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MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY

UNITED STATES OF AMERICA

v.

KHALID SHAIKH MOHAMMAD,  
WALID MUHAMMAD SALIH MUBARAK  
BIN 'ATTASH, RAMZI BIN AL SHIBH,  
ALI ABDUL-AZIZ ALI, MUSTAFA  
AHMED ADAM AL HAWSAWI

AE 726C(WBA)

~~(U)~~ Notice of Classified Filing

5 August 2020

~~(U)~~ In accordance with the Military Commission Trial Judiciary Rules, the defense provides this unclassified notice that it has filed a classified version of the above captioned motion. The classified version has been filed via email on SIPR with the Trial Judiciary and copies have been provided to the parties.

~~(U)~~ Attachments:

A. ~~(U)~~ Certificate of Service (1 page). ~~(U)~~

Very Respectfully,

/s/

CHERYL T. BORMANN  
Learned Counsel

/s/

EDWIN A. PERRY  
Detailed Defense Counsel

/s/

WILLIAM R. MONTROSS, Jr.  
Detailed Defense Counsel

/s/

ANISHA P. GUPTA  
Detailed Defense Counsel

/s/

JAY S. PEER  
Captain, USAF  
Detailed Defense Counsel



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~~(U)~~ Attachment A

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**CERTIFICATE OF SERVICE**

~~(U)~~ I certify that on 5 August 2020, I filed via email the attached, AE 726C(WBA), Notice of Classified Filing, to the Trial Judiciary and provided copies to the parties.

/s/

CHERYL T. BORMANN  
Learned Counsel

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MILITARY COMMISSIONS TRIAL JUDICIARY  
GUANTANAMO BAY

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v.

KHALID SHEIKH MOHAMMAD,  
WALID MUHAMMAD SALIH  
MUBARAK BIN 'ATTASH, RAMZI BIN  
AL SHIBH, ALI ABDUL-AZIZ ALI,  
MUSTAFA AHMED ADAM AL  
HAWSAWI

~~(U)~~ AE 726C(WBA)

~~(U)~~ Defense Reply to AE 726B(GOV),  
Government Response to Motion to Compel  
Material and Information Related to the  
Treatment of Mr. bin 'Atash While in  
Foreign Government Custody

5 August 2020

1. ~~(U)~~ Timeliness:

~~(U)~~ This reply is timely filed.<sup>1</sup>

2. ~~(U)~~ Reply:

~~(U)~~ The Prosecution asks the Commission to deny Mr. bin 'Atash's Motion to Compel for two reasons. First, the Prosecution claims it already has turned over all discoverable information within the possession of the United States Government.<sup>2</sup> Second, the Prosecution contends that the United States neither has the constructive possession of, nor a duty to disclose, responsive information that may be in the possession of Pakistani authorities.<sup>3</sup> According to the Prosecution, Defense Counsel's reliance on the legal test articulated in United States v. Reveros is misplaced and, in any event, application of the Reveros Test would not entitle Mr. bin 'Atash to the requested

<sup>1</sup> ~~(U)~~ AE 726-6(RUL)(WBA).

<sup>2</sup> ~~(U)~~ AE 726B(GOV) at 6 ("[T]he Prosecution has disclosed all non-cumulative, relevant, and helpful information within the possession, custody, or control of the Government pertaining to the Accused's detention while in the custody of Pakistan").

<sup>3</sup> ~~(U)~~ Id. at 7-9.

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relief. The Prosecution's claims are belied by obvious inferences drawn from previously provided discovery and the unprecedented level of inter-governmental cooperation between the United States and Pakistan during the War on Terror. The Commission must order the requested relief.

- a. ~~(U)~~ The Commission must scrutinize Prosecution statements regarding discovery efforts.

~~(U)~~ As an initial matter, the Commission must view any Prosecution statements regarding the existence, status, or relevance and materiality of, discovery with skepticism. The Prosecution, as it does in some fashion in every response to a motion to compel discovery, claims it is "well aware of its discovery obligations and applies the law and standards . . . objectively, in good faith, with an eye towards producing information . . . ." <sup>4</sup> After applying such law and standards, the Prosecution maintains it has nothing more to produce to Mr. bin 'Atash. The Prosecution has demonstrated by its actions that these words are meaningless. Time and again the Prosecution has withheld relevant and material information from the Defense while averring to the Commission that it did not exist or was not relevant to the proceedings. <sup>5</sup> Most recently, even after the Commission determined information was discoverable, the Prosecution failed to produce it to the Defense. <sup>6</sup> The Prosecution's statements regarding its discovery efforts cannot be accepted at face value.

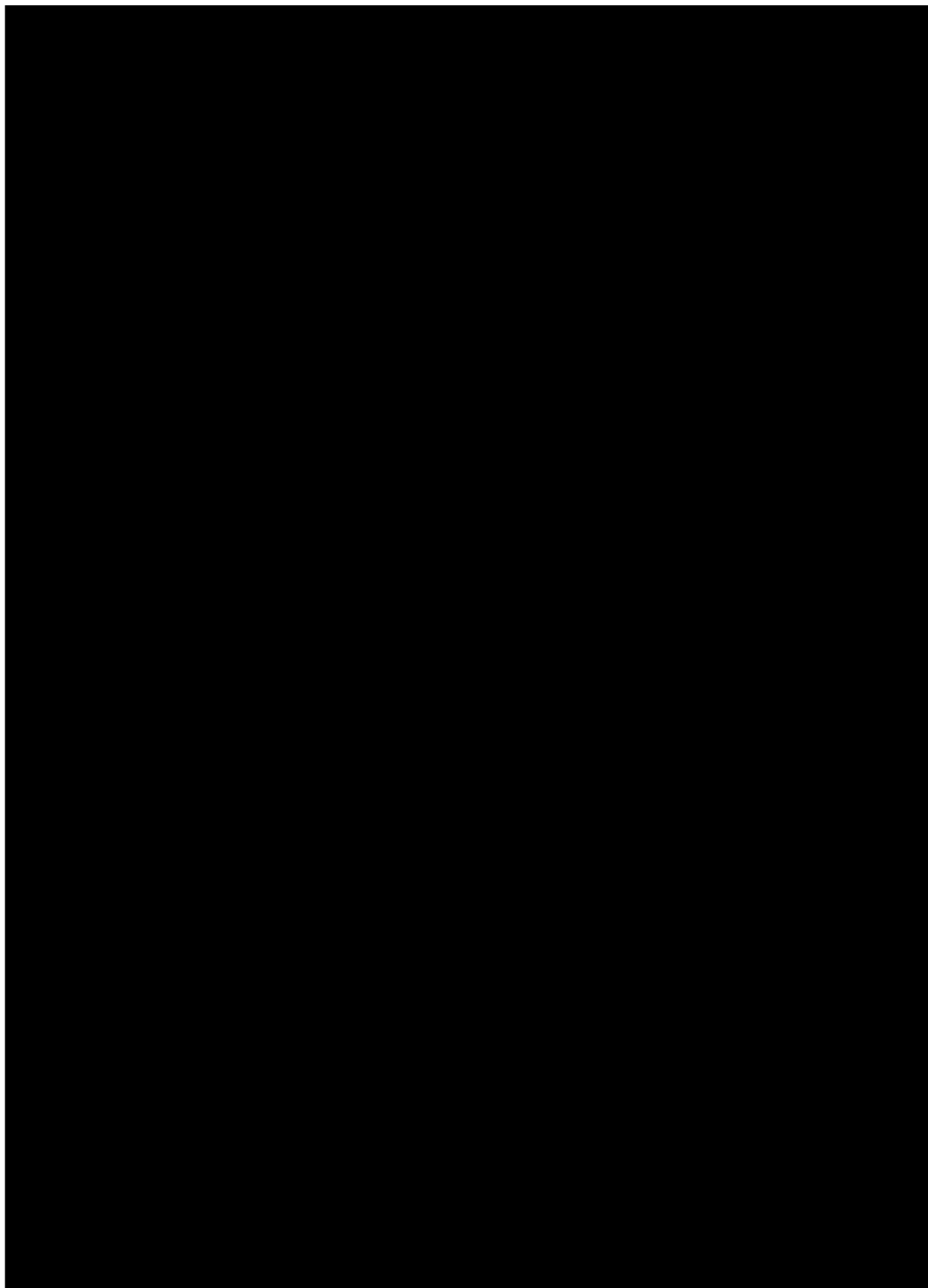
- b. ~~(U)~~ Discovery already possessed by Defense Counsel demonstrates the existence of additional relevant, material, and helpful information.
- 

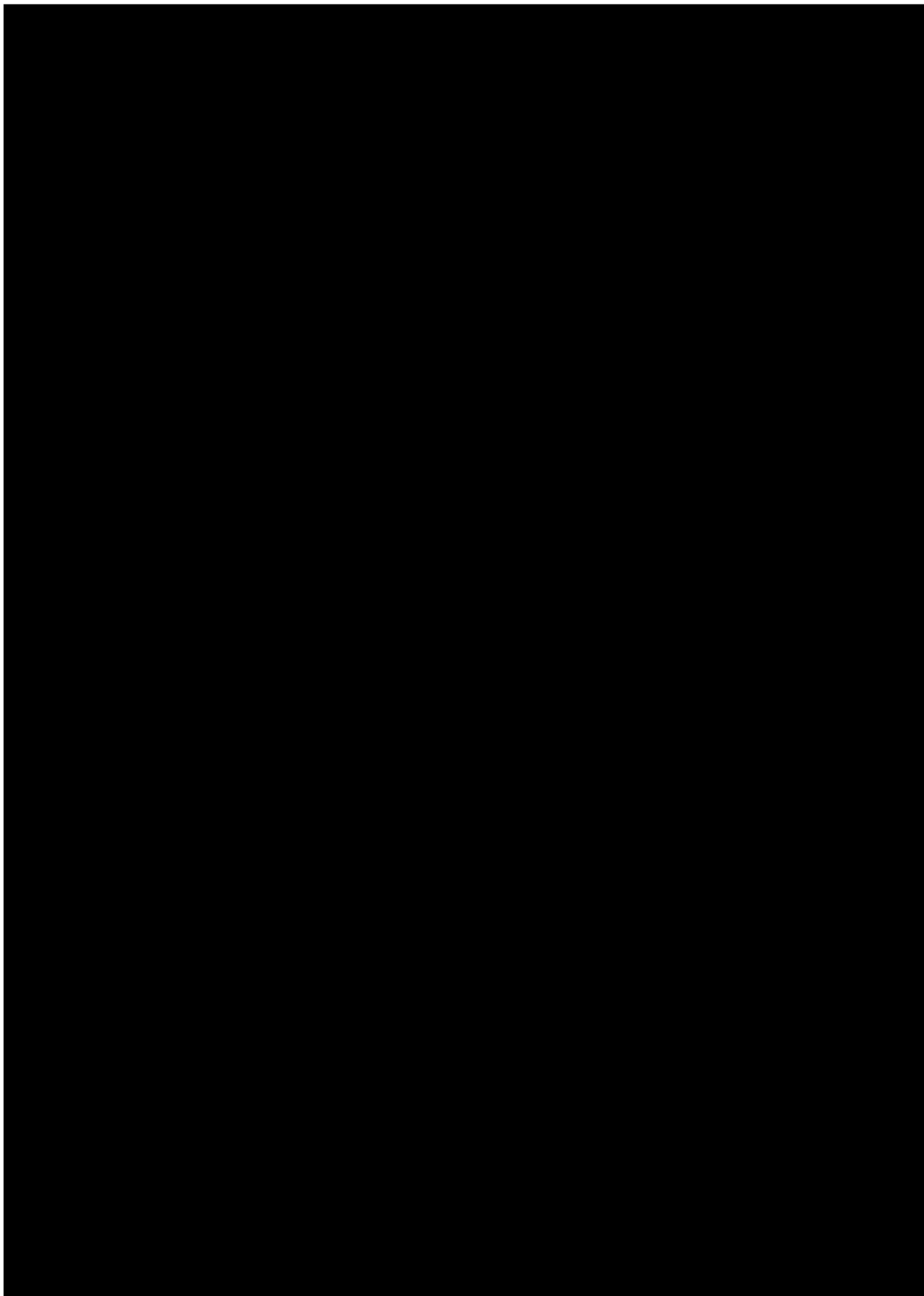
<sup>4</sup> ~~(U)~~ AE 726B(GOV) at 6.

