

Conflict Induced Internal Displacement: Issues & Challenges for Pakistan



Ph.D Thesis

By

SOHAIL AHMAD

Department of International Relations

University of Peshawar

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Chapter 1

Conflict Induced Internal Displacement

1.1.Introduction to Internal Displacement

Internal displacement occurs when people flee their abodes in search of a secure place to live because of natural or man-made calamity, but they remain within the borders of their home country. Internally displaced persons, unlike refugees, do not cross international borders. As compared to refugees internally displaced persons cannot be granted special legal status under international law. However, as vulnerable human beings they are entitled to enjoy relevant guarantees of humanitarian law and human rights law which their co-citizens enjoy in their country of habitual residence (Kalin, 2008). Likewise an internally displaced person is known as an IDP. The United Nations Guiding Principles on internal displacement defines IDPs as, "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border."

IDPs are more or less in the same conditions like refugees but they are not liable to get international protection. Although international community is supposed to complement the state's effort to cope with the situation of internally displaced people, but it should in no way replace the state's authority while dealing with the circumstances (Kalin, Williams, Rhodri, Kosar & Solomon, 2010). There is no such law and regulatory framework except the United Nations Guiding Principles on Internal Displacement to support IDPs. In case of refugees, there are various International laws i.e. the Geneva Convention 1949 and its protocols and laws

developed by European and American Nations i.e. Denmark, Norway, USA and Canada. Internally displaced people are more vulnerable than refugees, because refugees cross the international border and in most cases after going through rigorous process of refugees status determination they are entitled to international protection; while IDPs remain close to the proximity and causes of the conflict. Moreover, the only comprehensive dealing with the internal displacement situations is the United Nations Guiding Principles which too are not binding on member states of the United Nations. It is a fact that at the point of displacement and during their return process both groups, refugees and IDPs, face more or less the same conditions, however, their conditions during temporary settlement stage can be remarkably different ones (Vincent & Sorenson, 2001).

Internal displacement is one of the major challenges the world is facing in the 21st century. Both, conflicts and natural disasters cause internal displacement; forcing people to move to safer havens inside the borders of their country. Internally Displaced Person (IDP) means a person dislocated from his/ her area of habitat within his/her home country. According to the websites of the United Nations Refugee Agency (UNHCR) and Internal Displacement Monitoring Center (IDMC); when people are forced to leave their homes because of threat to their lives but, unlike refugees, they do not cross international borders rather they remain inside the borders of their home country, they are called IDPs.

By the end of the year 2009, twenty seven million people were internally displaced around the globe due to armed conflicts. Though it is the primary responsibility of the states and the national authorities to take care of the needs of the internally displaced people; however, states usually lack aptitude, ability and at times, the required will to provide internally displaced persons with assistance and protection. Thus, international community has assumed the responsibility to assist

polities facing the crisis of internal displacement situations, in case the states are found deficient in their capacities to deal with the issue (IDMC, 2009).

Vincent & Sorensen (2001) state that as a result of the end of Cold War; from 1990 onward the magnitude of the internally displaced people all around the world have increased due to a shift in political priorities across the globe. Throughout the Cold War era one super-power would support refugees from the other block in order to win hearts and minds of people from the opposite camp. The Super Powers would assist the hosting countries to provide all possible support to the refugees and pursue their agendas. However, since the end of Cold War with diminishing interests of the sole superpower and western allies in supporting the refugees, international community has minimized its financial and technical assistance to the hosting countries. Therefore, states do not welcome displaced from across the border. Resultantly displaced people linger inside the borders of their countries and thus they become internally displaced persons rather than refugees.

Francis M. Deng and Roberta Cohen stated in 1998 that the problems of the internally displaced people were not less different from those refugees, which Europe experienced, in the aftermath of the Second World War. They further elaborated that at that time those displaced had come to gain the interest of the international community and, therefore, legal and institutional framework was developed for refugees; while it was not the case with the internally displaced people. They advocate for the creation of institutional framework with legal binding over all member states of international community under auspices of the United Nations.

The vacuum of institutional framework has been highlighted in the writings of Kälin, Williams, Koser, and Solomon (2010) too. The number of IDPs is increasing rapidly since the mid 1990s

all over the globe; unlike refugees it is hard to handle them effectively due to the inherent shortcoming in the legal and institutional frameworks of the affected countries. The global pattern of internal displacement is such that not even a single region has been left unscathed by this disaster. If IDPs from one area are resettled due to peace process in that region; flight of IDPs would offset some other region at the same time.

Not only conflicts but natural disasters too put millions of people out of place due to its increasing rate of recurrence. Around 3.4 billion people are out in the open to at least one, if not more, hazard (Weiss & Korn, 2006). Moreover, little has been done about the development induced displacements which are usually not accompanied by adequate relocation programs. Unlike refugees the war-affected populations displaced in their own countries have no formal international legal framework and institutional sponsor. They are termed as “Orphans of Conflict,” because of the absence of a binding legal framework at the international level. In 1990s, the UN Secretary General appointed a former Sudanese diplomat, Francis M. Deng, to devise a set of rules for internal displacement. The vision was; these rules would be approved by the General Assembly and would be implemented in the domestic laws of all the UN member states. Weiss & Korn (2006), write that unlike the cooperation of states in the affairs of refugees; acquiring their cooperation in the matter of internal displacement is a hard-hitting task. They infer that states normally reflect upon any international humanitarian intervention in the scenario of conflict induced internal displacement as intrusive in their internal affairs. Since states are, by and large, a party in conflicts within borders. These writers believe that sovereignty brings responsibility and if states claim to be sovereign but they do not value international humanitarian laws regarding their own citizens, then international community has every right to intervene on humanitarian grounds.

In 1998, the UN Guiding Principles on Internal Displacement (UNGPID) were published which set a code of conduct for states about their policies regarding citizens particularly internally displaced. These guiding principles are yet to be made part of the national laws, because of its non-binding nature, of many states facing internal displacements.

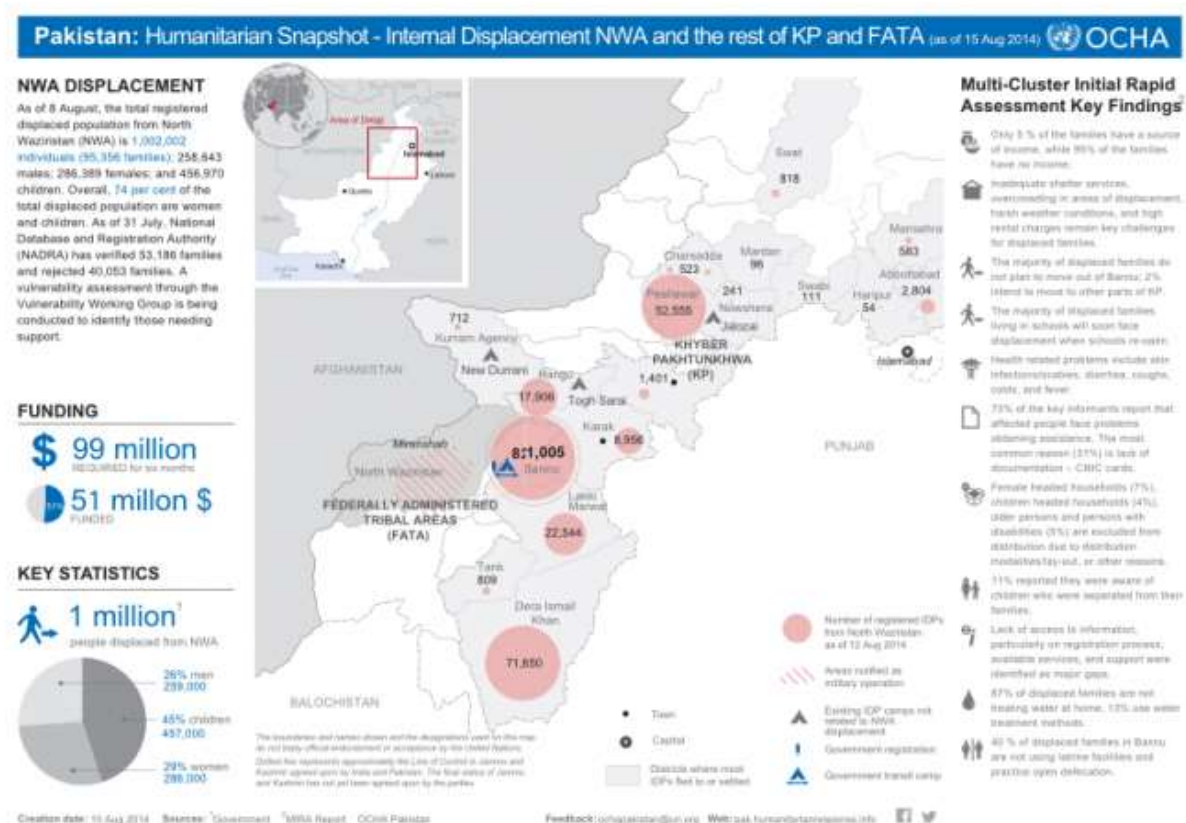
1.2.Kinds of Internal displacement

There are three main kinds or categories of internal displacement i.e. conflict induced internal displacement, natural disasters induced internal displacement and development induced internal displacement told Shad Begum a humanitarian activist and social worker from Lower Dir, Pakistan (Shad Begum, Personal Communication, December 31, 2013). This study focuses on the conflict induced internal displacement but for readers' understanding, the rest of the two kinds of displacements are explained as well.

1.3.Conflict Induced Internal Displacement

When masses flee their area of dwelling due to conflict between two armed groups or between state and one or more than one armed groups because of life threatening situation over there and they settle in the nearby areas; the situation is termed as conflict induced internal displacement. Examples of such displacement in Pakistan are the people of Swat, Dir and Buner who settled in the nearby districts of Mardan, Charsaddah, Swabi and Peshawar in 2009 and that of North Waziristan in summer 2014 settled mostly in Bannu; due to military operation “*Rah e Rast*”, correct path, and “*Zarb-e-Azb*,” blow of Azb- name of the sword of the holy prophet of Islam currently placed in *Jamia Hussain* of Cairo, Egypt. Another example is the people of Khyber Agency who have been displaced due to conflict between two militant groups i.e. *Lashkar-i-Islam* and *Ansar-ul-Islam* and a military operation against militants in Khyber Agency. Local people migrated to Peshawar and Pabbi both located at 10 and 50 Kilometres respectively

(Tribune, 2012). Moreover, in the year 2014 military operation, named as Khyber-I, started to eliminate militants in the subdivision Bara of Khyber Agency of FATA which displaced thousands of inhabitants. Thirdly, people from South Waziristan Agency (SWA) were displaced due to military operation “*Rah e Nijat*” (Path of Deliverance) against militants in that area and they were settled in the adjacent districts i.e. D.I Khan and Bannu etc. (Ali, Personal communication, August 7, 2012). Due to various military operations against the members of Balochistan Liberation Army (BLA) many local people from numerous Baloch areas have been displaced (Anwar Nawaz Balouch, personal communication, May 6, 2011).



UNOCHA statistics about internal displacement from Khyber Pakhtunkhwa and FATA in August 2014

Unlike displacement due to natural calamity or displacement due to development; the conflict induced displacement is a matter of grave concern. It is normally the conflict between two armed groups which up roots people. When these people settle down in the surrounding areas they happen to be either in the enemy group or tribe's territory where their protection cannot be guaranteed or they may be close to their own area where the leader of the armed group from their tribe, ethnic, religious or linguistic group would want to recruit male members from among the displaced to fight against the government / state. Thus in both these cases the displaced people are at risk and their protection needs are ignored by the dominant armed groups. Amanullah Shinwari from Khyber Agency revealed these facts about conflict between armed groups in the agency, in August 2011, when I asked him about the ground situation in his native Khyber Agency which was on and off making headlines because of the feud between *Lashkr-e-Islam* (LI) and *Ansar-ul-Islam* (AI).

In armed resistance against the state when the military decides to act against the anti-state elements, which normally happens to be in minority, many innocent people, who by and large happen to have no concern with the activities of the militants, suffer. Imran Ahmad, a resident of Tarakai IDP camp in Swabi, told in an informal personal interaction during visit of the camp that people fled from those conflict zones because the state apparently provided them shelter and food in the IDP camps but the intelligence and law enforcing agencies always watched those IDPs with jaundiced eyes. Mindset of the state authorities, in most of the cases, questioned the loyalty of those IDPs towards the state (Imran Ahmad, personal communication, July 16, 2009).

During the past two decades the number of IDPs has surpassed the number of refugees. In 1982 the ratio of IDPs and Refugees was 1:10 and the ratio in 2006 was 2.5:1 (Weiss & Koran, 2006). The end of the Cold War was one of the major reasons for the increase in the number of IDPs

against refugees. Refugees from the Communist Bloc would be welcomed by the Capitalist bloc during Cold War in order to use them against their country of habitual residence or the patron of their country of habitual residence i.e. the former USSR. For instance the Afghan refugees were supported by the USA and other major countries of the Capitalist bloc in order to stop the Red Army in Afghanistan and contain it for further expansion towards South Asia and Indian Ocean. Thus many Afghan refugees fought a holy war (*Jihad*) against the USSR with support and funding of the CIA (Coll, 2004). With the demise of the USSR such kind of support stopped, resulting in the repatriation of refugees. Therefore; refugees became liability rather than a blessing for most of the third world refugees hosting countries. These developments do not mean that wars and conflict came to an end and people do not flee their homes anymore. With international borders closed all around and unwelcoming attitude of the neighbouring countries, displaced people find it very difficult to cross international borders to get international protection. For instance the displaced people from Myanmar tried to enter Bangladesh but the Bangladeshi authorities found it hard to manage the influx of refugees without international support and thus pushed back Muslims from Myanmar to return to their home countries (“Myanmar communal bloodshed leaves deep scars”, 2012). Consequently, the number of IDPs has increased manifold as compared to the number of refugees in the past two decades.

In a war or a war like situation, when people are forced to abandon their areas of habitual residence and displaced in their own country then they are more susceptible than refugees. International law guarantees physical protection and security and human rights protection for refugees but there is no such protection guaranteed for the IDPs. International humanitarian organizations seek permission from the same political authorities to help the displaced citizens of the country they are ruling, which might have displaced them in the first place (Weiss & Koran,

2006). Therefore, there is a fair amount of likelihood that such permission would not be granted or even if granted the national authorities would make sure to swindle the humanitarian organizations and international community in helping the needy ones, and international aid is converted for the consumption of those groups of internally displaced persons whom the national authorities would want to protect against the other ones.

The then US Permanent Representative to the United Nations on Promoting Peace and Security: Humanitarian Assistance to Refugees in Africa, Ambassador Richard C. Holbrooke, termed internally displaced people as “orphans of conflict” on 13th January 2000 in the Security Council. He termed them rightly as orphans of conflict because refugees get international patronage and protection but internally displaced persons do not get such privileges. It is quite peculiar that the number of IDPs is surpassing the number of refugees but still refugees get more assistance under the already established UN agency for refugees UNHCR and their eligibility for international protection while internally displaced persons do not get due protection and support because of lack of international institutions for them.

Keeping in view this institutional vacuum the then UN secretary-general Boutros Boutros-Ghali tendered his first analytical report on the internally displaced persons to the United Nations Commission on Human Rights (CHR) in the year 1992. After much deliberation, the 53-members commission approved the resolution 1992/73 on March 5, 1992; which authorized the Secretary General to appoint a special representative to the secretary-general (RSG). The RSG would have to discover views and information of all member states on human rights issues related to IDPs, including an analysis of existing humanitarian law, human rights law and refugee law. Right after the approval of that analytical report by the CHR, the secretary-general appointed a former Sudanese diplomat, Francis M. Deng, as his representative. The mandate of

Francis M. Deng was constantly extended for two and three years-terms by the CHR till July 2004 when a Swiss Jurist, Walter Kalin, replaced Deng as RSG (Weiss & Koran, 2006). Appointing the RSG was a constructive step in the right direction because a report by Jacques Cuenod in 1991 concluded that within the United Nations system there was no entity entrusted with the responsibility of ensuring that aid was provided to the needy internally displaced persons (Weiss & Koran, 2006). In 1992, at least an RSG was appointed for the mammoth task of providing protection and relief to the internally displaced persons.

The assignment awaiting the RSG was an enormous one. There was scholarly literature developed and available for the refugees i.e. The Geneva Convention 1949, The Refugee Convention 1951 and its 1967 protocol; and an international mechanism under the UN was there to provide protection to the refugees. However, the internal displacement lacked even the most basic data i.e. number of internally displaced persons, literature of relevant domestic laws in different countries for protection of displaced citizens etc. Although the UN secretary-general had appointed the RSG but he had no resources at his disposal to perform his assigned duties. First thing which the first RSG, Francis M. Deng, did was to visit the internally displaced people around the world personally to know about their problems and perspectives (Deng, 2007). The purpose of this exercise was to understand, assess and incorporate the legal and physical needs of internally displaced persons around the globe in the upcoming legal frameworks for internally displaced persons.

In the year 1994 the Brookings Project for Internal Displacement (PID) was launched. The purpose of the PID was to build up a comprehensive global strategy to provide more effective assistance and protection to the then estimated 30 million IDPs around the world. The project seeks to improve the international community's response to the predicament of IDPs. It produced

literature on internal displacement, and tried to create awareness in the international community about its responsibilities towards the internally displaced persons. Up till 1999 there were only two people actively involved in the PID, Francis M. Deng and Roberta Cohen. In the year 1998, Cohen and Deng brought forth the first ever most important works on internal displacement. In the year 1998 two major books, “Masses in Flight” and “The Forsaken People” were published (Deng, 2007). These books put the issue of internal displacement on the table to stir the international political conscience. In the same year “the Guiding Principles on Internal Displacement” were also published and presented before the general assembly (Weiss & Koran, 2006) to guide the nations facing the crisis of internal displacement to resolve the issue according to international human rights law and international humanitarian law. In September 2005, the heads of the states and governments, gathered in New York, and unanimously recognized the United Nations Guiding Principles on Internal Displacement as “important international frame work for the protection of internally displaced persons.”

The UN general Assembly Resolution A/60/L.I Para 132 received the fact with glory that many states, UN agencies and non-governmental organizations were applying the guiding principles to the situations of internal displacement (General Assembly Resolution, 2005). Same resolution encouraged all relevant actors to make full use of the Guiding Principles when dealing with the state of affairs of internally displaced people.

The African Union (AU) acknowledged the Guiding Principles. The Economic Community of West Africa (ECOWAS) called on its member states to circulate and apply the principles. The Organization for Security and Cooperation in Europe (OSCE) recognized those principles as “useful framework for the work of OSCE” in handling the situation of internal displacement (Walter, Rhodri, Khalid & Andrew, 2010)

1.4. Internal Displacement Caused By Natural Disasters

When masses leave their homes in one area due to any natural reason i.e. floods, earthquakes or land sliding etc. and they settle down in another area where they do not face such life threatening natural disasters it is called natural disasters induced internal displacement. Pakistan is one of the most natural disaster-prone countries of South Asia where one or another form of natural disasters continue to hit frequently. During the dry spell from year 1998-2001 around 3.4 million people were affected by the drought in Baluchistan and Sindh. Thousands of people were displaced in Cholistan (Punjab). Many districts of Khyber Pakhtunkhwa (formerly known as NWFP), Sindh, Baluchistan and Punjab were declared calamity hit. From 1958 to 1998 Pakistan lost around US\$ 5000 million, 60000 villages were affected and thousands of people were dislocated by floods. Nearly 3000 people died due to floods from 1995 to 2001. More than 14000 people were displaced from the coastal areas due to cyclone of 1999 and over 25000 got displaced by the cyclone in 2001 (Pakistan Weather Portal, 2011). Likewise, floods in the years 2010, 2011 and most recently in 2014 have affected almost the whole of the country in its length and breadth. Earthquake is another phenomenon which is frequently occurring in this part of the globe. Thousands of people have been rendered homeless without a roof over their heads due to earthquakes over the past few decades (Benerjee, Choudhry & Das, 2005). The November 27, 1945 earthquake affected Sindh and Makran coastal areas. While, December 28, 1974 earthquake affected parts of Khyber Agency and 08 October 2005 in Azad Kashmir and Hazara Division (Pakistan Weather Portal, 2011). Last but not the least the April 2013 quake affected many areas in the province of Balochistan.

1.5. Development Driven Internal Displacement

Similarly, when a volume of people from one area is displaced due to enormous development works in that area i.e. building of water reservoirs and dams, building of modern cities, hospitals, railway stations or airports etc is termed as development induced internal displacement. Examples of such displacements are numerous; only few would be discussed here. Pakistan has built about 81 new dams since 1947. This development has displaced a large number people in



This is the picture of a village submerged under Terbela dam water, the level of water rises to the border visible on the mountain in the background during summer.

the country. Development induced internal displacement is about to rise in the country, because the government has announced a plan with the name of 'Vision 2025,' according to which many new small and large dams are proposed to be built along with upgradation of the existing ones. There are

many other development projects i.e. building of highways, expressways etc which up root people. Progress towards development is a good sign but the government seems to have no plan for the rehabilitation of the population uprooted by these development projects (Benerjee, Choudary & Das, 2005).

Many displaced families from the sites of Tarbela and Mangla Dams are still waiting to receive the compensation amount promised by the government. Khalabat Township (KTS) in district Haripur of Khyber Pakhtunkhwa was set up for the displaced persons of Terbela Dam and it is commonly known as Terbela Colony. Babar Khan, working in a non-government organization

named as SACH-Struggle for Change, disclosed in an informal discussion that most of the displaced people living in KTS did not get the promised compensation by the government. He further explained that the whole township presents the picture of a city run by drug addicts and drug mafia because of ignorance of the government. He revealed that there were about 300 drug addict and drug-pushers live in KTS (Babar Khan, personal communication, December 22, 2012). Likewise Mr. Qazi Amjad Ali, a resident of village Darband on the edge of Terbela dam, expressed his views about the Terbela Dam affectees when I asked him about whether the affectees received compensation or not. He told that some of them were compensated but most the affectees were still waiting to get the promised compensation (Qazi Amjad Ali, personal communication, April 14, 2013).



Mangla Dam project which submerged numerous villages under its reservoir

1.6.The Vicious Circle of Displacement in Pakistan/ Problem Statement

The active participation of Pakistan in the War against Terrorism compelled Pakistan to take callous steps in order to eliminate militants. Many *Jihadi* organizations which were trying to fight with the US and NATO troops in Afghanistan found an excuse for onslaught on Pakistan Army and law enforcement agencies because they considered Pakistan to be an ally of their enemy i.e. the US and NATO troops. Thus, they were indulged in the anti-state activities and Pakistan had to take action against them to establish its writ and curtail armed resistance from Pakistani based *Jihadi* groups to the US and NATO troops. In the process millions got displaced. Many more are still being evacuated from FATA due the ongoing military operations against the militants in the area. Military operations are being carried out in FATA and parts Khyber Pakhtunkhwa, predominantly Pashtun areas. Vendetta is one of the basic components of Pakhtunwali¹, Pashtun cultural code; therefore, the more people are displaced from Pashtun dominated areas the more is the rise in militancy, driven by vendetta.

Additionally Natural calamities like earthquakes and floods etc. have also made many people homeless. All these IDPs give way to more burden on the meager resources of the people and the GOP. Moreover, their rehabilitation is a gigantic problem for the government. In this context some of the critical issues to contemplate upon are; the GOP policy for IDPs; the adequacy of international support; the efficacy of the government's response towards IDPs; the coordination of Government of Pakistan and different local and international NGOs and International Organization etc. to resolve the issue.

¹ Pashtunwali is the cultural code of Pashtuns living in tribal areas of Afghanistan and Pakistan. The affairs of pashtuns are regulated by this code of conduct and it is superior to all other laws among the pushtuns.

One major concern is Pakistan's response to internal displacement. The policy is based on makeshift guidelines, thereby aggravating the vulnerabilities of internally displaced persons. This study makes an objective investigation of this problem and facilitates us to gauge the extent of the challenges the government of Pakistan is facing to manage and resolve internal displacement.

1.7. Methodology of the Study

This study is primarily an attempt to evaluate the policy and response of the government of Pakistan towards IDPs in the light of the United Nations Guiding Principles on Internal Displacement. These guidelines are comprehensive in nature on the issue of internal displacement. These principles not only guide a polity-engulfed in the crises of internal displacement- to steer its citizen out of the calamity as soon as possible but they also stress upon governments about the rights of their citizens during the state of displacement. For data collection interviews of many national and international scholars such as, Ayesha Siddiq and Dr. Moonis Ahmar etc. have been conducted with their consent. The internally displaced people, officials, policy makers such as Wesli H. Turner, UNHCR staff members dealing with IDPs and intellectuals were also interviewed through face to face meetings, telephonic, Skype conversation and through exchange of emails. Different camps of IDPs i.e. Shah Mansoor IDP camp, Yar Hussain IDP camp and Jalozia Camp etc. were visited to get a firsthand knowledge of the situation on ground. Special emphasis was given to the IDPs of Swat in the camps of district Swabi as they were among the first chunk of IDPs displaced by conflict between military and militants. In addition some of the camps of IDPs from Khyber Agency, North and South Waziristan Agencies were also taken as potential hubs for data collection. Besides, throughout the course of this research a wide-ranging literature review was carried out to walk around all

essential facets of the issue. Official documents and research studies carried out by local and international NGOs and PDMA were integrated. Additionally, different internal displacement related World Wide Web resources, newspapers and journals were utilized to get updated information about the subject.

The study is based on qualitative research; it focuses on the views and experiences of IDPs in Pakistan regardless of their time of displacement. However, it covers internal displacement situations in Pakistan from 2009 to 2014.

Names of the respondents have been disclosed with their consent throughout this research. Wherever the respondents have shown any reservation about disclosure of their names this study has respected their right to remain anonymous.

1.8. Implication of the Study

This study can be significant contribution to the literature on internal displacement because the area has not so far been explored by Pakistani researchers in Pakistani context. Plentiful literature is on hand on the internal displacement but very diminutive is in black and white about internal displacement in Pakistan; for that reason, this study is an endeavor to fill up the research gap in the literature available on internal displacement. This study makes an attempt to examine the national response of Pakistan towards internal displacement situations. A detached and objective analysis of the Government of Pakistan (GOP) policy towards internal displacement in the light of UNGPID is of significance for the country itself.

1.9. Objectives of the Study

The objectives of the study are to:

1. Examine the situation of IDPs in Pakistan in light of United Nations Guiding Principles on Internal Displacement.
2. Understand conflict induced displacement in Pakistan and its critical evaluation.
3. Studying the Government of Pakistan's policy towards IDPs in the context of the United Nations Guiding Principles on Internal Displacement.
4. Highlight the implications of internal displacement for Pakistan and the whole region.
5. Suggest different policy options for the Government of Pakistan to deal effectively with the concerns of internally displaced persons.

1.10. A Case Study of Pakistan

Pakistan has the sixth largest population of displaced persons (Imtiaz, 2011). According to a report of the Internal Displacement Monitoring Centre (IDMC); almost three million people were displaced globally by the end of 2010. Displaced in Pakistan contribute a major number to complement those three million mentioned by the Internal Displacement Monitoring Centre. It has added 3 million to the total number of 27 millions conflict induced internal displacement around the world according to the Internal Displacement Monitoring Center (2010). This global figure does not include natural IDPs as it is hard to gather data about the environmental induced or natural IDPs worldwide. As far as the developed countries are concerned data about environmental, development or natural disaster induced IDPs is available but in most of the third world countries, there is no computerized registration process in place for displaced persons. It is for the reason that in many cases, countries do not share their data with the international community because of the apprehension that their development projects would come under severe criticism from human rights organizations in the developed world. In case of Pakistan, the same holds true but scattered data collected by different organizations working for natural

internal displaced persons is available. By the year 2011 there were around seven million naturally internal displaced persons living in Pakistan. This figure (seven million) has been totaled from diverse statistics available and has been calculated only for the purpose of the study after meticulously reading the number of internally displaced persons from October 2005 earthquake and 2010 floods' affected people.

The presence of such a large number of internally displaced persons in Pakistan poses numerous challenges for the country. If, on the one hand, they are squeezing the resources of the government to cope with the crises, on the other hand, internally displaced persons do not contribute to lighten the burden of the rest of the citizens to contribute to the uplift of the frail economy of the state. Internal displacement has caused many social problems i.e. theft, robbery, prostitution and such other illegal and immoral acts because of widespread deprivation and poverty among the internally displaced. IDPs could be an easy prey for the militant organizations as well because they have very little to lose as compared to other citizens, narrated Fawad Khan, a scout instructor and resident of District Noshehra (Fawad Khan, personal communication, September 25, 2009). The presence of IDPs and involvement of militant organizations in relief efforts expose internally displaced persons to militant propaganda. Militant organizations find fertile ground for recruiting young IDPs which not only destabilized Pakistan but is also sending shockwaves of instability across the Western and at times the Eastern border of Pakistan. In a nutshell, the mere existence of internally displaced persons has brought numerous challenges for Pakistan.

Internally displaced persons in Pakistan can be broadly divided into two types; one, those who leave their houses because of armed conflicts or military operations, while the other type is comprised of those who get displaced due to natural disasters like earthquakes, floods and

development works e.g. construction of dams etc. This study focuses on the former, given the limited nature and space of research it searches how Pakistan has coped with the challenge in the context of UN Guiding Principles for Internal Displacement. However, at times, the conditions of natural IDPs would be referred to for comparative purpose to highlight the living environment of conflict induced displaced persons would also be referred as the Taliban insurgency and military operations against the militants have left large numbers displaced in Khyber Pakhtunkhwa and Federally Administered Tribal Areas (FATA).

Having a porous border with Afghanistan, Pakistan witnessed the flight of Al-Qaida and Taliban fighters from across the border into Pakistan in the wake of US invasion in October 2001. Taking advantage of the hard and rough terrains in the North-West of Pakistan, these fighters made chock-a-block use of the area. These militants soon reorganized themselves and started cross border attacks on the United State and North Atlantic Treaty Organization (NATO) forces in Afghanistan. The international community mounted pressure on Pakistan to take unyielding action against the fugitives. Consequently, Pakistan carried out numerous small scale military operations along the border with Afghanistan to capture or eliminate the militants. These local operations displaced thousands of people and the militants organized massive retaliatory action against the state of Pakistan. The militants defied all national laws and implemented their version of Islamic Sharia laws in areas under their control e.g. Swat. Such massive militant activities against the country were dubbed as rebellion against the state and soon, consequently, a massive military operation against Taliban was carried out in Swat in the year 2009. The whole region was sealed off and local residents were asked to evacuate the area temporarily. As a result, in 2009 three million people were internally displaced. They were settled in different camps in the central districts Khyber Pakhtunkhwa (KPK).

Likewise, displacement of masses from FATA has been a constant phenomenon because of the presence of non-state actors in the areas of Pakistan bordering Afghanistan. Conflict induced displaced persons from FATA have been pouring into the province of Khyber Pakhtunkhwa since 2006. Hundreds of displaced families from Bajaur Agency have been temporarily provided shelter in the Kacha Garhi IDP camp in Peshawar; ever since hundreds of families were displaced from different agencies of FATA. However, due counter insurgency operation named as Zarb-e-Azab around one million people were displaced from North Waziristan Agency in 2014, the largest single displacement from any of the seven agencies of FATA so far.

According to Pakistan Association for Mental Health, the October 08, 2005 earthquake rendered around four million people homeless in addition to 100,000 dead. Massive international support was provided to Pakistan to cope with one of the worst catastrophes of its narration. Earthquake Reconstruction and Rehabilitation Authority (ERRA) was formed to channel aid and support for the affected people. Although the cause of displacement in this particular case is different from the conflict but still the tribulations and needs of IDPs are more or less the same with little variation.

Pakistan has been home to Afghan refugees for the past three decades and the presence of around three million refugees for a long period of time has affected social and economic fabric of the state. The internal displacement has complicated problems for the officials as well as refugees. There was optimism amongst the Pakistani officials that it would successfully repatriate the Afghan refugees when the September 11 terrorist attacks on the United States (US) plunged Afghanistan into another international conflict; blocking comprehensive repatriation of the refugees. in the year 2011 around 1.7 million registered Afghan refugees were residing in Pakistan in addition to the three millions conflict-induced internally displaced people, the figure

of natural IDPs has not been taken into account over-here. Their presence has burdened the already fragile economy of the country.

Illiteracy, poverty and overpopulation (estimated 190 million) have compounded the problems. Dealing with both the IDPs and refugees has been problematic. Although the IDPs are the citizens of the same state, yet they find it difficult to make a living in a new town or city after displacement. Moreover, the areas from where the IDPs originate are abandoned and economic activities come to a halt due to conflict e.g. in Swat, Dir and Buner, South Waziristan, North Waziristan etc. Consequently, Pakistan lost a potential opportunity to earn from the lucrative tourism industry of some of those areas. The displaced formerly earning for the country are now dependent on the central government for financial assistance. The government does not have ample resources to satiate the economic needs of these IDPs.

The challenges of internal displacement in Pakistan have assumed global dimensions. Cohen & Deng (1998) opine that when people are forced to become homeless in their home country and forced into destitution, their plight not only poses humanitarian challenges but also threatens the security and stability of countries, regions and through a chain effect the international system of which they are an integral part.

Poor families in the IDP camps sell off their children to the rich foreigners wishing to adopt children because the displaced ones cannot afford raising them, Banergee, Choudhury & Das (2005) state. In many camps young boys go missing with no whereabouts; in some cases they are kidnapped and forcefully yoked into the illegal trades. No child protection agency has been successful, so far, in stopping such crimes. Additionally, structured groups have emerged who promote prostitution while in many other cases it is being done on individual basis without

affiliation with any group. The same pattern is unfolding itself among the IDPs in Pakistan. Many children are being left on their own to fulfill their needs; they in turn end up with gangs of criminals. This scenario not only deteriorates the situation in their surrounding areas rather it affects the whole towns. Rumors of similar crimes were echoed in district Swabi, Mardan and Charsaddah which were hosting numerous IDP camps in 2009, told Waqar Ahmad a resident of the area (personal communication, September 16, 2009). He further informed that social evils i.e. theft, robbery, gambling and prostitution etc, have become part of temporary settlement of displaced people in areas of their temporary settlement. Mr. Waqar Ahmad also shared that due to poverty and lack of resources many displaced persons both males and females were involved directly or indirectly in the promotion of aforementioned evils.

Poverty is the mother of all crimes. Displaced people having nothing left at their disposal, think all the time of making a living and surviving the day. In order to counter the negative effects of displacement, the government should provide ample economic assistance to the IDPs not only during their period of displacement but also, for a specific period of time, after their relocation. The government is not only facing difficulties to address the issue of IDPs effectively, but it also lacks a uniform policy to meet different challenges; i.e. food, health and sanitation, shelter, education and finally finding durable solutions to their displacement. On the one hand, the government allowed International Non Governmental Organizations (INGOs) to work with the government to help the Swat IDPs and share the burden of government. On the other hand, INGOs were asked to stay away from the IDPs of South Waziristan and North Waziristan due to security concerns. The government desperately needed different INGOs to assist the natural IDPs resulting from the 2010 flood, but in some parts of the province of Balochistan it did not extend consent to these INGOs. The National Disaster Management Authority (NDMA) had banned

international donor agencies, aid organizations and NGOs from directly assisting the flood-affected people in some parts of the province of Balochistan. Additionally the government did not ask for financial assistance from the international community when Balochistan was struck by an earth quake in April 2013. The provincial government asked for financial assistance from international community while the federal government and NDMA were both against taking such assistance and both national and international humanitarian agencies and observers were given mixed and confused signals. This dualism in the policy of the Government of Pakistan (GOP) towards IDPs show that the government does not have tangible policy to resolve the issue, rather it has a shallow approach towards the problem.

1.11. Theoretical Framework

The Guiding principles on internal displacement and other instruments of International Humanitarian Law and Human Rights Law would be used as a theoretical framework for this study. These principles cover situations of all kinds of displacements i.e. displacement during peace which may be due to natural or man-made disasters; during international armed conflict and during domestic armed conflict. For the purpose of this study relevant guiding principles and articles of International Humanitarian Law and International Human Rights Law are focused to gauge the internal displacement situations in Pakistan in light of these Principles and tools of international law. The United Nation Guiding Principles on Internal Displacement, International Human Rights Law and International Humanitarian Law strive to ensure the provision of protection to all human beings both in peace and conflict (Henckaerts & Doswald-Beck, 2009), thus selection of these tools as theoretical framework for this study will enable us to reflect upon the internal displacement situations in a scientific manner and highlight the areas of improvement in response of the government of Pakistan to such situations as well.

Guiding principles are 30 in number and they cover different stages and themes of internal displacement i.e. Protection against displacement; protection at the time of displacement; provision of humanitarian assistance and protection during the return, local integration or resettlement in another part of the country (Kalin, 2008). Likewise International Humanitarian Law (IHL) strives to resolve issues arising from domestic or international armed conflicts. Whereas International Human Rights Law (IHRL) is a set of rules on the basis of which human beings try to get an expected behaviour or benefit from governments on the basis of being human (Henckaerts & Doswald-Beck, 2009). Therefore, it is not wrong to conclude that the UNGPID, IHL and IHRL are all concerned with the rights of human beings (Kalin, 2008). The UNGPID has drawn a number of its principles from the rules set in IHL and IHRL. While IHRL deals with the rights of individual in peacetime, the IHL deals with the rights of individual in humanitarian situations. However, since in situations of internal displacements normally humanitarian state of affairs is created; therefore, it is relevant to focus on humanitarian aspects of the situations as well. While looking at the humanitarian aspects of the situations one should not forget that individuals have some basic human rights which they are supposed to enjoy all the time regardless of the fact that either they are trapped in humanitarian situations or not.

However, there is no concrete distinction between internally displaced persons or other individual in the IHL. The International Humanitarian Law treats all individuals the same. It protects all those who do not take part in armed conflicts, whether or not they decide to stay at home or to flee. International Humanitarian Law is against displacement at the first place both through direct means, forced displacement, and indirect means; attacks on civilians, inhuman treatment and using starvation as a means of combat etc (Henckaerts & Doswald-Beck, 2009). IHL is against all sort of discrimination and thus by default it provides for the same treatment of

IDPs as other nationals of the state (Kalin, 2008). In addition, IHL protects the family unit in case of displacement and protects the right of family members to stay in touch (Red Cross, 2008).

The guiding principles are not an official declaration of the United Nations on the rights of internally displaced persons and they are not binding upon states (Kalin, 2008). Still these guiding principles have close resemblance with international human rights law and international humanitarian law as they are covering the rights of displaced human beings. Whether they have been displaced by development work and government should take care of their rights and well being in the routine process they have been displaced by conflict or disaster and government should take care of their humanitarian needs and rights (Kälin, Williams, Koser & Solomon, 2010). Thus, the UNGPID can be termed as the combination of IHL and IHRL; both IHL and IHRL generally talk about all human beings while the UNGPID specifically applies those clauses on internal displacement situations. It reiterates in more detail those conditions which act in response to the definite needs of IDPs and elaborate them to serve their use in the situation of internal displacement (Kalin, 2008).

Principle 1 prohibit against any discrimination among the internally displaced persons and other citizens on the basis of being displaced. Secondly, this principle also declares that it will not affect in anyway the rules of international criminal responsibility. The purpose of explaining separately about the non-exemption from the international criminal procedure is that, that war crimes should not go unpunished simply on account of internal displacement or being internally displaced (Kalin, 2008).

Application and observance of these Principles should not affect the legal status of any authorities groups or persons involved. The ground realities in Pakistan during the conflict

induced displaced people from 2009 till 2012 did not suggest any substantial violation of UNGPID in terms of political use of these principles during one particular situation of displacement. However, comparing one situation of displacement with another, one can find traces of political motives in extension of humanitarian support to the displaced persons. The Swat IDPs were provided substantial humanitarian support while IDPs from Federally Administered Tribal Areas (FATA) in general and South Waziristan in particular were not provided the same kind of humanitarian assistance (Sheraz, Khan, Personal interview, October 31, 2011). Mr. Muhammad Raza, the former Managing Director of Bacha Khan Foundation provides another reason for such discriminatory treatment of internally displaced persons from Provincially Administered Tribal Areas (PATA) and FATA. Since PATA has been administratively incorporated in the mainstream Pakistan and FATA is yet on the administrative periphery of mainstream country; therefore, administrative response to the internally displaced persons from PATA was found much better as compared to the administrative response towards the IDPs from FATA (Muhammad Raza, personal communication, April 21, 2014).

The Guiding Principles in no way confine alter or disfigure the terms of International Humanitarian law or International Human Rights Law; neither do they negatively affect rights granted to people under domestic law. It further declares that these Principles have no discrimination to the right of seeking asylum in other country (Global Database on Guiding Principles on Internal Displacement, 2007). In Pakistan's internal displacement situations, by and large, these principals are observed and violation of them is not visible. However, sporadic incidences where some sort of violation of these principles in Khyber Pakhtunkhwa and FATA is observed can also be quoted. Families of militants who had no responsibility for the acts of their militant family members were kept in a confined camp near Malakand by the Pakistan military to

monitor the movement in and out of camp. Likewise the Human Rights Commission of Pakistan (HRCP) sends its facts finding mission to far flung areas of Balochistan every two years to find the human rights situation. In one of its reports on Balochistan's IDPs, HRCP discloses that only 11% of Balochi IDPs were provided with health facilities and the rest of 89% had no health facilities arranged for them (*Human Rights Commission of Pakistan*, 2013).

The protection of internally displaced persons is the responsibility of national authority within its jurisdiction (Deng & Cohan, 1998). This was to ensure the states that their sovereignty would be respected by the international community in situations of internal displacement. On the other hand it emphasizes the role of state and its importance in solving the problems of its citizens including the internally displaced. The state should not only be responsible for the civil, social and economic needs of the internally displaced persons but it should also take necessary legal and administrative measures to observe all fundamental human rights of its displaced citizens (Protecting Internally Displaced Persons: A manual for law and policymakers, 2008) (Davies, 1998).

Special protection to groups such as minors, children, mothers with young children and expectant mothers, female headed households and elderly and disabled or differently able persons is highlighted. The needs and conditions of such groups should be taken into account for their special needs. Women and children form a large number of internally displaced persons all over the world, but most of them are among the most vulnerable population of the displaced persons. In particular woman face discrimination and they are exceedingly vulnerable to sexual exploitation etc. likewise the displaced children face the risk of sexual abuse as well as economic exploitation; they also face the risk of interruption of their education (Protecting Internally Displaced Persons: A manual for law and policymakers, 2008).

1.12. Protection from Displacement

Guiding Principles emphasizes that all relevant state authorities and international actors shall respect and make sure reverence for their responsibilities and obligations under international law, human rights and humanitarian law in all circumstances, to avert and evade circumstances that might show the way for displacement of people (Davies, 1998). There is no denying the fact that many situations of displacement could be avoided if norms of international human rights law and international humanitarian law were observed.

Arbitrary displacement prohibited displacement under the policy of apartheid, ethnic cleansing or any other such policies aimed at changing the religious, racial or ethnic composition of the targeted area. Forced displacement is arbitrary when it is used as a tool of collective punishment against a particular community (Global Database on Guiding Principles on Internal Displacement, 2007). However, advocating against any sort of displacement in armed conflict it leaves the room for displacement where security of civilians is at risk or some unavoidable military reasons demand. Displacement is allowed due to development projects i.e. construction of dams, railway lines, highways and airport etc. these development projects are the backbone for the economic uplift of a polity and they should not be halted for the larger public interests. However, the disguised use of development projects to dislocate a particular community, ethnic, linguistic or religious group is not permissible. Rather it tries to ensure that such development projects be motivated by widely accepted public interests strictly following the “Do No Harm Frame Work”².

² The DO NO HARM “Analytical Framework” was developed from the programming experience of many assistance workers. It provides a tool for mapping the interactions of assistance and conflict and can be used to plan, monitor and evaluate both humanitarian and development assistance programmes. The Framework is NOT prescriptive. It is a descriptive tool that: 1) identifies the categories of information that have been found through experience to be important for understanding how assistance affects conflict; 2) organizes these

To minimize the threat of involuntary displacement in conflict zones state authorities shall ensure respect and observance for the provision of international humanitarian law. In addition, states have the obligation that all involuntary displacement of civilians should be justified on grounds of their own safety or military reasons. Moreover, the displaced civilians should be provided suitable conditions of shelter, health, nutrition and safety (Protecting Internally Displaced Persons: A manual for law and policymakers, 2008).

The internally displaced persons in situations of displacement other than emergencies of armed conflict and disasters should be well informed by the authorities about the reasons and procedures for their displacement (Davies, 1998). In addition they should be informed about the compensation and relocation procedures as well if that applies. For such kind of displacement approval of the displaced persons shall be sought after giving them complete information of the situation. The authorities shall respect the right of the internally displaced persons if they demand an effective remedy for their displacement or if they challenge such kind of a decision of displacement in a court of law the authorities should respect judicial decisions in that regard (Global Database on Guiding Principles on Internal Displacement, 2007).

1.13. Protection during Displacement

Internally displaced persons shall be protected against, (a) Genocide; (b) Murder; (c) Summary or arbitrary executions; and (d) enforced disappearances, abduction or unacknowledged detention, threatening or resulting in death. Threats or stimulation to commit any of the above acts are prohibited (Kalin, 2008).

categories in a visual lay-out that highlights their actual and potential relationships; and 3) helps us predict the impacts of different programming decisions.

