



A SOCIO-LEGAL ANALYSIS OF REFUGEES' RESPONSE FRAMEWORK IN PAKISTAN

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Abstract

Pakistan was born with many concomitant rudimentary problems and a refugee crisis was among foremost of them. This article examines the socio-legal response of Pakistan for the settlement of the refugee crises. Pakistan accepts refugee as fait accompli. Pakistan has a long and complex history with refugees, encompassing various waves of displacement and the challenges associated with hosting large numbers of people fleeing conflict or persecution. This includes the migration of refugees during Pakistan's independence in 1947, the influx of Kashmiri refugees during the 1948, 1965, and 1971 wars between Pakistan and India, and the 1990s insurgency in Indian-held Kashmir, and the prolonged presence of Afghan refugees in Pakistan since the 1970s. In addition, Pakistan was held responsible for producing refugees in 1971 when Bangladesh came into existence. The research adopted qualitative method to examine existing material available on the topic. The International legal framework for refugee protection is also taken into account. After thorough analysis research indicates that Pakistan does not lag anywhere in the hierarchy of nations to safeguard critical human rights including the rights of refugees.

Keywords: Refugee, Pakistan Refugee crises, Partition Refugees, Kashmiri Refugees, Bihari Refugees, Afghan Refugees, Refugee Convention

Introduction

Pakistan was born with many concomitant rudimentary problems. Its two wings were split apart with more than one thousand miles of hostile intervening land with no substitute land route, sea route being equally circuitous, the languages of two wings carrying altogether different fanatics, one wing with a smaller territory but is densely populated, while the other is a large tract of land with less population, the antagonistic and ill-willed forces having spilled no chance to instill the



destabilizing factors followed by a historically most significant population exchange, yet nothing succeeds like success. Pakistan has celebrated its 75th anniversary in combating all obstacles and overcoming them.

Under the subsisting Constitution of 1973 (the Constitution), Pakistan is a Federation with a Parliamentary form of Government, both at the federal and provincial levels (Tariq et al., 2018). The Constitution of 1973 serves as the supreme law of the land. Article 227 of The Constitution proclaims that no law that contradicts the injunctions of the Holy Quran and Sunnah shall be passed. The honorable supreme court of Pakistan in the Asma Jilani case had treated the Objectives Resolution as a grundnorm of the country. The apex court observed that grundnorm for Pakistan is enshrined in its doctrine that legal sovereignty over the entire universe belongs to Almighty Allah and the authority exercised by the people within limits prescribed by Him is a sacred trust (Asma Jilani V. GOP 1972). The Hukam (Fiat) belongs to Allah alone (Quran 6:57). It is in Surah Rome that the Romans having been defeated in the nearby land, but they will again overcome in about nine years, and on that day, the believers will rejoice (Quran 30:2-4). It hints at international relations, including with non-muslims. Another golden role is that Muslims are to cooperate in righteousness and piety and are not to cooperate in sin and aggression.

Further, it is laid down in Surah Al-Mumtihina that Allah does not forbid Muslims to have friendly relations with non-muslims who do not fight with Muslims over religion Quran 60:98. It all points out a democratic setup and positive attitude, i.e., cooperation in international law. Islam recognizes migration to avoid oppression. In Surah An-Nisa, it is stated that 'They will say: We were oppressed in the land. (The angels) will say: Was not Allah's earth spacious that ye could have migrated therein' (Quran 4:97).

An unbiased reading of the Constitution reveals that Pakistan does not lag anywhere in the hierarchy of nations to safeguard critical human rights. All known human rights at the international level have been incorporated in the fundamental rights chapter, and any law repugnant to the aforesaid rubrics will be void to the extent of repugnancy. Principles of Policy have taken care of the main commitments of the Nation at the National or International level. For example, Article 40 of the Constitution is about strengthening bonds with the Muslim world and promoting international peace. Articles 34 and 36 deal with the participation of women in national life and the protection of minorities (The Const. of Pak. 1973).

Pakistan is tenaciously abiding by its Constitution, which encompasses democratic and Islamic values at international and national levels (Khalid & Anwar 2018). However, there is always room for betterment. Pakistan's options for protecting refugees lie in national, bilateral, regional, and international efforts to protect refugees. Pakistan has been home to refugees since its independence. She has always been untiringly accommodating the refugees due to political, religious, and nationalist reasons or as a face accomplice.



