

Fata: Internal Security and Pakistan's International Obligations

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TABLE OF CONTENTS

FATA: INTERNAL SECURITY AND PAKISTAN'S INTERNATIONAL OBLIGATIONS	1
INTRODUCTION	1
BACKGROUND.....	2
A CHANGE OF APPROACH	3
CONCERNS OF US AND AFGHANISTAN.....	4
PAK-US ENGAGEMENT DURING GEN. MUSHARRAF'S RULE.....	5
WHAT ARE PAKISTAN'S OBLIGATIONS IN THIS WAR?	6
CONCLUSION	8
ENDNOTES.....	9

**Fata: Internal Security and Pakistan's International Obligations
(by Khalid Aziz)**

Introduction

This paper gives reasons why militancy grew as a result of a flawed Pakistani – US security policy based on a military approach without building on a program to win the hearts and minds of the people as well. The paper highlights recent research findings into insurgency in Afghanistan and Fata. The conclusion is that the US and Pakistan have followed a mistaken approach. Instead of reducing insurgency the methodology followed so far has increased it!

The governments of Pakistan and NWFP have realized that the time has come to engage the militants in peace negotiations otherwise it is felt that governance will be impossible. However, this report has misgivings about the ultimate success of the peace deals without building a monitoring capacity which scrupulously follows the implementation of the peace agreements on a daily basis. It should also be ensured that the peace deals do not transfer militancy to Afghanistan. Secondly, it is argued that simultaneously a comprehensive peace plan needs to be launched so that the economic and social causes of militancy are addressed in a holistic manner. Such a plan may last for 10-15 years.

This paper questions the personal approach which was followed for confronting militancy from 2001 to 2008. It is argued that Pakistan must immediately articulate a comprehensive counter insurgency strategy. Its absence has led to ignoring the monitoring of obligations by Pakistan, Afghanistan and the US. This has amongst other shortcomings encouraged cross border raids.

The report highlights how divided loyalty amongst Pakistani and some Afghan tribes has resulted from the manipulation of the Pukhtunistan issue by Afghanistan in the past. Afghanistan's continuous refusal to recognize the Durand Line has led the tribes to interfere in Afghanistan and Pakistan. Therefore President Karzai's demand for ending cross border raids like charity needs to begin at home. One sure method of enforcing the obligation of preventing the tribes from interference in Afghan affairs is for President Karzai to reiterate that Afghanistan recognizes the Durand Line and has no claim to the loyalties of Pakistani tribes.

In the same context, the paper warns that unknowingly the US is being drawn into supporting the Afghan claims on the Durand Line. For example, US forces supported Afghan military operations on the Durand Line on June 10th in the Mohmand which led to sad results with 11 Pakistani soldiers killed. The paper recognizes this as a threat to the higher objective of the war on terror and is therefore wary of such tactics of the allies.

The paper concludes by highlighting five obligations for the allies to implement, if they are going to succeed.

First, Pakistan must design and then implement a comprehensive counter insurgency strategy. Second, Fata reforms are essential for the long term correction of this serious design anomaly in the Pakistani state. By postponing Fata reforms for the past 60 years, Pakistan and the international community have paid a heavy price. Fata suffers from an absence of human rights, lack of political empowerment and an unjust distribution of resources based on patronage. It is one of the major causes of the militancy. This agenda of reform can no longer be left unattended because of its negative fall out on NWFP and Pakistan.

Third, pending reciprocity from Afghanistan on finality of the Durand line, Pakistan should take all steps within its capacity to prevent tribal incursions into Afghanistan. Four, the US must refrain from assisting the Afghans in matters which weaken the recognition of the Durand Line as an international boundary. It is a shut case.

Finally the paper proposes the establishment of a long term strategic relationship between the US and Pakistan by moving a bill in the US Congress. Justification for such a course is available in the 9/11 Commission Report recommendations and the findings presented to US Senate by the General Office of Accountability in the hearing of May, 20th 2008.

Background

The Pakistan military entered Fata in 2003; since then insurgency in Fata and NWFP has grown at an alarming rate. In stark contrast there was hardly any militancy in the years 2001- 2002 and Taliban were rare. The start of militancy coincides with the move of the military into South Waziristan in 2004 and which led to repeated stabilization operations in Waziristan.¹ As operations increased in both North and South Waziristan they became engulfed by militancy and developed into a hub for al-Qaeda. The isolated nature of these areas also encouraged the concentration of foreign militants here.

