



## MASS DEPORTATION OF AFGHAN REFUGEES FROM PAKISTAN: REFUGEE LAW AT STAKE OR SOLUTION FOR HALTING TERRORISM?

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### Abstract:

*Pakistan has been a host to millions of afghan refugee for about more than 40 years. Initially, Pakistan provided asylum to the afghan refugees on the basis of Islamic brotherhood and called the afghan refugees as “Muhajirs.” Even though, Pakistan is not a signatory to the 1951 convention of refugee and its protocols of 1967. Yet Pakistan has a morale responsibility to give protection to the Muslims around the world because Pakistan is assumed as a castle of Islam. However, there has been a shift in this open door policy of Pakistan for Afghan refugees and in 2002 approximately four million Afghan refugees returned to their homeland with the support of UNHCR. After the withdrawal of US troops from Afghanistan, the afghan refugees have been reluctant to return to their country of origin due to their affiliation with the US. Lately, the caretaker government of Pakistan issued a statement about the deportation of unauthorized immigrants that largely impacted the Afghan refugees due to their large number living in Pakistan. This verdict of government included two phases of repatriation: in the first phase voluntary deportees were facilitated, whereas the second phase included the use of force in the repatriation process. This whole process of repatriation was presented as cessation of terrorism in Pakistan by the governmental authorities. This paper analyses the status of Pakistan and the refugee law for sending back the afghan refugees to the Afghanistan. This paper also examines how the mass migration has alleviated the problem of terrorism in Pakistan.*

**Keywords:** 1951 Convention of Refugee, UN High Commissioner for Refugees (UNHCR), Foreigners Act of 1946, Foreigners Order of 1951, Tehrik-i-Taliban Pakistan (TTP)

### Introduction:

The occurrence of deportation of refugees around the world is expected when the circumstances stabilizes in the region from which place the mass exodus of people have emerged. The expelling of Afghan refugees from Pakistan as well as other countries like Iran has been transpired



previously. Although the decision of Pakistan caretaker government regarding its new domestic law for illegal immigrants have been viewed critically in international society. The concerns of international society and the Afghanistan government are based on the peace and security and humanitarian situation in Afghanistan. However, international organizations like the UN High Commissioner for Refugees (UNHCR) and the International Rescue Committee (IRC) have stood up for the betterment of Afghan refugees in Pakistan over the past decades and even currently they are have responded to the critical conditions of the Afghan refugees and handed their help in this exigency to them.

As per the government of Pakistan the Afghan refugees fall into two categories that are recognized refugees and unrecognized who are professed as illegal immigrants. This peculiarity is essential during the formulation rights for these refugees such as lack of restrictions, protection and other services from which they could receive some advantages over the unrecognized refugees. More precisely, the Afghan refugees are divided into four classes:

1. Proof of Registration (PoR) holders,
2. Afghan Citizen Card (ACC) holder,
3. Afghan nationals with valid visas, and
4. Undocumented illegal immigrants.

### **Historical Evolution of Afghan Refugees in Pakistan:**

Over the several decades the Afghan refugees have been misplaced and have greatly suffered due the continuity of war and violence with the addition of internal conflicts for power struggle and the involvement of foreign countries like the UK and the US, in the territory of Afghanistan. The extreme weather conditions like the worst drought have also exacerbated the number of Afghan refugees. The ten year crisis resulted in a large scale displacement and aggregated figure of refugees culminated to 6.2 million in 1989.

Just as, it is ostensible that the inflow of a huge number of refugees is bond to result in administrative, social, economical and security obstacles in a country that provided a sanctuary to them. Similarly, it is not possible for a third world and under developed country like Pakistan that is suffering from poverty, which is a consequential hallmark on its economy, to entertain refugees that potentially posses national and security threat for the peace of the country. After 1999, the new refugees were not recognized as refugees and they were discerned as illegal immigrants (Zubair et al., 2019). Moreover, the of refugees has been evolved into a major worrisome by the time for the governments which originated from the possible national and security menaces more than the predicaments in to the deteriorated plight of refugees.