This research examined the refugee response framework of Pakistan and recommends the following to better Pakistan's futuristic approach towards refugees. The Convention Relating to the Status of Refugees (Refugee Convention 189 UNTS 137) and the Protocol relating to the Status of Refugees (The Protocol 666 UNTS 267) establishes the rights and obligations of refugees and the responsibilities of states in providing them with protection. The key provisions of the Refugee Convention include the definition of who qualifies as a refugee (The Refugee Convention Art. 1), the principle of non-refoulement (Art. 33), the right to necessities and employment, housing, access to education (Art. 22), and legal rights such as access to courts and freedom of movement (UNHCR). The 1967 Protocol relating to the Status of Refugees is an additional legal instrument that removed the temporal and geographic restrictions of the original Convention. This means that the Protocol expanded the scope of the Convention to cover refugees beyond those displaced by events occurring before January 1, 1951, and outside of Europe.

By ratifying the Refugee Convention and its Additional Protocol, countries commit themselves to protecting and assisting refugees and ensuring their basic human rights. The Convention provides a framework for international cooperation to address the challenges associated with refugee situations. Both the Refugee Convention and its Additional Protocol have been essential instruments in promoting the protection of refugees and the rights of displaced persons. They have formed the basis for national legislation and international efforts to support and assist refugees worldwide (Jastrum & Achiron, 2001).

While the 1951 Refugee Convention has played a crucial role in setting standards for protecting refugees, it has also faced criticism on various fronts. One criticism is that the Convention's definition of a refugee is narrow and does not adequately cover individuals who may need international protection but do not meet the strict criteria (Lee 2001). For example, people fleeing from armed conflict, environmental disasters, or generalized violence may not fall under the Convention's definition (Klin, 2014). Another criticism is that the refugee convention is Outdated and Eurocentric. Critics argue that the Convention reflects the circumstances of the post-World War II era and does not address the contemporary challenges and complexities of refugee crises (Ormsby, 2017). Inadequate Burden-Sharing among host and refugee-producing nations is another shortcoming of the Convention. The Convention relies on the principle of non-refoulement and places the responsibility to protect refugees in the country where they first seek protection (Ormsby, 2017). This has led to a disproportionate burden on specific countries, especially those in regions of conflict or instability, resulting in challenges related to capacity, resources, and social cohesion. Moreover, The Convention's provisions are not legally binding on non-state actors, such as armed groups or non-state entities, limiting its effectiveness in situations where refugees face persecution or harm from non-state actors (Querton, 2022). Additionally, there is no global enforcement mechanism for ensuring compliance with the Convention's obligations. Critics argue that these gaps hinder the Convention's ability to respond effectively to the evolving displacement dynamics.

This treatise examines the ongoing debate that the Refugee Convention and its Protocol have



a limited scope and that its impact is diminishing. Arguably, it may be construed that the definition provided in the Convention does not cover requirements of recent times and excludes climate refugees, IDPS, and people seeking refuge for employment. However, it should be understood that the relationship between human mobility and displacement is intricate. It is vital to understand the dynamics related to human displacement to formulate a better policy framework. This research suggests that expanding the definition of refugees is not the sole solution to the complex issue of human displacement caused by different reasons. For example, in case of displacement caused by climate-related reasons, the recourse should also be made to International Human Rights Law. Under International Human Rights law, states have positive obligations to take measures that prevent human displacement resulting from climate change. The specific legal obligations may vary depending on the human rights instruments that each State has ratified. However, certain overarching principles, such as the right to life, an adequate standard of living, and the right to be free from discrimination, serve as the foundation for addressing displacement in climate change (McAdam, 2020). We can take inspiration from Vanuatu who are already working on developing a system of National Protection to strengthen their response to cater to the needs of the people who have to leave their households due to climate change (Vanuatu Climate Change and Disaster Risk Reduction Policy 2016-20230). Research indicates that providing timely and sufficient assistance to affected individuals increases the likelihood of them staying and participating in rebuilding efforts rather than seeking alternative means of survival elsewhere. Conversely, the absence of sustainable solutions can compel people to continue their search for better prospects.