Al-Qaeda influence in Bajaur increased because of a serious insurgency situation in Kunar in Afghanistan. Militancy in Bajaur was further strengthened due to al Zahweiri's second marriage to a Bajaur lady belonging to the Mamun tribe. Due to these factors the three agencies of South Waziristan, North Waziristan and Bajaur became the target of intense military reaction by the Pakistani and allied forces; including the operation Predator drones from Afghanistan. The period saw frequent Predator attacks and indiscriminate use of air and artillery, general area weapons notorious for creating high collateral damage; a euphemism for deaths of innocent civilians. Such an approach lost Pakistan most of its friends in Fata.

The increase in deaths of civilians created a back lash against Pakistan as well as the US and both were held responsible for the killing of Pashtun. Dangerously, the Pukhtun also saw the military actions as ethnic in intent. This may be the explanation for the barbarism seen in the condemnable practice of the slaughter of some military prisoners who were in the custody of the militants during 2005-06. The other grave result of the military strategy followed was the birth of the suicide bomber whom the militants used as a precision weapon quite extensively in their suicide operations against the military and the police in Dargai, Peshawar, Kharian, Karachi and Rawalpindi. This period also saw the introduction of the IED technology into the arsenal of the militants.

By 2005-6 the militants had grown into a force and began their expansion outward into the adjoining districts of Tank, D.I Khan, Bannu, Lakki, Kohat, Peshawar, Nowshera, Charsadda, Mardan, Swat, Dir and Kohistan. NWFP today is enclosed in the grip of the Taliban who are organized and well equipped. They have the ability to challenge the state anytime. Their location on the main arterial roads gives them the capacity to cut off communications at will.

In 2006, when Gen. Kiyani took over the ISI leadership he decided to wind up the Kashmiri Jihadi camps which were located in various parts of Hazara and Azad Kashmir. After the October 2005 earthquake in Kaghan and Kashmir, the camps came into the spotlight and could be easily identified by the NATO relief missions. So the military changed its policy and dispersed the Kashmir Mujahideen.

There was a twofold impact of this policy; first, the Kashmiri Jihadis began to regroup in NWFP and revived their former links with elements who had previously been supporters of the Afghan Taliban regime in Kabul. Pockets of these well trained militants began to sprout up throughout NWFP, particularly in Waziristan, Darra Adam Khel in Kohat and in Swat. They have also been spotted in Kurram, Mohmand, Bajaur and Khyber. The Kashmiri Mujahideen belonging to the Punjab have recently begun to tour the Malakand and have been addressing gatherings in Dir and other districts. The military and the NWFP administration must show zero tolerance for such advocacy of radicalism. It weakens the state. Second, many of the recent explosions carried out in the Punjab, like the attack on the Naval War College, the FIA headquarter; the assassination of Benazir and the recent explosion outside the Danish Embassy in Islamabad are presumed to be the work of Kashmiri Mujahideen operating from southern Punjab. A Wazir or Mahsud will be easily spotted in Punjab and cannot find the support base for launching such operations.

What has become a source of extreme discomfort to the security officials of NWFP is the presence of Wazir and Mahsud tribesmen in Khyber. It threatens Peshawar the provincial metropolis. Militants have also surrounded other important towns in the province.

The militants have formed a joint body on an all Pakistan level composed of twelve members which is called the Tehriq e Taliban Pakistan (TTP). This organization is headed by Baithullah Mahsud and takes all the important decisions about war and peace. Its decisions are accepted by the militants in the province and tribal areas.

In one of his recent conversations with the press in South Waziristan, Baithullah Mahsud gleefully told a reporter, "When Nek Mohammad was our leader in 2002, no one had even heard of us. But look at us today! We number in thousands and the whole world knows us. We are lucky that the Pakistani and the US tactics helped us develop into an invincible force."

Baithullah Mahsud is right; the unimaginative strategy used to quash militancy through brutal force has boomeranged. The abuse of human rights and the reliance on undue coercion against civilians in the Lal Masjid operation last year further places the government in an embarrassing position from which it has not recovered. The heavy reliance of the anti-militant strategy on punitive action in preference to other means has further increased the ranks of the militants.

Unfortunately, such an approach has made the tribal areas, NWFP and Afghanistan more insecure. The proof of this becomes available when we compare the government controlled areas in 2002 with 2008; the loss of physical control by government over large swathes in the region becomes evident. As a matter of fact the greater the use of military the larger is the growth of militancy.² The security situation in this part of the world is thus dangerous and the signs of a failing state are evident. After realizing that the present strategy is a failure, the new federal and the NWFP provincial governments have begun peace talks with the militants.

