generation of Terrorists," Council on Foreign Relations, May 13, 2011, http://www.cfr.org/pakistan/pakistans-new-generation-terrorists/p15422#p5; and K. Alan Kronstadt, "International Terrorism in South Asia," Congressional Research Service, CRS Report for Congress RS21658, November 3, 2003, http://www.fas.org/irp/crs/RS21658.pdf.

19. U.S. Department of State, *Country Reports on Terrorism 2010*, Washington, D.C., August 2011, pp. 109–113, 121–125, http://www.state.gov/documents/organization/170479.pdf.

20. Clay Ramsay et al., *Pakistani Public Opinion on the Swat Conflict, Afghanistan, and the US,* WorldPublicOpinion.org, Program on International Policy Attitudes, University of Maryland, July 1, 2009, http://www.worldpublicopinion.org/pipa/pdf/jul09/WPO_Pakistan_Jul09_rpt.pdf.

2 LOCAL GOVERNANCE REFORMS

Successive Pakistani governments—both civilian and military—have experimented with governance reforms ostensibly designed to make service delivery more efficient, to improve access to justice, or to promote local participation. But each attempt has faced its own issues, including provincial and national politics, entrenched bureaucratic interests, and inadequate resources. Local governance is still weak today, and in many areas essential services are not provided by state institutions. This has meant that some Pakistani citizens have had to turn to self-help or nonstate institutions for services or the redress of grievances.

But the most recent sets of reforms, while far from ideal, suggest incremental progress toward greater representation at the local level has occurred. Combined with the likelihood that the current government will be the first in decades to complete its term, these reforms offer some hope for improvements in the formal governance system. This chapter provides a brief overview of the politics that have dominated center-province relations since 1947, a brief history of governance reforms, and an analysis of the two most important reforms in recent history: the Local Governance Ordinance of 2001 (LGO 2001) and the Eighteenth Amendment to the constitution.

Demands for greater provincial autonomy have persisted since the partition of India and Pakistan in 1947. Balochistan, Khyber Pakhtunkhwa (KPK), and Sindh have repeatedly claimed that the federal government, dominated by Punjabis, has avoided granting more provincial autonomy because the Punjabi elite have never been willing to dilute their power. Disputes between center and periphery have led to significant conflicts, the most important being the separation of East Pakistan (now Bangladesh) from Pakistan in 1971.[1]

The One Unit policy, implemented in 1955, merged the four federating units (provinces) of West Pakistan—Punjab, Sindh, Balochistan, and the North West Frontier Province (NWFP, today's KPK)—into a single administrative unit. While intended to increase national cohesion, this policy ended up having the opposite effect. Provincial representation was unequal, and this contributed to the emergence of a number of nationalist movements across Pakistan. While ethnic and linguistic concerns also played a vital role in those movements, subnational governance and power-sharing between the center and federating units were important motivators. The nationalist movement in Balochistan continues, with a recent upsurge in violence and increased calls for independence.

Similarly, the country's smaller federating units have frequently expressed their discontent with the water distribution mechanism in the country. The Indus River System Authority, established in 1991 after provinces reached a water apportionment agreement, has tried to smooth interprovincial inequities. But people living in the lower riparian Sindh have argued they get much less water than higher riparian Punjab Province for agricultural and sustainability purposes.

1. See G.W. Choudhury, *Last Days of United Pakistan* (Oxford: Oxford University Press, 1994).

In October 2004, a parliamentary committee was set up to address Balochistan's grievances, but its efforts came to a standstill after a Baloch leader (Nawab Akbar Bugti) was killed in a military operation in August 2006.[2] Some Baloch nationalist groups responded with violence, suggesting to some that they wanted not provincial autonomy but a separate state.

Despite these tensions, there has always been some form of local governance. In the pre-independence period, the British colonial government introduced a system whereby local traditional elites were coopted into the colonial administrative bureaucracy. In exchange for land and other privileges, district officers were appointed and given responsibility for managing local affairs and collecting revenues for the colonial government. Pakistan's independence did not change the local administrative structures the British had established, and, under different names, some form of district-level bureaucratic appointee has always been in place since 1947.[3]

The first major reform came about in 1959. After he led a coup and dismissed the national and provincial legislatures, General Ayub Khan (president from 1958 to 1969) promulgated the Basic Democracies Ordinance (BDO) in 1959, arguing, like General Pervez Musharraf did in 2000, that "the western type of parliamentary democracy could not be imposed on the people of Pakistan" because Pakistan lacked social and political awareness, universal education, and an advanced system of mass communication.[4] The "Basic Democracies" system, therefore, had two broad objectives: "One was to inculcate in [the people of Pakistan] the spirit of self-help; the other, to find a meaningful electoral system for the election of the President and the members of Assemblies."[5]

The BDO established local councils at the district and subdistrict levels, half of whose members were nominated and the other half elected. While these councils were allocated budgets to deliver municipal services, they were subordinate to the district bureaucracy that could overrule council decisions. The BDO framework reinforced an urban-rural divide that existed under the colonial system of local governance. Preference was given to rural areas in the allocation of development funds (Ayub Khan's political support came mainly from the countryside). Ayub Khan defeated Fatima Jinnah (sister of the founder of Pakistan and also the sole candidate of the Combined Opposition Parties) in the 1965 elections, with some analysts arguing that Jinnah's pledge to restore parliamentary democracy threatened rural constituencies who feared they would lose the funds and the attention they were receiving under the BDO. The system ended two years after Ayub Khan's removal in 1969.[6]

During the 1971–1979 period, local governance was again under the purview of the bureaucracy. While Z.A. Bhutto (president 1971–1973, prime minister 1973–1977) intro-

2. Rana Qaisar, Sarfaraz Ahmed, and Malik Siraj Akbar, "Akbar Bugti killed in army operation," *Daily Times*, August 27, 2006; "Bugti's killing is the biggest blunder since Bhutto's execution," Editorial, *Daily Times*, August 27, 2006.

3. Syed Ali Asjad Naqvi, "A Look at the Spatial Inequality in Pakistan: Case Study of District Sargodha," Working Paper submitted for the conference, Mapping Global Inequalities—Beyond Income Inequalities, December 4, 2007; Ali Cheema, Asim Ijaz Khwaja, and Adnan Qadir, "Local Government Reforms in Pakistan: Context, Content and Causes," Working Paper, Harvard Kennedy School, chapter 8; Ayesha Jalal, *Democracy and Authoritarianism in Pakistan* (Cambridge: Cambridge University Press, 1995).

4. Muhammad Ayub Khan, *Friends Not Masters: A Political Autobiography* (Islamabad: Mr. Books, 2006), pp. 232–233.

5. Ibid, p. 232.

6. Cheema et al., "Local Government Reforms in Pakistan," chapter 8.

duced the People's Local Government Ordinance in 1975, it was never implemented. The central and provincial bureaucracies effectively pressured the Bhutto government to avoid implementing any measures that would lead to a reduction in their powers. But this was not the sole reason for the lack of decentralized reforms in that era. A centralized system, with a small dominant bureaucratic group, was also advantageous to the Bhutto administration, as it supported more centralized policies, such as the nationalization of industry. Commissioners at divisional levels and deputy commissioners at the district levels were responsible for administering their respective domains. At the district level, not only did the deputy commissioner have revenue-collection and administrative responsibilities; he also served as a district magistrate who adjudicated criminal cases in the district.

In 1979, General Zia ul Haq seized power and introduced the Local Government (LG) system, giving control of local government to the provinces. Officials at every level of local government were to be directly elected by vote; local bureaucrats could no longer dominate local councils but could participate as non-voting members. The three tiers of local governance in the rural areas were to include union councils, tehsil (subdistrict) committees, and district councils. Their urban counterparts were town committees, municipal committees, and metropolitan corporations. Local body elections were held on a non-party basis in all four provinces in 1979 and 1980. This was not, however, complemented by any further decentralization of federal or provincial administrative functions or financial powers to the local level. Similar to Ayub Khan's BDO, Zia maintained an urban-rural divide, allowing urban councils to flourish without having to share revenues with rural counterparts.[7] As economic conditions began to favor economic growth in urban areas, rural councils relied increasingly on provincial departments for service delivery and development needs. The LG system under Zia never developed the capacity for development planning and implementation or a firm revenue base. The system was abolished soon after Zia's death in 1988.[8]

The 1990s were commonly referred to as Pakistan's "decade of democracy," as the country was ruled either by Nawaz Sharif's Muslim League (now PML-N) or Benazir Bhutto's Pakistan Peoples Party (PPP). Neither, however, held local elections. Rather, bureaucrats or deputy commissioners served as administrators at the district level with revenue-collection, judicial, and administrative functions.

At the end of the decade, General Pervez Musharraf staged a military coup, in October 1999. The Supreme Court endorsed the coup, but also set a three-year deadline for the restoration of democracy. Similar to Gen. Ayub Khan and Gen. Zia-ul-Haq, Musharraf introduced a new local government system. In December 1999, he established the National Reconstruction Bureau (NRB) and tasked it with instituting a comprehensive local governance system. On August 14, 2001, the Local Governance Ordinance (LGO) came into effect. The Musharraf administration held the first local government elections between December 2000 and July 2001.

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7. Ibid.

8. Ali Cheema, Adnan Q. Khan, and Roger B. Myerson, "Breaking the countercyclical pattern of local democracy in Pakistan," research paper, University of Chicago, http://home.uchicago.edu/~rmyerson/research/pakdemoc.pdf; United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), "Country Paper: Pakistan" in *Local Government in Asia and the Pacific: A Comparative Study,* chapter 2: Evolution of Local Government, accessed October 25, 2011 http://www.unescap.org/huset/lgstudy/country/pakistan/pakistan.html.

Local Governance Ordinance of 2001

The LGO envisaged a three-tiered system of local governance. The top tier was the district (zila), where most service provision was supposed to occur. District governments were made responsible for the delivery of health and educational services. The Tehsil Municipal Administration (TMA) was the second tier of local governance, led by the tehsil mayor, who was assisted by the Tehsil Municipal Officer (TMO). The TMO coordinated all the Tehsil Officers (TOs), who were in charge of infrastructure, as well as municipal and sanitation departments.[9] At the tehsil level, the LGO eliminated the rural-urban divide: the tehsil mayor and his administration were responsible for municipal services in both rural and urban areas of the tehsil. In contrast to districts, tehsil or subdistrict councils had a more predictable revenue base since they received a specific percentage of the General Sales Tax—this allowed them to be much more certain of their budgetary parameters.[10] In addition, the TMAs could collect certain taxes.[11]

The third and lowest tier of local governance was the union council, a collection of small villages with an average population of 25,000.[12] The main responsibility of the union council was to identify and initiate development projects. The union councils were not given any direct revenue-generation authority but could engage in small development projects through federal funding provided to the districts through the Khushal Pakistan Program (KPP).[13] The union mayor and deputy mayor were directly elected and ran on a non-party basis. They became members of the union council, and the union mayor and deputy mayor also automatically became members of the district and tehsil councils respectively. The district council acted as the electorate for the district mayor, and so the nazim (district mayor) was indirectly elected.[14]

The LGO 2001 made significant bureaucratic changes. Prior to 2001, district administration was vested in the office of the deputy commissioner (DC), a provincially or federally appointed bureaucrat who managed law and order and revenue-collection. In addition, the DC exercised judicial authority in certain types of criminal cases and served as the district magistrate. Under the LGO, the post of the DC was abolished and his powers transferred to the elected district mayor (nazim), the district police officer (DPO), and judicial magistrates. He was replaced by the district coordinating officer (DCO), whose primary responsibility was to coordinate the executive district officers (EDOs), each of whom headed a line department in the district (health, education etc.). On paper, the DCO was directly responsible to the district mayor.

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9. Ritu Nayyar Stone et al., "Assessing the Impact of Devolution on Healthcare and Education in Pakistan," prepared for USAID, February 2006.

10. Nick Manning et al., "Devolution in Pakistan—Overview of the ADB/DFID/World Bank Study," Asian Development Bank, Department for International Development, World Bank, July 2004.

11. TMAs could collect taxes on transfers of property and the more profitable Urban Immovable Property Tax (UIPT). International Crisis Group (ICG), "Devolution in Pakistan—Reform or Regression?" *ICG Asia Report* no. 77 (March 22, 2004).

12. Marco Mezzera et al., *Devolution Row: An Assessment of Pakistan's 2001 Local Government Ordinance*, Report of the Conflict Research Unit, Netherlands Institute of International Relations, Clingendael, November 2010.

13. "Collaboration between Local Government and Village Organizations," Pakistan Centre for Philanthropy, May 2007.

14. Ritu Nayyar Stone et al., "Assessing the impact of Devolution on Healthcare and Education in Pakistan," prepared for USAID, February 2006.

The devolution plan also had a citizen-based component to ensure the participation of local communities in the identification, development, and implementation of projects through Citizen Community Boards (CCBs). These were to operate as nonprofit organizations and had the authority to undertake small-scale development projects. Each CCB was to have 25 volunteers.[15] A quarter of the budget allocated to the districts from the provinces was reserved for CCBs and for the implementation of projects identified by them. These funds formed 80 percent of the CCB budget and the CCB was responsible for collecting the remaining 20 percent from the community.[16] In practice, there were significant delays in the establishment of CCBs due to bureaucratic hurdles. Many elected nazims, as well as ordinary people, remained unaware of the role of CCBs and their functions. Even when CCBs were formed in certain districts, members lacked the capacity for project development and implementation. There were also reports of elite capture, where local waderas (feudal landlords) or industrialists registered their own CCBs in order to receive funding rather than to promote local development.[17] Some local governments considered the CCBs to be "antagonists of local government—or an opposition in waiting—rather than as productive partners in development."[18] However, CCBs in various districts of KPK and Punjab were credited with improved service delivery in certain districts and tehsils. Some also organized to support female councillors and their campaigns.[19]

In the absence of nationwide evaluation, it is difficult to make any definitive conclusions about the impact of devolution on service delivery. However, anecdotal evidence suggested some improvements in health and education due to greater availability of medicines and doctors, teachers were more likely to be present, and people generally felt they had greater access to their local councillors or representatives when they had complaints or requests.[20]

The LGO had a number of structural problems:

- *Lack of fiscal decentralization.* Provincial governments received up to 80 percent of their revenues from the federal government through the National Finance Commission (NFC) awards. In the same way, local government finances originated from the provinces, through the Provincial Finance Commission (PFC) awards. As a result of this structure, local government finances were dependent on the workings, politics, and policies of the provincial governments. The provinces had their own formulas for allocating funds to the districts, which were largely based on population and level of development, but there was a high degree of provincial discretion. Local governments were not only completely dependent on the PFC for revenues, but also lacked any form of representation. Most of the awards went to pay for salaries (up to 80 percent) with little left over for the maintenance, management, and improvement of health and educational facilities. As a result, greater resources were given to districts with higher staffing

15. Author interview with Tariq Durrani, July 30, 2010.

16. Ibid.

17. Shahrukh Rafi Khan et al., *Initiating Devolution for Service Delivery: Ignoring the Power Structure* (Oxford: Oxford University Press, 2007).