<sup>5</sup> ~~(U)~~ See, e.g., the AE 643 series.

<sup>6</sup> ~~(U)~~ See AE 538LL/561EE(WBA).

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c. ~~(U)~~ Reveros is the applicable test; after applying this test, the Commission should find relevant materials in Pakistani possession to be in the constructive possession of the Prosecution and order their disclosure.

~~(U)~~ Most, if not all, of the requested materials already should be in the possession of the United States. Should unique, relevant documents exist in Pakistani possession, however, the Prosecution is in constructive possession of these documents and thereby has a duty to obtain and provide these documents to Defense Counsel.

~~(U)~~ The Prosecution devotes a significant portion of its Response attempting to dissuade this Commission from applying the test articulated by the Third Circuit in United States v. Reveros, 537 F.3d 270 (3d Cir. 2008).<sup>17</sup> The Prosecution argues that since Reveros is a "lone opinion" issued by the Third Circuit, which ultimately upheld the lower court's refusal to find that the prosecution in that case was in constructive possession of evidence held by a foreign government, Defense Counsel inappropriately cited to this supposedly obscure and inapplicable case.<sup>18</sup> The Prosecution's argument falls short.

~~(U)~~ First, Defense Counsel cited Reveros for the test articulated therein, not for its holding. The test remains good law and should serve as persuasive authority for this Commission. Second, the Reveros Test is not a novel legal concept fashioned by innovative jurists, but rather is plainly rooted in the well-recognized doctrines of *respondeat superior* and vicarious liability. Where, as here, the facts demonstrate that the United States exercised complete authority over the acts of foreign officials, common sense and the law dictate that the United States should be deemed to

<sup>17</sup> ~~(U)~~ AE 726B(GOV) at 7-9.

<sup>18</sup> ~~(U)~~ Id. at 7

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constructively possess the documents generated by such foreign officials. Third, far from being an obscure case, Reveros is cited in a cautionary policy memorandum written by Gary G. Grindler, Acting Deputy Attorney General of the Department of Justice.<sup>19</sup> He explains that prosecutors do not have a duty to search evidence in foreign government custody when: (1) “the defendant is held and interrogated by a foreign government before being transferred to United States custody;” and (2) “U.S. officers did not actively participate in the interrogations.”<sup>20</sup> This sentence is followed by a citation to Reveros, wherein Mr. Grindler notes that the Reveros Court found there was no duty to search for documents in the possession of the Colombian government precisely because there “was no joint investigation by the United States and Colombian governments regarding the events alleged in the Indictment.”<sup>21</sup> In this case, it is clear that CIA and FBI officers actively participated in and directed the joint investigation of Mr. bin ‘Atash regarding events that appear on his Charge Sheet. Had the Prosecution followed this DOJ policy memorandum, the Prosecution would have concluded not only that Reveros is the applicable test, but also that application of the test to the unique facts of this case obligates the Prosecution to search for and disclose relevant materials in Pakistani possession.

~~(S)~~ In applying the Reveros Test, this Military Judge should consider—in addition to the analysis provided by Defense Counsel in AE 726(WBA)—the intense pressure exerted by the United States on Pakistan to cooperate in the War on Terror, and how this pressure effectively

<sup>19</sup> ~~(S)~~ Memorandum from Gary G. Grindler, Acting Deputy Attorney Gen., Dep. of Justice, to All U.S. Attorneys, subj: “Policy and Procedures Regarding Discoverable Information in the Possession of the Intelligence Community or Military in Criminal Investigations” (Sept. 29, 2010) (copy provided as Attach. B). Of note, the Prosecution cites to different DOJ guidance memorandum in its Response, see AE 726B(GOV) at 6 n.1, yet fails to mention the Grindler Memo.

<sup>20</sup> ~~(S)~~ Id. at 7.

<sup>21</sup> ~~(S)~~ Id. at 7 n.18.

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brought Pakistani actors under United States control. As written by Dr. Fazal Rabbi, PhD, a lecturer at the National University of Modern Languages in Pakistan:

Before 9/11, US-Pakistan relations were far away from alliances . . . . Pakistan was under multiple sanctions . . . . Despite cold relations, the United States was able to get Pakistan's support in the war against terrorism through a combination of credible threats and incentives. On September 13, Deputy Secretary of State Richard Armitage handed over a formal list of the US demands to Lt. General Mahmoud, the then Director General of the Inter Services Intelligence (ISI), to pass on these demands to Musharraf and that these were "not negotiable" and "You must accept all seven parts."<sup>22</sup>

In the aftermath of September 11, Pakistan was under intense pressure when Collin Powell, US Defence [sic] Secretary, in a telephonic conversation with Musharraf stated "you are either with us or against us." . . . Thus Pakistan joined the coalition forces due to relentless pressure and promised [sic] for logistic and intelligence support.<sup>23</sup>

[T]he severe US pressure compelled the Musharraf government to cooperate with the international community in war against the Al-Qaeda and Taliban.<sup>24</sup>

In post-9/11, the Pak-US bilateral relations improved significantly, hitherto they were marked by discord and trust deficit. The Bush administration lifted nuclear and democracy sanctions on Pakistan and thus had extended economic assistance and some US \$19 billion of Coalition Support Funds and other security related and economic funds were made available to Pakistan.<sup>25</sup>

Pakistan became one of the biggest recipients of US foreign aid since 2001, as one analyst noted, "Pakistan has become the biggest beneficiary of economic aid in return for its support of the US anti-terrorism campaign in Afghanistan."<sup>26</sup>

<sup>22</sup> (U) Fazal Rabbi, War against Terrorism and its Repercussions for Pakistan, XXXIII Pakistan J. of Hist. & Culture 71, 74 (2012) (internal citations omitted) (copy provided as Attach. C); see also U.S. National Commission on Terrorist Attacks upon the United States, The 9/11 Commission Report, by Thomas H. Kean and Lee Hamilton, Washington, D.C.: GPO, 2004, at 331 (listing the steps demanded by the United States of Pakistan, including "to give the United States blanket overflight and landing rights for all necessary military and intelligence operations;" "to provide territorial access to U.S. and allied military intelligence and other personnel to conduct operations against al Qaeda;" and "to provide the United States with intelligence information").

<sup>23</sup> (U) Rabbi, supra note 22 at 75 (internal citations omitted).

<sup>24</sup> (U) Id.

<sup>25</sup> (U) Id. at 76 (internal citations omitted).

<sup>26</sup> (U) Id. at 86 (internal citations omitted).

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~~SECRET//NOFORN~~**3. ~~(U)~~ Conclusion:**

~~(U)~~ The United States' recruitment of foreign governments to participate in torture is a defining characteristic of its post-9/11 torture program. The cooperation between the United States and Pakistan in detaining, interrogating, and torturing Mr. bin 'Atash is but one example. Therefore, this Military Judge must compel the Prosecution to turn over the requested discovery, whether it exists in the possession of the United States or Pakistan.

**4. ~~(U)~~ Attachments:**

- A. ~~(U)~~ Certificate of Service. (U).
- B. ~~(U)~~ Memorandum from Gary G. Grindler, Acting Deputy Attorney Gen., Dep. of Justice, to All U.S. Attorneys, subj. "Policy and Procedures Regarding Discoverable Information in the Possession of the Intelligence Community or Military in Criminal Investigations," dated 29 September 2010 (12 pages). (U).
- C. ~~(U)~~ Fazal Rabbi, War against Terrorism and its Repercussions for Pakistan, XXXIII Pakistan J. of Hist. & Culture 71 (2012) (20 pages). (U).

**5. ~~(U)~~ Signatures:**

~~(U)~~ Very respectfully,

/s/  
CHERYL T. BORMANN  
Learned Counsel

/s/  
EDWIN A. PERRY  
Detailed Defense Counsel

/s/  
WILLIAM R. MONTROSS, JR.  
Detailed Defense Counsel

/s/  
ANISHA P. GUPTA  
Detailed Defense Counsel

/s/  
JAY S. PEER  
Captain, USAF  
Detailed Military Counsel

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~~SECRET//NOFORN~~

# ~~(U)~~ Attachment A

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**CERTIFICATE OF SERVICE**

~~(S)~~ I certify that on 5 August 2020, I filed via email the attached, AE 726C(WBA), Defense Reply to AE 726B(GOV), Government Response to Motion to Compel Material and Information Related to the Treatment of Mr. bin 'Atash While in Foreign Government Custody, to the Trial Judiciary and provided copies to the parties.

/s/

CHERYL T. BORMANN  
Learned Counsel

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# ~~(U)~~ Attachment B

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U. S. Department of Justice

Office of the Deputy Attorney General

The Deputy Attorney General

Washington, D.C. 20530

September 29, 2010

MEMORANDUM FOR THE ASSOCIATE ATTORNEY GENERAL AND  
 THE ASSISTANT ATTORNEYS GENERAL FOR THE  
 CRIMINAL DIVISION  
 NATIONAL SECURITY DIVISION  
 CIVIL RIGHTS DIVISION  
 ANTITRUST DIVISION  
 ENVIRONMENTAL AND NATIONAL RESOURCES DIVISION  
 TAX DIVISION

ALL UNITED STATES ATTORNEYS

FROM: Gary G. Grindler   
 Acting Deputy Attorney General

SUBJECT: Policy and Procedures Regarding Discoverable Information in the Possession  
 of the Intelligence Community or Military in Criminal Investigations

National security and other cases<sup>1</sup> that may rely on or relate to classified information in the possession of the intelligence community (IC)<sup>2</sup> or other information in the possession of the military<sup>3</sup> pose unique discovery challenges. The Department must handle these cases properly in

<sup>1</sup> Although discovery issues relating to classified information are most likely to arise in national security cases, they may also arise in a variety of other criminal cases, including drug cases, human trafficking cases, money laundering cases, and organized crime cases. In appropriate cases, prosecutors are encouraged to make a general practice of discussing with the agents on the prosecution team whether they have a specific reason to believe that the IC may be in possession of information that relates to their case. If any member of the prosecution team—including a supervisor involved in decision-making in the case—has specific reasons to believe that the IC is in possession of information that relates to their case, regardless of the type of case, the prosecutors should follow the procedures set forth in this Policy.