It is also clear that differences have recently appeared between Pakistani and US - Afghan perceptions on handling the raging insurgency in Fata and NWFP. Pakistan wants to create space through the peace deals so that it can find other ways to handle militancy. The US and Afghanistan insist that Pakistan should continue to suppress the militants through military means, despite the obvious fact that this method is making the situation worse. But then reason and reflection has never been a hall mark of this war!

Two recent studies in the US by the Rand Corporation predict that the military approach followed by the US in Afghanistan will not succeed in dealing with Islamist insurgency and that the US policy must shift to battling this threat through policing and better governance as well as community mobilization.³

Recent newspaper reports show Afghan and US alarm regarding the Pakistani peace deals. It indicates the uneasiness that has developed in the allies regarding Pakistan's intentions of talking with the militants. President Karzai felt that the peace deals, "Should not happen.....and we hope Pakistan will not allow it." He went on to add, "We cannot under no (sic) circumstances allow elements that are inimical to this country or that to operate from either country." He emphasized that if Pakistan made peace deals, then, "We will not only be upset but extremely angry."⁴

A change of approach

In August 2007, all the Pukhtun belonging to Pakistan and Afghanistan and composed of about 700 notables gathered in a Loya Jirga at Kabul. During this jirga the insurgency was discussed in great detail over lengthy sessions stretching over four days. On the conclusion of this historic gathering, a joint declaration was issued on August 12th. The following were the main decisions which related to the insurgency;⁵

- a) To pursue a process of dialogue for peace and reconciliation.
- b) The jirga declared that elimination of narcotics was necessary as it helped terrorism.
- c) To constitute a joint monitoring & coordinating jirga.

The ANP-PPP after forming a coalition government in NWFP reached the conclusion that the political management of the province was not possible, if large pockets of militancy which had

developed all along its border with Fata continued. The new administration also recognized the fact that the use of military means alone against the militants was not a solution. As a matter of fact it worsened the situation; such an approach was also in line with the Pak-Afghan Peace Jirga Declaration referred earlier.

For these reasons the NWFP began negotiations with the militants. Secondly, the NWFP political parties recognize a political compulsion for the hostilities to end. The mandate of the February 18th election in NWFP has clearly rejected the post 2002 strategy of handling the insurgency in Pakistan, which was based on a coercive approach. As stated earlier, this enlarged the militancy rather than reduce it. A similar sentiment prevails within the federal government as well as the new military leadership under Gen. Kiyani. This major shift in the Pakistani political perceptions has not gone down well in both the US and Afghanistan. As a matter of fact both countries have indicated their reservations which are discussed latter in this paper.

In his very first speech as NWFP Chief Minister, Mr. Hoti committed his government to the launching of a comprehensive multi dimensional Peace Plan to transform the conflict. He also promised to provide the details of such a plan in the next session of the provincial assembly.⁶

In May this year the NWFP initiated a series of negotiations with the militants to end violence in the province. After intensive talks, the provincial negotiators succeeded in diffusing matters in Swat and Malakand division by making peace agreements with the followers of either Sufi Mohammad or his son in law Maulvi Fazlullah. This has brought peace to the province and the level of violence has died down considerably although there are still sporadic acts of revenge directed mainly against the police.⁷

There has also been a significant reduction of violence in Waziristan and in other parts of the tribal territories like Kohat, Mohmand and Orakzai Agency. This has supported the peacemaking efforts of the NWFP. It has also been reliably learnt that the militants who had organized themselves under the Tehriq e Taliban Pakistan, directed their regional commanders that they should seek peace with Pakistani officials. I have indicated in a separate report that this change in attitudes was a consequence of a significant Pakistani military action carried out in South Waziristan called "Operation Zalzilla". It is my surmise that this was a watershed move which brought some sanity to Baithullah Mashud's movement⁸. However, it is a different matter if peace is to be consolidated. There are major capacities that need to be built immediately, if the advantage is not to be lost. Worryingly no progress is visible in this connection. Pakistan must ensure that the peace deals do not transfer militancy to Afghanistan. In this connection the NWFP government recognizing the need to monitor and coordinate the peace agreement appointed a senior ANP politician as peace envoy on June 14th.