18. R. Nayyar-Stone, R. Ebel, S. Ignatova, and K. Rashid, *Assessment Report: Pakistan Devolution Support Project*, report prepared for USAID by the Urban Institute, Washington, D.C., February 2006.

19. Syed Mohammad Ali, "Strengthening Citizen Community Boards," *Daily Times*, January 31, 2006, http://www.dailytimes.com.pk/default.asp?page=2006%5C01%5C31%5Cstory_31-1-2006_pg3_5.

20. Manning et al., "Devolution in Pakistan—Overview of the ADB/DFID/World Bank Study." Also see author interviews with Rizwan Mehboob, Waqas-ul-Hassan (DFID).

costs, leaving little incentive to reduce salaried staff and little funding for district councils to use at their discretion. District governments had neither the opportunity nor the incentive to plan on a long-term basis.[21]

- *Lack of administrative devolution.* The Musharraf administration had "transferred almost every provincial function to the governments in the district."[22] However, the authority for postings and transferring district-appointed bureaucrats in the health and education sectors remained with the provinces. While the nazim could initiate a performance review of the DCO or request his transfer, this would only go through if the provincial government allowed it. Underneath the DCOs were the EDOs, who, on paper, reported to both the nazims and the DCOs. However, these appointments were also contingent on provincial approval. District officials often neither acted as, nor viewed themselves as, district officers but instead as clients of the provincial governments. This reinforced the rift between the local and provincial governments, and was reflected in service delivery as the bureaucrats at the local level often faced conflicting demands from the provincial and local governments.
- *Lack of clarity with regard to authority*. While the DCO was supposed to be subordinate to the district nazim, significant duties and authorities remained with the district bureaucracy. For example, the first port of call for the formulation of the district budget was the DCO, who was also responsible for staffing decisions. The nazim could not override the decisions of the DCO, as there was no provision in the LGO that ensured compliance of the district administration to local government directives. Still the LGO made nazims responsible for expenditures and losses, which caused problems given that budgeting decisions largely lay with the DCO.[23] In addition, it was unclear how the shift in power from the district commissioners to the elected officials was to be implemented. For example, the abolishment of the district magistracy system gave the tehsil administration the power to impose fines, but in reality, enforcement was nearly impossible. Under the previous magistrate system, the DCs were backed by the police and hence could implement fines. The Tehsil administration lacked the legal authority to enforce fines through police backing.[24]
- *Local elections.* The introduction of elected union councillors and district nazims, and the mechanisms through which they were elected, offered new opportunities for elite capture of resources and offices in a way that had not existed before. Moreover, because local government elections were not held on a party basis, this "exacerbated ethnic, caste and tribal divisions and undermined the organizational coherence of political parties."[25] In addition, prior to April 2002, local elections were placed under the control of a federal body called the Election Commission of Pakistan (ECP), rather than the provincial governments, which had the effect of marginalizing the political parties. During the 2002 elections, the ECP "threatened to disqualify candidates with party affiliations in what was widely seen as a politically motivated move to strengthen military-backed candidates."[26] These concerns were exacerbated when Musharraf

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21. Asian Development Bank, "Improved Devolved Social Service Delivery in NWFP and Punjab," 2005; Mezzera et al., *Devolution Row: An Assessment of Pakistan's 2001 Local Governance Ordinance*; ICG, "Devolution in Pakistan—Reform or Regression?"

22. Kunwar Idris, "Province-district tussle," *Dawn*, April 19, 2009.

23. Mezzera et al., *Devolution Row: An Assessment of Pakistan's 2001 Local Governance Ordinance.*

24. ICG, "Devolution in Pakistan: Reform or Regression?"

25. Ibid.

26. Ibid.

secured a comfortable victory in the presidential referendum on April 30, 2002,[27] and after the local elections in 2002. Musharraf's allies became dominant, and the Pakistan Peoples Party and Muslim League (Nawaz) were completely marginalized.

- *Rural-urban divide*. The lack of provision of municipal services in rural areas led to increasing growth of urban and peri-urban slums dependent on other tehsils and towns. This has led to a lack of effective planning and execution of municipal services in rural centers, growing public health problems, and conflicts and distortions related to land-use and the provision of planned municipal services. [28] These tendencies are exacerbated in the peri-urban localities, where change is taking place at a much faster pace.
- In addition to some of these structural problems, the LGO faced political opposition from the existing bureaucracy, who viewed it as impinging on their authority, and from the provincial and federal governments, who did not want to relinquish control of certain services to elected local officials.[29] Moreover, as the system was conceived and implemented in the absence of national and provincial assemblies, it was never accepted by many of the country's politicians, particularly at the provincial level. Some felt that local government was strengthened at the expense of the provinces, yet there was no reciprocating devolution from the center to the provinces, giving provincial authorities little incentive to support the system.[30] As a result of this, provincial bureaucracies remained responsible for setting health and education policies. The unclear demarcation of responsibility for the delivery of those services at the local level often led to duplication of effort.

The Eighteenth Amendment

The LGO had devolved some authorities from the provinces to the various tiers of local governance, but the provinces did not have the right to determine the structure of the local governance system, nor had there been a concomitant devolution of power from the center to the provinces. Because the LGO had had the effect of marginalizing political parties (whose traditional base has always been strongest at the provincial level), when the parties returned to national power in 2008, they had every incentive to change the system to devolve authority from the center to the provinces, giving the provinces more autonomy (and the parties more power). With the military government out of power and civilians in charge, there was a great deal of political support for amending the Constitution to devolve that authority permanently.

The Eighteenth Amendment was passed in April 2010. It devolved powers from the president to the prime minister, devolved powers from the central government to the provinces, and gave the provinces the responsibility for devising their own local governance systems, among other provisions. The 1973 Constitution in its original form had consisted of a federal list of subjects that only the center could legislate, and a concurrent list of subjects that both the center and provinces could legislate. In the case of a legislative conflict between the center and the province, the law

27. Rana Qaisar, "Massive irregularities in polling: In low turnout, PM wins big yes," *Daily Times*, May 1, 2002; Ihtasham ul Haque, "Polls to be held from Oct 7–11: We won't initiate war Musharraf," *Dawn*, May 28, 2002.

28. Nick Manning et al., "Devolution in Pakistan—Preparing for Service Delivery Improvements," Working Paper prepared for Forum for Intergovernmental Relations and Service Delivery, June 22, 2003.

29. Mezzera et al., *Devolution Row: An assessment of Pakistan's 2001 Local Governance Ordinance.*

30. Ibid.

enacted by the center would prevail. The Eighteenth Amendment abolished the concurrent list, transferring exclusive responsibility for health, education, disaster management, marriage, contracts, educational curriculums, local governance, law and order, and several other areas to the provinces.[31] The Eighteenth Amendment also restored parliamentary democracy and abolished article 58 (2) B of the constitution that had allowed the president to dissolve national and provincial legislatures. Under Article 140A, it became mandatory for provincial governments to establish their own local government systems—but did not specify any particular kind of local governance framework that should be put in place.[32] To ensure a smooth implementation of the Eighteenth Amendment, the government established an Implementation Commission and strengthened the role of the Council of Common Interests (CCI), a constitutional body designed to resolve inter-provincial disputes.

While many of the 47 subjects on the concurrent list were devolved to the provinces, the Eighteenth Amendment maintained a list of subjects that remained in the "national domain" (the Federal Legislative List—Part II). For instance, in order to avoid five separate criminal codes in the country, the criminal procedure code falls within the jurisdiction of the Council of Common Interests.[33] Most areas on the concurrent list were to be devolved to the provinces no later than July 2011, but there have been significant delays. There is concern regarding provincial capacity to effectively deal with extra responsibility and powers.[34] For example, there has been little discussion of fiscal decentralization or other ways to help provincial governments address budget shortfalls.[35] While the National Finance Commission award increased allocation of tax revenues from the center to the provinces, it is unclear whether the increase in provincial revenues will be enough to meet their new responsibilities.

Since the tax-to-GDP ratio in Pakistan is only 9 percent, the share of revenues to provincial governments will remain dependent on the central government's ability to expand its revenue base. Provincial governments will want more revenues to match their newly acquired responsibilities, which the central government may or not be willing or able to offer.[36] In December 2010, five federal ministries, including the Ministry for Local Government and Rural Development, ceased to exist and their powers and functions were transferred to the provincial level. When provincial governments sought a corresponding transfer of funds to pay for them, the request was met with some resistance.[37]

It is possible, therefore, that service delivery will suffer as a result of devolution. For example, federally funded health programs provided at the local level now become the responsibility of provinces, including programs to control malaria, tuberculosis, hepatitis, and HIV/AIDS, or to provide immunizations, prenatal care, neonatal care, and nutrition services. The Khyber Pakhtunkhwa government has already voiced concerns about its ability to fund these programs once

31. Colin Cookman, "The Eighteenth Amendment and Pakistan's Political Transition," Center for American Progress, April 19, 2010.

32. Ibid.

33. Cyril Almeida, "Pakistan Empowers Its Provinces," *Federations Magazine*, December 2010/January 2011, http://www.forumfed.org/en/products/magazine/vol10_num1/pakistan-empowers-provinces.php.

34. Cookman, "The Eighteenth Amendment and Pakistan's Political Transition."

35. Ibid.

36. Ibid.

37. "Implementation of the Eighteenth Amendment," *The News,* November 28, 2010, http://www.thenews.com.pk/TodaysPrintDetail.aspx?ID=17714&Cat=2&dt=12/13/2010.

the health department is completely devolved to the provinces.[38] Similar issues arise in education. Curriculum development and higher education had been federal subjects, and today it is an open question what will become of them.[39] In addition, there have been problems with designing a mechanism for transferring funds from the Prime Minister's flood relief fund to the four provinces. Unless these problems are resolved, this does not bode well for disaster recovery and rehabilitation in Pakistan.[40]

Under the 1973 Constitution, the federal government is required to meet every five years to announce an award that determines the distribution of tax revenues between the center and the provinces (vertical distribution) and further allocation between the four provinces (horizontal distribution). The provinces determine the division of those resources among themselves through a particular formula. In terms of the vertical distribution, the NFC award claimed many successes. Revenue sharing increased from 47 to 56 percent, the central government agreed to pay Khyber-Pakhtunkhwa and Balochistan previously uncompensated hydropower profits and gas surcharges, and it recognized the right of the provinces to generate their own revenues.[41]

From the time the first NFC award was presented in 1974, the revenue-sharing formula between the provinces was based on a single criterion—population. This favored the most populous province, Punjab, and generated considerable resentment among the other provinces. After years of deadlock on the issue, the seventh NFC award signed by President Zardari in March 2010 introduced multiple determinants for sharing of resources between the four provinces. In this formula, 82 percent was given to population, 10.3 percent to the province's poverty level, 5 percent to revenue generation and collection, and 2.7 percent to other issues. The signing of the new NFC award is considered a major breakthrough, and some feel it reflects the willingness of the Punjab government to submit to a more equitable distribution of resources with the smaller provinces.[42] The real challenge for the provinces will be to develop the capacity to manage this large influx of funds in a transparent and effective manner.

Finally, a number of issues remain to be clarified regarding local governance systems and elections. It is likely that, if local council elections are ever held, they will be party-based. Historically, the non-party nature of local elections in Pakistan has led to the belief that local government structures are created by military regimes to cultivate local elite that can represent and preserve the interests of a non-representative center. With a civilian government at the center, this is likely to be reversed.[43] It seems likely that union councils will be directly elected, while district nazims will continue to be indirectly elected as under the LGO. Another issue to be clarified is the role of

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38. Ashfaque Yusufzai, "Implementation of Eighteenth amendment—Center-funded Programs may suffer," *Dawn*, July 23, 2010, http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/local/peshawar/implementation-of-Eighteenth-amendment-centrefunded-health-projects-may-suffer-370.

39. Centre for Civic Education Pakistan, "Roundtable on Federal-Province Role and Responsibilities in Education," September 21, 2010, http://www.civiceducation.org/2010/09/roundtable-on-federal-province-role-and-responsibilities-in-education/.

40. Author interview with Hamid Raza Afridi, December 20, 2010.

41. Bilquis, "Assessing the National Finance Commission Award," Changing Up Pakistan (CHUP) Blog, May 18, 2010, http://changinguppakistan.wordpress.com/2010/05/18/assessing-the-national-finance-commission-award-bilquis/.

42. Ibid.

43. Ibid.

the district administrator or bureaucrat. At this point, provincial governments appear to be leaning towards a stronger role for the district administrator vis-à-vis elected officials.

The governments of Khyber Pakhtunkhwa, Punjab, and Sindh have not yet developed final local government proposals. Balochistan had, but it needed to be revised to align with the requirements of the Eighteenth Amendment.[44] Moreover, all four provincial governments have postponed local elections indefinitely, citing, among other reasons, the devastation caused by the floods of the past two years and the subsequent loss of flood victims' national identity card necessary for voting.

44. At the time of writing this report.

3 FORMAL INSTITUTIONS

The LGO and the Eighteenth Amendment, discussed in chapter 2, put in place many of the formal institutions of governance that continue to operate today. After a brief overview of the key national structures, this chapter summarizes the formal institutions of the security, justice, health, and education sectors. The following two chapters summarize, respectively, the informal institutions and the militant groups that operate in those sectors as well.

Pakistan has four provinces: Punjab, Sindh, Balochistan, and Khyber Pakhtunkhwa (KPK, formerly the North West Frontier Province, or NWFP). In addition to these provinces, Pakistani territory includes Gilgit-Baltistan (formerly the Federally Administered Northern Areas, or FANA), Azad Kashmir, Islamabad Capital Territory, and the Federally Administered Tribal Areas (FATA).[1]

The provinces are semiautonomous in that they are subject to federal laws, but can also devise provincial laws. The provinces are further divided into 105 districts (zilas), which are further subdivided into tehsils (talukas in Sindh), which contain villages or municipalities. The level below the tehsils are union councils. However, the structures in FATA and parts of Balochistan are different. The FATA areas are governed by the Frontier Commissions Regulation (FCR) of 1901 and represent a type of hybrid system of governance combining both formal and informal elements. The FCR was based on an acceptance and codification of tribal "riwaj" (conventions) and added certain legal provisions to bring the state into a loose configuration with the tribes in FATA. The state dealt with the tribal chiefs and elders whose responsibility it was to ensure that the tribes did not indulge in any activity that was deemed illegal or against the interest of the state. As quid pro quo, the state gave funds to the tribal leaders and elders, accepted their influence in the area, and in some cases allowed them to send their representatives to parliament. These representatives were nominated by the tribes themselves. It was not a perfect system, but it was a trade-off between going into the tribal territories and reconfiguring them through a top-down approach, or pulling them into the broader state system while in the interim accepting their riwaj. This interim measure became a permanent measure of sorts, and therefore the tribal areas stayed outside the system of municipal law that was in place in the settled areas of Pakistan.

