



PAKISTAN - PROTECTION CLUSTER STRATEGY, 2017 – 2019

From displacement to sustainable return

INTRODUCTION

The process of return of Internally Displaced Persons, began in the Federally Administered Tribal Areas (FATA) during a time security and safety, and other basic services were missing in some remote areas. Additionally, FATA has been one of the most impoverished regions of Pakistan¹, and the country Constitution, federal laws and Jurisdiction of the Highest Court do not apply to FATA². It is precisely FATA Reforms³ that are formulating to expand the principles that current Constitution to recognize certain inalienable human rights and freedoms including equality before the law to the people of FATA.

In order to improve the system of protection of human rights for the displaced persons and returnees, it is necessary to develop a partnership with long-term plan further, while at the same time ensuring the effectiveness of existing humanitarian response provisions. Currently, full, and uninhibited access to the protection of human rights is constrained by the lack of awareness of the people of the mean by which to enforce their rights, as a well as the inadequate fulfilment of human rights duties by government institutions.

Efforts are being made to overcome these barriers, although responses have not been consistent and far-reaching as needed due to limited financial resources and limited access in FATA. This protection strategy will allow the consistent and practical application of appropriate measures by the protection clusters and ensure that protection is mainstreamed in other clusters humanitarian responses.

Specific segments of the population are mainly exposed during displacement and have special needs: these include separated boys and girls, unaccompanied children and women, older persons and persons with disabilities. These vulnerable groups face specific challenges and barriers concerning their access to basic supplies, their mobility, and other displacement-specific vulnerabilities. They are also subjected to heightened levels of anxiety and psycho-social stress induced by inhibiting factors associated with displacement. For women and children, this further increases their vulnerability to trafficking, violence, GBV, abuse, exploitation, self-harm, and psycho-social difficulties.

¹ Government of Pakistan (2016) Multidimensional Poverty in Pakistan. file:///Users/penelope/Downloads/Multidimensional%20Poverty%20in%20Pakistan.pdf

² The Law applicable to FATA is the Frontier Crimes Regulation (FCR) is a 1901 special set of laws of Pakistan, which are only applicable to the Federally Administered Tribal Areas (FATA). For details see Human Rights Commission of Pakistan (2005) *A bad law nobody can defend*. Peshawar Chapter. <http://hrcp-web.org/hrcpweb/wp-content/pdf/ff/23.pdf>. Accessed 30 July 2016

³ Government of Pakistan (2016), Report of the Committee on Fata Reforms, August 2016. <http://202.83.164.29/safron/userfiles1/file/Report%20of%20the%20Committee%20on%20FATA%20Reforms%202016%20final.pdf>

According to interviews with IDPs, their main concerns, particularly for women, children, older persons and persons with disabilities without family support include:

- Access to legal assistance and identity documents
- Insecurity in areas of returns and freedom of movement
- Lack of basic services health, education, and shelter
- Damage to housing, land, and property in the conflict-affected areas

The protection response plan elaborated by the Protection Cluster focuses on the acute protection needs of persons of concern, especially about child protection, prevention of, and response to gender-based violence, civil documentation, mine action, housing, land and property rights and the rule of law and justice. The plan also addresses the specific needs of persons with disabilities, older people and people of concern without family support.

Existing coping mechanisms of returnees may become over-stretched:

Analysis of the remaining registered IDPs indicates that they include a few distinct groups with specific reasons for remaining in areas of displacement. Such groups, with few exceptions, are not unique to the IDP caseload but are commonly found in most IDP processes of return. In some cases, there is little prospect that IDPs will opt to return either in the immediate or long-term. Reasons for this include:

- Those who are integrated into urban settings see no advantage in returning to FATA.
- The lack of or limited freedom of movement within and outside FATA.
- Whether wishing to return or not, some IDPs will find that return is not feasible without specific targeted assistance and solutions. For example, they are vulnerable individuals who are without the support of their extended families, including female heads of household, etc.
- Conditions in areas of origin in FATA are the principal obstacles to returning. Some IDPs are unlikely to be willing or able to return until some of the issues are resolved. These constraints include, but are not limited to, (i) minority groups from areas in Kurrum and who may have lost their land in sectarian conflicts; and (ii) security concerns in the areas of origin due to the presence of mines and limited freedom of movement related to security checks, such as recent military operations.

