

Pakistan Afghan Refugees: Challenges Faced by Management and Repatriation Issues in Pakistan

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Abstract

Refugee's crisis has ascended one of the prime challenges for international community and it augments international focus and expertise dealing with this issue. The Afghan evacuee is the leading encounter since more than three decades for Pakistan. It is a need of time, that Pakistan should competently tackle the Afghan expatriates defies both at national and on international scale besides the deficient expertise and sustainable economic conditions. This study discusses historical background of inflow Afghan refugees', issues currently being faced, existing management challenges and repatriation problems of Afghan refugees' in Pakistan. This research further discourse existing national and international legal protection framework for Afghan expatriates in Pakistan. The study edify that currently absences of inclusive legal instruments and border management policy is one of detrimental challenge of refugees to Pakistan on many faces; from security and border management to regulation of labour and migration. The study ends with comprehensive policy recommendations on the substance of Afghan refugees' in Pakistan.

Keywords: Afghan refugees, Pak-Afghan Issues, Afghan Repatriation Process, Afghan Management Challenges, UNHCR Funding, Refugees Legal Protections

1. History of Afghan Refugees Inflow in Pakistan

A civil war escalated on December 24th, 1979 when Soviet turmoil incursion in Afghanistan (Rüdiger, 2008). After soviet army withdrawal in 1988-1989 as a result thousands of war casualties in Russian, Afghan and Mujahedeen and around about 6 million Afghan migrated to Pakistan and Iran of which 3.5 million in Pakistan, 2.5 million in Iran (Najibullah, 1988). Pakistan welcomed the incoming refugees who at one point numbered five million, thus making Pakistan the second largest refugee hosting nation (Charlotte, 2015) and hosting 21 per cent of the world's refugees”(Rauf, 2015). However, continued political instability with the assistance of UNHCR through repatriation programme some 1.5 million returned in 1992 but in1996 when Taliban government was established again migration take place. Again, “due to the drought that hit Afghanistan in the year 2000, an estimated 172,000 refugees came to Pakistan”(Hiegemann, 2014) and when after the 2001 US invasion of Afghanistan and the subsequent ouster of the Taliban, repatriation began to take place. Later on, after 9/11, United State and NATO interfere in Afghanistan and start work to achieve their political as well as secret goals. Again millions of Afghan national crossed over to Pakistan and Iran. Latterly, “from 2002 to 2016, more than 3.8 million Afghan refugees returned to Afghanistan with UNHCR assistance under the formal bilateral agreement on Afghan refugees, the Tripartite Commission” (Afghanistan, Pakistan and UNHCR, 2015). Now, majority of the Afghan refugees settled in the Pashtun belt of Pakistan which includes Khyber Puktunkhwa (KPK) and the Federally Administered Tribal Areas (FATA) and Baluchistan where refugee camps were established and supervised by UNHCR, the Pakistani Chief Commissioner ate for Afghan Refugees (CCAR) and a division of the Ministry of States and Frontier Regions (SAFRON) and where they received basic facilities such as food, health and education. Hence, prolong conflicts in Afghanistan has been exclusive reason behind the constant influx of Afghan refugees into Pakistan. The President of Afghanistan demanded to the 5 million Afghan refugees residing in Pakistan and Iran under Geneva Accord in 1988 to return. However, very few Afghan refugees returned as the bulk continued to stay in Pakistan and Iran respectively (Nasreen, 2015). Political and economical turmoil and constant violence and poverty have discouraged refugees from repatriating to homes (The Voluntary Return & Reintegration July 2015).

2. Introduction

Even after more than three decades Pakistan continue to face one of the global largest Afghan refugees challenges and protectorate situation. More than ninety five per cent of Afghan refugees are hosted by Pakistan and Iran from round about 70 shelter countries (Hiram, 2009). Persisted conflicts and turmoil situation in Afghanistan has lead to continuous flow of individuals fleeing the country as well as internally displacement of the Afghan national (UNHCR, Update 2015-2016,). Mainly, Afghans have migrated across the border for social issues or to meet their families, trade, in search of work, to escape poverty, arm conflict and war, quest political, weak economical situation and boundary factors. If these problems remains unaddressed conflicts becomes inevitable and inexorable across the Asia continent specially Pakistan (Tariq, 2016). The paper argues that in as much as the internal state of Afghanistan are not settled alongside the challenges of state vulnerable economic conditions, and failure of governance are rife in Pakistan and Afghanistan, border conflicts and refugees issues remain intact.