The FCR created two types of areas in each agency: protected areas (PA) and tribal territories (TT). In the protected areas, the government has partial control and its interests are represented by the office of the political agent with tribal maliks and jirgas. In the tribal territories, the government has no jurisdiction and the tribes have complete authority. The boundaries between the two areas are often blurred. The government has attempted to reduce the size of the tribal territories by providing infrastructure and other facilities. A large percentage of the tribal belt, approximately 70 percent, remains completely outside of the government's writ.[2]

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1. Prior to 1971, Pakistan consisted of the province of East Pakistan (now Bangladesh) and West Pakistan (the areas that currently compose Pakistan).

2. Author interview with Tariq Durrani, development consultant and former USAID official in Pakistan, September 18, 2010.

Similarly, PATA refers to the Provincially Administered Tribal Areas, where Acts of provincial assemblies are not applicable but instead the governor of the province has direct authority. PATA areas exist in both Balochistan and KPK.[3]

Security

Transparency International's 2009 National Corruption Perceptions Survey found, that of all the institutions in Pakistan, the police and power departments were considered the most corrupt.[4] According to a recent report of the Human Rights Commission of Pakistan, there were reports of 65 deaths in police custody and 147 cases of torture in 2007.[5]

Until 2001, Pakistan's criminal justice system was governed by the colonial Police Act of 1861, instituted by the British.[6] Prior to Musharraf's Police Order (2002), the district police chief was the superintendent of police (SP) or senior superintendent of police (SSP) in larger districts. The assistant and deputy superintendents of police (ASP and DSP) led the police force at the sub-district levels.[7] While district police heads were responsible to the provincial police hierarchy, the deputy commissioner also had oversight powers vis-à-vis the SP.

Structure under Police Order 2002: In 2002, Pervez Musharraf introduced the Police Order (PO), meant to reform the police for greater service delivery. Although the Police Order 2002 lapsed on December 31, 2010, three of the four provincial governments have retained the PO to a large degree. The PO restructured the police force at the district level. The district police officer (DPO) commanded the district police and was hired from the SSP cadre. Oversight powers previously held by the deputy commissioner were given to the district mayor.[8] At the sub-district level, the DPO is assisted by the assistant superintendent of police (ASP) or deputy superintendent of police (DSP), depending on the size of the district. Each sub-district consists of two or more police stations, each headed by an inspector who is called the station house officer (SHO). Each police station may be further sub-divided into police outposts if the surrounding population is especially large.[9]

Under the Police Order 2002, an effort was made to separate "watch and ward" functions from investigations. A separate investigations department was set up at police stations with its own hierarchy and increased funding in order to conduct timely and efficient investigations. In practice, however, the investigation units in districts and local police stations remain underfunded and

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3. Provincially Administered Tribal Areas in Khyber Pakhtunkhwa include Chitral, Dir, Swat, the tribal area in Kohistan, Malakand, and the tribal areas adjoining Mansehra District. Provincially Administered Tribal Areas in Balochistan include Zhob, Loralai (excluding the Duki Tehsil), Dalbandin Tehsil, Kohlu and Dera Bugti.

4. Participants in the survey numbered 5,200. Transparency International Pakistan, "National Corruption Perception Survey," 2009, http://www.transparency.org.pk/documents/NCPS%202009/NCPS%20 2009%20%20Report.pdf.

5. Human Rights Commission of Pakistan, "State of Human Rights in Pakistan," 2007, p. 59, http:// www.hrcp-web.org/pdf/Archives%20Reports/AR2007.pdf.

6. International Crisis Group (ICG), "Reforming Pakistan's Police," *ICG Asia Report* no. 157 (July 14, 2008).

7. Ibid.

8. Ibid.

9. Asad Jamal, "Police Organizations in Pakistan," Human Rights Commission of Pakistan/Commonwealth Human Rights Initiative, May 2010.

ill-equipped, and staff lack special investigations skills.[10] Currently, investigative officers make up only 13 percent of the police force.[11]

The first investigative report (FIR), or the first step in filing a case, prepared by the investigating officer (IO), often lacks the quality to be upheld in court and takes months to prepare. IOs also lack the incentive to register FIRs, as large numbers registered indicate a spike in crime in the area and can lead to a poor performance report.[12] Previously, district police were supervised by deputy commissioners, but since the promulgation of the LGO and the abolishment of the office of the DC, the DPO was no longer subject to executive control. Instead, the district mayor was made responsible for keeping a check on police excesses and also for writing the DPO's annual performance report (APR). However, in practice, the district mayors remained unaware of their exact law and order functions and various evaluations found that APRs were almost never written.[13]

Unable to effectively conduct investigations for even relatively minor crimes, the Pakistan police force is ill-equipped to combat the growing spike in militant violence. In Punjab, the most populous province in the country, there is only one forensic laboratory and approximately 616 police stations to serve a population of 80 million people in 35 districts.[14] Provincial governments have taken initial steps to bolster law-enforcement to directly combat instances of terrorism, but the impact of these initiatives has yet to be felt. For instance, through U.S. support, the Khyber Pakhtunkhwa government is in the process of developing a 7,500-member elite police force to combat terrorism.[15] Similarly, a National Counterterrorism Authority (NACTA) was established in 2009—while it received enthusiastic support from the European Union, it has yet to develop a national plan to combat militancy.

District Public Safety Commissions (DSPCs): The LGO established district public safety commissions to serve as checks on the DPO and police activity in districts. The DPSCs were to have members drawn from district councils and members of civil society. Among their responsibilities was approving of the policing plan put forth by the DPO, filing complaints of incidents of police brutality, and monitoring of any political manipulation of district police by the nazim. These watchdog organizations, however, have largely failed to live up to their potential as they were either not set up or not provided the requisite support by local officials.[16] When the LGO lapsed at the end of 2009, all functional DPSCs also ceased to exist. On April 13, 2010, Pakistan's chief justice ordered all provincial governments to re-establish DPSCs following an increase in incidents of police brutality.

Citizen Police Liaison Committee (CPLC): CPLCs are community oversight bodies that were first established in 1989 in Karachi by the then Governor of Sindh. Under the Police Order (2002), CPLCs were given more attention and were supposed to improve interaction between citizens and their local police stations. The original CPLC, set up in Karachi, was considered a success as it

10. Asian Development Bank, "Strengthening the Criminal Justice System," ADB Regional Workshop in Dhaka, Bangladesh, May 30–31, 2006, http://www.adb.org/Documents/Books/Strengthening-Criminal-Justice-system/strengthening-criminal-justice-system.pdf.

11. Richard Blue et al., *Pakistan Rule of Law Assessment—Final Report,* USAID, November 2008.

12. Ibid.

13. Asian Development Bank, "Strengthening the Criminal Justice System."

14. ICG, "Reforming Pakistan's Police."

15. International Crisis Group (ICG), "Reforming Pakistan's Criminal Justice System," *ICG Asia Report* no. 196 (December 6, 2010).

16. Ibid.

improved coordination between the community and police and created a computerized system to register cases. In addition, it succeeded in recovering people illegally detained by local police, reported instances of police negligence, and monitored the role of investigating police officers.[17] The Karachi-based CPLC is financed through private funding and receives negligible financial support from the government.[18] Under the PO, CPLCs were supposed to be replicated nationwide but failed to receive the government funding and support that could make them properly functional.[19]

Justice

Justice at the local level is provided by the district criminal and civil courts. After devolution, the judicial authority of the deputy commissioner (that allowed him to hear criminal cases) was transferred to judicial magistrates in the district courts. At the local level, Pakistan's judiciary consists of civil and judicial magistrates that take up minor civil and criminal cases. Above them in the hierarchy are district and sessions judges whose courts serve as both appellate and trial courts for more serious cases.[20] Almost 80 percent of cases in Pakistan are dealt with at the level of the lower courts.[21] Yet a lack of investment in Pakistan's subordinate judiciary has resulted in an overwhelmed judicial infrastructure, where tens of thousands of pending cases result in significant delays in the delivery of justice for millions of people.[22]

The transfer of new judicial functions (away from the DC or district magistrate) to district courts placed an enormous burden on them. This led provincial high courts to launch delay-reduction mechanisms and case management strategies meant to expedite the resolution of cases in the subordinate courts. In some areas these mechanisms worked remarkably well, such as in Abbottabad and Multan, where the oldest cases were one and two years old respectively.[23]

Still, scarcity of judges is a problem throughout the country especially at the district level where low salaries, prestige, and career-advancement options have deterred qualified judges from entering the lower courts. The Khyber Pakhtunkhwa government, through the financial support of the Asian Development Bank, has tried to mitigate the problem by hiring additional judges, although this is not a long-term sustainable solution to the problem.[24]

The National Judicial Policy of 2009 calls for a dramatic reduction in the case backlog in the subordinate courts by mandating a three-month timeline for the resolution of criminal cases and a six-month time frame for resolving death penalty offenses. Similarly, family disputes are to be resolved within three months. Critics maintain that a greater emphasis on timeframes will lead to an even lower conviction rate. The current inability of law-enforcement agencies to prepare a case strong enough to be upheld in courts results in conviction rates which stand at 5-10 percent. The

17. ICG, "Reforming Pakistan's Police."
18. Ibid.
19. ICG, "Reforming Pakistan's Criminal Justice System."
20. Ibid.
21. International Crisis Group (ICG), "Reforming Pakistan's Judiciary," *ICG Asia Report* no. 160 (October 16, 2008).
22. Ibid.
23. Asian Development Bank, "Strengthening the Criminal Justice System."
24. Blue et al., *Pakistan Rule of Law Assessment—Final Report*.

concern is that a focus on faster resolution of cases will further constrain law-enforcement agencies in their ability to build a fortified case.[25]

The lack of public confidence in the failing criminal justice system in the country has also led to a spike in incidents of vigilante justice. Two recent examples include the burning alive of two robbers on the streets of Karachi in 2008 and the public torture and lynching of two innocent boys in Sialkot, who were mistaken for thieves.

Health

Under the LGO, health-related policy directives were issued by provincial bureaucracies, and actual services were supervised by the executive district officer for health. The EDO for health reported to the District Coordinating Officer in each district. This system is still largely in place in each province. The EDO-Health is responsible for the management of basic health units (BHUs), rural health centers, district and tehsil headquarter hospitals, as well as the medical staff employed at these facilities. Hiring and transfer authority of medical staff remains with provincial health departments.[26]

Basic health units (BHUs) operate at the village level and consist of one female health worker, two technicians, and one doctor. These facilities are extremely basic and cater to approximately 15,000–20,000 people or one union council. Larger than a BHU is a rural health center (RHC) which covers about four or five union councils and is led by a senior medical officer who oversees two medical officers (including a female medical officer), a dental surgeon, and a number of technicians. Above the RHCs are the tehsil and district headquarter hospitals, which are run by medical superintendents. Except for the technicians and female health workers at BHUs, all medical staff are managed by the district's EDO.

District government health programs were funded through provincial transfers and grants. A large portion of the district government's funds are spent on salaries of medical staff with only about a quarter of the funds left over for non-salary expenditures. For medicines and other items, funds are not directly transferred to local government accounts but extended to district governments upon receipt of invoices. This can lead to significant delays in the procurement of medicines and equipment. Under the LGO in Punjab, the authority to procure medical supplies was completely in the hands of district governments, which allowed local health facilities to be better equipped with medicines and other medical supplies.[27]

Health monitoring committees were set up under the LGO to monitor health facilities and staff. They were to consist of locally elected officials. An Asian Development Bank and World Bank joint study, conducted in the early years of the LGO, found that where these health monitoring committees were set up (as in Karachi), medicines and medical staff were more available in health

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25. ICG, "Reforming Pakistan's Criminal Justice System."

26. Ritu Nayyar Stone et al., "Assessing the Impact of Devolution on Healthcare and Education in Pakistan," Pakistan Devolution Support Project, Urban Institute, for USAID, February 2006, p. 9, http://www.urban.org/uploadedPDF/411318_pakistan_project.pdf; and Urban Institute, "A Comparative Study: Assessment of Primary Health Care Services Delivery in PPHI and Non-PPHI Districts in NWFP," for USAID, Pakistan Districts That Work, January 2010, http://pdf.usaid.gov/pdf_docs/PNADU761.pdf.

27. Manning et al., "Devolution in Pakistan—Overview of the ADB/DFID/World Bank Study."

facilities.[28] But in many cases, these were not set up, and the established citizen community boards (CCBs) have not had a monitoring function. (Currently, the Devolution of Trust for Community Empowerment (DTCE) is managing and funding CCBs, but only until funds are available.[29])

Most local facilities lack modern infrastructure and equipment, and district governments often lack the funds for their proper maintenance. Where equipment such as ultrasound and x-ray machines are available, technicians often lack the requisite skills to operate them effectively.[30]

A pilot project in district Rahim Yar Khan by a local NGO, Punjab Rural Support Program (PRSP), sought to overcome some of these hurdles. Local government officials allowed the PRSP to manage all BHUs in the district. The PRSP was in charge of disbursing salaries to staff and monitoring their work. The district government provided funding for the BHUs, but rather than give it to each individual BHU, instead provided it to the PRSP.[31] This, by all accounts, worked well in improving service delivery. With consistent monitoring by PRSP staff, people manning the BHUs were more motivated to be present and effective. These partnerships could prove effective between the Executive District Officer-Health and local nongovernment organizations.[32] The project was also a success because it had the responsibility to transfer staff from one BHU to another to improve performance, employ additional people through independent contracts with the PRSP and charge nominal fees to patients necessary for the efficient management of the BHU.[33]

Education

With an average of 2 percent of the GDP devoted to education, successive Pakistani governments have grossly neglected the public education sector in the country. Literacy rates are low, at 49.9 percent, with female literacy at a 36.6 percent.[34]

At the district level, executive district officers for education (EDOs-E) are responsible for the management and delivery of primary, secondary, and higher secondary school education, which covers grades 1 through 12. However, as is the case with health officials, provincial governments and not district officials, are responsible for the hiring and firing of senior teachers and staff; this reduced the ability of district governments (2000 to 2009) to effectively hold teaching staff accountable for failure to perform.