The contemporary international mechanism to protect refugees faces criticism for its limitations in affording protection in cases of displacement caused due to conflict, violence, or specific historical circumstances. For example, Palestinian refugees are individuals whose normal residence was Palestine between June 1946 and May 1948 and who lost both their homes and means of livelihood due to the 1948 Arab-Israeli conflict. It is important to note that the situation of Palestinian refugees is distinct from the broader framework of the 1951 Refugee Convention. They are afforded help through The United Nations Relief and Works Agency for Palestine Refugees (Sekulow, 2018). Another example is Kashmiri refugees who seek refuge in Pakistan due to insurgency in Indian-held Kashmir. They also do not fall within the Convention's scope of the Refugee definition because they do not cross an international border (Sultan, 2022). There is a dire need that protection may be afforded to them under the Refugee Convention, and an amendment to that effect may be brought about to include more groups of people in need. This would also lessen the critics that the Convention was meant for refugees resulting in events following WWII, and the sensitivity and concern towards fresh waves of refugees, mostly from third-world countries, has not been the same, and they are ignored on technicalities.

In addition, the universality of the Refugee Convention is said to be compromised due to nonsignatory states (Janymr, 2021). This is partially true. Nonsignatory states do possess a challenge to the universal applicability of the Convention by posing a hurdle in developing a uniform protection mechanism. However, it is argued that the protection granted by nonsignatory states is



more or less of the same standard as offered by some developed countries that are party to the Convention. Pakistan, for example, has a long successful history of hosting refugees. The fact has been admitted by UNHCR also that Pakistan respects all the provisions of the Refugee Convention. Furthermore, formal accession to the Refugee Convention is not the only mode to adhere to its requirements. Countries find themselves bound by the Convention due to the presence of Customary International Law (Janymr, 2021).

Last but not least, it is argued that the Refugee Convention does not discuss the concept of burden sharing, leading to unequal distribution of refugees among countries (Srivastava, 2021). As a result therein, some countries have to bear the burden more while others do not contribute reasonably. However, this issue has partially been addressed in Global Compact on Refugees. The Global Compact on Refugees emphasizes the need for solidarity, cooperation, and collective responsibility in addressing the challenges of hosting and supporting refugees to ensure more equitable and sustainable solutions for all parties involved. It is important to intricate the burden-sharing principle to address the crises practically.

Overview of the Refugee Situation in Pakistan Since Independence

Pakistan has a long and complex history with refugees, encompassing various waves of displacement and the challenges associated with hosting large numbers of people fleeing conflict or persecution. This includes the migration of refugees during Pakistan's independence in 1947, the influx of Kashmiri refugees during the 1948, 1965, and 1971 wars between Pakistan and India, and the 1990s insurgency in Indian-held Kashmir, and the prolonged presence of Afghan refugees in Pakistan since the 1970s. Furthermore, Pakistan also hosts a small number of refugees from Myanmar, Somalia, etc. In addition, Pakistan was held responsible for producing refugees in 1971 when Bangladesh came into existence.

During the Partition of British India in 1947, the refugee crisis was one of Pakistan's most significant challenges. The partition led to the mass migration of people across the newly drawn borders of India and Pakistan, resulting in violence, communal riots, and displacement on an unprecedented scale. An estimated eighteen million people were displaced due to the partition, undertaking arduous journeys on foot, in bullock carts, and by train. The death toll during and after the partition remained alarmingly high, with many losing their lives due to widespread violence, epidemics, the hardships of long-distance travel, and shortages of food and medicine. Shockingly, up to 100,000 women were subjected to rape or abduction, perceived as symbols of communal honor (Qureshi, 1965).

The refugee crisis presented immense challenges for the newly formed Government of Pakistan. The country had limited resources, inadequate infrastructure, and a struggling economy to cater to the needs of the displaced masses. The Government had to hastily arrange for shelter, food, and medical assistance for the refugees, straining the already limited resources of the nascent State.



Refugee camps were set up in various parts of Pakistan to temporarily shelter those uprooted from their homes. These camps were overcrowded, lacking in basic amenities, and often struggled to meet the needs of the refugees. The Government and international relief organizations worked to provide essential services and support to the displaced population. Furthermore, the refugee crisis had far-reaching social and economic consequences. The sudden influx of millions of refugees significantly strained the local communities and their resources. The social fabric of the affected areas was severely disrupted, and inter-communal tensions were heightened due to the violence and displacement. Over time, efforts were made to rehabilitate and resettle the refugees, but the process was arduous and complex. The Government initiated programs to provide refugees with land, housing, and employment opportunities to restore their lives and rebuild communities (Zamindar, 2007).