One should also like to plan now how to deal with the TTP. A senior official recently confided to me and said that, "Whether we like it or not the TTP has emerged as a powerful political force and one has to deal with it for establishing peace." Perhaps the time may come soon to mimic what the UK did in ending violence in Northern Ireland by recognizing the Sein Fein.

Concerns of US and Afghanistan

Pakistan has not jumped into the peace deals all of a sudden. There is a general realization here that, "The greater the use of the army, the greater is the increase in militancy. There is thus a direct correlation between the two. Secondly, the longer the militancy lasts the greater the erosion of Pakistani civil and military institutions."⁹ These principles hold ground as a theorem of counter insurgency war. Pakistani decision makers I believe have reached the conclusion that there cannot be business as usual in conducting the war in the old personalized manner anymore; Pakistan needs to develop a policy based on reflection and which gives primacy to its national interest. We should adopt a policy which strengthens the state.

However, this does not mean that we should become reckless and not recognize our international and regional responsibilities. We must also note that Gen Musharraf's legacy also

brought short term benefits to the country in terms of defense modernization and additional external inflows; but all this was at a price – we were headed towards a failed state. Our legal and institutional framework has weakened considerably and human rights are damaged. The Justice system which is the underpinning of any strong society has been weakened after Pakistan began to fight this war which has lasted as long as World War II!

Briefly, whether it is the dynamics of recent Pakistani political crisis or the recognition of the relationship of fighting militancy and the concomitant decay of institutions that has weighed on the mind of the new army chief of Pakistan, Gen. Kiyani, the result is that despite US reservations and Afghan protests the Pakistan military is withdrawing forces from the tribal areas. Some observers have said that the US-Pakistan relations are, "At their worst point since September 11, 2001."¹⁰ The US air attack on the Pakistani Frontier Corp fort in Mohmand agency on June 10th and the death of 11 soldiers including an officer inside it has brought a sharp reaction from Pakistan – it has made the US-Pak relations brittle and requires very careful handling by the leadership of both the countries.

Pak-US engagement during Gen. Musharraf's rule

It is evident to every Pakistani that his country is involved in a global war against militant Islam. It has created a mental confusion in his mind because religiously and culturally he cannot bring himself to consider the newly created 'other' as foreign to him. So whatever may be the drivers of elitist policy in Pakistan, the latent sympathy of an ordinary Pakistani for his Muslim co-religionist, who could be a militant, will not end. What does this mean?

First that an average Pakistani has sympathy with the Islamists but does not support their violence or forced program of moral re-armament based on the Taliban model of vice and virtue; he gave his verdict against such violence in the February elections by marginalizing the religious parties. Second the average Pakistani demands peace and justice in society. By justice he means the rule of law in the conduct both of the state and in personal relations.

It is a mystery how an astute leader like Gen. Musharraf failed to read the mind of the "ordinary" Pakistani. As he distanced himself from the sentiments of his countrymen, the General began to lose political power. He committed Hara-Kiri when he took away the peoples hope of establishing justice by rubbishing the judiciary in March 2007.

Another weakness of the Pak-US relationship is that it is based on medieval feudal principles followed in the past by monarchies in Europe, where relationship between two countries depended on the personal relations of both the monarchs. Although, President Bush is governed by US law and constitution in the conduct of foreign relations, the same cannot be said about Pakistan. The deployment of the military in Fata and the strategy followed against militancy was not developed democratically but was done more to follow US policy. That remains the main weakness of the current Pakistani effort.

Under normal circumstances undertaking such a major responsibility in an international coalition for defeating global militancy, would have needed at least a treaty or an agreement between Pakistan and the US as a bare minimum. I am sure some MOUs may be available for the use of military facilities or the movement of goods through Pakistan for NATO and ISAF forces in Afghanistan - but it is not same as engaging the whole nation for fighting militancy in its many dimensions which could be better obtained through debate and discussion in the assemblies.

For instance, if there was a bi-lateral agreement between Pakistan and the US it would have indicated the extent of each country's commitment to the war. In the case of Pakistan there would have been a counter insurgency strategy based on national consensus. Unfortunately, such a Pakistani national compact is absent. There is no ownership by the people.

What are Pakistan's obligations in this war?