Public schools in Pakistan suffer from a variety of different problems. The quality of infrastructure, lack of teacher training, and teacher absenteeism are problems that afflict state-run schools. Further, some local administrators are known to receive funds for the maintenance of schools that only exist on paper.[35] In the absence of effective monitoring mechanisms, teachers who are tenured civil servants sometimes fail to show up for work but are nonetheless paid through provincial accounts. The assistant district officers (assistants to EDOs-Education) are

28. Ibid., p. 8.
29. Author interview with Hamid Raza Afridi, December 20, 2010.
30. Urban Institute, "A Comparative Study: Assessment of Primary Health Care Services Delivery."
31. Stone et al., "Assessing the Impact of Devolution on Healthcare and Education in Pakistan," p. 15.
32. Ibid. p. 15.
33. Ibid, p. 15.
34. Central Intelligence Agency (CIA), "World Factbook: Pakistan," updated September 27, 2011, https://www.cia.gov/library/publications/the-world-factbook/geos/pk.html.
35. ICG, "Reforming Pakistan's Civil Service," *ICG Asia Report* no. 185 (February 16, 2010).

meant to monitor teacher attendance but are unable to do so effectively because of lack of adequate transportation facilities and large caseloads.

School management committees (SMCs) if properly established, funded, and mobilized can prove critical to improvements in local education provision. The rationale behind SMCs is that parents, students, and community members can better identify problems associated with their local schools and determine the quality of education delivered than district-level or provincial administrators can.[36]

The first variant of contemporary parent-teacher associations was established in 1993 as a village education committee in NWFP (now Khyber Pakhtunkhwa). Subsequent national education policies have called for the establishment of parent-teacher associations and school management committees. Since then, donor support to School Management Committees have revitalized these monitoring entities and have increased community participation in the overall improvement of state-run schools. For instance, following the earthquake in 2005, the USAID-funded RISE (Revitalizing, Innovating and Strengthening Education) project sought to support school management committees in disaster affected districts of Azad Jammu and Kashmir (AJK) and Khyber-Pakhtunkhwa. Under the auspices of RISE, a consortium of local development organizations provided funding, training, and mobilization support for the establishment of over two thousand SMCs, which served to reduce teacher absenteeism in the areas as well as rebuild and improve school infrastructure.[37]

SMCs have not proven effective where they have been monopolized by local elites or where members lack skills in effective monitoring, community, and resource mobilization.[38] This issue is a concern for the setting up of SMCs.

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36. Manning et al., "Devolution in Pakistan," p. 8.

37. USAID, *School Management Committees/Parent Teacher Councils: Experiences in capacity building of local institutions and their contributions to education in earthquake-affected Pakistani communities,* July 2010, http://www.air.org/files/RISE_Experiences_in_Capacity_Building.pdf.

38. Ibid.

4 INFORMAL AND HYBRID INSTITUTIONS

Like most people who live in places where state institutions have no significant presence, many Pakistanis rely on themselves or their families to find the people or resources needed to pay for private medical care or education, to resolve a dispute, or to protect their families or communities from crimes or attacks. In tribal areas, some traditional institutions still function, though at varying levels of capability. In rural areas, the dominant system of governance has long been feudal, with large landholders providing (or lending) land, seeds, and other agricultural inputs to tenants in exchange for some share of their crops and service. In many cases the landlords play a governmental or quasi-governmental role, either as elected representatives of the area or as influential intermediaries between tenants seeking favors or justice and weak or corrupt government officials. In urban and some rural areas, political parties play a similar role in connecting certain communities to needed services and in offering government jobs to supporters. Throughout the country, many religious leaders (the ulema) provide education through madrassas, mediate disputes, mobilize communities for self-help, or represent their followers' demands before the state. Finally, a wide range of civil society organizations provide services ranging from basic education and health care to advocacy for better governance or respect for political and human rights.

Not all of these systems function well. There are numerous cases of wealthy landlords exploiting sharecroppers and of religious leaders drawing their communities more deeply into conflict. In tribal structures in parts of Balochistan and KPK, similar to the landlord/tenant relationship, services are often provided in ways that impose significant obligations upon recipients. In many areas, however, there is no realistic alternative to these informal and quasi-governmental institutions. Where the state does not function, the alternative to bad governance is usually not good governance but no governance at all.

This chapter reviews some of these informal and hybrid (formal-informal) institutions, their evolution, and the roles that they have played in service provision.

The Landed Elite

Despite the urbanization that has been taking place over the past few decades, more than 60 percent of Pakistanis still live in rural, rather than urban, areas. Even before British colonists arrived, powerful landlords controlled vast inherited territories that they governed largely as feudal fiefdoms. During colonial rule, the British co-opted many of those landlords into the colonial order as a way of maintaining stability. After independence, the Muslim League government, under Muhammad Ali Jinnah, did the same. The advent of mechanized agriculture and a manufacturing sector, combined with a series of land reforms—aimed at reducing the amount of land any one individual could own—somewhat diminished the power of the landlords during the middle of the twentieth century. However, somewhere between a few hundred and a few thousand families

remained the largest property owners in Pakistan and many of them maintained or even increased their access to policy decisions. They were therefore able to retain their regional and national influence by entering government service as elected officials, political party officers, or government bureaucrats. As such, Pakistan's political class today is dominated by the country's landed elite, who wield influence partly through formal channels and partly through extensive family ties, or beradari, and patron-client networks.[1]

In fact, beyond the tenant-landlord relationship, the system that governs much of rural Pakistan today is the patron-client relationship. Elite landlords have the wealth and political connections necessary to exercise influence when they need to, often with little more than a phone call. So, for example, if a tenant has been a victim of a crime and the police refuse to investigate, or if sanitation services have been stopped, the landlord might be willing to encourage the investigation or the restoration of service. Most landlords probably would not claim to be doing this explicitly in exchange for support—to win votes in an election, for example, or to increase attendance at a rally to support or oppose some policy affecting his lands—but rather would speak of the act in terms of the obligations of the position. "If my tenants are happy with me, they work more efficiently on the lands," one landlord admitted to a reporter, but added:

> Believe me, if I could give this up, I would. It's a 24-hour job. I'd rather be hunting, or checking my crops. . . . The government should do its job. In every other country, government institutions are accessible and functioning. Why do I have to intervene when the police are corrupt? If the courts functioned, I wouldn't have to arbitrate. I only do this because nobody else is.[2]

Many tenants find that their landlord is more responsive to their needs than government officials, and in those cases this feudal/patronage system is relatively stable. However, many Pakistanis consider this system to be exploitative. For example, one year after the floods in Sindh, only half the refugees have returned home despite aid being set aside for them. "We will die here before we go back to those landlords," said one person at a displaced persons camp.[3]

While patronage can provide short-term benefits, the patron-client relationship—like the landlord-tenant relationship, which in many cases amounts to the same thing—is characterized by a significant power imbalance. Many tenants are deeply in debt to their landlords and, with no other job opportunities available, they are also entirely dependent on them for the income they need to repay the debts, a cycle that is nearly impossible for most Pakistanis in that position to escape. There have been many instances as well in which landlords have used their market position

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1. Information from this section comes from Haris Gazdar, "The Fourth Round, and Why They Fight On: An Essay on the History of Land and Reform in Pakistan," Panos South Asia, March 2009, http://www.panossouthasia.org; S.V.R. Nasr, "Pakistan: State, Agrarian Reform and Islamization," *International Journal of Politics, Culture, and Society 10*, no. 2 (Winter, 1996), pp. 249–272; Nick Manning et al., "Devolution in Pakistan—Preparing for Service Delivery Improvements," Working Paper prepared for Forum for Intergovernmental Relations and Service Delivery, June 22, 2003; Shahrukh Rafi Khan, Foqia Sadiq Khan, and Aasim Sajjad Akhter, *Initiating Devolution for Service Delivery in Pakistan* (Oxford: Oxford University Press, 2007); International Development Association (IDA), "IDA at Work: Pakistan—Rural Communities Push Back Poverty," World Bank, September 2009, http://worldbank.org.

2. Aryn Baker and Mirpur Bhutto, "Landowner Power in Pakistan Election," *Time Magazine*, February 13, 2008, http://www.time.com/time/world/article/0,8599,1712917,00.html.

3. Christian Parenti, "Pakistan one year after the floods," *The Nation*, June 28, 2011, http://www.thenation.com/article/161733/pakistan-one-year-after-floods.

in ways that have harmed poorer Pakistanis. During the 1950s, for example, landlord control over the price and supply of the country's grain stock led to a massive food shortage in the country.

In some instances, sectarian violence has emerged over the land issue. For example, in some districts of Punjab, such as Jhang and Bahawalpur, most landlords are Shi'a Muslims and most tenants are Sunni Muslims. Anti-Shi'a militant organizations—Lashkar-e-Jhangvi and Sipah-e-Sahaba—emerged in these areas when their founders channeled anti-Shi'a prejudice and tenant frustration at their poor economic position into violent action against Shi'ites; their main source of funding came from urban, middle-class Sunni traders who, having experienced the class divide in the countryside, gave generously to Sunni sectarian groups.[4]

There have also been instances in which landlords have provided services to their tenants to dampen discontent. For example, in the 1970 election campaign for prime minister, Zulfiqar Bhutto of the Pakistan Peoples Party (PPP) used as his campaign slogan "bread, clothes, land" and ran on a platform that included some radical land reforms (even though he himself was a large landholder, his main political constituency was the rural poor). To preempt those reforms by discouraging mass support for them, some landlords took steps to improve the quality of life of some tenants who lived on their lands. The reforms ultimately were not implemented, even though Bhutto won the election. In fact, with so many landlord families in powerful positions in government, certain land reforms—such as significantly increased taxation of large land holdings and agricultural products—have never been implemented.

Three main efforts have been made to reform this system in rural Pakistan. In 1959, Ayub Khan's government put a ceiling on the amount of land individuals could own (at 500 acres of irrigated and 1,000 acres of non-irrigated land) and as a result a significant amount of land was redistributed, although mainly to individual landlords' own family members. In 1972, Bhutto's efforts to further lower the ceiling for individual ownership (to 150 acres of irrigated and 300 acres of non-irrigated land) and to close loopholes in the 1959 law resulted in additional land redistribution, although less than 10 percent of tenants benefitted from the reforms. In 1977, Bhutto passed further reforms (lowering the ceiling to 100 acres of irrigated land), but his government was overthrown before they could be implemented.

Little action on land reform by the central government has taken place since then. The Muttahida Qaumi Movement (MQM) party introduced a land redistribution bill in October 2010 (to lower the ceiling to 30 acres), but given that MQM's base is mainly urban professionals in Karachi, that bill has not won enough legislative support to have any chance of ever passing.

To the degree that any progress on land reform has been made, it has been at the provincial level. For example, the governments of Punjab and Sindh are in the process of distributing small plots of government-owned land, including titles, to formerly landless peasants. Ten acre plots are being provided to peasants (mostly women) in Sindh and quarter-acre plots to 1,500 families in Punjab.[5] This is not technically a redistribution of land holdings, since these are government plots, but early efforts have given formerly landless tenants an ownership stake in the Pakistani political system.

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4. Muhammad Qasim Zaman, *The Role of Ulema in Contemporary Islam: Custodians of Change* (Princeton: Princeton University Press, 2007).

5. Roy Prosterman, "Want global security from terrorists? Give land to Pakistan's poor," *Christian Science Monitor*, October 26, 2010. Issam Ahmed, "Pakistan allots land to women in an effort to end a cycle of debt," *Christian Science Monitor*, March 23, 2011.

While Pakistan's landed elite still hold significant political power, their power has declined in recent decades. Mechanized agriculture in the 1960s, the advent of a manufacturing sector around the same time, weak land reforms, and increased rural-to-urban migration have reduced the concentration of political influence in the hands of landlord families to some degree. Still, while agriculture accounts for only 23 percent of Pakistan's GDP, it employs 44 percent of the workforce, so the continuing influence of these landholders is by no means insignificant.[6]

Religious Leaders

Some years ago in Chitral, where Sunni and Ismaili Muslims coexist with Kalash polytheists, a 14-year old Kalash girl was kidnapped, forcibly converted to Sunni Islam, and engaged to a Sunni man. As family members were on their way to rescue her and avenge her kidnapping, the highest-ranking Sunni leader in Chitral stepped in to mediate the dispute. He ruled that her conversion was illegal and ordered that she be returned to her family; the kidnappers complied and the dispute was resolved peacefully.[7]

Ulema, or Muslim religious scholars, have played an important role as the preservers of religious tradition and practice in Pakistan. Trained in Islamic jurisprudence and religious interpretation, they serve as mediators in religious disputes, facilitators of religious rites and ceremonies, and sometimes as mobilizers for political and social causes. To conduct their affairs effectively, they rely on training provided by religious seminaries or madrassas.[8]

Since Pakistan's creation, the ulema have assumed a wide range of sometimes contradictory roles. Initially, the ulema opposed the idea of Pakistan on the grounds that it was "alien to the philosophy of Islamic brotherhood."[9] Some ulema, who eventually supported the idea of Pakistan, were wooed extensively by the Muslim League under Muhammad Ali Jinnah.[10] Many, however, opposed the secular and Western educated leaders such as Jinnah and Liaquat Ali Khan. Notable organizations of ulema that exist today, such as the Jamaat-i-Islami, initially opposed the idea of Jinnah's Pakistan.

After the creation of Pakistan, the ulema who had traditionally concentrated on jurisprudence and traditional sciences engaged increasingly in political debates.[11] Following independence, the ulema began to pressure the Muslim League and to form a truly "Islamic" state. Some served as lobbying groups to call for more shari'a in state institutions and succeeded in the establishment of the federal shari'a court, others entered politics and formed religious and sectarian parties, and still others perpetuated their influence through the creation of madrassas and recruitment of

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6. Salahuddin Solaiman and Nisar Ahmad, "Plant nutrition for better farmer livelihood, food security and environment," South Asian Country Paper #4, Regional Workshop in Beijing, China, December 12–16, 2005, p. 58, ftp://ftp.fao.org/docrep/fao/010/ag120e/ag120e00.pdf.

7. Author interview with a resident of Chitral, August 2010.

8. Mumtaz Ahmed, "Madrassah Education in Pakistan and Bangladesh," Report of the Asia-Pacific Center for Security Studies (APCSS), February 2005, http://www.apcss.org/Publications/Edited%20Volumes/ReligiousRadicalism/PagesfromReligiousRadicalismandSecurityinSouthAsiach5.pdf.

9. Abdul Sattar Ghazali, "Islamic Pakistan: Illusions and Reality," http://www.ghazali.net/book1/index.htm.

10. Ishtiaq Ahmed, *The Concept of an Islamic State: An Analysis of the Ideological Controversy in Pakistan* (Hampshire: Palgrave Macmillan, 1987), p. 66.