<sup>2</sup> The IC includes the Office of the Director of National Intelligence; the Central Intelligence Agency; the National Security Agency; the Defense Intelligence Agency; the National Geospatial-Intelligence Agency; the National Reconnaissance Office; the other offices within the Department of Defense (DoD) for the collection of specialized national foreign intelligence through reconnaissance programs; and the intelligence and counterintelligence components of the Department of State, Federal Bureau of Investigation, Drug Enforcement Administration, Department of Treasury, Department of Energy, Department of Homeland Security, and the respective military services. Exec. Order No. 12333 § 3.5(b) (2008).

<sup>3</sup> National security cases may also require collaboration with or assistance from DoD's non-IC and non-law enforcement components. For instance, DoD's non-IC, non-law enforcement components may have arrested or detained the defendant, or conducted a raid that produced evidence or other information relied on in the criminal case.

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Memorandum from the Acting Deputy Attorney General  
 Subject: Policy and Procedures Regarding Discoverable Information

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order to prosecute defendants accused of criminal conduct, safeguard defendants' rights, protect classified and other national security information, and avoid imposing an undue burden on the IC and military. This policy provides guidance to ensure that the Department effectively meets these important obligations.<sup>4</sup>

Due to the risks associated with the disclosure of national security information, prosecutors often will not be able to follow the policy presumptions that the Department has adopted in other contexts in favor of disclosing more information than the law requires or disclosing it earlier than the law requires.<sup>5</sup> Prosecutors should in all cases, of course, disclose in discovery information to which the defense is entitled by law, but national security interests will often militate against disclosing more than the law requires or disclosing it earlier than the law requires in national security cases. The Classified Information Procedures Act, 18 U.S.C. Appendix 3 (CIPA) sets forth procedures for protecting national security information, and prosecutors who handle national security cases should be fully familiar with CIPA. Moreover, disclosure of classified information, by definition, poses a risk to national security.<sup>6</sup> Disclosure of *unclassified* information relating to a national security investigation may also pose a risk to national security if, for instance, the information reveals investigative steps taken, investigative techniques or tradecraft used, or the identities of witnesses interviewed during a national security investigation.

Accordingly, decisions regarding the scope, timing, and form of discovery disclosures in national security cases must be made with these risks in mind, in consultation with the National Security Division, the Intelligence Community, and law enforcement agencies, taking full account of the need to protect against unnecessary disclosure of classified or unclassified information relating to national security investigations. Consistent with this Policy, the United States Attorney's Offices and Department of Justice litigating components should specifically state in their office-wide discovery policies that discovery in national security cases or cases involving

<sup>4</sup> The guidance set forth herein is not intended to create or confer any rights, privileges, or benefits in any matter, case, or proceeding, see *United States v. Caceres*, 440 U.S. 741 (1979), and does not have the force of law or a Department of Justice directive.

<sup>5</sup> The Department has adopted a general policy preference in non-national security cases in favor of "broad disclosure," beyond what may be required by the Constitution and the law, but it has also recognized that adhering to this policy may not be feasible or advisable in national security cases where "special complexities" arise. See Memorandum for Department Prosecutors from Deputy Attorney General David W. Ogden, "Guidance for Prosecutors Regarding Criminal Discovery," at 9 (Jan. 4, 2010) ("[W]hen considering providing discovery beyond that required by the discovery obligations . . . , prosecutors should always consider any appropriate countervailing concerns in the particular case, including . . . protecting national security interests,"), *id.* ("[s]uch broad disclosure may not be feasible in national security cases"). See also USAM § 9-5.001 ("The policy is intended to ensure timely disclosure of an appropriate scope of exculpatory and impeachment information so as to ensure that trials are fair. The policy, however, recognizes that other interests, such as witness security and national security, are also critically important . . . , and that if disclosure prior to trial might jeopardize these interests, disclosure may be delayed or restricted (e.g. pursuant to the Classified Information Procedures Act)").

<sup>6</sup> See Exec. Order No. 12,958 at § 1.2 (2009) (information may be classified only if its disclosure reasonably could be expected to cause damage to the national security).

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Memorandum from the Acting Deputy Attorney General  
 Subject: Policy and Procedures Regarding Discoverable Information

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classified information must account for the special considerations that apply to those cases. Discovery policies should specify that prosecutors handling such cases may need to deviate from the component's general discovery policies in certain circumstances, based on an individualized assessment of the specific factors in the case and in a manner that is consistent with the law.

#### A. Duty To Search and Disclose in National Security Cases

Under the Supreme Court holding in *Brady v. Maryland*, 373 U.S. 83 (1963), prosecutors have a duty to disclose any information that is favorable to the defense and material either to guilt or punishment. *Id.* at 88. Information favorable to the defense includes evidence which "would tend to exculpate [the defendant] or reduce the penalty," *see Brady v. Maryland*, 373 U.S. 83, 87 (1963), and evidence regarding the reliability or credibility of a witness, *see Giglio v. United States*, 405 U.S. 150, 154-55 (1972). In addition, prosecutors have an obligation to search for and disclose any written or recorded statements of the defendant within the government's possession, custody, or control, upon the defendant's request, *see Fed. R. Crim. P.* 16, and any written or recorded statement of a witness called by the government to testify at a criminal proceeding, *see 18 U.S.C. § 3500; Fed. R. Crim. P.* 26.2. The information described in this paragraph that the government has a duty to disclose is referred to collectively herein as "discoverable information."

In *Kyles v. Whitley*, 514 U.S. 419 (1995), the Supreme Court held that in order to satisfy the disclosure obligation, prosecutors have a "duty to learn" of information favorable to the defense known to others "acting on the government's behalf in the case." *Id.* at 437.<sup>7</sup> To apply *Kyles* in particular cases, lower courts have had to determine the circumstances under which government personnel or agencies are deemed to be acting on the government's behalf and thereby fall within the scope of the government's duty to search. The analysis they have developed is fact-specific, depending on factors such as the actions taken by investigators, prosecutors, and the other agencies and departments that have played a role in the case.

(b) (5), (b) (7)(E)



<sup>7</sup> *See also Strickler v. Greene*, 527 U.S. 263 (1999) (holding that the prosecution has a duty to disclose to the defense any exculpatory evidence known to a police investigator, even if it had not been shared with the prosecutor).

<sup>8</sup> The government's "duty to search" is intended to protect the due process right recognized by *Brady* and its progeny to receive any exculpatory, material information in the possession of the prosecution. We are aware of no case in which a court has found that failure to conduct a search violates due process even if the search would have uncovered no discoverable information.

<sup>9</sup> *But see n.3 supra.*

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Memorandum from the Acting Deputy Attorney General  
 Subject: Policy and Procedures Regarding Discoverable Information

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(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

The government must consider the unique facts and competing interests of each national security case in order to determine whether it has a duty to search and, if it does, the scope of such a search.

There is a dearth of published case law regarding the contours of the government's duty to search in national security cases. Prosecutors must therefore attempt to apply the duty to search case law developed in ordinary criminal cases to national security cases, drawing principled distinctions where necessary to address the unique challenges and interests involved in the national security context. Moreover, the case law regarding discovery obligations in ordinary criminal cases is itself far from uniform; there are substantial variations from circuit to circuit, and prosecutors are encouraged to discuss the law or practice in their particular district or circuit with NSD. Applying the existing case law provides some *general* guidance to prosecutors handling national security cases regarding when there clearly is – and clearly is not – a duty to search.

#### Duty To Search

Case law indicates that the government has a duty to search the relevant files of an IC or military component that has taken steps that significantly assist the prosecution. (b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

In addition, case law indicates that the government has a duty to search when the prosecution knows or has a specific reason to know<sup>10</sup> of discoverable information in the possession of the IC or military; has or reasonably should have searched a database accessible to the prosecution team that is maintained by the IC or military; or is responding to a specific and reasonable request for information from a defendant. For instance, the government may have a duty to search:

(b) (5), (b) (7)(E)

<sup>10</sup> Case law provides little guidance regarding how specific the government's belief must be in order to trigger a duty to search. Prosecutors should not assume that their knowledge of IC activities or collections is not sufficiently specific to trigger a duty to search; rather, prosecutors are encouraged to raise any questions they have in this regard with NSD.

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Memorandum from the Acting Deputy Attorney General  
 Subject: Policy and Procedures Regarding Discoverable Information

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(b) (5), (b) (7)(E)

(b) (5), (b) (7)(E)

- DOD Custodian: when DoD captures the suspect in a zone of active conflict (or during the course of repelling or responding to an act of piracy) and detains and interrogates the suspect before transferring him to the United States for prosecution.<sup>13</sup> However, the fact that some components of DoD were involved in the capture, detention, and interrogation of the defendant does not require the prosecution to search all of DoD for potentially discoverable material.<sup>14</sup>
- Joint Terrorism Task Force (JTTF): when the suspect is investigated by a JTTF. For instance, if the JTTF in Seattle investigated the suspect, the government must search for

<sup>13</sup> Cf. *United States v. Lujan*, 530 F.Supp.2d 1224, 1259 (U.N.M. 2008) (concluding that "the United States has a duty to seek out Brady information in FBI and other readily accessible databases."); *United States v. Fardoum*, 929 F.2d 967, 971 (3d Cir. 1991) ("[N]on-disclosure is inexcusable where the prosecution has not sought out information readily available to it."). It is also possible that a duty to search a particular database will arise even if the prosecution team has not used it during the course of its investigation if the database is deemed to be a readily available resource that the prosecution would be expected to search in such a case. See, e.g., *United States v. Auten*, 632 F.2d 478, 481 (5th Cir. 1980) ("That the prosecutor, because of the shortness of time, chose not to run an FBI or NCIC check on the witness, does not change 'known' information into 'unknown' information within the context of the disclosure requirements.")