As the situation in Kurrum, Upper Orakzai, part of Khyber and the North Waziristan agencies present significant challenges to a sustainable return. These returnees are most likely to fall into the category of returnees who have received their VRFs, food and cash assistance, but ended up returning to areas of displacement. Some of the basic requirements of return have been lacking. There has been an extensive destruction of houses and poor security conditions, compounded by limited access to areas of return, preventing the required necessary and timely monitoring/assessment and response. The challenging conditions stated were safety, security issues, and related inability to access their village or diminished freedom of movement, inadequate access to food, housing, health care, basic education, and livelihood opportunities.

Furthermore, displacement has contributed to children not only experiencing new child protect treats, but existing problems were exacerbated, and child protection mechanism and systems were undermined. For instance, reports of child abuse, neglect and exploitation, and violence against children were reported including the new risk of separation as a coping mechanism during the return process resulting from the harsh condition in areas of return. Similarly, women and girls have been subjected to various forms of violence including sexual violence, early marriage, forced marriage, and deprivation of freedom of movement and access to health services. Women and girls have also been exposed to trafficking, particularly children from low-income families. Trafficking cases remain poorly documented and anecdotal information.

Fear of losing property and access to housing compensation in area of return

While the government has established compensation and restitution for damaged and destroyed property, a large number of IDPs continue to be concerned with whether, when and how they would be compensated for their loss. Humanitarian actors (under the shelter cluster) have contributed to the reconstruction and repairs of houses. In particular, information about the process of accessing this fund, as well some cultural barriers affecting specifically women. Most IDP women interviewed were unaware of the provision under the Government's Citizen Losses and Compensation Programs (CLCP) to secure the funding compensation if their husbands or other male head of households have died or emigrated. IDPs also reported concern over losing housing rights for failing to participate in the CLCP assessment in absentia due inability to return and reach areas of origin.

Women and Children access to services

IDPs and returning displaced women continue to be exposed to grave risks of abuse and different forms of gender-based violence. Women and girls often find themselves dependent on others. Women have lost their capacity to sustain their families' livelihood due to loss of seeds, livestock, and tools. Reportedly, negative coping mechanisms have developed among the majority of the women who require structured psychosocial support and life-skills development activities. In the context of FATA, a majority of the root causes to GBV are rooted in century's old harmful traditional practices and the absence of law and administration of justice. For example, in some cases, young girls are denied to have access to school education, or either dropped out as soon as they reach puberty or even before, which is also a type of gender discrimination that begins at the family level. Moreover, women and girls become dependent upon men and enjoy inferior status as a consequence of socially and culturally defined roles and responsibilities, expectation and limitations and more importantly choices. GBV types reported during IDPs' Vulnerability Assessment Profiling (IVAP) include but are not limited to physical assault, emotional violence, child marriage, female trafficking, and domestic violence, denial of health services, honour-related crimes, rape, and domestic violence.

The conflict has severely weakened the protective environment around children and making them even further vulnerable to violence, abuse, exploitation, and neglect. Displacement has reportedly led to trauma, stress and mental health issues. Seeking psychological help is not common and affected communities are reluctant to do so. Many are also demoralized because of the destruction of their homes and lack of assistance from local authorities. Domestic violence and with neglect both severely undermine children's resilience to handle the effects of the conflict. At the same time, other risks are new, such as the presence of mines and UXOs.

Presence of mine/UXO and contamination of farmland

The massive damages and destruction of properties and related security issues in areas of origin in FATA, has occurred to residential houses, business property, and private agricultural lands. The extent of the presence of mine/UXO is not fully understood. However, there has been an increase in the reported incidents and continue to present a significant risk to returnees. Exposure to this hazard is likely to increase with the cleaning and rebuilding of houses.

Limited access to legal services

Access to legal services remain problematic for those who have returned in FATA, as well those staying in the displacement areas and cannot reach properties left behind, and access to return, rehabilitation, and reconstruction projects that require access to legal documentation.

The limited access to humanitarian actors to FATA, as well as legal services, means that any registration requirements involving property (e.g., inheritance, disputes, etc.), or access to legal documentation (e.g., birth, divorce, death certificates) is unattainable. This entails considerable time, effort, financial costs and negotiation of a long and multifaceted bureaucracy in applying for permission to move within and outside FATA.

Access to the legal documentation is a major concern among returnees and IDPs. During the recent multi-cluster assessment, it was revealed that in 21% of the households, at least one male member per household lacked personal documents, compared to 28% of at least one female member per household lacked such document. There is a lack of awareness of HLP rights and legal documentation, in particular to women. However, among the unregistered affected population, the number of female lacking identity documents is much higher among the head of households, and as a result, they have limited or no access to assistance. The lack of a Computerized National identity card (CNIC) is the major barrier to getting registered which is the basic requisite for government assistance. Helping to accelerate the acquisition of a CNIC and extending support to extremely vulnerable families before registration is urgently needed. Women who have no CNICs are excluded from the humanitarian response as they cannot be registered as IDPs. The Protection Cluster plans to provide mobile grievance/legal desks. The CP sub-cluster will facilitate enhanced access to the birth registration service in the host and return areas, in addition to the application of guiding principles for confidentiality, safety, non-discrimination, and respect.