Internally displaced persons who do not or no longer take part in armed conflicts and hostilities should not be subjected to attacks or acts of violence. They shall be protected against:

- (a) Starvation as a technique of combat against the internally displaced persons;
- (b) The use of internally displaced persons to shield military objectives from attack or to shield, help or hinder military operations;
- (c) Assaults against the settlements of internally displaced people; and
- (d) The use of anti-personal landmines

Both the Guiding Principles and International Humanitarian Law advocate for the protection of internally displaced persons against infringement or deprivation from right to life, security and dignity (Kalin, 2008). Moreover, the Guiding Principles move a step forward and encourages states to make displacement related laws in order to regulate affairs during situations of internal displacement. This is for the reason that general breakdown of law and order in such situations is more likely than in normal circumstances. Chaos will replace the vacuum created by the absence of law and order and thus state authorities will need to make special arrangements / laws for such kinds of special situations to ensure the observance of state's obligation under the international humanitarian law and human rights law of providing those basic rights to their citizens (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008).

The prohibition of making internally displaced persons as hostages is guaranteeing their basic right or safety in conflicts or conflict like situations (Kalin, 2008). It also makes states authorities responsible to provide protection to the internally displaced persons against criminal gangs and terrorist groups. Falling of the internally displaced persons into the hands of terrorist groups in Pakistan can be an issue the state authorities should ponder over as it is the responsibility of

authorities. It will not only protect internally displaced persons but will also enable the government of Pakistan to keep the strength and growth of militant organizations under check.

Recruitment of children and other displaced persons in armed groups in conflict situations is more likely because of the inbuilt chaos in such dilemmas. It does not only violate the very basic and fundamental human rights of internally displaced persons but it also hinders the progress and development of a child in the long term (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008). Specific age of the children is not mentioned in IHL. But all children rights laws agree that any person below the age of 15 years should be taken as a child. However, some laws related to children rights say that a child is below the age of 18 years. Therefore, in order to avoid any conflict about the maximum age of a child we should take it as 15 years (Kalin, 2008). Moreover, IHL describes in detail the protection of children in any kind of armed conflict. Like other civilians, IHL stands, children's protection against the affects of war. Protection of children involved in armed conflict is also one of the main subjects of IHL (Red Cross, 2008) (Henckaerts & Doswald-Beck, 2009).

Paragraph two of this Principle emphasises the protection of internally displaced persons, in general and not only children, against discriminatory practices of their forced recruitment in armed forces or groups as consequence of their displacement. It specifies that all cruel degrading and inhuman practices shall not be applied to compel compliance or punish non-compliance with recruitment in all circumstances.

Displacement from one's place of residence in itself can be termed as the absence of freedom of movement and freedom of choice for the displaced persons (Kalin, 2008). In first place people are forced to leave their places of habitual residence and in second place they are bound not to return to their homes until the state authorities allow them to (Protecting Internally Displaced

Persons: A Manual for Law and Policymakers, 2008). Thus, Principle fourteen of the Guiding Principles has touched upon the theme of freedom of movement. The internally displaced persons have the right to move in and out of the camps and other settlements freely (Kalin, 2008).

By stating that they have the right to leave their own country the Guiding principles try to guarantee a basic right in the International Human Rights Law. The International Human Rights Law guarantees the right to leave one's own country even in times of armed conflict and protected against forceful return (Global Database on Guiding Principles on Internal Displacement, 2007) (Henckaerts & Doswald-Beck, 2009).

Those families which have been separated during displacement have the right to be reunited as quickly as possible. The authorities should take all appropriate steps to speed up the reunion of separated family members, chiefly, when children are involved in such cases.

Equivalent treatment of women and men is ensured and has identical rights to acquire essential documents. There should be no discriminations on the basis of sex while issuing all necessary documents (Global Database on Guiding Principles on Internal Displacement, 2007) (Henckaerts & Doswald-Beck, 2009).

Both International Humanitarian Law and International Human Rights Law protect the right to property and possessions of all individuals (Henckaerts & Doswald-Beck, 2009). Thus, the inclusion of this principle in the Guiding Principles is an evidence that these Principles have been devised to extend human rights law and humanitarian law to the benefit of the internally displaced persons as well.

1.14. Humanitarian Assistance

Humanitarian assistance covers material and services that are necessary for the survival of internally displaced persons. These material and services include food, water, medical supplies, shelter and clothing (Henckaerts & Doswald-Beck, 2009). All humanitarian support for the IDPs should be carried out in agreement with the ethics of humanity and neutrality and without prejudice.

Principle Twenty Five of the Guiding Principles has three main paragraphs which discuss the theme of national responsibility and international efforts to provide humanitarian assistance for the internally displaced persons in case of internal displacement. The prime obligation and liability for providing humanitarian support to internally displaced persons lies with national authorities (Kälin, Williams, Koser & Solomon, 2010). It means that in case of internal displacement the affected state has the primary responsibility to provide humanitarian assistance to its affected and displaced population.

International humanitarian organizations, intergovernmental and non-governmental, and other suitable players have the right to tender their services in support of the internally displaced persons (Weiss & Korn, 2006). Permission to such an offer must not be denied without any solid ground, mainly when authorities involved are not capable of supplying or reluctant to supply the essential humanitarian support.

The issue of humanitarian support stipulates that all involved authorities must grant and make possible the free course of humanitarian help. It further says that the concerned authorities shall grant persons employed in the provision of humanitarian assistance quick and unhindered way to the internally displaced persons (Kalin, 2008).

Principle Twenty Six of the Guiding Principles on Internal Displacement states that all personnel involved in humanitarian assistance shall not be attacked or made subject to acts of brutality. In addition, their transport and supplies must be protected. And they shall not be made objects of attack or other acts of violence (Kälin, Williams, Koser & Solomon, 2010).

When providing assistance to the internally displaced persons in displacement situations all actors i.e. state authorities, international donors, INGOs and NGOs should give appropriate regard to the human rights and protection needs of internally displaced persons. They should take suitable measures at all stages of displacement to ensure that human rights of internally displaced persons are in no way violated and that displaced persons' protection needs are taken care of. Moreover, these organizations and national and international players must value relevant international codes of conduct and standards during their operational tasks to ensure effective service delivery to the internally displaced persons.

1.15. Return, Resettlement and Reintegration

Principle Twenty Eight of the Guiding Principles discusses the issue of return of the internally displaced persons. The concerned and competent authorities have the chief duty and responsibility to create conditions and provide the means which permit internally displaced persons to return willingly, in safety and with self-esteem, to their dwellings or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall make an effort to help the reintegration of returned or resettled internally displaced persons.

Concerned authorities have the obligation to help returnees to recover their property, assets and belongings which they left behind or were dispossessed of upon their dislocation. In addition,

when recovery of such property, assets and belongings is not achievable, able authorities shall give or help out returnees in acquiring fitting reward or another form of compensation.

Having discussed standard rules for observance of human rights during all stages of displacements in the light of Guiding Principles on Internal displacement, International Humanitarian Law and International Human Rights Law; the following chapters of this study analyzes the extent of observance of these tenants in case of conflict induced internal displacement in Pakistan. The subsequent sections of this study make an attempt about when and where these Principles apply and whether they are observed or not. Cases and causes of their observance are compared with cases and causes of their non-observance in order to find discrepancies and ground realities. Issue of protection of IDPs have been discussed in chapter two of the study; while possible durable solutions for internally displaced persons have been discussed in chapter three. Over all domestic and international challenges for Pakistan due to internal displacement situations have been discussed in chapter four; while, suggestions for making a comprehensive state policy for all kind of internal displacement situations are also given in chapter five of this study. Finally, chapter six sums up the findings of the whole study.

1.16. Conclusion

Since there are numerous instances of conflict induced internal displacement situation in Pakistan; therefore, it was never expected that situation on ground would have no compatibility issues with the United Nations Guiding Principles on Internal Displacement, International Humanitarian Law and International Human Rights Law. However, one of the major causes for reluctance of states in the observance of United Nations Guiding Principles on Internal Displacement is the non-binding nature of the Guiding Principles. An attempt had been made to

highlight areas of improvement and gauge the internal displacement situations in the country against standard and very basic international human rights tools. In today's globalized world, no event occurs in isolation. Most of the events that occur domestically have tentacles reaching out beyond their geographical limitations. Given that Pakistan is located in an important geo-strategic location on the map of the globe; hence, internal turmoil and fragility of its economy caused by internal displacement has the potential to emit vibes of volatility in the whole of South Asian region.

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Chapter 2

Protection of Internally Displaced Persons in Pakistan

Protection of the displaced persons is a complicated issue and it needs to be addressed judiciously. This section of the study attempts to get an insight of issues and problems of the internally displaced persons in Pakistan. Moreover, the issues of observance and non-observance of the Guiding Principles would also be identified and addressed. They address the issues of protection for the internally displaced persons comprehensively. Protection of the internally displaced persons needs to be explained over here before proceeding further. There are various definitions of the term “Protection of Internally Displaced Persons,” however; for understanding of readers it can be explained as access to fundamental human rights by the IDPs during internal displacement situations, return and rehabilitation phases/process. Every individual is entitled to fundamental human rights. State is responsible to give fundamental human rights to its citizens ([Maiese, 2004](#)). Moreover, international community, too, has the responsibility to impress upon other members of the comity of nations to observe the fundamental human rights of its citizens, where it sees the violation of human rights (Handbook for the Protection of Internally Displaced, 2007).

Pakistan is one of the few members of the international community which has been facing situations of internal displacement every now and then. Whether internal displacement occurred today or it has occurred in the past; the problems and issues of the internally displaced persons are more or less the same. It would not be out of context to mention here that it is not the cause of displacement but the displacement itself gives rise to the issues and problems for the displaced people (Rehman Ali, Personal Communication, May 5, 2011). Shad Begum, an activist, from Dir Lower closely observed the 2009 internal displacement from Malakand division and is actively

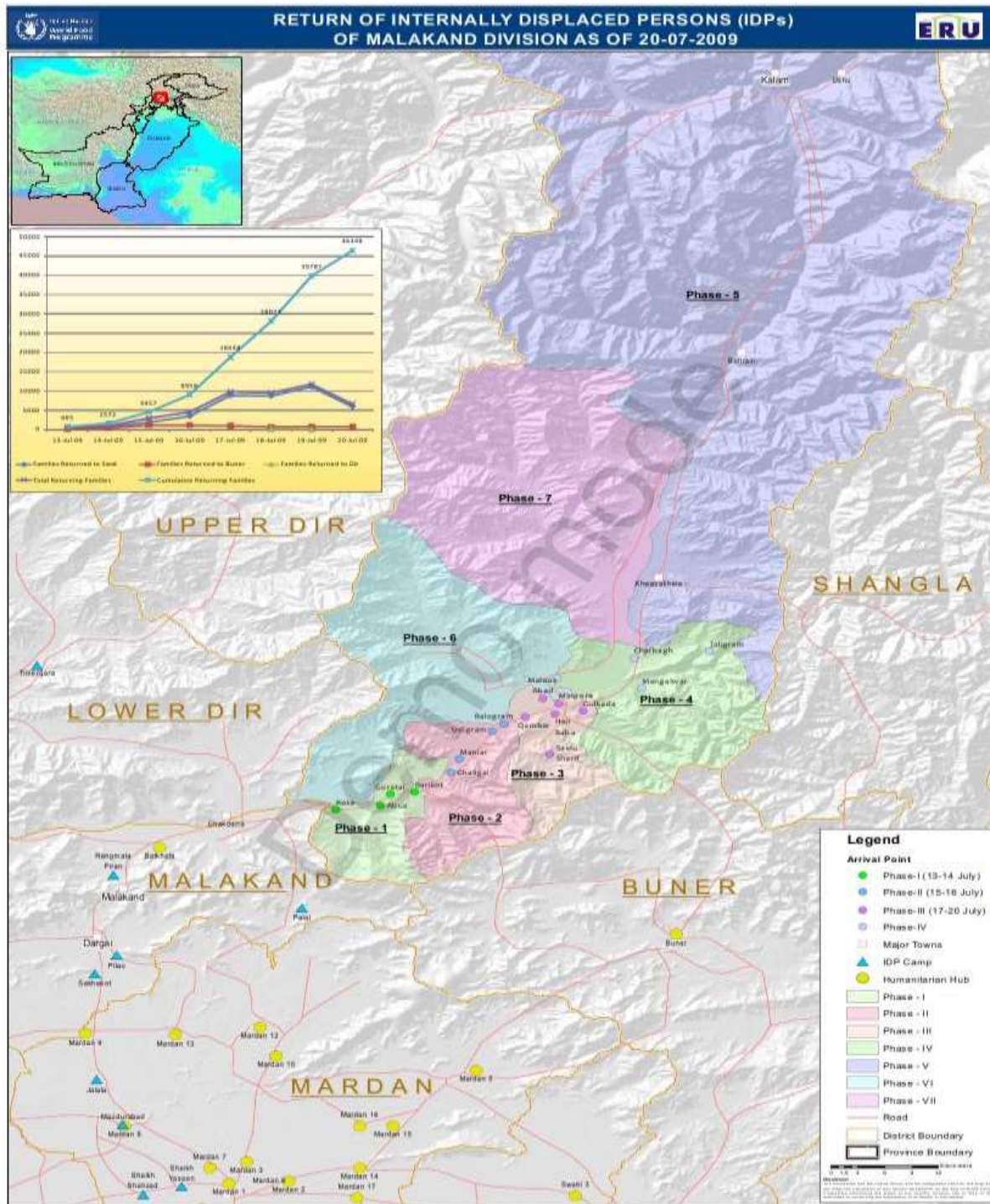
working for the betterment of internally displaced persons from North Waziristan Agency in 2014. She explains that time and space of internally displaced persons might have changed but their plight and protection issues are the same. She is of the opinion that in some cases the condition of internally displaced persons in 2014 is worse than internally displaced persons from Malakand division displaced in 2009 (Shad Begum, personal communication, July 15, 2014).

The internally displaced persons have the right to protection against adverse circumstances during displacement and after return. It is the prime responsibility of the state to provide protection to its displaced masses (Banerjee, Choudhury & Das, 2005). Many of the major protection issues of the internally displaced persons have been mentioned in this chapter. The legal foundation those protection matters in international human rights and humanitarian law and the UNGPID has also been pondered over against the on ground situation of internally displaced persons in camps and host communities in Pakistan to assess the situation on ground against those set standards and highlight areas of improvement. Major protection issues would be discussed under separate headings to make it easy for readers to understand the specific protection rights of internally displaced persons under different tools and instruments of international law and compare them with the ground realities in Pakistan.

2.1. IDPs Right to shelter

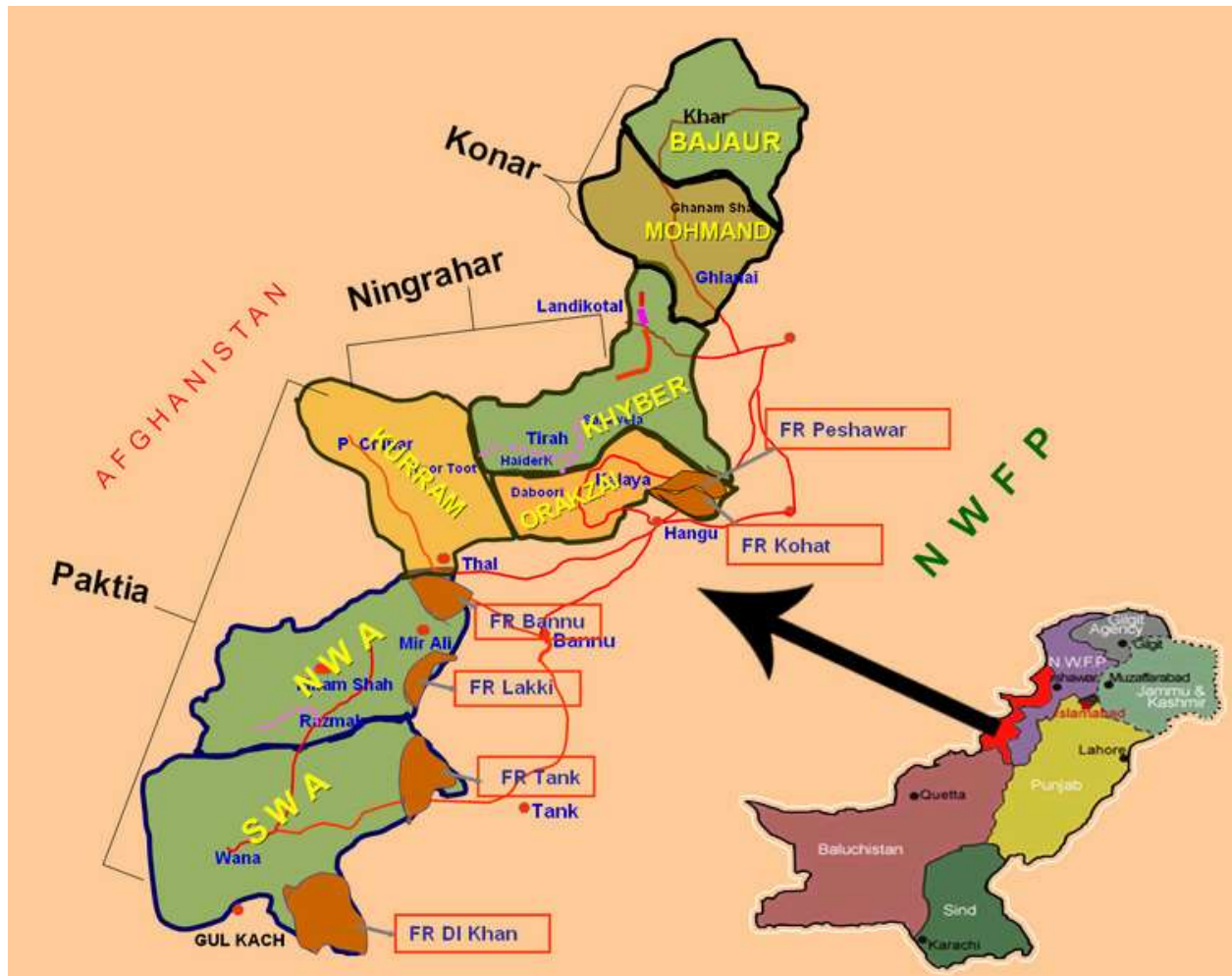
“Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence” says the guiding principles. Shelter is one of the basic human needs and consequently it is a basic human right. The Guiding Principles on Internal Displacement is explicit about the provision of shelter and protection against deprivation from shelter. In the conflict zones, Malakand Division and FATA, of Pakistan ever since the commencement of the military operations against the militants, millions of people have been

displaced. For instance, the military operation Rah-e-Rast displaced around 3 millions in 2009, in the same year operation Rah-e-Nijat launched South Waziristan displaced around eighty thousands individuals and military operation Zarb-e-Azab in 2014 displaced around 600 thousands.



Return Situation. Return of Internally Displace Families (as of 22 Aug, 2009) · IDP

Humanitarian Supply Chain Union Council & Villages



The Federally Administered Tribal Areas (FATA) in Pakistan is an area outside the four provinces bordering Afghanistan, comprising a region of some 27,220 km² (10,507 sq mi).

In some cases the consent of the local population for being displaced was there while in others it was not. District Swat of Malakand Division of Khyber Pakhtunkhwa province of Pakistan was

hub of militancy and military had to take action against militants in the region to halt militant activities and attacks on military and law enforcement agencies. Mukaram Shah, a resident of district Swat informed during an interview that most of the people of his village were in favour of evacuation from the area before the show down between the Pakistan Army and Taliban (Mukaram Shah, Personal Communication, September 15, 2009). On the contrary the residents of district Buner were not in favour of the military operation in their district because they were of the opinion that there were only few Taliban elements in their region and surgical operations, rather than a massive generalised military operation, were needed in the district told a resident of Tarakai IDP camp from Buner (Feroz Khan, Personal Communication, September 15, 2009). It was the loss of permanent shelter, home or place of habitual residence, for those IDPs which made their lives miserable in the camps, keeping in view the poor shelters offered at camps. That was why upon interacting with them I found that majority of the internally displaced persons were trying to assess into the logic of military operations in the first place, most of the times during my interaction with them.

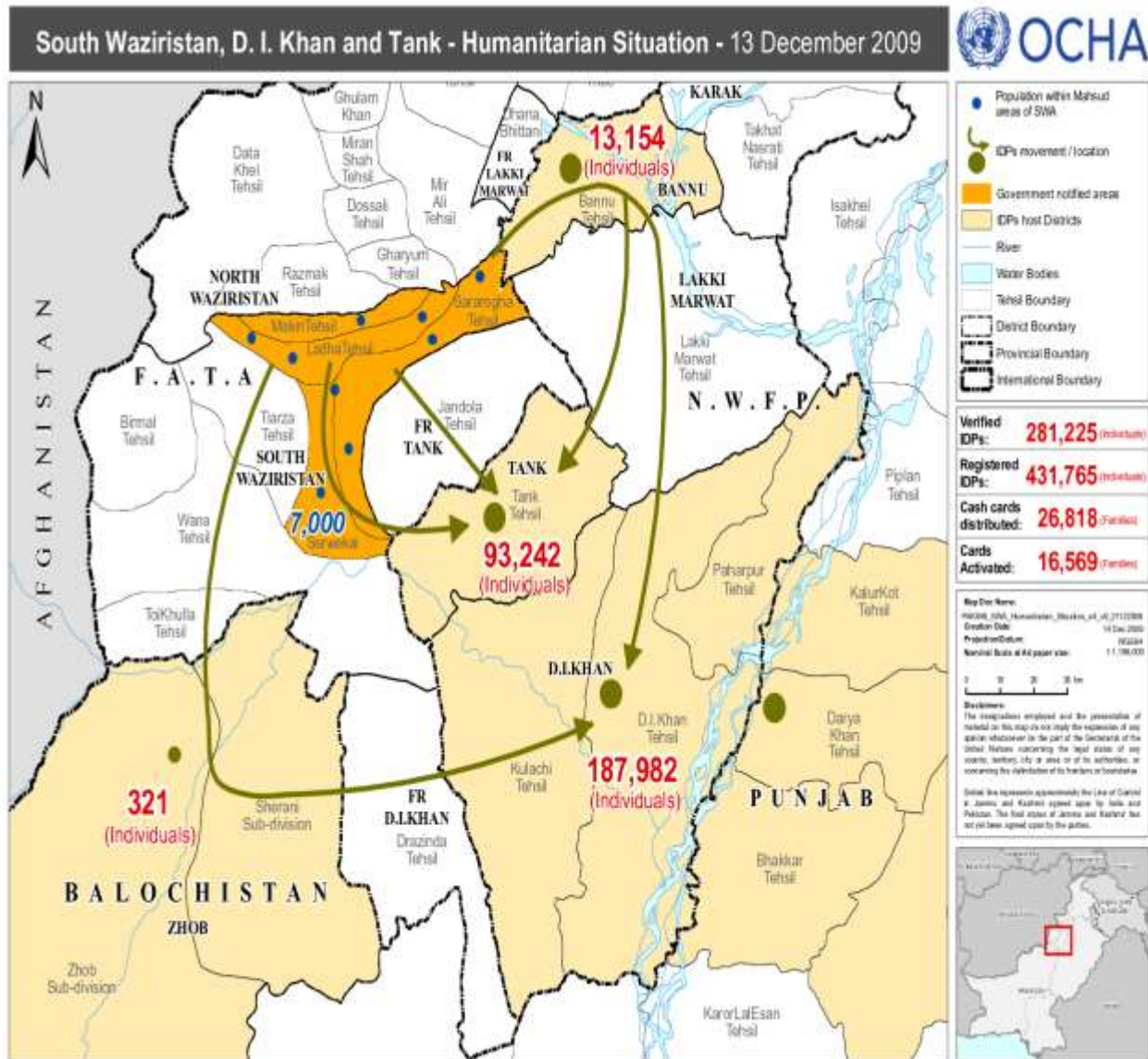
Similarly, about the military operation in the South Waziristan Agency (SWA) the public opinion of the local people is evenly divided. After the interview of Tariq Mehsud, a resident of Mir Ali South Waziristan Agency, I got the reflection that many affected people were against the presence of militants in the region and they supported the military operation against the militants in South Waziristan Agency. Tariq told that although he had lost his house and means of livelihood not because of Taliban but due to military operation against Taliban, However, for the greater interest of the people and the area he supported the operation to eliminate extremist elements from South Waziristan Agency and loss of property was acceptable for him (Tariq Mehsud, Personal Communication, June 20, 2012). After taking an interview of Aqeel Khan

another resident of South Waziristan Agency in D.I. Khan living with his relatives it was revealed that many people were not comfortable with the military operation in the Agency. Aqeel Khan further told that the ongoing military operation had made thousands of people deprived of their homes and property. He further complained about the poor arrangement of shelter for the displaced people of the Agency i.e. lack of government's will to set IDP camps for them etc. (Aqeel Khan, Personal Communication, June 20, 2012). It is to be noted over here that the government of Pakistan did not set up any IDP camps for the displaced people from South Waziristan Agency because of the security concerns. i.e. use of camp territory by militants who would have fled from South Waziristan Agency in the guise of IDPs. IDPs from that agency have been temporarily settled with the host community.. The host or the landlord was made responsible for the misuse of his property by the IDPs. Thus monitoring of militants' activities was made much easier through bestowing the burden of responsibility of every IDP on the host, to ensure that no anti-state activity is carried out from among the ranks of militants in guise of IDPs. It was for the reason that the military was at the loggerhead with the Taliban in South Waziristan and public support for militancy in South Waziristan was in Taliban's favour therefore, it was difficult to differentiate between militants' sympathizers and innocent civilians. So the government settled IDPs with host communities in the surrounding settled and FR areas and made the host responsible for the acts of IDPs. However, Aqeel Khan considered it as punishment for the people of the whole agency. Whatever the case is, it is a violation and non observance of the Guiding Principles as paragraph two of Principle⁷ which emphasizes that authorities should ensure to all possible extent proper accommodation to the displaced persons. Moreover, it should be carried out in fitting conditions of safety, nutrition, health and hygiene, and during and after displacement members of the same family should not be separated.

“The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.”

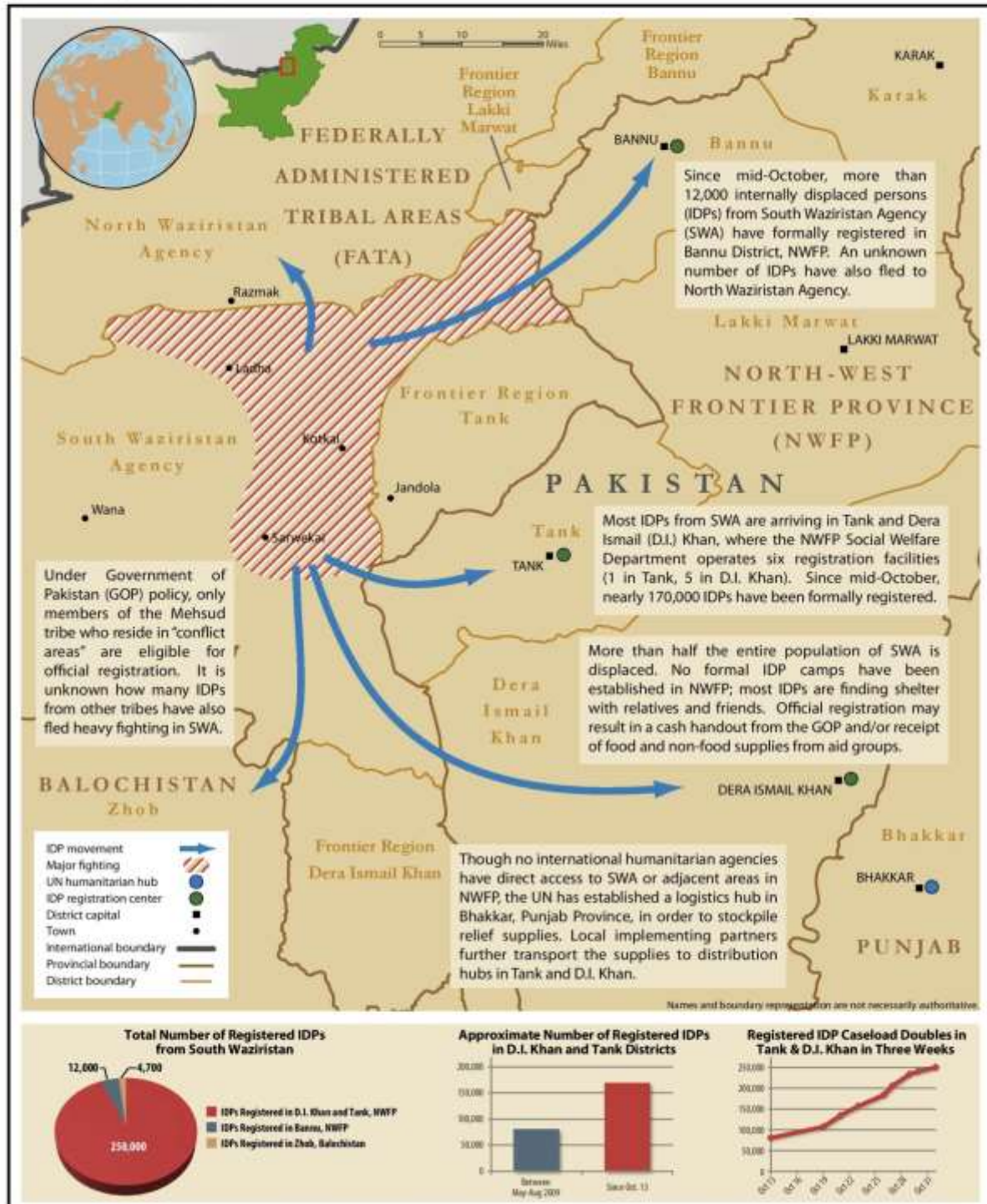
(Principle 7.2, UNGPID)

Aqeel Khan was dissatisfied with his accommodation in D.I. Khan , about 500 KM east from the town of Tehsil Wana of South Waziristan Agency, because he told that it was not the government which provided him the accommodation but his relatives. Shahidullah Dawar from SWA told that the policy of the government of Pakistan towards the civilians (IDPs) from SWA was punitive (Shahidullah Dawar, Personal Communication, June 20, 2012). Principle six of the Guiding Principles says that “the prohibition of arbitrary displacement also includes displacementwhen it is used as a collective punishment.”



The UNOCHA Statistics about IDPs from South Waziristan Agency in the year 2009.

Pakistan: South Waziristan Displacement Climbing



UNCLASSIFIED

Sources: USG, UN OCHA, UNHCR, IRIN, Pakistani Media, International Crisis Group

November 2, 2009 - U94 8-03 STATE (HIU)

The Figure shows facts and statistics about IDPs from South Waziristan Agency in 2009 in light of reports of USG, UNOCHA, UNHCR, IRIN, Pakistani Media and International Crisis Group Reports

Although the Guiding Principles prohibit arbitrary displacement but the situation of Swat and Waziristan was getting out of control. Law enforcement agencies were under attack by the militants and numerous law enforcement agencies' personnel were slaughtered at the hand of the outlaws. It was not only becoming a threat to the law and order situation in the whole country but the very local population was being affected by the rise of militancy in those areas (Shad Begum, personal communication, December 25, 2013). Voices to curb militancy through the use of force were raised by the local notables, common men and media alike. Therefore, it was essential for the GOP to take firm action to secure those areas for the security of civilians. Besides, there were some military reasons behind operations against Taliban which displaced millions of people as they were challenging the writ of the state and were raising an alternative military force. The Guiding Principles take us to the conclusion that military actions and displacement of people were not unlawful because the prohibition of arbitrary displacement furthermore comprises displacement in armed conflict, except the security of the civilians involved or imperative military motives demand so.

IDPs from Aurakzai Agency in the Tughsarai IDP camp in district Hangu, IDPs in Jalozaï camp from Bajaur, Khyber and Mohmand agencies and IDPs in camps of District Swabi from Swat, Buner and Dir and IDPs from North Waziristan Agency in Bakakhel IDP camp faced numerous shelter related problems. The ground realities in the above mentioned camps show rather a different picture which is not in conformity with Principle Seven of the Guiding Principles. Rehman Ali, hygiene officer at International Medical Corps was of the opinion that in Tughsarai camp at Hangu more than one nuclear family was accommodated per tent; thus, the presence of greater number of individuals made it hard for the inhabitants of the tent to keep it clean as they all had to dine and take rest in the same place and the number of inhabitants was more than the

capacity of the tent so it hampered their efforts to keep it clean all the time. (Ali, Rehman, Personal Communication, May 5, 2011) (Shad Begum, personal communication, July 15, 2014). Likewise Feroz Khan of district Buner was also furious over the government inaction to improve the living condition in the camp (Khan, Feroz, Personal communication, September 15, 2009). I personally observed that tents were overcrowded and privacy of nuclear family could not be maintained. Whole families were accommodated in one tent and many tents were being used to lodge more than one nuclear family.



Internally displaced people camp in Togh Sarai in district of Hangu. <http://tribune.com.pk/>

Similarly most of the IDPs in Jalojai too were not satisfied with their living conditions in the camp. Ijaz Khan is an IDP from Bajour living in Jalojai IDP camp told that tents provided to them were not strong enough to resist the harsh weather condition such as extreme winters and extreme summers, which is the normal weather pattern in this part of the world. When I

interviewed him for this study in his tent I found that it was too hot to sit in there. Besides there was no electricity at the time and it took me about two hours to complete the interview. He revealed that unscheduled power outages were a routine over there. Although the general public also face the same problem of power outages all over the country but keeping in view the poor resistance tents shelters provide against cold and heat the absence of power is more felt in tent villages. He further informed that although his family was small therefore, he did not face the problem of space and privacy in the tent but told that there were many other IDPs who were living in overcrowded tents (Ijaz Khan Salarzai, personal communication, June 12, 2012). Although the overall sanitation situation was satisfactory given the situation in other IDP camps i.e. Yar Hussain Camp, Swabi etc. but still one of the main problems for the residents in the Jalozei camp was the poor sanitation arrangements. Rain water would make a pond in one of the blocks of the camp no proper arrangement for drainage of that water was made and the rain water had to dry under the sun which would take days; thus residents would find it difficult to move out of the tents after rain, told Sanaullah Utmankhel from Bajour (Sanaullah Utmankhel, Personal communication, June 12, 2012).



Jalozia IDP Camp--www.frc.com.pk (retrieved on December 05, 2013)



Jalojai IDP camp is located 35 kilometers south east of Peshawar. It has been used to provide shelter to Afghan Refugees. It was the largest camp in Asia for refugees. Lately it has been used for providing shelter to Internally Displaced Persons from Malakand and FATA.



IDPs at Yar Hussain Camp Swabi waiting in line to get drinking water. June 2009

2.2. Health of IDPs

Health as a human right does not denote the right to be in good physical shape nor does it avow an infinite right to be treated for all medical conditions. To a certain extent, this right may be seen processing two components i.e. the right to health care and the right to healthy circumstances. The rights-based approach to health integrates together a medical, remedial angle centering on health care and health services and a civic health protective standpoint spotlighting on the societal determinants of health which includes water, sanitation, nutrition, and health schooling. Internally displaced persons have the right to health and other essential services, including the right to a quality of living satisfactory to preserve health and well-being. This right of the IDPs has been affirmed by the UNGPID and various instruments of international humanitarian law and international human rights law (Kälin, Williams, Koser, & Solomon, 2010).

In Pakistan the government has done well keeping in view the overall health situation in the country. Every IDP camp is provided with at least one dispensary and doctors. Although condition and services of dispensaries vary from camp to camp, in some cases the inhabitants of the camp felt satisfied about the medical facilities while in other cases they expressed sheer disappointment regarding health facilities. Some of IDPs and personnel related to INGOs and NGOs are of the opinion that dispensaries in the IDP camps are not equipped with the advance medical facilities but still they are adequate to address the issues of first aid and initial medical treatment in emergency situation, told hygiene officer Rehman Ali (Rehman Ali, Personal communication, May 5, 2011). Medical facilities in the IDP camp of Chota Lahore Swabi were not ample to satisfy the needs of the inhabitants. There is no denying the fact that medicine was provided by the government but the residents of the camp told that they only got Aspirin and Ponstan, tablets normally used for light headache and mild symptoms of fever, for every kind of illness. The reason for this was not scarcity of medicine provided by the government but corruption of the medical staff posted in the camps (Shahpoor Khan, Personal communication, September 16, 2009). He further elaborated that the dispensary in the camp had all the essential medicines but the medical staff sold that out in the open market and thus IDPs in the camp were deprived from free medical checkups and medicines. In order to verify the claim I tried to contact the medical officer at the camp but due to his bulk of patients he found it difficult to discuss the matter with me. However, I observed that he was thoroughly checking the patients and was prescribing medicines; on the other hand the dispenser was handing over all medicines which the dispensary had in the stock. Conversely, it could not be confirmed whether the medical staff in the camp was involved in the illegal sale of medicines in the open market meant to be distributed free among the IDPs with health issues.

Alam Khan of district Buner living in Shah Mansoor IDP camp no.2 told that his brother Muhammad Alam was seriously injured during the shelling of their village. He told that his brother was taken to the district hospital Buner for treatment and was kept there for one week but his recovery needed more time. Alam Khan revealed that the shelling across the district increased more wounded people who were treated at district hospital. He told that due to the incapacity of the hospital his brother was discharged and no proper attention could be given to his brother to get healthy. Alam Khan told that all of his family came to Swabi IDP camp but he stayed with the his brother and when his brother was forcibly discharged from the hospital he brought him to Swabi where he was registered as IDP in the IDP camp but his medical needs were ignored (Alam Khan, Personal communication, September 17, 2009). At the time of interview on my insistence Alam Khan took me to his tent to show me the condition of his brother. Muhammad Alam was hit by splinters of shells in the left arm and left leg, his wounds were being healed but he was in agony. To my understanding his wound would have healed earlier had he been given full medical attention in the first place. I could not go the District Hospital Buner to verify what I was told. However, there is a possibility that Muhammad Alam would have been found out of risk after the initial treatment and the hospital management would want to assist more serious patients than Muhammad Alam and that is why he would have been discharged. In such remote areas like Buner, Shangla etc. normally one government hospital exists per Tehsil; these hospitals happen to be over crowded and always over-burdened. However, violation of Principle Nineteen of Guiding Principle cannot be ignored here as it advocates for constant medical treatment and full attention to the wounded IDPs.

“All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the

medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.”

(Principle 19.1 UNGPID)

Another IDP told that many wounded IDPs died because of non-cooperation and indifference of the doctors in hospitals of the affected areas (Mir Baz Khan, Personal communication, September 17, 2009). However, that could not be verified independently.

A group of IDPs in the Chota Lahore Yar Hussain camp told on the condition of anonymity that those wounded were suspected to be sympathisers of Taliban and therefore, were denied medical treatment. They further informed that at least two out of four wounded were denied medical treatment by the hospitals in Swat on the basis of their association to the Taliban in one way or another. The same was told by other IDPs after I inquired to verify those incidents. This is in stark contradiction with Principle Nineteen of the Guiding Principles which says that all the sick, wounded and disabled internally displaced persons have the right to obtain medical care to the maximum possible level and without any postponement with full attention. It further says that such medical care should be extended to the displaced people without any distinction. But the ground realities in the district of Swat during the 2009 military operation known as *Rah-i-Nijat* (path of deliverance) were not in conformity with Principle Nineteen.

Basic health units (BHUs) exist in camps to take care of the basic health needs of the IDPs. To eradicate malarial parasites anti-malarial DDT or other insecticides are sprayed in the camps regularly. Moreover, health awareness programs are run in the camp by different NGOs i.e. SACH, ABKT, DEWA and Doctors without Borders etc .The BHU has got all the required

medicines to stop the spreading of contagious and infectious diseases. Jan Wali a resident of the Tarakai IDP Camp of Swabi, originally from Mingora Swat, told that the BHU in camp has required equipment techniques and medicines to minimise the risk of spreading contagious diseases. He further informed that the BHU has got all sorts of contraceptives including condoms not only to facilitate the IDPs in family planning but to stop AIDS from spreading (Jan Wali, Personal Communication July 09, 2009). However, it is to be noted that Tarakai IDP camps were set by the influential industrialist of the district Swabi named as Liaqat Khan. The man is known for his generosity all over the district. Therefore, it should not be assumed that facilities in that camp were a standard kept in all camps. Mostly the government administered camps are quite large and health facilities of such kind are not provided due to lack of resources and large number of residents. However, there were some government run camps which provided comparatively efficient health facilities but that too was due to active involvement of UN Agencies and NGOs e.g. Tughsarai IDP camp where services were provided by International Medical Corps (IMC), in Jalozei Camp WHO is actively involved through partners. Moreover, ICRC, CERD, IRC and Handicap International shared the responsibility of GOP in provision of health facilities to IDPs various camps i.e. Shah Mansoor Camp 1 and Camp 2 Swabi, Jalala Mardan, Palosa, Sugar Mill and Sheikh Shezad IDP camps. Satisfactory health facilities arrangements were there in the Tughsarai IDP camp in district Hangu told Rehman Ali, hygiene officer of IMC (Rehman Ali, Personal communication, May 5, 2011). However, nothing can be absolute and there were many camps where the inhabitants were not satisfied with health and hygiene condition inside the camp. For instance an IDP from Jalozei camp told that he was not satisfied from the arrangements made for the eradication of malaria in the camp (Ijaz Khan Salarzai Personal communication, June 12, 2012). However the overall condition of health

facilities and arrangements to stop contagious and infectious diseases from spreading are in conformity with Principle Nineteen of UNGPID.

The Guiding Principles address importance of the health care needs of pregnant women. Bas Bibi, a resident of Charbagh Swat at the time of interview lived in Sheikh Shehzad IDP camp Mardan, had lost her only son at the hands of Taliban in Swat. She was 75 years old widow and told that her daughter-in-law was seven months pregnant. She told that although there are medical facilities at the camp level but they had to wait for hours to receive medical treatment. She further informed that she was old enough to stand in the queue with her daughter-in-law for her pre-delivery medical checkups. When I asked for permission to interview her daughter-in-law she refused to allow me and told that it was against the Pashtoon culture , Pashtoon women normally do not meet with stranger men due to prohibition of such encounters in the Pashtoon culture (Bas Bibi, Personal communication, July 10, 2009). Communication with Bas Bibi compelled me to discuss the issue of medical assistance for pregnant women with other IDPs living in the camp. Azmat Ali of Chakardara Dir, told that his sister in law was pregnant and he complained about the same problem. He told that the patient does not get due attention of the doctor because of the bulk of patients. He told his sister-in-law was nine month pregnant and that they were poor otherwise they would have opted to go to some private hospital for the delivery. Azmat Ali was not satisfied with the medical facilities for the women and particularly pregnant women at the camp (Azmat Ali, Personal Communication, July 10, 2009). The presence of such issues at the grass root level in the IDP camps represent that there were no special efforts made to take care of meticulous medical needs of pregnant women.

2.3. Fortification against Illiteracy

To get education is one's basic right and the state being the supreme authority over its citizen has the responsibility to provide its populace with education. Article 26 (1) of the Universal Declaration of Human Rights says that all human beings have the right to get free education at least at the elementary level. Principle Twenty Three of the UNGPID also addresses the issue of education of the internally displaced persons.

Almost all the IDP camps established in the province for the displaced person of 2009 military operation *Rah-i-Nijat* had the primary schools established in tents. However, most of IDPs were not satisfied with the quality of education provided in those schools. Jan Wali of Swat told that two of his sons were of school going age but they were not going to the school in the camp because they had no surety for how long they would live in the camp. Second reason in his view was that the schools in the camp were just to engage the children in the informal learning activity with no concrete end results. He told that his kids were better off without going to school as he thought they were helping him out in many minute, but important domestic matters i.e. collection of food from the camp distribution point etc (Jan Wali, Personal communication, July 09, 2009). During my visit to the Shah Mansoor camp Swabi, I observed a group of people who were eager to share their insight about the problems of the IDPs. They were from Malakand and told that while there were schools for children but no colleges and universities were available for hundreds of young boys and girls in the camp. Local colleges were already accommodating students more than its capacity. The young boys were wondering here and there in the camp and without educational facilities for them. Those students were bound to be spoiled as there was no positive and creative activity for them to do at the camp. Since there is no accurate mechanism

developed to stop the movement of militants in the guise of IDPs in and out of the camp; thus, the youth among IDP due to lack of educational and creative activities are prone to be swayed by militants to formal and informal preaching of militant ideology, because the vacuum created by the need of productive activities is bound to be filled by negativity.

Rehman Ali told that although schools were there in the Tughsarai IDP camp of District Hangu but a very limited number of children attended those schools. The camp was situated far away from the road and the market and thus many parents would take their children with them to assist them in daily chores. He further informed that the number of college and university going students was in thousands but there were no college and university in the camp. The impact of non availability of educational institution for the youth was that most of the young ones got involved in criminal activities like robbery and theft. The young boys inside the camp got connected with the Taliban who would at times attack the camp in the dead of the night. These insiders would assist the Taliban in locating their potential targets in the camp and thus it became next to impossible for the camp administration to maintain and secure the camp (Rehman Ali, Personal Communication, May 5, 2011). Rehman Ali had no answer when I asked him about the feasibility of establishing colleges and universities for IDPs. However, it can be difficult for the administration to establish full fledged colleges and universities in IDP camps but it is quite possible to establish small campuses of those public sector universities and colleges which are already functional in the areas of origin of IDPs. The displaced children were potential anti state elements and easy target for recruitment by the Taliban. Experience has revealed it time and again that uneducated and unemployed youth is their tool. These anti-state elements rely on the young ones to make their antagonistic designs against the state and populace practical. Moreover, if the untutored, out of work young adults remains untouched by the enemies of the

state they are still prone to unhealthy activities like drug addiction, theft and robberies etc. Such conditions would ultimately turn them into a burden on the overall weak economy of the country.