Punjab and Bengal emerged as the primary provinces of united India, undergoing division and experiencing a significant influx of refugees (Ghoshal, 2018). Despite limited resources, Pakistan undertook the task of rescuing millions of refugees in both regions. The State implemented distinct policies for East and West Pakistan, owing to the dissimilarities in their attitudes and migrant crises (Khan & Kiran, 2020). The initial and primary concern that captured the Government's attention was the presence of violence. The severe and atrocious violence in Punjab compelled the Federal Government of Pakistan to prioritize the safe evacuation of refugees from Indian Punjab to Pakistani Punjab. Punjab became the epicenter of displacement immediately after the announcement of the Redcliff Award, resulting in a massive movement of refugees, predominantly occurring in the early months following the partition. On the other hand, East Bengal experienced sporadic movements of refugees from the day of partition until 1971. However, it is important to note that the State neither disregarded East Bengal nor underestimated the refugee crisis in Punjab. It tactfully managed the Punjab riots and bloodshed by implementing a comprehensive evacuation policy while diplomatically ensuring peace and a secure movement of refugees in Bengal (Khan & Kiran, 2020). For their integration, a series of legislative and administrative steps were taken. The settlement of the partition refugees in Pakistan was completed in 1975 when the Government of Pakistan enacted The Evacuee Property and Displaced Persons Laws (Repeal) Act 1975. It completed the process of integration of partition refugees in Pakistan.

In addition to the Refugees coming from Punjab and Bengal provinces, Pakistan started to receive refugees from the princely State of Jammu and Kashmir right after independence, which continued until the 1990s. The reason and history of refugees from Kashmir in Pakistan can be traced back to the partition of British India in 1947 and the subsequent conflict between India and Pakistan over the territory of Jammu and Kashmir. The conflicts, uprisings, and insurgency in the region have resulted in waves of displacement and forced migration, with Kashmiri refugees seeking refuge in Pakistan. Considering the region as part of its territory, Pakistan has supported and integrated these refugees, providing them with rights and privileges similar to its citizens. Pakistan's civilian and military leadership view Kashmir as vital, considering it the "jugular vein" of the country and aligning with the ideological foundation of creating a separate homeland for South



Asian Muslims (Sultan, 2022). Consequently, Kashmiri refugees are treated well, symbolizing Pakistan's acceptance and support for individuals from Indian-administered Kashmir. Kashmiri refugees enjoy civil, economic, political, social, and cultural rights in Pakistan. However, post-1990 refugees find some administrative difficulties obtaining a national identity card, which is vital to enjoying other rights.

In 1971, erstwhile East Pakistan became Bangladesh. The crisis occurred against the political and ethnic tensions between East Pakistan (predominantly Bengali-speaking) and West Pakistan (predominantly Punjabi and Urdu-speaking) within the larger framework of Pakistan. It resulted in a war between Pakistan and India. Millions of People were displaced. The Bihari community faced wrath of local Bengalis for being loyal to the Federal Government of Pakistan (Ahmed & Shahid, 2022). They were limited to camps. They could not get citizenship in the newly formed Bangladesh. Pakistan agreed to repatriate stranded Biharis living in refugee camps in Bangladesh. Pakistan repatriated many people; however, a significant number still live in temporary camps in Bangladesh. Those who arrived in Pakistan also face extreme difficulties (Nazir, 2016). The Government of Pakistan is reluctant to integrate them fully. They do not have easy access to social and political rights. They live in makeshift camps and struggle hard for their livelihood.

During the pendency of the above-mentioned crises, Pakistan started receiving waves of refugees from Afghanistan. The Afghan refugee crisis in Pakistan is a protracted humanitarian challenge that has unfolded over several decades. The conflict in Afghanistan, coupled with political instability and economic hardships, has compelled millions of Afghans to seek safety and shelter across the border in Pakistan. This influx of refugees has had far-reaching implications for both the host country and the displaced Afghan population. Currently, Pakistan is hosting approximately 3 million Afghan refugees in Pakistan (Ul-Huda, 2021).

The Pakistani Government and its citizens independently addressed the refugee issue at the beginning of the Afghan refugee crisis. The Federal Government offered financial assistance to cover the expenses associated with Afghan refugees. Subsequently, the international community stepped in to provide financial aid for the refugees residing in Pakistan. Now, with support from the international community and organizations like the United Nations High Commissioner for Refugees (UNHCR), the Government provides basic services such as food, shelter, education, healthcare, and humanitarian assistance to the displaced population. However, since 9/11, the contributions from the international community have been relatively small compared to the scale of the problem, leaving Pakistan to face the challenges mostly on its own (Cone & Khan, 2023).