The solution to the problem mentioned above will include, awareness campaigns of the importance of legal documentation; provision of documentation facilities at doorsteps; simplification of the overall procedures of attaining the civil documentation; subsidized cost; enhancement of the capacity of local service providers and birth registration. All civil documentation related solution will be implemented in collaboration with National Database and Registration Authority (NADRA); relaxation of rules and alternate mechanisms. Close liaison with NADRA and FDMA will encouraged for smooth processing of the obtaining the legal documentation.

THE STRATEGY & VISION

In the long term, the protection cluster strategy envisions a return in FATA, where the respect of inclusion of the most vulnerable, marginalised of the affected population – IDPs, host communities and returnees (in particular women, children, people with disability and minority groups) represents an important characteristic value among all affected populations, and have equal opportunity to lead a decent life.

Therefore, the 2017 – 2019 Strategy will focus on achieving the following goals in particular:

- 1) Ensuring increased capacity of government agencies and non-state actors to draw and manage response which includes legal assistance, including access to legal documentation, housing, land and property information
- 2) Providing services to women and children through establishing and strengthening of referral mechanism and building on existing gender based services
- 3) Identifying and providing support to returnees, including children exposed to risk mines and other explosive devices through protection monitoring

AIMS OF THE STRATEGY

The continuous process of the protection of human rights will necessitate regular legal, institutional and practical changes at the field level. These changes will be reflected in the activities of cluster members, to ensure that protection issues arising as a result of the displacement and return process become an intrinsic part of the transition plan, and contribute to durable solutions.

The needs will dictate wide-spread legal aid and institutions capacity building at the local level and take into account local traditions, while also recognizing the importance of maintaining peaceful relations within communities. It is, however, the primary concern of the government to ensure the continued compliance with international standards of protection of human rights in FATA.

PROTECTION MAINSTREAMING

It is clear that the Government of Pakistan aims at applying protection of human rights in the implementation and monitoring of its return and rehabilitation programs. However, the application of such an approach not only demands the active participation of IDPs, returnees and host communities.

The formulation of programs based on a protection of human right approach requires the determination of the expectation and needs of the affected populations, and the corresponding duties of humanitarian and government actors. The protection program will take into account a more effective gender equality, the inclusion of marginalised groups, people with disability and minority groups, to overcome the deep-rooted causes of the failure to realise specific gender and exclusion related protection of human rights. The different needs of men and women, children, people with disability, marginalised groups, and minority groups in a situation of displacement and return. Furthermore, protection monitoring will be undertaken and will contribute to protection risk analysis and inform the decision making in developing policies and allocation of resources. Finally, an adequate system to inform and raise awareness of the population about their human rights will be enhanced. It is vital that the affected population remain duly informed of about the return process, related services, and other human rights issues through widespread awareness-raising campaign, as well as the inclusion of protection of human rights issues at all stage of partnership with local NGOs and local government.

Strategic Paths

With a view to achieving the transition plan and related durable solutions, the strategy envisages certain policy, institution and practical changes. The Protection cluster will promote the protection of human rights and will establish risk mitigation for child protection related abuse and gender-based violence. Protection mainstreaming and gender equality will inform all protection response and integrated through other sectors through technical support and ensure international child protection minimum standards and protection principles are applied. From the recommendations from various protection return monitoring, multi-sectoral assessments and government human rights policies under formulation, challenges in the area of protection of human rights, the following will be prioritised for 2017 – 2019:

1. Protection of the rights of Internally Displaced Persons (IDPs) and returnees and other affected population

Objective

Sustainably return IDPs to their areas of residence or origin through improvement of the living conditions, including legal assistance to access legal documentation, housing compensation and other basic services (e.g. health, education).