11. Ghazali, "Islamic Pakistan: Illusions and Reality."

students.[12] Their focus on traditional studies made them increasingly irrelevant in the early years of Pakistan's independence, and their role in national affairs diminished for a time.[13] Their part in national policies and politics increased again from the 1970s onwards and their demands and activities gained momentum under General Zia's regime.

The Pakistani state, to either bolster its own legitimacy or curtail the influence of these ulema, has time and again co-opted them and appropriated some of their functions through the levying of Islamic taxes and management of madrassas (albeit poorly). However, despite these efforts, the ulema in Pakistan have maintained a significant degree of influence among their followers especially through the provision of religious education.

At the grassroots level, ulema engage directly with communities by leading prayers in mosques and by influencing them through sermons. These sermons are not limited to religious topics but are often pronouncements on political issues affecting their particular communities or even larger national and international issues.

There has been a continuing clash between the intelligentsia and the ulema. This clash manifested itself in the Ahmadi riots in Lahore during the 1950s, in which scores of Ahmadi Muslims were massacred or forced to flee the country. The ulema played an influential role as they wanted all Ahmadis branded as "kaffirs" or nonbelievers. A judicial enquiry's findings (conducted by Justice Mohammad Munir, following the riots, known as the Munir Report) found the ulema to be not just divided but also unfit to give any "realistic guidance on elementary matters of Islam."[14] The Munir Report also noted that "the court of enquiry was presented with the sorry spectacle that Muslim ulema differed sharply on the definition of a Muslim yet each was adamant that all who disagreed should be put to death."[15] Despite this, in 1974 the ulema were successful in having Pakistan's parliament declare Ahmadis to be non-Muslims.

Civil Society Organizations

Civil society in Pakistan has evolved considerably over the past six decades. It includes a broad range of nongovernment and community-based organizations, media groups, welfare and charity organizations, and think-tanks. In their own way these nonstate actors have sought to renegotiate political, social, and economic power dynamics in society and have also been instrumental in filling gaps in service provision.

One such successful effort was the Orangi Pilot Project (OPP)—a self-help initiative where residents of the largest squatter settlement in Karachi collectively developed a low-cost system of disposing their sewerage waste. While the OPP provided technical assistance to Orangi's residents, the community raised funds to design and sustain the sewerage system.[16] The OPP was

12. Mohammed Waseem and Mariam Mufti, "Religion, Politics and Governance in Pakistan," DFID Working Paper 27–2009, Lahore University of Management Sciences, 2009, http://www.dfid.gov.uk/r4d/PDF/Outputs/ReligionDev_RPC/WP27.pdf.

13. Afzal Iqbal, *Islamization in Pakistan*, p. 26.

14. Wilfred Cantwell Smith, *Islam in Modern History* (Princeton: Princeton University Press, 1955), p. 41.

15. Ibid., p. 215, cited in Abdus Sattar Ghazali, *Islamic Pakistan: Illusions and Reality* (Ann Arbor: University of Michigan Press, 1996).

16. Research and Training Institute, Orangi Pilot Project, "Low Cost Sanitation Program in Orangi," accessed October 25, 2011, http://www.oppinstitutions.org/low%20cost%20sanitation%20program%20in%20orangi1.htm.

later replicated in several areas, and the self-help model inspired rural support programs around the country, the largest of which is the National Rural Support Program (NRSP). Every province has its own Provincial Rural Support Program that works with district governments to assist with development and service delivery.

Microfinance organizations have also emerged in recent years to empower low-income women to earn their livelihood and generate income. Similarly, to overcome the myriad problems facing public education and health systems, various nonprofit organizations have set up teacher-training institutes, home-based schools, private clinics, and hospitals. These work with local governments to assist with the running of basic health units of the government and community schools, and provide services in monitoring these facilities.[17]

Advocacy and human rights groups have become more active in recent years to raise awareness on a host of social issues and hold the government accountable. These organizations have had to operate in an increasingly hostile environment as they have challenged, at times successfully, power relations between state and society. Those organizations include human rights groups, bar councils, student organizations, and women's rights activists that have formed lateral and vertical linkages with each other and community-based organizations and have increased their collective capacity to mobilize for social change.[18]

This increased capacity was evident in the 2007 lawyers' movement, when Chief Justice Iftikhar Chaudhry refused to step down following General Pervez Musharraf's order to do so. This generated a two-year long, mass movement of civil society activists, including lawyers, students, opposition leaders, artists, and media personnel. The protests intensified against Musharraf following the imposition of emergency rule in November 2007. They continued until Musharraf was compelled to resign in August 2008 and the judges were restored on March 22, 2009.

Since being deregulated by Pervez Musharraf, the media have become a relevant actor and have succeeded in raising awareness and leading debate on a variety of significant social, political, and economic issues. The rise of electronic media has given voice to numerous viewpoints and has served to enrich the discussion. One analyst described the current state of media in Pakistan: "It is, at once, sensationalistic, blood-thirsty, xenophobic, conspiratorial, humorous, investigative, and anti-government. And yet its arrival on the scene is more than welcome, first for providing the venue for disenfranchised interests and second because the alternative is much worse."[19]

Tribal Institutions

In some rural areas of Pakistan, old tribal traditions still exist—but there are very few such places remaining where these traditions have not been co-opted into other systems. Hints of tribal traditions and old non-tribal customs have survived the many disruptions Pakistan has faced over the past century and a half. However, they have evolved and become enmeshed in colonial and quasi-

17. The Citizen's Foundation (TCF), "About TCF," official website of TCF, http://www.thecitizensfoundation.org/TCFStory.aspx.

18. Ayesha Khan and Rabia Khan, "Civil Society and Social Change in Pakistan," Collective for Social Science Research Council, March 2004.

19. Ahsan Butt, "The Most Important Sociopolitical Trend in Pakistan in the Last Decade," AfPak Channel, *Foreign Policy,* December 28, 2009.

formal governance systems. In cases such as FATA, some tribal institutions enjoy real authority within their local communities but not beyond them. In other cases, some maintain the trappings of the old customs while embracing hard-line sectarian or religious attitudes introduced over time. These customary systems, which include not only the Pashtun tribal areas of FATA and PATA but also some tribal and traditional groupings in all provinces, are poorly understood within and especially outside of Pakistan. Customary governance in Pakistan gets little media attention beyond the context of the war in Afghanistan or a one sided debate on education services provided through madrassas.

Among the most important examples of hybrids between traditional or customary institutions and the formal governance system have been in the justice and security sectors. Informal tribal and village councils have long served as nonbinding dispute resolution mechanisms for village communities across Pakistan. A jirga (in KPK and FATA) or panchayat (in Punjab) is an assembly of elders (all male) in a community who convene to resolve disputes related to land, marriage, property, and similar issues. The jirgas and panchayats are state-sanctioned customary systems. In some cases they do not act in isolation but in conjunction with the religious authority of the local imam or the formal justice system. These institutions are often composed of members of landed families and tribal elites such as maliks, sardars, and jagirdars.

While decisions by these institutions are supposed to be nonbinding, especially if participants decide to take the matter to district courts, this is often not the case due to social pressures. A study on local justice mechanisms in Pakistan found that people prefer to use jirga systems. This was not necessarily because they feel justice will be delivered (jirgas and panchayats often reinforce communal and social hierarchies.) Instead, accessibility to cheap and speedy justice compels "rural litigants…to follow a strategy which balances between the desire for "justice", revenge, or honor on the one side, and the need to minimize costs and risks on the other, especially for the poor and less affluent claimants."[20]

Jirgas are designed to deliver verdicts on minor civil and criminal disputes quickly and inexpensively. While jirgas have indeed provided easy access to local justice to impoverished communities, they have become increasingly controversial given a series of brutal verdicts, directed mainly against women. Increasing attention on controversial and inequitable jirga or panchayat decisions led the Sindh high court to ban jirgas in April 2004, on the grounds that "jirgas are undermining or attempting to undermine the provisions of the Constitution."[21] This ruling was partly an attempt to encourage greater recourse to the formal courts, but also an effort to end discriminatory punishments. For example, before this ruling in 2003, 1,261 cases of honor killings were reported,[22] and most of these occurred through rulings from panchayats and jirgas. There is evidence of a relationship between jirgas and the growing incidents of violence against women,

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20. Richard Blue and Richard Hoffman (Management Systems International), Louis-Alexandre Berg (USAID), *Pakistan Rule of Law Assessment—Final Report*, USAID, November 2008, p. 10, http://www.usaid.gov/pk/downloads/dg/Pakistan_ROL_11-26-08.pdf.

21. Excerpt of the 48-page ruling on the banning of jirgas in Ardeshir Cowasjee, "A first step," *Asian Human Rights Commission Newsletter*, May 2, 2004, http://newsletters.ahrchk.net/qaumi/mainfile.php/Honor+Crimes/95/.

22. Ibid.

especially the cases of Karo Kari (honor killings) in Sindh.[23] However, government officials, the landed elite, and even local councillors continued to convene jirgas.[24]

Furthermore, after the ban, then chief minister of Sindh, Arbab Ghulam Rahim, drafted a law that nullified the Sindh high court ban for jirgas. This new ordinance (Sindh Amicable Settlement of Disputes Ordinance, 2004) in fact provides greater power and authority to the "naikmard" or jirga chief. This includes *suo moto* powers—the authority to pursue cases on its own initiative, rather than only those brought by a plaintiff—especially in cases that are "likely to cause bloodshed, murder, or breach of peace."[25] Additionally, the Ordinance limits the ability to appeal and rights to legal representation: "Notwithstanding anything contained in the law, no legal practitioner shall be permitted to appear on behalf of any party to a dispute before the naikmard."[26]

Mashars in traditional Pashtun society are respected community elders who govern the affairs of their respective tribes (qaum) and sub-tribes (khels) based on the unwritten tribal code called Pashtunwali. Each tribe or sub-tribe nominates a chief to represent them in tribal matters and these elders are considered the natural mediators and arbitrators within the community. In the tribal territories of Khyber agency, tribal elders rely on the qaumi or tribal jirgas to resolve disputes. The jirga is constituted by tribal elders who are chosen by parties to the dispute. Once the verdict is reached, the jirga is responsible for enforcing its decision. It does this by raising a lashkar or temporary militia that is dismantled as soon as the verdict of the jirga is implemented.[27] While qaumi jirgas have considerable legitimacy on the ground—in a recent FATA survey, 68 percent of the respondents favored qaumi jirgas over sarkari jirgas (official jirgas constituted by the Political Agent)—the perception is that the jirgas favor the rich over the poor and therefore are not always impartial.[28]

The Baloch jirga system is slightly less egalitarian than the Pashtun jirga system, which tends to be more consultative. The tribal chief, or sardar, sits at the apex of the jirga and decisions are prone to the commands of the chief. The Baloch jirgas are hierarchical in nature according to the status of the sardars and the position of the head of the jirga is hereditary.

Lashkars were also used to combat militancy. However, while they were effective in enforcing jirga verdicts, those that were raised to combat militancy have had mixed results. For example, in Khyber agency in 2008 there were at least four lashkars raised by various Khyber tribesmen to confront militant groups. The first to retaliate against militancy were the Mullagoris, a relatively less influential tribe that mobilized three thousand people. They focused on militant hideouts in the Shagai village and met with little resistance as the militants simply went into hiding. The Kalakhels and Zakakhels encouraged by the Mullagoris and assurances of government support,

23. Participatory Development Initiatives (PDI), *Role of Tribal Jirga in Violence against Women: A Case Study of Karo Kari in Sindh,* 2005, http://www.pdi.org.pk/reports/PDI%20Study%20on%20Role%20of%20Jirga%20in%20Honor%20Killing.pdf.

24. Beena Sarwar, "Jirga injustice," *Chowk*, November 15, 2004, http://www.chowk.com/Change/Jirga-injustice.

25. Clause 4 of the Sindh Amicable Settlement of Disputes Ordinance, 2004, cited in ibid.

26. Clause 5 of the Sindh Amicable Settlement of Disputes Ordinance, 2004 cited in ibid.

27. Author interview with Dr. Fakhr-e-Alam, director general, Directorate of Projects, FATA Secretariat, Peshawar, September 17, 2010.

28. Community Appraisal and Motivation Programme (CAMP), "Understanding FATA-Volume IV," FATA CAMP survey, December 2010, http://www.understandingfata.org/files/Understanding-FATA-Vol-IV.pdf.

followed suit.[29] Initially these lashkars achieved some success primarily because they were extended additional arms and equipment by the political administration. However, lack of coordination with the political authorities and inadequate support made the lashkars unable to thwart a sustained advance of militants. For example, the Shinwari lashkar was raised in late 2008, but incurred numerous casualties while battling Lashkar-e-Islami fighters who were better armed.

Law enforcement in Khyber is the collective responsibility of the Frontier Corps, a paramilitary force headed by the army, and the tribal police (which consists of levies and khassadars and falls under the purview of the political agent).[30] While the government provides arms to the levies, the khassadars are responsible for collecting their own arms and munitions. Without government support, the khassadars at times have been ill-equipped relative some of the better-armed militant groups operating in Khyber.[31] Direct threats by Lashkar-e-Islam leader Mangal Bagh have also intimidated khassadar forces. In 2009, for example, almost a thousand men left their positions despite assurances by the political administration regarding their safety.

There are two types of "levies" or tribal policemen in Balochistan—the federal levies and the provincial levies. Until 1979, the institution of the levies was administered through the Frontier Crimes Regulation (FCR), which was then replaced by the Criminal Law (Special Provisions) Ordinance of 1962, more popularly known as the Jirga Law. Since 1993, levies also bring cases before courts. In Qila Saifullah, for instance, 95 percent of the area of the district falls under levy jurisdiction, where there are 343 Federal levies and 158 provincial levies.[32] Areas under levy jurisdiction are called B areas, which are still subject to territorial responsibility, and tribal elders are technically supposed to adhere to national laws. The levy system is a form of community policing and is largely based on community "sanctioning." It is based on the concept of separation of watch and ward functions and investigation. The levies do not undertake any investigations. Their duties are confined to preventive action, arrest, and detention. When needed, investigations are conducted by revenue officers.

Federal levies tend to be hereditary positions, while provincial levies are recruited on the basis of merit. In each district, there are more federal levies because the older tribal districts historically had larger numbers of levy posts granted to them. Federal levies tend to be posted to remote areas. Within the federal levies, a certain number of posts are reserved for "sectional" levies—posts granted to a section of a tribe and rotated among various households. All levies report to the DAO (district administration officer).

There is an informal practice in levy areas in which people are given 24 hours to reconcile cases outside of the formal system. If reconciliation does not occur, a First Investigation Report (FIR) is registered. Often, relatives and friends intervene to bring about reconciliation to avoid the costs and time associated with going to a magistrate for dispute resolution. In many cases, the parties will also defer to the tribal elders (sardars).