3. Glitches Caused by Afghan Influx in Pakistan

Due to political reasons or based on discrimination when refugees are not protected by their own governments, they are forced to flee because of a threat of persecution and because they lack the protection of their own country. Pakistan along with International Community steps in to ensure they are safe and protected and State who meet the criteria for refugee status. For more than 37 years, the administration and the people of Pakistan lodged these exiles who are settled in Tribal Areas and throughout Pakistan. Thus along with Pakistan the common problems faced by all refugees host countries are failure to maintained adequate health, shelter, security and safety; refugees are formally excluded from the labour market, denied access to education, access to employment, local integration process for obtaining legal certification is extremely slow, legal order imposes restrictions on self-reliance opportunities in host countries and difference of socio-cultural background and religion (Lanzi, 2008). Specifically, glitches caused by influx refugees in Pakistan susceptible contests includes mass of refugees, militant encounters, smuggling/trafficking of arms and drugs from Afghanistan because mostly migration over the Pak-Afghan border has traditionally “taken place under an unfettered and unmonitored system, thus making it close to impossible to give an accurate number of unregistered refugees”(Abbas, 2014). Most of the times Afghanistan continues militancy against mutineers become key cause to compel people to flee their homes, mostly move in Iran and Pakistan. A few post-terrorist attack investigations have found the involvement of Afghan refugees in housing or helping the terrorists; and refugees’ camps also have been used by the offenders as well as the radicals, most Afghan refugees avoid documentation due to cultural egalitarianism and consider it as their insult and One of the reasons behind slowing down repatriation process is that many refugees had acquired fake CNIC and others refused out of fear of deportation (Tan.ed., 2006). Moreover, growing influence of India in Afghanistan is also causing strains on Pak-Afghan relations. It is estimated that during the past three decades though the UNHCR provides financial aid for 1.5 million registered refugees of the total three million (, Rhoda, 2007). However, Pakistan government has spent hundreds of billions of dollars for Afghan refugees’ management by specified budget for Afghan refugees. Financial support slow due to large number of non-registration refugees and free movement after insurgencies in Afghanistan national and international organizations have not been able to reach the affected areas and populations (Rogee, 1982). Food insecurity and high dependency ratios constitute another serious challenge in Khyber Puktunkhwa province rather complicate access to healthcare and education. Since 1995 the World Food programme (WFP) and in 2001 International community declined food aids as a result Afghan refugees move to cities for this need and this adversely affected Pakistan’s economy and meager national resources. More broadly, access to water and adequate sanitation facilities presents a major challenge for many Afghan refugees and their host communities alike while the majority of people living in Balochistan rely on agricultural production, over 86 per cent of arable land remains without access to water for irrigation (The Voluntary Return & Reintegration, 2015). Such water scarcity not only negatively impacts on agricultural productivity, but can also become a source of tension between refugees and host communities (Capacity Development Voluntary Repatriation, 2015). Since early 2007, Pakistan has not registered any new Afghan refugees, despite the lack of meaningful improvement in human rights conditions in Afghanistan since then. As UNHCR in Pakistan does not have the capacity to register and process the claims of tens or hundreds of thousands of asylum seekers, only a limited number of Afghans have been able to seek protection with UNHCR, leaving the rest without secure legal status (Protection Strategy Pakistan, 2015-17).

Despite efforts Pakistan has always been subjected to international criticism on forced repatriation of refugees “In December 2016, UNHCR warned that the massive number of returns from Pakistan could “develop into a major humanitarian crisis” (Pakistan Coercion, 2016). In order to response the abovesaid challenges collective measure will be taken by host and original countries and joint strategic planning and coordination with United Nations country teams, NGOs and government counterparts advisable (International Affairs, 2016).

4.Challenges Faced by Management in Repatriation Process

All unregistered refugees are not responsible for the worsening security situation in Pakistan. Those who are not willing to return will contribute to benefit from support with labour, crop production, livestock herding and fisheries. If Afghan refugees opted local integration it will control overall political and security situation remain stable and economic growth will benefit the Afghan refugees. While there is a need for the repatriation of all refugees it needs to be achieved in a dignified manner and reasonable timeframe. There are two types of Afghan refugees: registered and unregistered has been living in Pakistan for more than three decades in Pakistan. So for the purpose to distinguished and determine the total number of Afghan refugees, first survey was conducted in 2005 with the assistance of UNHCR in Pakistan. As a result around 2.15 million Afghan refugees registered at the end of 2006 (Tahir, 2016), “Proof of Registration (PoR) cards were issued by NADRA for three years until end of 2009”. Holders of PoR were entitled to live and work and also permitted them to obtain driving licenses, open bank accounts, and mobile SIM cards etc.