Paradoxically, Zia ul Haq, who has opted for an open door policy for the Afghan refugees and prepared for making limitless contributions for them, has also observed the social problems



between the Afghan refugees and Pakistanis; however he perceived these indifferences insignificant due to their scarcity.

Pakistan has hosted the majority of Afghan refugees who were initially illiterate and had no any financial resources at all. However, after settling in Pakistan and securing jobs, these refugees were able to earn sufficiently. The Afghan refugees have been given better and a higher quality of life than in Afghanistan.

The process of displacement of Afghan refugees is frequently divided into three waves. The first wave of immigrants of Afghan refugees appeared in the Soviet Union era these refugees are also known as “long stayers.” The second wave of Afghan refugees emerged after 9/11 and with the fall of the Taliban government. Meanwhile, the third wave of Afghan refugees mostly includes those people who migrated for better economic opportunities, they are also known as “economic migrants.” Nevertheless, these economic migrants do not fall in the category of refugees as described through the definitions of refugees internationally.

In 1989, it was expected that the Afghan refugees would voluntarily deport to the Afghanistan as the Soviet Union had pulled out from Afghanistan as a result of Geneva Accord of 1988. Just as expected around 1.4m to 1.5m refugees with the assistance provided by UNHCR through repatriation program, had arrived to their homeland in 1992 when mujahidin took over the government of Najibullah. In spite of the arrival of all refugees to the Afghanistan the neighboring countries including Pakistan again witnessed the influx of Afghan refugees due to the incompetency of the Mujahideen, who have exacerbated the political turmoil.

The alteration in the behavior of the government of Pakistan in relation to the Afghan refugees was manifested from the mid of the 1990s and forward owing to the slimming down of the subsidy from the contributors that ultimately caused the decrease in support of many things, which were provided by the UNHCR including food. Meanwhile, due to the lack of foreign funding and the fragile economy of Pakistan provoked a contest in several sectors such as jobs, education and healthcare sector, among the refugees and the citizens of Pakistan. This contest for possession also included a pursuit for the acquisition of food, land, water and property. In these circumstances the Afghan refugees were forced to stem out of their refugee camps and spread in the urban areas, which resulted in the form of intolerance for Afghan refugees within the general population of Pakistan. This intolerance in the Pakistani society for the Afghan refugees formulated a slit between the refugees and the citizens of Pakistan, mostly in the areas of Khyber Pakhtunkhwa and Balochistan, because these regions culminated a large number of Afghan refugees. As time passed by, the locals were further ignited due to the immense struggle for resources.

### **Insecurities in Pakistan:**

The influx of Afghan refugees created insecurities in the sphere of several fields of life in



Pakistan.

The refugee crisis has enhanced a strained on the bilateral relations of Afghanistan and Pakistan, due to the decline in foreign assistance, after the withdrawal of the US troops from Afghanistan. Furthermore, the vast number of refugees has possessed a domestic threat to the fragmented economy of Pakistan. These refugees have also increased the vulnerability of security issues due to the unlawful transportation of trade and arms from Afghanistan.

The Afghan refugees have also raised economic insecurities related to the Afghan merchants in various cities of Pakistan, due to their exemption from taxpaying. For example, only in Peshawar, the Afghan traders have accumulated billions of rupees but they do not pay taxes. Because of this aspect, the domestic tax payers have to suffer from the reduction in the gathering of revenue, therefore, becoming a weight down for local businessmen.

Primarily, the refugees exhibited in the camps of Khyber Pakhtoonkhwa and Blochistan were unswervingly and openly acquainted in the war in Afghanistan in opposition to the Soviet Union. These refugees were provided with vocational programs which were based on the phenomenon of jihad. For this purpose a number of Madrassahs were founded with the help of funds sponsored by the United States and Saudi Arabia. Therefore, these backings elevated bigotry and fanaticism among the Afghan refugees on the accusation of jihad and religion. These fanatic elements also impacted the locals of Pakistan through bolstering the level of intolerance in the whole society. Even today, these Madrassahs manifest their solidrity and harmony with the Taliban in opposition to the United States. This is considered one of the most important causes of insecurity, mayhem and disarray in the country.