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29. Rahimullah Yusufzai, "The Tribes Fight Back," *Newsline*, October 15, 2008, http://www.newslinemagazine.com/2008/10/the-tribes-fight-back/.

30. International Crisis Group (ICG), "Pakistan: Countering Militancy in FATA," *Crisis Group Asia Report,* no. 178 (October 21, 2009).

31. Ibid.

32. Author interviews with former District Management Group personnel: Rizwan Mehboob, Zubair Bhatti, and Ali Murtuza.

Levies exist in both Pashtun and Baloch areas of Balochistan, and are generally respected with regard to their policing authority.[33] However, certain officials, including the director general for levies and civil society organizations, are apprehensive, because they believe that levies are more amenable to the authority of their tribal chiefs in situations where their loyalty was put to the test.

There are also other examples of informal justice and dispute resolution mechanisms. For example, in Khyber Agency in FATA, the "Pirs of Landi Kotal," hereditary religious and spiritual leaders in Khyber who belong to the Barelvi school of thought, provide spiritual guidance and also solve disputes, notably within the Shinwari tribe. Over time, especially since the 1970s, mullahs have also come to increasingly play a role in jirgas and dispute resolution.

Traditional Healers

Informal health providers in Pakistan include hakeems (traditional healers) who use natural herbs to treat their patients, homeopaths, and others who use nonconventional medicines. "Most Pakistanis rely on *unani* (traditional) medicine, finding it efficacious, safe, and cost effective."[34] In an attempt to reach more people and ensure some safety levels, the National Institute for Health has set up a section on traditional medicine (tibb). The Unani, Ayurvedic and Homeopathic Practitioners Act was passed in 1965 to regulate qualifications and to register legitimate practitioners of unani and ayurvedic medicine. Official institutions and certificates for qualification were also established.[35]

At the district level, many NGOs run health clinics and ambulance services. Still others spread awareness on issues, including reproductive health and neonatal care. While there is much information available on health service provision and the role that NGOs play, a few notable examples are discussed here.

A promising recent trend includes partnerships between NGOs and more traditional entities, which provide greater reach. One such collaboration is the Ulema Project developed by PAIMAN, a Peshawar and Islamabad-based NGO focused on health provision for women and children. With the assistance of USAID, PAIMAN has supported informal networks to promote health service delivery. PAIMAN identified influential ulema in districts around Khyber-Pakhtunkhwa and Punjab who had large Friday congregations and who were willing to volunteer their time to improve healthcare in their communities. The ulema established central shuras (committees) in various districts and used their Friday khutbas (sermons) to communicate the importance of neonatal care to their congregations. A recent evaluation found that awareness among men attending these sermons in two districts, Khanewal and Dera Ghazi Khan improved by 20-25 percent, compared to those who had not been exposed to these sermons.[36]

Access to health services is also directly correlated with the patient's ability to pay. One promising initiative is Naya Jeevan (New Life), an NGO that provides health plans for uninsured

33. Author interview with Ejaz Haider, consulting editor, *Friday Times*.

34. World Health Organization, *Legal Status of Traditional Medicine and Complementary/Alternative Medicine: A Worldwide Review*, 2001, p. 79, http://apps.who.int/medicinedocs/en/d/Jh2943e/6.8.html#Jh2943e.6.8.

35. Ibid.

36. Pakistan Initiative for Mothers and Newborns (PAIMAN), *News Roundup*, no. 9 (October –December 2009).

low-income populations in urban centers of Pakistan. "In Pakistan, there are approximately 40 million low-income employees and family members. 99.3 percent of this population is uninsured and 97 percent of their health care expenses are out-of-pocket."[37] The NGO utilizes a micro insurance model via partnerships with corporations, schools, and individuals so that low income people have access to quality inpatient and ER trauma services.[38] Such a targeted health insurance scheme for low income individuals ensured that the underwriters had access to a much larger population, while making health care affordable for the poor.

Education: Madrassas and Private Schools

Many civil society actors are active in the education sector, and many notable NGOs have large education programs, providing solid alternatives to state-run schools in terms of education quality, infrastructure, and outreach. For example, the Citizen's Foundation was established by a group of philanthropists and concerned citizens who wanted to provide low-income families with quality education. They set up their own Teacher Training Institute in Karachi to provide training and support to teachers. Through public-private partnerships, they have established 660 schools with 92,000 children whose families earn less than $2 a day.[39]

Private school enrollment in Pakistan is a significant (and growing) phenomenon. In the early 2000s, 6.3 million children were enrolled in more than 36,000 private schools across Pakistan, an increase of more than 1000 percent in the past two decades.[40] Enrollment in private schools is highest at the primary level, where 35 percent of Pakistani schoolchildren attend these institutions. At the secondary and tertiary levels, students attending private schools make up about 25 percent of students country-wide.[41] In rural areas, parents often send their children to private schools because public schools simply do not exist, or are too far away to be convenient. For poor households in particular, parents consider the cost of school fees, proximity of the school, and quality of the education in deciding whether to send children to public or private schools. In many cases, private schools offer higher quality education than proximate public schools and have low school fees.[42]

Despite controversies surrounding madrassas, the vast majority of these institutions are providing important educational services to low-income families. The provision of religious education

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37. Kalsoom Lakhani, interview with Naya Jeevan Founder Asher Hasan, February 23, 2010, http://changinguppakistan.wordpress.com/2010/02/23/providing-health-care-for-pakistans-urban-poor-qa-with-naya-jeevan-founder-asher-hasan/.

38. Naya Jeevan, "Why Naya Jeevan?" Naya Jeevan official website, http://www.njfk.org/whynayajeevan.php.

39. The Citizen's Foundation (TCF), "About TCF," official website of TCF, http://www.thecitizensfoundation.org/TCFStory.aspx.

40. Private school enrollment varies by region and population density and the statistics included here are for Pakistan as a whole. For example, private school enrollment is growing faster in rural areas than urban ones. Tahir Andrabi, Jishnu Das, and Asim Ijaz Khwaja, "A Dime a Day: The Possibilities and Limits of Private Schooling in Pakistan," World Bank Policy Research Working Paper 4066, November 2006, pp. 3–4, http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2006/11/10/000016406_20061110130153/Rendered/PDF/wps4066.pdf.

41. Ibid., pp. 3–4.

42. These data come from a 2001 study on school choice of low-income households in Pakistan, commissioned by the World Bank and published in the *Journal of Human Resources.* Harold Alderman, Peter F. Orazem, and Elizabeth M. Paterno, "School Quality, School Cost, and the Public/Private School Choices of Low-Income Households in Pakistan," *Journal of Human Resources* 36 (Spring 2001): 304–326.

is also the leading source of employment and nonprofit activity in Pakistan.[43] There are anywhere between 10,000-20,000 madrassas currently operating in Pakistan, with more than a million students enrolled.[44]

Little data are available on madrassa enrollment and why parents choose to enroll their children in those schools, but some pertinent findings are found in the World Bank's research through its Learning and Educational Achievements in Punjab Schools (LEAPS) program. The study examines trends in three different types of scenarios, where there are: both public and private schools; either a public or private school; or neither public nor private schools.

In the first and second scenarios, madrassas account for less than one percent of all enrolment, regardless of income. In the third scenario, where there are no public or private schools, "families are more likely to exit from the educational system altogether rather than enroll their child in a madrassa."[45] There are geographical variations—madrassa enrolment is proportionally greater in the Pashtu speaking areas bordering Afghanistan. However, there was no evidence that Pashtun households were more likely to send their children to religious schools. Rather, geopolitical factors and geographical proximity to Afghanistan were the main factors contributing to madrassa enrollment. Last, and significantly, there was no evidence supporting the claims that radical religious beliefs led families to enroll their children in madrassas. More than 75 percent of all households that send one child to a religious school send their other children to other types of schools.[46]

An often cited problem with madrassas is the lack of monitoring and evaluation of the schools, teachers, and curriculums. However, this holds true for private sector education in general. The standards and quality of education and curriculum in private, nonreligious schools are also disturbing, and sectarian inclinations and biased Islamic teachings are also common outside the madrassas. Furthermore, the most pressing problem lies in the Government of Pakistan's reluctance to close down those madrassas that are genuinely, and openly, inflaming sectarian and jihadi conflict. The Musharraf government pledged to change the status of madrassas and to integrate them into the formal education sector. However, these pledges went nowhere and the madrassa reform law has still not been passed.

In August 2001, the Pakistan Madrassa Education Board (PMEB) was established to develop "model" madrassas and start a reform process. This reform process was to include curriculum development, which made mandatory courses including mathematics, English, and social studies. However, there was a strong backlash from the religious ulema, who eventually agreed to adopt the additional subjects on the condition that they would still develop the textbooks and curriculum. As a result, the PMEB was unable to make significant progress in modernizing curricular or changing the balance of studies towards formal education.[47]

Some madrassas have reformed of their own volition and provide quality education. For example, the Sindh Madressah-tul-Islam (SMI) Board, established in 1885 in Karachi, has expanded

43. Khan and Khan, "Civil Society and Social Change in Pakistan."

44. ICG, "Pakistan: Madrassahs**,** Extremism and the Military," *ICG Asia Report 36* (July 29, 2002), http://merln.ndu.edu/archive/icg/pakistanmadrasasextremismandthemilitary.pdf.

45. Tahir Andrabi, Jishnu Das, Asim Ijaz Khwaja, and Tristan Zajonc, "Religious School Enrollment in Pakistan: A Look at the Data," World Bank, 2005, p. 18, http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469372&piPK=64165421&menuPK=64166093&entityID=000112742_20050228152509.

46. Ibid., p. 20.

47. ICG, "Pakistan: Karachi's Madrasas and violent extremism."

to provide education beyond religious training to poor children and has also developed links with higher institutions. SMI set up the Quaid-e-Azam Public School (QAPS) through which they provide primary, secondary, and higher education. In addition, the organization has developed a skill development center, a college of medical sciences, and a homeopathic institute of technology.

Given the historical and ideological role that madrassas have played in Pakistan, reform and monitoring efforts are a more appropriate response than abolishment. With sufficient support, a number of promising current initiatives have the potential to help in reforming madrassa curriculums and bringing them closer to the formal education system. The Pakistan National Madrassa Oversight Board has initiated a comprehensive training program for madrassa teachers, being implemented as part of a long-term strategy developed by the International Center for Religion and Diplomacy, a Washington-based NGO that works to resolve identity-based conflicts through attention to the role of religion. However, ad hoc successes will not alter the system. Instead, a dedicated and concerted efforts by donors, civil society organizations, and the government, who can pressure and influence local clergy and teachers to participate, is essential.

5 MILITANT GROUPS AND SERVICE PROVISION

Depending on ideological factors, regional politics, and the demands of external actors, Pakistan-based militant groups have developed a wide variety of strategies and tactics with regard to governance and service provision. This chapter provides an overview of the militant landscape in Pakistan and then discusses the involvement of some militants in disaster response, justice, security, health, and education.[1]

Many militant groups have nonreligious motivations for their use of violence. These include secessionists (e.g., nationalists in Balochistan), political sectarians (e.g., MQM in Sindh), organized criminal networks (e.g., trucking mafias and opium traffickers), warlords (e.g., military commanders from the Afghan civil war), and tribal militias (e.g., *arbakai* in Afghanistan, *lashkars* in Pakistan), among others. Their activities are certainly relevant to Pakistan's stability, but they tend not to have objectives that affect U.S. interests in any direct way—or their activities have not become a direct concern to most U.S. observers—so they are not discussed here.[2]

Most of the militant groups of concern to U.S. policymakers are associated with religious ideologies. Recruitment generally centers around religious schools *(madrassas)* and mosques, which are sect-specific (either Shi'a or one of the main Sunni sects: Deobandi, Barelvi, or Ahl-e-Hadith). However, not all religious militants attack members of other religious sects (e.g., Sunni *versus* Shi'a, Deobandi *versus* Barelvi). Islamists have pan-Islamic political objectives (e.g., an Islamic state), while self-declared *jihadi* groups see themselves as defending Muslims in Afghanistan or Kashmir against non-Muslims. (These categories are not mutually exclusive; for example, some jihadis defend Muslims they consider "good" against those they consider heretics.) Beyond these differences in objective (i.e., sectarian, political, or defensive), religious militants are further differentiated by their strategies (e.g., how they define the "near enemy": India, Pakistan, or Afghanistan) and tactics (e.g., whether they permit suicide attacks or allow the killing of fellow Muslims).

Some militants, such as the Tablian-affiliated insurgents fighting the Afghan state, have sought explicitly to establish an Islamic state in the region. Others have mixed political and religious motives. For example, the political party Jamaat-e-Islami established the militant groups Islami Jamiat Tuleba and Hizb-ul-Mujahideen as the coercive arms of its movement. Some groups have been interested less in establishing an Islamic state than in enforcing their interpretation of Islamic law (shari'a) locally. Among these are groups that have established mosque-based private courts to resolve disputes, or have established private enforcers to punish behaviors considered immoral or un-Islamic. For example, Tehrik-e-Nifaaz-e-Shariat-i-Muhammad, or TNSM, began as a peaceful

1. Information from this introductory section is drawn from Mufti, *Religion and Militancy in Pakistan and Afghanistan*.

2. U.S. policymakers should pay more attention to some of these groups, however, as they do have a direct effect on Pakistan's internal stability, even if not on U.S. interests.

movement but evolved into a militant group, with armed enforcers, that by 2009 came to control Pakistan's Swat valley region.

With respect to service provision, some groups have engaged in charitable activities, providing stipends to the families of members killed in action, emergency assistance to victims of disasters (such as the massive flooding in Pakistan in 2010), free religious education to poor children (usually including room and board), and even some limited health services. Some charities in Pakistan are splinters or direct creations of militant groups, making the nature of their continuing relationship unclear—this has been an issue with Jamaat-ud-Dawa and Lashkar-e-Taiba.

Much of this activity—dispute resolution, shari'a enforcement, and service provision—takes place in environments where state institutions are absent, weak, or corrupt. That has led to a great deal of speculation about what motivates militant groups or their affiliated charities to provide services in such areas—whether their motivations are mainly strategic (to win support, or to recruit fighters, as in insurgent commander Gulbuddin Hekmatyar's high school in an Afghan refugee camp in Pakistan), mainly religious (as part of the *da'wa,* or call to Islam), or some combination of both. Under the Islamic concept of *da'wa,* religion is not confined to the private space of an individual's life but is central to the organization of society. In addition to efforts at religious revival or conversion, therefore, expressions of *da'wa* can include free medical clinics, soup kitchens for the poor, subsidized housing, and other forms of mutual assistance, which often substitute for ineffective or nonexistent government services.[3] Even for charitable groups with clear militant leanings, it is not a straightforward matter to determine whether service provision, social welfare, and charity are part of a hidden agenda to attract support, or simply expressions of *da'wa.* And if *da'wa* is their strategy, there is no clear evidence that it gets militants much more than access to recruits and charitable excuses for raising money.