Repatriation process began in 2002 and meanwhile to ensure security federal government decided to close all refugees’ camps mainly from FATA, South Waziristan, KPK and Baluchistan in 2005 (Pakistan to Close Refugee Camps, 2005). This step had been significant resulted in the repatriation of 2.4 million Afghans to go back (Redden, 2017). Due to security challenges in 2007 Pakistan give option to the refugees either voluntarily repatriation or relocating to vacant camps in other parts of Pakistan that those who were against repatriation. Due to deterioration state of affairs in Afghanistan again repatriation of registered migrant delayed and on request of home country registered refugees were given an additional 3 year extension, till December 2015. To find durable solution of Pakistan Afghan refugees’ challenges our government also adopted the Afghan Management and Repatriation Strategy (AMRS) in 2010. Again in December 2012, the stay of the registered refugees was extended until June 30, 2013 on same ground and after that above said time a fresh strategy on Afghan refugees was agreed, which included the extension of the PoR cards and the Tripartite Agreement on Voluntary Repatriation until end of 2015. Federal government approved a new National Plan centered on “voluntary safely repatriation, sustainable reintegration inside Afghanistan, and assistance to refugees host countries known as the Solutions Strategy for Afghan Refugees (SSAR)”. Recently, PM of Pakistan again extended dead line from March 2017 to December 2017 (Daily Times 2017). From the last two decade Pakistan facing violence and instability threats internally from FATA and KPK due to United States invasion of Afghanistan and establishment of Threek- e- Taliban Pakistan (TTP). Pakistan Government concerns change in 2007, when many Afghan refugees alleged involvement in terrorism, during counterinsurgency operations against great security threats in consequence thereof federal government faced another challenge term of Internally Displace Persons (IDP). Again repatriation of the refugees become unavoidable as a result, under the 20-point National Action Plan, the government formulates a policy to deal with the issue of Afghan refugees (National Counter Terrorism Authority, 2017). Meanwhile, NADRA was under burden by government to register all undocumented Afghan nationals until December 2015 but fail due to policy clashes between Interior Ministry and SAFRON (Khalid, 2016). This time was very critical not only for Pakistan but also for Afghan refugees, law enforcing agencies were authorized under NAP to start a major crackdown against undocumented Afghan refugees arrested and deport them after completing legal formalities (Zulfiquar, 2016). Afghanistan, in general, the majority of Afghan refugees have cited economic concerns and limited absorption capacity like “lack of livelihoods, land, shelter and limited access to basic services” in Afghanistan as main obstacles to return and sustainable reintegration.

5.International and National Legal Framework for Protections Afghan Refugees’ in Pakistan

Those who have committed a crime against peace, a war crime, a crime against humanity or a serious non-political crime outside their country of refuge are not eligible for protection (Ager, 2008). Both legal frameworks are provided here for the implementation of the Solutions Strategy Programme for Afghan refugees in Pakistan.

5.1. International Legal framework for Protections

As far as internationally legal status and protection of Afghan refugees concern, Pakistan is not a signatory of International Instrument relating to Status of refugees Convention of 1951 and has not enacted any national legal instrument. However, government continues to be bound by international customary law on refugees' rights. Pakistan's judiciary has repeatedly affirmed that rights conferred by international customary law are enforceable in Pakistan, even in the absence of any specific treaty obligations or statutory provision. In *NajibZarab* (NajibZarab case, 1993), the Sindh High Court held that "the community of nations requires that rules of international law may be accommodated in the municipal law even without express legislative sanction provided they do not run into conflict with the Acts of the Parliament." Currently, federal Government provisionally followed in 30 June, 2013 the National Policy on the Management and Repatriation of Afghan Refugees & the Tripartite Agreement, 2015 on voluntary repatriation for determination of legal status, validity of Proof of Registration cards and reintegration of Afghan refugees. Under the Tripartite Commission individual financial aid program started named Endorsement of the Enhanced Voluntary Return and Reintegration Package (EVRRP) for intended return and sustainable local integration under the supervision of UNHCR (UNHCR Population Profiling and Verification, 2012). Recently, Pakistan accepted a proposal which was submitted for provisionally extension of continuing legal protections according to International Standards in 2017 at the 28th Tripartite Commission meeting held in Islamabad. Hence, for the purpose of identification and issuance of travel documents a bilateral agreement concluded to between Afghan government and Pakistan to register all undocumented Afghans in Pakistan. Further, under the guidelines of "UN Delivering as One" program and SSAR in Pakistan, government initiated the Refugee Affected and Hosting Areas (RAHA) Programme (Tariq, 2016) in 2009 for collective efforts of all interested humanitarian and development actors for the benefit of Afghan refugees and hosted communities. Besides these the Quadripartite Steering Committee meetings have contributed to enhance financial support and coordination between effectors. In addition, the UNHCR National Steering Committee (NSC) will continue to monitor progress in implementing the Solutions Strategy, in close coordination with the Commissioner for Afghan Refugees (CARs) in the provinces.