The Guiding Principle says that there must be no discrimination among the internally displaced person and the rest of the citizens. Educational facilities available for the non displaced citizen and the same not available or available but doesn't have a match with the system of education in the rest of the country, primary schools in IDP camps with no formal examination process involved, is equal to the violation of the UNGPID. It is a fact that for an economically downtrodden country like Pakistan; providing quality education for the internally displaced persons whose number is in millions is a mammoth task. However, the quality of education in the IDP camps is and should be a matter of concern for the policy makers. Moreover, at IDP camps it is only the primary education which is taken care of. As far as education for the college and university going internally displaced students in camps is concerned it has not been taken care of at all. In addition, it is not only the UNGPID emphasizes on the importance of the provision of education for the IDPs there are many other conventions and declarations which talk about education for all in the same terms as the UNGPID does. For instance the Convention of the Rights of the Child (CRC) is very explicit about the right of education of a child in article 28. It puts the responsibility of a child's education on the state. It also makes the state responsible for providing elementary education and improving the overall quality of the education to eliminate ignorance and illiteracy. Thus, protection against illiteracy or right to get education should be a matter of high priority for the powers that be. Before making decision to evacuate an area and make the locals displaced the state authorities should take into consideration all of its obligations for its own citizens. Meticulous assessment of the consequences of displacement and the facility of education for the children and the youth should be made. If it is found that the country is

running short of resources i.e. money, infrastructure or human resources (teachers etc) and it would not be able to provide education for the children and the youth in the IDP camps then the authorities should refrain from displacing people. The authorities should wait, at least, till the time when it becomes able to provide for educational requirements of the population supposed to be displaced. In case of Pakistan massive military operations against militants displace people. There are many other alternative options, to military operation, to eliminate militants and militancy such as surgical strikes based on accurate intelligence etc. Therefore, if the government does not find itself fit to deal with the flight of masses then it should not initiate a process which displaces people and put the government in hot waters on protection issues of IDPs.

Additionally, in Pakistan mostly the displaced persons are from backward areas and women in such areas of the country are discouraged to get education. While this fact remains out of sight in the conflict zones but when the locals are made IDPs and they settle down in camps then the deprivation of women from education becomes visible to all. Although there is a cultural element involved in the deprivation of females from education in IDP camps, but the lack of educational facilities for the females therein cannot be ignored. The women in IDP camps do not get a chance at all to attend formal educational institutions. At the most they are given facilities to get some vocational training etc. For instance emergency response unity (ERU) established several vocational skill development centres in Shah Mansoor IDP camps in Swabi, Yar Hussain IDP camp in Swabi, Sheikh Yaseen IDP camp and Palosai IDP camp etc. Where women were given trainings in sewing and stitching etc (Relief Web, 2009).

2.4. Safeguarding Internally Displaced Children Rights

The state of internally displaced children in the IDP camps and in the host communities is not the same all over the country. It varies from camp to camp. Child labour is a sensitive issue and the government of Pakistan lacks the capacity to monitor the situation and control the child labour issues. In IDP camps child labour is a common practice those camps which happen to be in close vicinity of the urban centres provide an opportunity to the IDPs to try to make a living. IDPs are normally found very discontented with their financial condition as in most of the cases they do not get the promised support from the government and are looked upon as sympathisers of the anti-state elements which deprives them of any substantive support from the government. The other major reason for child labour among the IDPs is that by and large IDPs' living standard fall down when they are displaced. Noreen Nawab Khan psycho-social-counsellor with SACH-Struggle for Change NGO, where the word "SACH" is the Urdu word "*sach*" which means truth, told in a Personal Communication that the above mentioned factors played a vital role in developing the mindset of the elders to allow and involve their children in bread earning race. She further revealed that was not necessary that the IDP children involved in bread earning during displacement in camps and host areas were involved in the same practice in the area of habitual residence before displacement. She told that in the situation of displacement parents allowed their children to go to work as they had no other option but to utilise every extra pair of hands to improve their financial condition. (Noreen Nawab Khan, personal communication, August 5, 2011).

Marriage of girls below the age of 18 years is also an issue in the most remote parts of Pakistan. IDPs are from FATA and other far-flung areas therefore, they have the same issues. Zar Gula of Aurakzai Agency was married to Hashmat Ali in the IDP camp of Tughsarai in the year 2010.

According to Rehman Ali the girl was only 14 years old at the time of her matrimony. He further informed that she was in class eighth when she got married. The reason was that she was already engaged with Hashmat Ali who was her elder cousin. Rehman Ali told that he was informed that they were about to get married when they were forced to move out of their area of habitual residence. In Rehman's opinion it was the societal pressure on both the families which made them take the decision of their marriage in the camp (Ali, Rehman, Personal Communication, May 5, 2011). Noreen Nawab Khan expressed her views on the same issue and told that in some cases it is the societal pressure while in others it is the will of family of the boy to get married their son with a young child who is not yet adult by law. She told that signs of adulthood appear long before the legal age of adulthood for girls and thus the people in the tribal belt and other remote parts of the country do not wait for a girl to attain the age of eighteen. In her opinion the government has no capacity and intention to implement laws regarding the minimum age of marriage in remote areas as it thinks it would be meddling with the culture of the locals. However, the easily found cases of early marriages in the IDP camps were not only a violation of CRC but it was also a violation of the UNGPID and the government should devise a mechanism to stop that, she told (Noreen Nawab Khan, Personal Communication, August 5, 2011).

The issue of early marriage can be discussed along with the rights of child and rights of women, as females under the age of eighteen falls in the same category. The matter under discussion leads to early pregnancy which is serious violation of the women and children health rights. Qabil Shah, interviewing officer with NGO SACH-Struggle for change, said that IDPs from FATA settled in the Southern districts of KP had early pregnancy issues. He told that it was part and parcel of the culture in FATA that girls would be married as early as possible. The matter at hand has inbuilt problems for women / children and infant health (Qabil Shah, personal

communication, August 10, 2011). Infants with health problems and no proper facilities do not survive beyond five years of age and in some cases when they survive they do not become productive members of the society as they mostly get diseases like polio and hepatitis etc. According to Pakistan Demographic and Health Survey 2012-2013; one in only 14 Pakistani children dies before reaching the age of one year while one in every eleven Pakistani children dies before attaining the age of five years (Pakistan Demographic and Health Survey, 2013). On the other hand female mortality rate is high with early marriages. It is a fact that government does not have the capacity to extend and implement laws related to early marriages to the remote parts of the country. However, it cannot be an excuse to cover the inefficiency in IDP camps. The government does have the capacity to implement those laws in the areas of habitual residence i.e. FATA and PATA due to cultural sensitivities and inadequate state machinery in those areas. However, State machinery remains to be at work when internal displacement situation occurs. The state machinery can be utilised to protect children from early marriages, at least in internally displaced persons' hosting areas and camps.

An IDP family headed by Noorul Haq had lost their four year old son during the evacuation of the area. He told that the army was calling upon the people to evacuate the area but few people including him did not evacuate in time as they were unable to envision that their lives would be so miserable after the operation began. He told that it was at the eleventh hour that they decided to leave their houses and property behind and save their lives. He had five children four of them were with him but the four year old children named Iltaf was lost among the people who were also travelling with them. The family was residing in the Yar Hussain, Chota Lahore IDP camp in Swabi. He was not sure whether he was in one of the camps in Mardan or he was living somewhere out of the camp. At the Yar Hussain camp he had to take care of the needs of his

family as he had to go to the distribution point to collect food for his family. He told that he did not know the whereabouts of his child and he complained that the government officials in the camp do not make any efforts to find his son. Although the camp authorities had listed his son in the category of missing persons but he was not satisfied with that (Noorul Haq, personal communication, July 10, 2009).

The overall situation of the of children's right in the conflict zones and in IDP camps and host communities is not satisfactory. It is a tough task to provide them with their rights but things on ground suggested that no proper measures have been taken by the government to protect and guard the rights of IDP children. May it be the reunification of the families where children are involved, child labour or early marriages and early pregnancy the government seems incapable and reluctant to take action on behalf of these vulnerable children. Deprived of their rights these children, both males and females, can turn into anything i.e. anti-state elements, thieves, robbers, sex workers and spies etc. Investing the resources in safeguarding the rights of IDP children is an investment for the future which should not be ignored at any cost. Every internally displaced family has a story and at times they hold the government responsible for their miseries. It is not because that the state would be necessarily responsible for their dilapidated condition but these children may hold the authorities responsible for their miseries because of their own ignorance. Therefore, it is immensely important to impart education to children and observe children's right to turn children into an asset for the future.

2.5. Protection of Internally Displaced Women

Women and children make an overwhelming majority of the IDPs, about forty eight percent, in Pakistan. As we have discussed issues related to child protection under section 3.4 of this chapter therefore, children related issues are not discussed here. Women are among the vulnerable

groups in the IDP camps. They normally take care of the whole family but are generally ignored. The UNGPID has taken into consideration the condition and special needs of IDP women.

Officials of UNHCR Pakistan responsible for the protection needs of internally displaced persons, told on the condition of anonymity in a private communication that IDP women do not get their due in the IDP camps in KP. Some of them revealed that in most of the camps there are inadequate medical facilities for the expectant mothers or mothers with young children. The researcher was told that IDPs were part and parcel of their society but there was very little done in the direction of the IDP health care particularly the IDP women were ignored without being realised by the government and policy makers. They mentioned a few cases in which only some females approached the UNHCR field offices in KP to get medical assistance. Their opinion was that the UN agency for refugees was doing its best to help and protect the IDPs but at that moment it was beyond the power of the UNHCR Pakistan to reach out to all IDPs and address their issues given the fact that government of Pakistan did not give security clearance, because of worst security situation, to UN agencies and other international aid agencies in many areas of FATA and FR region. However, UNHCR was doing everything with the cooperation and coordination of the government of Pakistan to help the IDPs in the country and the government was very much supportive. The researcher was told that it was wrong to put the government responsible for all the wretchedness of IDPs. Some of the UNHCR officials believe the government genuinely wants to resolve the problems of IDPs and that is why it had allowed rather facilitated the UNHCR to help it in its efforts to combat the problems of IDPs.

Rehman Ali remarks that the Guiding Principles demands that female headed households should get protection which their circumstances demand but situation on ground does not suggest that that is the case with the female headed households in IDP camps in Pakistan. These households

however, did not get what they needed i.e. livelihood support and healthcare etc. because of slow response from the government officials deployed in camps. The second reason was that lack of general awareness among the IDP women about their rights. He told that most of the IDPs were from the farthest parts of Pakistan and they did not know about women's rights (Rehman Ali, personal communication, May 5, 2011).

After discussing the matters of IDPs and their resettlement and displacement issues with a group of elderly women in the Jalozei camp with the help of a female assistant, Sara Khan, in a focal group discussion (FGD); it became obvious that females were kept out of the decision making process. They were neither consulted by the government for their relocation nor for the distribution of basic supplies. One of the females, Bakht Zarina, in the group revealed that she was pregnant but since the distribution of the basic supplies was in the hand of their males therefore, did not get adequate food as the male members of her family could not assess correctly about her needs. She told that if that food was distributed among the females they would have taken care of the needs of the whole family judiciously (Bakht Zarina, personal communication, September 25, 2012).

Schools are established for the IDP children to get education at the primary level. After having discussed the education related issues with numerous people in a number IDP camps it became apparent that there were no arrangements made for education above primary level. The primary level education is there for children of both genders therefore, there is no discrimination at policy level. Many vocational training centres have been established for women in particular to give them special education and make them able to be a helping hand in the economic uplift of their families.

2.6. Stance against Discrimination

Internally displaced persons are the vulnerable section of a society may they be uprooted by hard core conflicts or other violent situations; they face discrimination and gross violation of human rights. In order to meet this challenge the UNGPID were developed.

In the year 2012 the number of IDPs in Pakistan was more than a million. Resettlement of IDPs from one area is paralleled by the flight of people from other region. For example, the IDPs from Swat were returned to their area of habitual residence and military operations against militants started in FATA thus hundreds of thousands of more people were displaced. Speaking strictly in terms of principles and ethics, there should be no discrimination among IDPs and the rest of the citizens. Mr. Rehman Ali says that the ground realities are not encouraging when it comes to the issues of discrimination against them. IDPs are confined to the camps for the purpose of registration and protection but the situations of displacement expose them to discriminations, not necessarily because of their sex, religion, language or some other factor but because of the fact that they are being displaced. IDPs living in camps faced biased treatment by the authorities administering those temporary settlements. They are looked upon as the cause of the conflict and thus deserving suffering. IDPs living with the host communities face discrimination both at the hands of the host community and the authorities administering their displacement. Mr. Ali told that although there were exceptions and one could not generalise the above mentioned scenario; but in most cases the mentioned state of affairs was befitting (Rehman Ali, personal communication, May 5, 2011).

Discrimination among IDPs is another challenging issue for the government of Pakistan. Broadly speaking the internally displaced persons of Swat were assisted in an amiable mode as compared to the IDPs of FATA. There were reservations and complaints of the displaced people but the

overall outcome of the Swat situation suggests that the government approach to the Swat IDPs was pragmatic and the displaced persons were taken care of according to the norms of human rights. However, on other hand the IDPs from FATA in general and South Waziristan in particular do not get the same type of response from the government. Mostly, they have not been settled in IDP camps. They have been accommodated with host communities in Dera Ismaeel Khan and Tank etc. According to Noreen Nawab Khan, those IDPs living with host communities develop sense of dependency which demoralise them. Ms Nawab said that psychological response of those IDPs towards their dependency on the hosts normally happened to be negative which dragged them down in permanent dependency (Noreen Nawab Khan, Personal Communication, August 5, 2011). Discrimination of one IDP groups against the other is a breach of the UNGPID. The UNGPID prohibits all sorts of biases against the IDPs; may it be discrimination among IDPs or among the IDPs and the rest of the citizens of the country.

There are various reasons for this discrimination against IDPs from SWA. First of all the state authorities think that Tehrik-e-Taliban Pakistan (TTP) was erected in South Waziristan Agency with the support and sympathy among the locals for the anti state Taliban group. Moreover, the government thinks that there is probability that militants from the area would disguise themselves among the ordinary civilians as IDPs if kept in camps which would again pose threat to the state. Secondly, the state has limited economic resources at its disposal to establish and administer camps for all the IDPs and that is why most of these IDPs had to be accommodated with the host communities told officials in FDMA on the condition of anonymity. As far as the first two reasons are concerned they are based on a biased approach towards the innocent civilian of SWA who are victims of militancy still they are being punished not because they are militants but because they belong from an area where militancy has tough roots. The last reason for the

discriminatory treatment of the IDPs of SWA is based on the scarcity of the economic resources of the state which is baseless. If there were economic reasons then at the same time how do the IDPs of Khyber, Bajour, Mohmand and Aurakzai agencies have been accommodated in IDP camps. The government of Pakistan should use the same yard stick when it comes to the treatment of IDPs. Any deviation from justice in handling the situations of internal displacement and management of internally displaced persons would make the Government of Pakistan vulnerable to all sorts of bashing for the violation of international humanitarian law and human rights law. Thus, the GOP should be very careful when it comes to handling situation of internally displaced persons and internal displacement.

In the year 2009 a group of people in the IDP camp of Yar Hussain told on the condition of anonymity that some of their young relatives were friends of Molvi Fazlullah in Swat and that was why their families were under observation. They further told that they never supported or appreciated the acts of their relatives when Taliban were in power in Swat. I was informed that when the Swat operation was launched against the militants their houses were targeted as they were under observation. They told that they did not get any kind of support and when they complained the camp authorities suppressed them by saying that they were sympathisers, supporters and protectors of Taliban in Swat and if they kept on demanding for food, tents or other aid then they would be branded as Taliban and their names would be forwarded to the intelligence agencies. They further told that since their relatives were with Molana Fazlullah and people in their village knew that; therefore, they were scared that if they complained about that discriminatory attitude to anyone in the camp or any government official the camp administration would brand them terrorist, and then no one would come to their rescue or support. In my view such discrimination was not done with the consent of state authorities and

intelligence agencies, these were the acts of some individual inefficient and corrupt officials who tried to hide their inefficiency, providing necessary support to all IDPs, through such crafty methods. However, I would still put the burden of responsibility on the state authorities for its inefficiency to monitor the activities of some of its biased and corrupt officials handling the IDPs and letting them spoil the state's and its agencies' image.

2.7. IDPs Right to freedom of movement

IDPs have the right to freedom of movement. Restricting that right intrudes on their right to food as access to cultivatable land may be denied, their right to health where they are confined within camps with unsanitary conditions, and their right to family life where families are separated and not permitted to reunite. The right of free movement does not only include their right to move in and out of camps or move freely within the country but it also includes their right to move in and out of the country (Kälin, Williams, Koser & Solomon, 2010). Principle 14 (1) and (2) of the UNGPID also advocates for the right and liberty of free movement of IDPs. IDPs happen to be the victims of conflict or disaster and their suffering is one of the consequences of that situation. The government role is to minimise their sufferings through adequate measures and to facilitate them. Infringement on their right of movement maximises the sufferings of internally displaced persons. Infringement of right of movement does not mean barring the IDPs directly from moving out of the camps; if camps are set outside the urban areas and away from the main transportation routes the IDPs would find it difficult rather impossible to move out of camps. Some IDP camps in the 2009 displacement crises were set in remote areas. For instance the IDP camp of Yar Hussain was set up about 15 to 20 km away from the main Mardan Swabi road and the link road to the camp was in the dilapidated condition. There was no routine public transport running on that road. The IDPs used to find it very hard to visit Mardan for registration and

collection of IDP registration cards. Many IDPs complained that it takes them almost a whole day whenever they go outside the camp for the arrangement of necessary documents or some other purpose.

Mukkaram Shah told that his daughter was ill and he was not satisfied with the medical facilities at the camp therefore, he decided to take her to Mardan for treatment. He told that it was one of the most difficult days of his life because he could not find any transport for many hours. He further informed that problems of those helpless IDPs could have been minimised and they would have had relief if their camps were setup near to the main or link roads with regular transport (Mukkaram Shah, personal communication, September 15, 2009). Rehman Ali revealed that the Tughsarai camp for the IDPs of Aurakzai Agency had been set up far away from the main nearby town. It was away from the road and IDPs faced countless problems in taking the sick to the hospitals or going to the nearby towns to buy stuff for their daily use (Rehman Ali, personal communication, May 5, 2011). It is one of the prime responsibilities of the government to set up camps for the displaced persons in such locations where the inhabitants of the camp do not face problems of movement.

An IDP can seek asylum only if he enjoys the right to movement. Speaking in terms of law, an IDP can move in and out of his country of origin like other citizens of the country. Principle 15(a) on the right to seek safety in another part of the country has been derived from Article 13(1) of the Universal Declaration of Human Rights on the right to freedom of movement and dwelling within the borders of each state. Freedom of movement is also guaranteed under Article 12(1) of both the International Covenant on Civil and Political Rights (ICCPR) and the African Charter.

The overall importance of the aforementioned provisions is that the right to seek and enjoy asylum is recognized in international law and therefore, it can also be respected and recognized by the GOP when it comes to dealing with the situation of IDPs. By and large the government does not incarcerate the population of camps. The relatives of some of the fugitive militants in Swat were settled in a camp in Malakand. The camp was setup far away from the populated areas and movement of people in and out of the camp was closely monitored. Setting up a camp at a long distance from the main or linking roads is a step which deprives most of the population of the camp to move freely not because of the laws and law enforcement agencies but because of the location of the camp. According to BBC Urdu radio, the in and out movement from that particular camp in Malakand was closely monitored by the Army and that was why the camp was strategically set up away from the settled area with only one access point to make it easy to have an eye on its inhabitants' movement. Moreover, in the opinion of military establishment, militants would visit or try to reach to their close relatives and military would be able to eliminate or capture them while doing so. Therefore, in my opinion this is also de facto restriction on the right of free movement of the internally displaced person.

Likewise, military took initiative in rehabilitation efforts in case of the Swat returnees because upon return many IDPs found their homes utterly destroyed. However, the rehabilitation efforts in Malakand division were devised by military's priorities. Collective punishment was one of the major aspects of rehabilitation process carried out by Pakistan Army. For instance, those families who were accused of having Taliban among its members or who were suspected of being Taliban's sympathisers were given extremely tough time by the military. At first their houses were destroyed and then they were banned from rebuilding their houses for at least twenty to thirty years (International Crisis Group, 2010). Moreover, families were asked to surrender their

Taliban relatives and those who have failed to do so were moved to an isolated former Afghan refugees' camp in Dir. Those families were practically kept hostages over-there; and that too was done by none other than Pakistan Army (International Crisis Group, 2010). According to the Human Rights Commission of Pakistan (HRCP) by the year 2010 military had expelled 50 families from Swat while about 250 more families were about to be expelled had their Taliban relatives not turned themselves in.

2.8. Provision of Humanitarian Assistance

Humanitarian assistance is not defined by any human rights or international humanitarian institution. It is assistance necessary for survival such as food, water, medical supplies, clothing, and related non-food items such as water containers, cooking utensils, soap, etc. or the means to immediately obtain any such items for instance cash assistance. Moreover, it can also apply to services such as emergency medical assistance etc. Access to humanitarian assistance must not only include access to essential non-food items but also to personnel and items necessary to provide humanitarian assistance. For example humanitarian assistance personnel should have access to items of information technology, telecommunication and vehicles necessary to gather and preserve the required data about the vulnerabilities of the affected population and deliver that assistance. Humanitarian assistance normally arrives in the wake of calamities such as conflicts or natural disasters. Many human right treaties guarantee the right to life, food, clothing, shelter, emergency medical care and other requirements. However, there was still some gap in those laws which has been filled by soft laws such as the UNGPID. Regional protocols are currently being developed to convert the UNGPID into binding laws at state levels. Such regional protocols have been developed in Africa (Kälin, William, Kose, & Solomon, 2010).

The UNGPID has amply touched upon the theme of humanitarian assistance. There are a number of provisions of the UNGPID that are directly relevant to humanitarian assistance and the associated issues. These can be more or less divided into three groups: firstly those concerning the scope of the right to humanitarian assistance; secondly, those related to exact actions of aiding and directives of humanitarian assistance, and thirdly, those about support for mainly vulnerable groups.

At national level legal frameworks for humanitarian assistance for IDPs are rare to find and Pakistan is not an exception to it. There may be many reasons for not developing a legal framework at national level but the most dominant among those factors is failure of the government to plan ahead. It is not a colossal task to do legislation for IDPs but mere legislation for humanitarian assistance cannot solve the problem. For examples IDPs in rebel territory cannot get humanitarian assistance from the government despite comprehensive legislation i.e. those IDPs of Bugti tribe who were still in the area under the influence of Balochistan Liberation Army (BLA) could not get humanitarian assistance because they were near the core of the conflict zone, the conflict which was there for years but gained momentum with the assassination of the leader of the tribe named Nawab Akber Khan Bugti a former governor of the province by Pakistan Army in August 2006. Secondly, if the government lacks resources to provide humanitarian assistance to IDPs then legislation alone cannot manufacture funds. Although these are valid arguments but it does not mean that the government is exempted from its duty to make a legal frame work for the IDPs. There were millions of internally displaced persons currently situated in the country but there was no legal framework in place at national level to bind the government to provide assistance to these IDPs. The government is doing its level best to

provide assistance to the internally displaced persons but a legal framework for the IDPs must be there to give them legal cover.

The Yar Hussain IDP camp set for the IDPs of Swat, Dir and Buner in 2009 had the general



Many IDPs at Yar Hussain IDP camp Swabi used the muddy water of the stream flowing in the middle of the camp for drinking, cooking and cleaning purposes because of non-availability/scarcity of clean water

problem of safe drinking water.

There was a small branch of a canal running in the middle of the camp for irrigation. For most people of the camp it was impossible to have access to

clean drinking water. Thus it was a common routine for the

inhabitant to fill water coolers or bottles from that canal. The water of the canal was muddy and opaque. During my visit to the camp I observed that women and children would filter the water through pieces of cloths to make it clean for drinking purpose. The European Charter on Water Resources approved by the Council of Europe Committee of Ministers in 2001 recognizes that “everyone has the right to a sufficient quantity of water for his or her basic needs” (Council of Europe Doc, 2001) Upon talking to inhabitants of the camp it was revealed that many infants and children were suffering from different stomach disorders due to consumption of that water. When I asked an old man that the government was providing them clean drinking water by supplying water takers to the camp and they should not drink water from the canal, he told that that water was not enough for even twenty percent population of the camp (Nawaz, Ahmad, personal communication, September 16, 2009). No concerned camp official was able to

comment on the issue of non-provision of clean drinking water to majority of inhabitants of the camp. Secondly, they did not have clean water for washing their utensils and they had to rely on the same canal water to clean their utensils.

While there were basic health units in the camp but they were not well equipped to serve the needs and provide efficient health care to the IDPs. Mr. Ahmad Nawaz told that on one hand the government was unable to provide clean drinking water to all the residents of the camp which caused numerous health problems; on the other hand it was unable to make sure the availability of medical staff and appropriate medicine to cure sick people. (Ahmad Nawaz, personal communication, September 16, 2009). Thus in general, despite enormous international support for the IDPs of Swat in the year 2009, which according to the financial tracking services website was USD 524,809,148 in the years 2008- 2009, the government was unable to ensure hygienic environment which was of paramount importance to the health needs of IDPs. However, it is important to mention here that all this support did not go directly to the government and some of it was spent through non-governmental organizations as well. Likewise the IDPs of Tughsarai and Jalozei camps were faced with the lack of adequate medical facilities from the GOP to cope with the rampant diseases caused by the unhealthy condition inside the camp. The Tughsarai camp was later on handed over to International Medical Corps (IMC) to take care of medical issues in there. Since they were IDPs from FATA and not from Swat, Dir or Buner therefore, most of their needs were ignored due to one pretext or other. Mr. Rehman Ali told that had IMC not been working over-there to take care of the medical needs of the IDPs, the situation in the camp would have been the worst (Rehman Ali, Personal Communication, May 5, 2011).

In the year 2010 when the worst floods in the Pakistan's history hit the province of Balochistan and international humanitarian organisations offered to extend their support to fill the vacuum

left in the humanitarian efforts by the government; National Disaster Management Authority (NDMA) refused to accept that offer on the pretext that government would not be able to guarantee protection of the staff of international humanitarian organisations. That was one of the worst humanitarian crises; extraordinary situations require extraordinary measures to resolve but the insistence of NDMA to distribute humanitarian aid through national or local NGOs caused undue delay in the provision of assistance to the affected people. Such arbitrary refusal by the government for humanitarian aid and personnel not only falls in direct contradiction with the UNGPID but it also made thousands of people suffer for a longer period of time.

During the Swat crisis where IDPs were provided humanitarian assistance by direct intervention of the government and the national and international NGOs it was observed that it was not completely used for the well being of IDPs. A huge amount was spent on logistics, honorarium and well being of humanitarian personnel of the government as well as NGOs. Answering a question about the justification of the amount spent on logistics and heavy salaries of the humanitarian assistance staff, Mr. Jan Wali replied that NGOs' officials mostly used heavy vehicles to visit camps. These vehicles were not only purchased or rented on the money meant for the well being of IDPs but they also consumed more fuel as compared to small vehicles i.e. motor cars not more than 1600CC (Jan Wali, Personal Communication, July 09, 2009). A huge amount is spent on the purchase of heavy vehicles, their maintenance and fuel by the NGOs but the same task can be performed by small vehicles with less fuel consumption. Mr. Rehman Ali, however, tried to justify the use of some of the humanitarian assistance money for logistics and perks of the personnel on the ground that it increased the effective and in time distribution and provision of necessary aid to the IDPs. In addition, he is of the opinion that since all human beings have got needs of various kinds and most of their needs revolve around to finances,

therefore, if employees of humanitarian organizations are not given attractive packages and perks they would lose interest and would not serve the IDPs with honesty (Rehman Ali, Personal Communication, May 5, 2011).

There are two kinds of humanitarian organisations; one having their roots in the developed countries and the other having their roots in the host countries. Those organisations which come from the developed countries along with its own staff spend more money on logistics and staff honorarium than those organisations from the host country. Thus, the local organisations work more effectively than international organisations when it comes to saving money from logistics and staff salary and utilising the same for humanitarian assistance. However, there is another problem more common with the local humanitarian organisation than the international ones. In local organisations corruption sucks most of the funds meant for humanitarian assistance and little is left to be spent on the needs of the deserving displaced persons. One of the reasons for the denial of permission to international humanitarian organisations to assist directly the flood affected IDPs in Balochistan in the year 2010 was that the NDMA officials thought that their profligacy would hamper the aid efforts. Therefore, the government insisted that those organisations should divert the funds to the local organisations in order to spend more on the well being of IDPs. On the other hand, the managements of international organisations were of the opinion that lack of transparency in spending fund and proper documentation of activities against each head of budget in the local organisations would make it impossible to keep a track of the money spent for IDPs (Muneeb Ilyas, personal communication, July 09, 2013).

2.9. Planned Flight & Right to Shelter during displacement

In reply to pervasive devastation of the erected setting and forced displacement caused by conflict or natural disaster, the provision of long-lasting shelter designed to fitting physical values, amounts to an essential requirement and a primary right for forced migrants.

Mr. Wakeel Ahmad protection associate at the UNHCR-Sub office Peshawar has worked extensively for IDPs in Pakistan and told that there were numerous IDP camps which were built far away from the settled areas which created problem of accessibility for the internally displaced persons. He cited the example of IDP camp (Yar Hussain) and told that the location of camp was not suitable to access to any of the basic facilities like health etc. However he did not put the burden of responsibility on the authorities for other hardships with in the camp. He told that during the flight of masses from Swat, Dir and Buner in 2009 it was hard for the government to provide all the basic facilities and rights to the IDPs mentioned in the UNGPID. He stated that government was over stretched to provide all the basic food, sanitation, education and medical facilities to the IDPs. Mr. Ahmad is of the opinion that even ordinary settled citizens of Pakistan do not get all these facilities then how can we expect government to provide all such facilities to the IDPs. He pointed out that the question of discrimination did not arise because IDPs of Swat got enough support from the government and they finally returned to their homes (Wakeel Ahmad, personal communication, December 5, 2012).

If ordinary citizens do not get all their rights and facilities it does not mean that it was right to justify the plight of IDPs on the basis of that. Settled citizens live in a friendly local environment where they can access all the basic facilities even if the government falls short of providing it. For, instance if there were no government hospital available in an area the locals can find many

private clinics in that area to get access to health facilities, although not free of cost. Similarly, if government fails to build and run school and colleges the local community or settled citizens may find numerous private schools and colleges to take care of the wants of formal education of their young ones. On the other hand IDPs do not have the liberty of establishing private clinics, schools and colleges. Keeping in view that they leave all their valuables and immovable property behind when they flee, and take only those belongings which are of dire need for their survival; IDPs lack the resources to build private clinics, schools and colleges in the camp settings. There is no denying the fact that IDPs do have skilled man power but mere trained people are not sufficient; it needs economic resources to build private infrastructure for providing health and education facilities. In a nutshell, it can be said that the government needs to do more when flight of masses occur and people are displaced; because IDPs are equal citizens of the country.

2.10. Conclusion

Protection of IDPs is and should be of primary importance to the government for the reason that the number of IDPs is in millions. If they are provided protection according the standard set by the UNGPID then there is a fair amount of chance that a measureable population of the country would be saved from facing miseries. Observance of UNGPID and other instrument of International Law is there at times and at most of the times it is not there.

Keeping in view the trend of internal displacement one can safely say that that it would continue in future as well because militants are at loggers head with the government and the government would have to take action against them to establish the state's writ over the lawless areas controlled by the militants. Militancy in Pakistan is far from over. Security situation is getting worse. In the year 2014 when the US and coalition forces would leave Afghanistan, the Pakistani Taliban would be left with only one agenda i.e. to establish and implement their version of

Islamic laws in the country. The state has already begun to take action against the militants and would definitely take action against them in future too, thus it would induce more IDPs. However, it should be kept in mind that citizens of the country have rights and their flight does not deprive them of their rights. The government should take care of their protection and humanitarian assistance. It is unfortunate that Pakistan has not developed a domestic framework to deal with the situations of internal displacement. One kind of frame work cannot be used for all kinds of displacement but there should be a minimum standard through which the internally displaced persons' situations are handled.

Displaced women should be given all their due rights and there should be no protection and humanitarian assistance gap for them. Displaced persons should be made part of the decision making process as they are the ones whose lives are affected due to displacement therefore, they better know what should be done at policy level to avoid infringement of their basic rights.

Pakistan has ratified many international human rights instruments and therefore, it needs to incorporate those laws into national laws through legislation. The fact that Pakistan has yet to make national laws for the internally displaced persons through domestic legislation is appalling; not only that these laws are necessary but in the absence of such domestic legislation millions of its citizens still suffer and they will continue to suffer unless laws regarding IDPs and guarantees of their rights are made.

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Chapter 3

Durable Solutions for Internally Displaced Persons

In the situation of internal displacement, national authorities should ensure that displacement should not be prolonged more than required by the circumstances; because it is the right of all

citizens to live in peace and comfort without any discrimination in their area of habitual residence. First of all the competent authorities are responsible to protect its population from displacement. Secondly, if displacement takes place then the authorities are responsible for the protection during displacement and lastly, national authorities are responsible to take care of the protection needs of the affected people after displacement. One of the most important components of protection is durable solution for the internally displaced persons. National responsibility towards the internally displaced persons is to make necessary arrangements for durable solutions for the internally displaced persons. The achievement of durable solutions means that internally displaced persons no longer rely on the specific protection and assistance needs which are extended to them during displacement.

There are three possible durable solutions for the internally displaced persons. First is sustainable return, second is sustainable local integration while the third one is their sustainable resettlement. It needs to mention here to clarify the difference among durable solutions between IDPs and refugees. Although the terminologies used for different kind of durable solutions for refugees and IDPs are the same i.e. return, resettlement and local integration, the very nature of these solutions differ. In case of refugees, resettlement to the third country is among one of the three durable solutions; but in case of internally displaced persons resettlement means that they should be accommodated by the national authorities in another peaceful place within their home country. Likewise incase of refugees local integration means accommodation in the host country. Return for IDPs means going back to their homes within the same country while for refugees it means going back to their native country from the host country (Handbook for the Protection of Internally Displaced, 2007).

There should always be a right based approach towards achieving durable solutions. Internally displaced persons are normally deprived of many of their rights during displacement. The logic for durable solutions is to give them the required environment to enjoy all their rights which they used to enjoy before displacement. Therefore, it is the responsibility of all the humanitarian and development actors to design a right based approach while working for durable solutions. Moreover, the national authorities should be assisted by national and international protection and human rights organizations to adopt a right based approach towards the achievement of durable solutions.

Internally displaced persons should be consulted during making arrangement for the durable solutions of their displacement. Moreover, due to lack of feasible conditions for return, internally displaced persons opting for local integration or resettlement elsewhere in the country should not be deprived of their right to return to the place of habitual residence once the cause of displacement is settled down. Displaced people should not be forced to return or relocate to the areas where their life, liberty and health etc. are at risk (Handbook for the Protection of Internally Displaced, 2007).

3.1. Return

Return to the places of origin is one of the basic rights of the internally displaced persons. It is also one of the primary responsibilities of the government to make all necessary arrangement for the return of the internally displaced persons as soon as the effects of the calamity or conflict are subsided (Benchmarks for Durable Solutions for Internally Displaced Persons, 2007). Principle 28 (1) of the UNGPID explicitly says it is the responsibility of the competent authorities to make necessary arrangement to create conducive environment for the return of the internally displaced persons. It further says that return should be voluntarily and no coercion should be there from the

national authorities. According to the same principle the authorities are also responsible to ensure the reintegration of the returnees. Principle 15 (d) stipulates that IDPs have the right to protection against forcible return to their areas of habitual residence.

In case of conflict; internally displaced persons should return to their place of origin with the assistance of government or UN agencies. The authorities should disseminate information about the rights of internally displaced persons about durable solutions. The government should ensure that internally displaced persons are aware about the right of voluntary return and the right to settle in another part of the country. The government should assess and inform the displaced people about the security situation of their travel route to their place of origin. It should also provide information about the situation i.e. security, availability of assistance, food, housing, water, work, pension etc; of the areas of settlement and return. Similarly the government should disseminate information among the internally displaced people about right to vote, participation in community, government and public affairs as well as freedom of religion, thought and conscience without any discrimination (Handbook for the Protection of Internally Displaced, 2007).

Early recovery is an important aspect of the return process. It is the process which expedites post-crisis development activities. It encompasses the restoration of basic services, livelihood, transitional shelter, governance, security and rule of law. When internal displacement takes place the first thing which the government should do to tackle the situation is to provide relief to the displaced people. Early recovery is the first phase after return. It should be carried out by the government or by United Nations through inter-cluster assessment mission United Nations Department of Safety and Security (UNDSS).

Dilawar Khan, a resident of Swat informed during an interview that their houses were destroyed in the military operation *Rah-I-Nijat* in 2009 after they were displaced. He informed that when he had returned to his village he did not get any substantial government support to restart his life. However, he did admit that he was getting the PKR 25000 per month promised support from the government. Dilawar Khan further revealed that after his return to the village he noticed that the security situation in his area was still precarious. Taliban as well as military forces were still at loggers-head and innocent civilians were caught between their fight. He told that there used to be high intensity fire exchange between the military and the Taliban during the night. Dilawar Khan told that situation in Swat was not suitable for them to return however, due to many unknown reasons they were told by the government to return to their homes (Dilawar Khan, personal communication, July 21, 2012). However, he could not explain those reasons which he was talking about and reiterated that those reasons would be better known to the government officials and not him.

A local police official in Swat told on the condition of anonymity that many of his family members and brethren worked in the police department in different capacities. Six of his relatives working in the police department were slaughtered by the Taliban before the commencement of military operation in the area in the year 2009 (Daily Times, 2008). Their family had severe security threat from Taliban. The whole family was on the top of the hit list of the local Taliban, led by Molana Fazlullah also known as Radio Mullah for his tactics to spread his messages through FM radio channel. They fled their homes in extreme fear for persecution at the hands of Taliban in the year 2009. He informed that they were confident that once that operation was over; there would be no more threat to their lives. He moved to Peshawar to his relatives' rather than settling down in IDP camps. The interviewee told that they went back to

their village in the late 2009 when everybody else was also making the choice of return. However, security situation was still at the lowest ebb and it was hard for him to carry on his duty in the police department. Upon further inquiry he told that the military was not able to clear the area of the militants and the locals were asked to return to Swat prematurely. However, it would not be out of context to mention here that I interviewed that official in the July 2012 for the purpose of this study and he had returned to Swat in the year 2009 but he could not single out any worth mentioning security incident which would have made any harm to him and his family members after their return. Therefore, my view point is that most of his worries and fears about the security situation in his area were psychological, and he had no concrete threat from the militants in the area, which shows that the situation in Swat was ripe for the return of internally displaced persons and that was why they were asked by the government to do so.

Aamir Khan too is a resident of district Swat. He works and lives with his nuclear family in Peshawar. He too reiterated the same accounts and was of the opinion that there were no genuine Taliban but all of them were pawns in the hands of the military establishment. Having lost many of his relatives, he holds the view that Taliban would have never gained power in Swat had tacit approval of the military establishment was not there. Answering a question about the security situation in Swat he told that it was far from satisfactory. Providing logic for his argument he told that there happened to be curfew in Mingora and its vicinities from 08:00 PM till 08:00 AM, no evidence could be found for this claim. Rather Sharif Khan told that it was ordered by the military but maintaining curfew was not an easy task and therefore, that order could not be implemented (Sharif Khan, personal communication, February 11, 2013). Secondly, Amir Khan argued that whenever, he visited Swat after the return of internally displaced persons he faced many check posts set by the military to monitor the movement of individuals in and out of Swat.

These check points he argued did nothing to improve the security situation but deprived the returnees from their right of free movement. He forcefully argued that security situation in Swat was not conducive for the return of the internally displaced persons but the military displaced people, by launching military operation against the Taliban, when it suited their interests and then they forced people to return to the areas of origin when military again thought that it would suit its interests (Aamir Khan, personal communication, February 10, 2013).

Visiting from district Mardan to district Swat and Dir, one can notice that right before entering Malakand Division a checkpoint at Dargai has been established by the military which verify and cross check the identification of every single person entering Malakand Division. Therefore, complaints about establishment of unnecessary check points by the locals hold ground because the military checks everyone, including the sick, and at times it causes problems for the locals living outside of Malakand division to reach Batkhela, Swat and Dir etc. for family gatherings and different festivals, rituals and funerals etc.

There are two types of internally displaced persons one those live in the camps while the others live outside camp. All the affected people I have mentioned in the above paragraphs are living in outside camp locations and they might have faced some difficulties in the collection of livelihood and food etc. but it is not the case as was described by Dilawar Khan, Shareef Khan and Aamir Khan. The moment an IDP fills a four coloured voluntary return form (VRF) the IDP gets white copy of the form, the green copy goes to the government of Pakistan, the blue copy of the form

goes to the UNHCR while pink copy goes to WFP. The moment a person is deregistered with National Database and



A view of Dargai Check post where vehicles are lining up to enter Malakand Division

Registration Authority (NADRA) all the coloured copies go to the relevant organizations and government departments. World Food Program (WFP) takes care of the food related needs of the internally displaced persons. The name of the deregistered IDP is sent to the WFP via the pink copy of the VRF. The returnee is told about the nearest WFP hub for food collection. It is to be noted here that WFP provides food to the returnees for almost six months to make him or her able to reconstruct his or her life once he or she returns to the place of origin.

On 31 May 2010 the government of Pakistan declared null and void the IDP status for the displaced persons of Malakand division and termed the remaining displaced people in their temporary shelters as economic migrants or terrorists thus they were not able to get any humanitarian assistance further. What happened next was that many of the internally displaced persons were coerced to go back to their areas of habitual residence only to find that their homes were destroyed and means of livelihood were almost non-existent. The precedence set in case of internally displaced persons return to Malakand is not encouraging because it tells or suggests that soon after the cleansing of an area through military means the locals have to return before necessary service delivery, infrastructure and economy can be restored. If this trend continued Pakistan would be the first case of its kind where return becomes the precondition to stabilization rather than the reverse. Major General Tariq Khan the head of Paramilitary Frontier Corps is of the opinion that return is used as an indicator of successful military operation, but in no other counter insurgency operations in the world residents have gone back so soon (International Crisis Group, 2010).

The use of coercion as a method to encourage return once military seems it fit has been used in case of internally displaced persons of FATA. They went on hunger strikes against an intentional halt in the provision of food items in the camp by the World Food Program. Talking to BBC

Urdu in June 2011; internally displaced persons from Khyber Agency in Jaloza Camp informed that although many affected people from Bajour and Mohmand agencies had returned but due to precarious security situation in Khyber agency they could not go back and they did not receive food assistance for the last three months i.e. March 2011. Many internally displaced persons informed that they had no means to earn livelihood as they have been encamped and there were no economic opportunities for them to make a living. Moreover, Noor Akbar, in charge of the Afghan Commissionrate, told that food supply was stopped in the camp because there were many internally displaced persons who were not going back despite the improved security situation in the area of their habitual residence. The official further informed that those internally displaced persons were content with the food supply in the camp and they refused to return because they feared that they would not get food assistance in areas of their return. However, he told that WFP had been notified about the de-registration of those internally displaced persons and thus they were supposed to get food assistance only in their areas of habitual residence and not in the camp (Jaloza Camp: Agitation of Affectees, 2013). The means to compel them to return might have been a clever tactic applied by the government of Pakistan to achieve the end (return). However, it is against the very basic right of internally displaced persons; human rights law and international humanitarian law is against the use of any kind of force or tactics which encourage or compel individual(s) to return to such places where they do not find it safe for living (Handbook for the Protection of Internally Displaced, 2007). Therefore, this standpoint of a government official; that the Internally displaced persons were not willing to return and that is why the government stopped food supply for the whole camp is quite tricky and hard to be justified under any circumstances. The government should have taken consent of all internally displaced persons or at least their elders in the camp before that decision. Such consultation

process would have given the internally displaced persons a sense of ownership and authority over their own lives and matters which would have made the government's task much easier. Moreover, these were the internally displaced persons from Bajaur and Mohmand agencies whom the authorities wanted to return but they did not go therefore, in my view, the government committed another injustice by making the whole camp suffer for the acts of internally displaced persons from two agencies alone. It was an act of collective punishment by the government of Pakistan which the authorities should have avoided at any cost. Such collective punishment is a violation of fundamental human rights.

Dr. Taqi Bangash, historian and professor of social sciences at SZABIST Islamabad campus, while commenting on the issue of collective punishment in an informal communication told that though in many instances the government denied that it resorted to the tactics of collective punishment; however, it does resort to take such kind of steps to get the matters sort out quickly. He explained collective punishment to the population of the whole IDPs was against the norms of humanity. It could have easily led to revolt among the displaced persons against the authorities administering the camp which would have caused an altogether different scenario to tackle as he thought that the natural outcome of stopping food supply for the whole camp or a pocket of population is equal to igniting a quick revolt. (Dr. Ghulam Taqi Bangash, personal communication, April 18, 2014).

Internally displaced persons from FATA and particularly South Waziristan have been facing many hardships and they were at large paid less attention by the government as compared to the internally displaced persons of Malakand division. Apparently the military and FATA administration have minimal regard for the Guiding Principles on Internal Displacement. For instance internally displaced persons of Mehsud Tribe from South Waziristan, temporarily

settled in Tank and Dera Ismail Khan Districts, were pressurized for return, disclosed the humanitarian news and analysis services website of United Nations Office for Coordination of Humanitarian Affairs (IRIN, 2010). They were asked to form *lashkar* (tribal militia) to keep the area cleared of militants after their return and were forced to do so in order to avoid the use of the clause of territorial responsibility and collective punishment in Frontier Crimes Regulations (FCR)1901³. It was also reported that a Mehsud Tribal Jirga refused to be held responsible for militants and was also resisting coercive return to South Waziristan Agency from being harassed by the military administration in the area. Internally displaced persons from FATA at large did not want to agree for return before stabilization of security situation in their areas. Internally displaced persons from Bajour told that they had witnessed and experienced many cycles of displacement and that was why they were then reluctant to return. One reason for the reluctance of Internally displaced persons of FATA for return is the presence of military in the region i.e. South Waziristan, Khyber, Bajaur, Mohmand, Orakzai and Kurram Agencies ([Dawn, 2011](#)) , people are fed up with off and on curfews and search operations (Ferris, Mooney & Stark, 2011). Militants in Bajour Agency were regularly asking internally displaced persons not to return to the area as they had gone in hiding only for a temporary phase and that they would soon return to equal scores with military (International Crisis Group, 2010).