Activities

- a) Protect the rights of all IDPs to be allowed to return to their permanent place of residence/origin and the application of all possible measure by advocating the government to this end;
- b) Ensure participation, including ensuring IDPs', host communities and returnees' views are taken into consideration in matters concerning them, and providing them with the opportunity to take informed decision on such matters.
- c) strengthen the protection capacity of relevant authorities, institutions and civil society
- d) Ensure effective monitoring and reporting on protection to facilitate identification of and response to protection concerns/risks faced by IDPs
- e) Assist communities to identify and respond to protection concerns
- f) Monitor the development of situation in country and prepare contingency plans for expected new displacement

Indicators

#of advocacy initiatives taken with the government to highlight key concerns of IDPs

of protection concerns reported and action taken

of protection concerns identified and responded by communities

Contingency plan developed for FATA

2. Ensure higher standards of protection of the right to access to housing, property and land.

Objective

Ensure returnees in particular women, have the right to recuperate their families' houses, land and property in the absence or death of their male's relatives

Activities

- a) Enhance inclusiveness in the assessment of housing compensation mechanisms for the protection of the right to property through access to information about the process, and legal assistance to navigate complex administrative procedures.
- b) Provide legal aid and review the particularity of every case involving a decision to recognize or to refuse to recognize property rights of returnees in collaboration with the department of human rights.
- c) Support the government in assisting IDPs and repossession of their land and property

Indicators

#of awareness session conducted on housing and property rights

of property cases identified and advocated

of IDP families having attained or refused property rights by government

of families received possession of their land and property through legal counselling/aid

3. Provision of legal assistance and promotion of the principal of equality between men and women.

Objective

Enhance mechanisms for dealing with grievances in areas of return including access to legal documentation

Activities

- a) Facilitate and support to access legal identity documents
- b) Provide reliable and update information on how to claim housing, land and properties rights
- c) Counsel on how to overcome specific legal problems related to displacement (e.g. birth certificate, compensation related documents, access to victims' services)
- d) Raise awareness about importance of legal documentation
- e) Support to register as an internally displaced persons (IDP) where appropriate

Indicators

- # of IDPs and returnees including women and men receive legal assistance and obtain civil documentation
- # of female headed households received facilitation in access to legal documentation
- # of community meetings held for raising awareness about legal documentation
- # of IDPs registered

4. Access to equal rights for persons with disabilities

Objectives

Provision of equal opportunities to women and children, as well as people with disabilities of their full and active participation in return and rehabilitation spheres.

Tasks

- a) Provide greater legal support to obtain civil documentation
- b) Ensure equal rights women and children for persons with disabilities, taking into account their specific needs and requirements, according to the rehabilitation, reconstruction strategy and Transition Plan's principle;
- c) Raise public awareness on disability issues
- d) Ensure full access to available public services and transport for persons with disability

Indicators

- # of vulnerable families received support in obtaining civil documentation
- # of awareness raising sessions conducted on disability issues
- # of advocacy initiatives with government to ensure full access of persons with disability to public services.

5. Strengthen support against gender based violence, ensuring survivors' access and other vulnerable persons to rights to health and psychosocial services

Objective

Take effective measures to ensure access to the right to health, especially by vulnerable groups.

Activities

- a) Establish and strengthen capacity of community based protection committees or watch group for prevent and response to gender based violence
- b) Provide psychosocial support to gender based violence survivors including vulnerable people through culturally sensitive outreach support
- c) Establish protective spaces to respond to the needs of women, girls and boys
- d) Supply hygiene kits to women of reproductive health

- e) Raise awareness against harmful traditional practices, stigma, and re-integration of survivors through available media and community outlets

Indicators

of girls, boys, women and men receive multi sectoral services (psychosocial support in health, legal aid, access to protective friendly spaces for women case management) through GBV referral mechanism in selected locations.

of community based protection committees formed and capacitated

of hygiene kits provided to women

awareness raising sessions conducted on the harmful practices and rights of affected population

6. Protection of children from harm, injury and disability and respond to the needs of children in efficient manner

Objective

Identify and collect information on risk and possible physical danger to children, and share information to services providers, and raise awareness related presence of mine and UXOs in areas of return, and ensure participation of children in all activities.

Activities

- a) Establish community based psychosocial support
- b) Create safe community spaces for children
- c) Establish and support recreational activities
- d) Raise awareness and provide information on child rights with men, women, and boys and girls
- e) Mobilise mothers and fathers on importance of birth registration
- f) Regular monitoring of situation of the children affected by the armed conflict in FATA

Indicators

of psychosocial support centres established

of community based child friendly spaces established

of awareness sessions conducted on mine risk education

of birth registration cases

Community based child protection committees formed to monitor the situation regarding children affected by conflict

7. Awareness raising about Mine Risk Education in areas of return

Objectives

Support awareness raising of mine / unexploded ordnance risks through implementation of a comprehensive mine risk education strategy

Activities

- a) Provide basic safety messages to returnees including women and children
- b) Support victims or injured persons by explosive devices and by age and gender

Indicators

of awareness sessions conducted about mine risk education

of community members provided training on handling UXOs and mines

of victims received assistance and support