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# TESTIMONY

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## U.S.-Pakistan Relations

### *Assassination, Instability, and the Future of U.S. Policy*

C. CHRISTINE FAIR

CT-297

January 2008

Testimony presented before the House Foreign Affairs Committee,  
Subcommittee on the Middle East and South Asia on January 16, 2008

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**C. Christine Fair<sup>1</sup>**  
**The RAND Corporation**

***U.S.-Pakistan Relations***  
***Assassination, Instability, and the Future of U.S. Policy<sup>2</sup>***

**Before the Foreign Affairs Committee**  
**Subcommittee on the Middle East and South Asia**  
**United States House of Representatives**

**January 16, 2008**

Thank you, Mr. Chairman, for inviting me to participate in today's hearing about Pakistan.<sup>3</sup> Pakistan is perhaps the most important U.S. partner in the war on terrorism. Not only has Pakistan lost more personnel in this conflict than any other ally, critical fuel for vehicles and aircraft used in the war effort in Afghanistan moves through Pakistan without problem. Without this logistical support, both Operation Enduring Freedom and NATO operations in Afghanistan would prove very difficult to sustain without interruption. While there is no doubt that Pakistan is a crucial ally of the United States, it is a state mired in instability and uncertainty. This raises questions about the will and capacity of Pakistan's leadership to remain engaged in the war on terrorism.

Both Washington and Islamabad have made decisions that have precipitated this current crisis. For Washington's part, by focusing upon President and former Chief of Army Staff Pervez Musharraf and by acquiescing to his various extra-constitutional moves, it has alienated further the Pakistani polity who harbor various suspicions about the United States and its intentions.<sup>4</sup> As is well known, the bulk of \$10 billion in U.S. monies to Pakistan since 9/11 has been comprised of coalition support funds and other forms of military assistance. Indeed, there is an implicit assumption that President Musharraf and his purportedly secular army can help secure Pakistan's future as a moderate Islamic state as encapsulated in President Musharraf's much-

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<sup>1</sup> The opinions and conclusions expressed in this testimony are the author's alone and should not be interpreted as representing those of RAND or any of the sponsors of its research. This product is part of the RAND Corporation testimony series. RAND testimonies record testimony presented by RAND associates to federal, state, or local legislative committees; government-appointed commissions and panels; and private review and oversight bodies. The RAND Corporation is a nonprofit research organization providing objective analysis and effective solutions that address the challenges facing the public and private sectors around the world. RAND's publications do not necessarily reflect the opinions of its research clients and sponsors.

<sup>2</sup> This testimony is available for free download at <http://www.rand.org/pubs/testimonies/CT297/>.

<sup>3</sup> This testimony is based on my expertise on Pakistan and while I have recently rejoined RAND, most of this discussion today is derived from my research at the United States Institute of Peace. I would like to thank Husain Haqqani and Polly Nayak who provided feedback on earlier drafts of this statement.

<sup>4</sup> For survey results about Pakistani views of U.S. policies and intentions, see C. Christine Fair, Clay Ramsay and Steven Kull. "Pakistani Public Opinion on Democracy, Islamist Militancy, and Relations with the U.S." (Washington D.C.: PIPA, USIP, January 7, 2008).

lauded notion of Enlightened Moderation.<sup>5</sup> Relatively little of this assistance has been enjoyed by ordinary Pakistanis who increasingly doubt the U.S. commitment to Pakistan and Pakistanis and perilously few resources have been devoted to strengthening Pakistan's emaciated civilian institutions.<sup>6</sup>

For Islamabad's part, President Musharraf has increasingly sought to secure his political position and has imposed excessive constraints upon an ever-more mobilized civil society, who should be important partners in fighting extremism in Pakistan. At the same time, Musharraf has shown his incapacity to both control the Islamist violence that is roiling his country and to lead his country to fight it. Inept, ill-prepared and heavy-handed military operations in the tribal areas and adjacent Pashtun localities have spawned seething resentment towards the Pakistani state and animated a wider Islamist cum Pashtun militancy which has been exacerbated by infrequent but deadly U.S. unilateral military strikes. It is worth mentioning that the Pakistani armed forces undertook these operations under immense U.S. pressure. U.S. expectations about the timing of the operations and their potential outcome relied upon a number of erroneous assumptions about Pakistan's capabilities. This should occasion reflection about U.S. expectations and how well it understands the capacities of this important partner.