Mr. Wakeel Ahmad protection associate at the UNHCR Peshawar revealed that there are many early recovery projects i.e. Water, Sanitation and Hygiene (WASH), Health, Education livelihood for returnees. He told that in order to resettle the returnees and make them able to run their lives smoothly international organizations i.e. Intercooperation Pakistan etc. through its

³This legal system is based on the principle of collective responsibility and the prominence of the political agent who holds executive, judicial as well as law-enforcement powers. Section 21 of FCR set the mechanism for collective responsibility and blockading the whole tribe.

local implementing partners, Lasoona, Jarga and Rural Development Support Program (RDSP), distributed live stocks among the farmers who returned to Buner after the 2009 military operation. Moreover, many small shops and *Kokas*⁴ were set up by different NGOs for the returnees to assume control of their financial matters (Wakeel Ahmad, personal communication, December 5, 2012).

Mr. Wakeel Ahmad further informed that officials of different UN agencies i.e. UNHCR, UNDSS, UNICEF, UNOCHA and WFP etc. visited the affected areas to analyze the return specific needs of the populace as well as the suitability of the area for the return. Once these agencies give approval under the Inter Agency Cluster Mission (IACM) then return process starts (Wakeel Ahmad, personal communication, December 5, 2012). The security concerns of some of the returnees about the security situation in their area should not be refuted but it is to be pondered over-here that before the return of the internally displaced persons to Swat the IACM gave its approval and only then the return process started. There may have been some problems faced by some of the returnees as displacements by it-self have long lasting affects and it may take years for the affects of conflicts to give way to enduring peace. But generalization of problems for all returnees should not be the case. For instance, Dowlat Khan, a university student, told that because of security concerns they were afraid to go back to Mingora, a major town in district Swat, after the area was declared clear for internally displaced persons to return. However, when they went back, he disclosed, they were surprised to see that no more Taliban were roaming in the streets of Mingora town. He told that keeping in view the worst security situation of Swat valley before military operation in 2009 people found the post-military operation era quite peaceful (Dawlat Khan, personal communication, October 15, 2013).

⁴ small road side shops which are temporary in nature as far as its building material is concerned i.e. wood or other light material

The United Nations monitors return and early recovery with the collaboration of the government of Pakistan for the internally displaced persons. Cluster approach is adopted by the United Nations for tackling the situation of internal displacement in Pakistan. In this approach all agencies of the United Nations work in their areas of specialties; and the responsibility to take care of the internally displaced persons or refugees is not left for the UNHCR alone. For instance the World Food Program takes care of food related needs of the displaced people and returnees while the UNICEF takes care of educational needs, child protection needs and WASH etc.

The government of Pakistan is also facilitating the return of internally displaced persons by rebuilding the damaged houses of internally displaced persons during the militancy or military operation in the area. Moreover, the government has also worked on the restoration of health, education and water and sanitation services. The authorities also started a program of rehabilitation of damaged schools by the Taliban in the area. In addition, the Norwegian Refugee Council built about 700 new houses for the internally displaced persons of South Waziristan Agency. These houses were built in the areas of origin of IDPs, on the locations of their destroyed houses. The overall scenes of jubilation among the returnees from FATA not only showed the level of hardship they faced during displacement away from their homes but it also showed that they were happy from the government of Pakistan which facilitated their return (Yousufzai, 2012). Therefore, it can be said that although both IDPs and returnees have faced problems but it is wrong to say that all of them have faced same problems and government did not do anything to compensate them. Though the claim of those internally displaced persons who say that government did not do sufficient to support them cannot be refuted out rightly; keeping in view the fact that government had to deal with a huge number of internally displaced persons and there must have been some short comings on the part of the government to adequately

support each and every IDP. It is wrong to generalize the short comings of government support for a few internally displaced persons for the whole of the internally displaced population. For instance, discussion about the internal displacement situations and the plight of internally displaced persons with the UNHCR Pakistan's staff members on various occasions reflected the GOP willingness and desire to help internally displaced persons during displacement and after return is visible. Most of the UNHCR officials are of the opinion that the GOP is trying its best to cope with the displacement situations.

In addition, the will of the government of Pakistan to help internally displaced persons in all stages of displacement and during their return is being reflected from a document named as "Return Policy Framework for Internally Displaced Persons (Internally displaced persons) from Federally Administered Tribal Areas (FATA)." This document was signed between FATA secretariat and United Nations Pakistan. The government of Pakistan agreed rather showed its desire to achieve the goal of dignified return for the internally displaced persons from FATA. The FATA secretariat did express its will to abide by all international principles, including the United Nations Guiding Principles on Internal Displacement, to provide assistance and protection to the internally displaced persons from FATA. The FATA secretariat did acknowledge the right of voluntary return of internally displaced persons based on informed decision. Moreover, FATA secretariat expressed its will to ensure timely issuance of no objection certificate to humanitarian actors to assist the internally displaced persons of FATA. In response the UNOCHA ensured FATA secretariat of its full support in tackling internal displacement situations. The document was signed on 23 June 2010 by Martin Mogwanja, the UN Humanitarian Coordinator Pakistan, and Muhammad Salim Khan, Director General FATA Disaster Management Authority, FATA Secretariat.

Therefore, in my opinion the government and its institutions are doing what they can do- though a lot more is still needed to be done- to tackle the displacement issue. Since displacement in Pakistan is on a large scale; therefore, at times the situation on ground overshadows government's efforts to ameliorate internally displaced person.



RETURN POLICY FRAMEWORK
for
Internally Displaced Persons (IDPs)
from the Federally Administered Tribal Areas

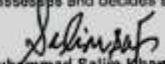


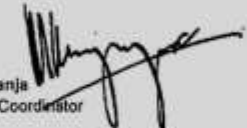
UNITED NATIONS

The FATA Secretariat of Pakistan will undertake the implementation of voluntary, safe and dignified return of IDPs from the Federally Administered Tribal Areas of Pakistan. The return will be guided by the relevant provisions of the Constitution of the Islamic Republic of Pakistan that enshrines the right to freedom of movement. It will also be in conformity with the internationally recognized Guiding Principles.

The following complementary principles will guide the return:

1. FATA Secretariat at all levels assumes that assistance and the protection of the IDPs from FATA to be its first and foremost responsibility and is committed to act within the framework of the international principles and standards applicable.
2. Voluntariness in decision-making implies that a decision to return, relocate or integrate locally is self-determined from a number of viable options. That return will be on voluntary basis and requires that IDPs make an informed choice, without coercion, and that the will to return is clearly expressed.
3. The end of displacement is the full restoration and enjoyment of a person's human rights, in a non-discriminatory manner, and is a process through which the need for specialised assistance and protection diminishes over time.
4. The return will be undertaken in safety and dignity. The FATA Secretariat will ensure that protection from violence, threats, intimidation or risks to physical integrity prevails in the areas of return, integration or relocation within FATA. This condition applies to transit areas or routes that IDPs will use.
5. While the return of people to their areas of origin or habitual residence will remain the preferred most solution, the option of relocation elsewhere within Pakistan will be available to them as well as IDPs wishing to remain in camps will be allowed till conditions for their safe return are met.
6. FATA Secretariat commits to provide respectful treatment to the returning IDPs, involving them through a consultative process in all stages of their return, taking into account the different views of girls, boys, women, men, older persons and diverse population groups.
7. In accordance with UN General Assembly Resolution 46/182, FATA secretariat commits to provide all possible assistance including liaison with concern security agencies for access to humanitarian actors to all affected population in implementing humanitarian assistance program, such as food, health care, water, sanitation and shelter.
8. FATA secretariat commits to ensure timely issuance of no objection certificates to humanitarian actors as per agreed procedures which is essential to impartially assess humanitarian needs, establish operations, move goods and personal where they are needed, implement distribution or provide services, and monitor the quality and effectiveness of humanitarian activities.
9. With the guidance of the Humanitarian Coordinator and the facilitation of OCHA, the humanitarian community takes up the responsibility to support FATA Secretariat in this endeavor by providing the necessary capacity that it will need in order to fulfill its obligations.
10. Sustained engagement and continued support of the international community will be needed to meet the protection, assistance and rehabilitation needs of the IDPs in areas of return and displacement, if the government of Pakistan assesses and decides so.


Muhammad Salim Khan
Director General
FATA Disaster Management Authority
FATA Secretariat
Peshawar
Date: 23/6/10


Martin Mogwanja
Humanitarian Coordinator
Pakistan

Date: 23rd June 2010

3.2. Local integration

Most displaced persons live in situations of protracted displacement where their needs often differ from those who have been recently displaced. However, in Pakistan the conflict induced displacement is a recent phenomenon. Therefore, one cannot distinguish among the conflict induced IDPs on the basis of the duration after their displacement. Thus, internally displaced persons in Pakistan would be taken en-bloc while discussing the local integration as a durable solution for their problems as a result of displacement.

When return is not possible due to the cause which induced displacement in the first place and the displacement specific needs of the Internally displaced persons are fulfilled to the extent that they no more require government and other national and international non-government organizations to take care of those needs then internally displaced persons can opt for other durable solutions than return. Local integration can be a viable solution for the internally displaced persons. Many of the displaced persons in Pakistan have opted for this solution. For instance, most of the internally displaced persons from Swat have returned to their area of habitual residence but there are many more who have opted for the local integration. It is evident from the fact that till the year 2011 only 6600 out of 42000 families from South Waziristan returned; the rest of the displaced families also desired return, as returning home is the dream of every dislocated individual. However, in most of the cases security situation in the place of origin does not allow them to do so. Therefore, many internally displaced families do not see return as a feasible solution to their problems (Internal Displacement Monitoring Center, 2011). The displaced people from North Waziristan Agency due to counter militancy operation by Pakistan Army, known as Zarb-i-Azb, at the time of this thesis write up have already started

moving to different towns in Pakistan. Some of these families intend to permanently settle down in cities and town across the country (Shad Begum, personal communication, July 15, 2014).

Likewise, numerous internally displaced families from other conflict zones of Pakistan too have opted for local integration rather than return. The cause or motivation for their choice of durable solution may vary. In some cases it is the unsatisfactory security situation of the place of origin which forces the internally displaced persons to opt for other solutions than return, while in other cases it may be economically more beneficial for a family not to return. Kishwar Khan is originally from Charbagh Swat. He along with his other co-villagers had been displaced during the 2009 military operation. He told that he opted to rent a house in Hayatabad, Peshawar rather than settling down in the IDP camps. He told that he started his small business in Peshawar's *Karkhano* market when they were displaced. *Karkhano* Market of Peshawar is commonly known as Bara market located on the border of Peshawar and Khyber Agency (on Peshawar Thorkham Road). This market is famous for custom free international brands of electronics, cosmetics and other goods. Mr. Khan informed that later on his business flourished and thus he decided to stay in Peshawar rather than moving back to Swat (Kishwar Khan, personal communication, July 29, 2012).

Similarly, many of the displaced people from South Waziristan Agency have opted for local integration in Dera Ismail Khan, Tank and other surrounding areas. These Internally displaced persons opted to settle down in the areas near to South Waziristan Agency because they wanted to stay as close as possible to their areas of origin. According to Mr. Wakeel Ahmad around 10,000 Mehsud IDP families have been locally integrated (Wakeel Ahmad, personal communication, December 5, 2012). The statistics given by Mr. Ahmad about the Internally displaced persons of South Waziristan Agency are in conflict with the statistics mentioned in one

of the preceding paragraphs but it is to be kept in mind that he gave these statistics at the end of the year 2012 while the number mentioned in one of the above paragraphs was taken in the year 2011. Therefore, this apparent inconsistency of statistics should be ignored as it is quite possible that by the end of the year 2012 the number of the locally integrated internally displaced families from South Waziristan would have been squeezed to 10,000. Moreover, Mr. Ahmad mentioned about the locally integrated families in a few districts and the website of internal displacement monitoring center mentioned entire figure of internally displaced persons in the whole country; for that reason, this apparent conflict in the statistics of return and displacement change after every new survey because of ongoing unhindered occurrence displacement situations. For instance, “The Early Recovery and Assistance Framework for FATA” further reveals that till end of 2013 about 175,552 Internally displaced persons families from FATA were living in camps or in host communities away from their areas of habitual residence; while a total of 169,517 Internally displaced persons families returned to their homes (Updated Early Recovery and Assistance Framework for FATA, 2013).

Husnain Mehsud of Mir Ali moved to Peshawar Hayatabad area when military operations started in the South Waziristan Agency (SWA). He thought that D.I Khan and Tank would also be engulfed in militancy and counter military operations therefore; he did not prefer to live there. He had sound financial family background and could afford to live in Peshawar. He informed that he had no difficulty in buying a house in such a posh area of provincial capital; as a small house of 25/40 feet is worth 9 million Pakistani rupees (around 900,000 USD) in the Hayatabad locality. Similarly the rent of the same house in the same area is about 40 thousands rupees per month. However, he told that the enrollment of his children in school was problematic and they

had to wait for the academic year to finish before enrolling his children (Husnain Mehsud, personal communication, August 01, 2012).

The local property dealers in Hayatabad, Peshawar have been told by the competent authorities not to facilitate people from FATA in the acquisition of houses for rent in the township. It has been confirmed by many property dealers in Hayatabad when this researcher asked about the same issue. There is no difference whether a person is just an economic migrant or an IDP but if he is from FATA the property dealers are directed not to facilitate him in getting a rented house in that area. A No Objection Certificate (NOC) or Tenant Information Form (TIF) has also been introduced by the police for those who want to acquire house on rent in the township. In that NOC there are three columns; in one column personal details of the tenant are filled, in the other column personal details of the owner of the house are filled while in the third column details of the guarantor are filled. The guarantor must be a local resident of the township known by the tenant.

فارم نمبر (TIF-1-2014)
کرایہ دار کے بارے میں اطلاعی فارم (TIF)

زیر ذیل (۴) آف خیر و بخشنہ اور سٹرکشن آف رینڈ بلڈنگ (سیکورٹی) آرڈیننس ۲۰۱۴

پس منشی _____ طبع _____

فارم نمبر کی جانچ: ☒ ملتا ہے۔ ☐ نہیں ملتا ہے۔

آکر کرایہ دار پر مبنی یا انحصار پر مبنی ہو تو اس کو سٹرکشن اور سٹرکشن آف رینڈ بلڈنگ (سیکورٹی) آرڈیننس ۲۰۱۴ کی وجہ سے ملے گا۔

سواء کرایہ کی صورت میں نہ ہو۔

بلڈنگ چھوڑا کر کرایہ دار کے ہوتے ہوئے بلڈنگ کے لئے کرایہ دار کو ملے گا۔

(۱) کرایہ پر مبنی یا انحصار پر مبنی:

1. کرایہ کی حالت کا مکمل یہ: ☐ ہاں ☐ نہیں ☐ اسٹریٹ لبر ☐ طبع ☐ طبع

2. کرایہ پر مبنی یا انحصار پر مبنی: ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

3. کرایہ پر مبنی یا انحصار پر مبنی: ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

(۲) بلڈنگ چھوڑا کر کرایہ دار کے ہوتے ہوئے:

4. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

5. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

6. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

7. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

(۳) کرایہ دار کے ہوتے ہوئے:

8. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

9. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

10. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

11. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

12. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

(۴) کرایہ دار کے ہوتے ہوئے بلڈنگ کے لئے:

13. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

14. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

(۵) کرایہ دار کے ہوتے ہوئے:

15. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

16. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

17. ☐ ہاں ☐ نہیں ☐ طبع ☐ طبع

(۱) گھر پر رہنے والے تمام افراد کی فہرست ۱۹۹۸ء سے زائد افراد کی تفصیل:

(گھر پر رہنے والے تمام افراد)

سلسلہ نمبر	نام	دھماکا نام	شناختی کارڈ نمبر	جنس	پیشہ	سلسلہ نمبر

(۲) گھر پر رہنے والے تمام افراد کی فہرست ۱۹۹۸ء سے زائد افراد کی تفصیل:

(گھر پر رہنے والے تمام افراد)

سلسلہ نمبر	نام	دھماکا نام	شناختی کارڈ نمبر	جنس	پیشہ	سلسلہ نمبر

تصدیق کی جاتی ہے کہ درج بالا معلومات تمام معلومات اور درست ہیں۔

دھماکا نمبر _____ دھماکا کارڈ نمبر _____
 تاریخ _____

Form No (TIF-1-2014)		Form No (TIF-1-2014)		Form No (TIF-1-2014)	
TENANT ACKNOWLEDGMENT RECEIPT (TAR)		TENANT ACKNOWLEDGMENT RECEIPT (TAR)		TENANT ACKNOWLEDGMENT RECEIPT (TAR)	
(Under Section (4) of KPR Restriction of Rented Building (Security) Ordinance-2014)		(Under Section (4) of KPR Restriction of Rented Building (Security) Ordinance-2014)		(Under Section (4) of KPR Restriction of Rented Building (Security) Ordinance-2014)	
(Police Station Copy)		(Land Lord Copy)		(Tenant Copy)	
Tenant Acknowledgement Receipt No. _____ District _____ P.S. _____ 1. This is to certify that Mr. _____ S/o. _____ landlord of rented property _____ has rented it To Mr. _____ S/o. _____ CNIC No. _____ 2. The landlord has provided the following documents: • Tenant Information Form (TIF) • Attested copy of rent agreement • Attested copy of CNICs of owner, tenant, property dealer & 2 references of tenant 3. The documents & information contained therein will be verified in due course of time. 4. Issuance of TAR No. _____ has been incorporated in D.D No. _____ Dated. / / By/MAST/MHC _____ _____ Signature of SHO/MAST Date of Issuance: / / Official Stamp of P.S.		Tenant Acknowledgement Receipt No. _____ District _____ P.S. _____ 1. This is to certify that Mr. _____ S/o. _____ landlord of rented property _____ has rented it To Mr. _____ S/o. _____ CNIC No. _____ 2. The landlord has provided the following documents: • Tenant Information Form (TIF) • Attested copy of rent agreement • Attested copy of CNICs of owner, tenant, property dealer & 2 references of tenant 3. The documents & information contained therein will be verified in due course of time. 4. Issuance of TAR No. _____ has been incorporated in D.D No. _____ Dated. / / By/MAST/MHC _____ _____ Signature of SHO/MAST Date of Issuance: / / Official Stamp of P.S.		Tenant Acknowledgement Receipt No. _____ District _____ P.S. _____ 1. This is to certify that Mr. _____ S/o. _____ landlord of rented property _____ has rented it To Mr. _____ S/o. _____ CNIC No. _____ 2. The landlord has provided the following documents: • Tenant Information Form (TIF) • Attested copy of rent agreement • Attested copy of CNICs of owner, tenant, property dealer & 2 references of tenant 3. The documents & information contained therein will be verified in due course of time. 4. Issuance of TAR No. _____ has been incorporated in D.D No. _____ Dated. / / By/MAST/MHC _____ _____ Signature of SHO/MAST Date of Issuance: / / Official Stamp of P.S.	

Page 3 of the Tenant Information Form or NOC (This page is to be signed and stamped by the local police station after the required information is filled in the above two pages by the tenant)

As far as the matter of NOC is concerned it is logical because by adopting such mechanism anti-state elements would not be able to live in the area. The law enforcement agencies are arresting those landlords who rent out their houses without an NOC ([Owners booked for renting out houses without getting NOC](#), 2012). But the matter that residents of FATA are reluctantly allowed to live in the township is discrimination among the internally displaced persons. The very first Principle of the UN Guiding Principles is against any sort of discrimination among the internally displaced persons and other citizens of the state.

The case of Husnain Mehsud, mentioned earlier, is unique in the sense that he faced no difficulty in buying a house in Hayatabad but many other internally displaced persons from FATA who wanted to rent houses in Hayatabad could not do that. Because there is a bar put by the local police that internally displaced persons from FATA would not be allowed to live in Hayatabad. There is a probability that the local authorities limited this restriction to Hayatabad alone because things are much more organized over-there. Secondly, banning IDPs from FATA in the whole city of Peshawar to get rented houses would expose such policy to public criticism and maintaining such orders would no more be possible for the local police. For instance, many IDPs from Khyber Agency live in host communities in Taj abad, Danish Abad, Nasir Bagh, Achini, Safaid Dheri, Palosai, Rahatabad and Tehkal etc and law enforcement agencies do not put such conditionality on property dealers. Husnain Ahmad bought a house and that was why he was able to avoid problems. Had he tried to live in a rented house he would have faced the same difficulty as other internally displaced persons.

Local property dealers in Hayatabad confirm that most of them have got verbal instructions from the local police not to rent out houses in the township to the IDPs from FATA but they do not have any document regarding these instructions. However, it can be assumed, and this

postulation can be wrong as well, that due to the fear of gross violation of fundamental rights of movement and non-discrimination among Internally displaced persons and other citizens the police department in the city of Peshawar issued verbal instructions rather than putting it in black and white through rules. On the other hand the local authorities have the apprehension that rented houses and vehicles are normally used for illegal activities and if displaced are given rented houses in Hayatabad criminals and militants would rent those houses and would use those properties to promote their malign agendas against the state.

There are reports in the print media that the value of property in areas adjacent to FATA has tremendously increased because people are being displaced from FATA due to conflict between the militants and military. Thus, the influx of displaced persons is giving impetus to the value of property as the demand and supply phenomenon is at work (Yousufzai, 2011). However, these media reports have generalized the whole situation and they have also included Hayatabad as a place where affluent internally displaced persons from FATA take houses on rent; whereas, the ground realities, as mentioned earlier, are contrary to the inclusion of Hayatabad in such media reports where displaced persons from FATA cannot easily take houses on rent.

There are hundreds of IDP families who have opted for local integration in D.I Khan rather than returning to SWA. Mashal Khan from SWA informed in an informal communication, that his family and brethren have been locally integrated in the district of D.I Khan. He told that they sold out most of their land in the agency and bought houses and shops in D.I Khan without any worth mentioning hurdles (Mashal Khan, personal communication, July 17, 2012). Aurang Jan is 32 years old man from SWA who sells plastic made utensils on cart in the streets of D.I Khan. He informed that his life in the agency was financially miserable as compared to his life in D.I Khan. He told that he was illiterate and did not have money to start a good business and that

was why his financial condition was poor. Upon asking how his condition improved in D.I Khan; he told that it was a big city which meant more consumers for the products he sold. However, he told that he was still trying to fully integrate in D.I Khan as he had to pay the rent of the house as well, which was a burden for him (Aurang Jan, personal communication, July 17, 2012).

The IDPs from North Waziristan is recent phenomenon and I was unable to collect comprehensive data about the displaced people from the agency who would have by now decided for local integration. However, there are a few cases in which internally displaced persons from North Waziristan Agency explicitly told that they would not want to go back even if the security situation in their area of origin improves. One such example is Zahida Khan, she was displaced due to military operation Zarb-i-Azb, started in June 2014. She is an educated female and moved to Islamabad where her sister Shumaila Khan was already living with her family. Zahida Khan told that she would find a better job for her over there in Islamabad with the help of her contacts and she would not opt to go back to her home town to reside permanently there. She expressed her views openly when I asked her about what would she do when the government would announce North Waziristan suitable for return. She told that she would just visit the area along with her brothers and father as they would sell out some of their property there to buy a small house either in Islamabad or Rawalpindi. Unaware of the fact that local integration was her right; she told that if the government forced her or her family to move back to North Waziristan she would challenge that in the court of law (Zahida Khan, personal communication, July 17, 2014).

Waqar Khan is also from Miran Shah North Waziristan, he has been displaced along with the whole of his family due to operation Zarb-i-Azb. Waqar Khan has acquired his education from a university in Islamabad. He told that his family was residing in the Bakakhel IDPs camp in F.R

Bannu and he came to Islamabad once his family got shelter in the camp. The reason for moving to Islamabad was that he wanted to find a suitable job over there with the help of his friends. He too did not intend to go back to North Waziristan Agency even if the military operation came to an end. He disclosed that he would shift his family from Bakkakhel IDPs camp to Islamabad once he found a good job (Waqar Khan, personal communication, July 18, 2014).



A view of Miran Shah during the military operation Zarb-e-Azb



A view of Miran Shah's destruction during the military operation Zarb-e-Azb

3.3. Resettlement

Resettlement means settling down away from one's place of origin but not in the place where one was residing temporarily after one's displacement i.e. in camp and off camp. It is the free choice of all citizens of the country to live in the country wherever they want to. The Universal Declaration of Human Rights (UDHR) says that "every individual has the right to freedom of movement and settlement within the border of each state." When masses are displaced from their areas of habitual residence they face immense difficulties particularly when they do not have the capacity to live off camp during their displacement. However, there can be exceptions, those internally displaced persons who have the financial resources to live off camp but during the initial days of their displacement they are compelled by the circumstances to live in the camps; they normally opt for local integration or resettlement (Wakeel Ahmad, personal communication, December 5, 2012).

Kishwar Khan is a resident of district Swat; he was displaced during the military operation against the militants in Swat in 2009. In an interview he revealed that when he was displaced he settled down in the IDP camp of Yar Hussain district Swabi. After spending sometime in the camp he realised that his children's education was affected. Mr. Khan was not satisfied with the condition of his village in Swat and he decided to resettle somewhere else in the country. He informed that he lived in a rented house in district Mardan's Bikarganj area. When internally displaced persons, living in camps, were asked to return he decided to move to Peshawar. He

bought a house on Dalazak road Peshawar at the end of 2009 and since then he is living there. He informed that he did not face any problem in purchasing the house in Peshawar and was content with the government of Pakistan's role in tackling the militancy in Swat. I was amazed by his gratitude for the government for not putting any legal obstacles while buying the house on Dalzak road (Kishwar Khan, personal communication, July 29, 2012).

My verbal interaction with Kishwar Khan gave me the impression that he opted for resettlement and did so very smoothly without any hindrance from the government authorities and security agencies which was an encouraging sign both for internally displaced persons and the government of Pakistan. For the internally displaced persons it is encouraging in the sense that they can live anywhere else in the country if they can afford to do so and consider it a better option than return.

The government of Pakistan does not create any hurdles in the course of internally displaced persons when they opt for resettlement; but at times local community does not allow the internally displaced persons to live with them away from their places of origin. Babar Khan is a resident of Buner and was displaced during the military operation *Rah-e-Rast* (the right path) he moved to the IDP camp of Shah Mansoor in Swabi. He told that during the displacement he found that the government support provided for the Internally displaced persons was not sufficient for his family's needs so he left his family in the camp and went to Lahore in search of decent means of livelihood. He informed that he found a job in a shoe factory in Lahore and then decided to move his family over there. The interviewee told that when he started searching for a rented house in Lahore he faced many difficulties. Further inquiry about his problems made it clear that many people would refuse to give him house on rent when they would find that he was an IDP from Buner. Finally he found a house in Raiwand, a town of subdivision Nishtar Town of

Lahore district in the province of the Punjab, and he moved his family too. (Baber Khan, personal communication, June 21, 2012).

Likewise Asghar Khan from Mingora also faced the same difficulties in finding a rented house in Lahore when he decided to resettle there. He told that the local community over-there did not allow anyone to give him house on rent. Asghar Khan further informed that the situation was resolved only when he took clearance from the local police station (Asghar Khan, personal communication, June 22, 2012). He was living in Model town Lahore when I interviewed him for this study.

Touseef Ahmad is from Khyber Agency (FATA) and he has resettled in district Peshawar. Mr. Ahmad told that he had initially moved to Jalozia IDP camp after the military operation started in Khyber Agency and people were displaced from that area. At the time when I was interviewing him he was residing in Gulbahar, Peshawar. He told that his family did not feel comfortable in the camp environment and that was why he decided to move to Peshawar. As it has already been mentioned previously that the property dealers have been instructed by the local police not to give houses on rent to the people from FATA therefore, Touseef Ahmad found it hard to find a house on rent in Hayatabad. He told that although he wished to live in Hayatabad but legal obstacle put by the local police did not allow him to live there and he had to opt for living in Gulbahar (Touseef Ahmad, personal communication, July 11, 2012). The Guiding Principles are very clear about non-discrimination among the ordinary citizens and internally displaced persons and among the internally displaced persons. The case of internally displaced persons from FATA and legal hurdles for them to resettle in Hayatabad Peshawar is a clear case of non-observance of the issue of discrimination mentioned in the United Nations Guiding Principles on Internal Displacement.

Mr. Fayaz Ahmad of Swat got displaced from his area of habitual residence during the 2009 military operation and opted for resettlement. He decided to live in Abbottabad and told that he did not consider return to Swat feasible for his family, keeping in view the security situation back there. However, upon asking he was in favour of going back if security situation in Swat improved (Fayaz Ahmad, personal communication, July 18, 2012).

A general look at the tales of internally displaced persons gives an impression that there are no major issues and legal obstacles for them once they opt for resettlement. Apart from the issue of internally displaced persons from FATA and invisible bar on their resettlement in Hayatabad Peshawar; the overall condition of resettled internally displaced persons in the country is satisfactory. Given the condition and problems faced by the rest of the citizens in the country one can safely say that resettled internally displaced persons do face problems; however, that is not because of their status as internally displaced persons but because they are citizens of a country where almost everyone faces more or less the same issues and problems. Therefore, the role of the government of Pakistan in managing internal displacement, particularly the search for durable solutions, in the country is commendable.

I came across Wahid Khan, a resident of Shawal, North Waziristan in Islamabad in the Azadi March, a revolutionary long march by Pakistan Tehreek e Insaf (PTI) in August 2014. He had come to show his support to Pakistan Tehreek e Insaf against alleged rigging in the general elections of 2013 in the country. He informed me that he resettled in Karachi. Upon further conversation with Mr. Wahid, he informed that initially after the commencement of military operation Zarb-i-Azab he stayed in the internally displaced persons' camp at Bakkakhel in Frontier Region Bannu. However, he informed that his relatives in Karachi asked him to go to Karachi to earn a living and settle down over there. In July 2014 after spending about 20 days in

the Bakkakhel IDP camp he decided to go to Karachi along with his family. Wahid Khan told that it was hard for him to settle down there and find a house because initially the government of Sindh and Sindhi nationalists strongly opposed the entry of internally displaced persons into the province of Sindh. He was convinced that if it was not for his relatives and if he were not living in a Pashtoon dominated area of Karachi he would have never found a house for rent and he would have never be able to move to Karachi. It is to be noted here that Wahid Khan was an educated person and could understand his fundamental rights i.e. right to movement, right to peaceful protest and express his opinion etc. Therefore, he told that he found it very disturbing when the entry of IDPs to the province of Sindh was opposed by Sindhi nationalists. One of the reason for his presence in the Pakistan Tehreek e Insaf sit in against the government was discrimination he had faced as an internally displaced person. He told that he was there in Islamabad to fight for his rights in a peaceful manner (Wahid Khan, personal communication, August 24, 2014)

3.4. Conclusion

Searching durable solutions for the internally displaced persons is lengthy, tiresome and meticulous process and it requires consistency on part of the government and humanitarian organisations to achieve this end. It is a fact that the internally displaced persons of Swat, Dir and Buner have achieved durable solutions for their displacement but there are still many more internally displaced persons, from the whole of FATA in general and from North Waziristan in particular, who are desperately waiting for a permanent solution to their problems (The Frontier Post, 2014), (Inamullah, 2014)& (Shinwari, 2014, September 06). The government of Pakistan prefers return as a durable solution for the internally displaced persons. One of the basic reasons for opting return by the government is that it does not have the resources to compensate the

displaced persons in case of resettlement or local integration. As many development induced internally displaced persons are still to be compensated by the government. For instance; more than fifty percent of the affected people of Tarbela and Mangla dams got compensation but still there are many who could not get compensation. For instance, Mangla Dam in the Pakistan's Kashmir region was built in 1960's it induced from 5,000 to 30,000 displacements, many people were sent to Punjab and Sindh but till the year 2005 they could not get the promised lands. Similarly another group of Mangla Dam affectees were sent to Khushab area of the Punjab province but they are still facing difficulty of getting ownership of the land that was promised with them in compensation. Likewise, the construction of Terbela Dam inundated 120 villages and 96,000 people were displaced. Most of the displaced persons of Terbela Dam either did not get the land they were promised by the government or they were not given possession of the lands that was allotted to them because the local communities did not welcome them (Grant & Ferber, 2012).

There can be two reasons for that i.e. lack of resources on part of the government or lack of efficiency to do so. Moreover, it is also a possibility that both those factors could have hampered well-organized plan of compensation for all the development induced internally displaced persons. Therefore, emphasising on the point that government could have offered plans for local integration or resettlement for the conflict induced internally displaced is not pragmatic because such a plan presented by the government would have served no purpose than merely empty slogans. We have seen in the past, as mentioned above, that government could not compensate the displaced persons affected by construction of dams despite its willingness expressed in black and white. The overall scenario of durable solutions for conflict induced IDPs in Pakistan is encouraging as return of the Swat internally displaced persons is a success. Moreover, in case of

development induced internally displaced persons the government was bound to offer any solution other than return because the places of origin were permanently occupied by development projects. But in case of conflict induced Internal displacements the main emphasis of the government of Pakistan is and should always be on return, as in armed conflict within the state whether government is a party to the conflict or not, it has to ensure the rule of law and therefore opting for other durable solutions than return would mean that the government is incapable of establishing the rule of law.

Lastly, the attitude of other provinces particularly Sindh and Punjab towards the affected people is a vivid case of discrimination against the IDPs which is in contrast with the non-discrimination clauses of United Nations Guiding Principles on Internal Displacement.

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Chapter 4

Internal Displacement Crises: Domestic and International Challenges

4.1. Introduction

Internal displacement in Pakistan is causing multi-dimensional challenges for Pakistan and for international community. On domestic front it is stimulating poverty, lawlessness and militancy because of lack of Pakistan's capability to deal effectively with the displacement situations. Pakistan is strategically, an important country in the region and it has always played its effective role in shaping the international politics in South Asia. Therefore, its domestic problems, particularly, the crises of displacement have the potential to impact on the region beyond the geographical boundaries of Pakistan. In 2014, around 75000 internally displaced persons from North Waziristan Agency fled to Afghanistan to take shelter there while the Pakistani

government categorically denied seeking assistance from any other country in managing the IDPs (UNHCR, 2014). However, the influx of displaced persons from Pakistan additionally burdened Afghanistan which is already dealing with its own displaced population and mostly rely on international support tackling the its own internal displacement situations effectively.

4.2. IDP's in Pakistan in a Nutshell

Pakistan's 400,000 IDPs accounted for half of the total displacements in the region in the year 2010. This figure does not include FATA and Balochistan since these areas were inaccessible to humanitarian workers and the media due to security concerns expressed by the security agencies. Three hundred thousand people fled FATA in 2010 and more than half a million fled North Waziristan in the year 2014 alone. Moreover, 100,000 left Balochistan "due to military operations against separatist groups i.e. Balochistan Liberation Army (BLA) and Balochistan Republican Army and the separatists' intimidation of government-sponsored settlers. 40,000 members of the Bugti tribe were also displaced, but lack of access made it difficult to know about the displacement of other Baloch groups/tribes. The provincial government in Balochistan led the response to the displacement had the objective to ensure international humanitarian and aid projects for internally displaced persons are aligned with priorities i.e. helping the displaced persons according to their needs. On the other hand Pakistani military, fighting the insurgents, has tied up response to the internally displaced persons with counter- insurgency objectives such as providing necessary support and assistance to those internally displaced persons whose relatives would have never taken up arms against military and denying aid and assistance to all those who are suspected to have participated in insurgency (IDMC, 2013).

Internal displacement is not a new phenomenon in Pakistan. It has been taking place for years. For instance, during the dry spell from year 1998-2001 around 3.4 million people were affected

by the drought in Baluchistan and Sindh. Thousands of people were displaced in Cholistan (Punjab). Many districts of NWFP (now KP), Sindh, Baluchistan and the Punjab were declared calamity hit. From 1958 to 1998 Pakistan lost around US\$ 5000 million, in terms of loss to the infrastructure, 60000 villages were affected and thousands of people were dislocated by floods. Nearly 3000 people died due to floods from 1995 to 2001. More than 14000 people were displaced from the coastal areas of Sind and Balochistan provinces due to cyclone of 1999 and over 25000 got displaced by the cyclone in 2001 (Shah, 2013). Earthquake is another phenomenon which is frequently occurring in this part of the globe (UNHCR, 2010). Hundreds of thousands were displaced by the October 8, 2005 quake and while most of them were resettled thousands are still demanding to get the promised support by the government to help them rebuild their lives.

The government did not allow international assistance to people displaced by conflict in Balochistan, parts of Khyber-Pakhtunkhwa and FATA, apparently because of security concerns for international humanitarian assistance organizations and its international staff. Though, Pakistan is still distinguished as one of the countries which took important measures to deal with IDPs. However, people displaced by the floods in Balochistan received little assistance from humanitarian organisations due to limited access to the area. The president of Af-Pak Institute Washington D.C, United States of America Mr. Ibrahim Nasr is of the opinion that in such hard areas like FATA and Balochistan neither the international NGOs feel safe to work because of radical mind set of people nor the government wants to allow them to operate there without a check on their activities to ensure that they do not harm the national interests of Pakistan in guise of humanitarian and relief efforts (Ibraheem Nasar, personal communication, May 15, 2014). The relief efforts that were conducted during the October 2005 earthquake in Azad Jammu and

Kashmir (AJK) and Khyber Pakhtunkhwa then called NWFP were highly centralized and ill equipped to deal with humanitarian crisis at such a large magnitude. Similarly, even though the transition to democratic civilian rule in February 2008 was successful still the military continued to have strong hold over decision making in talks with Taliban and international affairs which further declined civilian capacity to deal with important domestic and international issues on its own. It was widely hoped that reconstruction and relief efforts must ultimately restructure and make the link between Malakand's populace and the state stronger which was severed by rising militancy and the military-devised accord between the government, in Khyber Pakhtunkhwa, then NWFP, led by *Awami National Party* (ANP), and the Taliban-linked *Tehrik-e-Nifaz-e-Shariat-e-Mohammadi* (TNSM) to impose Islamic law (*Sharia*) in the Malakand area, through the *Nizam-e-Adl* Regulation. The regulation was signed on 13 April 2009 by President Asif Ali Zardari. However, due to growing militancy and continued violation of the peace accord by the militants that dream could not materialise and with the backing of civilian government military operation "*Rahi Nijat*" was launched in the Malakand division (ECHO, 2012).

According to Integrated Regional Information Networks (IRIN) on 3 May 2012, a large number of people are staying outside the camps in the tribal areas and Khyber Pakhtunkhwa (KPK) province of Pakistan. These people are displaced by the security forces because of their clash with militants in these areas. According to the aid workers, they are trying to accommodate them but most of them require immediate health and education assistance alongside their shelter needs. According to the United Nations Refugee Agency (UNHCR), at the Jalozai Camp, over 208,000 individuals have registered most of these displaced persons moved out of Khyber Agency since January 2012. However the mentioned figure is only a small representation of the total population of displaced people. "Only 15 % of the internally displaced Persons actually lived at

the camps”, remarked Duniya Aslam Khan, Public Relations officer at UNHCR, Peshawar. Most of the internally displaced people either moved with their friends or relatives. Serious food shortages among IDPs living outside the camp were reported by UN inter-agencies assessment. Due to the lack of food stocks, almost 7.3 % of internally displaced communities moved from KP since January. This percentage amounts to approximately 2,157 families and 45 communities in total. The regions where food is available, 56 % of communities stated that their food stock lasted for 1 to 3 days only (International Rescue Committee, 2009). Internally displaced persons would form long queues to get food and other necessities of life; and at times they would return empty handed to their tents in the camps as the ration stocks allocated for that specific displaced population would exhaust before all internally displaced families could get their share, disclosed Sayyed Muneeb Ilayas task manager of Khyber Pakhtunkhwa for interventions of SACH-Struggle for Change (Muneeb Ilyas, Personal communication, July 09, 2013).

Moreover, 40 % of assessed internally displaced persons had received no food assistance while a large number were not collecting food rations they were entitled to. Two factors contributed to this i.e. one was the lack of transportation to supply the food items in time while the other was the lack of clarity to the IDPs about distribution timings. Health and child welfare issues of IDPs outside the camp were also a problem; 82.2 % women respondents reported a decrease in frequency of breastfeeding due to malnutrition after displacement. Displacement in Khyber Pakhtunkhwa reached to its highest point in 2009 after military action against militants in Malakand Division. Displacement in parts of Khyber Pakhtunkhwa has continued since then. Clashes among militants and military in Bara Tehsil, Khyber Agency on the Pakistan-Afghanistan border induced displacement of thousands of people. The authorities were unaware that so many people would not want to move into camps, till the displacement from Khyber

Agency began, in 2010, authorities in Khyber Pakhtunkhwa came to know that majority of the displaced persons were reluctant to reside in camps said Adnan Khan a spokesman for the Khyber Pakhtunkhwa Provincial Disaster Management Authority (IRIN, 2011). There were various reasons for the reluctance of IDPs of Khyber Agency to reside in camps i.e. considering camp setting unsuitable for respecting the pashtoon cultural norms, where women do not meet anyone but her close relatives. IDP's from Pakistan's volatile north-west within the Federally Administered Tribal Areas (FATA) Khyber and Kurram agencies are currently the worst affected in terms of insufficient humanitarian assistance and other problems brought with displacement. According to UNOCHA Pakistan, about 415,000 people were newly displaced in 2012, and at least 131,000 more fled their homes in the following year (OCHA, 2013).

The National Database and Registration Authority (NADRA) has played an important role in registration of internally displaced persons. National Identity Card (NIC) has made it possible to reach citizens which were difficult to reach in the past because NIC is required for initial registration. NADRA mobile van services is issuing new or duplicate identity cards to all the people who have either lost their cards in the flight or they never had made one. However; only head of the family is eligible to register as an IDP therefore, many women are still unidentified. Since the militants have put a ban on women from North Waziristan to make Computerized National Identity Cards (CNIC) because it displays a picture over it; thousands of women from North Waziristan Agency did not make CNICs and countered problems in getting the promised assistance from government and UN agencies (Shad Begum, personal communication, July 15, 2014). In many cases women who were either widows or those females whose husbands stayed behind have no other options rather than joining their male relative's house holds. The conservative religious groups and Militants have opposed female's registration with NADRA for

CNIC, further adding to their problems. Women's needs for protection risk and relief assistance are being ignored due to the mounting pressures and insecurity posed by local militants against female registration. Ironically some people are not registered as IDPs and some are registered more than once to yield benefits from more than one source of aid for displaced people. This multiple registration is often a result of frequent movement by the families from one camp to another camp or to live with their relatives to as distant places as Lahore, Islamabad and Karachi. "There is a lot of movement between camps and surrounding areas as extended families and communities attempt to reunite, so it is sometimes difficult to keep track of how many people are in a camp", explained, in district Mardan, by a humanitarian aid worker. The scale of these incongruities will only become obvious when computerisation and tabulation of this collected data will complete, but rectifying them fully may still prove to be close to impossible (OCHA, 2010).

4.3. Financial Assistance

The displaced persons require substantial cash assistance from the international community and the government of Pakistan in the short and medium term to rebuild their capacities to generate independent source of income in the long run. In order to restore the dignity and economic independence of the internally displaced persons, they need cash based assistance like they needed food and other material assistance when they first arrived as displaced persons. The Benazir Income Support Program (BISP), which is primarily aimed at the most socially and economically vulnerable women. A "smart card" by NADRA, assists the program, which is embedded with biometric features to locate household families with income less than PKR 6,000 (\$75); households headed by widowed or divorced women; and households with members who suffer from chronic diseases or are disabled. The beneficiaries receive free access to healthcare,

vocational training and life insurance in addition to the monthly cash assistance of Rs. 1,000 (\$12.5) via their cards. The federal government has compelled NADRA to reorganize the program to give more priority to the IDPs over the original BISP targeted communities. Now under the new system, IDPs receive a smart card which has a microchip and that contains specific data about the camp. Off camp internally displaced persons would acquire a card after confirmation from the local authorities or their elected representatives. The cards would contain biometric data of the IDPs and the details of the assistance they are entitled to receive. The government of Pakistan has announced that 250,000 families from Malakand Division and FATA will receive the card. Furthermore, the GOP's declared earlier that a support of PKR 25,000 for 45,000 of the most vulnerable displaced families would be provided through the cards. Moreover, the federal government has announced PKR 12000 per family, while the Punjab government and government of Khyber Pakhtunkhwa have announced PKR 7000 and PKR 3000 per family per month for the internally displaced families from North Waziristan by military operation Zarb-e-Azab in 2014. However, despite claims and announcements from the government about the disbursement of money among internally displaced families, many complained that they had not received any financial assistance as yet, September 2014. The disbursement of financial assistance IDPs from North Waziristan Agency is made to Zong, a cellular phone service in the country, SIM cards; displaced persons would collect that money from mobile franchise of the service provider (Dawn, 2014).