Pakistan's policy towards Afghan refugees has evolved, reflecting the complex challenges and dynamics of hosting one of the largest refugee populations in the world. Since the 1970s, Pakistan has maintained an open-door policy, providing refuge to millions of Afghan nationals fleeing conflict, persecution, and economic hardships in their home country. However, the policy shifted in response to changing political, security, and socio-economic circumstances. Amid security



concerns and a desire for greater control over the refugee situation, Pakistan introduced various policy measures to manage and regulate the presence of Afghan refugees. In 2002, the Government initiated the Afghan Management and Repatriation Strategy (AMRS), which emphasized voluntary repatriation and sought to facilitate the return of refugees to Afghanistan. This strategy was accompanied by repatriation programs and financial incentives for those willing to return. In addition, a regional quadripartite framework, the Solution Strategy for Afghan Refugees (SSAR), was formulated in 2012-13, involving Pakistan, Afghanistan, Iran, and the UNHCR. The primary objective of this framework is to guide the return and reintegration of Afghan individuals in Iran and Pakistan as a pathway toward achieving durable solutions. The SSAR also served as the foundation for mobilizing international support for the host communities. Furthermore, in 2017, the Federal Cabinet of Pakistan adopted the Afghan Refugee Management Policy (ARMP), which drew guidance from the SSAR and the Tripartite Agreement. The ARMP focuses on various components, including i) implementing a visa mechanism for Afghans in Pakistan, recognizing that not all Afghans in Pakistan are refugees; ii) registering all undocumented Afghans in Pakistan; and iii) developing a national refugee law.

Despite these efforts, the voluntary repatriation process faced challenges due to the volatile security situation in Afghanistan, the lack of sustainable livelihood opportunities, and limited infrastructure in areas of return. As a result, many refugees chose to remain in Pakistan, contributing to the protracted nature of the Afghan refugee crisis. In recent years, Pakistan has faced increased pressure to address the issues related to Afghan refugees. The Government has taken steps to document and register refugees, aiming to improve their legal status and access to basic services. Currently, the governance mechanism for their protection is structured around their legal status within Pakistan. Registered Afghan Refugees (POR Cardholders) are allowed freedom of movement, work, and basic civil and economic rights. On the other hand, unregistered Afghan refugees are categorized as unauthorized immigrants. They are subject to the regulations stipulated in the Foreigners Act of 1946, which include potential arrest, detention, and deportation. Additionally, efforts have been made to enhance coordination with the Afghan Government and international partners to find durable solutions, including supporting peace and reconciliation efforts in Afghanistan (Khan, et al. 2019).

Nonetheless, Pakistan's policy towards Afghan refugees remains a delicate balancing act. The country continues to bear the socio-economic and security burdens of hosting a large refugee population. The strained resources, integration challenges, and occasional refugee-related security concerns have sometimes led to public debates and call for stricter border controls or forced repatriation. As the Afghan conflict continues and new waves of displacement occur, Pakistan faces the ongoing task of managing the Afghan refugee population while addressing its internal challenges. Striking a balance between humanitarian considerations, security imperatives, and the well-being of refugees and the host communities remains complex and multifaceted (EUAA, 2022).



Pakistan's Refugee Response Framework Policy Analysis

Since independence, Pakistan has handled millions of refugees on her soil. For Partition and Kashmiri Refugees, Pakistan adopted a policy of integration and settlement. The Refugee Response Framework of Pakistan for the Partition and Kashmiri Refugees remained inclusive. Pakistan offered protection to refugees from these two destinations based on its political position and Sharia (guiding principles from Islam). Pakistan developed a refugee response framework based on administrative and statutory measures to facilitate the integration and rehabilitation of the refugees. Everyone coming to Pakistan after independence was allowed to become a national of Pakistan. They were afforded immediate help by means of shelter, food, medical facilities, etc (Zamindar, 2007). Those who entered claims were given properties in lieu of their claims thereof to settle in Pakistan (Chattha, 2015). Unlike India, where Refugees were settled in designated provinces only, Pakistan allowed people to settle anywhere in Pakistan. Pakistan engaged with India diplomatically to maintain a law and order situation to protect vulnerable communities like minorities and women. In short, Pakistan did all it could with its limited resources to rehabilitate and reintegrate migrants coming to Pakistan. Pakistan adopted a similar policy for refugees from the princely states of Jammu and Kashmir. Although Pakistan-held Kashmir is not formally part of Pakistan, Pakistan affords all the population's primary needs. Kashmiris are treated as first-class citizens of Pakistan. Kashmiris are entitled to apply for Pakistan citizenship as well. Pakistan has offered housing facilities, medical, travel documents, etc., to Kashmiri refugees. Pakistan also offers a quota for Kashmiri refugees (Sultan, 2022).