In recent years the chasm between American interests and those of President Musharraf has dramatically expanded. Specifically, the United States would like to see stability, consistent action against al Qaeda and Taliban forces operating in and from Pakistan, greater efforts to curb a wide array of Islamist militant groups in the country and most recently greater moves towards at the least the procedures of democracy if not the substance. It has become clear in recent years that President Musharraf, while he may share some of these concerns, has increasingly become focused upon securing his personal future—not that of Pakistan. This has compelled him to pursue policies of appeasement towards Islamists and militants alike while marginally satisfying the United States with respect to war on terrorism. By late 2004, Musharraf's ability to crackdown upon Islamist militants operating throughout the country seemed suspect and remains so. In recent years, journalists, military and intelligence officials and some analysts have increasingly noted with dismay the sanctuary that al Qaeda, Taliban and Kashmir-focused militant organizations enjoy and some analysts have even accused the state of active support of the of these organizations.<sup>7</sup>

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<sup>5</sup> Pervez Musharraf, "Time for Enlightened Moderation," June 2, 2004.

<http://www.presidentofpakistan.gov.pk/EnlightenedModeration.aspx>.

<sup>6</sup> For various discussions of U.S. assistance, see Craig Cohen, "When \$10 Billion is Not Enough: Rethinking U.S. Strategy Towards Pakistan," *The Washington Quarterly*, Vol. 30, No. 2 (Spring 2007), C. Christine Fair and Peter Chalk, *Fortifying Pakistan: The Role of U.S. Security Assistance* (Washington: USIP, 2006); Craig Cohen, *A Perilous Course: U.S. Strategy and Assistance to Pakistan* (Washington: CSIS, 2007).

<sup>7</sup> Seth G. Jones, "Pakistan's Dangerous Game," *Survival*, Vol. 49, No. 1, 2007, pp. 15-32.

With Bhutto's assassination, the clarion need for a stable Pakistan is ever more apparent as is the realization that President Musharraf is increasingly unable to bring such stability to Pakistan on his own. Moreover, even if Pakistan's security elites were to recognize that Pakistan's future is imperiled by the militant groups menacing Pakistan and embrace the war on terror as its own and take decisive action against *all* militant groups active in the country, the current government enjoys little legitimacy among Pakistanis. Without popular legitimacy and support, Musharraf will be unable to convince his country that Pakistan is struggling for its own survival-not his.

Thus there is urgent need to reconsider the lineaments of the U.S-Pakistan relationship and the reciprocal expectations that each state holds of the other. I concede that it is difficult to re-imagine the terms of the relationship given the tendency to assume that stasis is tantamount to stability. However, pursuit of the status quo will likely put the United States and Pakistan on a course of greater conflict *not less* and will undermine, *not buttress*, the prospects for a stable and prosperous Pakistan which is in the supreme interest of Pakistanis and Americans.

With this important background firmly in mind, I would like to address some of the immediate concerns expressed by this committee, including: the likelihood of free and fair elections; potential for civil unrest and stability should the elections appear to be fraudulent; and the likelihood that the new prime minister's government will vigorously pursue counter-terrorism objectives. I have also been asked to discuss developments in the Federally Administered Tribal Areas (FATA)<sup>8</sup>, including the planned investments of \$750 million as well as to comment upon the risk that the current situation poses for Pakistan's nuclear assets. However, in addition, I would also like to offer some near-term and long-term suggestions about how the United States should move forward in forging a relationship with Pakistan and its peoples rather than a relationship with President Pervez Musharraf and the Pakistan army.

### **Maximally Free and Fair Elections Required for Near-term Stability**

While President Musharraf always sought to undermine and eviscerate his political nemeses and their parties (Benazir Bhutto and her Pakistan People's Party and Nawaz Sharif and his Pakistan

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<sup>8</sup> Pakistanis make the distinction between the "tribal areas" and "settled areas." The former is comprised of seven "Tribal Agencies" (e.g. Khyber, Kurram, Bajaur, Mohmand, Orakzai, North and South areas of Waziristan) and six Frontier Regions (FR) (FR Peshawar, FR Kohat, FR Tank, FR Banuu, FR Lakki and FR Dera Ismail Khan). The Tribal Areas are governed by a colonial-era legal framework called the Frontier Crimes Regulation (FCR) and reside outside of Pakistan's constitutional legal framework. This system persists despite 60 years of independence and despite rulings in Pakistan's high courts that the FCR is unconstitutional. In contrast, the "settled areas" are those areas in which Pakistan's legal system applies. While Pakistanis may tolerate some kinds of destabilizing behavior in the "tribal belt" owing to cultural perceptions about Pashtuns in those areas, Pakistanis are alarmed when militancy and obscurantism reaches the settled areas as exemplified by the Red Mosque affair.