<sup>12</sup> Cf., e.g., *United States v. Risha*, 445 F.2d 298, 306 (3d Cir. 2006) (holding that a "Brady violation may be found despite a prosecutor's ignorance of impeachment evidence . . . when the withheld evidence is under control of a state instrumentality closely aligned with the prosecution . . .") (citation omitted); *In re Sealed Case*, 185 F.3d 887, 896 (D.C. Cir. 1999) ("[P]rosecutors in this circuit are responsible for disclosing Brady information contained in [Metropolitan Police Department] files, given the close working relationship between the Washington metropolitan police and the U.S. Attorney for the District of Columbia.") (citation omitted).

<sup>13</sup> See, e.g., *United States v. Wilson*, 237 F.3d 827, 832 (7th Cir. 2001) (imputing U.S. Marshall Service's knowledge regarding a witness in the WitSec program to the prosecution team: "it is impossible to say in good conscience that the U.S. Marshal's Service was not 'part of the team' that was participating in the prosecution, even if the role of the Marshal's Service was to keep the defendants in custody rather than to go out on the streets and collect evidence").

<sup>14</sup> See, e.g., *United States v. Petullo*, 399 F.3d 197, 218 (3d Cir. 2005) (finding no duty to search a division of the Department of Labor (DOL) not involved with the prosecution; the fact "that other agents in the DOL participated in this investigation does not mean that the entire DOL is properly considered part of the prosecution team"); *United States v. Lipson*, 856 F. Supp. 727, 750 (E.D.N.Y. 1994) (finding no duty to search the entire Federal Aviation Administration (FAA); "although the FAA provided two inspectors to assist in the investigation, the agency itself did not participate in the criminal investigation or prosecution").

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Memorandum from the Acting Deputy Attorney General  
 Subject: Policy and Procedures Regarding Discoverable Information

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discoverable information in the possession of the Seattle JTTF.<sup>15</sup> The prosecution has no obligation, however, to search each agency participating in the JTTF or to search other JTTFs unless there is a specific reason to believe that a particular agency or JTTF possesses discoverable information or assisted in the investigation of the case.<sup>16</sup>

- Participation of Main Justice Supervisors: when Department of Justice officials who advise on or are involved in decision-making regarding the defendant's capture, detention (including pre-trial law of war detention), or prosecution, they may be considered part of the prosecution team, thereby triggering a duty to search for discoverable information in their possession or control.<sup>17</sup> Accordingly, when an NSD attorney is assigned to work with a United States Attorney's Office on a case, that attorney and his or her supervisors involved in decision-making in the case will be part of the prosecution team.

#### No Duty To Search

The government does not have a duty to search an IC or military component that was not involved in the investigation or prosecution unless there is a specific reason to believe that the IC or military possesses discoverable material. The government does not have a duty to search in response to an overbroad request by the defendant that amounts to a "fishing expedition," i.e., a speculative, unsubstantiated assertion by the defendant that an IC or military component may have discoverable information. The government generally will not have a duty to search:

- General Knowledge of Collection Program: when the prosecution team is generally aware of intelligence collection programs, but has no specific reason to believe that the IC possesses information on the suspect or any of the witnesses the government intends to use at trial. For instance, a suspect is stopped crossing the border from Canada by customs officials. A search of his car reveals precursor chemicals and bomb components along with jihadist literature. Under questioning, the suspect admits that he has been inspired by al Qaeda and that he planned to detonate the explosives at the Los Angeles International Airport. The fact that prosecutors are generally aware that the Central

<sup>15</sup> See, e.g., *United States v. Burnside*, 824 F. Supp. 1215, 1253 (N.D. Ill. 1993) ("[T]he fact that the ATF agents and the Chicago police officers who [worked on the cases] were aware of the Brady material makes knowledge of the Brady material attributable to the government for Brady purposes.")

<sup>16</sup> See, e.g., *United States v. Locascio*, 6 F.3d 924, 949 (2d Cir. 1993) (finding that there was no obligation to disclose impeachment evidence in a report prepared by FBI agents who were not part of the prosecution team but were investigating other criminal activity involving the same witness; "[e]ven assuming the reports' materiality, there is no evidence that the prosecution team in the instant case was aware of the reports that have subsequently come to light.")

<sup>17</sup> See, e.g., *United States v. Ghailani*, 687 F. Supp. 2d 365 (S.D.N.Y. 2010). In evaluating the defendant's Rule 16 request, the court concluded that Department of Justice officials who "participated in advising on or making the decisions" to hold Ghailani in a CIA detention center, transfer him to Guantanamo Bay, prosecute him in a military commission, and subsequently transfer him to the Southern District of New York for prosecution in an Article III court were part of the "the government" for Rule 16 purposes and were obligated to produce and disclose relevant documents, even if they were not otherwise involved in prosecuting the criminal case. *Id.* at 372.

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Intelligence Agency (CIA) collects intelligence regarding al Qaeda members and affiliates does not give rise to a duty to search the CIA's files unless the CIA has provided the prosecution team with information relevant to the case or the prosecution team has a specific reason to believe that the CIA possesses information on the suspect or the statements of a government witness. The fact that the suspect *might* be an al Qaeda affiliate and that the CIA *might* have relevant information does not create an obligation to search when the information has not been relied on or used in any way in the government's investigation or case.<sup>18</sup> (That said, on these facts, prosecutors will undoubtedly wish to do a search to look for inculpatory material; such a search will then trigger an obligation to also look for discoverable information among the material that is searched.)

- \* Foreign Government Custody: when the defendant is held and interrogated by a foreign government before being transferred to United States custody and U.S. officers did not actively participate in the interrogations.<sup>19</sup> If, however, a foreign government has provided the prosecution team with information relevant to the case, prosecutors have an obligation to search the material provided to them for potentially discoverable documents or information.

(b) (5), (b) (7)(E)



<sup>18</sup> See, e.g., *United States v. McDavid*, No. CR S-06-35 MCE, 2007 WL 928664, at \*3 (E.D. Cal. Mar. 27, 2007) ("Although defendant discusses the NSA's activities at length, he has failed to link them to this prosecution or to make any sort of showing that the prosecutor has knowledge of and access to any results of the NSA's surveillance."); *United States v. Morris*, 80 F.3d 1151, 1169 (7th Cir. 1996) ("Brady did not require the government here to seek out allegedly exculpatory information in the hands of the Office of Thrift Supervision ('OTS'), the Securities Exchange Commission ('SEC'), or the Internal Revenue Service ('IRS') when it had been unaware of the existence of that information [and] none of these agencies were part of the team that investigated this case or participated in its prosecution . . ."). But see *United States v. McVeigh*, 854 F.Supp. 1441, 1450 (D.Colo. 1997) ("The lawyers, appearing on behalf of the United States, speaking for the entire government, must inform themselves about everything that is known in all of the archives and all of the data banks of all of the agencies collecting information which could assist in the construction of alternative scenarios to that which they intend to prove at trial.") The *McVeigh* court, however, ultimately rejected defendant's request to require that the prosecution forward broad-based discovery requests to intelligence agencies based in part on the conclusion that the defendant's discovery requests were not sufficiently specific so as to demonstrate what was being sought and how it was material to the defense.

<sup>19</sup> *United States v. Reyes*, 537 F.3d 270, 283 (3d Cir. 2008) (finding that there was no duty to search for or disclose documents in the possession of the Colombian government merely because Colombian officials permitted U.S. agents to interview the defendant while he was in Colombian custody and participated in a judicial proceeding that resulted in the defendant's extradition); *id.* (emphasizing as a key fact that there "was no joint investigation by the United States and Colombian governments regarding the events alleged in the indictment").

<sup>20</sup> See, e.g., *United States v. Ferguson*, 478 F. Supp. 2d 220, 239-40 (D. Conn. 2007) (finding no duty to search the New York Attorney General's files: "The mere fact that the Government may have requested and received

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(b) (5), (b) (7)(E)

#### Hybrid Departments and Agencies

(b) (5), (b) (7)(E)

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As the above discussion suggests, the determination whether there is a duty to search an IC or military component for discoverable information relating to a national security case is complex and fact-specific. Moreover, even where there is a clear duty to search, determining the scope of that obligation – whether it extends to an entire department or agency, or just to certain components of a department or agency – depends on the unique facts of the case.

In light of these complexities, prosecutors should seek guidance from the National Security Division (NSD) whenever there is the possibility that they have a duty to search an IC or military component in a national security case. Early coordination with NSD will ensure that the Department takes consistent litigation positions across various federal districts and will facilitate coordination with relevant IC components.

#### **B. Prudential Searches**

A “prudential search” is a search of the files of an IC agency, usually prior to indictment, undertaken because the prosecution team has a specific reason to believe that the agency’s files may contain classified information that could affect the government’s charging decisions.<sup>21</sup> A

documents from [another agency] in the course of its investigation does not convert the investigation into a joint one.”) (citation omitted); *United States v. Chalmers*, 410 F. Supp. 2d 278, 290 (S.D.N.Y. 2006) (holding that federal entities do not become part of the prosecution team – thereby triggering the attendant duty to search and disclose – merely because they “made documents available to the prosecution”).

<sup>21</sup> See *Pundexter*, 727 F. Supp. at 1478 (“[A] prosecutor who has had access to documents in other agencies in the course of his investigation cannot avoid his discovery obligations by selectively leaving the materials with the agency once he has reviewed them.”). Questions about whether an agency may be in possession of additional discoverable material that triggers an obligation to search should be directed to the relevant component at NSD.

<sup>22</sup> See, *supra*, n.16.

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prosecutor should contact NSD to coordinate a prudential search for potentially discoverable information prior to indictment if he or she has a specific reason to believe that:

- the agency or department likely possesses information that could affect the decision whether, against whom, or for what offenses to charge;
- the IC or military likely possesses documents that will fall within the scope of the prosecutor's affirmative discovery obligations. In such cases, pre-indictment discussions about how to handle the documents and information could avoid conflicts, surprises, and disclose-or-dismiss dilemmas; or
- the case may raise other questions regarding classified evidence that should be resolved pre-indictment.<sup>23</sup>

While not legally required, prudential searches assist the prosecution team in identifying and managing potential classified information concerns before indictment and trial. They may also permit the prosecution team to tailor an indictment in a way that will reduce or eliminate the relevance of any classified information, and thereby reduce or eliminate the likelihood of facing a disclose-or-dismiss dilemma after the indictment is returned when the Classified Information Procedures Act (CIPA) and other protective measures do not provide sufficient protection. Prosecutors are strongly encouraged to contact NSD about the possibility of conducting a prudential search as soon as it becomes evident that information in the possession of the IC or military may be relied on, or may be discoverable, in a criminal case.

#### C. Coordination of Search Requests

To ensure a consistent approach, avoid undue burdens on the IC and military, and best ensure a timely response, all search requests to a component of the IC or military by any Department of Justice (DOJ) prosecutor handling an investigation or prosecution that involves an identifiable link to national security or to information within the possession of the IC should be made through NSD, except as otherwise agreed by the Assistant Attorney General for NSD and the Assistant Attorney General for the Criminal Division, as follows:

- The Counterterrorism Section (CTS) should be contacted regarding search requests for investigations and prosecutions involving offenses that CTS is responsible for coordinating pursuant to the U.S. Attorney's Manual (USAM).<sup>24</sup>

(b) (5) (b) (7)(E)



<sup>24</sup> Pursuant to the USAM, all investigations, including criminal cases, that have an identified link to international terrorism; domestic terrorism; torture, war crimes, and genocide matters (in coordination with the Criminal Division); and weapons of mass destruction must be coordinated through CTS. USAM §§ 9-2.136--9-2.139.