4.4. Flawed Registration for IDPs from FATA

The government has assigned the task of registering IDPs to the Commissioneraite for Afghan Refugees (CAR) and Khyber Pakhtunkhwa's social welfare department in collaboration with the UNHCR. The social welfare department registers IDPs living off camp and CAR registers IDPs

living in camps. The process of registration is closely tied up with assistance because only registered internally displaced persons get financial assistance. In principle everyone affected by militancy should be able to get registered and receive assistance. But the GOP only registers IDPs from those conflict zones where military takes action against militants. Thus, it is leaving a large number of displaced persons who used to live in areas where militants operate and people cannot stay due to worsening security situation. Therefore, the registration process of the FATA IDPs is flawed in a sense that not all the IDPs from FATA get financial assistance from the Government of Pakistan and international aid agencies. For instance, thousands of people from North Waziristan had been displaced due to the presence of Haqqani Network, a pro-Pakistan faction of Afghani Taliban mostly situated in North Waziristan Agency, which was involved in rigorous fighting against US and NATO troops across the Pak-Afghan border. Since it was not part of the military strategy to take action against Haqqani Network in North Waziristan Agency therefore, till July 2014, displaced people from those areas were not registered because it had not been declared conflict zone by the government. It was only after the commencement of military operation Zarb-e-Azab that the area was officially declared as a conflict zone and displaced people from became eligible to receive assistance.

Likewise, sectarian violence is on the rise in Pakistan and there are many potential flash points where sectarian conflict can erupt. Extremists of Sunni-Deobandi school of thought are at the logger head with Shiite population in Khyber Pakhtunkhwa's southern districts and Orakzai and Kurram Agencies. Many Shiite displaced persons were unable to register because in order to reach the registration points they had to travel through Sunni dominated areas; which was not devoid of high risk. As a few Shiite internally displaced persons reached Kohat they found it difficult to register because registration points were established in the Sunni neighbourhoods of

the city. When these points were shifted to Shiite neighbourhoods of the city protection provided was not satisfactory and in April 2010 suicide bomber blew himself up at a registration centre in Kohat which killed 40 people and injured 65 (The Express Tribune, 2010). As a result the registration process of Shiite displaced persons was halted and IDPs from Kurrum and Orakzai Agencies were discouraged to register at those registration points. Consequently leaving a large number of IDPs to register and receive assistance by the government and international aid agencies as UN agencies have linked assistance to internally displaced persons to the Government of Pakistan registration data.

4.5. Adverse Effects Of Military-Led Relief Initiatives

It has been widely observed that most of the international support which is meant to address the IDP crises in Pakistan is channelized through military for various reasons. First of all, it is believed, military is the only institution in the country to have the required capability to assist civilians in such kind of crises situations. Secondly, military is an organised institution, comparatively less corrupt than other law enforcing agencies, such as police, in the country. And last but not the least, military has been in power in the country for more than half of its history since independence in 1947. Therefore, given its experience in channelizing aid and relief provided by international donors for emergency situations; the international donors prefer to carryout relief activities through Pakistan Army.

Ashish Shukla, doctoral fellow at the Centre for South Asian Studies, School of International Studies, Jawaharlal Nehru University New Delhi, India; is of the opinion that it is not because that Pakistani military has the capacity and proficiency and that is why it takes care of all humanitarian needs of internally displaced persons, but because it has deep roots in the power

structure of Pakistani politics and civil institutions. The Indian Army in his opinion does not intervene and neither takes reins of humanitarian affairs, despite its capacity and edge over civilian institutions in many aspects, unless asked by the civilian government because there has always been civilian supremacy over military throughout the history of post colonial India (Ashish Shukla, personal communication, April 29, 2014).

Despite a few advantages, provision of assistance through military has many drawbacks. Due to rise of militancy in PATA and FATA military is utilizing some part of international support provided by various donor agencies in raising armed militias comprised of locals to counter Taliban at the local level without direct military involvement. In pursuit of achieving peace in the conflict zones these armed militias are given arms and ammunition. There is no mechanism in place to check the activities of these militias i.e. whether they aim at countering Taliban or they terrorise the ordinary civilians, because of personal grudges and score settling, in those areas. According to International Crisis Group (2010), most of these militias are involved in terrorising the ordinary citizens. Moreover, most of these local militias believe in *Jihad* against the Afghan government, the US and coalition forces over-there. Therefore, countering Pakistani Talibans through armed militias might have been an effective strategy at home; however, its implications for international peace efforts in the region are open for debate.

In 2005 quake many *Jihadi* organizations, Jamat Udawa, Jaish-e-Muhammad and Lashkar-i-Taiba etc, banned by the US and UN, from Pakistan took active part in relief efforts thus it convinced Pakistani military establishment of their utility (Qureshi, 2006). Resultantly, international relief and assistance channelized through Pak-Army also made its way, inadvertently though, to strengthen those banned *Jihadi* out fits. Most of those *Jihadi* out-fits are

actively involved in fighting against the coalition forces in Afghanistan. Therefore, it is suggested that international community should emphasize on the distribution of relief and assistance aid through civilian-led administration, NGOs and INGOs to make it more transparent and accountable.

However, an encouraging sign in the allocation and distribution of relief and assistance was observed in the year 2010. A sum of \$ 261 million aid under USAID and State department was channelized through various UN agencies i.e. WFP and UNHCR etc having more transparency and accountability at organizational level. Only \$ 7 million was diverted to NDMA on the pretext to build capacity of local Pakistani institutions to cope with natural and man-made disasters in future as it was necessary keeping in view the existing capacity of the country's institutions and its vulnerability against disasters.

Previously in the same year, January, 2010; about \$ 55 million was given by the USAID for the reconstruction of infrastructure in South Waziristan. That amount was directly given to FATA Secretariat which in an open bidding awarded the contract to Frontiers Work Organization (FWO). FWO is known as the construction arm of military in Pakistan and according to FATA Secretariat the contract was given to FWO because it ensured a time frame for the completion of the project. The rest of the bidders failed to ensure timely completion of the project. However, lack of transparency and accountability was clearly visible as FWO was the highest bidder and still it managed to get the contract (International Crisis Group, 2010).

4.6. Rebuilding Local Economies

In the year 2009 when the internally displaced persons' crisis was on its peak and millions of displaced persons were living in camps and off camp, they faced enormous problems. Members of civil society particularly from local NGOs i.e. Bushra Zaheer, Zahid Hussain and Muneeb Ilyas etc. met them to find out about their problems and assess their needs. They later on reported that many IDPs were against building permanent schools as they felt it was a plan to protract their displacement which they wanted to avoid at any cost. According to Muneeb Ilyas program manager in a national NGO people were anxious to return to their homes, businesses and orchards and fields. The survival of the returnees must be associated with the clear signals from the government to act towards rebuilding the shattered economy when the conflicts are settled. The Malakand Division and other war struck zones need enormous investment and reforms to steer clear of becoming a war economy where smuggling, kidnapping, drugs, war lordism, arms production human trafficking and Jihad activities keep on influencing the economy of Khyber Pakhtunkhwa and FATA. The same criminality was noticed in Swat in 2007-2008 when the militant groups took over political, economic and military power over there. This current wave of conflicts is more likely to increase if these issues are not addressed properly.

If on one hand international economic assistance in the conflict zones is a dire need in the country, on the other the international community is questioning the capacity of the state institutions to absorb economic aid judiciously. In the year 2010, just before the flood in Pakistan, the US Senate Committee on Foreign Relations expressed its reservations about the need of civilian government's capacity in Pakistan to handle funds transparently before receiving

it. The committee also emphasised the need of accountability of different departments in Pakistan responsible to receive and direct international aid to the grass root level in conflict and disaster zones in the country (International Crisis Group, 2010).

The Malakand region had a more productive economy than any other areas of Khyber Pakhtunkhwa because of the high yielding crops, higher car ownership and cheaper vehicles, developed service industry, tourism in Swat and tax exemptions. As these regions had been hit by armed conflicts and militancy, their income had depleted over the time and their economy was undermined. For instance, in Swat alone, almost 400 restaurants and hotels were recorded to be shut down because of the collapsed tourism when the militants moved into those districts in 2007. Furthermore, a lot of irrational damage was caused to the livestock, roads, crops, watercourses and fields because of the heavy artillery that was used by the military and the landmines. Such disproportionate damage to the infrastructure in the valley hampered development and progress even after the fighting had stopped (International Crisis Group, 2009). It was emphasised time and again that the government of Pakistan should have focused on rebuilding the tourism industry in region to rebuild its economy but till the year 2013 no major achievement had been made and many locals from the area still fear the return of Taliban (Aamir Khan, personal communication, July 21, 2012). Despite tall claims of provincial and federal government; locals are of the opinion that the government did not take care of rebuilding the once vibrant tourism industry of district Swat.

4.7. International Laws Regarding IDPs

As it has been mentioned in the previous sections of this study that a number of people could not leave the conflict zones before the commencement of military operation in Malakand due to

numerous reasons; therefore, this study is trying to reflect on different dimensions of that conflict to find more convenient paths in future. Analyzing the conflict in Malakand division and the resultant displacement situation is significant for many reasons. Pakistan is experiencing militancy without any pause therefore; it is likely that it would experience displacement situations in future as well. We have seen flight of masses from FATA after the completion of return process in PATA i.e. Malakand division. All those non-combatants who failed to flee from the conflict zones should have been offered a much needed humanitarian assistance through the international community led by the United Nations in particular. Moreover the UN should have urged for humanitarian suspension to account for the civilian casualties in the conflict zones of Malakand. OCHA's Pakistan head, Manuel Bessler said "a humanitarian pause is a subject of discussion, and with the very good liaison we have with the armed forces, it is obviously something that we would not shy away from asking for." As a substitute of waiting for an indefinite period, however, the UN could have immediately and compellingly pushed the Pakistan army for this. The UN should have used its influence, chiefly as it shares out more funds and resources for the assistance of the IDPs. The UN could also have urged and put pressure on the military and militants groups to give access to both local and international humanitarian agencies alongside with local NGOs, media and civilian actors. The United Nations agencies are more inclined to rely on the military resources, for their own security, instead of entrusting the local and civilian communities to channel their aid to the populations who are stranded in the conflict zones. Many international humanitarian agencies are calling for greater military presence in the conflict zone with the hope that the army is the only institution that can save their own staff and simultaneously protect the IDPs and check for the presence of any Islamic charity organizations, insurgents, political or humanitarian, proxies for radical groups.

However, the police should have ensured security in the camps, not the army. In most of the cases of internal displacement situations, people are found to be distressed by the military operation, the last thing they need is soldiers patrolling the camps they are living in (International Crisis Group, 2009).

4.8. Political Changes Regarding IDPs

Taliban in Swat have been challenging the state authority since 2007, soon after the controversial operation against *Lal Masjid*, Red Mosque, in Islamabad. Therefore, upon getting elected for the public office, the Pakistan People's Party Parliamentarians (PPPP) government has pledged to bring the FATA in the constitutional framework either through incorporation with Khyber Pakhtunkhwa (then NWFP) or as a separate province and to repeal the Frontier Crimes Regulations (FCR) as well. However, the federal government could not materialize its vision due to various technical issues i.e. negative feasibility of FATA to be a separate province with one central point due to its geography; inaccessibility of all agencies of FATA for provincial capital of Khyber Pakhtunkhwa, Peshawar, for administrative purpose etc. Malakand district falls under the responsibility of chief minister. It also comprises of part of PATA area and it is prominently presented in the provincial legislature of Khyber Pakhtunkhwa. Paradoxically, it is mentioned in the article 247 of the constitution of Pakistan that executive authority of the province shall extend to the Provincially Administered Tribal Areas and executive authority of the Federation shall extend to the Federally Administered Tribal Areas. Furthermore, laws pertaining to PATA can be changed or extended by the provincial governor through the president's approval (International Crisis Group, 2009). Thus, although the elected representatives of the people would have taken part and played active role in law making process in the legislature; however, when such laws pass from the provincial assembly they cannot be

enacted in PATA unless the governor of Khyber Pakhtunkhwa with the approval of the country's President gives approval to extend those laws to PATA. Similarly, in August 2011, the PPP government extended Political Parties' Act to FATA paving way for the formation of political parties in FATA and empowering people of area with the right to vote (Associated Press of Pakistan, 2011). However, laws passed by national parliament cannot be, by default, implemented in FATA as it is administered by the president of Pakistan through Governor Khyber Pakhtunkhwa. Only governor of Khyber Pakhtunkhwa with the approval of the president can enact laws in FATA (Izharullah, 2014). Governor and the President are always on the same page as the governor is the agent of the federation in the province. However, the additional approval from president and governor for implementation of laws of national parliament in FATA is there to implement only specific laws and bar the rest of legislations from being implemented there. The dualism and complications in the implementation of laws in FATA and PATA have in the first place created space for the emergence of Taliban. Secondly, it has hampered efforts to control the Taliban and address the concerns of the local people regarding many legal issues and authorities.

A decision by the Supreme Court of Pakistan in 1995 stated that PATA regulations are unconstitutional and ordered to restore the judicial authority to the regular courts and allowed appeals to Supreme Court and Provincial High Court. However this decision was much opposed by the traditional power brokers, district bureaucracy and land owners. These people were mostly influenced by *Tehrik-e-Nifaz-e-Shariat-e-Mohammadi* (TNSM). TNSM is a militant organization which claims for the imposition of its conservative version *Sharia* Law and they are allied with Taliban. However, as a result from the increasing pressures by the rising militancy in Malakand, *Nizame-Adl* Regulation was implemented. However ordinary sessions and district

courts were held in Malakand but it increased the influence of cleric (*mullahs*) periodically during that time. President Zardari signed the *Nizame-Adl* Regulation in 2009 and it restored all the judicial authority in *qazis* (Sharia court judges).

To counter extremism on all fronts, a fourteen-point consensus resolution setting the parameters of a broad government framework was passed by the National Assembly in 2008. The reforms included economic and political developments and increased role of civilian law enforcement agencies in FATA and in NWFP (now Khyber Pakhtunkhwa). Conversely, the failure on the part of the government to act swiftly made the people more worried about the credibility and potential of the government. It made the sovereignty of the parliament questionable to the people in order to repeal PATA status of Malakand Division to restore the legal, administrative and political mainstream in their stranded region. Sharing his views in a training arranged by Asia Foundation in the Margalla Hotel Islamabad on September 24, 2013, the provincial secretary information and culture of Khyber Pakhtunkhwa, Azmat Hanif Aurakzai, said that good governance was key to counter militancy. Talking on the Right to Information Ordinance 2013 and its relevance with good governance, he further elaborated his statement by linking the rise of Taliban in Malakand Division to the lack of good governance and exclusion of the area from mainstream political realm of the country.

4.9. Securing International Aid: A Major Challenge for Pakistan

Pakistan needs effective and essential international support in terms of financial aid and capacity building initiatives to cope with the challenges it is facing due to internal displacement. Unfortunately, for Pakistan, due to its security lapses the flow of such desired assistance is being hampered time and again. The Kerry-Lugar Bill, officially called “Enhanced Partnership with

Pakistan Act of 2009”, had promised, 1.5 billion USD annual aid for the country to help counter the anti US sentiments among ordinary Pakistanis. The Bill promised to provide 7.5 billion USD, non-military aid, to the civilian government of Pakistan for improvement of service delivery to its people (Enhanced Partnership with Pakistan Act of 2009, 2009). However it tied up the release of annual 1.5 billion USD to a certificate by the US president which was to ensure the Congress that Pakistan had not been involved in terrorist activities during the year (Waraich, 2009).

On the one hand military is trying to bring down the security situation under control through operations in FATA and displacing hundreds of thousands of people; while on the other it is ignoring some of the vital settled areas to keep a watch on the militants and their leaders. On May 11, 2011 Osama Bin Laden (OBL) was found and killed in the city of Abbottabad near the Pakistan Military Academy (PMA). Both the US and Pakistan were perturbed as the US was annoyed over the ignorance of Pakistan towards the presence of OBL on its soil, too close to its military training academy and Pakistan was annoyed with the US for taking a unilateral military action against OBL on Pakistani soil without intelligence sharing with Pakistan (First the tears, now the anger: Pakistanis burn U.S. flags as backlash over Bin Laden's death grows, 2011). Thus, the already existing trust-deficit between the U.S and Pakistan further aggravated. Later on in the same year NATO’s attack on a Pakistani border check-point in FATA led Pakistani military to the closure of supply line for NATO and US troops in Afghanistan (Pakistan outrage after ‘NATO attack kills soldiers’, 2011). Consequently, the 1.5 billion USD aid announced for Pakistan under Kerry-Lugar could not be extended in entirety and till the fiscal year 2012, Pakistan could only receive 500 million USD (International Crisis Group, 2012).

Following those two incidents, which led to further deterioration of the Pak-US economic ties, the USAID reduced its development activities in the country. Most of the partners i.e. NGOs and INGOs, of USAID in Pakistan faced additional complications of reporting and documentation restrictions in order to get partnership agreements from its donor. On the other hand INGOs working in Pakistan faced visa restrictions and at times refusal for its international humanitarian staff (employees) members. Such strict stances against each-other by the Pakistani and US governments have had negative impact over the humanitarian services for the displaced persons from FATA. Resultantly, the base of humanitarian services in Pakistan is getting narrower, amounting to the miseries of displaced persons.

It is important to consider when dealing with a large number of people of different age groups, with different languages and cultures who are being displaced due to the terrorist activities in their native areas (Grant & Ferber, 2012). The management and the concerned authorities are liable and responsible to carefully manage the influx of migrants. They must arrange proper settlement and travel facility for them and must help them reach safe places for their stay during displacement (International Crisis group, 2009). Moreover, arrangement for early recovery and relief of returnees should also be taken care of.

However, wrangling between international community and Pakistani military establishment has hampered all efforts directed towards economic assistance and capacity building of Pakistani state institutions. The international community should restart its efforts to provide humanitarian assistance to the conflict prone country. At the same time it should prioritize its aid efforts. Precedence should be given to capacity building of democratic and civilian led institutions of Pakistan to support democracy in the country which by and large is in state of infancy. At the same time aid to military should be in terms of capacity building of Pakistani military to

effectively fight terrorism inside Pakistan's tribal belt with particular emphasis on effective use of special measures to reduce destruction of civilian infrastructure and civilian casualties during military operations against the militants which would decrease the chances of displacement.

4.10. Militants Masked As Common Men

Differentiating the militants from innocent civilian amongst the countless displaced persons is a dilemma. This fear was also expressed by various political leaders and ruling parties that it is a hard task to find out whether all the people being shifted are innocents civilians or not. The only way to believe the IDPs as normal civilians and not militants is that they do not possess any weapons. It is possible that the militants may blend with the effected persons and may carry out terrorist activities throughout the country on large scale. However, there should be a proper mechanism to differentiate militants from innocent displaced persons. As already mentioned in the previous chapters; collective punishment should not be used as a means to achieve this end. There is no denying the fact that militants always try to intermingle with innocent people to perplex the state authorities in taking action against them. Nonetheless, effective intelligence mechanism comprised of local knowledge may help to a greater extent to avoid taking drastic measures in pursuit of terrorists. It is an encouraging sign that the Pakistan Tehreek-e-Insaf (PTI) led government in Khyber Pakhtunkhwa is planning to establish a provincial intelligence agency which was soon announced after the jail break of D.I Khan (The News, 2013). Such measures will not only effectively pinpoint the actual culprits and militants but it will also protect innocent civilians up to a larger extent from indiscriminate military and police actions against former.

4.11. Repugnancy of Punjab and Sindh in Hosting IDPs

Khyber Pakhtunkhwa and FATA are suffering from militancy, counter militancy operations and internal displacements; and at the same time Khyber Pakhtunkhwa has to accommodate all the IDPs because almost all the provinces and their people opposed the arrival of IDPs in their areas. Especially in Sindh, many Nationalist parties expressed grave concerns over this matter and they called for strikes and boycotts throughout the provinces and were successful due to the cooperation of common men with diverse political affiliations who also took similar stand against the arrival of internally displaced persons. Arrival of people in huge number created stress among the citizens on the ground that they would have negative impact on their economy by seizing their resources and employment opportunities which are already rare and not enough even for the local people. Thus they took the displacement as an attack on their economy (International Crisis Group, 2009). Some of the nationalists had apprehensions about issues attached to the displacement of the people. One of such issues was that of the identity crisis due to shuffling of variety of people coming from varied backgrounds with diverse thinking and life styles. It is a threat to the identity and originality of the local cultures, nations, tribes and the provinces. No province is ready to lose its historic identity which is reflected and preserved by their common men. Once displaced people from PATA and FATA merge with the local ones, they will influence upon the local language, culture and lifestyle (The Free Library, 2009).

Such attitude of provincial governments and people of other provinces was against unity of the federation. The overall mood and nature of people of FATA and Khyber Pakhtunkhwa is that they welcome refugees and displaced whole heartedly. However, when it came to their own safety and they were displaced in bulk in 2009 and 2014, although for a few months only, their presence in other provinces was resisted. The sense of alienation and deprivation which was

already prevailing in the minds of common men living in the disaster and militancy prone Khyber Pakhtunkhwa and FATA became stronger by the resistance of other provinces to host them in the crisis (Noreen Nawab Khan, personal communication, August 5, 2011) (Shad Begum, personal communication, July 15, 2014). A psychologist further told on the condition of anonymity that when he was carrying out psycho social support and counseling sessions with internally displaced persons in 2009, he met many IDPs who vividly told her that first of all the Punjabi led military establishment displaced them, then the rest of the provinces particularly Sindh opposed to host them. I was told that IDPs at large either kept quiet or questioned the utility of such a federation which was unable to give them shelter in other parts of the country. He told that the many IDPs showed their gratitude to the people of mainstream settled districts of Khyber Pakhtunkhwa, their own province, which whole heartedly welcomed and hosted them in moments of crisis and wilderness

4.12. Availability of Basic Necessities of Life

Once the IDPs are settled in the camps, they are to be provided with all the basic necessities of life from shelter, food, water to education, health and sanitation. It requires an outsized number of human capital and vast amount of funds to carry out welfare oriented programs (Ferris, Mooney & Stark, 2011). Moreover, most of these displaced are located in tent camps, which are insecure and unsuitable for harsh weather, extreme winter and extreme summer. In addition, even these camps are not enough to shelter all the displaced and many of them live under the open sky. These internally displaced persons include a mentionable percentage of women, children and the senior citizens; most of them need proper shelter and health facilities. There are not enough medical doctors, medicine and other medical facilities to deal with such a large number of patients. The internally displaced children have been deprived of their education

which is and must be a serious concern for all involved in making necessary arrangement for them. In most of the internal displacement situations in Pakistan the schooling of displaced children gets disturbed and it takes time for them to restart their education career and get on track once they are rehabilitated. The state has limited capacity to provide displaced children with education which has the potential to amount for exploitation such as child labour and sexual abuse etc.

Moreover, in 2014 most of the internally displaced persons from North Waziristan were encamped in IDP camps in Bannu; however, many more were given accommodation in government schools as displacement took place during the peak summer season when schools are closed for three months due to scorching heat. Nevertheless, the displacement situation protracted and return could not be made possible before the re-commencement of schools in September 2014. Therefore, local children's education was also affected due to displacement from North Waziristan Agency.

4.13. Heavy Cost of Bearing IDPs

Programs initiated on large scale need enough amount of money for their successful execution. A big fraction of Federal Budget worth Rs. 50 billion had been allocated for the reintegration, relief, reconstruction and security of the internally displaced persons. Moreover, the then President Asif Ali Zardari had announced Relief package of Rs. 8 billion for the IDPs in May 2009. Besides, various United Nations Agencies such as UNDP, UNCHR, UNOCHA, USAID and UNWFP work together with the government to manage and handle internally displaced persons by providing them basic necessities of life. The President of Pakistan went abroad to generate funds for the rehabilitation of IDPs along with fighting terrorism in Pakistan in 2009 to cope with displacement situation (International Crisis Group, 2009). However, due to

unimpressive reputation of the PPP led federal government regarding financial transparency in the past, the international community did not provide direct support to the government of Pakistan openly to tackle the displacement situations.

4.14. Security and Protection of Human Rights

The security and safeguard of millions of the humans who have been affected in Pakistan due to the War against Terror remains a critical challenge. It is a mammoth responsibility and duty of the Government to preserve and provide the human rights. Even though the authorities are concerned with this enormous problem, yet it looks a tough task to manage millions of the displaced and take care of their basic rights. It is evident how miserable life goes in tents and camps where families live below human standards devoid of the real worth of a human being. Even a large number of people do not have access to sufficient food for twice a day, potable water and other necessities inside the camps. Keeping in view the limited capacity of state and its institutions to provide them with the basic daily necessities it is strongly suggested that international humanitarian organizations always come forward to take initiative of helping the displaced persons to complement the government of Pakistan's efforts of providing protection to them.

4.15. IDPs and International Challenges for Pakistan

For years conflict related internal displacement has been an eye-catching feature in South Asia. The region is now home to some of the largest concentrations of refugees and internally displaced persons anywhere in the world (Banerjee, Choudhury & Das, 2005). According to the "United Nations Institute for Disarmament Research" there are an estimated 20 to 25 million

IDPs in South Asia and a large proportion of these are thought to have been displaced due to internal conflicts i.e. in Sri Lanka, India and now Pakistan and Nepal. While the conflict in Sri Lanka has been resolved, India and Nepal are ignored by the international community; the brunt of conflict induced displacement in Pakistan is sending shockwaves across the world in shape of rise in terrorist activities in Pakistan and bordering Afghanistan.

Displacement in Pakistan is perhaps the worst impact that terrorism may have on its people and economy. The cost of loss of business, government infrastructure and private property of the people is yet to be assessed. It would be an understatement to say that the whole economy of Khyber Pakhtunkhwa in particular and of Pakistan in general has suffered immensely due to internal displacement. The cost of on-going military operations rebuilding of the infrastructure, resettlement of the people and their businesses is massive, while the cost in terms of human lives and sufferings is beyond comprehension. It also offers the reverse linkages where poverty and poor economy provides ready and efficient recruits for terrorist organizations and crime mafias.

Conflict induced internal displacement is creating vicious circle of terrorism and crimes. Displaced people having no basic adequate facilities like health education during displacement and destroyed health and education infrastructures in areas of origin due to military operations. Therefore, in most cases they have no option but to accept help and assistance from anyone offering it. Militant and *jihadi* organizations have made political and social service wings to provide humanitarian relief to people in destitute and distress and in most of humanitarian situations they respond promptly to the humanitarian needs of the people. They are usually there to fill gaps in humanitarian assistance left by the government of Pakistan and international community. In a country like Pakistan where common man thinks of the government as a US

puppet; it is quite easy for the militant and *jihadi* organizations to capitalize on such feelings and instigate the young and immature minds, against the state and its policies, among the displaced populations while providing humanitarian assistance.

International community should also understand that most militant and *jihadi* organizations operating in Pakistan are united on one point agenda when it comes to the US and NATO troops' presence in Afghanistan. They want to inflict as many casualties on these troops as possible. For this they need willing and motivated recruits which they easily find among the conflict induced displaced persons. Therefore, the more international community insist upon Pakistan to take military action against the militants without resorting to other options of conflict resolution the more these militant and *jihadi* organizations find recruits and use them not only against Pakistan but the US and NATO troops and their interests in Afghanistan.

Militants and *jihadi* organizations not only try to recruit from camps but they also try to preach their narrow and conservative view points among the displaced population living in host communities. For instance, a resident of Kohat told on the condition of anonymity that with the arrival of internally displaced persons from South Waziristan Agency and other conflict zones he observed that militant organizations accelerated their practices of preaching *jihad* against the presence of US and NATO troops in Afghanistan. He told that almost thrice a week representatives of different *jihadi* organizations come to the local mosques and propagate their views. Knowing the fact that many IDPs are present in the mosque they relate the impact of presence of US and NATO troops to the displacement of people in Pakistan and ask the young ones to volunteer for *jihad* and avenge for their dead ones at the hand of Pakistani government and military which they doubt as US puppets.

Likewise, same practice was and is being observed in the mosques scattered all over settled areas in Khyber Pakhtunkhwa as there are numerous internally displaced persons living in camps and in the host communities around the province. The fact that such a huge number of displaced persons are exposed to the preaching of militant ideology is a matter of concern for every sane mind. It is rightly termed as a ticking bomb by a government official, requesting anonymity while sharing his views about the emerging patterns in such chaotic situations in the country.

4.16. Influx and Out-flux of Crisis of Displacement on GDP

Pakistan is paying the price of internal displacement not only in shape of lawlessness but also in shape of deteriorating economy. Before the rise of Taliban in Swat it was a tourists' attraction in Pakistan. A picture of the country's economy can be best made by analysing and comparison of its GDP growth rate. The down ward trend in Pakistan's economy after 2005 can be observed in the following figure.



In the year 2005, the security situation in the country was still satisfactory. Excluding FATA the rest of the country was peaceful. The rise of militancy in settled areas after 2007 controversial

Lal Masjid Operation started making its impact on the fragile economy of the country. It would not be a futile effort to make a relationship of rise of militancy with the downward trend in GDP growth rate. In the year 2009 when the conflict induced displacement was on peak in the country the GDP growth rate was merely 0.36 which was the lowest in the past ten years. Despite enormous international assistance of \$885, 24,302 in terms of GDP growth it was the worst year for Pakistani economy in the past decade. Ever since the GDP growth rate of Pakistan has remained below 5 percent. Displacement from FATA intensified after completion of return of displaced persons to Malakand division. Therefore, along with many other factors i.e. corruption and shrinking volume of Pakistan's international trade with the West and the Muslim world; internal displacement has effectively exerted its negative impact on the economic growth of the country.

The rising inflation rate is making lives of internally displaced persons miserable. Adeel Tariq, a student of economics in an Islamabad based university belonging to Aurakzai Agency FATA, told that he was studying the impact of inflation on the internally displaced persons from Aurakzai Agency and other parts of FATA and he observed that due to rise in inflation young boys originally belonging to well off families preferring white collar jobs, indulged in robbery, theft and other sorts of corruption. He further told that some of his friends back there in FATA had not opted to join militants and retaliate against the state but they surely had opted for thefts, robberies, car snatching/lifting, kidnapping and other such criminal activities. According to the interviewee such drastic change in the thoughts and actions of people belonging to conflict zones was a culmination of displacement, inadequate humanitarian assistance and the rising inflation rate.

4.17. Eroding Authority and Control of State

Internal displacement has visibly weakened the authority and control of state over its citizens and institutions. Military actions against militants in FATA and previously Malakand division are more a policy of military than democratic government. Keeping in view the traditional struggle between democratic forces and military bureaucracy in Pakistan where military had completely dominated foreign policy issues; it cannot be utterly digested that democratic government elected in 2008 general elections asked for military actions on such large scale to induce mammoth displacement in the country out of its free will. Likewise, the elected government of PML(N) in 2013 general elections, initially, opted for talks with Pakistani Taliban to curb militancy in the country; however, under mysterious circumstances only a year down the road, in 2014, it started massive military operation against militants in North Waziristan Agency which sabotaged the peace talks process and displaced around half a million more people.

Ideally all institutions of the country should perform their duties under the authority of state given to the elected government by the people of the country. However, there are several limitations to the capacity of democratically elected governments in Pakistan to get firsthand knowledge from many parts of the polity particularly from those areas where lawlessness prevails such as FATA and PATA. Therefore, it has to rely on information provided to it by different state's intelligence agencies. Pakistan's military is a well structured and entirely mature institution as compared to democratically elected governments because of its history in politics and the allocation of more than proportionate percentage of annual defense budget. Thus, it can easily pursue, convince or intimidate democratic governments to adopt its desired path. Such is the case in making decisions of going against militants, consequently displacing population; because ultimately it is the Pakistan Army and its subsequent intelligence agencies which has the

required tools and resources to gather information from ground, compile and present it to the civilian government in order to convince them in favor of or against a military operation. Adeel Tariq views that military in Pakistan has most of the times followed its own path both on domestic and international fronts and it's not under the control of civilian government.

Similarly, the capacity of civilian law enforcement agencies such as Police and Levies is deteriorating with the influx of internally displaced persons. According to the National Crime Data (NCD), total of 3,170,889 offences, including 456,552 against persons and 611,852 cases against property, were recorded during the last five years (Crime Report of Five Years Issued, 2013). Where there are many other reasons for the rise of crime rate in the country such as corruption of rulers, politicization of police force and favoritism in key appointments etc. there is also a direct relation of internal displacement and rise in crime rate. The state is seemed to have lost most of its capacity to provide security and safety to its citizens through Police Department and military is being called upon to control law and order situation in many parts of the country which normally leads to more grave situations because military is for an altogether different purpose which is obviously not policing. For instance, the PML(N) elected government used Article 245 of the constitution, in August 2014, and called upon Pakistan Army to tackle the agitation led by, PTI and Pakistan Awami Tehreek (PAT), popularly known as *Azadi* (freedom) March and *Inqilab*(revolution) March respectively. The state authority and control over its institutions and citizens is vital to protect its citizens against any harm and convert them into human resource. However, unfortunately for Pakistan; weakening control and authority of the state has been an emerging trend in the past five years which, in my opinion, is a direct outcome of frequent internal displacements.

4.18. Displacement in Pakistan Threatening Stability of the Region

International community cannot turn a blind eye to internal displacement in Pakistan assuming it as an internal issue of the country which would not affect other countries in the region. In today's globalized world impact of disturbance created in one part of the world clearly affects events in other parts of the world. Keeping in view the 2400 km Pak Afghan porous border one can clearly understand why the movement of Afghanis in and out of Pakistan could not be monitored precisely. 1.6 million Registered and almost the same number of unregistered Afghanis living in Pakistan, mostly the bordering FATA and Khyber Pakhtunkhwa, is an enormous burden on the meager resources of the country. Facing flight of masses within its border; Pakistan is facing a challenging situation on domestic front and therefore, the focus of Pakistan is to give priority to resolving its domestic issues.

Afghanistan is already facing situations of internal displacement. According to the UNHCR officials working in country, the government of Pakistan is determined to encourage repatriation of Afghan refugees as much as possible because of its own internal displacement situations and tensions over many policy issues with the US and allied countries in Afghanistan. In post 2014 when most of international troops would withdraw from Afghanistan, it would likely intensify internal displacement in the country, Afghanistan, on one hand; while on the other hand, decreased international support for protection of Afghan refugees in Pakistan would compel it to expedite the process of repatriation of Afghanis living in the country and do not extend the deadline of December 2015 for Afghan refugees living in the country. As Pakistan's own security situation would deteriorate through a knock-on effect of worsening security situation across its western border after 2014 therefore, it would pose a new challenge for the international

community in terms of allocating time, energy and resources to stop the collapse of a nuclear armed country into chaos.

On domestic front Pakistan is unable to find durable solutions to internal displacement situations, occurring frequently. International community, particularly the US, must step forward to build capacity of state's institutions and financially assist Pakistan to effectively cope with current displacement situations in the country and prevent displacement in future. Internal displacement in Pakistan is not only affecting the economy of the country it is also eroding the capacities of state institutions to keep its house in order. The internal displacement situations in Pakistan have partially destabilized the country. It has the potential to completely destabilize Pakistan and then through a chain effect destabilize Afghanistan and other neighboring countries. Due to choices made during the Cold War Pakistan is home of many kinds of *jihadi* organizations, most of them either having anti-US or anti-India agendas; chaos created by internal displacement is providing them the best opportunity to find ready human resource to capitalize on and fulfill their schemas.

4.19. Re-Emergence of Militants in PATA

Success of policy adopted for countering insurgency and militancy can be measured in long term because it cannot be judged in the short run. If conflict is not there then there would be no displacement induced by it. The return of Malakand IDPs is no doubt a big achievement in terms of achieving the objective of return but in terms of eradicating militancy from the area and removing its causes cannot be termed as an achievement. Fazlullah, The famous militant leader, had gone underground and operate / direct their foot soldiers from undisclosed locations for a few years. As mentioned in previous chapters, residents, mostly returnees, of Malakand division have serious reservations about the high claims of the government and military about security situation in the region. Moreover, these reservations and concerns stood firm as a reality when

Fazlullah became the head of Tehreek-e-Taliban Pakistan (TTP) after assassination of Hakeemullah Mehsood. A common question asked by people in Malakand division and other parts of the country is that why the military operation was carried out in Swat when Fazlullah could not be eliminated. Additionally, the same person, Fazlullah, re-emerged as the head of TTP and in 2014 another military operation, Zarb-e-Azb, against militants led by Fazlullah was launched in another part of the country, North Waziristan Agency.

In October 2012 another teenage activist, of girls' education rights, from Swat named Malala yousafzai was shot in the head by members of TTP. Luckily she survived due to timely and effective medical assistance provided by the government of Pakistan and the United Kingdom (Joshua, 2012). Human right activists from the area are mostly of the opinion that militants could not be contained because of flawed policies adopted by the security forces. Most of the people of Malakand division hold the view that militants are gaining influence and power in the area once again and with the withdrawal of US troops from Afghanistan at the end of 2014 the security situation of the area would deteriorate with a pace faster than it was deteriorated in 2007 as the shift in focus of militants would make Pakistan its centre point. Security forces operating in FATA and PATA are no more operating in peaceful environment and frequency of incidents of attacks on the security forces has increased which is indicating towards the growth of influence and operational capacity of militants.

Top Pakistani military officials i.e. a Major General and Lt Colonel were killed in September 2013 in Upper Dir area of Pakistan four years after a proclaimed successful military operation against militants (Major General, Lt Colonel among 3 killed in Upper Dir blast, 2013). Therefore, apprehensions of the local people living in PATA and FATA about the rising

militancy cannot be refuted when it is supported by incidents of militancy against military, operating in the area.

Mr. Qabil Shah told that situation in FATA and PATA cannot improve unless and until the government of Pakistan abolish special status of these areas and incorporate PATA in Khyber Pakhtunkhwa, with full legislative authority of the provincial legislature over it, and make a new province out of FATA. He expressed that due to unique status of these areas the state's laws do not extend there and lawlessness gets roots in there. Resultantly, groups like Taliban emerge to challenge the writ of the state compelling the state to take action against them and people are displaced due to conflict between government and militant groups (Qabil Shah, personal communication, August 10, 2011). The pattern of conflict induced internal displacement in Pakistan in post 2009 scenario reveals that most of these displacement situations occurred from PATA and FATA. However, there has been displacement in Balochistan as well but its causes are also deep rooted in tribal laws and culture where so far the state's laws have not been extended in practice. For instance, most of the displacements in Balochistan have been caused by the conflict among Bugti tribe and the FC and no incidents of conflict induced displacement can be observed from settled areas either in Balochistan or Khyber Pakhtunkhwa.

4.20. Conclusion

Operation against religious militants in PATA and FATA was certain to cause major displacement and crisis was inevitable. The end goal must not be to return FATA or PATA to pre militancy state, but to address the conditions that gave rise to militancy. Dislocating militants from FATA and PATA is only allowing them to move to other sanctuaries inside Pakistan or across the border in Afghanistan. The self contradictory policies of military to appease militants and then launch counter militancy operations will not work to give the desired result. However,

military would like to exploit the opportunity to take control of relief efforts to bolster its deteriorating image among masses of the affected areas. The government and other humanitarian organizations should try to assess the likelihood of new displacements all over FATA and PATA, as militancy is on the rise and it is likely that military would launch more operations to eliminate it. Local community based organizations (CBOs), NGOs and elected government should be on the priority list of the donors to address the humanitarian needs of the displaced. The donor countries and donor agencies should ensure the likelihood of administering the humanitarian assistance, and rehabilitation efforts in the country through civilian government, NGOs and CBOs and meticulously devise mechanisms of monitoring of aid and assistance.

Pakistan is facing challenges of natural disasters on the one hand, while on the other it is going through, political crisis and engulfed in violent extremism across its length and breadth. Donors would be tempted to shift their focus from funding into counter militancy and extremism in the country due to high frequency of natural disasters in Pakistan i.e. floods and earthquakes. At the same time donor countries should not ignore the dire needs of country to be assisted in its transition towards democracy and capacity building of its civilian institutions to address the causes of militancy. Elected representative of government, CBOs and national NGOs and the UN should lead the process of devising policies of humanitarian assistance during displacement, early recovery, relief and rehabilitation. Donors should assign key roles to them i.e. planning, monitoring and execution etc. The political leadership, in particular, must lead the reconstruction phases for all displacement situations. It should ensure that local communities help identify priorities and strategies, and that projects are cost-effective and appropriate. Public accounts committees of national and provincial governments should oversee efforts, such as accountability of government's and donor's funds.

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Chapter 5

Countering Internal Displacement Challenges on Policy Level

5.1. Introduction:

Pakistan, although faced with numerous challenges due to internal displacement, lacks a uniform and comprehensive policy approach to cope with the problem. The National Disaster Management Authority (NDMA) was established in 2007 under National Disaster Management

Ordinance. In the year 2010 it became National Disaster Management Act. However, legislative efforts to deal with the natural calamities go back to 1958 when “The West Pakistan Natural Calamities Act” was promulgated; it focused on emergency response. The same act provided a base for the creation of “Emergency Relief Cell” within the Cabinet Division in 1971. Nevertheless, these acts and ordinances did not adequately cater for the needs of displaced persons in the country.

The head of a Pakistani NGO, Association for Behavior and Knowledge Transformation (ABKT), and a social activist from Malakand Division Ms. Shad Begum is of the opinion that most of the existing laws and policies in the country focus on the emergency response efforts and there is very little consideration for the protection and resettlement of IDPs in the long term (Shad Begum, personal communication, December 25, 2013).

This chapter suggests policy options on various aspects of displacement for the government of Pakistan to address the issue of internal displacement, as it is far from being resolved in the coming years. There are two main factors which are likely to give rise to displacement in Pakistan. One is the rise of militancy which is giving ascend to displacement even before announcement of any formal military action against militants. The other factor is the increasing frequency of natural disasters.

The 2006 Pact on Security, Stability and Development in the Great Lake Region of Africa stipulated in its Protocol on Protection and Assistance to Internally Displaced Persons that states should have IDPs specific rules and laws in place even if they do not have IDPs situation on ground. Recent years have witnessed a high frequency of armed conflict, natural disasters and development work displacing tens of thousands of people around the globe. IDPs specific laws

should address issues of internal displacement comprehensively during all stages of displacement beyond the scope of issues attached with humanitarian assistance during early and emergency response stages of internal displacement (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008). Professor Moonis Ahmar of Department of International Relations, University of Karachi Pakistan endorses the idea of formulating a comprehensive state policy for internal displacement situations in Pakistan. He considers it to be one of the top priorities of the Nawaz led PML(N) government at federal level and Parvaiz Khattak led PTI government in the province of Khyber Pakhtunkhwa, which face conflict induce internal displacement situation more frequently than other provinces in the country (Dr. Moonis Ahmar, personal communication, April 20, 2014).

The first and foremost responsibility of protecting internally displaced and ensuring their rights lies with state. States are responsible to implement rules of international human rights law and humanitarian law in domestic context for displaced persons during their vulnerability who by default are citizens and their displacement has not made them loss their nationality (The Guiding Principles on Internal Displacement, 1998).

5.2. Prudent Measures for Pakistan

In order to ensure curbing occurrence of internal displacement situations in the country, the Government of Pakistan should go through a process of internal displacement specific legislation. There must be civilian control over policy issues including security policy, which is by and large devised by military establishment. Military should be entirely brought under the civilian control and command through practice- economic self sufficiency under civilian democratic government that can restraint military from meddling in policy issues- and not

merely legislation. Once this is done then GOP should do legislation to ensure the incorporation of UNGPID in domestic law (International Crisis Group, 2009).

There are certain aspects related to pre displacement, displacement and post displacement scenarios which need attention from the government of Pakistan while making legislation for protection of internally displaced person. However, before going into an in depth discussion about those aspects I would first of all discuss the methods through which legislation should be done. An “Internally Displaced Persons’ Bill” should be passed by the National Assembly and Senate of Pakistan. This bill should enable all units of the federation to do internal displacement persons specific legislation. The right to decide about military operation should be exclusively that of the relevant province/state. This bill should clearly mention the inclusion of District councils of the relevant districts in the decision making process of military operations. The consent of District Council is essential if provincial government ever decides to use military operation as a last resort to end militancy. Such actions should always have the backing of civilian government and it is the district government which understands local power dynamics and cultural sensitivities more than anyone else – provincial and federal government.

Ms. Shad Begum is of the opinion that the “Internally Displaced Persons’ Bill” should clearly mention use of military as a last resort against militancy. Steps preceding military operations should be clearly mentioned in the internally displaced persons’ specific bill. These steps should include a documented and transparent process of reconciliation by the relevant district councils to address the grievances of those citizens who have taken up arms (Muneeb Ilyas, personal communication, July 09, 2013) (Shad Begum, personal communication, July 15, 2014). If they do not give up their demands, the district government should include member of national assembly and provincial assembly from the relevant district(s) to engage militants in a

meaningful process of dialogue. After dialogue fails and the district government feels that militants cannot be controlled without the use of force then it should highly rely on the district police force to implement the rule of law and do not give militants a free hand to sabotage routine activities and law and order in the district. The legislation should bind the provincial government to provide within 24 hours additional police force including the Anti Terrorist Squad (ATS) if a district demands so. Moreover, the relevant district should engage religious clergy and other influential figures to influence the militants for shunning their anti state and anti civilian activities. Mr. Muneeb Ilyas Shah, expressed that if all these steps failed then the district government should make a formal request to the provincial government to ask the federal government to engage military in curbing militancy (Muneeb Ilyas, personal communication, July 09, 2013).

The engagement of military should be limited in terms of its scope and tactics. For instance, as seen in the past during military operations in FATA and PATA, the army should not be allowed to take measures on its own when called in for curbing insurgency. It should first of all rely on intelligence and surgical operations to pinpoint and pick up key militant figures. It should not make itself visible because visibility of military makes it an easy target for militants and it also poses greater threat to the civilians as it is the ordinary man who is normally caught between militants and military in case of an open conflict. For instance, attacks on military convoys at times have killed non combatant civilians, likewise counter insurgency operation have killed many non combatant civilians- commonly referred to as collateral damage. If the situation escalates then the military should never be authorized and allowed to utilize public buildings for any purpose. Shazia Shahid, manager monitoring and evaluation with Association for Behavior and Knowledge Transformation (ABKT), told in an interview that it was widely believed that

militants in Swat destroyed girls' schools because military used to utilize it for counter militancy operations, as soldiers were staying in those schools (Shazia Shahid, personal communication, August 11, 2013). Therefore, use of any public building should be strictly off limits for any kind of military use to ensure that it is not targeted by militants.