The former government of Pakistan (PML-N) had revealed that in majority of events of terrorism incorporates Afghan refugees either directly or indirectly. Since, the refugees' camps are located at the adjacent areas of the Afghanistan territory, therefore, these camps made a perfect escape for the rebellions and for the operating of their functions. Refugees living in Pakistan often allocated their assistance to these insurgent groups as well as the host state also utilized the services of these groups in the aspirations of their own national interests. One of the perfect examples of this situation is the Afghan war, when the Afghan refugees were given a logistic backing, armed instructions and reinforced in various ways by the government of Pakistan. Consequently, the refugee camps adjoining the borders of the home country manufacture unreliability to the sanctuary provider country (Anwar et al., 2021).

The outlawed attitude manifested by the Afghan refugees incorporates sever criminal activities for instance the kidnap of the local businesses and the abduction of literate citizens from Pakistan to Afghanistan for ransom money. For example, the ex-information Minister of Khyber Pakhtunkhwa, Mushtaq Ghani accused the Afghans for approximately 80 percent of crimes in Khyber Pakhtunkhwa. Furthermore, the Afghans have been involved in the murdering or kidnapping of people in Pakistan just for some ransom money, and then they avail the advantage



of simple cover on the territory of Afghanistan. For instance, on December 16th, 2014, the attack on the Army Public School in Peshawar that took 150 innocent lives was employed on the soil of Afghanistan with certain potential guidance from Pakistan. It resulted in an Anti-Terrorism Action Plan which was fetched up and accomplished on December 25, 2014. It integrated the deportation of Afghan refugees from Pakistan.

The influx of Afghan refugee also brought drug culture to Pakistan that was mainly because of the rivalries between the superpowers. It was one of the noteworthy social problems that was enhanced further due to the influx of Afghan refugees included the drug problem, which did not exist and mostly unknown to the majority of Pakistani citizens during the 80s. During the pinnacle of Soviet Union and Afghanistan war the agronomy of poppy opium (locally known as Khashkhas) instigated in the regions of Pakistan neighboring to the borders of Afghanistan. It empowered the Afghan warriors to harvest poppy opium and later transformed it to heroin in the factories that were particularly formed with the sponsorship of the western powers to robust the Afghan warriors economically. Hence, it impacted the Pakistani society, when this business bloated addicted the majority of its own population. Today, the situation is more than worse as this business has been expanded to the schools, colleges and universities of Pakistan and hunted the lives of the future of Pakistan (Asghar et al.,2021).

### **Reasons behind Repatriation:**

The government of Pakistan is assured of that these refugees cause an uncertainty in the security of the country, because of their participation in the smuggling of goods as well as individuals to the other side of the border. As per the reports, the government of Pakistan lacks the resources to halt such an illegal transportation that occurs on a daily basis.

The decision of Pakistan for the mass deportation of Afghan refugees is also influenced by the presence of TTP centers in Afghanistan and their support for Tehrik-i-Taliban Pakistan (TTP) which has resulted in the increased actions of TTP against Pakistan. Therefore, it is widely perceived and portrayed as a reaction from Pakistan against the disinclination of the Taliban to proceed in opposition to the TTP. Recently, in one of news conference the caretaker prime minister of Pakistan, Anwaarul Haq Kakar has admitted this perception.

Another significant reason is the impact of the inflow of Afghan refugees that has augmented the sectarian violence in Pakistan with their migration to the urban areas of Pakistan. The majority of the Afghan refugee arrival in the metropolitan cities of Pakistan such as Karachi, Quetta and Hyderabad generated menace in the locals because of the dread of negligence by other ethnicities. In Karachi, the advent of Afghan refugees has been proved economically and politically a good turn for Pashtuns. Meanwhile, aggravating the tug of ethnic superiority between the Pashtuns and Muhajirs of Karachi and intensified the ethnic outrage in Karachi. Similarly, the racial conflicts have deepened between Baloch and Pashtun in Balochistan particularly in Quetta. For example,



the terrible incident of Mastung took the lives of 20 Pashtuns in May 2015 (Amir et al., 2021).