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- The Counterespionage Section (CES) should be contacted regarding search requests for investigations and prosecutions involving offenses that CES is responsible for coordinating pursuant to the USAM.<sup>25</sup>
- All other requests should be directed to NSD's Office of Law and Policy (L&P).

Requests should be made at the earliest opportunity and before any contact by the prosecutor with the IC. See USAM § 9-90.210. NSD will coordinate between the relevant DOJ prosecutors and the IC and military to ensure that potentially discoverable classified material is provided to the prosecution team for review. NSD, in close consultation with the relevant DOJ prosecutors, also will coordinate with the appropriate elements of the IC and the military to ensure that use authority or other approvals are received in a timely manner; declassification requests are promptly reviewed; and required disclosures are made pursuant to mutually agreed upon and appropriate mechanisms to protect the information.

Prosecutors should also consult with the relevant component of NSD if they are unsure as to whether or not a prudential search is warranted.

#### **IX. Content of Search Requests**

Search requests should be focused, carefully reasoned, and based on case-specific facts, and should include the following information:

- the nature of the charges or likely charges (if pre-indictment), and potential defenses;
- all available identity information with respect to each known defendant/suspect and potential witness – e.g., name (including full name, nicknames and aliases and any spelling variations the prosecutor wants searched), date of birth, citizenship, and any government identification numbers;
- the type of information sought;
- the time period to be covered (which will generally coincide with the time period covered by the criminal activity charged or to be charged);
- the components of the IC and/or military that have been involved in the case and a discussion of the nature of the involvement; and
- the grounds for the search request.

<sup>25</sup> Pursuant to the USAM, all economic espionage investigations where there is an intent to benefit a foreign government and other national security offenses listed in the USAM must be coordinated through CES. USAM §§ 9-90.020; 9-59.100.

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#### **E. Reviewing Responsive Information**

Once an IC or military component has identified documents responsive to the search request, the prosecution team or other attorneys from that office will review the documents, provided that each member has the necessary security clearances. In the rare event that the requisite security clearances cannot be obtained in a timely manner, NSD attorneys may review the responsive files.

DOJ prosecutors should review the responsive material to ensure the production is complete. If it appears that the response does not include all of the material that would be expected given the particular facts of the case, the prosecutors should coordinate with NSD prior to making any follow-up requests to the IC or military component involved. The materials also should be reviewed for information that suggests additional discoverable information may exist in the agency's files or elsewhere within the possession, custody, or control of the United States government.

#### **F. Discovery Determinations**

If the prosecutors conclude that any of the classified information is relevant and arguably discoverable,<sup>26</sup> they should coordinate with the appropriate element of NSD to determine how to proceed. NSD will facilitate communication between the prosecutors and the IC or military component regarding declassification requests. Only the IC or military component that originally classified the material can declassify it, and its decision to do so must be based upon specific findings that use or disclosure will not result in harm to national security.

NSD also will facilitate discussions between prosecutors and the appropriate IC or military component regarding how to pursue measures to protect information that is used or disclosed in a prosecution. The Classified Information Procedures Act (CIPA) permits the government, in appropriate circumstances, to: (1) delete classified material from discovery with prior approval of the court; (2) disclose classified information to cleared defense counsel pursuant to a protective order; (3) declassify and disclose information pursuant to a protective order; (4) redact classified information in documents to be used or disclosed; (5) substitute an unclassified statement of the facts contained in a classified document; or (6) submit an unclassified summary of the information that protects sources and methods.<sup>27</sup> NSD can advise prosecutors and negotiate with the IC regarding how appropriately to use CIPA's protective measures to protect classified information that is used or disclosed in a prosecution.

If the relevant IC or military component does not approve use or disclosure of the information even under such protective measures, NSD can also assist prosecutors in tailoring the charges to avoid or to minimize reliance on classified information.

<sup>26</sup> Classified information may still be discoverable as *Brady*, *Giglio*, Rule 16, or *Jencks* material even if the government does not intend to offer it into evidence.

<sup>27</sup> See generally the Classified Information Procedures Act, 18 U.S.C. App. 3 §§ 1-16.

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#### G. Foreign Intelligence Surveillance Act (FISA) Material

As with other classified evidence, potentially discoverable information obtained pursuant to FISA must be reviewed and disclosed in accordance with applicable law and Department policies. Like CIPA, FISA provides specific procedures designed to facilitate the use of intelligence information in criminal proceedings while at the same time protecting sources and methods of intelligence collection. *See generally* 50 U.S.C. §§ 1806; 1825; 1845. Internal DOJ policy also requires that prosecutors obtain advance authorization before using FISA information in criminal proceedings.<sup>28</sup> The granting of FISA use authority is a related, but distinct, question from discovery and declassification questions. Use, discovery, and declassification determinations are time consuming, so early consultation with the appropriate components within NSD is advisable whenever a case involves FISA materials.

#### II. Contacting NSD

Prosecutors submitting their search requests or making other inquiries regarding their discovery obligations should call the relevant component of NSD:

- CTS: 202-514-0849
- CES: 202-514-1187
- L&P: 202-514-1057

<sup>28</sup> See Memorandum to All Federal Prosecutors from Michael B. Mukasey, "Revised Policy on the Use or Disclosure of FISA Information," Jan. 10, 2008.

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## ***War against Terrorism and its Repercussions for Pakistan***

**Fazal Rabbi\***

### **Abstract**

*Joining the US led coalition in the war against terrorism has many short and long term repercussions for Pakistan. The alliance helped Pakistan to overcome the sanctions, to get economic as well as military assistance and to end its international isolation. It also got the status of non-NATO ally, frontline state and proved itself as the most suitable ally from that of a rogue regime, terrorist or failed state. It also succeeded to restore its membership in the Commonwealth, which was suspended after the military coup of October 1999. On the other hand Pakistan is paying a heavy price in socio-strategic fields. It suffered immeasurable loss in the global war on terror. It faced gravest foreign policy predicaments and had to revise its Afghan policy and found difficulties in its diplomacy while supporting the freedom struggle of Kashmir. The counterterrorism against terrorists and militancy inside the country added to institutional instability and raised social problems that remained consistent to beset the society. Thus, Pakistan is considered as one of the economic and strategic losers in the global system that has evolved since 9/11.*

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### Introduction

The event of 9/11 has put many nations of the world into a terrible crisis. It was followed by the US and coalition forces bombardment and invasion of Afghanistan and had worsened the security environment of South Asia. The adverse situation generated by the US-led Global War on Terror (GWOT) has left overwhelming impacts and more agony to Pakistan than any other country of the world. The primary concern of this research paper is to trace out the repercussions of the US-led war against terrorism on Pakistan. Though it is difficult to measure the advantages and disadvantages of the war against terrorism for Pakistan, however, a comparative analysis of the gains and losses has been done critically. For better understanding, the researcher has divided this paper into three main domains i.e. political/security repercussions, economic repercussions and social/cultural repercussions. Before proceeding further it is better to have a look on the circumstances that led to the close partnership between Pakistan and US in the post-September 11 scenario.

### Formation of Pak-US Partnership in the Post-9/11

On the morning of September 11, 2001 four passenger airplanes were hijacked by nineteen hijackers over the US and subsequently hit the World Trade Center and Pentagon (US Military Headquarters).<sup>1</sup> The death toll from the attacks was estimated from 2992 to 3,117 including victims from about eighty (80) countries. The nineteen men who were said to be responsible for the 9/11 attacks were Arabs, who had affiliation with Al-Qaeda network, led by Osama bin Laden, who was a militant operating from Afghanistan since 1996 and had started a Holy War against the US policies in the Muslim world.<sup>2</sup>

1 Ian Markham and Ibrahim M. Abu-Rabi (eds.), *11 September: Religious Perspective on the Causes and Consequences* (England: One World Publication, 2002), 7-10.

2 Markham and Abu-Rabi, *11 September*, 12.

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Immediately after the attacks, the then US President George Walker Bush announced that fighting against terrorists would be a top policy of his administration. Accordingly, he changed the national strategy of the US as well as its foreign policy and put condition before the nations of the world including Pakistan to stand with the US in its anti-terrorist efforts or face US wrath. To fight against international terrorism, the US made a strong and large coalition ever seen after World War-II. The coalition established its objectives as to fight against international terrorism; to crackdown Al-Qaeda network; to eradicate terrorism from Afghan soil and to prevent other states from supporting terrorist groups.<sup>3</sup>

The 9/11 attacks were perceived as a God-sent opportunity by the Bush Administration<sup>4</sup> to launch an invasion in Afghanistan in October 2001. Due to its geo-strategic position, Pakistan's support was also needed by the US and the coalition forces due to five reasons: First, during the Cold War, Pakistan and the US had worked very closely at Afghan front to defeat Union of Soviet Socialist Republics (USSR). So, the US knew very well the mode of conduct that Pakistan can adopt to support it and the coalition forces against Kabul regime. Secondly, the US was well aware of the fact that Taliban were bearded and very close to Pakistan. They had a fear that Pakistan might be sympathetic towards Taliban and might provide them support to prevent them from disaster. Thirdly, sharing a long border of approximately 2460 km, with Afghanistan, Pakistan was in a position to make movement easy for Taliban and Al-Qaeda's members. Fourthly, Pakistan could also have sent its forces or *Jehadi* volunteers to fight in collaboration with the Taliban which would have created problems for the US to defeat Taliban. Fifthly, the geo-strategic and geopolitical location of Pakistan at the crossroads of Central, Southern and Southwest Asia also

3 Bob Woodward, *Bush at War* (New York: Simon and Schuster, 2002), 103.

4 Woodward, *Bush at War*, 31-32.

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made it a pivotal-state and thus it was in a position to promote US interests in the whole region.<sup>5</sup>

Before 9/11, US-Pakistan relations were far away from alliances and were labelled as estranged relations. Pakistan was under multiple sanctions i.e. nuclear and democracy related sanctions and its membership was cancelled from the Commonwealth. Despite cold relations, the United States was able to get Pakistan's support in the war against terrorism through a combination of credible threats and incentives. On September 13, Deputy Secretary of State Richard Armitage handed over a formal list of the US demands to Lt. General Mahmoud, the then Director General of the Inter Services Intelligence (ISI), to pass on these demands to Musharraf and that these were "not negotiable" and "You must accept all seven parts."<sup>6</sup> These seven demands were as:

- to stop Al-Qaeda operatives at its border and end all logistical support for Bin Ladin;
- to give the US blanket over flight and landing rights for all necessary military and intelligence operations;
- to provide territorial access to US and allied military intelligence and other personnel to conduct operation against Al-Qaeda;
- to provide the United States with intelligence information;
- to continue to publicly condemn the terrorist acts;
- to cut off all shipments of fuel to the Taliban and stop recruits from going into Afghanistan; and
- If the evidence implicated bin Ladin and Al-Qaeda and the Taliban continued to harbour them, to break relations with the Taliban government.<sup>7</sup>

5 A. Z. Hilali, *US-Pakistan Relationship: Soviet Invasion of Afghanistan* (USA: Ashgate, 2005), 247-49.

6 Woodward, *Bush at War*, 59.

7 *The 9/11 Commission Report*, W. W. Norton & Co., New York, 331. See also Abdul Sattar, *Pakistan Foreign Policy: 1947- 2005* (Karachi: Oxford University Press, 2007), 244-45 and Woodward, *Bush at War*, 244-45.