5.2. National Legal framework for Protections

The national legal system of Pakistan governing with refugees' status and rights provided under constitution and other statutory provisions. Firstly, constitutional guarantee for protection of refugee right provided under Article 4 of the Constitution of Pakistan, 1973 it states that any "person for the time being in Pakistan (Protection Strategy Pakistan, 2015-2017)" is also entitled to the protection of law. Secondly, the Foreigners Act, 1946; the Pakistan Citizenship Act, 1951; and the Naturalization Act, 1926. The legal status of Afghans refugees in Pakistan is as "foreigners." The NADRA in October 2006 first time issued PoR under the Foreigners Act, 1946 and have since been renewed many times on recommendation of Federal Government. Under the different statues an Afghan refugees may acquired or denied citizenship on the following grounds. Afghan refugees Pakistan born child claimed citizen ship on the ground of jus soli and court denied his claim by giving justifications that section 4 and 5 of the Pakistan Citizenship Act, must be read together that the Pakistan-born child of a foreigner (including an Afghan refugee) would only be entitled to citizenship if his father was also a citizen of Pakistan at the time of his birth. However, children born out of the intermarriage of an Afghan refugee with a Pakistani could acquire citizenship on the ground of descent and according to Section 3 of the Naturalization Act, 1926, the government may grant naturalization to anyone who has spent eight years in Pakistan, provided that they possess knowledge of at least one Pakistani language, have good character, and in the case of certain nationalities, are willing to give up the existing citizenship on the ground of naturalization. On account of Section 10 of the Citizenship Act Afghan women married to Pakistani men are entitled to citizenship. Future legislation named National Refugee Law is under consideration for approval.

6. Recommendations and Implementations

The prolonged Afghan refugee dilemma needs a rational and sustainable solution. The study provides following durable solutions should be undertaken with serious commitments by Pakistan, Afghanistan and the UNHCR towards refugee management and repatriation. The applications of these recommendations will help to address the problems of refugee, and its management in Pakistan.

1. Currently, it proved from the facts that it is not feasible for Pakistan to complete repatriation of Afghan refugees immediately due to security and economical conditions of Afghanistan. Consequently, deracinate Afghan refugees immediately will not only effect Pakistan economy but also badly effect the tradition of hospitality on international level. Hence, repatriation process takes time, very slow and costly and in order to ensure durable solution in this aspect our government policies should be flexible rather forceful.
2. Pakistan and Afghanistan leaders should be held responsible for failure of governance, hence their inability to tackle national building challenges. Curbing free movement and closing border is not a solution of present challenges. It is therefore suggested that Pakistan and Afghanistan should mutually need to revise its migration policy and border managements strategies so that to control further refugees movements, low cast and speedy deportation and provide measures for unregistered refugees' provisional legal stay. Further presently documentation verification highly demanded while crossing Pak- Afghan border and certainly benefit for both states in terms to control unlawful movement and facilitate to reduce their anxious bilateral ties if strictly implemented and continued.
3. However, existence of Afghan refugees from the last three decades has been a deep root cause as in term of militancy in the eye of international community, Afghan refugees are consider a cause of terrorism therefore it is suggested that government should curtail all Afghan refugees data by addressing as a national issue by keeping reparation of Afghan in coordination with Afghan government. Moreover, legal movement from Afghanistan should be practice by keeping in view internal security paraphernalia of Pakistan.
4. Pakistan should consider local integration policies and allow refugees to become more self-reliant and to be able to support the host country's economy by "contributing to agricultural production, providing cheap labour and increasing local vendors' income from sale of products (Ed, Loescher, 2011)", which could lead to a better relationship between refugees and host communities The government may provide a conducive environment in order to promote and support involuntary repatriation and proper implementation of local integration that contributes to greater contact between refugees and host populations. Hence, Refugees' management and reinstatement should be the hub and priority in budgeting and planning in Pakistan and Afghanistan.
5. Therefore, with the passage of time challenges faced by managements and voluntarily repatriation increased difficulties for Pakistan. International community and organizations will have to play a more constructive role for sustainable repatriation and reintegration by considering Afghanistan's existing internal conditions. It is therefore suggested that UN and Afghanistan make adequate arrangements to facilitate repatriation, to encourage repatriation to and resettlements, measure could be relocating all return at war free areas, basic facilities incentives and job quota repatriate.
6. In order to speed up repartition process and settlement it is needed that targeting polices should be made by identifying propriety areas in terms of immediate repatriation and also reintegration. So, to tackles the registration of undocumented Afghan in Pakistan NADRA should increase more proof of registration centers. Therefore, it is suggested that NADRA for completion of registration process should establish Mobiles Bus Centers with trained staff on effected targets areas so that government make policy accordingly and a national level survey will be conduct to audit the causes why registration process not completed till now.
7. To avoid international criticism, with the object to control violence against Afghan refugees, until Refugees laws are approved, the current Government through executive order gives written directions to all concerned management officer and state security forces to end their violence against registered and undocumented Afghans including in crimes rather investigate and properly prosecute police and other officials accountable for severe violence against Afghans.
8. Currently, role of media cannot be ignored in this regard, hence, International and national Media contribute their role in publically declare all registered Afghan refugees that they will be permitted to stay with dignity in Pakistan until it is legitimately secure for them to repatriated to Afghanistan with the object to play their role in peace building.
9. Pakistan government priorities should be the promotion of Afghan youth empowerment through inter-linked interventions in the areas of education, vocational skills training and livelihoods with object to provide opportunities and sustaining economical growth. Nowadays, many Pashtun Afghan live peacefully and abide laws of Pakistan established their Gem stone, carpet industry, transport and property business and contribute in Pakistan's recent economy.