5.3. A Checklist for IDPs specific Legislation

The government of Pakistan should take all possible measures to make sure that internal displacement situations in the country are dealt with in accordance to internationally accepted code of ethics and human rights standards. To serve the purpose whether the legislation done meets the required criteria it should be checked against a checklist encompassing all necessary facets of internal displacement situations.

The government of Pakistan should take into consideration that legislation made at any level of the government should incorporate that right of citizens to be free from arbitrary displacement is recognized. Moreover, under circumstances when arbitrary displacement exceeds in situation when it become a war crime or crime against humanity under the Rome Statute⁵ the government should penalize it. In addition, a mechanism should be clearly defined in the law or Internally Displaced Persons' Bill about how to take penal and administrative measures to ensure compliance with relevant rules of international humanitarian law, including rules on the conduct

⁵ The Rome Statute of the International Criminal Court (often referred to as the International Criminal Court Statute or the Rome Statute) is the treaty that established the International Criminal Court (ICC). It was adopted at a diplomatic conference in Rome on 17 July 1998 and it entered into force on 1 July 2002. As of 6 January 2015, 123 states (as of yet Pakistan is not a signatory to it) are party to the statute. Among other things, the statute establishes the court's functions, jurisdiction and structure.

The Rome Statute established four core international crimes: genocide, crimes against humanity, war crimes, and the crime of aggression. Those crimes "shall not be subject to any statute of limitations". Under the Rome Statute, the ICC can only investigate and prosecute the four core international crimes in situations where states are "unable" or "unwilling" to do so themselves. The court has jurisdiction over crimes only if they are committed in the territory of a state party or if they are committed by a national of a state party; an exception to this rule is that the ICC may also have jurisdiction over crimes if its jurisdiction is authorized by the United Nations Security Council.

of hostilities and the duty to distinguish between civilians and combatants and between civilian objects and military objectives. Additionally, the government of Pakistan should adopt disaster management policies that not only regulate response but also focus on disaster risk reduction and preparedness. However, it is worth mentioning here that in the shape of NDMA and PDMA the government of Pakistan falls fit into the category of adequately prepared for disaster risk reduction. Furthermore, Mr. Ibraheem Nasar, president of Af-Pak Institute Washington D.C, holds the opinion that the government of Pakistan should include in national development plans and resettlement policies a clear statement that forced displacement or relocation induced by development projects must be authorized by law, justified by compelling and overriding public interests, required to protect those interests, and carried out with full respect for the human rights of affected persons (Ibraheem Nasar, personal communication, May 15, 2014). The government should also include provisions on the procedures through which any such displacement or relocation will be carried out, available remedies including resettlement and compensation, and the right to administrative or judicial review (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008).

5.4. Arbitrary Displacement as War Crimes

Mr. Muhammad Raza, a student of International Law and ex-M.D of Bacha Khan Foundation, thinks that the government of Pakistan should give effect to its obligations under international humanitarian and human rights laws. It should include in the “Internally Displaced Persons’ Bill” all Acts amounting to arbitrary displacement of people as war crimes in accordance with the 1999 Rome Statue of International Criminal Court. The bill should clearly mention the method of prosecution for accused i.e. those issuing such criminal orders or carrying out those orders (Muhammad Raza, personal communication, April 21, 2014).

There are many countries which have such kinds of provision in their domestic law. For instance, German Law declares the prosecution for war crimes of person, in connection with an international or non-international armed conflict, who deports or transfers any person by using coercive measures provided that the displaced person have had the lawful right to live in Germany meaning that either the person is a citizen of Germany or a legal migrant. Article 284-A of the Colombian Penal Code goes a bit further beyond the minimum standard in this regard and it directs to penalize that person (s) who orders violence or use of other coercive measures against general masses or a specific amount or sector of population to displace one or more members of that sector of population and make them change his/her/their residence. It stipulates that such person (s) ordering can be fined from 500 to 2000 minimum salaries in addition to 15 to 30 years imprisonment and be banned from public office from 5 to 10 years. However, the definition arbitrary displacement in the Columbian Penal Code (Republic of Colombia, Law No. 387, 1997) and German Law does not envelop displacements caused by the authorities when meant for the security of the population or for vital military reasons, in accordance with international humanitarian law.

5.5. Curtailing Arbitrary Displacement through International Humanitarian Law

Mr. Fayyaz Ahmad, the regional program manager in a Pakistani NGO, is of the opinion that the competent state authorities in Pakistan should be clearly directed to ensure respect of international humanitarian law in order to minimize the risk of arbitrary displacement in situations of armed conflicts. Distinction between civilians and combatants in international law should be impressed upon in domestic law for internally displaced persons in Pakistan (Fayyaz Ahmad, personal communication, January 04, 2014). Ms. Shad Begum, the executive director of ABKT, endorsed the opinion of Fayyaz Ahmad and added that it should be mentioned in the law

that all involuntary displacements be justified on ground of either security of the displaced population or imperative military reasons allowed and under international humanitarian law and the UNGPID. The Internally Displaced Persons' Law should also vividly mention that displaced persons should receive acceptable provisions of shelter, hygiene, health, safety, and nutrition. Moreover, family members should not be separated and all displaced persons should be allowed for voluntary return to their areas of habitual residence and homes as soon as the security situation on ground improved. Provision against forced return of the displaced persons should be included in the law (Shad Begum, personal communication, December 25, 2013).

Military should be prepared in advance to streamline their course of action according to international humanitarian law and UNGPID through the following preventive measures.

- a) Law regarding internal displacement in Pakistan should mention obligations of the armed forces and any individual or institution or agency working on behalf of the armed forces to fully meet the terms of international humanitarian law and UNGPID.
- b) Law Ministry should be made responsible to ensure that Ministry of Defense is adequately equipped with tools and knowledge of law to instruct armed forces on the UNGPID and obligations of Pakistan under International Humanitarian Law.
- c) The law should make it obligatory for Ministry of Defense to provide legal advisors for military commanders at different level for legal opinion about when forced displacement can be carried out for the security of the population or for some compelling military reasons.
- d) Ministry of Law and Ministry of Information should be made responsible to work in close collaboration through national media such as state owned television and radio to aware general masses about International Humanitarian Law.

- e) Like in Kenya and Philippines; domestic law in Pakistan should also stipulate about instructions to armed forces in military manuals on allowing civilians displaced in armed conflict to return as soon as the grounds for their displacement have ceased to exist.
- f) The domestic law in Pakistan should penalize acts of forced return by state authorities.
- g) If non-state actors induce involuntary displacement the state authorities including ministry of defense, which controls armed forces in many countries including Pakistan, should be made responsible to provide safe exit routes to civilians to safe places. They should also be, under law in such situation, made responsible to provide satisfactory conditions of health, hygiene, shelter and nutrition. The authorities should ensure that in such situations family members are not separated and ensure voluntary return whenever ground situation permits.

5.6. Disaster Risk Reduction in Pakistan

Policies on Disaster Risk Reduction (DRR) are mostly related to natural or manmade disasters which are beyond the ambit of this study as this text is dealing with conflict induced displacement; but a reference to such law making should be mentioned here because Pakistan is also affected by natural disasters. Therefore, necessary elements of DRR are also mentioned here. Policies and laws based on DRR should be directed to acknowledge state's responsibility to reduce risks of disasters such as earthquake, floods and wild fire etc.

In the year 2007, NDMA was established to reduce disaster risk in the country. However, Pakistan should include a clause to prosecute those responsible in NDMA and PDMA in case of failure to inform the affected population in advance about an approaching disaster. Miss Shad Begum is of the opinion that some disasters such as floods and wild fires can be predicted therefore, responsible personnel in NDMA and PDMA should be made accountable through law

making if they fail to prepare before hand (Shad Begum, personal communication, December 25, 2013). There are many countries, some of them less developed than Pakistan, who have taken such steps in order to reduce risks of natural disasters. For instance, the Ethiopian constitution makes the government responsible for making necessary arrangement for disaster reduction. Likewise, Uganda's constitution stands for effective government role by institutionalizing machinery to deal with dangers and disasters induced by natural calamities or any other situation having the potential of displacing people (Constitution of Uganda, 1995). Similarly, the constitution of Macedonia stands for effective urban and rural planning in order to promote human friendly environment and promote ecological protection and grooming (Constitution of the Former Yugoslav Republic of Macedonia, 1991). Similar guarantees are given in the constitution of South Africa as well (Constitution of South Africa, 1996). The constitution of Ecuador guarantees right to live in safe, ecologically balanced and free of contamination environment to its citizens (Political Constitution of Ecuador, 1998).

The Costa Rican law holds the state responsible to prevent disasters. To achieve this goal the Costa Rican law has made it mandatory for all institutions to give pivotal status to risk and disaster concepts in their programs as well as promotion of risk reduction culture. The 2005 Law on Disaster Management of Indonesia holds the republic responsible to protect all people of Indonesia and their native land from all sorts of threats, including disasters, in order to provide protection to life and livelihoods (Law Concerning Disaster Management, 2005).

In case of Pakistan it is commendable that law making in this direction has already begun and institutions such as NDMA and PDMA have been established. However, effective decentralization of PDMA is a need of the hour to efficiently deal with disasters. The National Disaster Management Act, 2010 stipulates for effective District Disaster Management Unit

(DDMU). Even after devastating floods in the country in the recent years i.e. 2010 and 2011 there are many districts in Pakistan, particularly in the province of Sindh, which do not have established DDMU so far i.e. January 2013.

In general, law making about natural disasters in Pakistan is satisfactory but the Internally Displaced Persons Bill should also include punitive measure and trial in a court of law of responsible officials either at national, provincial or district level who fail to materialize the goal of DRR in their domain either due to incompetency, corruption or lethargy. It should further make it obligatory to review and amend rules, if necessary, on development, upgradation of building codes, land tenure and use and reforestation in flood zones to reduce risk of floods etc. Moreover, establishment and development of early warning system with categorization of intensity of disaster should be made mandatory for all DDMUs. Effective dissemination of disaster related information to public living in target area through electronic media, cell phone messaging and print media should be made mandatory for all responsible authorities.

5.7. Avoiding Arbitrary Displacement while Carrying out Evacuation

Both international humanitarian law and Guiding Principles do not provide any room for arbitrary displacement still they provide space for forced displacement under various circumstances such as larger public interest, safety of the population or necessary military reasons. The responsible authorities should be made accountable to carry out evacuation of those areas which fall in that category. The IDP law in Pakistan should clearly mention and define those categories to make sure arbitrary displacement is not carried out by anyone in authority.

In case of natural disasters such as flood it is easy to convince residence of the affected areas falling in the flood line southwards in the country to evacuate. However, the IDP law should focus on punitive measures for those officials and influential who somehow contribute in causing floods by denying opening spill ways of barrages and dams as in the past many such incidents have been reported in electronic media where some influential figures did not allow officials to flood their agriculture lands and thus spill ways remained closed and upstream residential areas got flooded (Ayaz, 2010).

In the armed conflict situation people should be taken into confidence by the responsible authorities to leave behind their homes and get ready for willing displacement. But still there would come a time where it would be necessary for the authorities to carry out arbitrary evacuation of conflict affected areas. Therefore, the IDP law should:

- Vividly reflect upon legal basis for such evacuation.
- There should be a legitimate aim behind such arbitrary displacement i.e. avoiding threat to the population etc.
- Authorities should be made law bound to consider and try other less intrusive methods to provide protection to lives and health of the targeted population before going for the last resort i.e. decision of arbitrary displacement.
- The law should clearly stipulate the inclusion of people of concern during the decision making process about evacuation. Authorities should provide them with information such as why the evacuation is needed, what will be site of their relocation and how the area would be evacuated and means of transport etc.
- Protection of property of the displaced persons should be the responsibility of the government.

- The government should be made responsible for relocating the people of concern to safe and suitable for living places. The IDP law should describe a mechanism in which elders among the people of concern should visit and approve the place of relocation.
- People should be regularly informed about the status of their lands and other property in their own language.
- After the removal of the causes of conflict the government should support IDPs decision either to return or to resettle elsewhere in the country.

5.8. Obligation to Provide Humanitarian Assistance

International Humanitarian Law, UNGPID and other tools of international law emphasize on the need of humanitarian assistance during displacement situations. Allowing the flow of humanitarian assistance to the displaced population is the responsibility of the GOP. Military or other agency of the state should not consider the involvement of international aid agencies and INGOs as interference in their internal matters. Moreover, “interference in internal matters” should be clearly defined in the “Internally Displaced Persons Bill” to let international aid agencies, INGOs and Pakistan military portray a clear picture of all dos and don’ts.

The International Humanitarian Law does not explicitly state that international assistance should be allowed in all internal displacement situations but only in international armed conflict when people are forced to move within country due to that conflict. However, as sovereignty carries a lot of baggage with itself in the form of responsibility, states should first of all provide humanitarian assistance to its citizens; if they fail to do so then they should not resist effort of international aid and humanitarian assistance agencies to complement their assistance efforts (Shad Begum, personal communication, December 25, 2013).

In Pakistan's displacement situations international humanitarian assistance efforts are generally welcomed by both civil and military bureaucracy. However, in some parts of the country like Balochistan such efforts are either utterly rejected or accepted with various reservations. International humanitarian assistance offers were once rejected by the government of Pakistan after 2010 flood when displaced persons in Balochistan were in dire need of it. In the year 2013 after intense earthquake the federal government again refused offers of international humanitarian assistance by various aid agencies curbing the provincial government's desire to welcome such offer (Jajja, 2013)

Professor Taqi Bangash opines that obligations of state to provide humanitarian assistance in displacement situation mean that the responsible authorities should exploit all available means and resources at their disposal to provide internally displaced persons with least amount of necessary food, water, shelter and health facilities right from the moment when displacement occur. Requesting, accepting offers of assistance and facilitation of international humanitarian assistance within territorial jurisdiction of the country are included in all the available means and resources of the Government of Pakistan. The government should, as soon as possible, move towards the realization of this goal by engaging internally displaced persons and international humanitarian aid agencies to fulfill the specific needs of IDPs and precise vulnerable groups within the internally displaced persons i.e. women, children and people with disabilities etc; in terms of food, water, shelter and health. Moreover, law making by the government of Pakistan should ensure that persons living in protracted displacement should not be discriminated against non-displaced population in matter of access to humanitarian assistance (Dr. Ghulam Taqi Bangash, personal communication, April 18, 2014).

Mr. Ashish Shukla, doctoral fellow at Centre for South Asian Study, Jawahir Lal Nehru University, Delhi, India, expressed his views that law for internally displaced persons in Pakistan should make all institutions and authority figures in the country, responsible for dealing and regulating internal displacement situations, and facilitate and regulate humanitarian assistance meant for IDPs. It should also make it obligatory for different parties to conflict to ensure freedom of movement to international relief and humanitarian personnel to assess and provide aid to the affected population. Any party failing to do so should be prosecuted and charged with war crimes. In addition, military and other party to the conflict should provide protection to personnel, goods and means of communication and equipment as part of humanitarian efforts (Ashish Shukla, personal communication, April 29, 2014).

Most of the states have domestic legislations i.e. in constitutions or other laws, regarding different phases during displacement such as right to food, water and shelter etc. However, few states have domestic laws regarding humanitarian assistance during emergency situations. There is still a lot to be done as far as law making for humanitarian assistance in Pakistan is concerned. The bill or law related to IDPs as suggested in this chapter should include the following aspects to ensure effective humanitarian response to the displaced persons.

- a. A new domestic coordination body should be created under the proposed legislation.
- b. The domestic coordination body should function on the same line as UNOCHA is working to ensure coordination and smooth interaction of different national and international humanitarian organizations for serving the same goal.
- c. Crimes related to humanitarian assistance such as attacks on relief staff etc. should be defined. Any misappropriation of aid or sexual exploitation by aid personnel should become part of the criminal code.

- d. Necessary measures to mould or amend immigration laws should be taken to accelerate the entry of humanitarian aid agencies and personnel in country in case of an emergency. Any agency trying to use delaying tactics for halting entry of humanitarian aid agencies and its international staff should be made accountable for its acts through law making.
- e. The government of Pakistan can take models of such special law from Norwegian Immigration Act 1998 which paved the way for issuance of “emergency visa” where the nature of the situation demands. The “Center for Coordination of Humanitarian assistance” comprised of mobile teams of representatives from government and all ministries. In Norway these teams are present at all entry points i.e. airports, sea ports and border entry points to facilitate and expedite the immigration process of humanitarian aid workers.

Mr. Muhammad Raza states that in many developed, under-developed and developing countries, legislations cover humanitarian assistance; however, that is not specifically described in reference to displacement. Therefore, Pakistan needs to include humanitarian assistance in IDPs specific laws in order to ensure its obligations towards its citizens as a responsible state in the comity of nations (Muhammad Raza, personal communication, April 21, 2014). After a disastrous earthquake in Balochistan province in 2013, when aid and humanitarian assistance was direly needed for the hundreds of thousands of affected people in district Awran, NDMA stopped UN assessment team in Karachi to visit the affected area. Chief Minister (CM) Balochistan Abdul Malik Baloch while talking to BBC expressed the need for humanitarian assistance. However, the spokesman of NDMA Idrees Mehsood told that the federal government has not asked for international humanitarian assistance and the CM would have asked national aid agencies and not international aid agencies to come and help the affected population. PDMA

in Balochistan claimed that there were more than 200,000 people affected while NDMA insisted that the number of affected was about 125,000. NDMA also claimed that providing humanitarian assistance was a domestic domain and it had sufficient resources to do so (Sohail, 2013). Therefore, Ms. Shad Begum strongly recommends that the IDP specific law should clearly mention method of prosecution against responsible elements present in any tier of the government for taking irrational decisions; particularly when such decisions ultimately contribute to the gravity and magnitude of sufferings of IDPs (Shad Begum, personal communication, December 25, 2013).

In addition, the government of Pakistan should make a tribunal to hear to IDPs related complaints and decide upon those complaints on war footings as special situations need special attention to cope with, says Shad begum (Shad Begum, personal communication, December 25, 2013) (Jan Muhammad, Personal communication, December 26, 2013). Clauses related to humanitarian assistance in the IDPs law in Pakistan should clearly mention the following.

- a. National, provincial and local authorities or organizations should be assigned vivid and specific duties in the realm of humanitarian assistance to internally displaced persons. Moreover, they should be given means to do so.
- b. The GOP should, through NDMA or PDMA, establish a mechanism of identifying beneficiaries of assistance on need and vulnerability based approach.
- c. GOP should setup criteria for humanitarian goods and service delivery ensuring observance of international minimum standards for delivery of such goods and services.
- d. All persons in need should have access to humanitarian aid according to a described criterion.

- e. The government of Pakistan should take into consideration subsidies and price regulations on domestic commodities to eliminate all hurdles for the provision of humanitarian goods from local sources.
- f. Import and transportation of imported humanitarian good should be facilitated by the government through legislation and special regulations such as alteration in import laws for goods in humanitarian crisis.

5.9. Scenario for International Assistance

Mr. Jan Muhammad, who is the husband of Ms. Shad Begum and who has been working in the development sector for the last several years, says that the IDP or disaster law in Pakistan should also clearly stipulate about nature of circumstances in which international humanitarian assistance would be needed. It should also mention the decision making process about asking for international humanitarian aid. Role and responsibilities of ministries in the decision making process about international assistance should be specified in the law (Jan Muhammad, Personal communication, December 26, 2013). For instance, the Peruvian Law stipulates that when the magnitude of the situation demands the national authorities should ask for international humanitarian assistance. On the other hand the Colombian law gives the right of asking for international humanitarian assistance by the forcible displaced persons. However, in Pakistan this process has been left unresolved till date. As discussed earlier the CM Balochistan was reported to have asked for international assistance while the spokesperson for NDMA was found of the opinion that the CM would have asked for assistance from NDMA as asking for international assistance was a federal subject (Sohail, 2013).

5.10. Right to Freedom of Movement

Displacement in itself is the absence of freedom of movement and right of residence of the displaced persons; because in displacement situations IDPs are forced to move from the places of their habitual residence. In displacement scenarios sometimes persons who do want to flee the danger zones remain trapped in the conflict zones which violates their right to freedom of movement. Even after displacement IDPs may be subjected to further restriction of their freedom of movement. Although there is no such restriction placed on the right to freedom of movement of IDPs across the board in Pakistan. However, there are some incidences which have been previously mentioned in this study which violates the right of freedom of movement of internally displaced person.

The IDPs suggested bill in this study should have the following dimensions:

- a. Through law making IDPs right to freedom of movement should be recognized.
- b. The law should also give right to seek safety to its citizens in another part of the country.
- c. It should provide protection to IDPs against forced return to places of habitual residence or resettlement in any other place where the IDPs live, safety, liberty and health are considered to be at risk.
- d. The IDP bill/ national law regarding displaced, should abolish all administrative hurdles, realized so far in different displacement situations, restricting IDPs from reaching safe areas or to return or resettle when conditions allow.
- e. Right of IDPs to have enough knowledge to make an informed decision about return, integration or resettlement in any other part of the country should be recognized by law.

- f. Lack of documents should not become a hurdle in free movement of IDPs within the country as in most cases they do not get time to collect their documents before leaving for safer places.
- g. Through the IDPs bill it should be made clear that IDPs should not be kept confined in camp and such practices would be considered a violation of the right of freedom of movement. If at any stage under unbecoming circumstances, security threat etc, IDPs are kept confined in camps it must be ensured that such confinement should not be prolonged than required.

5.11. Right to Family

Family is the basic unit of society; therefore, its integrity is of vital importance for the growth and maturity of societies. In displacement settings it is normally observed that the integrity of this basic unit suffers the most. Even if a family does not suffer casualties it can suffer from the violation of family rights. There are many instances in Pakistan's internal displacement situations where family rights of numerous families have been violated- though unconsciously. However, the competent authorities should ensure that family members are never separated during displacement situations.

To ensure that internally displaced persons enjoy right to respect of family life, domestic law in Pakistan should incorporate the following aspects regarding family rights during law making on the subject.

- a. For the purpose of law making firstly family should be defined in the bill. It should not only be limited to husband, wife parents and children but keeping in view the local culture, where joint family system is quite common, it should also include siblings and other relatives living in the same house-hold.

- b. Principles based on the *best interest of child* and *respect for family life* should be incorporated in the domestic law on the subject of internal displacement to effectively consider them in programs initiated for IDPs before displacement, during displacement and after displacement.
- c. The government should facilitate competent authorities to ensure a universal and compulsory birth registration system in the whole country even during internal displacement situations.
- d. The unit of humanitarian assistance should be based on family and not individual according the law of IDPs.
- e. Missing persons from families should be reported and documented with the government for which the government should necessarily make a data base. In many African countries international humanitarian agencies i.e. ICRC have been given the responsibility under domestic law to take care of the issues such as searching missing persons and family reunification etc. Therefore, keeping in view examples of law making regarding IDPs in other countries, Pakistan should, by law, make the competent authorities responsible for allowing rather than asking ICRC and other humanitarian agencies for resolving such particular issues.
- f. The responsible authorities should be made bound by law to provide assistance and protection to IDPs, particularly vulnerable, unaccompanied such as female headed households, children and the elderly ones.
- g. The IDP law should also provide a legal mechanism to resolve pending issues of missing persons such as appointing representative of the missing persons to safeguard their assets and interests and address the pressing requirements of the missing persons dependents

which should include but not limited to issues of custody and guardianship of minors and access to and use of assets for family needs.

- h. Law should vividly ask for interim care arrangements for separated and unaccompanied children. It should also provide a mechanism to prevent adoption of such children until there is no longer any hope of successful tracing and reunification with family members.
- i. The government of Pakistan should by law facilitate investigation about deceased family members of the IDPs. It should provide remains and personal belongings of the deceased to the family. Again, if the government finds itself not capable of doing so because of lack of expertise it should allow national and international humanitarian actors to complement its efforts in that particular area.

5.12. Right to Adequate Food

Mr. Muneeb Ilyas, task manager in an NGO SACH-Struggle for Change, is of the opinion that in order to ensure the IDPs right to get adequate food, the internal displacement specific legislation should first of all define and explain “adequate food” in the IDPs bill. Food is comprised of edible ingredients and clean drinking water. Therefore, the government should make sure that whatever food is provided to the IDPs by GOP, INGOs, IGOs or NGOs should be adequate to cater for per day calories needs of an individual (Muneeb Ilyas, Personal communication, July 09, 2013).

Mr. Muneeb is also of the view that the government should ensure the provision of clean drinking water as in most of the cases the same water is used for the purpose of cooking (Muneeb Ilyas, Personal communication, July 09, 2013). It is a fact that during cooking the water is boiled and germs in the water are killed but it has been mentioned in one of the previous chapters of this study that in some cases i.e. IDPs in Yar Hussain camp were compelled, due to

non availability of clean water, to use muddy water for the purpose of cooking and the impurities in the water were damaging their health. Therefore, I suggest that the government should include the phrase of the provision of clean water not only for the purpose of drinking but cooking as well to take care of the health of IDPs.

The legislation should emphasize on the need of compulsory provision of food in IDP camps and after the return because Rehman Ali, an official of IMC, told that he had, during his service with the IMC, observed numerous cases of IDPs where they were not being given assistance in shape of food or cash for food in many IDP camps. He further told that there were certain incidents when some IDPs of Khyber Agency returned to their homes only to find that their homes were destroyed and the government had not extended support to those returnees to get settled. At times it can be extremely difficult for IDPs to fulfill their needs (Rehman Ali, Personal communication, May 5, 2011). Food is the kind of need which cannot be kept down in the priorities list. Thus, the IDPs specific legislation should clearly stipulate that the authorities are responsible for taking care of the right to adequate food of IDPs. The legislation should also mention punitive measures for those individuals/ officials and departments who are found responsible for any dilly dallying in the provision of food to the IDPs and returnees.

Additionally, the IDPs bill should assign the task of oversight of the provision of adequate food and adequate potable water to IDPs to a specific ministry such as National Food Security and Research or some other relevant ministry. The same practice has been adopted in the National Policy on IDPs in Uganda which has assigned the task of provision of potable water to Ministry of Water, Lands and Environment (MWLE) and to the local governments (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008). Since the local bodies elections are going to be held in three provinces of Pakistan therefore; the local government should also be

given specific role and responsibility in taking care of all needs, particularly food and potable water needs, of IDPs.

5.13. Right to Shelter or Adequate Housing

Right to shelter or adequate housing is one of the basic rights of internally displaced persons. This goes hand in hand with the right to food, sanitation and potable water. When they are displaced from their homes, IDPs lose sense of security and safety; therefore, it is important that authorities provide for adequate shelter of IDPs. The IDPs bill should mention about the right to shelter of IDPs categorically. It should also be explicit on the matter of adequate housing for IDPs during the durable solutions' stage. The government of Pakistan should at a minimum take care of the following aspects during making state regulations for IDPs:

- a. IDPs right to adequate housing and shelter should be recognized by the law.
- b. A government ministry at federal level such as Ministry of Housing and Works be made responsible to address the shelter and housing needs of the internally displaced persons.
- c. The government should be instructed through specific law for IDPs to seek and accept support from international community if it found that the shelter and housing needs of IDPs cannot be met with indigenous resources (Muneeb Ilyas, personal communication, July 09, 2013).
- d. It should be made compulsory for the government to establish procedures of identification and assessment of beneficiaries of receiving shelter and housing support on the basis of need and particular vulnerability.
- e. Construction codes should be lawfully relaxed during the construction of transitional shelters for IDPs.

- f. There should be security of tenure while allotting temporary houses to the IDPs to give them sense of security against forced eviction.
- g. These houses should have necessary services and infrastructure to facilitate its inhabitants in access to water, energy for cooking, heat and lighting, sanitation and washing, food storage and waste disposal etc.
- h. It should be habitable such as protection from cold, heat, dampness, rain, structural hazards and disease vector.
- i. It should be established in such a physical location where its inhabitants would have no problems in accessing employment opportunities, health care services, educational facilities and other social services and at the same time they should be made at a safe distance from sources of pollution.
- j. It should be built according to local culture and tradition.

5.14. Right to Health Facilities

Each individual has the right to have access to the best attainable physical and psychological health facilities (ICESCR, Article 12, CERD, Article 5(e) (iv), CEDAW, Articles 11(1) (f) and 12, CRC, Article 24.) The right to health include right to all those factors which could contribute to attaining physical and psychological health. Therefore, right to health does not mean access to medical and health facilities alone; it also means to have all essential determinants of health such as right to have nutritious food, right to have adequate potable water and sanitation and right to have suitable and adequate housing facilities etc. Mr. Muhammad Raza holds the view, that health facilities i.e. hospitals, clinics and trained personnel working on domestic competitive salaries etc. are also of immense importance for the provision of health facilities to the internally displaced persons. During armed conflicts the state authorities should be held responsible to

ensure that the affected populations have access to health facilities (Muhammad Raza, personal communication, April 21, 2014).

The Columbian law 387 on internal displacement provides for the establishment of ready to use health mechanisms such as access to rehabilitation, hospitals, psychological, dental, surgical and comprehensive medical assistance. Likewise, the Georgian State Strategy on IDPs provides for a number of methods and health induced interventions. It emphasizes on national authorities to consider the medical and health needs of IDPs while devising strategies to cope up with internal displacement situations. Chapter III and chapter IV of Georgian State Strategy deals particularly with the health and medical related issues of IDPs and cover almost all important aspects of policy making regarding to health of IDPs (Kälin, Williams, Koser & Solomon, 2010).

The government of Pakistan should consider the following aspects while devising internally displaced persons specific legislation:

- a. It should explicitly recognize the right of IDPs to health and all underlying factors of sound physical and mental health.
- b. The state should designate a ministry or a division to provide IDPs with health facilities especially when IDPs do not have access to the regular health facilities under ministry of health due to non-availability of health infrastructure in areas of temporary settlement.
- c. Law should make the responsible authorities bound to seek and accept help from international community particularly when the needs of IDPs cannot be fulfilled by domestic resources.
- d. The responsible authorities should develop a mechanism through registration process to indentify the health needs of IDPs on the basis of their vulnerability and requirement.

- e. Although in Pakistan there is no compulsion of health insurance or mention of domicile in government run hospitals at the moment; however, still for safe side the government should use the word “waive off” of such restrictions for IDPs in emergency situations in order to give such a waiver to all IDPs in all times to come.
- f. The responsible authorities should be made bound to consult with IDPs about their health needs. At the same time they should ensure inclusion of IDPs in the process of designing health services for their specific needs.
- g. The government should ensure the provision of best available health services within state’s resources in cases of voluntary durable solutions.

5.15. Issuance and Replacement of Documents

Every individual has the basic right to be recognized as person everywhere before the law in times of peace and in times of crisis. According to numerous international norms such as the UNGPID states and its responsible authorities have the obligation towards displaced citizens to facilitate them in the recovery of original documents or acquisition of duplicate identity documents in order to enable them to enjoy certain other rights dependent on their identity documents such as identity card, passport and academic certificates degrees etc.

Social activist Ms. Shad Begum is of the opinion that internally displaced persons need documentation not only to enjoy their right of freedom of movement both at domestic and international fronts; but they also need documentation to get registered for medical, shelter and other humanitarian needs such as reception of food etc (Shad Begum, personal communication, July 15, 2014). In many cases IDPs need identity documents to receive pensions and other pecuniary benefits. In order to ensure that internally displaced persons get access to all the

required documents in time to meet their varying needs, dependent on those documents, IDPs specific legislation in Pakistan should include the following clauses:

- a. The state policies should identify and if needed transform documentation requirements in domestic law to make IDPs able to exercise their rights.
- b. The government of Pakistan should instruct NADRA to issue and reissue identity documents to the IDPs through facilitated procedures at the doorstep of IDPs in the camps or in the host areas through mobile registration services. Such facilitation should be free of cost.
- c. NADRA should be made bound to verify IDPs from the thumb impressions alone in case they could not produce copies of their lost or left behind identity documents.
- d. Likewise boards of intermediate and secondary education (BISEs) and all degree granting authorities should be bound to provide duplicate copies of IDPs certificates and degrees without any charges if and when a person from the affected area/ conflict zone arrives and demands the issuance of his/her certificate or degree. In such circumstances establishment of a NADRA booth should be installed in all universities and BISEs to facilitate both IDPs and relevant staff of degree or certificate issuing authority and to verify the authenticity of the claimant.
- e. The government should ensure that the established facilitated mechanism for documentation is transparent, IDP friendly, free of cost and subjected to complaints.

Documentation regarding private property is also a very important issue for the government. In situation of displacement the property left behind might come under control of at least one of the parties in the conflict or it may be illegally occupied by none of the parties in the conflict but ordinary land grabbers, thieves etc. To find solution to this problem the Ministry of

Displacement and Migration in Iraq has introduced a form to incorporate all information about private property of internally displaced persons prior to their displacement. The form possesses some vital questions regarding the property of IDPs such as; name, address, telephone number, copies of other identity documents if available, address of abandoned property description of abandoned property, type of the abandoned property and a personal statement as how the property was taken from the owner. Thus even in the absence of original property documents the IDPs can establish claim to their property once they return to their areas of habitual residence (Protecting Internally Displaced Persons: A Manual for Law and Policymakers, 2008). Therefore, it is strongly recommended that the government of Pakistan should also introduce an information collection form regarding the left over property of IDPs in the conflict zones to make them establish their lawful claim to their property, occupied by others.

5.16. Right to Property and Possession

One of the major challenges internally displaced persons may face is the denial of their right to property by the authorities or any of the parties of the conflict. The UNGPID principles 21 and 29 comprehensively explain the right of IDPs to property and possession; because it is the basic right of all individuals to enjoy their right of ownership, property and possession either as an individual or in group. The state and responsible authorities should be made duty bound to protect houses, shops and other moveable and immovable property of IDPs. Some of the necessary elements of state regulation regarding IDPs right to property and possession which should be included in the proposed internally displaced persons' specific legislation in Pakistan are:

- a. Pakistani authorities should protect the abandoned property of IDPs against destruction, pillage and appropriation.

- b. Facilitated processes should be introduced to resolve disputes regarding right to property, ownership and possession.
- c. Property commission should be established as soon as internal displacement situation arises. This commission is to hear property related claims and issues on war footings and decide them within the shortest possible period of time which should not exceed beyond three months.
- d. If the government of Pakistan found that the number of cases has overwhelmed the formal dispute resolution mechanism; then it should encourage the informal dispute resolution mechanisms i.e. *Jirga* and *Panchayat* etc. to redress land related complaints.
- e. GOP should ensure that post-displacement occupants are provided with adequate information about their property rights, alternative accommodations, the harvest of crops if they had planted and compensation for necessary improvement and so on and so forth.
- f. The domestic law enforcement agencies and officials should be assigned a clear obligation to actively and effectively participate in execution of judgments.

The government of Pakistan should not only provide protection to the property of IDPs during its direct conflict with the militants but it should also do so when it is not a party to the conflict. Any negligence from the responsible authorities in this regard should be dealt with appropriate punitive measures explained in the IDPs specific legislation. The law should clearly mention that any institution, individual or group found guilty in committing the acts of sabotage and pillage against the property of IDPs should be punished and would be responsible to compensate the concerned IDP(s). In case of failure to compensate, the responsible institution should face deduction in its annual budget while the responsible individual should face imprisonment.

5.17. Social Protection, Economic Activities and Employment

Internally Displaced Persons are always faced with financial problems because with dislocation their means of earnings, too, receive a setback. With the loss of established means of earnings, internally displaced families find themselves in destitute. Professor Moonis Ahmar from the University of Karachi Pakistan holds the view that it is the right of all individuals without any discrimination to have access to adequate and dignified means of earnings (Dr. Moonis Ahmar, personal communication, April 20, 2014). Experience in internal displacement situation has shown that if on the one hand children were yoked into child labor and deprived of their basic right to education on the other hand women and girls were forced by the circumstances to get involved into prostitution (Banerjee, Choudhury, Sabyasachi & Das, 2005). Due to influx of internally displaced persons labor has become quite cheap in those areas where IDPs are residing. In a nutshell exploitation of internally displaced persons is a serious issue and it needs proper attention from the government of Pakistan. Principles 18, 19, 22, 23 and 29 comprehensively deal with issues at hand. While carrying out the cumbersome process of law making on the said subjects the government of Pakistan should take into consideration the following points as well as the aforementioned principles of UNGPID.

- a. The government should identify and consider the pre-displacement and current livelihood practices and needs of IDPs.
- b. GOP should include the IDPs in the consultation process about their employment to know about their needs.
- c. The responsible authorities should be bound by the law to assist IDPs in their efforts to gain economic self sufficiency by establishing vocational trainings center for different

trades, through non-discriminatory access to labor market and other social services and health facilities available for non-displaced citizens of Pakistan.

- d. The government should ensure that all IDPs are, according to their needs, getting humanitarian aid on sustainable basis, directed towards the achievement of self-reliance.
- e. The government should by law allow all IDPs to recover their pre-displacement assets to utilize it for the purpose of making a living during displacement and during the durable solutions stage.
- f. The government of Pakistan should provide and improve the employment training service to IDPs to enable to find suitable jobs in the host areas job market.
- g. The government should also provide assistance to IDPs to attain economic self-sufficiency in cases of voluntary durable solutions i.e. agricultural land, livestock and credit for starting businesses etc.

The government should also incorporate some necessary measures to be taken by the state and its responsible authorities for the IDPs for sustainable durable solutions. IDPs should be provided with direct access to different existing or newly introduced welfare schemes, if there are insufficient welfare programs in the country. For instance, Law No. 387 on internal displacement in Columbia stipulates for economic sustainability. It emphasizes on the National Government of Columbia to encourage and promote medium and long term measures to create such an environment for those IDPs who want to voluntarily return or resettle in other urban or rural areas. It further elaborates that such measures should include access to the government's social programs i.e. profitable projects, National System of Agrarian Reform and Rural Development, Fostering Small business, Social Organization and training, social assistance in areas of health,

education, urban and rural housing and education, children, women and elderly and urban and rural employment plans of social solidarity network etc.

5.18. Electoral Rights

Elections are very important in the context of armed conflict induced internal displacement because election in conflict situation means that parties to the conflict have shown leniency in their stances. It is very important that internally displaced persons be facilitated in casting votes even if they are away from the constituency where their votes are registered. They should be provided with the facility to cast votes in favor of any of the candidates contesting election from the constituency from which they have been displaced. Thus, providing right to vote does not alone fulfill the criteria of right being given but it also paves the way for peace through democratic attitude.

Moreover, Principle 22(1) (d) of the Guiding Principles also emphasizes on the right to political participation of internally displaced persons in order to ensure that interests are represented. Additionally article 21 of Universal Declaration of Human Rights proclaims every individual's right to participate in the government of his or her country either directly or indirectly through his or her representative and able to take part in electoral process as a representative of his or her community. However, the ability to take part in politics also carries some more inbuilt rights with it i.e. the right to represent people, campaign and be elected in the election is a right for which one should have to have right to freedom of speech as well. In order to ensure the electoral right of internally displaced persons, the government of Pakistan should include following aspects in the proposed legislation for internally displaced persons and internal displacement situations:

- a. The government of Pakistan should ensure that elections related issues are incorporated in the coordinated response mechanisms for internally displaced persons.
- b. It should also ensure that internally displaced persons are aware and informed about the impediments in the fulfillment of their electoral rights and they are also aware about special electoral facilities in the context of displacement.
- c. The government of Pakistan should permit internally displaced persons to vote for the candidates in the constituency from which they were displaced or to vote for any candidate in the constituency in which they are residing at the time of election. The government should also ensure that if IDPs chose to vote for the candidates in the constituency in which they are currently residing they should not be deprived of internal displacement specific assistance because of that choice.
- d. The government should ensure that voter registration program for IDPs should be flexible to give them some concession in case of lack of access to documentation etc.
- e. It should provide for the conduct of campaign in such a way which would not endanger the security of IDPs and would not hamper or manipulate aid for them.
- f. The responsible authorities should be bound to spread election and political parties' reforms related information among the IDPs in a language understandable for them.
- g. The election commission of Pakistan should permit IDPs to contest in the elections as candidates on the same terms on which non displaced citizens are permitted to contest.
- h. Access, safety and privacy of voters should be ensured during the design of polling stations for the displaced persons.

5.19. Other Challenges

According to 2010 Human Rights Watch Report around 238 suspicious and extra judicial killings were reported while the Human Rights Commission of Pakistan in its 2010 report stated about 286 extra judicial killings by the military. Therefore, the proposed legislation should declare extra judicial killings of suspected terrorist or their family members' acts of War Crime to ensure that such bad practices of counter insurgency efforts do not take place in future because it just creates more enemies and by default contribute to increase terrorism. However, Major General Athar Abbas, the army spokesman, denied the use of such irrational methods against militants and their relatives mentioned by the report.

Moreover the military has been actively involved in arming tribal *laskhtars* (militias) in both FATA and PATA to fight against militants and get control of cleared areas. As these militias are given free hands in their respective areas thus they are almost militant proxies. Resultantly, these militants carry out extra judicial killings mostly based on their personal likes and dislikes and settling their old feuds. As it has been mentioned previously in this study these militias, although apparently, are against militants in Pakistan, however, they support militants in Afghanistan fighting against Afghan government and US and NATO troops. It can be said that by extending support to such militias or actors the military is unconsciously promoting war lords in both federally and provincially administered tribal areas which in no way will contribute its counter insurgency efforts (International Crisis Group, 2010). The under discussion internally displaced persons legislation should forbid, with punitive action, such military tactics which give rise to militants and militancy in the short or long term. We have seen in the past that by promoting militants groups and militias in the Soviet-Afghan war, they ultimately struck back

against US, Pakistan and the whole civilized world and the current turmoil in this region across Pak-Afghan border is the result of shortsighted military approaches taken haphazardly in 1980's. The government should also lay broader outlines of a financial management system to properly manage international financial assistance extended for IDPs and maximize its efficacy for the common IDPs. It has been noticed that financial assistance for reconstruction by international donors does not have the trickledown effect for IDPs and it is utilized and consumed by civil and military bureaucracies and local notables rather than population ravaged by natural disasters and violence.

Mr. Muhammad Raza holds the view that in order to halt extremism, the government must eliminate its cause. Therefore, the government should, through a constitutional amendment, declare Frontier Crime Regulation (FCR) as null and void and replace it with Pakistan Penal Code, Criminal Procedure Code and Evidence Act. It should extend the jurisdiction of Supreme Court of Pakistan and Peshawar High Court to FATA to incorporate it into the constitutional mainstream. This will enable the citizens of FATA to take their grievances against the state or any other party to the mainstream judicial system of Pakistan which in turn will provide them confidence and trust for being treated as equals with the rest of the citizens of the country (Muhammad Raza, personal communication, April 21, 2014).

Moreover, through civilian controlled relief and rehabilitation efforts the government can impress upon the people of FATA and other conflict prone areas of the country that they have been treated on non-discriminatory basis and independent civilian led, rather than military led, assessment of the local needs and beneficiaries identification have been made. It would minimize the trust deficit of the displaced people on the military led relief and rehabilitation efforts as they normally complain about being discriminated at the hands of military personnel.

5.20. Recommendations to International Donors

Financial assistance for IDPs has been pouring into Pakistan since the earthquake of 2005 but the impact is not being noticed. The international donor community should therefore, not tie their financial support for IDPs to their well knitted monitoring and evaluation standards; as these standards cannot be followed by many local NGOs and even at times government of Pakistan itself cannot follow it due to lack of institutional capacity.

It is never suggested that this amount should be given unaudited but it has been observed that close monitoring through documentation alone limits the projects activities to the pieces of papers and no tangible change is brought on ground. For instance, the USAID insistence on the display of its logo on all items meant for IDPs and humanitarian assistance items makes it difficult at times to effectively distribute those items to the needy ones. It is because that anti-US sentiments are engraved in the psyche of the people of Pakistan and the display of US flag on many items causes it impossible for the implementing partners i.e. NGOs to effectively distribute those items among the needy ones (Muneeb Ilyas, Personal communication, July 09, 2013).

The same principle goes for the distribution of aid through military of Pakistan. For example in FATA and PATA due to continuous military operations, the sentiments of the people are swinging against military presence in those regions; thus, military is more often an obvious target of the militants. For its own security reasons military too does not want to intermingle among the local community which makes distribution of aid items for IDPs very difficult. Therefore, it is suggested that all international donors should try to focus on providing financial assistance to civilian government, civil society organizations and NGOs.

The international donor community should accept the fact that organizations working in Pakistan understand the local dynamics better than them and thus their opinion and expertise should be

given more say. They should give the implementing partners more ownership in their projects in Pakistan. The local implementing partners should be included through meaningful participation during the need assessments, designing programs and producing reasonable timetables and performance evaluation tools during their projects (Shad Begum, personal communication, December 25, 2013).

The international donor agencies should reset their priorities; they should focus more on strengthening democratic process, capacity building, civilian law enforcement, economic growth etc. They should concentrate on improving the aid efficacy through partnership with Pakistani civilian institutions, national and international NGOs with good track records (International Crisis Group, 2012).

An official of UNHCR Pakistan, Islamabad, says on the condition of anonymity that the international donors should also develop such impact assessment tools which would measure institutional strengthening and go beyond the stereotype approach of numbers game based on measuring the output alone. They should also focus on public private partnership of local community based small NGOs with good track record and District, Provincial and National government to improve the service delivery particularly in displacement situations. Moreover, the donor organizations and countries should introduce such monitoring and oversight mechanisms which would have multi-tiered process of incorporated civil society organizations and national and provincial public accounts and other pertinent standing committees.