The reprehensible management of the Afghan refugees by the government of Pakistan could be associated with the increasing insecurity after the escalations in the terrorist attacks executed by the TTP. The security agencies of Pakistan endeavored to the containment of threats. The governmental authorities of Pakistan have blamed the Taliban government for the support and accommodation on the land of Afghanistan of the fanatical elements of this group (Shuja, 2023).

### **Endeavors for Repatriation in the Past:**

Pakistan has already been determined on the repatriation and amelioration of all the refugees consistently and called on the international community for its assistance to establish mandatory circumstances and likelihood of better economic scope in Afghanistan which could be utilized as a stimulant for the Afghan refugees to return to their homeland. Certainly, only robust opportunities could have fascinated and catalyzed a gradual process of voluntary repatriation and rehabilitation, in the past years.

Previously, Pakistan has been involved jointly with the Afghan government for the repatriation program of Afghan refugees through the Afghan citizens' card project. Since, Pakistan is not bond to the 1951 Geneva Convention; therefore, it has provided the Afghan refugees with the status of temporary residence cards which has been changed to the Biometric Identity card in May 2021. The Afghan refugees have been provided with a number of fundamental rights such as right to inhabit travel without restrained in Pakistan.

The government of Pakistan had also conceded to a National Policy on Afghan Refugees, it was based on multiyear Solutions Strategy for Afghan Refugees (SSAR). This program deemed on the voluntary deportation with the protection and self respect of Afghan refugees as well as feasible rearrangement in Afghanistan (Khan, 2014).

No doubt, this is not the first time that the authorities in Pakistan pronounced the eviction of refugees. Even though the assertiveness of the government about the handling of the unregistered refugees with dignity, however, there has been a diverse chronology of the anecdote. In the past, the government of Pakistan has called for the mass repatriation of Afghan refugees. Such as, Pakistan has decided on a forced eviction of around six hundred and thousand refugees, in 2016. At that time, the Human Rights Watch (HRW) described as the world's biggest illegal mass exodus of refugees.

### **Recommendations:**

The government of Pakistan should re-evaluate its new policy regarding the Afghan refugees forced deportation and continue to work with the UNHCR for the documentation of unregistered



refugees to prevent humanitarian crisis in Afghanistan. The government of Afghanistan should encourage and incentivized the return of Afghan refugees with the assistance of international community. Moreover, the Taliban regime should announce general amnesty for those refugees who are reluctant to return to their homeland due to their involvement with the United States and are afraid of being persecuted by the Taliban government.

### **Role of UNHCR**

Primarily, during the mass immigration of Afghan refugees to Pakistan, the UNHCR have not been operated in Pakistan. Similarly, the government of Pakistan did not comprehended the sever magnitude of the refugee problem; however, with the speedy growth in the number of refugees, the concerns have been raised in Islamabad which led to the formal application of Pakistan to the UNHCR for its assistance in April 1979. As a result, the UNHCR administered its office in Islamabad in October 1979 following its two assessment missions sent to Pakistan and alleviated the assistance for the refugees through 15 million dollars.

UNHCR has been significant promoter for the safety and protection of refugees through providing various services for the livestock of the refugees. The UNHCR also provided immaterial help to the refugees such as free of cost education and health utilities.

The assistance from the UNHCR and the international community were incorporated to provide the aid to the refugees, however, the lethal and catastrophic impacts of migrations have been prominent on the Pakistani society.

Moreover, in Pakistan the UNHCR and World Food Program (WFP) have encountered the deficiency of funds to facilitate Afghan refugees. Moreover, they had to face issues like thievery as well as warnings from domestic warlords that deteriorated the catastrophic plight of the majority of Afghan refugees, who lived in the camps, in 1995.

### **Situation in Afghanistan:**

The current situation of Afghanistan does not suitable for the voluntary repatriation of the Afghan refugees, according to the UNHCR 1996 guidelines. As there are no ample settlements available for the deportees and the situation of security is also vague in Afghanistan.

After retrieving the power in Afghanistan in august 2021, the Taliban had closed down the girl's schools and forbid women from permitting in the universities. The Taliban regime has also banned women from going to a national park (Sharma, 2023). Therefore, during this unwilling repatriation process women and girls are more exposed to being in danger. The Afghan de facto government restricted the rights of girls and women, for instance the right to education, right to earning a living and the right to participate in public life.