However, Pakistan shifted its policy towards managing refugees in 1971 after its eastern wing became Bangladesh. This time Pakistan was at the end of producing refugees. Pakistan's previously welcoming response towards refugees didn't remain the same for the Behari community living in refugee camps in Bangladesh. Although, Pakistan repatriated many Beharis due to an Agreement between Pakistan, India, and Bangladesh. However, many are still living in Refugee camps inside Bangladesh. Pakistan does not offer them citizenship. The Supreme Court of Pakistan has also declined to interfere in the matter. The Government of Pakistan argues that those refugees living in Bangladesh refugee camps are not her responsibility, and Pakistan has already repatriated many refugees (Islam et al., 2021).

In the case of Afghan refugees, Pakistan's policy was initially welcoming. However, Over time, the narrative surrounding Afghan refugees in Pakistan underwent various transformations, starting with being referred to as mohajirs (migrants) and guests of the State, then being viewed as an economic, cultural, and environmental concern, followed by being labeled as insincere refugees, and ultimately be associated with terrorism (Khan et al., 2022). It is pertinent to mention here that, in contrast to Pakistan's policy for Partition and Kashmiri refugees, Pakistan did not incorporate any laws to regulate millions of Afghan refugees on its soil. In the absence of codified standard operating procedures, the registration process of Afghan refugees in Pakistan faces three challenges. First, the legal status of Afghan refugees in Pakistan has mainly been determined through bureaucratic,



sometimes unclear and arbitrary, registration procedures. Second, through and by registration, thousands of Afghans have effectively been re-labeled from refugees to migrants. Third, the differentiated legal status derived from registration has created a status hierarchy in which the recognized refugees are afforded the most privileged status regarding international protection and access to rights and entitlements, including protection against refoulement. In contrast, non-registered persons, numbered over a million, are exposed to refoulement possibilities (Jameel, 2022).

This research suggests the following to better Pakistan response towards refugee settlement.

1. Accession to the Refugee Convention

Pakistan ranks among the premier refugee-hosting states globally (Anadolu Agency, 2020). However, Pakistan has not formally acceded to the Convention Related to the Status of Refugees or its Additional Protocol. Pakistan should consider 'formalizing' its position as a leading world community to protect refugees. The accession to these two documents is in line with the commitment/claim of Pakistan that it abides by all the provisions of the Convention defacto. Further, Pakistan has been a member of the UNHCR's Executive Committee and remained actively involved in drafting resolutions for the protection of refugees known as 'conclusions', which are annually adopted by the UNHCR to interpret the Refugee Convention and its Protocol. Pakistan had been involved in calls to countries to accede to the Convention. In addition, the Committee on the Rights of the Child, which is the treaty body of the 1989 Convention on the Rights of the Child (to which Pakistan is a party) (UN doc. A/HRC/WG.6/2/PAK/2 paragraph 37.) and the Committee on the Elimination of Racial Discrimination, the treaty body of the 1966 International Convention on the Elimination of all Forms of Racial Discrimination (also ratified by Pakistan) (CERD/C/PAK/CO/20 paragraph 15.), explicitly advise and recommend that Pakistan should become a party to these two instruments.

2. National Refugee Law

Pakistan should enact a National Refugee Law to bring at par its current practices to international standards for the protection of refugees. It is proposed that the Foreigners Act, 1946, may be amended. The definitions of 'Refugee' may be added to the Act. The term refugee shall be defined after consultation and taking into confidence stakeholders/international partners like UNHCR. The definition should be inclusive and offers protection to more categories of persons in need compared to the Refugee Convention. It shall address the shortcomings of the Refugee Convention. In addition, The power of the Police to arrest a refugee should also be made subject to acquiring an Arrest Warrant by an area Magistrate on the same footing as for a national of the country.