Muslim League-N), 2007 witnessed a dramatic escalation of efforts to secure his personal support base at the expense of Pakistan's civilian institutions. His March 2007 ousting of Supreme Court Justice Iftikhar Mohammad Chaudhry sparked a surprising mobilization of civil society and concomitant crackdown upon the same. Mounting concerns about Musharraf's ever-eroding power base galvanized U.S. efforts to broker a rapprochement between Benazir Bhutto and President Musharraf in hopes that Musharraf could drape himself in her electoral legitimacy. The confrontation between the state and civil society persisted throughout the summer increasing demands for Musharraf to step down at least as army chief if not as president. Despite opposition from widening corners, Musharraf pushed through his extra-legal re-election in October through Pakistan's electoral college.

Fearing that the Supreme Court would vacate that victory, on November 3, Musharraf declared a state of emergency through a Provisional Constitutional Order (PCO). Thousands of lawyers, political party activists, reporters and human rights activists were detained while high-value Taliban activists were exchanged for Pakistani military and paramilitary personnel taken hostage in August. Moreover, 17 Supreme Court and more than 40 High Court judges refused to take an oath to the PCO and were fired. This left the courts stacked with judges who would acquiesce to if not support Musharraf and his loyalists.<sup>9</sup>

On November 19, he announced the elections would be held on January 8 and on November 28<sup>th</sup>, he stepped down as Army Chief. On December 15, he lifted the emergency and restored the constitution. However, before doing so, he promulgated six Constitutional amendments using executive power.<sup>10</sup>

These extra-constitutional and other policies of the Musharraf government rendered free and fair elections in January 2008 improbable. All of these impediments are in place today, but after Bhutto's death, their import is even more salient for the proposed February elections. As these issues have been covered elsewhere, I will note the most prominent here only briefly. This list is not meant to be exhaustive.

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<sup>9</sup> The "emergency" declared by Musharraf differed substantially from the emergency provision authorized in article 232 of Pakistan's 1973 constitution. The constitutionally permitted emergency provides for Pakistan's institutions to remain intact and requires review by Pakistan's Supreme Court. Musharraf's PCO, in contrast, vitiated the judiciary by forcing all judges to swear an oath to it and prohibited any court or judgment from challenging the PCO, the Proclamation of Emergency, the President or his designated functionaries. See Testimony of Mark L. Schneider (Vice President of the International Crisis Group) to the House Committee on Oversight and Government Reform on "Pakistani Elections: Will they be fair and free or fundamentally flawed?", December 20, 2007.

<sup>10</sup> Carlotta Gall, "Musharraf Lifts State of Emergency in Pakistan," *The New York Times*, December 16, 2007; Muhammad Saleh Zaafir, "Musharraf to amend Constitution before lifting emergency," *The News*, December 11, 2007.

- **Compromised Judiciary.** The judiciary will ultimately be called upon to inveigh upon allegations of vote rigging, fraud or other violations of electoral law. Without the reinstatement of those judges who were ousted for upholding the constitution against the PCO, transparent and equitable adjudication of disputes is unlikely.
- **Politicized Election Commission (EC).** The EC is comprised of retired Supreme Court and serving High Court judges from the four provinces. As such, the proper functioning of the EC is hampered by Musharraf's manipulations of the judiciary. The Chief Election Commissioner is charged with appointing Election Tribunals to adjudicate disputes, which in turn are comprised of High Court judges. When their decisions are challenged, the case moves before provincial High Courts and ultimately the Supreme Court. An impartial (EC) is impossible with the current judiciary. Many criticized the EC's rejections of Nawaz Sharif's papers as indicative of its loyalties to Musharraf rather than the electoral process.
- **Dubious voters' registration list.** Millions of voters have been variously missing and/or added without verification. So far, the EC has denied review of the list. (N.B.: The electoral registration process was funded by the United States).
- **Constraints upon the political parties.** Parties' efforts to hold rallies or meetings are highly regulated by the new Code of Conduct for political parties as are their statements about the government, its leaders and its institutions among other issues. This silences debate about the state's problems, which are core issues for politicians everywhere.<sup>11</sup> Political parties are not permitted to operate in the Federally Administered Tribal Areas (FATA), ceding political space to Islamist parties who have access to mosques and madrassahs.
- **Partisan Caretaker Government.** The current caretaker government with its firm Musharraf alignment does not foster confidence in free and fair elections, remains unacceptable to the opposition parties and thus remains a spark for controversy.
- **Restrictive curbs upon the media.** The government has retained prohibitions on media coverage that criticizes the state, its leaders or its institutions. While most major outlets have been permitted to operate, important private media like Geo can only be accessed by the internet or satellite. Pakistani interlocutors contend that Geo will not be restored until after the elections because it has a unique capacity to monitor grass roots developments and to conduct basic exit polling. Popular talk shows on major media have also been suspended as they frequently inveigh upon the political and leadership crisis in the country.
- **Unreasonable restraints on election monitoring missions.** Massive and unprecedented curbs were placed on electoral monitoring missions, compelling both the