Without going into an argument about the legality of the UN Security Council Resolution 1373 of September 28th 2001, which justified the removal of the Taliban government in Afghanistan, Pakistan has by joining the allies tacitly accepted that international intervention in Afghanistan was justified. This commitment is to be matched by providing support to the allies' intent which is to defeat of militants. Gene Dodaro of the US Accountability Office in testimony before the Senate stated, "The United States has not met its national security goals to destroy terrorist threats and close the safe haven in Pakistan's FATA....."¹¹ In the absence of a counter insurgency strategy Pakistan does not have any national goal or targets to reach!¹²

Initially Pakistan fulfilled its part of the obligation by arresting more than 700 militants including some of the leading lights in al-Qaeda. It also deployed 90,000 military and an equal number of police and civil armed forces joined in various other anti-militant operations more than the number of troops in Afghanistan. Pakistan also tried to seal the Pak-Afghan border with limited success. It even went to the extent to propose the installation of an electronic fence which was rejected by Afghanistan. This prevented Pakistan to be fully effective in stopping cross-border raids by its tribes.

Pakistan was paid back with interest by the militants who have showered it with the suicide bomber, IEDs and attacks on the military and police. In meeting its obligations to the allies, Pakistan brought Afghanistan to its hearth! Is this a sane policy for Pakistan? Secondly although Pakistan may have helped in reducing threats to the US homeland and Europe but it did so at great expense and at a huge sacrifice. The question that arises is whether fulfillment of international obligations supersedes Pakistan's national interest? But what is Pakistan's national interest in this war? These issues need to be debated and identified. One thing however is clear that the existing national approach towards state management requires continued US support for a number of years.

What is the merit in Afghanistan's protest against Pakistan and its demand that Pakistan should stop the tribesmen from Waziristan entering Afghan territory? First there is historic link created by previous Afghan administrations of forming a pro-Afghan party amongst the tribes of Pakistan. Wazirs and Mahsuds from South Waziristan were used by Nadir Khan in 1929 to wrest the throne from Bacha Saqao¹³ He latter created the Argun Militia composed of the same Wazirs, who with others were used in causing trouble to Pakistan in the 1950-60s, during Afghan supported Pukhtunistan movement.

Afghanistan's previous machinations against Pakistan have come home to roost! Many Pakistani tribes therefore claim that they have a right to interfere in Afghanistan because of these previous links. Therefore, to put all the blame on Pakistan for failing to prevent tribesmen crossing over to Afghanistan is unfair. Previous Afghan authorities have encouraged the tribes to behave in this manner.¹⁴

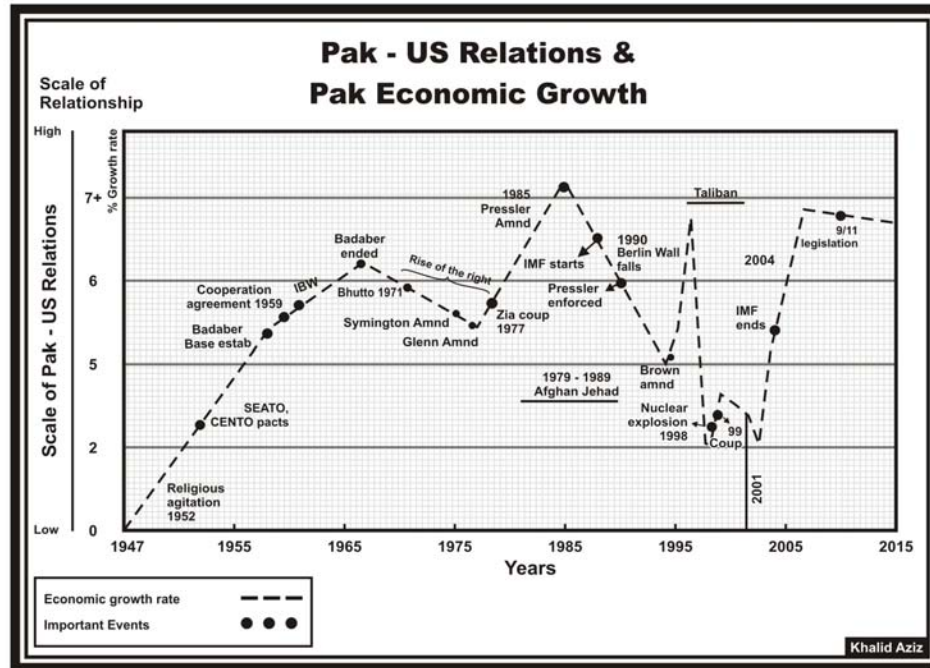
Secondly, Afghanistan's current refusal to accept the Durand Line as an international boundary despite the commitments given by numerous Afghan administrations over a number of years, cast doubts about Afghan intentions. If the Afghans don't accept the border as an international frontier why do they complain if tribesmen from Pakistani tribal territory, which is loosely governed, see it fit to support their co-tribesmen on the Afghan side of the Durand line? This clearly indicates that owing to the peculiar history of the region it is unjust to blame Pakistan alone for the movement of militants into Afghanistan.