Further, the search warrants should be made necessary to enter refugee dwellings. Protection against deportation may also be offered during the pendency of applications to determine the refugee status. This can be inserted in sections 11 and 14 of the Foreigners Act. The proposed amendments



would address the gaps in the Foreigners Act of 1946 to enhance the protection of refugees. The introduction of these amendments would also garner international recognition and appreciation from the global community, which has consistently emphasized the importance of enacting legislative measures to ensure adequate refugee protection in Pakistan.

3. Bilateral Relationship with Afghanistan

Pakistan and Afghanistan suffer from a trust deficit. Both governments hold each other responsible for their social, economic, and security disturbance. This mistrust among primary stakeholders makes all efforts to rest the ties futile. This mistrust does not let the countries resolve longstanding issues like the Durand line regularization of Afghans' routine visits to Pakistan and trans-border terrorism etc.

The Government of Pakistan shall engage with confidence-building measures with its counterpart government in Afghanistan. It is suggested that Pakistan and Afghanistan should treat their matters bilaterally. The confidence-building measures include people-to-people relations in tourism, friendly sports matches, and student scholarships. Both countries should cooperate in security to curb the menace of terrorism and militancy. Pakistan and Afghanistan should seek economic cooperation. For this purpose investing in Afghanistan and welcoming investment from Afghanistan could also be viable. The cordial relationships between the two countries would also bring about positive outcomes for the refugees.

4. Efforts to bring Stability to the region

The refugee crises in Pakistan cannot be resolved without maintaining peace in the region. The region's political stability is impossible without long-term responsibility-sharing by the USA and countries that were part of the Allied Forces that remained engaged in Afghanistan after 9/11. The withdrawal of the USA-led forces from Afghanistan in 2021 created a gap in power and political and economic stability. If the USA does not take an interest and contribute towards Pakistan's capacity building, opportunistic forces acting in the region can exploit the power vacuum. The absence of an international agreement with the Taliban, particularly on the part of the United States, has contributed to the worsening humanitarian crisis in Afghanistan and the increased flow of refugees to Pakistan and neighboring countries. It should be prevented. The world community shall develop a working relationship with the Taliban, contributing to socio-economic growth in Afghanistan so that voluntary repatriation of refugees can be made possible in a safe environment. The world community should consider mitigating the circumstances that persuade people to migrate from their homeland. To begin with, the USA should defreeze the foreign reserves of Afghanistan held in financial institutions. Freezing of Afghanistan's funds has further burdened the already struggling Afghanistan economy and adversely impacted refugees' decision to repatriate from Pakistan.



5. Review of Pakistan Policy Based on Repatriation Concept to Integration and Settlement

Pakistan desires Afghan Refugees to return to their homeland. However, considering the prolonged displacement of Afghan refugees and the continuing volatile socio-political and security conditions in Afghanistan, relying heavily on repatriation as a lasting solution will be unsuccessful. Pakistan should reconsider its policy and recognize the necessity of investing in a shift in policy approach from repatriation to integrating refugees already residing in Pakistan. Pakistan should consider granting citizenship to Afghans born in Pakistan and meets the requirements of Naturalization. Another policy concern is granting Afghan refugees the right to work, as their temporary legal status through POR cards does not guarantee access to secure and permanent employment, leading to a vulnerable situation with limited means of sustenance. Relying on international aid and local resources without recognizing their contributions strains the host community. To address this, the Pakistani Government should explicitly grant the right to work for Afghan refugees, taking inspiration from successful approaches in Ethiopia, Turkey, and Jordan that promote self-reliance and regularization of refugees in the labor market. Utilizing smart PoR cards can assist in labor market assessments for Afghan residents while granting them the ability to open bank accounts is a positive step. Access to micro-financing and the right to establish businesses should also be provided to enable self-employment opportunities. Prioritizing productive employment and formally integrating Afghan refugees into the labor market would benefit all parties involved. Studies indicate that Pakistan experienced a significant boom in specific sectors, such as the carpet and honey industries, when Afghans were granted greater freedom to engage in formal economic activities with fewer restrictions (Humna, 2022).

Another important step to better integrate Afghans into society is to clear the ambiguity arising from the different legal statuses and varying validity durations of Afghan refugees in Pakistan, including PoR card holders, ACC holders, and undocumented individuals. The overlapping expiration dates and delays in renewal further contribute to this ambiguity, leaving even documented Afghan refugees and citizens in a state of uncertainty with limited security of stay and livelihood. It is suggested that granting long-term legal residency to Afghans in Pakistan should be considered. It would enable the Government to develop a comprehensive policy for managing Afghan individuals in Pakistan with a long-term perspective, ensuring greater clarity and stability.