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<sup>11</sup> Election Commission of Pakistan, "Notification [of the new Code of Conduct for the General Elections 2007-08], November 20, 2007. <http://ecp.gov.pk/COCFinal.pdf>.



International Republican Institute and the National Democratic Institute to abandon plans for monitoring the elections. Equally damning: several long term observers returned with the conviction that the election was already being “cooked,” with some noting the intrusive role played by the intelligence agencies and other government functionaries.<sup>12</sup>

- **Inadequate security.** Inadequate security and electoral violence present daunting challenges to free and fair elections.

It is imperative that a credible government emerge from the elections and there is only one way forward: The Musharraf government must immediately address all of these issues, something that it is very unlikely to do without concerted and consistent persuasion from the United States and other international actors.

While maximally free and fair elections are a necessary precondition for stabilizing Pakistan in the near term, the elections alone are insufficient. In the wake of Bhutto’s death, there is a surprising solidarity among most of the opposition political parties. If sustained, this alliance could secure a majority of seats in the national assembly. Unless President Musharraf and the emergent prime minister quickly establish a modus vivendi, more instability awaits. In free and fair elections, Musharraf’s “King’s Party”—the PML-Q—is unlikely to prevail as Musharraf and his party are widely (if unfairly) held accountable for Benazir Bhutto’s death. The future prime minister and Musharraf will likely have a hostile and dysfunctional relationship, which may prompt Musharraf to exercise his right to dissolve the national assembly, throwing the country into further political chaos. To pre-empt such moves, the assembly may quickly act to strip the president of his expropriated powers if they have two-thirds majority in the assembly to do so.<sup>13</sup> (They can even strip the constitutional provision permitting his tenure of President as a punitive measure.) Any of these developments could again make the chief of the army, now Gen. Ashfaq Parvez Kayani, as the arbiter between Musharraf and the political parties. This is a role the army is long accustomed to playing. Should maximally free and fair elections produce a Musharraf-friendly candidate, these tensions may be less likely to emerge. However such an outcome is unlikely in the absence of extreme electoral irregularities.

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<sup>12</sup> See among others International Republican Institute, “IRI Pakistan Pre-Election Observation Mission Statement,” November 13, 2007. <http://www.iri.org/mena/pakistan/2007-11-12-Pakistan.asp>; National Democratic Institute, “Press Release: Daschle Sees Little Action Thus Far To Ensure Free And Fair Elections In Pakistan,” November 20, 2007. [http://www.accessdemocracy.org/library/2241\\_pk\\_release\\_daschle\\_122007.pdf](http://www.accessdemocracy.org/library/2241_pk_release_daschle_122007.pdf); Testimony of Former Senate Majority Leader Tom Daschle before the House Oversight and Government Reform Subcommittee on National Security and Foreign Affairs, December 20, 2007. [http://www.accessdemocracy.org/library/2242\\_pk\\_testimony\\_daschle\\_122007.pdf](http://www.accessdemocracy.org/library/2242_pk_testimony_daschle_122007.pdf).

<sup>13</sup> It will require a two-thirds majority to overturn the amendments or to impeach him. However, with a simple majority, they could send the question of the legality of his election back to the courts.