What should be Pakistan's view of its obligations in the context of US? I ask this question because if the tribesmen move across the Durand line into Afghanistan in a purely Afghan-Pakistani context then the matter has a different implication. However, the situation is different as the US is present in Afghanistan. Thus the nature of tribal incursion is now changed.

Furthermore, both Pakistan and the US are allies. Thus any tribal incursion into Afghanistan within this arrangement will have a negative connotation. It is with this perspective in mind that one recommends a more vigorous border control for implementing as far as possible, the obligation of

preventing the tribesmen from entering Afghanistan to fight. However, Afghanistan in return must commit itself to honoring its international obligation related to the Durand Line; the US should use its influence in this behalf, it will remove Pakistan's distrust of long term Afghan intentions about Pakistani territory – or instability will continue.

There are also another set of obligations arising out of the US-Pak relations. As the chart below shows Pakistan has remained a US partner over a number of years.



In the 1950-60s Pakistan supported the US in its anti communism strategy. In return Pakistan received economic and military assistance. In 1980-1990, the US used Pakistan for defeating the USSR in Afghanistan. Now since October 2001, Pakistan has been the US's most important partner in the 'global war against terrorism.' When the US needed Pakistan it looked after the development and well being of Pakistan when those objectives were fulfilled the US ended assistance. Thus Pakistan's growth rate grew because of US help. When Pakistan's assistance was not required it was left in the cold and the growth rate dropped. When this happened the state weakened and the rightist consolidated their position within the country.

Secondly, Pakistan military support for US in Afghanistan during the Mujahideen war, led to internal radicalization of the country and it's military. When the US left in 1990 it turned off funding for Pakistan which lowered her growth rate. As a result Pakistani society became more Islamized when education and health services began to be provided by Islamic charities. Had there been a de-radicalization strategy in place it is likely that the 9/11 tragedy with its sad consequences would not have occurred!

Apparently the US-Pak relationship has so far been one of convenience and appears to be based on "using" each other. Unfortunately, such relationships don't flower into long term commitments, which are needed in any counter insurgency operation. According to a comparative study, such insurgencies last on an average for at least 14 years – we are now in year 5!¹⁵ If the world wants peace and development it is essential that the US-Pakistan relationship must become strategic and should not remain tactical. A reading of the US general Accountability Office Report clearly shows the need for such a long term strategic relationship to reform FATA and to remove the root causes of insurgency from there.¹⁶

Conclusion

In light of the above discussion one is led to the conclusion that there are five types of obligations which the parties in the fight against militancy and radicalism should undertake to improve the security situation in the region;

1. Pakistan must initiate a comprehensive consultation process with stakeholders for the formulation of a national counter-insurgency strategy which is holistic and not based on the vagaries of personalities. Such a strategy must be debated in the National Assembly and approved by it. In the meantime Pakistan should formulate a draft interim strategy based on international good practices for battling the militancy. The lessons contained in the Indian strategy may be studied. Strengthening the state must be a goal of such a policy. It must contain indicators to monitor progress.
2. Pakistan must undertake reform of Fata to mainstream it by extending the Political Parties Act, extension of empowered local government, reform of the FCR and finally the merger of Fata into NWFP in two phases. In the first phase the tribesmen will join the provincial assembly in the next phase they will come under the same provincial administration but with their own laws thus retaining their tradition.
3. Pakistan in the short term should use all its resources to prevent to the extent possible, the freedom of movement of militants crossing over to Afghanistan. For this purpose agreed indicators must be developed.
4. Afghanistan should once for all accept the Durand Line as an international boundary which it is and treat it as a closed matter not to be agitated any further. The Mohmand incident of June 10th is a symbol of this problematic. When the allies support Afghan forces on the Durand Line, they are seen as Afghan partisans and this affects negatively on the war on terror.
5. The US Congress should discuss a bill to place US-Pak relationship on a long term strategic basis and committing itself to Pakistan's economic growth and social transformation, aimed at creating a democratic and a modern state with adequate living standards. This is not difficult.

It is reckoned that if the above recommendations are implemented the situation relating to militancy will improve in the years to come.

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