### **International and National Laws and Their Implementations in Pakistan:**

Although Pakistan has not become a party of the 1951 convention, yet it ties Pakistan from the forced repatriation of Afghan refugees. Since the convention of 1951 has acquired the status of a customary law. All the nations are restricted to those principles that have evolved into a customary international law, apart from the status of the country. It means it does not matter whether a country is a member-state, observer state or non-member state (Azam, 2021). It indicates that Pakistan has to respect the convention of 1951. Furthermore, the Taliban regime also does not guarantee the protection of all the refugees from the discrimination in Afghanistan and may trigger the jeopardy of potential humanitarian crisis. (Hiegemann, n.d.).

The Universal Declaration of Human Right of 1948 granted a right to appeal for a place of security and shelter from aggression and execution in states they would be protected. This declaration is grounded on the fundamental rights such as access to education, health services, and freedom of religion and equal rights in front of the law. This declaration also beholds Pakistan with regards to the Afghan refugees to initiate a formulation to empathetic and practicable strategy for the accomplishment of the requirements of the Afghan refugees.

Pakistan has instigated the Foreigners Act in 1946 and the Foreigners Order in 1951; both of them deal with the foreigners. These two pieces define all the matters related to the foreigners like the entry, reside and the movement, however, these has not exempted the status of refugees. These laws define that all the foreigners including refugees with no credentials and those who are in search of sanctuary, would be exposed to arrest, imprisonment and repatriation. These principles enhance the vulnerability of Afghan refugees to the maltreatment and negligence, in particular by the law organizations. Only the Afghan refugees who possessed refugee card were spared through a 1997 policy that was dispersed by the government of Pakistan. In 2001 the government of Pakistan further transpired the Act of 1946 by stating that it was only applicable for the illegal Afghan migrants (*The Plight of Incarcerated in Central Prison, Karachi Afghan Refugees*, 2022). Furthermore, the Foreigner's Order of 1951 has been altered in 2001 which stipulates the banishment of entrance and movement with the absence of legally acceptable documents in Pakistan. However, this Order differentiates the status of refugees and foreigners present in Pakistan. (Zubair et al., 2019)

The government of Pakistan has also inscribed a Tripartite Agreement with the government of Afghanistan and the UNHCR which administered the voluntary return of the documented Afghan refugees for three years in 2003. This contract was further prolonged for three years term from 2007 and 2010 to 2009 and 2012, respectively (*Tripartite Agreement*, n.d). This agreement was constantly extended once in a while, whereas the UNHCR presided and catalyzed the procedure of repatriation.

In Pakistan the implementation of customary law are not visible, however, the Afghan refugees are





being detained in various places in Karachi like Youthful Offenders Industrial School (YOIS), Women's Prison and Central Prison Karachi for violating the Foreigners Act 1946. (*The Plight of Incarcerated in Central Prison, Karachi Afghan Refugees*, 2022)

### **Conclusion:**

The measure of the government of Pakistan against the illegal or undocumented Afghan refugees under its new domestic law has violated the internationally implemented laws. But this step is not in the opposition of the local laws of Pakistan. The government of Pakistan has warmly facilitated the Afghan refugees even in the absence of refugee law or other similar convention. Furthermore, despite of no determination of the protection of refugees, Pakistan has explicated the Afghan refugee from the ordinances such as the Foreigners Act of 1946 and Foreigners Order of 1951. However, the coerced exodus of Afghan refugees has been influenced by the strained relations between the Taliban government and the caretaker government of Pakistan. The denial of the Taliban government to abandon the self styled Tehrik e Taliban (TTP) on the demand of Pakistan has ignited the Pakistani side and the forced deportation is observed as a reaction to the Taliban of Afghanistan and to the increased rate of terrorism. Due to the coerced migration of Afghan refugees, Pakistan would have violated the international refugee law; but, Pakistan is not liable to such law because of its non signatory status to it. However, the 1956 refugee convention, due to its consistent practice, is perceived as a customary law and as a member of the international community Pakistan should reconsider its policy of forced deportation of Afghan refugees.



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