To pre-empt further post-election crises, it is urgent that President Musharraf seek political rapprochement with the major parties, the judiciary, human rights groups and other civil society organizations. Such a process may afford an opportunity for Musharraf to embrace a greater symbolic role and recede from politics without further diminishing his legacy. In contrast, an activist Musharraf is likely to remain a flashpoint in Pakistan's fragile political terrain. Such a process of reconciliation may also afford an opportunity for the political parties and the army to come to an understanding that permits the army to confidently re-focus on its primary task of securing the country while the politicians assume responsibility for the domestic affairs of the state. It should be stressed that a retreat by the army (while perhaps desired) and by Musharraf are unlikely events even if the United States and its allies move swiftly to persuade Musharraf and the army chief to do so.

### **The Elections Implications for Pakistan's Contributions to the War on Terrorism**

To assess whether or not the elections will favorably affect Pakistan's ability to contribute to the war on terrorism requires an assessment of Musharraf's contributions in recent years. Many analysts believe that he has been a declining asset, deeply compromised by his efforts to simultaneously satisfy numerous persons and entities to secure his political position. His army is demoralized by years of fighting a war against its own citizens which it does not seem capable of winning. Defections have been reported within the paramilitary organizations and within the army itself. The army and other armed forces have been infiltrated as attested to by the various attacks against military targets, including the attempts upon Musharraf's life, the suicide attack against commandos in a mess hall in Tarbela among numerous other incidents. More worrisome is the fact that few Pakistanis embrace this war as their own. Indeed Pakistanis increasingly oppose military operations in the Pashtun belt even though they perceive the groups in question to be threats to their national security.<sup>14</sup>

Instead, Pakistan's effort to counter insurgents in the Pashtun belt and beyond requires political legitimacy, which Musharraf lacks. I am optimistic that an elected prime minister can be motivated to continue the fight. With a new army chief who is not seen as Washington's protégé, General Kiyani may be able to rally his armed forces *more* effectively than Musharraf.

However, it is critical that the United States communicate the message broadly that it will work with whoever emerges from this process. Thus discussions of aid cut-offs and conditionality are fraught with dangers. Pakistanis note that in the past, the U.S. has been most generous with

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<sup>14</sup> C. Christine Fair, Clay Ramsay and Steven Kull. "Pakistani Public Opinion on Democracy, Islamist Militancy, and Relations with the U.S." (Washington D.C.: PIPA, USIP, January 7, 2008).

military leaders while cutting off aid when civilian leadership returns. This has fostered cynicism among Pakistanis that the United States prefers a democratic Pakistan to one that is dominated by the military. Similarly, it fosters concerns within the Pakistan army that civilian leaders are unable to secure resources for Pakistan's national defense. The need to support whoever may emerge also underscores the danger of supporting particular persons and parties. The return of Nawaz Sharif surprised the administration which had written off Sharif and thrown its weight behind Ms. Bhutto. Thus the United States must engage a broad swathe of political actors to ensure that it has the beginnings of a working relationship with Pakistan's future Prime Minister and other elected officials. These *elected* officials should comprise the focal point of U.S. political engagement while the army continues to enjoy support through military-to-military engagements.

Thus the heroic task before the United States is how it can selectively use aid and military funding to encourage the likelihood of a free and fair election, a military retreat from politics and a gradual evolution of competent and effective politics and politicians in Pakistan. Pakistan's *civilian* leadership must be as important American partners in forging a secure and prosperous Pakistan.

### **The Federally Administered Tribal Areas (FATA)**

Since 2004, Pakistan witnessed the development of the so-called Pakistani Taliban and an increasing "Pakistanization" of al Qaeda. While "Talibanization" of the tribal areas was limited to North and South Waziristan in 2004, the phenomenon next spread to Bajaur. Pakistan Taliban have emerged in areas that had previously been peaceful, such as Mohmand, Orakzai, and Kurram agencies. They have also emerged in the so-called settled frontier areas of Bannu, Tank, Kohat, Lakki Marwar, Dera Ismil Khan, and Swat. Some analysts have also raised concerns about Chitral.<sup>15</sup>

To win the confidence of FATA residents, the Pakistan government has been requesting development funds for this area for several years. At long last, the United States has agreed to spend some \$750 million in FATA. At this juncture, it is difficult to be optimistic about the impact of these funds. (Perhaps had this funding been available *before* the onset of the wider insurgency