International donors should also understand that FATA plays a very important role thus; unless the status of FATA is altogether changed and this region is reformed, investment in FATA would not produce the desired result. Therefore, keeping in view the scenario and result of past financial aids in FATA the international community should impress upon the government of

Pakistan to recondition the dysfunctional bureaucracy and abolish office of the political agent and FATA secretariat, while at the same time relocate the powers of FATA secretariat and office of political agent to the secretariat of Khyber Pakhtunkhwa and relevant provincial line ministries and district line departments.

In addition, the international donors should realize the lack of capacity of the government of Pakistan and the provincial government of KP. Thus, along with other measures to tackle militancy and reduce the risk of internal displacement situations; it should also focus on capacity building of the government, civil service training institutions, by providing instructors and teaching materials about best international practices of public policy, financial management and fiscal policy, infrastructure development, energy and agriculture and human resource management.

Moreover, the international donors should shun all such efforts which cause problems for the government of Pakistan in dealing with armed groups in the country. For instance, the counter terrorism funding in Pakistan which supports madrassa reforms or influencing the opinions of clerics in the country are very unpopular among the segments of religious masses in Pakistan, said the student of a religious school in district Buner, KP. They aggravate rather than minimizing the anti west sentiments and thus, the GOP and national NGOs are normally held responsible and they take the brunt of such anti-West sentiments as they happen to be on the fore front as implementing partners (Khursheed Ahmad, Personal Communication, April 15, 2013).

5.21.Conclusion

The road to reforms and rectification may be a long and tough one and there may be numerous problems treading towards the above mentioned reforms, but the problems Pakistan is facing right now are complicated and they need to be sorted out with multi faced resolution methods. There are various constitutional amendments and Acts in place in the country, most of them can be termed great pieces of legislation i.e. 18th constitutional amendment of 2010 and the Right to Information (RTI) Act 2013 etc. therefore, specific Bill or Act for internal displacement situations will enable Pakistan to cope with the ever growing challenges of internal displacement in a systematic and institutional manner. If somehow, the federal government is unable to come up with specific legislation for the internal displacement situations, the provinces should take practical measures to deal with the problems effectively. Under the 18th constitutional amendment provinces are in the position to take legislative measures on their own to keep things under control. Therefore, the government of Khyber Pakhtunkhwa and Balochistan should also consider the above mentioned measures to do legislation as these two provinces are centers of conflict induced internal displacement in the county.

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Chapter 6

Conclusion

The main theme and objective of the study was to analyze the internal displacement situation in country and assess the government of Pakistan's response in the light of the UNGPID. However, as Pakistan is facing issues of militancy/ insurgency by militant groups and their offshoots in FATA and parts of PATA; the country does not have a comprehensive policy to deal with the displacement situations arising out of its counter terrorism strategy. With detailed discussion on different issues centering around policy of government of Pakistan in previous chapters of this study; following conclusions can be drawn out of this.

1. There are many factors for rising pattern of internal displacement situations around the world such as end of Cold War, emergence of unipolar world etc. However; one of the major causes of growing trend of internal displacement around the globe is the flexibility at the hand of the United Nations for not making the Guiding Principles on Internal Displacement binding for its member states. If these Principles are made mandatory for all member states of the United Nations the magnitude of situations of displacement would be minimized.
2. Internal displacement situations occur all around the world. Various countries such as Sri Lanka have been through such situation for years. However, effective measures at policy level help them overcome the situation. The root cause of internal displacements in Pakistan is conflict between the militants and military. The lack of awareness and education among majority of the citizens of the country make them vulnerable and being used by anti state elements. Pakistan should devise a comprehensive strategy for dealing with the internal displacement situations in the country. The long term strategy to effectively control internal displacement situation would be through uniform education opportunities in FATA and

PATA. The lack of education, unjust distribution of economic resources and human rights violation are responsible for the rise of conflict in the country. Conflicts, in Balochistan in particular, instigated by the mentioned factors have potential to displaced tens of thousands of people and there is no official response at policy level to address the issue. The government should first of all focus on imparting education to the people in the conflict affected areas to enlighten and detach them from violence.

3. International community particularly the United States should comprehend the limitations of Pakistan in the War against Terrorism and make unreasonable demands. Such unreasonable demands push Pakistan to adopt haphazard counter militancy strategy which causes internal displacement.
4. People of FATA already face the issue of the illiteracy and the area falls among almost in the no literacy regions. They are also giving a big sacrifice, as it is impossible for them to teach their children in such situation where they do not even know when they have to go back and simply cannot invest in the education, nor they have resources for it. Providing them adequate education facilities would not only help the government fulfill one of the fundamental rights of children from FATA but it would also help the government to find a permanent solution for militancy in the region which is one of the long term objectives of the government of Pakistan.
5. Cash based incentives should also cover child and adult education. Swat, with one of the highest literacy rates in the province, has since 2008 experienced militant threats against both boys' and girls' schools. The destruction of school premises alone has deprived some 80,000 female students. By January 2009, more than 180 government schools in Swat had been destroyed. Parents remain impatient to return their children to the classroom but may find the

costs unaffordable. Humanitarian assistance should include tuition, provided through cash vouchers, for every child that a family enrolls in school. To prevent local school going children from being negatively affected by a system that is over-burdened by the IDPs, the international community and the Pakistan government should urgently allocate sufficient fiscal and material resources (International Crisis Group, 2009).

6. Military operations in the country with no policy at the top beyond use of force is encouraging vendetta(*Badal*) one of the most important aspects of the Pushtun code of life (*Pukhtunwali*) it makes many Pashtuns to join ranks of militants in reaction to the indiscriminate military operations in their native areas. Thus the vicious circle is formed, i.e. military operations causing deaths of innocent civilian, inducing more terrorists in reaction which aggravates the conflicts consequently displacing more people.
7. *Jihadi* outfits reach out to the IDPs for humanitarian relief efforts. This is due to the inefficiency of the government to reach to the internally displaced persons in time of need; which leaves vacuum for Jihadists and militants to extend to the IDPs for assistance. It was not only the case during the Malakand IDP situation but the same is true in the case of North Waziristan internal displacement situation. The government normally asks NGOs and other humanitarian organizations to provide a no objection certificate to establish relief camps, while the *Jihadi* outfits are not asked to provide such certificate. As bi-product of their unhindered access to the internally displaced persons- either living in camps or in host communities- is that they recruit youth among IDPs in their militant groups. In other words, military take action against the militants, which displace people, and then the other militants are allowed to contribute in the relief efforts of the displaced people, they recruit more people to become militants (Militants-run Relief Camps, 2014). Thus the vicious circle of militancy

resulting in IDP situation is never broken rather it is strengthened. The government should reach out to the internally displaced persons in time of crisis and needs to stop the reach of *Jihadi* outfits in the guise of humanitarian efforts. Such in-time-reach of the government would counter the efforts of *Jihadi* outfits to extend their humanitarian efforts to the people in need and gain their sympathies.

8. The government should come up with a comprehensive and uniform education policy, particularly for FATA, to educate the inhabitants and dilute their conservative and rigid thoughts. It is basically the decades' long ignorance of the government of Pakistan towards development of FATA which alienated its people from the mainstream Pakistan. Resultantly, the people do not change their own views rather they prefer to take up arms when national interest demands change in national policy on different policy issues. The lack of education on part of people in FATA and PATA drove them to opt for a conflict with the government of Pakistan after shift in its Afghan policy after 9/11. Had they been educated by the state education system they would have never pointed their guns at the armed forces and law enforcement agencies of the country.
9. Role of military in FATA and PATA is highly disliked by the local population, majority of the displaced people consider it to be part of the problem and not part of solution. Though militants remained there in the affected areas before the military operation against them; however, they did not dislocate the local population. The counter militancy operations against the militants do more harm as far as collateral damage and dislocation of people is concerned. The role of Pakistan army has always been very dominant in Pakistan; therefore, its dominance is visible when it decides about taking military action against militants. Therefore, the presence of law enforcement agencies rather than military should be ensured

soon after every military operation against militants so that common people get sense of security.

10. More focus should be placed on establishing and strengthening law enforcement agencies for ensuring rule of law in FATA, PATA and other affected areas, as in many cases acts of violence had changed things for ordinary people to spend normal life. The absence of rule of law in those areas had let militants flourish in the first place, which compelled the state authorities to take action against them and dislocate people. Thus in other words thought militants are responsible for the flight of masses from the conflict zones; however, primarily inefficiency of state authorities to implement the writ of the state initially can be termed as the root cause of conflict induced internal displacement. Due to lack of rule of law in FATA and PATA ordinary people do not have any room left for recreational activities as the sense of security is being snatched from the people by miscreants operating in those areas. Lives of people are miserable over there and those who can afford to move out of the areas, without waiting for the government to start military operation against the militants and declare the area as conflict affected, are moving out of many areas of FATA, PATA and other areas of Khyber Pakhtunkhwa.
11. A process of proper deliberation before any military operation against the militants, which can result in the dislocation of masses, is normally missing. One of the recent operations carried out against militants is the operation *Zarb-e-Azb*, in North Waziristan Agency, is considered among successful operations against militants. However, it dislocated around 1 million individuals and the ruling party in the province of Khyber Pakhtunkhwa, directly affected by internal displacement of people from FATA, holds the opinion that it has not been consulted before the government decision to go after militants in North Waziristan

Agency. An interview of ex director general of Inter Services Public Relations (ISPR) surfaced on June 30, 2014 explicitly put the responsibility of delay in military operation in North Waziristan Agency in 2010 on the then Chief of Army Staff General Ashfaq Pervaiz Kyani. He expressed that that the General was not taking decision because he was of the opinion that it would be taken as his personal decision. During the interview it was mentioned nowhere that the either opinion of then president Asif Ali Zardari or Prime Minister Yousaf Raza Gilani about the military operation was taken/considered or not. Decision making processes in such issues always revolve around the will of Army and elected government or other stakeholders are rarely considered and consulted. A process of deliberation with all stakeholders before any military operation would enable the government to evaluate all the pros and cons of military action against non-state actors before engaging them through the use of force. It will minimize the risk of humanitarian crisis for the local population and their voices would also be heard before any decision. Moreover, it would get required support for the government to whole heartedly go after the militants and clear the areas for a quick, safe and sustainable return of the dislocated people.

12. Military operations contribute more to the displacement of people as compared to militants.

May it be the operation in Swat or operation in North Waziristan, military operation is the prime cause of displacing people. So far no such incident has been recorded where people in such large number would have left their homes due to militants. One may recall some individuals and families, belonging of Awami National Party, left their houses due to opposition to the rise of militancy in PATA. However, large scale massive displacements have never occurred due to rise of militants in an area. It's always the counter militancy operation which displaces people.

Billions of rupees have been spent on military operations which at times only result in providing a temporary solution and fails to eliminate the top leadership and ideological hubs of militancy i.e. Molana Fazullah the head of Swat militants escaped during operation *Rah-i-Nijat* 2009 and is heading of TTP against which operation *Zarb-e-Azb* is being carried out (2014). Despite claims of enormous success by the Pakistan Army in operation *Zarb-e-Azb* Molana Fazlullah is far from being eliminated- as of yet. In both these operations hundreds of thousands of people have been displaced; however, the main targets are still at large. Though as an individual Molana Fazlullah is not a threat to the security of Pakistan, however, he has credibility among the militant groups and has the ability to unify many factions of militants under the TTP which can cause and is causing real damage to the country and security agencies. Therefore, the Pakistan Army should shift its focus from military operations to improved intelligence network. Moreover, it should rely on the surgical strikes and not full fledge military operations to avoid displacement of masses.

13. The government should develop mechanisms that will enable internally displaced persons to hold officials accountable for the distribution of assistance. Moreover, it should prohibit *jihadi* organizations from organized relief efforts because of threat of the spread of militant ideology; government of Pakistan should not allow any vacuum created in humanitarian efforts as it gives justification and space to the militant organizations to utilize that space for their own agendas. In addition, GOP should prioritize police training and other mechanisms to enhance the capacity of civilian law enforcement agencies to maintain security after the military operation ends and bring militant and local criminal networks and allied serving or retired district officials to justice.

14. The international community should focus on civilian led relief and humanitarian efforts.

Moreover, the international community should prioritize relief and rehabilitation of internally displaced persons, chiefly those living outside government run/administered camps, via cash transfer programs that provide income support, imbursement of school tuition fee and paid vocational training. Additionally, the international community should extend support to civilian-led initiatives of Pakistan for the return of internally displaced persons to their communities with reconstruction and rehabilitation programs, which integrate support for the provincial government, help build the capacity of civilian law enforcement agencies and advance justice reform with new training, equipment and mentors. More focus in future aid and assistance program by international community should be on encouraging long-term political and constitutional reforms in PATA and FATA.

15. All international donors should ensure transparency and accountability of their funds till the grass root level. Keeping an eye on corruption and misappropriation of funds by the international donors will help internally displaced persons and common Pakistanis to get more benefits from international aid. However, more focus should be on the impact of the money spent rather than the paperwork for the money spent.

16. The creation of a smart card, based on the technology available to NADRA, would provide an incentive to Malakand and FATA IDPs to register and enable humanitarian aid organisations to channel assistance to non-camp IDPs and give recipients control over the aid they receive. The stipend would be determined on the basis of individual and family needs in the case of IDPs in camps and take into consideration the needs of host families for those in non-camp accommodation. If issued on a personal rather than household basis, salaries could also be transferred to the cards from assistance programs such as paid vocational training.

This program would be particularly valuable for meeting the needs of non-camp IDPs, with the cards used to collect relief assistance at distribution hubs, withdraw cash or purchase goods on the market. There is sufficient food and other supplies in the country to make the system viable, and having buyers available will spur further local agricultural production. Card recognition systems should first be provided to distribution centres and government-subsidised utility stores in those areas of the Khyber Pakhtunkhwa that are hosting significant numbers of IDPs. A limit on cash withdrawal could be placed to avoid abuse and prevent theft and robbery from making maximum financial damage. The technology must, however, be secure enough to ensure the confidentiality of personal data. Moreover, to avoid theft or pressure from friends and relatives, the holder's fingerprint should be required to use the card.

17. The relief efforts of the government and humanitarian agencies revolve around the registration process of IDPs. This registration process is based on the assumption that every citizen of Pakistan has a Computerized National Identity Card (CNIC) issued by NADRA. However, thousands of IDPs including women do not have a CNIC, the militants in FATA and PATA had barred locals particularly women to make a CNIC and therefore, majority of these women among the displaced from PATA in general and FATA in particular do not have the CNIC thus they are not eligible to receive relief from government. Women were particularly the ones who faced the brunt of crises due to non availability of CNIC. Moreover, there are countless cases in which displaced persons do not get hold of their identity documents while leaving their houses in times of conflict and military operation. Therefore, registration process of internally displaced persons should be improved. The

government should first of all ensure that all locals are properly registered with NADRA before, going after the militants in a full-fledged military operation.

NADRA should not only assist the authorities in registration of IDPs for relief but it should also be given power to issue CNIC to those IDPS who would not have identity documents or who would have lost it during displacement.

18. Military is not specialized in providing relief and leading the rehabilitation process by its own. In order to stop the violations of fundamental human rights of internally displaced persons, Human Rights Commission of Pakistan and other indigenous, if not international, human rights organizations should be given access to the IDP camps and host communities. There, in camps and in host communities, basic and fundamental rights of IDPs to the food and shelter are being violated, however, bar on access to Human Rights groups by the military establishment, FATA Disaster Management Authority and Provincial Disaster Management Authority makes it difficult to record violations and help find its remedies.

Likewise, there are many returnees of Malakand division who feel dissatisfied with their return because they consider it premature. Therefore, before decision of rehabilitation of the IDPs the government should allow the UN agencies and other independent observers to visit the area and assess the post conflict situation in the area and suitability of the area for rehabilitation. Decision of rehabilitation should only be taken when UN agencies and independent observers declare the area safe for return of the displaced persons.

19. Finding a durable solution for displacement of the internally displaced persons is one of the basic and fundamental rights of the displaced persons. Neither state authorities nor the displaced persons want situation of displacement to be prolonged beyond a certain timeframe. The government of Pakistan should focus on not only providing relief but

emphasize on finding durable solution for the displaced persons. In most of the cases it has only plans for return while local integration and resettlement of IDPs is up to a greater extent ignored.

20. The living conditions of IDPs fluctuate from area to area; these incorporate, human rights infringement, furnished clashes and occupational issues. The outcomes of internal displacement situations are serious and durable, particularly as far as loss of property, tangibles, jobs, partition of families and disturbance of family and social life. While IDPs obstruct the accomplishment of advancement objectives for Pakistan, it likewise constrains individuals to live in helpless and unsuitable conditions especially in circumstances influenced by conflicts. Therefore, Dr. Ghulam Taqi Bangash, suggests that before devising timeframe for return, local integration or resettlement the government should never dislocate masses. Decision about carrying out a full fledged military action should only be taken after resource mapping for durable solutions is done and made public by the government (Dr. Ghulam Taqi Bangash, personal communication, April 18, 2014).
21. The surprising terrorist assaults, shelling through tanks and air ship bombings have obliterated the houses in the zone leaving the occupants with no other decision than to move. The causes of the clashes between the militants and military are post 9/11 foreign policy imperatives of Pakistan. Rising assaults of militants on Pakistani security forces and other state installations and resulting military operations in the tribal regions compelled countless individuals to escape from their homes. Revolt in Swat and after that, the military operation there accomplished immense displacement of masses in Pakistan. An estimated 2.5 million individuals relocated when the military crackdown began in 2009. The most recent of the displacement episodes unfolded in 2014 with hundreds of thousands of people displaced

from North Waziristan Agency. Mr. Ashish Shukla thinks that the government of Pakistan should revisit its foreign policy to minimize the chances of conflict with Pakistani militant groups. With chances of conflict reduced; potential displacement in future would also reduce (Ashish Shukla, personal communication, April 29, 2014).

22. The ratio of education and job placement is quite low in FATA as compared to settled areas.

Dr. Taqi Bangash considered it the root cause of militancy in the area. He went on saying that there was no quick solution to crisis of internal displacement and things can be improved gradually only if the government shifted its focus on establishing better education system for all the inhabitants of FATA. Better education system would produce skilful human beings and with the passage of time they will create economic opportunities for the whole area and the youth of FATA would not end up in militant groups rather they would contribute to the prosperity of the country (Dr. Ghulam Taqi Bangash, personal communication, April 18, 2014).

23. Pakistan has a large number of internally displaced persons induced by military operations in the Federally Administered Tribal Areas and Khyber Pakhtunkhwa. A misconception or the interpretation of the War against Terror prevails among the citizens of Pakistan. That is, Pakistan is fighting America's war and it has nothing to do with it. This concept regarding global war on terror creates unrest among the citizens, forcing some banned groups to use these citizens against their own people. The sooner the government of Pakistan convinces the local population of FATA and Khyber Pakhtunkhwa that Pakistan is fighting its own war for its national interest the better it is. The misconception that Pakistan military is fighting war of its western allies for their interests should be appropriated through state policy to phase out militant groups and render them with crisis of finding human resource to challenge the

Pakistani military and law enforcement agencies. It will not only reduce the threat level from non-state actors but would also reduce the chances of large scale military operations and resultant displacement.

24. Stake-holders in the war on terror are considered responsible for internal displacements in Pakistan. Drone strikes by the United States' Government have not just eliminated the militants of Al-Qaeda and TTP; it has also affected the lives of innocent citizens of Pakistan living in FATA. North Waziristan, South Waziristan and Bajaur Agencies are the specific samples of such drone assaults. Since the government of Pakistan has the ability to protect its air space if it wants to therefore, its inaction against the drone strikes in FATA and merely issuing condemnation statements against the US government, alienated citizens of FATA. This alienation gave rise to the thoughts among youngsters to side with militants in the area. They grew in number and size and capacity over the years thus the state was compelled to take action against them which displaced a hundreds of thousands of people. Mr. Muhammad Raza ex-M.D of Bacha Khan Education Foundation told had state taken appropriate measures both against US drone strikes and presence of militants in FATA the conflict would have been stopped from escalation and occurrences of displacement could have averted (Muhammad Raza, personal communication, April 21, 2014).

25. Since 2002, Pakistan military has been involved in operations against the Taliban and rogue groups in FATA area, which brought about displacement of masses from the area. Being sandwiched between 80,000 Pakistani military and warrior aggregates, the individuals fled for their lives. Others cleared out their homes in light of the fact that the majority of the fundamental offices were either completely or halfway obliterated. The greater part of the wellbeing units, schools, and universities were grounded to earth in view of the substantial

gunnery utilization. The government should, through law enforcement and security agencies, ensure that infrastructure is least affected by militants in any part of the country which will lead to minimum possible number of displaced people.

26. Most of the times when camps are established for IDPs in different areas in Khyber Pakhtunkhwa, people do not prefer to live there but prefer to live with the host families. It further creates issues for them as well as the hosts. In case of IDPs from North Waziristan Agency state health establishments were not ready to provide services to the displaced masses. It has been observed that there is no solution with the government to cater for the needs of the IDPs. Base is poor; and medical specialists are seldom found. Before, dislocation of people the state authorities should meticulously assess the needs of the displaced people so that after their dislocation they do not face problems of scarcity of basic health needs.
27. When a large number of people are displaced for a prolonged time, they face diverse problems. One of such problems the IDPs face is the unavailability of land for burying the dead. One of the biggest problems the IDPs from North Waziristan Agency explained, they were facing in District Bannu, was the unavailability of land for their deceased. As explained the IDPs are more than 0.6 million therefore an average of 30 people die on daily basis among such a large number of displaced persons. They cannot take the deceased to their home towns as there is heavy fighting going on and they cannot easily find place for grave yard. The government should not only provide for shelter of the IDPs it should also provide a place for cemetery near temporary settlements made for the displaced persons.
28. Military action in Bara sub division of FATA was started against militants, which led to the occurrence of internally displaced persons. Government along with the humanitarian relief

workers always tried to take measures to elevate viable obstructions to registration, yet helpless IDPs from areas that were not "informed" were largely rejected from aid. As per the IDP Vulnerability Assessment and Profiling (IVAP) venture, a critical number in KP were unregistered. Flaws in the registration process are continuously observed from the IDPs of Malakand division (2009) to the IDPs of North Waziristan Agency (2014). In the opinion of Ashish Shukla, doctoral fellow at the center for South Asian Studies, Jawahar Lal Nehru Univeristy, New Delhi India, it is the hasty decisions on part of the government regarding military operations which leave many important aspects untouched. If the government of Pakistan wants to facilitate IDPs it should inform the people in the intended area through print and electronic media and through direct contact about the intricacies in the registration process and how to overcome issues in relation to it. .

29. Internally displaced persons are also a burden on the economy of the country, they are unfortunate people who are unable to earn for themselves and are utterly dependent on the earning of others. Few people pay their taxes and bulk of Pakistani citizens either do not fall in the tax net or they simply evade taxation through different illegal means. Thus, it becomes very difficult to have a stable economy to cater for the needs of IDPs. Therefore, the aim of the government should not be just carrying out military operations but to find a permanent solution so that valuable national resources are used for development purpose rather than overcoming the crisis.

30. Education, being viewed as a key to peace and development, is another vital issue the government of Pakistan is facing when it comes to the provision of the former to the IDPs. UNICEF evaluated that about 60% of the aggregate IDPs living in camps are children (IRIN 2010). Since the start of clashes in FATA 137 schools were harmed or demolished

(UNOCHA 2010). This scenario is alarming for Pakistan as education is one of the basic and fundamental keys to resolving national issues. Instability and trauma among kids lead them to extreme behaviors and these extreme behaviors later on goes against the national interests. In a protracted displacement situation the government should not only take care of needs of internally displaced children's primary education but it should also consider the provision of higher education for the college and university going youth so that there thought process is streamlined and they become national asset rather than a threat to the very foundation and institutions of the state.

31. Though in most of the cases the host communities welcome IDPs open heartedly, however, the IDPs faced problems of entering into Sindh and Punjab in 2009 and 2014. As discussed earlier in this study, IDPs are mainly Pashtun and when their entry into Punjab and Sindh is resisted it creates a sense of alienation among the whole ethnic group particularly Pashtuns, resultantly these IDPs stop considering themselves equal citizens of Pakistan as they are not allowed to take shelter in other provinces of the country and only Khyber Pakhtunkhwa gives them shelter. It is advisable for national integration of Pakistan that the government take all appropriate steps before military operations in FATA and any other part of Khyber Pakhtunkhwa to ensure that no provincial government or any political party do not bar entry of IDPs to their respective provinces.
32. Most of the IDPs opt to live with host communities rather than in camps; however, the local infrastructure does not support such large influx. Thus, it creates problems for the local inhabitants. The government should increase the number of district administration staff where IDPs live in host communities to help the hosting districts' administrations mitigate the adverse affect on the host communities and help maintain the district infrastructure. Just

10 percent of the uprooted families are existing in camps and the rest (90 percent) are dwelling in host community in Khyber Pakhtunkhwa and FATA (UNHCR, 2012). DI Khan, Bannu Hangu, Kohat, Kurram, Peshawar, Tank, Dir and Nowshera involve host communities.

33. The operations against militants in FATA and PATA have expanded the IDPs' emergency, particularly among females who are now helpless against all manifestations of brutality, i.e. local, social, physical, mental and specifically sexual viciousness and abuse, torment, assault, constrained pregnancy, constrained premature births, sexual servitude, prostitution, and trafficking. Militancy has influenced the state of these females to more extensive concerns, for example, kids conceived with unique needs. The post conflict situation is much more terrible for these women. Therefore, the government should not ignore the returnees' needs. Time to time returnees' need assessments should be carried out to help the returnees resettle and blend with the rest of citizens with dignity and without any legal or social discrimination.
34. All humanitarian aid to the internally displaced persons is dependent on the availability of national identity card. However, as discussed earlier for a variety of reasons it is not possible for all the IDPs to collect their computerized national identity cards before leaving homes. In case of North Waziristan Agency's IDPs, the Taliban in the area had asked women not to make a computerized national identity card as picture of the holder is supposed to be displaced. According to rigid interpretation of Islam by the Taliban it is forbidden for a female to show her face publically. Therefore, a renowned social worker Shad Begum is of the opinion that the government should take all necessary steps to resolve the issue of non-availability of computerized national identity card to the displaced women from North Waziristan Agency. Women in the male dominated society of Pakistan are already vulnerable

and the absence of computerized national identity cards makes them more vulnerable as they do not get required food and health support in time (Shad Begum, personal communication, July 15, 2014).

Conflicts disturb lives of people, it paralyze routine activities of people and affect all i.e. women, children, young and old alike. Consequently, people flee conflict zones. However, according to the official understanding in Pakistan, displaced persons only from declared affected zones would get assistance. All those people who have left their areas due to conflict between military and militants but the government and military would not have officially declared those areas as affected zones displaced people would not get any assistance. The scenario makes lives of people extremely difficult and while away from home with no earning opportunities in place they still cannot get any assistance from the government or any other humanitarian agency. Off and on clashes occur almost in the whole of FATA but only displaced people from declared conflict zones are getting humanitarian support from the government and the rest of the displaced people do not get any assistance. Therefore, there should be a minimum number of displaced people from one area to make the displaced eligible for getting assistance from government and other aid agencies. The federal government in consultation with UNHCR Pakistan, NDMA, FDMA, PDMA and government of Khyber Pakhtunkhwa should set that minimum number. If the number of people is equal or more than that specified number then they should be provided humanitarian assistance regardless of the fact that the area they have fled is declared a conflict zone or not.

35. Since most of the displaced people are Pashtuns, they are quite strict about *Parda*⁶ of women.

In the tent camps (villages) it becomes very difficult almost next to impossible to observe the norms of *Parda*. Many of the IDPs avoid living in tent villages only because of this reason.

⁶ a social concept where women keep themselves hidden from the eyes of males in the community

Therefore, if special tents are designed to take care of the *Parda* needs of IDPs in such a manner that they do not feel any violation of this very important cultural norm; it would encourage IDPs to live in tent villages established by the government.

Amid the course of the militancy, women ended up significantly shakier and are left in sheer tragedies; social structure of Pakistan is by and large male dominated. However, due to militancy large number of families lost their male members and leadership responsibilities of the households have been bestowed upon women. However, most of the women being illiterate do not have the required skills and knowledge about efficiently taking care of their families in such time of need and crisis. Keeping in view the local culture which strictly believes in the complete segregation among males and females, the government should deploy proportionate number of female employs and volunteers from among the IDPs to help and assist female headed households in a dignified manner according to the local norms and culture.

36. The lack of government policy for internally displaced persons has obstructed the government to generate adequate funding for internal displacement. Funding for internal displacement mostly comes from external sources. Due to lack of a national IDPs policy there is no mechanism to allocate a specific amount in the national budget for displacement. In order to alleviate the country from permanent dependency on international support for tackling internal displacement situations the government should devise a national IDP policy.
37. In many cases the local people are not found satisfied with the post military operation security situation back home and they do not agree for premature return. However, in most of the cases under various compulsions and priority issues the government fixes return time frame regardless of the fact that situation on ground approves for return of IDPs or not. In the

case of Swat IDPs many individuals showed discontentment upon return. Elements of instability do not get eliminated in entirety and the shift in priority in the government policy for return put the internally displaced persons in difficult situation. They are left with no other option but to return. The government should depend on ground realities about security situation rather than the pre-determined timeframe for the return of IDPs.

38. The trauma of dislodging has influenced the mental strength of women and youngsters in the camps. For example, sleep deprivation, wandering off in fantasyland, queasiness and fears are commonly found symptoms. They are the future of the country; by exposing hundreds of thousands of youngsters to the traumatic situations in the first place and then leaving them without any psycho social therapy afterwards means creating an abnormal cluster of citizens. The government cannot be sure that afterwards these abnormal human beings would not create security situations for the state once they grow up. Therefore, in larger interest of the state and its citizens; the government should keep an eye on the long term objective which should be utilization of IDPs as active and positive citizens of Pakistan.
39. Today, many people in Pakistan's Khyber Pakhtunkhwa province as well as in the whole of FATA consider that they have become victims of flawed policies of establishment. First it was impregnated with fighters from all around the world by the United States, Saudi Arabia and Pakistani intelligence agencies. In the second phase shift in the international and national policies made those fighters use the terrain of FATA to pursue their global agenda against the United States. The result was military operations by Pakistan Army and drone strikes by the United States. During the whole process the common man suffered the most. The entire scenario has alienated (is alienating) a formidable proportion of population.

40. Having discussed many challenges and risks earlier, if one has to set one direction for the government to steer the country out of the crisis of internal displacement it should be the integration of FATA in the political and economic mainstream. The biggest challenge for Pakistan is to integrate the people from FATA into the rest of the Pakistani society as equal citizens, so that chances for future adventurism by alienated groups from FATA and Khyber Pakhtunkhwa are minimized. Once the government set the objective of inclusion of FATA in the mainstream Pakistan, problems emanating from FATA would subside. Pakistan would not only be able to effectively curb militancy and insurgency in the area, it would also be able to harness genie of internal displacement

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Glossary

Al-Qaeda

Al-Qaeda is a global [militant Islamist](#) organization founded by [Osama bin Laden](#), [Abdullah Azzam](#), and several other militants, at some point between August 1988 and late 1989, with [origins](#) traceable to the [Soviet war in Afghanistan](#). It operates as a network comprising both a multinational, stateless army and an [extremist](#), [Wahhabi](#), [jihadist](#) group. It has been designated as a [terrorist organization](#) by the [United Nations Security Council](#), the [North Atlantic Treaty Organization](#) (NATO), the European Union, the United States, Russia, India and various other countries.

FATA

FATA is a semi-[autonomous](#) tribal region in north western [Pakistan](#), bordering Pakistan's provinces of [Khyber Pakhtunkhwa](#) and [Baluchistan](#) to the east and south, and [Afghanistan's](#) provinces of [Kunar](#), [Nangarhar](#), [Paktia](#), [Khost](#) and [Paktika](#) to the west and north. The Federally Administered Tribal Areas comprise seven [tribal agencies](#) (districts) and six [frontier regions](#), and are directly governed by Pakistan's [federal government](#) through a special set of laws called the [Frontier Crimes Regulations](#) (FCR).

PATA

The Provincially Administered Tribal Areas (PATA) are [Pakistani](#) administrative subdivisions designated in the Article 246(b) of the [Constitution of Pakistan](#). No Act of Provincial Assembly can be applied to PATA whereas the Governor of the respective province has mandate parallel to the authority [President of Pakistan](#) has over [Federally Administered Tribal Areas](#).

Khyber Pakhtunkhwa (KP)

Formerly called [North-West Frontier Province](#), is one of the four [provinces of Pakistan](#). It borders the (FATA) [Federally Administered Tribal Areas](#) to the west and south, [Gilgit–Baltistan](#) to the north-east, [Azad Kashmir](#) to the east, [Punjab](#) and the [Islamabad Capital Territory](#) to the south-east, and [Afghanistan](#) to the north-west. The province of [Baluchistan](#) is located southwards. The provincial capital and largest city is [Peshawar](#).

Rah-e-Rast

The Second Battle of Swat also known as *Operation Rah-e-Rast*, began in May 2009 and involved the [Pakistani Army](#) and Taliban militants in a [fight](#) for control of the [Swat](#) district of [Pakistan](#). The first [Battle of Swat](#) had ended with a peace agreement, widely criticized in the west that the government had signed with the [Taliban](#) in February 2009. However, by late April 2009 government troops and the Taliban began to clash once again, and in May the government launched military operations throughout the district and elsewhere to oppose the Taliban.

Rah-i-Nijat

The Operation Rah-e-Nijat (English: *Path to Salvation*) was a strategic offensive [military operation](#) by the [unified command](#) of [Pakistan Armed Forces](#) against the [Tehrik-i-Taliban \(TTP\)](#) and their extremist allies in the [South Waziristan](#) area of the [Federally Administered Tribal Areas](#) that began on June 19, 2009; a major ground-naval-air offensive was subsequently launched on October 17. It became the integral part of the [war in Western fronts](#) which led the encirclement and destruction of Taliban forces in the region, although the Taliban leadership escaped to lawless areas of neighboring [Afghanistan](#).

Zarb-e-Azb

Zarb-e-Azb is a [joint military offensive](#) being conducted by [Pakistani security forces](#) against various [militant](#) groups, including the [Tehrik-i-Taliban Pakistan](#) (TTP), [Lashkar-e-Jhangvi](#), [Jundallah](#), [al-Qaeda](#), the [East Turkestan Islamic Movement](#) (ETIM), the [Islamic Movement of Uzbekistan](#) (IMU) and the [Haqqani network](#). The operation was launched by the [Pakistan Armed Forces](#) on 15 June 2014 in [North Waziristan](#) (part of the [Federally Administered Tribal Areas](#) along the [Afghan border](#)) as a renewed effort against militancy in the wake of the [8 June attack on Jinnah International Airport](#) in Karachi, for which the TTP and the IMU claimed responsibility. Part of the ongoing [war in North-West Pakistan](#), up to 30,000 Pakistani soldiers are involved in Zarb-e-Azb, described as a "comprehensive operation" to flush out all foreign and local militants hiding in North Waziristan.

NDMA

The National Disaster Management Authority ([reporting name](#):NDMA), is an independent, autonomous, and constitutionally established disaster preparedness federal institution mandate and responsible to deal with whole spectrum of disaster management and preparedness in the country. The NDMA aims to develop sustainable operational capacity and professional competence to undertake its humanitarian operations at its full capacity.

PDMA

The Provincial Disaster Management Authority (PDMA), functions through an organized structure led by the Director General, which is called the “Organogram.” A system of Provincial/Regional Disaster Management Commissions and Authorities is proposed in the National Disaster Management Ordinance 2006 to facilitate implementation of disaster risk management activities in the country. The Provincial/Regional Commissions would be the policy

making bodies, while the Disaster Management Authorities would be the implementing and coordinating arms. Disaster Risk Management is a provincial subject, the Provincial/Regional Governments will have crucial role in the implementation of disaster risk management policies, strategies and programs.

Jihad:

Jihad is an [Islamic term](#) referring to a religious duty of [Muslims](#). In [Arabic](#), the word *jihād* is a noun meaning "struggle" or "resisting". A person engaged in jihad is called a [mujahid](#), the plural of which is [mujahedeen](#). The word *jihad* appears frequently in the [Quran](#), often in the idiomatic expression "striving in the way of God".

Lal Masjid:

Lal Masjid is a [mosque](#) located in [Islamabad](#), the capital of [Pakistan](#). The Lal Masjid was built in 1965 and is named for its red walls and interiors. According to [Capital Development Authority](#) (CDA) records, the Lal Masjid is one of the oldest Mosques in Islamabad.

Lashkar:

Lashkar is a type of sailor or militiaman employed by the British in South Asia (modern Bangladesh, India, and Pakistan).

Mujahedeen:

Mujahedeen is a term that Muslims use to describe those they see as Muslims who struggle in the path of [Allah](#). The word is from the same Arabic triliteral root as *jihad* ("struggle"). In recent years, Mujahedeen has been most closely associated by the west with radical Islam, encompassing several militant groups and struggles.

Shariah

Shariah means the [moral code](#) and [religious law](#) of a [prophetic](#) religion. The term "shariah" has been largely identified with [Islam](#) in English usage. Sharia Law is a significant source of legislation in various Muslim countries, namely [Saudi Arabia](#), [Sudan](#), [Iran](#), [Brunei](#), [United Arab Emirates](#) and [Qatar](#).

Shia

The Shia, or the Shiites, ([Arabic](#): شيعية) represent the second largest ([denomination](#) of [Islam](#). Adherents of Shia Islam are called Shias or the Shi'aas a collective or Shi'i individually. Shi'a is the short form of the historic phrase meaning "followers", "faction" or "party" of [Muhammad](#)'s son-in-law and cousin [Ali](#), whom the Shia believe to be Muhammad's successor in the [Caliphate](#). [Twelver Shia](#) (Ithnā'ashariyyah) is the largest branch of Shia Islam, and the term Shia Muslim is often taken to refer to Twelvers by default.

Sunnah

Sunnah is the way of life prescribed as normative for Muslims on the basis of the teachings and practices of the Islamic prophet [Muhammad](#) and interpretations of the [Quran](#). The word *Sunnah* is derived from the, meaning smooth and easy flow or direct flow path. The word literally means a clear and well trodden path. In the discussion of the sources of religion, *Sunnah* denotes the practices of Muhammad that he taught and practically instituted as a teacher of the [shariah](#) and the best exemplar. According to Muslim belief, this practice is to be adhered to in fulfilling the divine injunctions, carrying out religious rites, and moulding life in accord with the will of God. Instituting these practices was, as the Quran states, a part of Muhammad's responsibility as a [Messenger of Allah](#).

Sunni

It is the [largest branch](#) of [Islam](#); its adherents are referred to in [Arabic](#) as *ahl as-sunnah wa l-jamāah* , "people of the tradition of [Muhammad](#) and the consensus of the [Ummah](#)" or *ahl as-sunnah* for short. In English, its theological study or doctrine is called *Sunnism*, while adherents are known as Sunni Muslims, Sunnis, and Sunnites. Sunni Islam is the world's second largest religious body and the largest religious denomination for any religion in the world. Sunni Islam is sometimes referred to as the [orthodox](#) version of the religion. The word "Sunni" is believed to come from the term [Sunnah](#), which refers to the sayings and actions of the [Islamic prophet](#) Muhammad (PBUH) as recorded in [hadiths](#).

Tehrik-e-Nifaz-e-Shariat-e-Muhammadi

Tehreek-e-Nafaz-e-Shariat-e-Mohammadi (TNSM, English: Movement for the Enforcement of Islamic Law) is a [Pakistani](#) group whose objective is to enforce [Sharia law](#) in the country. The group took over much of [Swat](#) in 2007. It was founded by [Sufi Muhammad](#) in 1992, and was banned by President [Pervez Musharraf](#) on January 12, 2002.

Tehreek-i-Taliban Pakistan

Tehreek-i-Taliban Pakistan alternatively referred to as the Pakistani Taliban, is an [umbrella organization](#) of various [Islamist](#) militant groups based in the northwestern [Federally Administered Tribal Areas](#) along the [Afghan border](#) in [Pakistan](#). Most, but not all, Pakistani Taliban groups coalesce under the TTP. In December 2007 about 13 groups united under the leadership of [Baitullah Mehsud](#) to form the Tehreek-i-Taliban Pakistan. Among the Tehreek-i-Taliban Pakistan's stated objectives are resistance against the Pakistani state, enforcement of their interpretation of [sharia](#) and a plan to unite against [NATO](#)-led forces in Afghanistan.

Vendetta

Vendetta is a long-running argument or fight it is one of the most important norms of the tribal Pashtoon society.

Pashtunwali

Pashtunwali is a non-written [ethical code](#) and [traditional lifestyle](#) which the [indigenous Pashtun people](#) follow. It could be said that it is simply a system of [law](#) and [governance](#) from the prehistoric times when humanity was completely illiterate or unable to use written instruments such as books, and is preserved and used up until modern times but mostly in the [rural](#) tribal areas.

Annexure I: Guiding Principles on Internal Displacement

Foreword to the Guiding Principles

by Under-Secretary-General for Humanitarian Affairs

Mr. Sergio Vieira de Mello

The humanitarian community is increasingly aware of the crisis of internal displacement which affects over 20 million people worldwide. While responsibility for the protection of IDPs rests first and foremost with national governments and local authorities, it is important for the international community to see how best it can contribute to enhancing the protection of IDPs in conflict and crisis situations. We must also design humanitarian assistance in such a way that it will promote the protection of IDPs.

Within the United Nations system, significant steps have been taken to enhance an effective and timely response to the needs of internally displaced persons (IDPs). The Inter-Agency Standing Committee (IASC) has entrusted me with the responsibility to act as Focal Point within the UN system for issues relating to the internally displaced. In discharging this mandate, I am committed to enhancing the capacity of the United Nations as a whole to respond to situations of

internal displacement as well as to promoting strong coordination and a clearer division of institutional responsibilities and adequate support to operational agencies.

In this context, I welcome the issuance by the Secretary-General's Special Representative on IDPs of the Guiding Principles on Internal Displacement. These Principles, which are based upon existing international humanitarian law and human rights instruments, are to serve as an international standard to guide governments as well as international humanitarian and development agencies in providing assistance and protection to IDPs.

The IASC fully supports the Guiding Principles and has encouraged its members to share them with their Executive Boards and with their staff, especially those in the field, in order to ensure that the Principles are applied in their activities on behalf of internally displaced persons.

I believe that the Guiding Principles can play a significant role in raising awareness of the needs of IDPs, mobilizing support within the humanitarian community and helping field colleagues to find solutions when confronted with the protection and assistance needs of the internally displaced. The Principles will also assist governments in providing for the security and well-being of their displaced populations.

I hope that each of you will work to ensure the widest possible dissemination and application of the Guiding Principles, in order to achieve the much needed improvement in the status and treatment of internally displaced persons.

Introductory Note
by the Representative of the Secretary-General
on Internally Displaced Persons
Mr. Francis M. Deng

The international community is confronted with the monumental task of ensuring protection for persons forcibly uprooted from their homes by violent conflicts, gross violations of human rights and other traumatic events, but who remain within the borders of their own countries. Nearly always they suffer from severe deprivation, hardship and discrimination. It is to meet this challenge that the Guiding Principles on Internal Displacement were developed.

The Principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement, and set forth guarantees for safe return, resettlement and reintegration. Although they do not constitute a binding instrument, these Principles reflect and are consistent with international human rights and humanitarian law and analogous refugee law.

The Principles were developed over several years pursuant to the mandate given to me in 1992 by the Commission on Human Rights and reinforced by subsequent resolutions of both the Commission and the General Assembly. Initially I was asked to study the causes and consequences of internal displacement, the status of the internally displaced in international law,

the extent to which their needs are being addressed under current institutional arrangements, and ways to improve protection and assistance for them.

Accordingly, developing needed legal and institutional frameworks for the internally displaced and undertaking country missions to engage Governments and others in a dialogue on their behalf have been the main activities of my mandate. In collaboration with a team of international legal experts, I examined the extent to which internally displaced persons receive adequate coverage under international law and produced a "Compilation and Analysis of Legal Norms" (E/CN.4/1996/52/Add.2). The study found that while existing law provides substantial coverage for the internally displaced, there are significant areas in which it fails to provide an adequate basis for their protection and assistance. Subsequently, the Commission and the General Assembly requested me to prepare an appropriate normative framework for the internally displaced. This led to the drafting of the Guiding Principles which both restate existing norms and seek to clarify grey areas and fill in the gaps.

After I presented the Guiding Principles to the Commission in 1998, the Commission adopted a resolution taking note of the Guiding Principles and of my stated intention as the Representative of the Secretary-General to use them in my ongoing dialogue with Governments and all those whose mandates and activities relate to the needs of the internally displaced. The Commission also took note of the decision of the Inter-Agency Standing Committee, which had welcomed the Principles and encouraged its members to share them with their Executive Boards and staff, especially in the field, and to apply them in their activities on behalf of the internally displaced.

The Guiding Principles should provide valuable practical guidance to Governments, other competent authorities, intergovernmental organizations and NGOs in their work with internally

displaced persons. It is my hope that they will be widely circulated and given practical application in the field.

Guiding Principles on Internal Displacement

Introduction - Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:

(a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;

(b) States when faced with the phenomenon of internal displacement;

(c) All other authorities, groups and persons in their relations with internally displaced persons; and

(d) Intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I. General Principles

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted

to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II. Principles Relating to Protection From Displacement

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:

(a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;

(b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;

(c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;

(d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and

(e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

(a) A specific decision shall be taken by a State authority empowered by law to order such measures;

(b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;

(c) The free and informed consent of those to be displaced shall be sought;

(d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;

(e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and

(f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III. Principles Relating to Protection During Displacement

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

(a) Genocide;

(b) Murder;

(c) Summary or arbitrary executions; and

(d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

(a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;

(b) Starvation as a method of combat;

(c) Their use to shield military objectives from attack or to shield, favour or impede military operations;

(d) Attacks against their camps or settlements; and

(e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

(a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;

(b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and

(c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.