Most militant groups have not experienced sustained success in, and advantage from, service provision. Rather than providing security, these groups are often simply using intimidation to maintain territorial and social control. Justice is rarely carried out for the good of the people, and only a tiny minority of religious schools is militant-run. Militant groups rarely provide health care, and disaster recovery is mainly carried out for propaganda purposes. While service provision has won some militant groups tactical or short-term benefits, few have managed to hold on to those gains for long. In short, concern over militants' winning community loyalty and supplanting local governments is overblown. In most cases, that is not how they gain strategic advantage.

Disaster Response

After the Pakistan floods of 2010, many were concerned that the lack of government response would yield space for militant groups to move in to provide state-like services and gain popular support. Numerous articles were written about the danger of and extent to which groups such

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3. For example, in Lebanon, Hezbollah, the "Party of God," has developed an extensive social welfare system that involves educational, agricultural, medical, and housing assistance. In Beirut's Bir-al-Abid quarter, it runs a supermarket cooperative selling products below retail costs. In the United States, the American Muslim Council emphasizes the need to develop "social service institutions." In Jordan, the Islamic Hospital is highly valued. In Malaysia, the Muslim Youth Movement talks about ideological outreach, and the Darul Arqam operates a public clinic, farms, and factories for the production of *hilal* food. Such welfare activities are said to strengthen the communitarian basis of Islamic groups and to serve as the groups' power seeking strategies.

as JuD and others were providing large-scale services.[4] That militant groups provided services is clear. For example, Falah-e-Insaniyat (an offshoot of JuD) is known to have provided food and other relief aid to victims. Similarly, the fundamentalist Haqqania Madrassa, from which many senior Taliban members graduated, converted itself into a shelter and provided relief aid to as many as 2500 victims.[5] Though there is little evidence of the TTP providing flood relief, a Taliban spokesman did announce the TTP's willingness to pay $20 million for aid if the Pakistani government returned all aid received from the United States. Furthermore, they were willing to undertake rescue and relief work if their security was assured.[6] Similar examples of how militant groups had gained space through their relief efforts were cited after Pakistan's 2005 earthquake.

It has since become clear that, while militant groups did indeed provide relief aid and other services after the 2005 and 2010 disasters, the actual amount and the extent of their efforts was insignificant. For example, only 29 camps were found to be run by militant groups, compared to more than 5,000 run by the government.[7] A number of analysts have also argued that militant groups' relief efforts are insignificant for a variety of reasons. First, they operate in a restricted space and do not have the capacity to challenge or compete with well-established NGOs and international aid organizations. Media coverage and hype for service delivery efforts actually credit these groups with power and abilities that they simply do not have.[8] Militant groups also had limited influence among flood victims because of a general skepticism about the militant groups, and the fact that the flood victims were more concerned about day-to-day survival than about engaging a particular ideology.[9] The former CIA Chief of Station in Islamabad, Bob Grenier, is reported to have said: "I don't see the situation posing a great opportunity for radical organizations such as [the banned] Jamaat ud-Dawa (JuD) to gain mass appeal at the expense of the government and of the Army for their response to the crisis. I suspect that radical Islamic organizations are themselves overwhelmed by the scope of the calamity."[10]

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4. Marisa Porges, "Terrorists Capitalize on Pakistan's Floods: Weak government aid efforts are an opening for local extremists," Editorial, *Wall Street Journal,* August 18, 2010, http://online.wsj.com/article/SB10001424052748704868604575433363010822310.html; "Militant-linked charities step in to fill aid vacuum left by Pakistan authorities in flood aftermath," *Daily Mail,* August 3, 2010, http://www.dailymail.co.uk/news/worldnews/article-1299872/Pakistan-floods-Militant-groups-step-aid-vacuum-left-authorities.html; and Shuja Nawaz, "Can Zardari delivery the aid?" Opinion, *New York Times,* August 23, 2010, http://www.nytimes.com/roomfordebate/2010/08/23/can-us-disaster-aid-weaken-the-taliban-in-pakistan/can-zardari-deliver-the-aid.

5. Porges, "Terrorists Capitalize on Pakistan's Floods."

6. A *Jang* article from August 11, 2010, referenced in Mufti, *Religion and Militancy in Pakistan and Afghanistan*.

7. Ambassador Hussain Haqqani, remarks made at conference "Pakistan's Floods: The Road Ahead with Ambassador Haqqani," Georgetown University, November 15, 2010, referenced in C. Christine Fair, "Averting Our Eyes: The Shameful International Response to Pakistanis' Suffering," *Huffington Post,* November 16, 2010, http://www.huffingtonpost.com/c-christine-fair/averting-our-eyes-the-sha_b_784325.html.

8. C. Christine Fair, "Not at the forefront of flood relief," AfPak Channel, *Foreign Policy,* September 20, 2010, http://afpak.foreignpolicy.com/posts/2010/09/20/not_at_the_forefront_of_flood_relief.

9. Hassan Abbas quoted in Farhana Qazi, "Militants on the move in Pakistan," AfPak Channel, *Foreign Policy,* August 27, 2010, http://afpak.foreignpolicy.com/posts/2010/08/27/militants_on_the_move_in_pakistan.

10. Bob Grenier, former CIA chief of station in Islamabad, quoted in Farhana Qazi, "Militants on the move in Pakistan," AfPak Channel, *Foreign Policy,* August 27, 2010, http://afpak.foreignpolicy.com/posts/2010/08/27/militants_on_the_move_in_pakistan.

Justice and Security

The justice sector in Swat presents one of the most obvious examples of militant groups successfully providing a statelike function for a short period. The lack of government-sanctioned access to justice was, in fact, cited often as one of the main reasons for the rise of militancy in Swat.[11] In the absence of timely dispensation of justice and an increasingly backlogged court system, the 1990s saw an increase in the demands for Shari'a law. The Tehrik-e-Nifaz-e-Shari'at-e-Mohammadi (TNSM), or the Movement for the Enforcement of Islamic Law, founded by Sufi Muhammad in 1992, gained popularity in the 1990s for its efforts to influence the government to introduce Shari'a law in Swat. Though TNSM was heavily influenced by Wahabi and Deobandi teachings, and most people in Swat were not used to this more stringent form of Islam, TNSM still had popular support because people viewed Shari'a as a more efficient system of justice, when compared to the status quo.

TNSM began to support the Taliban in Afghanistan and also fought against the U.S.-led military operation that began after 9/11. Though President Musharraf banned TNSM in 2002, the group successfully increased its influence in Swat and the surrounding areas, under the leadership of Maulana Fazlullah (Sufi Muhammad's son-in-law). With the support of the Tehrik-i-Taliban Pakistan (TTP), TNSM embarked on a violent campaign of public executions and targeted killings. However, as its dispensation of justice—the very factor that led to its rise in the area—became more violent and less equitable, it lost popular support from the Swatis.[12] The targeting of people in Swat went beyond politicians and law officers as the group's laws became more stringent and inhumane. For example, members of TNSM killed a well-known female dancer and dumped her body in a public place. In 2009, a successful army operation regained control in Swat.

Even today, as the transition in Swat from a military to civilian administration looms closer, access to justice remains the greatest concern.[13] While the experience of Swat shows that militant groups did attempt to provide state-like services, they were unable to successfully retain popular support and provide justice services adequately. What is worrying, though, is that this experience may provide a learning curve to groups like TNSM.[14]

The responsibility to provide services in a timely and equitable manner largely falls on the democratic government of Pakistan. However, in this space, any mix of public, private, or civil society provision of services can prevent militant groups' gaining influence. Arbitration courts like the Mussalihat-e-Anjuman (institutions that build of the traditional jirga and panchayat system, but are also part of the formal justice system) may prove an answer to the easier disputes. However, lack of capacity, training, and a backlogged district court system need to be urgently addressed.

Khyber agency in the FATA region provides another example in which militants have managed in the past to gain a strong foothold because of their service provision capabilities, especially with regard to justice. The traditional justice-oriented tribal structures such as the jirgas and

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11. Adnan Aurangzeb, former member of the National Assembly, "Access to Justice: A historical perspective," unpublished manuscript, March 2009.

12. Owen Bennet Jones, "Tide turns against the Taliban," BBC News, May 21, 2009, http://news.bbc.co.uk/2/hi/south_asia/8059900.stm.

13. Author interview with General Athar Abbas, director general, Inter Services Public Relations (ISPR).

14. Ibid.

qaumi jirgas have been eroded as militant groups have emerged. Militancy and terrorist organizations have gone out of their way to target tribal elders and to destroy the traditional social fabric of Pashtun society and authority.[15] The emergence of a generation of men inspired by Deobandi teachings in madrassas has led to a clash between the traditional structures and tribal elders. Men who have joined the Taliban or groups such as Lashkar-e-Islam do not recognize tribal lineages and leaders or their authority to regulate tribal affairs.

These groups have also engaged in vigilante justice. Many disputes are brought to them from communities themselves, in the absence of any other working and equitable system of alternate dispute resolution. Many communities prefer not to employ the jirga system for dispute resolution, as it is often inequitable toward the poor. Enforcement of verdicts is easier for those who are better armed.

Khyber Agency was relatively peaceful until 2003, when the first signs of organized militancy emerged. A Khyber tribesman, Haji Namdar, inspired by the Taliban,[16] set up an organization called the Promotion of Virtue and Prevention of Vice,[17] that enforced his strict Deobandi version of Islam in order to "reform" his community.[18] Namdar shut down music shops, forced men to grow beards, and began monitoring attendance at local mosques. Violators were thrown into private prisons that he named Abu Ghraib and Guantanamo, after the notorious U.S. military prisons.[19]

However, the most potent example in Khyber is that of Mangal Bagh (the head of Lashkar-e-Islam) and his provision of justice services through the parallel legal system he set up in Khyber Agency. Similar to the TNSM in Swat, Bagh largely came to power with popular support, especially because he was able to provide speedy justice. For example, in 2008 a widow brought a land dispute (which had already resulted in deaths of her family members) to Bagh as she had no faith in the government's ability to protect her or provide justice.[20] Similarly, wealthy families who were targeted in kidnappings and for extortion turned to Bagh for help. For a fixed fee, he provided them protection and recovered their family members. The government of Pakistan allowed Bagh to operate in this manner, due to its own inability to provide the same services in Khyber Agency.[21]

Mangal Bagh's popularity has suffered the same fate as TNSM in Swat. Justice services that were initially provided speedily and equitably soon became more militant and discriminatory against those who were more moderate. Actions such as the execution of men and women charged

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15. Ahmed Rashid, *Descent into Chaos: The United States and the Failure of Nation Building in Pakistan, Afghanistan, and Central Asia* (New York: Viking Press, 2008).

16. When the Taliban ruled Afghanistan (1996–2001), they had set up a Ministry of Prevention of Vice and Promotion of Virtue to enforce the government's strict social code of behavior, dress, etc.

17. Author interview with Shafeerullah Wazir, Khyber political agent, Peshawar, Pakistan, September 17, 2010.

18. The word "Deobandi" derives from a revivalist Islamic movement that began in Deoband, India, in 1864 and aimed to resist colonial influence by returning to the fundamental values of Islam.

19. Raheel Khan, "The Battle for Pakistan: Militancy and Conflict in Khyber," Policy Paper, Counterterrorism Strategy Initiative, New America Foundation, April 19, 2010, pp. 2–3, http://counterterrorism.newamerica.net/sites/newamerica.net/files/policydocs/khyber_1.pdf.

20. "Family demands of Mangal Bagh to get rid of Gul Baz," Pakistan Press International, March 28, 2008, http://www.highbeam.com/doc/1G1-177252811.html.

21. Author interview with Shafeerullah Wazir, Peshawar, September 17, 2010.

with adultery led to a decline in his popularity. Bagh also took on a more active militant role for his own advantage. For example, land conflicts that he had with Afridi tribesmen led to violent clashes and many civilians were caught in the middle.[22]

Until the government pursued him in 2009–2010, people continued to support Bagh out of fear and intimidation.[23] Now, even though Bagh's influence is limited to the Tirah Valley, the continuing absence of formal governance structures that cater to justice needs leaves a wide gap that can be filled by other militant groups. The ongoing discussions surrounding Bagh's appeal to the Taliban for assistance in Khyber[24] proves especially worrying, given the existing governance gaps and the Taliban's history of providing swift but extremely brutal justice.

Similarly, in Kurram Agency, the Haqqani leadership has sought to create strategic space by resolving disputes between warring factions. The Haqqani network, considered to be the most influential group of militants operating against NATO and coalition forces in Afghanistan, was recently involved in mediating sectarian conflict between the warring Bangash and Turi tribes in Kurram Agency. Since 2007, sectarian violence in the Parachinar area of Kurram has claimed more than 3,000 lives. Earlier in 2006, the Shi'a Turis had been reluctant to allow any kind of Taliban presence in Kurram. However, the Pakistani government's failure to effectively broker peace in the region over the past three years has led warring tribes to turn for help to the Haqqani network, which had earned a reputation for mediating disputes among the various factions of the Pakistani Taliban. Kurram strategically borders the provinces of Khost, Nangarhar, and Paktika in Afghanistan. By leading a peace agreement between rival tribes, the Haqqani network hoped to gain a foothold in the agency.[25] Upon successfully brokering an agreement between the two tribes in October 2010, the Shi'a tribes allowed the Haqqanis access to Afghanistan through their territory.[26]

Health and Education

Health remains an area in which militant organizations do not really provide services. Militant groups may prefer to provide services such as justice and education that allow them to extend their influence while also influencing the communities' belief systems.

Some Deobandi-influenced organizations do provide health services, but they are believed to be apolitical and non-militant. Those organizations set up medical tents in remote areas to provide medical aid.[27] Anjuman-e-Khudamuddin (Organization of Servants), which is affiliated with a faction of JUI claims to do Rs 5 billion worth of charity on an annual basis. Ahl-e-Hadith-inspired Markaz ud Dawa al Irshad has a complex at Muridke, in Punjab, which is said to have a convoy

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22. Imtiaz Ali, "Khyber Agency—The new hub of Islamist militancy," Jamestown Foundation, May 29, 2008, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=4952.
23. Author interview with Raheel Khan, New America Foundation, November 22, 2010.
24. "Bagh seeks Taliban help in fight for Khyber," *Express Tribune*, April 6, 2011, http://tribune.com.pk/story/144069/bagh-seeks-taliban-help-in-fight-for-khyber/.
25. "Haqqani's Two Sons Mediating in Kurram," *Dawn*, October 21, 2010, http://news.dawn.com/wps/wcm/connect/dawn-content-library/dawn/the-newspaper/front-page/haqqanis-two-sons-mediating-in-kurram-100.
26. "Deal gives Haqqani network new Afghan access," *Daily Times,* November 28, 2010, http://www.dailytimes.com.pk/default.asp?page=2010%5C11%5C28%5Cstory_28-11-2010_pg7_6.
27. Amir Rana, *A to Z of Jihadi Organizations in Pakistan* (Lahore: Mashal Books, 2007).

of mobile clinics and blood banks. The Barelwi Barkati Trust is also known to run a hospital in Karachi.