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<sup>15</sup> There is very little scholarly literature on this phenomenon with most coverage taking place in the popular press or security publications. See inter alia Rahimullah Yusufzai, "The Emergence of the Pakistani Taliban," Janes Information Group, December 11, 2007 available at <http://www8.janes.com>. See also C. Christine Fair, "Pakistan Loses Swat to Local Taliban," *Terrorism Focus*, Vol. 4, No. 37 (2007); Hassan Abbas, "Is the NWFP Slipping out of Pakistan's Control?" *Terrorism Monitor*, Vol. 5, No.22 (2007); Hassan Abbas, "Increasing Talibanization in Pakistan's Seven Tribal Agencies," *Terrorism Monitor*, Vol. 5, No. 18 (2007); Idrees Bakhtiar, "Between the Lines," *The Herald*, (July 2007); Ghafar Ali Khan, "The Lost Frontier," *The Herald*, (July 2007), Owais Tohid, "The New Frontier," *Newsline* (April 2004); Owais Tohid, "The Warrior Tribes," *Newsline* (April 2004); Zahid Hussain, "Al-Qaeda's New Face," *Newsline* (August 2004).

such pessimism would be unwarranted.) Unfortunately, the security environment will render such projects very difficult particularly if the United States seeks to “brand” those developments in effort to garner good will. The United States will have very little ability to monitor the programs’ implementation and Pakistani interlocutors are doubtful about the implementing partners of Islamabad’s choosing.

Due to the lack of political liberalization in the tribal areas, moving forward with particular projects will involve negotiating with religious and possibly even militant leadership who will benefit financially, politically and socially should they choose to play this role. However, without these interlocutors, projects may be funded that do not serve local needs or preferences (e.g. roads that connect military posts to villages rather than roads that connect villages to markets; girls’ schools instead of electricity and water facilities). Some critics of the deal note the paucity of groups that can function in FATA and suggest that the most likely entity to execute large infrastructure projects will be the Frontier Works Organization, an arm of the Pakistan military. Given the expanding insurgency in large swathes of FATA, it may make better sense to move quickly to fund projects in relatively secure areas within FATA as well as the adjacent settled areas. The settled Pashtun areas provide greater visibility because some civil society groups and media can operate there and there is greater security. However, as noted above, the insurgency is quickly moving into these areas and “safe zones” are constricting rapidly.

There is no doubt that development of FATA is critical as it remains the most under-developed region in Pakistan. However, one must understand that successive governments in Pakistan made choices to under-invest there and to ensure that FATA exists outside of the Pakistani legal, social and political mainstream in large part because doing so served the state’s interests in various ways. Thus this problem is not simply one of resources, but one of will and sustained state preference.

While there is a rush to allocate funds for development in FATA, neither Washington nor Islamabad has embraced much-needed legal and political reform in FATA. Notably, the colonial-era Frontier Crimes Regulation (FCR), which Pakistan’s own high courts have deemed unconstitutional, continues to govern the area with its draconian and illiberal provisions.<sup>16</sup> Recent survey work shows that there is widespread support among urban Pakistanis to reform or abolish the FCR.<sup>17</sup>

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<sup>16</sup> International Crisis Group, *Pakistan’s Tribal Areas: Appeasing the Militants* (Brussels, Islamabad: International Crisis Group, 2006); Seth G. Jones, Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins, *Securing Tyrants or Fostering Reform? Evaluating U.S. Internal Security Assistance to Selected Repressive and Transitioning Regimes* (Washington D.C.: OSI/RAND, 2006).

<sup>17</sup> C. Christine Fair, Clay Ramsay and Steven Kull. “Pakistani Public Opinion on Democracy, Islamist Militancy, and Relations with the U.S.” (Washington D.C.: PIPA, USIP, January 7, 2008).

Similarly, political parties are not allowed to operate in FATA as the problematic Political Parties Act has not been extended there. Failure to extend the act has denied regional and non-Islamist parties the ability to cultivate and mobilize supporters in FATA, while permitting Islamist parties unfettered access to the public through Friday sermons at mosques and through access to FATA's numerous madrassah.<sup>18</sup> Thus, when adult franchise was first exercised in the 1997 elections, the residents of FATA overwhelmingly and without precedent elected religious scholars (ulema) to represent them in the national assembly. Since 1997, FATA has consistently voted for Islamist in the general elections. Without legal reform and political liberalization, I am skeptical that economic investments will help bring the hapless residents of FATA into Pakistan's mainstream society. At some point, FATA must become part of Pakistan's legal, political and social structure. FATA must have functioning police and courts and other amenities that Pakistanis elsewhere enjoy. Thus economic investments need to be accompanied by political liberalization and legal reform.