2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.

3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.

4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and

- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavor to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.
3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.
4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.

2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

(a) Essential food and potable water;

(b) Basic shelter and housing;

(c) Appropriate clothing; and

(d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
 - (a) Pillage;
 - (b) Direct or indiscriminate attacks or other acts of violence;
 - (c) Being used to shield military operations or objectives;
 - (d) Being made the object of reprisal; and
 - (e) Being destroyed or appropriated as a form of collective punishment.
3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;
- (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
- (e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV. Principles Relating to Humanitarian Assistance

Principle 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.

2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

Section V. Principles Relating to Return, Resettlement and Reintegration

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Annex II: The Universal Declaration of Human Rights

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

- All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

- Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

- Everyone has the right to life, liberty and security of person.

Article 4.

- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

- Everyone has the right to recognition everywhere as a person before the law.

Article 7.

- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

- No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

- Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Article 18.

- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

- Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

- Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Annexure III: THE FRONTIER CRIMES REGULATION. 1901

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REGULATION NO. III OF 1901

THE 'FRONTIER CRIMES REGULATION, 1901

A Regulation further to provide for the suppression of crime in certain frontier districts

Whereas it is expedient further to provide for the suppression of crime in certain frontier districts;

It is hereby enacted as follows: - .

CHAPTER I

PRELIMINARY

1. **Short title, commencement and extent.** (1) This Regulation may be called the Frontier Crimes Regulation, 1901.; and

(2) It shall come into force at once.

1 [(3) It shall extend to the areas specified in the Third Schedule, but, the Governor may, by notification 2 in the official Gazette, exempt any such area from the operation of . all or any of its provisions.]

(4) Sections 1 to 5, 10, 20, 21, 26 to 28, 31, 32, 36, 37, 56 and 60 to. 64 are of" general application, but· the remaining sections may be enforced, in whole or in- part, as the case may be, only .against Pathans and Biluchis, and against such other classes as the 3 [Provincial Government] 4, may, by notification in the 5[official Gazette],. declare to be subject thereto.6

(5) A notification under Sub-section (4) may declare a specified class only to .be subject to" all or any of the provisions of this Regulation in a· district or part of a district?6

1. Substituted by West· Pakistan Ordinance XLIII of 1963, S.2, for Sub-sections (3) and (4) which were earlier substituted by Central Ordinance VIII of 1962 for the original Sub-section

(3). The F.C.R. had been admended by the Amended Act XIII of 1954 only by N.W.F.P.

Government and w.e. from 21st Dec: 1954, in the six districts of N.W.F.P. The said Amendment

was in force only which was repealed in 1963 alongwith the entire F.C.R. vide Section 34 of the Criminal Law (Amendment) Act (VII of 1963).

2. Exempted vide Government of West Pakistan, Home Department Notification No. Judl.-I-1(72)/ 64(1), dated 17th December, 1964, Gazette of West Pakistan, Extraordinary, 17th December, 1964 (the entire areas of the Third schedule). And the areas of the . Malakand Division (Provincially Administered Tribal Areas) exempted through Frontier Crime Regulation. (~epeat) Regulation NO .. 1 of 1973 with effect from 1;9:1973 vide Gazette of Pakistan, Extraordinary Part I of 31st Jan: 1973.

3. Substituted for "Local Government" by the A.D., 1937.

4. The words 'with the previous sanction of the Governor-General in council' omitted, *ibid*.

5. Substituted *ibid*, for "local official Gazette".

6. For persons ordinarily resident in any area to which this Regulation does or does not apply. See Schedule B to Government of West Pakistan, Home Deptt: Notifications No. Judl.-I(5)/62, dated 19th April, 1962' (W.P) and .No. Judl.-I(5) dated 7th May, 1962 for Amendment in Schedule B to Notification No. Judl.-I(5)62, dated 19th April, 1962 which runs:-

"(4) All persons ordinarily resident in any .area to which the said Regulation III does not apply, who commit any offence in any area to which the said Regulation applies".

Explanation. The word "class", as used in Sub-section (4) and (5)

includes any persons who may be collectively described in a notification under this section as persons subject to all or any of the provisions of this Regulation. .

2. Definitions. -- In this Regulation unless there is anything repugnant in the subject or context, -

7 [(a) "Council of Elders" means -

(i) in relation to Quetta and Kalat Division's and District Lasbella., a Council of three or more persons convened according to the Pathan, Biluch or other usage, as the Deputy Commissioner may in each case direct; and

(ii) in relation to other areas, a Council of three or more persons whether officials or otherwise convened by the Deputy Commissioner and presided over by a Magistrate invested with powers un1ler Section 30 of the Code of Criminal Procedure, 1898 (V of 1898);] . and

(b) "Deputy Commissioner" includes any Magistrate of the first class appointed by tl'le Deputy Commissioner by order in' writing to exercise all or any of the functions or powers specified in the first part of the first Schedule, and also any Magistrate 'appointed by the B [Provincial Government] to exercise all or any of such functions or powers;

9[(c) "Commissioner" or "Court of the Commissioner" means the Provincial Government or such officer or officers 'as the Provincial Government may appoint in this behalf.]

3. Relation of Regulation to other enactments. -- (1) The provisions of this Regulation shall take effect in case to which they apply, notwithstanding anything in any other enactment.

(2) The powers conferred by this Regulation may be exercised in addition to any powers conferred by or under any other enactment, and, where the contrary is not expressed or implied, other enactments in force in any place in which all or any of the provisions of this Regulation are for the time being in force shall, so far as may be, apply to cases dealt with in that place under this Regulation.

CHAPTER II

POWERS OF COURTS AND OFFICERS

4. **Additional District Magistrate.** -- (1) In any district in the whole or any part of which all or any of the provisions of this Regulation are for the time being in force, the Provincial Government may appoint any Magistrate or Magistrates of the first class to be an Additional District Magistrate or Additional District Magistrates, without any limit of time.

(2) Every Additional District Magistrate so appointed shall have all the ordinary powers of a District Magistrate specified in the fifth part of the third schedule to the Code of Criminal Procedure, 1898.

7. Substituted for clause (a) by W.P. Ordinance XII of 1962.

8. Substituted for "Local Government" by the A.O 1937.

9. Added by W.P. Ordinance XII of 1962, S.2.

10. Substituted for "Local Government" by the A.O., 1937.

(3) When exercising any of the powers of a Deputy Commissioner under this Regulation, an Additional District Magistrate shall be deemed, for the purposes of this Regulation to be the Deputy Commissioner.

(4) Every Additional District Magistrate shall exercise his powers in subordination to the District Magistrate, and in such cases or classes of cases, and within such local limits as the District Magistrate may, by order in writing, direct.

5. Power of District Magistrate to withdraw or recall cases. -- (1) The District Magistrate may withdraw any case from, or recall any case which he has made over to, an Additional District Magistrate, whether the Additional District Magistrate is exercising jurisdiction with respect to the case as

a Magistrate or as a Deputy Commissioner:

(2) If the case may, under the Code of Criminal Procedure, 1898, be referred to another Magistrate competent to inquire into or try it, the District Magistrate may, instead of disposing of the case himself, refer it to such other Magistrate for inquiry or trial, as the case may be.

6. Power to pass sentences of whipping in certain cases. -- Where any person against whom, under Section 1, Sub-section (4), this section may for the time being be enforced in convicted by a Criminal Court of an offence punishable under any of the following sections of the Indian Penal Code, namely, Sections 304, 307, 324, 325, 326, 376, 377, 382, 392 to 399, 427, 428, 429, 435, 436 and 448 to 460, the Court may, subject to the provisions of Section 393 of the Code of Criminal Procedure, 1898, pass upon him a sentence of whipping in addition to any other punishment to which he may be sentenced.

127. **Tender of pardon to accomplices.** Section 337 of the Code of Criminal Procedure, 1898, shall for the purposes of this Regulation, be construed as u -

(a.) the words in Sub-section (1) "triable exclusively by the High Court or Court of Session or any offence punishable with imprisonment which may extend to ten years or any offence punishable under Section 211 of the 13 Indian Penal Code with imprisonment which may extend to seven years or any offence under any of the following sections of the Indian Penal Code, namely, Sections 216-A, 369, 401, 435 and 477-A", and

(b) the whole of Sub-section (2-A) were omitted.

CHAPTER III

COUNCILS OF ELDERS.

8. Civil reference to Council to Elders. -- (1) Where the Deputy Commissioner is satisfied, from a police report or other information, that a dispute exists which is likely to cause a blood-feud or murder, or culpable homicide not amounting to murder, or mischief or a breach of the peace, or in which either or any of the parties belongs to a frontier tribe he may, if he considers that the settlement thereof in the manner provided by this section will tend to prevent or terminate the consequences anticipated, and if a suit is not pending in respect of the dispute, make an order in writing; stating the grounds of his being so satisfied,

11. Now the Pakistan Penal Code, 1860.
12. Substituted by Regulation VII of 1926, S.2.
13. Now the Pakistan Penal Code.

Referring the dispute to a Council of Elders, and requiring the Council) come to a finding on the matters in dispute after making such inquiry s may be necessary and after hearing the parties. The members of he Council of Elders shall in each case, be nominated and appointed by the Deputy Commissioner.

(2) The order of reference made under Sub-section (1) shall state he matter or matters on which the finding of the Council of Elders s required.

(3) On receipt of the finding of the Council of Elders under this section, the Deputy Commissioner may -

(a) remand the case to the Council for a further finding; or (b) refer the case to a second Council;
or

(c) refer the parties to the Civil Court; or

(d) pass a decree in accordance with the finding of the Council, or of not less than three-fourth of the members thereof, on any matter stated in the reference; or

(e) declare that further proceedings under this section are not required.

NOTE

Decree not passed by the Deputy Commissioner in accordance with finding of Council of Elders, Held, direction (of Deputy Commissioner.) to file suit in Court of competent jurisdiction to be without any lawful.¹⁴ authority where the F, C, R, was repealed after the decision by Deputy Commissioner and the Commissioner, the case was remanded to the Court of Qazi, Bori-Sanjavi at Loralai, through Deputy Commissioner, Loralai for adjudication according to the Regulation of 1976,¹⁵

9. Effect of decree on finding of Council. -- A decree passed under Section 8, Sub-section (3), clause (d), shall not give effect to any finding or part of a finding which, in the opinion of the Deputy Commissioner is .contrary to good conscience or public policy, but shall -

(a) be a final settlement of the case so far as the decree relates to any matter stated in the reference, although other matters therein stated may remain undisposed of; and

(b) have, to that extent and subject to the provisions of this Regulation with respect to revision, the same effect as a decree of a Civil Court of ultimate resort, and be enforced by the Deputy Commissioner in the same manner as a decree of such a Court may be enforced.

10. Restriction on jurisdiction of Civil Courts. -- No Civil Court shall take cognizance 'of any claim with respect to which the Deputy Commissioner has proceeded under Section 8, Sub-section (3), clause (a), clause (b) or clause (d).

11. Criminal references to Council of Elders. -- (1) Where, in the opinion of the Commissioner or Deputy Commissioner, it is inexpedient that the question of the guilt or innocence of any person or persons accused of any offence, or of any several persons so accused, should be tried by a Court of any of the classes mentioned in Section 6 of the Code of Criminal Procedure, 1898, the Deputy Commissioner may or if the Commissioner so directs, shall, by order in writing, refer the question to the decision of a Council of Elders, and require the Council to come to a finding on the question after such inquiry as may be necessary

14 & 15.P.L.J. 19B7/0uetta 223.

and after hearing the accused person. The members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner.

(2) Where ~ reference to a Council of Elders is made under Sub-section (1) and the members of the Council have been nominated, the names of the members so nominated shall, as soon as may be, be communicated to the accused person, and any objection which he may then make to the nomination of any such member shall be recorded. The Deputy Commissioner shall consider every objection made by an accused person under this sub-section, and may, in his discretion, either accept or reject the objection, provided that, in the latter case, he shall record his reasons for so doing.' The Deputy Commissioner shall, after disposing of any objection made by the accused person, appoint the members of the Council.

(3) On receipt of the finding of the Council of Elders under this

section, the Deputy Commissioner may -

- (a) remand the question to the Council for a further finding; or
- (b) refer the question to a second Council; or
- (c) acquit or discharge the accused person or persons, or any of them; or
- (d) in accordance with the finding on any matter of fact of the Council, or of not less than three-fourths of the members thereof, convict the accused person or persons, or any of them, of any offence of which the facts so found show him or them to be guilty

Provided that a 'person discharged under clause (c) shall not be liable to be retried for any offence arising out of the same facts after the expiry of two years from the date of such discharge.

NOTE

Issuance of process by A. P. O. / A. D. C. Waziristan Agency (Tribal Area).

Jurisdiction of the High Court not extended to the Tribal Areas (FATA) constituting Waziristan Agency. However the provisions of Section 86-A of the Criminal Procedure Code, 1898, shall have to be complied with, after the execution of the warrants and before the removal of petitioner (accused) to the Tribal areas for his production before the Court.¹⁶

12. Punishment on conviction on finding of Council. -- (1) Where the Deputy Commissioner convicts a person under Section 11, Sub-section (3), clause. (d) he may pass upon him any sentence of fine.

(2), Where the Deputy Commissioner so convicts a person of an offence mentioned in the second schedule, he may, whatever may be the punishment prescribed for the offence., sentence the person. in lieu 'of or in addition to' fine, to be imprisoned for a term which may extend to seven years, or, subject to the provisions. of Section 393 of the Code of Criminal Procedure, 1898, to be whipped or to be whipped and imprisoned for a term which may extend to five years, or to be transported for' a' term which may extend to seven years, and, where he so convicts a person of an offence punishable with transportation or with imprisonment for a term exceeding seven years, he may, subject to. confirmation by the Commissioner, sentence the person to a term either of transportation or of imprisonment exceeding seven' years but not exceeding fourteen years:

16. P.L.O 1987/Lahore 323.

Provided first, that a sentence of whipping shall not be passed on any person so convicted of an offence under Sections 121, 12F,A" 122, 123, 124-A, 125, 126, 127, 144, 150, 216, 216-A, 400, 401, 402;' 494, or 495 of the Indian Penal Code:

Provided, secondly, that a sentence of transportation or imprisonment for an offence shall not be for a longer term than that (if any) prescribed for the offence: and

Provided, thirdly, that a sentence of transportation shall not be passed for an offence which is not punishable with transportation or with imprisonment for a term which may extend to seven years or more.'

17[(3) In cases of convictions under Section 302 or 396 of the Pakistan Penal Code, the immovable property of the accused shall be liable to forfeiture to the Government].

13. Manner of enforcing sentences. -- (1) Any sentence passed under

Section 12 shall be executed in the manner provided for the execution of sentences passed by a Court of any of the classes mentioned in. Section 6 of the Code of Criminal Procedure, 1898.

(2) For the purposes of Sections 64 to 67 of the 18 Indian Penal Code in reference to a sentence under Section 12 of this, Regulation '-

(a) an offence punishable with death or transportation for life shall be deemed to be punishable with rigorous imprisonment for a term which may extend to ten years;

(b) the imprisonment in default of payment of fine may be rigorous or simple at the discretion of the Deputy Commissioner.

14. Time for exercising power of reference to Council of Elders.

The powers conferred by Section 11 on the Commissioner and Deputy Commissioner, respectively, may be exercised by them, in cases committed to the Court of Session, at any time before the trial before that Court has commenced, and, in cases pending before any Court inferior to the Court of Session, at any time before an order of conviction or acquittal has been made.

15. Motion by Public Prosecutor in view to reference to Council of Elders. -- (1) In any trial before a Court of Session, the Public Prosecutor may, when instructed in writing in that behalf by the Commissioner or Deputy Commissioner, at any time before an order of conviction of

acquittal has been made with respect to any accused person, withdraw from the prosecution of such person in order that the case may be referred to a Council of Elders.

(2) The Sessions Judge shall thereupon stay proceedings with respect to such person, and the Deputy Commissioner shall refer the case to a Council of Elders,

16. Case of persons jointly accused of an offence. -- The powers conferred by Section 11, as limited by Section 14, may be exercised against and the withdrawal of a prosecution under Section 15 may have reference to one or some only of two or more persons jointly accused of an offence.

17. Powers to set aside orders making or refusing to make references to Council of Elders.
The Deputy Commissioner may, if he thinks fit, at any time reconsider and set aside any order of the Deputy Commissioner under this Regulation -

17. Added by W.P. Ordinance XII of 1952, 5.3.

18. Now the Pakistan Penal Code

(a) directing reference' to a Council of Elders, or

(b) refusing to make such a reference.

18. Recommendation of Council of Elders. -- (1) Where a Council of Elders to which a reference has been made under this Regulation, makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under this Regulation, the Deputy Commissioner may, if the recommendation affects a person mentioned in the order of reference and is relevant to the matter or question actually referred, deal with the recommendation or any part of it as if it were a finding under Section 8 or Section 11:

Provided that no decree or sentence may be passed on any ,such recommendation as aforesaid against any person who has not had the claim or charge fully explained to him and been given an opportunity of entering upon his defence in regard thereto. .

(2) Where the Deputy Commissioner deals with a recommendation under Sub-section (1), he may pass any such decree as is authorised by Section 8, or any such sentence as is authorised by Section 12, Sub-section (1), and the decree or sentence shall have the same effect and be enforced in the same manner 'as if it were a decree or-sentence passed under Section 8 or Section 12, Sub-section (1), as the case may be.

19. Record of Deputy Commissioner. -- (1) Where the Deputy Commissioner passes, under this Chapter a sentence of fine exceeding two hundred rupees, or of imprisonment for a term exceeding three months, or of transportation, he shall make a record of the facts of the case of the offence committed and of his reasons for passing the sentence.

(2) The record shall be made by the Deputy Commissioner in English and in his own hand, unless for any sufficient reasons he is prevented from so making it, in which case he shall record the reason of his inability and shall cause the record to be made from his dictation in open Court.

20. Attendance of parties and witnesses before Deputy Commissioner Council of Elders. -- Where a reference is made to a Council of Elders under this Chapter, the Deputy Commissioner may exercise all or any of the powers conferred by the Code of Civil Procedure and the Code of Criminal Procedure, 1898 , respectively, as the case may be, for the purpose of compelling the attendance, before himself or the Council of Elders, of the parties, and witnesses, or any of them, in any case and at any stage of the proceedings.

CHAPTER IV

PENALTIES

21. Blockade of hostile or unfriendly tribe. -- In the event of any frontier tribe, or of any section or members of such tribe, acting in a hostile or unfriendly manner towards the British Government or towards persons residing within British India, the Deputy Commissioner 'may, with the previous sanction of the Commissioner, by order in writing, direct - .

(a) the seizure, wherever they may be found, of all or any of the members of such tribe and of all or any property belonging to them or any of them;

19. See now the Code of Civil Procedure, 1908 (V of 1908).

20. Now to be construed as referring to all Provinces of Pakistan, see G.G.O. 20 of 1947.

(b) the detention in safe custody of any person or property so seized and;

(c) the confiscation of any such property; and may, with the like sanction by public proclamation;

(d) debar all or any member of the tribe from all access into 20British India; and

(e) prohibit all or any persons within the limits of 20 British India from all inter-course or communication of any kind whatsoever, or of any specified kind or kinds with such tribe or any section or members thereof.

22. Fines on communities accessory to crime. -- Where, from the circumstances of any case, there appears to be good reason to believe that the inhabitants of any village, or part of a village, or any of them, have -

(a) connived at, or in any way abetted, the commission of a; offence; or

(b) failed to render all assistance in their power to discover the offenders or to effect their arrest;

(c) connived at the escape of, or harboured, any offender or person suspected of having taken part in the commission of an offence; or

(d) combined to suppress material evidence of the Commission of an offence;

the Deputy Commissioner may, with the previous sanction of the Commissioner, impose a fine on the inhabitants of such village or part of a village, or any of them as a whole.

23. Fines on communities where murder or culpable homicide is committed or attempted. -

- Where, within the area occupied by a village community or part of a village-community, a person is dangerously or fatally wounded by an unlawful act, or the body is found of a person believed to have been unlawfully killed, the members of the village community or part thereof shall be deemed to have committed an offence under Section 22, unless the headmen of the village-community or part thereof can show

that the members thereof -

(a) had not an opportunity of preventing the offence or arresting the offender; or

(b) have used all reasonable means to bring the offender to justice.

24. Recovery of fines. -- Fines imposed under Section 22 shall, in default of payment, be recoverable as if they were arrears of land revenue due by the members of the community or part thereof upon whom the fine is imposed. .

25. Forfeiture of remissions of revenue etc. in the case of communities and persons accessory to crime. -- Where a village-community or part of a village-community has become liable to fine

under Section 22, it shall further be liable to forfeit, in whole or in part and for a term or in perpetuity, any remission of land revenue of which it may be in joint enjoyment, and the members of the village-community or part thereof, as the case may be, shall in like manner be liable severally to forfeit any assignment or remission of land-revenue or allowance paid out of public funds which they, or any of them, may enjoy.

20. Now to be construed as referring to all Provinces of Pakistan, see G.G.O. 20 of 1947.

26. Forfeiture of public emoluments etc. of persons guilty of serious offences or of conniving at crime. -- Where it is shown to the satisfaction of the Deputy Commissioner, that any person who is in the enjoyment of an assignment or remission of land-revenue or allowance payable out of public funds, has been guilty of a serious offence, or has colluded with or harboured any criminal, or has suppressed material evidence of the commission of any offence, or has failed, on the investigation of any criminal case, "to render loyal and proper assistance to the authorities, to the best of his ability, the Deputy Commissioner may, in addition to any other penalty to which such person may be liable under any law for the time being in force, direct the forfeiture, in whole or in part and for a term or in perpetuity, of such assignment or remission of land-revenue or allowance, as the case may be"

Explanation. -- For the purposes of this section the expression "serious offence" means any offence punishable with transportation or with imprisonment for a term which may extend to three years or more. '

27. Powers to direct forfeiture. -- Forfeiture under section 25 or Section 26 may be adjudged by order of the Deputy Commissioner for a term which may extend to three years, and by order of the Commissioner for any longer term or in perpetuity.

28. Powers of Provincial, Government saved. -- Nothing in Sections 25, 26 and 27 shall affect the powers of the 21 [Provincial Government] with respect to the grant, continuance or forfeiture, in whole or in part, of any assignment or remission of land-revenue or of any allowance paid out of public funds.

29. Preparation to commit certain offences. -- Where a person is found carrying arms in such manner 'or in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, or is found after sunset and before sunrise within the limits of any military camp or cantonment or of any municipality, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both, and the arms carried by him may be confiscated.

30. Adultery. -- (1) A married woman ,who, knowingly and by her own consent, has sexual intercourse with" any man who is not her husband, is guilty of the offence of adultery, and shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

22[(2) Cognizance shall not be taken of an offence under this section unless a complaint has been made by the husband of the women, or, in his absence, by a person who had care of the women on his behalf at the time when the offence was committed.]

CHAPTER V

PREVENTIVE AND OTHER AUTHORITY

AND JURISDICTION

31. Power to prohibit erection new villages or towers on frontier. -(I) No new hamlet, village-habitation, tower or walled enclosure shall, without the previous sanction in writing of the, Commissioner, who may

21. Substituted for "Local Government" by the A.O., 1937.

22. Sub-section (2) omitted in its application to the Districts of Peshawar, Kohat, Hazara, Bannu, Mardan and Dera Ismail Khan, by the West Pakistan Ordinance XII of 1962.

either grant or refuse such sanction as he thinks fit, be erected at any place within five miles of the frontier of²³ British India.

(2) Where the Commissioner refuses to sanction the erection of any such hamlet, village-habitation, tower or walled enclosure, as the case may be, he shall record, his reasons for so doing.

32. Power to direct removal of villages. -- Where it is expedient on military grounds, the ²⁴ [Central Government] may, 'by order in writing, direct the removal of any village situated in close proximity to the frontier of ²³ British India to any other site within five miles of the regional site, and award to the inhabitants such compensation for any loss which may have been occasioned to them by the' removal, of their village as, in the opinion of the²⁴ [Central Government]" is just.

33. Regulation of hujras and chauks. (1) No building of the kind commonly known as "hujra" or "chauk", and no building intended to be used as a "hujra" or "chauk", shall be erected or built, and no existing building not now used as a "hujra" or "chauk" shall at any time be used, as such, without the previous sanction in writing of the Deputy Commissioner. ,:

(2) Whoever contravenes the provisions of sub-section(1) ,shall be punishable with imprisonment for 'a term which 11111Y extend to six months or with fine, or with both.

34. Demolition of buildings used by robber etc.. (1) Where the Deputy Commissioner is satisfied that any building is habitually used as a meeting place by robbers, house-breakers, thieves or bad characters or ,for the purpose of gambling" he may, by order in' writing, ' prohibit the owner or occupier thereof from so using such building ,and, if the order is ,not obeyed, may, by a like order, direct that the building be demolished. Such further order shall be without prejudice to any punishment to, which the owner or occupier of such building may, under any law for the time being in force, be liable for disobedience of the prohibitory order.

(2) No. person shall be entitled to any compensation In respect of the demolition of any building under Sub-section (1).

35. Naubati Chaukidari system. -- (1) Where, in the opinion of the Deputy Commissioner, the custom of providing for watch and ward by what are commonly ,known as "Naubati, chaukidars" exists in the, case of any village-community," and the village-community, or any part thereof fails to provide for the due performance of such service, or any member of the village-community fails to perform his duty of watch and ward according to the customary rotation in respect of such duties, ,the Deputy Commissioner may impose a fine, which may extend to one

hundred rupees in any one case, upon the village community or part or member thereof so failing as aforesaid.

(2) The provision of Section 24 shall be applicable to the, recovery of fines imposed on any village-community or part thereof under this section.

(3) Where such custom as' aforesaid has not existed or has fallen into misuse in any village-community, the Deputy Commissioner may, with the previous sanction of the Commissioner, by order writing, direct

23. Now to be construed as referring to all Provinces of Pakistan, see G.G.O. 2D of 1947.

24. Substituted for "Local Government" by the A.O., 1937.

its introduction or revival, as the case may be, and thereupon the provisions of Sub-section (1) shall apply in respect of the village-community.

36. Power to require persons to remove in certain cases. Where, in the opinion of the Deputy Commissioner, any person, -

(a) is a dangerous fanatic; or

(b) belongs to a frontier tribe and has no obtainable means of subsistence or cannot give a satisfactory account of himself; or

(c) has a blood-feud; or

(d) has occasioned cause of quarrel likely to lead to blood-shed;

the Deputy Commissioner may, by order in writing, require him to reside beyond the limits of the territories to which this Regulation extends, or at such place within the said territories as may be specified in the order:

Provided that, if the person has a fixed habitation in the place which the Deputy "Commissioner requires him to leave, an order under this section shall not be made without the previous sanction of the Commissioner.

37. Penalty for breach of certain orders. -- Whoever contravenes the provisions of Section 31, or disobeys an order under Section 21 or Section 32, or a prohibition under Section 34, or a requisition under Section 36, shall be punishable with imprisonment for a term which may extend to six months, and shall also or liable to fine which may extend to one thousand rupees.

38 .Powers of arrest. -- In any place in which all or any of the provisions of this Regulation are for the time being in force -

(i) any private person may ~ without an order from a Magistrate and without a warrant, arrest or cause to . be arrested, and make over or cause , be made over to a police officer or take or cause to be 'taken to the nearest police station, any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of , his having been so concerned; and

(ii) Section 48 of the Code of Criminal Procedure, 1898, shall be read as if the following sub-section were added thereto namely:-

"(4) But this section gives a right to cause the death of a person against whom those portions of the Frontier Crimes Regulation, 1901 which are not' of general application, may be enforced -

(a) if he is committing or attempting to commit an offence, or resisting or evading arrest, in such circumstance as to afford reasonable ground for believing that he intends to use arms to effect his purpose; and

(b) if a hue and cry has been raised against him of his having been concerned in any such offence as is specified in clause (a) or of his committing or attempting to commit an offence, or resisting or evading arrest, in such circumstances as are referred to in the said clause".

39. Arrest without warrant in cases under Section 498, 251 Indian Penal .Code. -- (1) Where there is reason to believe that a person has committed or attempted to commit an offence punishable under Section 498 of the 251 Indian Penal Code, an officer in charge of a police station may, without,

25. Now the Pakistan Penal Code.

an order from a Magistrate and without a warrant, arrest that person on the requisition of the husband of the woman, or, in his absence of a person having the care of her on his behalf, or, in the absence of both the husband and any such person as last aforesaid from the village in which the woman resides, on the requisition of a headman of the village.

(2) A police officer making an arrest under Sub-section (1) shall, without unnecessary delay, take or send the person arrested to the nearest Magistrate having jurisdiction.

(3) The Magistrate may, in default of bail being furnished to his satisfaction, detain the person arrested for such period, not exceeding fifteen days, as may be necessary to enable the husband, or, in his absence, a person who had care of the woman on his behalf, to make a complaint.

40. Security and surveillance for the prevention of murder or culpable homicide or the dissemination of sedition. -- (1) Where the Commissioner or the Deputy Commissioner is of opinion that it is necessary for the purpose of preventing murder, or culpable homicide not amounting to murder, or the dissemination of sedition, to require a person to execute a bond, for good behaviour or for keeping the peace, as the case may be, he may order the person to execute a bond with or without sureties, for his good behaviour or for keeping the peace, as the case may be, during such period not exceeding three years, as the Commissioner or the Deputy Commissioner, as the case may be, may fix.

(2) The Deputy Commissioner may make an order under Sub-section (1)

(a) on the recommendation of a Council of Elders, or

(b) after inquiry as hereinafter provided.

26[(2-A) Pending the completion of an enquiry for the purposes of Sub-section (2), the Deputy Commissioner may, if he considers that immediate measures are necessary for preventing any offence referred to in Sub-section (1) direct the person in respect of whom the enquiry is to be held, to execute a bond, with or without sureties, for keeping the peace or maintaining good behaviour for a period not exceeding one month, and detain him in custody till such bond is executed].

(3) Where a person has been convicted in accordance with the finding of a Council of Elders of an offence mentioned in Section 106 of the Code of Criminal Procedure, 1898, or punishable under Section 302, Section 304, Section 307 or Section 308 of the 27Indian Penal Code, the Deputy Commissioner at the time of passing sentence, or the Commissioner at the time of revising the sentence, may make an order under Sub-section (1) with respect to that person.

(4) Where the Deputy Commissioner makes an order under Sub-section (1) on the recommendation of a Council of Elders, he shall record his reasons for acting on the recommendation.

(5) Where the Commissioner or the Deputy Commissioner is of opinion that sufficient grounds exist for making an order under Sub-section (1), he may, either in lieu of or in addition to such order, by order in writing, direct that the person concerned shall notify his residence and any change of residence in the manner prescribed by Section 565 of the Code of Criminal Procedure, 1898, during such term, not exceeding three years, as may be specified in the order.

26. Sub-section (2-A) of Section 40 ins. by W.P. Ord: XXXVI of 1963, S.2, shall apply to Quetta and Kalat Divisions only.

27. Now the Pakistan Penal Code

NOTE

Matter not adjudicated upon by the Deputy Commissioner in accordance with Section 8(3)(d) of Frontier Crimes Regulation. Commissioner too failing to exercise authority vested in him under law in not deciding Revision Petition according to law. Orders passed by the Deputy Commissioner and Commissioner set aside through Constitutional Petition .28

41. Security from families or factions in case of blood-feud. -- Where a blood-feud or other cause of quarrel likely to lead to blood-shed exists, or, in the opinion of the Deputy Commissioner, is likely to arise between two families or factions, the Deputy Commissioner may, on the recommendation of a Council of Elders, or, after inquiry as hereinafter provided, order all or any of the members of both families or factions or of either family or faction to execute a bond, with or without sureties, for their good behaviour or for keeping- the peace, as the case may be, during such period, not exceeding three years as he may fix.

42. Procedure in inquiry. -- (1) An inquiry for the purposes of Section 40 Sub-section (2), or Section 41, may be conducted, so far as may be necessary out of Court:

Provided that a person from whom it is proposed to require a bond under Section 40, or the principal members of a family or faction from which it is proposed to require a bond, under Section 41, shall be given an opportunity of showing cause in Court, why a bond should not be required and of having his or their witnesses examined there, and of cross-examining any witness not called by him-self or themselves who may testify there to the necessity or otherwise for the execution of a bond.

(2) Sections 112, 113, 115 and 117 of the Code of Criminal Procedure,

1898, shall not apply to an inquiry under this section, "but the Deputy Commissioner shall record his order with the reasons for making it.

43. Breach of bond. -- (1) A bond executed under section 40 shall be liable to be forfeited if the person bound thereby to be of good behaviour or to keep the peace; as the case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment,

(2) A bond, 'executed under Section 41 shall' be liable to be forfeited, if the person bound thereby .to be of good behaviour or to keep the peace, as {he case may be, commits or attempts to commit, or abets the commission of, any offence punishable with imprisonment in respect of any member of the opposite family or faction to which the bond related .

(3) If, 'while a bond executed under Section 41 is in force, the life of' any member of either family or faction is unlawfully taken or attempted, the Deputy Commissioner may declare the bond of all or any of the members of the other family or faction and their sureties (if an y) to be forfeited, unless it is show n to his satisfaction that the homicide or attempt was not committed by, or in consequence of the abetment of, any member of that family or faction.

44. Imprisonment in default of security. -- (1) Where a person ordered to give security under Section 40; or Section 41 does not give security

28. P.L.J. 1987/Quetta 223.

n or before the date on which the period for which the security is to be given commences; he shall be committed to prison, or, if he is already in prison, be detained in prison until that period expires, or until within that period he furnishes the required security.

(2) Imprisonment for failure to give security under this Chapter may be rigorous or simple as the offence requiring the security directs in each case.

45. Length of imprisonment. -- Where a person has suffered imprisonment for three years for failure to give security under Section 40 or Section 41, he shall be released and shall not again be

required to give security unless a fresh order is passed in accordance with the provisions of this Chapter or of the Code of Criminal Procedure, 1898.

46. Further security. -- (1) Where a person has, under the provisions of this Chapter, given security or been imprisoned for failure to give security, he may be brought before the Deputy Commissioner, if on the expiry of the period for which security was required to be given, the Deputy Commissioner so directs .

(2) Where the Deputy Commissioner thinks it necessary, for the purpose of preventing blood-shed, to require security for further period from any person so brought before him, he shall record proceeding to that effect.

(3) The proceeding may be founded on the facts on which the original order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section; but such an order, if passed shall have the same effect and be enforced in the same manner as an original order to give security under Section 40 or Section 41.

(4) Notwithstanding anything in this section, no person shall suffer, for failure to give security under this Chapter continuous imprisonment for more than six years, or, without the sanction of the Commissioner, for more than three years.

47. Modified applications of Chapters VIII and XLII, Act V of 1898. Where, within the territories in which all or any of the provisions of this Regulation are for the time being in force, it is found necessary or expedient to take security under this Regulation from Pathans or Biluchis or any other classes against whom all or any of the provisions of Section 40 to 46 may for the

time being be enforce, the provisions of Chapters VIII and XLII of the Code of Criminal Procedure, 1898, shall be read as if for the words "High Court", "Court of Session" and "Sessions Judge" wherever they occur, the word "Commissioner" were substituted, and all references to any such Courts shall be deemed to refer to the Court of the Commissioner.

(2) Subject to the provisions of Sub-section (2) of Section 42 and Sub-section (1) of this section, the provisions of the said Chapters of the Code of Criminal Procedure, 1898, shall, so far as they are consistent therewith, be applicable to every proceeding under this Chapter relating to the taking of security; but all applications for revision in respect to any such proceeding shall be made to, and be disposed of by, the Commissioner.

CHAPTER VI APPEAL AND REVISION

48. **Appeals barred.** -- No appeal shall lie from' any decision given, decree or sentence passed, order made, or act done, under any of the provisions of this Regulation.

49. **Revision.** -- The Commissioner may call for the record of any proceeding under this Regulation and revise any decision, decree, sentence or order given, passed or made therein.

50. **Powers in exercise of criminal revisional jurisdiction.** -- The Commissioner may, in the exercise of his revisional jurisdiction in any criminal proceeding, exercise the power to direct tender of pardon conferred by Section 338, and any of the powers conferred on an Appellate Court by Sections 195, 423, 426, 427 and 428 of the Code of Criminal Procedure, 1898, and may also enhance any sentence:

Provided that nothing in this Chapter shall be deemed to authorise the Commissioner to set aside the finding on any question of fact of a Council of Elders, where such finding has been accepted by the Deputy Commissioner, unless he is of opinion that there has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to occasion a miscarriage of justice.

51. **Sentences which may not be passed on revision.** -- No sentence shall be passed by the Commissioner in the exercise of his revisional jurisdiction which the Deputy Commissioner could not have passed under this Regulation.

52. **Powers in exercise of civil revisional jurisdiction.** -- Nothing in this Chapter shall be deemed to authorize the Commissioner to vary or set aside any decision, decree or order given, passed or made in any civil proceeding under the Regulation, unless he is of opinion that there

has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to occasion a miscarriage of justice or that the decision, decree or order is contrary to good conscience or public policy.

53. Record of reasons. -- Where, in the exercise of his revisional jurisdiction in any proceeding under this Regulation, the Commissioner varies or sets aside any decision, decree, sentence or order, he shall record his reasons for so doing.

29[**54. Procedure where the decision, etc.** to be revised was given by the officer invested with revisional jurisdiction as Deputy Commissioner. -- (1) No officer shall revise 'any decision, decree, sentence, or order given. passed or made by himself in the capacity of Deputy Commissioner.

(2) Where, any such 'decision, decree, sentence or order is brought to the notice of an officer invested with revisional jurisdiction under this Regulation with a view to the exercise by him of revisional powers, such officer shall report the case to the Provincial Government and it shall be disposed by of the Provincial Government or by an officer, other than the reporting officer, appointed by the Provincial Government.]

55. Enforcement of orders made on revision. -- Every order made by the Commissioner in exercise of his revisional jurisdiction shall be enforced as if it were an order of the Deputy Commissioner or District

29. substituted for the original section by W.P. Ord: XII of 1962, 5.5.

Magistrate, as the case may be, and the Deputy Commissioner or District Magistrate shall do all acts and things necessary to give effect thereto. .

CHAPTER VII

SUPPLEMENTAL PROVISIONS

56. Recovery of fines, etc., from relatives of person liable. -- Where, by a decree passed under Section 8 or by a sentence passed under Section 12, any person belonging to a frontier tribe becomes liable to pay a fine or other sum of money, the Deputy Commissioner may, on the recommendation of a Council of Elders and on satisfying himself, that such a course is in accordance with local tribal custom, by order in writing, direct that the amount shall be recovered from the property, movable or immovable, of such of the relatives of fellow tribesmen of the person so liable as may be specified in the order.

57. Power of Deputy Commissioners to order disposal of certain fines.

(1) The Deputy Commissioner may make such order as he thinks fit for the disposal of the proceeds of any fine imposed under Section 12, Section 18, or Section 2·2, and, subject to any order made by the Commissioner under Chapter VI, the proceeds shall be disposed of accordingly.

(2) Where, in pursuance of an order made under Sub-section (1), a person has received compensation for an injury out of the proceeds of a fine, so Civil Court shall take cognizance of a claim to compensation based on the same injury.

58. Maintenance of registers. -- Registers shall be kept up, in forms to be approved by the 30[Provincial Government], of all cases dealt with by the Deputy Commissioner and by the Commissioner under this Regulation.

59. Jurisdiction of ordinary Courts in cases under Sections 29. 30 and 37.-- A n offence punishable under Section 29 or Section 30 may be tried by a Court of Session or by the Court of a Magistrate of the first class. An offence punishable under Section 37 may be tried by any Magistrate of the first class.

60. Finality of proceedings under Regulation. Except as therein otherwise provided, no decision, decree, sentence or order given, passed or made, or. act done, under Chapter III, Chapter IV, Chapter V or Chapter VI, shall be called in question in, or set aside by, any Civil or Criminal Court.

61. Application of provisions of Indian Penal Code respecting fines and imprisonment. -- The provisions of Section 61, and those of Sections 63 to 74, of the 31Indian Penal Code, shall, subject to the provisions of Section 13 of this Regulation, apply to sentences passed under this. Regulation.

62. Power to make rules. -- The 32'[Provincial Government] may make 33 rules to carry out the purposes and objects of this Regulation.

30. Substituted for "Local Government" by the A.O., 1937.

31. Now the Pakistan Penal Code.

32. Substituted' for "Local Government" by the A.a., 1937.

33. For rules see -

(i) N.W.F .P. Gazette, dated the 11th December 1913, page 1134, and ibid, dated the 30th Apr; 1 1926, page 457; and

(11) Pb. Gazette, 1902, Pt. I, page 6035.

NOTE

The court-fee required under the rules framed by the Agent to the Governor-General and Chief Commissioner of Baluchistan through Order No. 1833-V dated the 5th June, 1936 on any document pertaining to criminal cases, or civil cases involving amount not exceeding Rs. 25,000 {are now no longer to be levied with court-fee from 1s\ August, 1978.

Gazette of Baluchistan, Extraordinary, 15th January, 19\9.

34[62-A. Power to make rules for the issue and safe custody of rifles and ammunition and for the imposition and recovery of fines. -- The 35Central Government] may make rules for the issue and safe custody' of rifles and ammunition for border village defence, and for the imposition and recovery of fines for any breach of such rules.

Fines imposed for a breach of the rules made under this section may be recovered in the manner laid down in Section 386 of the Code of Criminal Procedure, 1898].

63. -- No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Regulation.

64. Protection for persons acting under Regulation. -- [Repeal.] Repealed by the Repealing Act, 1938 (I of 1938), Section 2 and Schedule 1.

THE FIRST SCHEDULE

[See Section 2, clause (b)]

PART I -- POWERS AND FUNCTIONS WITH WHICH MAGISTRATES OF THE FIRST CLASS MAYBE INVEST.ED BY DEPUTY COMMISSIONERS

(a) In the case of an additional District Magistrate -, - all or any of the powers and functions of a Deputy Commissioner.

(b) In any other case -- all or any of the following powers, namely:-

(i) power to make, orders of reference to Councils of Elders under Section 8,

Sub-section (1);

(ii) power to nominate and appoint the members of the Council when an order of reference to a Council has been made under Section 8, Sub-section (1);

(iii) power to nominate the members of the Council when an order of reference to a Council has been made under Section 11, Sub-section (1);

(iv) power to consider and dispose of objection made by an accused person to members so nominated, and to appoint the member of a Council of Elders under Section 11, Sub-section (2);
and

power to take security under Section 40.

PART II -- POWERS AND FUNCTIONS WITH WHICH

MAGISTRA TE MA Y BE INVESTED BY THE

(8) Power to nominate and appoint the members of a Council of

Elders where an order of reference to a Council has been made under Section 8, Sub-section (1);

34. Inserted by Regulation V of 1928, S.2.

35. Substituted for "Local Government" by the 'A.O., 1937.

36. Substituted for "Local Government" by. the A.O., 1937.

Frontier Crimes Regulation (b) power to nominate the members of the Council when an order of reference to a' Council has been. made under section 11, Sub-section (1); and

(c) power to consider and dispose of objections made by an accused person to members so nominated, and to appoint the members of a Council of Elders under Section 11, Sub-section (2).

THE SECOND SCHEDULE

[See Section 12, Sub-section (2)]

1. Any offence punishable under any of the following sections of the 37Indian Penal Code, namely, Sections 121, 121 A, 122, 123, 124-A, 125, 126, 127, 131, 144, 148, 150, 193, 194, 195,-196, 201, 211, 212, 216, 216-A, 235-B38 302, 304, 307, 308, 324, 325, 326, 328, 354, 363

to 369, 376, 377, 379 to 382, 386, 387, 392 to 399, 400, 401, 402~ 411 to 414, 427 to 429, 435, 436, 440, 448 to 460, 439-B~9 .489-C;3 494, 495, 497 and 498.

2. Any offence' punishable under Section 29 or Section 30 of this Regulation.

3. Abetment of any of the offences aforesaid.

4. Attempt to commit any of the offences aforesaid which are not. themselves expressed to be attempts to commit offence.

40 [THE THIRD SCHEDULE41

[See Sub-section (2) of Section 1]

1. The Divisions of Quetta and Kalat

2. The District of Lasbela.

3. Nasirabad Sub-Division of Jacobabad District.

4. The Added Areas of the Hazara District, specified in the First

Schedule, to G.G.O. NO.1 of 1952.

5. The Added Areas of Mardan District, specified in Schedule 'A' to G.G.O. No. VII of 1953.

6. The Added Areas of Hazara District, specified in the First Schedule to G.G.O. No. XIII of 1955.

7. The former excluded Areas of Upper Tanawal and Baluch Areas of Dera Ghazi Khan, specified in the Schedule to President Order No. m of 1961.]

37. Now the Pakistan Penal Code.

38. Added by the Amended Regulation I of 1982. See Gazette, Extraordinary Part I 5.4.1982.

39. Added by the Amended Regulation II of 1983, 18th August, 1983 (Gazette).

40. Added by the West Pakistan Ordinance No. XLIII of 1963, 5.3.

41. The Regulation is withdrawn from the areas of the Third Schedule through West Pakistan Extraordinary Gazette Dated 14th November, 1964, vide Notification No. T.12/240-61-11 (W. P). This schedule has been added to the Regulation by the Amended Ordinance XLI I I of 1963, and the Third Schedule added by the Amended (W.P) Ordinance, 1962 XII, was substituted by this Ordinance XLIII of 1963.