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In the aftermath of September 11, Pakistan was under intense pressure when Collin Powell, US Defence Secretary, in a telephonic conversation with Musharraf stated "you are either with us or against us."<sup>8</sup> During an interview Wendy J. Chamberlin (former US Ambassador to Pakistan), mentioned that "I was the first person to talk to Musharraf after 9/11. And I am telling you what I said and that's the history. I did not threat him. I said are you with us or against us..."<sup>9</sup> Thus Pakistan joined the coalition forces due to relentless pressure and promised for logistic and intelligence support.

In a couple of days the situation became critical when the US government decided to strike Osama and his Al-Qaeda network and the Taliban government. In this critical situation Pakistan repeatedly informed the Taliban leaders about the gravity of the situation and sent two delegations to convince their government to hand over Osama to the US and dismantle Al-Qaeda network but without any result. After the failure of Pakistan delegations to Afghanistan as an attempt of mediation, nevertheless the severe US pressure compelled the Musharraf government to cooperate with the international community in war against the Al-Qaeda and Taliban. On October 7, the US-led forces launched missile and bombing attacks against Taliban and Osama in Afghanistan while Pakistan provided logistic and intelligence information. Due to the US and its allies' bombing and ground attacks, the Taliban rule from the Kabul came to an end on November 13, 2001 which was also followed by Kandahar etc. Most of the Al-Qaeda and Taliban members were killed; many had hidden themselves in mountains of

8 Pervez Musharraf, *In the Line of Fire: A Memoir* (New York, London & Toronto: Simon & Schuster Inc., 2006), 201 (During an interview with Jon Stewart of *The Daily Show* on September 26, 2006, Musharraf repeated the same statement).

9 Interview by author with Wendy J. Chamberlin, (former U.S. Ambassador to Pakistan), President of the Middle East Institute, Washington D.C., March 18, 2011.

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Afghanistan while some were able to cross the border to escape to Iran and Tribal Areas of Pakistan.<sup>10</sup>

In post-9/11, the Pak-US bilateral relations improved significantly, hitherto they were marked by discord and trust deficit. The Bush administration lifted nuclear and democracy sanctions on Pakistan and thus had extended economic assistance and some US\$ 19 billion of Coalition Support Funds and other security related and economic funds were made available to Pakistan.<sup>11</sup> As a result of financial inflows from the US and other sources the economy of Pakistan experienced some impressive growth figures in the first years but the eruption of extremism and uncertainty in society resulted in the poor economic growth of the country.<sup>12</sup> The continuous war against terrorism and extremism created a lot of economic and security problems for Pakistan.

#### **i. Political and Security Repercussions**

Pakistan's cooperation in the war against terrorism ended its political isolation internationally and its role as a frontline state was once again assumed as it was awarded the status of 'Major non-NATO Ally'.<sup>13</sup> Its membership in the Commonwealth was resumed and incentives in the form of

10 Mohib Ullah Durani and Ashraf Khan, "Pakistan-Afghan Relations: Historic Mirror", *The Dialogue*, IV, no. 1 (Jan-March 2009): 51-52. Also see *Dawn*, May 4, 2011.

11 Interview by author with K. Alan Kronstadt, (Specialist in Asian Affairs, Foreign Affairs, Defense, and Trade Division), Congressional Research Service, Library of Congress, Washington D.C., March 17, 2011. U.S economic and military assistance rose to \$23 billion in 2013. For detail see Susan B. Epstein and K. Alan Kronstadt, "Pakistan: U.S. Foreign Assistance", *Congressional Research Service Report* (Washington DC: Library of Congress, July 1, 2013).

12 Chuck Hagel and John Kerry, *URGENT Needed: A Comprehensive U.S. Policy towards Pakistan* (Washington, D.C: A Report by the Atlantic Council of the U.S., February 2009), 13.

13 Colin I. Powell, remarks with Foreign Minister Mian Kursheed Mehmood Kasuri, Islamabad March 18, 2004, *The News*, March 19, 2004. Also see The White House, Office of the Press Secretary, *Fact Sheet: "U.S. and Pakistan: Long-Term Strategic Partners"*, Washington, D.C. March 4, 2006; "U.S. supports nuclear pardon", *CNN.com*, February 5, 2004, and "Pardon of Khan an internal matter: US", *Press Trust of India*, February 6, 2004.

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cash credit, debt credit and defence equipment were provided. However, the unilateral US missile strikes in the Pakistani territory which sharply increased in 2008, fuelled anti-US sentiments among the Pakistani public. The insurgent groups used these attacks to bolster their anti-US propaganda through arguing that they were fighting Americans who launched attacks on Pakistani territory. One writer noted that "Pakistan today is a scary place for Americans" and "it is one of the most anti-American countries in the world".<sup>14</sup> These unilateral missile strikes had negative consequences for the Pak-US long-term relations. These attacks were counter-productive to Pakistan's efforts against terrorism and extremism as reiterated by Pakistan's civil and military leadership. They had vitiated the domestic political environment. The general public as well as the military had been deeply threatened by the missile strikes which violated the state sovereignty and might be detrimental to cooperation with the US.<sup>15</sup>

Domestic public opinion in terms of anti-Americanism was also a part of the overall perception of the US policies primarily because of the uneasy and inconsistent history of Pak-US relations. Many amongst public and experts believe that such an approach had been too focused on the short-term objectives and interests of the US and it pulled apart Pakistan once again. Socio-religious movements in Pakistan also considered that US was fighting a war against Islam and not against terrorism. General public also viewed the Washington's support for President Musharraf and Pakistan's military as an impediment to and not as facilitator of the process of democratization.<sup>16</sup> However,

14 Robert M. Hathaway, "Leverage and largesse Pakistan's post-9/11 partnership with America", *Contemporary South Asia*, 16, No. 1 (March 2008): 11.

15 Caroline Wadhams, Brian Katulis, Lawrence Korb and Colin Cookman, *Partnership for Progress: Advancing a New Strategy for Prosperity and Stability in Pakistan and the Region* (Washington D.C: Report of Centre for American Progress, November 2008), 15-23.

16 Kenneth Ballen, "Bin Laden's Soft Support," *Washington Monthly*, May 2008.

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Congressional Research Centre in its report concluded that the Bush Administration "showed signs of a shift in its long-standing Pakistan policies, in particular on the issue of democratization."<sup>17</sup>

By saying unconditional yes to the US demands, Musharraf government dragged Pakistan into the war against terror. Even political parties and their leadership were not taken into confidence in the initial decision making and thus a cohesive national consensus on the decision was not developed. Political parties and their leadership remained divided on Musharraf's changed policies and decision to cooperate with the US and its allies in the war on terror. The PML (Q) fully supported Musharraf's policies, while the PPP and the PML (N) kept emphasising anti-extremist policies of the government and cautiously endorsed its support to the war. In the 2002 General Elections, the Mutahidda Majlis-e-Amal (MMA) fully exploited the anti-American sentiments in the society by winning majority seats in NWFP (now KP) and Balochistan; bordering with Afghanistan. Religious political parties opposed Musharraf government's Kashmir policy and the deployment of Pakistan's forces in FATA. They opposed Musharraf government's decision to crack down on extremist elements as a betrayal of the Kashmiri struggle for independence under the US and Indian pressure. Though there was a general consensus amongst political parties and the government to counter terrorism but still Musharraf did not enjoy unconditional support for his policies towards the US led GWOT.<sup>18</sup>

India got an opportunity and tried to take advantage from the global situation when its Parliament was attacked by

17 K. Alan Kronstadt, "Pakistan-U.S. Relations", *Congressional Research Service Report* (Washington DC: Library of Congress, November 10, 2008), 91-92.

18 Musharraf, *In the Line of Fire*, 222. Also see the Islamist parties named MMA sympathetic to the Taliban formed government in NWFP and were part of ruling coalition in Balochistan. Raja Asghar, "PML-Q, MMA win majority seats", *Dawn* (Islamabad: January 17, 2003) and "Country Profile Pakistan", *BBC News* (October 5, 2009).

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militants on December 13, 2001. It pressurized Musharraf government to give up its country's stance on Kashmir and shifted its forces to Pakistan border. The forces of both countries on borders created a serious tension between both countries and the world communities were in fear of the nuclear war. Throughout the standoff between India and Pakistan, the US played very important role in crisis management which resulted in a peaceful withdrawal of Indian and Pakistani troops from the international border in October 2002.<sup>19</sup>

During the crisis US got the opportunity to increase its influence in Indo-Pakistan relations. Under pressure from US and international media, Musharraf banned eight extremist groups and arrested 2,000 activists besides sealing 624 offices of Jihadi parties. However with the support of Bush administration, composite dialogue started between Pakistan and India to resolve all issues including the most outstanding one, Kashmir. Kashmir issue was highlighted in international media, which was considered a positive development from Pakistani perspective.<sup>20</sup>

Pakistan's partnership with the US led war against terrorism had serious security repercussions for Islamabad. The government conducted several operations in FATA to eliminate Al-Qaeda network, extremism and militancy. Due to these operations the government faced serious security problems within the country,<sup>21</sup> while suicide attacks and bombing across the country resulted in thousands of civilian death and destruction of public property. As one analyst pointed out that the desired results, which are yet to achieve

19 Ashraf, *et.al.* (eds.), *Peace and Security in South Asia*, Report of the International Conference held at the Institute of Strategic Studies (Islamabad: September 19-20, 2002), 73. For detail see Polly Nayak and Michael Krepon, *US Crisis Management in South Asia's twin Peaks Crisis*, Report No. 57 (Washington DC: The Henry L. Stimson Centre, September 2006).

20 Ashraf, *et.al.* (eds.), *Peace and Security in South Asia*, 55.

21 Jon Lunn, Claire Taylor and Tim Youngs, "Pakistan's Political and Security Challenges" (London: International Affairs and Defence Section, House of Commons Library, Research Paper 07/68, September 13, 2007), 3.