So, if Pakistan summarily repatriated them, they would wind up their business in Pakistan and established in Indian Territory alternatively not only global states actors in India and America will cause de-stability and succeeded their goals but also shorten labors and revenue loss. Therefore, it is suggested that Pakistan government should have to provide conducive environment for Pak-Afghan businessman residing in Pakistan that would led accelerate economic activities in Pakistan.

10. During the last 37 year many afghan living in Pakistan voluntarily acquired citizenship. It is suggested that after fulfilling all legal requirements Pakistan should allow flexibly citizenship to those Afghan refugees who born in Pakistan especially so that they would play their positive national role rather than suspected suspiciously.
11. Special legal assistance centers should be established for legal counseling and seminars and conferences for awareness of their status and role of living in Pakistan with the object to take action for enforcement of their rights and to curb hatred feelings.

7. Conclusion

Despite the abovesaid challenges presented by growing influx Afghan refugees, Pakistan has been working on for decades, the recent year has provided chance to generate positive dynamism around problems that before public about refugees. The study conducted centrality to highlight and address Afghan refugees' plights and repatriation should be humane and dignified ways. Eventually, study disclosed that major causes for refugee, failure of repatriation and sustainable reintegration of Afghan refugees are violence and external invasion, political volatility, poverty and feeble economic and social conditions in Afghanistan. Hence, financial assistance provided by UNHCR proves to be inadequate for registered refugees in Pakistan and subject to corruption and mismanagement by Afghan authorities. In analysis of the growing refugees' repatriation challenges, state continued to implement institutional measures strengthening mechanisms and following up on the recommendations of various national and international oversight bodies. In additions, Afghan government on returned ensure them that those fleeing conflict and persecution do not have to threaten their life and families by resorting to pitiless crossing borders in an attempt to reach shelter and a better future. Moreover, to meet the challenges ahead, Pakistan will focus on a number of national and international strategic procedures that will guide its future actions to create the conditions for voluntary repatriation, even when return is not yet an option by engaging development actors, new approaches in a meaningful way and to ensure sustainable repatriations. At the same time, there is a pressing imperative for the Pakistan and Afghanistan and UNHCR to address the root causes of influx of Afghan Refugees in Pakistan and the security challenges that arise from it. During this critical period, we need international community support to make investments in solutions and support innovative approaches to redress Afghan refugees' management challenges and to reduce the disproportionate burden borne by Pakistan by providing opportunities for refugees in need of asylum and security sustained returned. Lastly, but not least by taking this opportunity, every one whether government as well as its law enforcement institutions, Afghanistan government, along border states authorities, UNHCR, supporting Organization, even every citizen to take collective action to address challenges faced by management and repatriation issues in Pakistan by ensuring that no one is left behind, must become a reality in cooperation and action.

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