Other than the few examples above there are no significant instances of militant organizations providing health care outside disaster zones.

Unlike the health sector, militant organizations have had a significant presence in education in Pakistan. While madrassas were discussed in more detail in the informal governance section, it is worth noting that militant organizations do use madrassas to influence youth. However, while some madrassas such as Jamia Hafsa, the seminary attached to the Red Mosque which led to a military operation in Islamabad in 2007, are "militant" in nature, insufficient research is available on the full reach of these operations. It is clear that providing educational services allows militants an opportunity to spread their ideologies.

6 SUMMARY AND RECOMMENDATIONS

Summary

Governance gaps look different in different places; how Pakistanis are governed depends on where they live. Pakistan has multiple systems of subnational governance, with some areas governed by the provincial or district governments, some administered directly by the federal government, some autonomously governed, some with special status, and some officially governed in ways that do not match their legal status. In some cases, that creates confusion with respect to who has authority over different types of decisions and services. But even where roles and responsibilities are clearly delineated, the quality of governance is not very high in most of the country—significant problems of official corruption and poor management exist at all levels. Traditional institutions, patronage networks, criminal organizations, and insurgents all have been pretenders to the throne of local governance in one place or another.

Two of the main contributors to the confused lines of formal authority in Pakistan have been the relationship between the central government and the four provinces, and the relationships between the provincial governments and their districts.

- The main source of tension between the center and the provinces has been ethnic, as the central government and military are dominated by Punjabis who have historically been reluctant to devolve authority to smaller provinces and the ethnic groups that dominate them. This has been the leading factor, for example, in the Baloch separatist movement, and the earlier nationalist movements by Pashtuns, Sindhis, and Urdu-speaking Muhajirs.
- Province-district tension has mainly been due to politics. Elections at the district level and below have only ever taken place in Pakistan's history when there have been military governments at the center. Those local elections have always been on a non-party basis, which has enabled independent local politicians to emerge outside of the major political parties (which dominate the provincial governments), thereby giving the military governments a base of support outside the party system. Consequently, when civilian governments—elected on a party basis—have held power in the center, the major parties have had an incentive not to hold local elections. Instead, provincial governments have used an earlier system under which they appoint a district commissioner (DC) as the primary administrator at the district level. This has created tensions with local independent politicians and smaller parties, especially those who once held elected office but now are marginalized.

During Gen. Pervez Musharraf's tenure as president (1999-2008), he passed the Local Governance Ordinance (2001), which followed this same pattern: the LGO devolved significant authority from the provinces to the districts by abolishing the provincially appointed DC position and separating its powers among multiple institutions: a nazim (mayor), elected on a non-party basis;

a district coordinating officer (DCO), appointed by provincial governors and subordinate to the nazim; multiple executive district officers (EDOs) to oversee service delivery through line ministries; and district courts and institutions for speeding dispute resolution. These moves generally improved Pakistanis' perceptions of service delivery and inclusion in many areas, at least until the economic recession of 2008, and built new institutional constituencies (e.g., district judges) for the separation of powers.

After Musharraf left office and was replaced by a civilian government, the National Assembly unanimously passed the Eighteenth Amendment to the constitution, in January 2010. The Eighteenth Amendment broke the pattern of previous civilian governments in that, instead of abolishing local elections, provinces were now constitutionally required to hold local elections. In addition, it clarified the division of labor between center and province by definitively devolving responsibility for dozens of types of services from central ministries to provincial ministries. And rather than specifying the structure of local governance that provinces would be required to implement, the Eighteenth Amendment left it to the provinces to design their own local structures.

While this reform settled the center-province tensions, it did not settle the province-district tensions. As the LGO lapsed, the nazims' terms in office also ended, leaving them without a position, and the DCOs, previously subordinate to the nazims, acted as unelected district administrators. Moreover, none of the provinces held local elections within the time required—nor since. Real ambiguities therefore exist regarding who has authority at the local level. This became particularly problematic later in 2010 when massive flooding challenged the capacity of government at all levels, and the ambiguities at the local level delayed the response in many areas. In all provinces, the politics of how to structure local governance—for example, whether nazims are to be subordinate to DCOs or vice versa, and whether judicial authority will remain separate from the executive as it was under the LGO—still has not been settled. Still, the unanimity of the Eighteenth Amendment's passage, the fact that local elections are now constitutionally required, and the institutionalization of constituencies for these reforms all make it more likely than not that these reforms eventually will take place in a way that is generally conducive to stability.

The U.S.-Pakistan relationship has a very complicated history, and recent events—particularly the discovery and killing of Osama bin Laden in Abbottabad, and the Raymond Davis scandal that preceded it—have only demonstrated how complicated it is. Still, changes to U.S. policy, particularly on security cooperation and foreign aid, have aligned American activities and programs more closely with strategic imperatives and local realities than they had been before 2009. But the new policies and programs are still in the very early phases of implementation, and progress will not come quickly—if at all. It is unlikely, for example, that the United States can play anything more than a catalytic role in improving Pakistan's capacity for stabilization, and not even that will be possible as long as some Pakistani institutions continue to believe that supporting certain anti-American and anti-Indian militant groups serves Pakistan's strategic interests.

Despite the many challenges to governance and stability that exist in Pakistan, the risk that some group or coalition of religious militants could take over the Pakistani state, the way the Taliban movement ended up controlling most of Afghanistan in the 1990s, seems exaggerated. A change in government is more likely, and the main risk there is that, if some of the smaller militant or populist parties need to be brought into the governing coalition, the new government's platform might need to include some policies that could compromise economic stability or the security of minorities. If insecurity were to grow in too many places at once—due to population movements from Afghanistan, political violence in Karachi, the growing separatist movement in Balochistan,

increasing activity by anti-state militants, or anti-government protests that turned violent—the security forces could become stretched too thin to effectively enforce order, protect nuclear materials, and prevent the emergence of militant safe havens.

Despite countervailing trends—such as the demonstrations in *support* of the man who assassinated Punjab Governor Salman Taseer for opposing the death sentence of a religious minority accused of blasphemy—there are reasons to be hopeful regarding the capacity and willingness within Pakistani society to counter militancy. The Eighteenth Amendment certainly is a move in the right direction. A recent military review is likely to lead eventually to increased military professionalization; the Pakistan Army has already demonstrated its capacity to counter militants when it wants to, as it did in Swat and South Waziristan. In general, Pakistanis are theoretical Islamists and operational democrats: they support shari'a and anti-blasphemy laws in general terms, but in practice they do not vote for religious militant political parties to any significant degree, and tend to express real disgust at some of the punishments meted out by shari'a enforcers (e.g., flogging, forced marriage, amputation, and beheading). Many young professionals yearn to leave Pakistan because of high levels of corruption and poor economic performance, and that is a sign they have little hope for the future—but it also suggests a strong demand for good governance and political and economic stability.

The Enhanced Partnership with Pakistan Act (EPPA), popularly known as the Kerry-Lugar-Berman bill (KLB) after its sponsors in the U.S. Senate, was signed into law by President Obama in October 2009. The EPPA was designed to triple the amount of U.S. aid to Pakistan to $1.5 billion per year for five years, align that aid more closely with U.S. and Pakistani priorities, and impose new accountability mechanisms to reduce the chances that aid might be diverted from its intended use. Governance is not prioritized in the sense of being a significant category of aid in its own right. But it is an integral part of program design to partner with government institutions at the national and provincial levels and build their capacity to carry out energy, agricultural, and infrastructure projects and deliver health and education services.

Early signs indicate some shortcomings in accountability, partnering, and transparency, but in truth it is too early to judge the EPPA program a clear success or failure: new programs take time to design, longer to implement, and at least a few years to show measurable results. It is clear the U.S. government is still struggling to define how it will measure progress on governance or even service delivery, but that does not mean progress is impossible or unlikely. Enough people in both countries desire progress that, if the overall relationship can be stabilized, the EPPA programs have at least a fighting chance of making small but real contributions to both Pakistani governance capacity and the U.S.-Pakistan relationship.

Recommendations

The United States might be limited in its ability to directly improve subnational governance in Pakistan directly, but it can help to keep reformers and moderates from becoming marginalized, and thereby offer indirect support to Pakistani efforts to improve and reform governance. The U.S. government should take the following steps:

Stay engaged. U.S. policymakers in the Obama administration and Congress should recognize that Pakistan does have many reformers and moderates within its security establishment, civilian government, and society at large. It is in the direct strategic interest of the United States to empow-

er those who abhor militancy (particularly those who do not see Pakistan's and America's security to be incompatible in principle) and to marginalize those who support it (particularly those anti-American elements in and out of government). The U.S.-Pakistan relationship is difficult today, and there are calls on both sides for disengagement. But the benefits of continuing, and indeed deepening, engagement outweigh the costs:

- First, the United States has only limited influence within Pakistan as it is. Engagement gives Americans access to Pakistani decisionmakers, some of whom have been cooperative, including on intelligence sharing and counterterrorism operations. It is not clear how disengagement could improve that access or cooperation—but quite clear how it would decrease what little influence the United States does have.
- Second, development projects and military training give Americans and Pakistanis an opportunity to work together, which in at least some cases has built understanding and trust. If nothing else, they can build capacity and professionalism and expose some Pakistanis to American values—such as civilian control over the military. Disengagement during the 1990s, for example, blocked an entire generation of Pakistani military officers from receiving U.S. training that would have exposed them to a powerful military institution with the self-restraint and self-confidence to submit to civilian rule; it would have exposed them as well to critical thinking, the laws of war, human rights, and the protection of civilians, in addition to basic and advanced war fighting. Within Pakistan's security institutions today there is an incipient recognition of the need to reform, modernize, and professionalize. Maintaining or deepening military-to-military engagement would position the United States to encourage those attitudes and help to crowd out at least some of the more hardline views within the security establishment. Maintaining or deepening engagement in development and diplomacy would likewise empower those professionals and moderates within the Pakistani government and civil service who want Pakistan to be—and to be viewed internationally as—a responsible state; to disengage now would be to abandon them, which certainly is not in the U.S. interest.
- Third, U.S. counterterrorism officials need human intelligence within Pakistan, and disengagement would only further constrain the potential for recruitment.
- Finally, many of Pakistan's problems are reflected in a cultural sense of weakness or humiliation, particularly in regards to India. Given the relative strength of India's military, size of its population, and strength of its economy, it should not come as a surprise that Pakistan would develop nuclear weapons, use irregular forces as a proxy army, and seek as much military hardware and training as possible. Publicly criticizing Pakistan for engaging in (strategically rational) asymmetric behaviors serves mainly to remind Pakistanis of their strategically vulnerable—and humiliating—position with respect to India, and thereby helps elevate the profile, resolve, and influence of Pakistani hardliners. A constructive relationship with the United States—one in which Pakistanis are conspicuously treated with respect, privately discouraged from the more destructive policies of hardliners, and otherwise empowered to protect and serve their own citizens as well as possible—could serve to moderate this dynamic. An angry disengagement, as seems to be the direction the public conversation about U.S.-Pakistan relations is going, would only contribute to the vicious cycle of humiliation and hardliner response.

Give Kerry-Lugar a chance. The U.S. development programs in Pakistan implemented under the Kerry-Lugar-Berman act are still too new to be judged for the degree to which they can make a real difference in Pakistan's capacity for service delivery. In their overall design, however, they are a

step in the right direction. There are serious concerns among U.S. policymakers about the Pakistani state's capacity to maintain stability. While the fear of state failure is rather overblown, it undoubtedly is in the U.S. interest for Pakistani government institutions to function well in general, as a well-functioning government would inspire less opposition. To the degree U.S. aid works to that end, therefore, it should be maintained: it is difficult to see how cutting aid to Pakistan would contribute to the U.S. interest in a capable Pakistani state. Any changes to Kerry-Lugar should be designed to strengthen capacity or reduce contributors to instability—not remove the possibility to strengthen capacity.

Withhold aid from military units linked to extremists. Pakistan needs a strengthened civilian government, and more empowered reformers and moderates in the government and the military, to counterbalance the influence of the more anti-American or hardline elements in the ISI and army. Withholding aid from reformers and moderates to punish extremists would serve only to empower hardliners. Civilian aid will not do much to improve governance in general, but in any institutions where Kerry-Lugar might help to improve administration and project management, for example, it could have the small but significant effect of empowering non-political civilians.

That said, it is reasonable to argue that U.S. aid should not be funding any entity within Pakistan that acts against U.S. interests. A "Leahy Law" already exists restricting U.S. aid to units of security forces credibly accused of gross human rights violations. It might be useful for U.S. officials to ensure that law is enforced. After all, the Leahy Law—even though it was not applied consistently—was one of the most important factors in the success of U.S. support to the Colombian military's professionalization, and it might well prove helpful in Pakistan as well. But human rights violations are not the main source of U.S. complaints against Pakistani security forces—links to terrorism are.

Therefore, it would make sense to craft a similar law that restricts funds from specifically targeted units of the security forces and intelligence services: those with credible links to terrorists. Putting such a law in place could help to marginalize at least some of those hardliners without painting the entire security establishment and civilian institutions with the same brush. That would probably be a much more effective approach, and could still satisfy the hunger in the U.S. Congress for a way to condition aid to Pakistan on good behavior. Such a law might read: "None of the funds made available by this or any other Act may be provided to any unit of the security forces or intelligence services of a foreign country if the United States government has credible evidence that such unit maintains connections with an organization known to conduct terrorist activities against the United States or its allies."

Add trade to aid. The Pakistan-American Enterprise Fund has been proposed to reprogram some Kerry-Lugar funds to support Pakistan's private sector with an emphasis on financial capital and technical assistance to small and medium businesses (which constitute about 90 percent of private enterprise in Pakistan and contribute about 40% to its GDP). Private sector development is certainly key to Pakistan's economic recovery—which itself is a key factor in Pakistani stability—and such a fund would be helpful. But the United States would contribute to Pakistan's recovery even more by making it less expensive for Pakistani businesses to export their products to the U.S. market: lowering tariffs on Pakistani imports would improve Pakistan's economy without harming the American economy.

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