Another area of recent focus is expanded military assistance to Pakistan's Frontier Constabulary, a paramilitary organization that operates in the FATA. While its officers are seconded from the Pakistan army, its cadres are drawn from the local Pashtun population. The Frontier Corps has played an important part of Pakistani operations in FATA because of their local language skills and familiarity with the local terrain. Yet the Frontier Corps is inadequately trained and equipped and has been ill-prepared for counter-insurgency operations in FATA. Numerous defections and refusals to fight and follow orders have taken place within the Frontier Corps. Thus belated moves to help resource the Frontier Corps are welcome and urgently needed. However, it should be kept in mind that the Frontier Corps' myriad problems are not completely resource-related. This organization was used to train the Taliban in the 1990s and many are suspected of having ties to that organization. Second, they are deeply infiltrated and/or sympathetic to the local militants. Third, even if they are not sympathetic to the militants, Frontier Corpsmen are often hesitant to fight due to fear of sparking a sanguinary blood feud in which they or their families

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<sup>18</sup> The Political Parties Act of 1962 (amended in 2002 with the Political Parties 2002) regulates the activities of political parties and their members. In the absence of the political parties act in FATA, political parties are not authorized to campaign, hold rallies or meetings that are typically considered to be quotidian party practices. As such, religious parties are at a distinct advantage in that they need not conduct "party" gatherings as they have ready access to religious institutions from which they can run their political campaigns and associated political outreach. The Frontier Crimes Regulation (FCR) is a colonial-era legislation that exists in FATA and is the framework for rule of law in the tribal areas. The FCR enshrines a number of problematic principles such as "collective responsibility," by which innocent family members can be punished for the crimes of near and distant relatives and tribesmen. Under the FCR, the political agent serves as the apex person for the execution of most state activities associated with law and order. Persons convicted under the FCR have no recourse to Pakistani jurisprudence. Pakistani high court rulings have on several instances ruled that the FCR is unconstitutional to no avail. Pakistani human rights organizations have also registered sharp complaints similarly without state action.

may be ensnared. Training, equipping and professionalizing a competent Frontier Corps is fraught with multidimensional problems and will take years—not months—to do so.

### **Pakistan's Military**

Since 9/11 numerous concerns have been voiced about the Pakistan army in particular. Some have raised the specter of an inner cabal of Islamist officers who can split away from the rest of the army. This scenario has typically included the possibility of officers absconding with nuclear weapons and/or missiles or some transfer of technology or know-how to militant groups or other undesirable state or non-state entity. Regarding command and control and the security of Pakistan's nuclear weapons, most dedicated Pakistan analysts have no reason to believe that existing policies and procedures are inadequate at this juncture.<sup>19</sup>

There are—and should be—persistent concerns about nuclear safety in Pakistan. Concerns also persist about the prospects for a conventional Indo-Pakistan conflict to escalate or for some misunderstanding about movements of dual-use assets that could precipitate an accidental exchange (among other worrisome scenarios in the context of the Indo-Pakistan security competition). Thus nuclear safety should remain a focus of U.S.-Pakistan military-to-military engagement to the greatest extent possible.

As is well-understood, the A.Q. Khan network is a known source of proliferation and indeed, his network was an important means by which Pakistan obtained its nuclear and missile technologies in the first instance. Proliferation will, and should, remain a concern for the United States and the international community. As Pakistan has declined to allow the IAEA or other non-Pakistani officials access to Dr. Khan and members of his network, doubts will continue to linger about the nature of his network, its expanse and the degree to which parts of it remain functional. This will remain a major irritant in the U.S.-Pakistan relationship that is unlikely to change irrespective of the February electoral outcome.

There is consensus that the Pakistan army is a professional organization and that the nuclear program is the most important priority for the army. As such, the army takes the protection of these assets very seriously. Recent attacks on Pakistan military and leadership targets have involved penetration of the armed forces' military and civilian ranks; however, these remain the exception, not the rule. But the Pakistan army has undergone considerable, but poorly understood change. At independence it continued the British practice of recruiting its officer corps from elite land-owning families of the northern Punjab. Since independence, it has become more

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<sup>19</sup> Institute for National Strategic Studies, National Defense University, "Roundtable Summary U.S. Strategy Toward Pakistan," 30 November 2007.

urban, increasingly middle-class and ever-more representative of Pakistan's population. In other words, it has come to increasingly resemble Pakistani society from which it draws. Many long-time observers of Pakistan note that the country has become more conservative and suggest that this is likely to be true of the officer corps as well as the enlisted and non-commissioned officers. It is also the case that many officers today took their commissions during the Zia ul Haq's efforts to Islamize the country and the army and many officers came up through the ranks after the 1990 U.S. military cutoff.