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"reflects a 'hedging of bets' in the context of fears that the US will turn against Pakistan".<sup>22</sup>

The event of 9/11 and Pakistan's cooperation with US in the war against terrorism brought militancy in the country. Religious militant groups, Pakistani Taliban and their supporters widely criticized Musharraf's Afghan policy.<sup>23</sup> Prior to Pakistan military action in the tribal belt, some Al-Qaeda elements escaped into Pakistan's territory. Most of them were captured or killed during military and intelligence operations, while some of them escaped, and later on posed serious threat to the national security of Pakistan. Terrorist attacks within the country targeted government institutions, damaged public property and foreign interests as well as targeted officials including the President and the Prime Minister; while in military operations against terrorists and extremists, hundreds of security men lost their lives.<sup>24</sup>

Since 9/11, the US-Pakistan relations entered into a new era of military cooperation. The US had approved a \$1.2 billion arms-sale package that includes roughly \$950 million for the purchase of P3C Orion Aircraft. President Bush in March 2005 authorized the sale of a yet-to-be-specified number of F-16 fighter jets to Pakistan. Washington has also reinstated a military-training programme with Islamabad and some "three hundred officers have received instruction at US military institutions since 2001."<sup>25</sup> Pakistan was amongst one of the largest recipients of US military aid when the US arms sale reached to \$3.5 billion in 2006.

On the other hand, Pakistan paid a heavy price on military side by joining the US alliance against terrorism. Thousands of Pakistan's armed forces (between 85000 to

22 Lunn, Taylor and Youngs, "Pakistan's Political and Security Challenges", 3-4.

23 Naseem Ahmed, "General Musharraf's Taliban Policy 1999-2008", *The Dialogue* V, No. 2 (April-June 2010): 111.

24 Musharraf, *In the Line of Fire*, 232-33.

25 Touqir Hussain, "US-Pakistan Engagement: The War on Terrorism and Beyond", *IPS Report* (Washington DC: U.S. Institute of Peace, Special Report 145, August 2005), 6.

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120000) were deployed on western border with Afghanistan<sup>26</sup> and hundreds of soldiers (more than 2000) had lost their lives which were more in number than the total allied soldiers died in Afghanistan. This is besides collateral loss to human life. Along with it, the Indo-US nuclear deal is also a serious repercussion for Pakistan as "India tried to manipulate the American doctrine of pre-emption to pressurize Pakistan."<sup>27</sup>

Pakistan always likes to feel secure on western border through the presence of a friendly regime in Afghanistan. Taliban government was friendly towards Pakistan and after their fall Northern Alliance came into power in Kabul, meaning thereby that Pakistan has now a hostile neighbour in the post-Taliban Afghanistan. This Afghan government is extremely antagonistic to Pakistan and is pro-Indian in nature. In the post-9/11 scenario, the influence of Islamabad in Kabul has decreased dramatically while on the other hand, the Indian influence increased. It has made the western border of Pakistan highly troubled, thus adding to the regional instability.<sup>28</sup>

The growing Indian influence in Afghanistan as well as in Central Asia is a serious setback for Pakistan's foreign policy. The growing Indo-Afghan ties and Indian involvement in Afghanistan with the opening of four consulates in Jalalabad, Kandahar, Herat, and Mazar-e-Sharif has serious implications for Pakistan's security. For Pakistan, it presented the possibility of Low Intensity Conflict (LIC) operations being conducted inside Pakistan from its western border. The new Indo-Kabul engagements in the post-September 11 have been the bone of contention between Pakistan and India. The base at Farkhor and its involvement with road-building to Afghanistan "will allow a permanent

26 Greg Bruno and Jayshree Bajoria, "U.S-Pakistan Military Cooperation", *Council on Foreign Relations* (Washington D.C. June 26, 2008).

27 Razia Musarrat, "US War on Terrorism and its Impact on South Asia", *Journal of Political Science* 11 (2007): 10.

28 Musarrat, "US War on Terrorism", 10.

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Indian military presence in a country that not only borders Afghanistan but also shares a short border with Pakistan".<sup>29</sup>

Thus India's increased involvement in Afghanistan, is a gateway to Central Asia, has serious repercussions for Pakistan. The mislaid of a friendly government in Afghanistan makes Pakistan's western border vulnerable for attacks and interference in future. Moreover, "the absence of geographical depth makes it difficult for Pakistan to pursue a defensive strategy by trading away geographic space for reaction time".<sup>30</sup> Pakistan lost its policy to gain a strategic depth. It failed to stop a pro-Indian regime in Afghanistan. It botched to curb the growing Indian influence in Afghanistan and Central Asian Republics (CARs). India benefited more than Pakistan from the alliance against terrorism and improved its relations with China and deepened with Afghanistan, US and CARs.<sup>31</sup>

Besides that growing extremism in Pakistan is also a drawback of the alliance and number of other social and economic problems, including foreign interference in internal affairs especially in FATA and Balochistan. Under the US pressure Pakistan conducted various military operations in WANA (Waziristan), FATA and Balochistan to capture Taliban and Al-Qaeda members as well as to curb extremism from the society. Suicide attacks, bombing, blasting, killing of common masses, security forces and political leaders, damaging public and private property and law and order situation especially in FATA and Baluchistan and clashes between the security forces and extremists became daily routine activities. Thus militancy and terrorism

29 Aiy Zaman, "India's Increased Involvement in Afghanistan and Central Asia: Implications for Pakistan," *IPRI Journal* III, No. 2 (Summer 2003): <http://ipripak.org/journal/summer2003/indiaincreased.shtml>

30 Syed Rifaat Hussain, "War against Terrorism: Pakistani Perspective", *IPRI Journal* IV, no. 1 (Winter 2004): <http://ipripak.org/journal/winter2004/waragainst.shtml>

31 Bimla Kumari, "ISI Upset with Indian Influence in Afghanistan", *India Post Online* (August 31, 2008), <http://www.indiapost.com/article/perspective/3726/>.

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increased in Pakistan which contributed to political instability with serious security complications for Pakistan.<sup>32</sup>

Pakistan faced problems for supporting the freedom struggle in Kashmir as well. It had to ban several Jehadi groups under external pressure, to show its strong affiliation with the war against terrorism and had made at least "a rhetorical shift in its Kashmir policy by pledging to withhold support to the militant".<sup>33</sup>

After 9/11, the safety of Pakistan's nuclear and strategic assets also came under discussion and western media including US and other major powers raised serious questions about Pakistan's nuclear arsenal. The report of Cooperative Monitoring Center noted: "The most dreaded scenarios envisioned control of Pakistan's nuclear weapons or fissile material slipping into the hands of a pro-Taliban militant Islamic group or sympathizers in the military or intelligence agencies."<sup>34</sup>

The government of Musharaf took strong notice of these speculative reports and assured the United States and the international community that its nuclear weapons were safe and additional safeguards had been introduced since 9/11.<sup>35</sup> The US military presence in Pakistan also has external regional repercussions, most seriously for Pakistan's all weather and time tested ally i.e. China. In the absence of any Pakistani commitment, China may explore its other options. This could be a serious setback for Pakistan's foreign policy.

Although Pakistan has provided all possible support to the US war on terror, there is a considerable suspicion in the US that many Al-Qaeda members may be hiding out in the tribal belt along the Durand Line with Afghanistan. Moreover,

32 Kronstadt, "Pakistan-U.S. Relations", 6.

33 International Crisis Group. *Kashmir: The View from Islamabad*. ICG Asia Report, No. 68 (Islamabad: International Crisis Group, 2003), 8.

34 Rajesh M. Basur and Hasan-Askari Rizvi, *Nuclear Terrorism and South Asia* (Albuquerque: Sandia National Laboratories, Cooperative Monitoring Centre Occasional Paper/25, February 2003), 47.

35 Basur and Rizvi, *Nuclear Terrorism and South Asia*, 12.

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despite its all out efforts to curb terrorism, government of Pakistan is regularly facing the external pressure on terrorism issue. Thus, violation of its frontiers by the allied forces and drone attacks posed some serious challenges to the national security and integrity of Pakistan.

## **ii. Economic Repercussions**

Pakistan's support in the war against international terrorism and its alliance with the US has had incredible economic impacts on Pakistan's economy. It has achieved tremendous position in its economic stability, however, experts believe this economic growth as uneven.

### **a) Economic Gains**

By joining the US-led coalition, the Bush administration removed almost all sanctions that had been imposed on Pakistan after its nuclear tests in 1998 and military coup in 1999 that suspended democracy. In addition to the removal of sanctions, it got huge amount of grants, donations and foreign debts, which strengthened its worse economic position. It also succeeded to attract the foreign investor and a record investment had been observed after 9/11.<sup>36</sup> Within a short time, after 9/11, the Bush administration provided an aid package of nearly \$1 billion to Musharraf regime for border control, refugee assistance, and poverty alleviation. It rescheduled Pakistan's debt to the US of about \$1 billion<sup>37</sup> and also supported Pakistan in loan rescheduling through various international financial institutions, i.e., the World Bank, the International Monetary Fund, and the Asian Development Bank to alleviate Pakistan's \$38 billion foreign debt and also extended fresh credits.<sup>38</sup> Touqir Hussain noted:

In June 2003, the US announced a \$3 billion assistance package for Pakistan to start in October 2004 and to be distributed over five

36 Leon T. Hadar, "Pakistan in America's War against Terrorism Strategic Ally or Unreliable Client?", *Policy Analysis* (Washington D.C., Cato Institute, No. 436, May 8, 2002), 3.

37 Hussain, "US-Pakistan engagement", 6.

38 Hadar, "Pakistan in America's War against Terrorism Strategic Ally or Unreliable Client?", 3.

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years, with roughly equal amounts going to economic aid and security assistance. Additionally, a framework agreement on trade and investment (TIFA) has been signed, and the two countries have begun negotiating a bilateral investment treaty...On the security front, the US approved a \$1.2 billion arms-sale package that includes roughly \$950 million for the purchase of P3C Orion aircraft.<sup>39</sup>

It also provided additional assistance to Pakistan for various fields and programmes including earthquake rebuilding after 2005, reconstruction projects to help in the tribal areas, for development programmes, and during flood crises in 2009. During the period from 2001 to 2008, the US provided a total \$5.174 billion of aid to Pakistan. It is also estimated that an additional \$80-\$100 million are given each month in coalition support fund making a total of \$4.75 billion until August 2006. However, the covert fund which was transferred to Pakistan is publicly not available.<sup>40</sup> According to some analysts the size of the classified financial transfers "may have exceeded US \$10 billion, raising the total American aid package to Pakistan in the first 5 years after 9/11 to something approaching \$20 billion."<sup>41</sup> According to the Congressional Research Services Report November 2008:

Since 9/11, through the renewal of large US assistance packages and reimbursements for militarized counterterrorism efforts, Pakistan by the end of FY2008 had received about \$12 billion, the majority of this in the form of coalition support reimbursements, with another \$3.1 billion for economic purposes and nearly \$2.2 billion for security-related programs. US assistance to Pakistan is meant primarily to maintain that country's ongoing support for US-led

39 Hussain, "US-Pakistan Engagement", 6.

40 Rehana Saeed Hashmi, "War on Terrorism: Impact on Pakistan's Economy", *Journal of Political Science*, Issue XI, (Conference Issue: Summer 2007), 7.