Lastly, changing the narrative surrounding Afghan refugees and residents in Pakistan is crucial. Political statements driven by prejudice can perpetuate additional discrimination that these vulnerable communities already face, thus undermining social cohesion. Behavioral barriers that impede their access to labor markets, such as abuse, harassment, and an excessively securitized perspective on their rights, must be addressed by altering the policy narrative. Political statements should avoid blaming refugees for societal, economic, and security issues and instead emphasize their positive contributions. A paradigm shift in the prevailing discourse regarding refugees is necessary. It should move away from viewing them solely as victims or responsible for aforementioned problems rather should highlight the positive impact they may bring.



6. Development of Regional Approach to Refugee Crises

It is recommended that Pakistan should consider maneuvering the South Asian Association for Regional Cooperation (SAARC) to materialize the idea of a regional response to South Asian refugee crises. In the past, there have been attempts to establish a regional refugee protection framework for SAARC countries. However, it could not bear fruit. Nafees Ahmed has cited security concerns, political mistrust, nationalist propaganda, and religious discrimination as reasons for the failure of the attempts. This research supports the argument raised by Nafees Ahmad that South Asian countries should adopt a South-Asian specific definition of refugee to answer the diversified refugee problem of the region (Ahmed, 2019).

7. Recommendations for International Stakeholders

Pakistan's refugee response framework is based on administrative and financial contributions from international bodies for the registration, facilitation in Pakistan, and repatriation of refugees to their countries of origin. Given the current circumstances, voluntary repatriation is unlikely to occur on a large scale in the near future. International Partners shall contribute to integration and resettlement options to other destinations.

To integrate the Afghan refugee population in Pakistan, one crucial area where international partners like the UNHCR and IOM can focus their efforts is engaging the private sector in Pakistan to generate meaningful job opportunities and establish regulations for the Afghan labor force in the country. The private sector can play a vital role in advocating for policy changes granting Afghan residents the right to work in Pakistan. Collaborations can also be pursued with organizations such as the World Bank and trade-related entities, including provincial and district chambers of commerce, to develop inclusive livelihood programs, provide microfinance support for small businesses and enterprises, and other initiatives to empower Afghan refugees.

Furthermore, international development partners should allocate more funds to projects that contribute to the social inclusion of Afghan refugees in Pakistan and foster cohesion between the host and refugee communities. Priority should be given to projects that exhibit potential for scalability, enabling their expansion and broader impact. Project funding for Pakistan should prioritize social inclusion and local integration initiatives. This approach would encourage the Pakistani Government to formulate a more comprehensive policy regarding the integration of Afghan individuals who have been residing in Pakistan for an extended period spanning over four decades. Continued investment in programs such as RAHA is essential to support the local host community and the refugees, building a solid case for Pakistan's development through its assistance to refugees. Valuable insights can be gained from the Jordan Compact, which successfully established special economic zones focused on generating employment opportunities for Syrian refugees.



In addition, the UNHCR and other development partners should conduct awareness campaigns emphasizing the valuable contributions of Afghan refugees residing in Pakistan. Addressing the need to transform how Afghan refugees are perceived within Pakistani society is crucial. Biased political statements have unfairly associated Afghans with security issues, despite the lack of statistical evidence supporting such claims. Individuals in influential positions should demonstrate greater responsibility by refraining from baseless accusations. To address this issue, relevant international development organizations can develop a comprehensive program to promote a positive shift in social attitudes. This program should debunk false connections between terrorism and refugees while highlighting the refugee population's positive impact on economic productivity, frontline services, and other commendable contributions.

To resettle the Afghan refugee population to other international destinations, it is important for implementing partners to ensure that resettlement information reaches all vulnerable Afghan communities. In connection with this, UN agencies and other intergovernmental organizations should encourage European governments to increase their resettlement quotas. It is crucial not to fortify borders solely under the guise of national security during these times. While financial assistance to developing countries is appreciated under the principle of shared responsibility, it is not enough to adequately address the needs of Afghan individuals. Those fleeing conflict should be allowed to begin their lives in a secure environment and achieve self-reliance rather than relying solely on aid to meet their basic needs.



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