Thus there are numerous reasons to believe that the Pakistan army may be more anti-American and more conservative than one would like to countenance. Unfortunately recruitment data on the military is virtually non-existent and thus it is difficult to say with any confidence whether and how this institution is changing. However, these historical trends should caution U.S. policy against tightly aligning itself with an institution it does not and indeed cannot understand.

### **Moving Forward**

In the short term, the United States must work to help achieve a democratic transition in Pakistan—not a democratic patina by which to legitimize President Musharraf. This will involve creating incentives for the Musharraf government to remove the barriers to maximally free and fair elections and to pursue conciliation with the political parties and civil society. This should include reinstating the judiciary; forging an acceptable election commission and securing a voters registration list acceptable to all parties; lifting restrictions on the political parties, the media and election observers; working to minimize electoral violence; and to refrain from using the intelligence agencies and local functionaries to interfere in the election. Musharraf is very unlikely to take these steps without a clarion statement—in public and in private—from the administration and Congress that such measures are expected.

The United States should work to support institutions and processes and demure from supporting or undermining particular persons or institutions. Both Benazir Bhutto and Musharraf were tainted in the eyes of Pakistanis for their association with Washington while U.S. failure to support institutions such as the media and the judiciary has vexed Pakistanis. The United States must make a commitment to securing a democratic Pakistan and Pakistanis must be reassured that this is the case. As the political situation will remain turbulent for the foreseeable future, it is important that the United States reach out to all political parties, key civilian institutions and civil society groups while sustaining a working relationship with Pakistan's armed forces.

In coming months, there will be a temptation to restrict or condition aid and military assistance to Pakistan, particularly if the elections prove illegitimate. However, one must be mindful of the history of U.S. aid to Pakistan. While the conventional wisdom about the “Pressler Amendment” is false, the United States has done little to address pervasive and erroneous accounts of the cutoff of military assistance in 1990 in both the United States and in Pakistan.<sup>20</sup> As such, moves towards cutting aid or conditioning it will likely reinforce Pakistani perceptions that U.S. is only episodically interested in Pakistan for utilitarian purposes. More dangerous is the belief in Pakistan that the U.S. cuts aid when there is a transition to democracy.

However, over the medium and long term, there is urgent need to structurally re-shape the terms of U.S. assistance to Pakistan. The U.S. should continue to expand programs that enable the Pakistani armed forces to fight their and our war on terror more effectively. Military educational programs should be expanded. While IMET is important, there may be other means of expanding the engagement with Pakistan’s armed forces through public and private educational institutions. Higher-end equipment that is desirable for Pakistan’s strategic purposes should increasingly be contingent upon demonstrable evidence of greater alignment of U.S. and Pakistani interests in counter-terrorism and sustained disengagement from the political management of the country.

While re-optimizing the assistance to the Pakistan military, the U.S. must dramatically expand *programmed* assistance to reform all of Pakistan’s civilian institutions including the judiciary, police and law enforcement; to train large numbers of politicians; support major civil society institutions such as those dedicated to monitoring human rights, corruption mitigation, political reconciliation, human development and the like through financial resources and capacity building. While education should remain a priority, all initiatives should be sensitive to Pakistani preferences which may not entail secularization of their curriculum. While a seeming bromide, the United States should explore any and all means of expanding people-to-people contact through exchanges of students, journalists, parliamentarians and other politicians, lawyers, police, judges, teachers and other important representatives of Pakistan’s civil society and civilian institutions. In short, the U.S. must rapidly transition from supporting one person towards supporting the key institutions and processes of this critical country.

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<sup>20</sup> While the historical record shows that the Pressler Amendment was forged with Pakistani input to accommodate the administration’s interest in continuing to provide military assistance to Pakistan despite growing concerns within the intelligence community and congress about Pakistan’s progress towards weaponization, most Pakistanis see the Pressler Amendment as a punitive measure that allowed the United States to drop Pakistan when its strategic utility had diminished.