41 Robert M. Hathaway, "Leverage and Largesse: Pakistan's post-9/11 partnership with America", 14. A figure of US \$10 billion may be found in the Testimony of Craig Cohen, "When \$10 Billion Isn't Enough: Rethinking U.S. Strategy and Assistance to Pakistan", before the Subcommittee on National Security and Foreign Affairs, House Committee on Oversight and Government Reform, Center for Strategic and International Studies (Washington DC, March 30, 2007), 3. The testimony was also published in *The Washington Quarterly* 30, no. 2 (Spring 2007): 7-19.

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counterterrorism efforts. It also seeks to encourage Pakistan's participation in international efforts to prevent the spread of weapons of mass destruction and support in the development of a moderate, democratic, and civilian government which promotes respect for human rights and participation of its citizens in government and society.<sup>42</sup>

Pakistan became one of the biggest recipients of US foreign aid since 2001, as one analyst noted, "Pakistan has become the biggest beneficiary of economic aid in return for its support of the US anti-terrorism campaign in Afghanistan."<sup>43</sup>

#### **b) Economic Losses**

Many experts considered Pakistan as "one of the strategic and economic losers in the international system that has evolved since September 11".<sup>44</sup> The US provided billions of economic aid to Pakistan but the economic condition of Pakistan did not improve as it was desired. Inflation ratio increased from 4.4 to 7.9 percent during 2001 to 2006. Trade deficit also increased from \$4.3 billion in 2006 to \$8.62 in 2008.<sup>45</sup> Beside, external debt also increased, as according to the State Bank of Pakistan, on June 30, 2003, it stood at \$32.46 billion, June 2004 (\$32.93 billion), June 2005 (\$35.83 billion), June 2006 (\$37.47 billion), June 2007 (\$40.48 billion), June 2008 (\$46.28 billion), and in the end of March 2009, it jumped to \$50.14 billion.<sup>46</sup>

Washington's huge aid to Pakistan did not give any benefit to masses as most of the aid went to military accounts, because "all US assistance is conditional to Pakistan and the US Congress approved this aid on the required certification by president George W. Bush that Pakistan will continue its support on anti-terrorism war,

42 Kronstadt, "Pakistan-U.S. Relations", 91-92.

43 Hadar, "Pakistan in America's War against Terrorism Strategic Ally or Unreliable Client?", 3.

44 Hadar, "Pakistan in America's War against Terrorism Strategic Ally or Unreliable Client?", 16.

45 Hashmi, "War on Terrorism", 9.

46 Israr Khan, "Stop Smiling, Each of us Owes \$600", *The News*, June 7, 2009.

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establishment of democracy and not to export nuclear technology."<sup>47</sup>

The continued war against militancy and uncertain conditions within the country had severe repercussions on revenue and annual budgets. Government was unable to spend money in a key social sector particularly in health, education, irrigation and roads between local farms and market. Inflation, unemployment and power shortage increased. The prices of beverages and food items, including basic foodstuffs like wheat products, rose at an even higher rate and the country's political turmoil also threatened foreign direct investment, which was a critical indicator in developing regions. This is the worst possible scenario for foreign investment.<sup>48</sup>

The inflation rate increased though the government was trying to build the infrastructure, offering jobs but still unemployment ratio increased. Poverty was also increasing and Pakistani Rupee lost its value as compared to other regional currencies. The oil prices and food-stuff created uncertainty among the masses and reflected the poor policies of the government. The foreign investors were afraid of the government policies and domestic environment of Pakistan. Ethnic and sectarian violence resulted in the cancellation of foreign investment and business orders. Foreign direct investment and tourism industry was adversely affected.<sup>49</sup> The Adviser to the Prime Minister on Finance Shaukat Tarin told media on May 26, 2009, that "the cost, which Pakistan has paid so far, of the war against terrorism, is \$35 billion, which is increasing every year."<sup>50</sup>

An official report of Centcom (US Central Command), *Effects of Operation Enduring Freedom on Economy of Pakistan*,

47 Hashmi, "War on Terrorism", 10.

48 Lee Hudson Teslik, "Forget Terrorism: The news from Pakistan is all nuclear weapons and suicide bombers. But the average citizen cares much more about the economy", *Council on Foreign Relations* (Washington D.C: Jan 15, 2008).

49 Parveen Zailby, *Economic Impact of War on Terror and Continuing Recession in Pakistan* (A Report of the Overseas Pakistani Friends, May 1, 2008), <http://www.opfblog.com/5935/economic-impact-of-war-on-terror-and-continuing-recession-in-pakistan/>, accessed on February 2, 2009.

50 *The News*, May 26, 2009.

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published in September 2005, mentioned that Pakistan's cooperation with OEF (Operation Enduring Freedom), adversely affected the economy of Pakistan. Civil aviation, tourism, investment and shipping sectors were badly affected due to increased rates of insurance. It noted:

Pakistan economy suffering a staggering loss of \$10 billion...Besides this, Pakistani exports also suffered adversely and foreign investments experienced a visible decline. According to a rough estimate, Pakistan's economy suffered a loss of over US\$ 10 billion since October 2001 [till September 2005].<sup>51</sup>

Regarding the economic crises in Pakistan, President Asif Ali Zardari said that "Pakistan is suffering massive economic losses in the war on terror due to wasted opportunities of trade, growth and revenue of millions of dollars."<sup>52</sup>

In short, after joining the war on terror, Pakistan's economy was severely affected. It faced political instability, militancy, terrorism in society that spread fear amongst investors and had shocked the stock markets. This resulted in the poor economic growth of the country and, in spite of Washington aid to Islamabad, the economic condition of Pakistan did not show desired improvement, instead it deteriorated.<sup>53</sup>

### iii. Socio-Cultural Repercussions

Whenever it joined the US coalition in the past, Pakistan had to suffer. It can be easily termed as the most sacrificial ally. During its first time alliance, Pakistan earned the enmity of Russia and India. During the second alliance, it brought millions of refugees to its home which disturbed social structure and peace by introducing small arms, drugs, sectarianism and extremism in Pakistan. Pakistan's recent alliance with the US against terrorism produced various social problems for Pakistan as it faced extremism and violence in society.<sup>54</sup>

After 9/11 Musharraf was compelled by the US diplomacy to initiate a series of measures to restrict the activities of radical

51 U.S. Central Command, "Pakistan", 19 September 2005, <http://www.informationclearinghouse.info/pakistan-uscentcom.htm>, accessed on October 12, 2009.

52 "Pakistan Facing Economic Terror", *The Nation*, November 22, 2008.

53 Hashmi, "War on Terrorism", 108.

54 Hassan Abbas, *Pakistan's Drift into Extremism: Allah, the Army, and America's War on Terror* (Washington: Pentagon Press, 2005), 85-86.

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groups in Pakistan. He banned Jihadi organisations and frozen their assets which were suspected of having links with terrorists or extremists. He conducted various operations inside the country and arrested and targeted various extremist forces but was unable to eradicate sectarian violence from the society.<sup>55</sup> The penetration of small arms and drugs increased to a high level in the society. The hatred towards US increased in Pakistani society. The non-state actors got new momentum from its soil. Targeting the high-level officials including the President and the Prime Minister were alarming. Suicide bombing was a new phenomenon introduced by various banned sectarian factions and had caused hundreds of innocent killings. Pakistan itself had been a victim of various forms of terrorism, ranging from foreign inspired and assisted attacks against innocent civilians, to sectarian violence. As a result, Pakistan had not only intensified anti-terrorist measures within the country but also joined in regional and global efforts to suppress terrorism, sectarianism and extremism in the society. Under pressure, Musharraf government cooperated well in the US war against terrorism. However, the U-turn on the Taliban policy, the Lal Masjid operation and the crackdown on militants in Swat and FATA created serious social problems.<sup>56</sup>

Since cooperation with US against terror; terrorism and extremism had become major problems for Pakistan itself and created a lot of other social problems. The military operations in FATA and Swat introduced suicide attacks in the society. Suicide attacks targeted security forces convoys and check-posts, police and army training stations/units, and even public places like schools, polling stations, meetings/*Jirga*, hotels and restaurants, public rallies, mosques and various other places. Along with suicide attacks, there were bomb and rocket attacks on government facilities, military establishments, gas pipelines, railway tracks, power transmission lines, bridges, and communications infrastructure. The extremists groups also closed down girls' schools, barbershops, and video stores, and also increased challenges for the writ of the government not only in Tribal areas, but also in the settled areas of the Khyber

55 Abbas, *Pakistan's Drift into Extremism*, 15-20. See also Ashley J. Tellis, *Pakistan and the War on Terror: Conflicted Goals, Compromised Performance* (Washington, DC: A Report of the Carnegie Endowment for International Peace, January 2008), 4-5.

56 Abbas, *Pakistan's Drift into Extremism*, 85-86.

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Pakhtunkhwa and across the whole country. These suicide attacks and bomb blasts spread not only fear in the society but created law and order situation in the country. Other social evils i.e., killing, murdering, robbery, and kidnapping etc. increased and created a sense of uncertainty in the society.<sup>57</sup>

### Conclusion

In short, the US war against terrorism has affected the internal, external policies and the future of Pakistan. The partnership with the US helped Pakistan to overcome sanctions, end its isolation and revive economic as well as military assistance. Initiation of composite dialogue process with India under US pressure was also a political gain for Pakistan. Pakistan also got the status of non-NATO ally and that of 'Front Line State' from that of a rogue regime, terrorist state and failed state. It also succeeded to restore its membership in the Commonwealth, which was suspended after the military *coup* of October 1999. On the other hand Pakistan had to revise its traditional Afghan policy and found difficulties in diplomacy while supporting the freedom struggle of Kashmir. It increased anti-Americanism in Pakistan and escalated extremism in the society. The US and all major powers are also concerned about the rise of religious extremism in Pakistan and about the safety of its nuclear assets. Moreover, currently, shift of war on terror to its western frontiers also pose serious challenges to its national security and domestic stability. While keeping the national interest in mind, Pakistan needs to be more careful, to understand the most compelling security challenges facing the region and not allowing any other country to gain tactical advantage of the current situation.

57 Interview by author with Lisa Curtis, Senior Research Fellow, Asian Studies Centre, The Heritage Foundation, Washington D.C. March 15, 2011. Also see Testimony of Lisa Curtis before the Armed Services Committee on "Security Challenges Involving Pakistan and Policy Repercussions for the Department of Defense", (U.S. House of Representatives, October 11, 2007).