

THE AFGHANISTAN REFUGEE CRISIS: IMPLICATIONS FOR PAKISTAN AND IRAN

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Migration has been a regular concept in the history of Afghanistan where nomads roamed the land in search of basic necessities, while parents sent their young sons to trading centres for business and employment. Also, internal dislocation among families during conflicts and tribal feuds has been a major cause of migration. At the beginning of the 1960s, rural-urban migration became predominant in and around Afghanistan with the need for development and better living standards forcing locals to migrate internally and externally. Over the years, Pashtuns as the major ethnic group, spread out in large numbers, and other ethnic groups such as the Hazaras crossed into Pakistan for trade and transit. Large scale labour migration of Afghans into Iran also took place regularly, culminating in an exchange of cultural, religious and ethnic migratory routes.

However, post the 1970s, with the Saur Revolution and the subsequent entry of the Soviets into Afghanistan, this seasonal migration soon gave way to the world's largest population displacement, creating a pool of refugees, both inside Afghanistan and on to other neighbouring countries. Post the 2001 US' war on terrorism, these Afghan refugees have been assisted through various programmes to return to their homeland.

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However, the prevailing challenges in Afghanistan, the incomplete repatriation procedures, and the unwillingness of the Afghan migrants to return and face an unsteady future, led to massive strain on neighbouring countries like Iran and Pakistan that continue to host a large number of Afghan refugees in their territories.

THE CONCEPT OF MIGRATION

Migration as a social phenomenon in the history of international relations has formed the basic pattern for human evolution and settlement in different parts of the world. The concept, termed as the movement of people from one place to another, caused by the political, social and economic environment, can be categorised mainly as permanent, forced, voluntary or temporary migration. With the onset of globalisation, migration has become an international concern requiring countries to come together and legislate on policies of migration that may directly or indirectly influence their territory and people. A subset of law studies has also emerged encompassing a separate international migration law focussing on intercontinental and interstate migration, including the understanding of refugees. The main elements of international migration law have come to cover several areas such as: the duty of states to accept returning residents, human rights, human trafficking, migrant smuggling, and the obligation to provide consular access to non-residents, and specific areas subject to international agreements such as labour migration.¹ However, international migration law restricts the traditional authority of states and national law on migration.

In this context, refugee law as a study remains a separate part of international law that deals with customary law, norms and legal instruments. The main refugee law under the United Nations Convention on the Status of Refugees (also known as the 1951 Refugees' Convention) defines refugees in the context of international law and defines the rights

1. "International Migration Law", in *Essentials of Migration Management* (International Organisation for Migration: Geneva, Switzerland), http://www.rcmvs.org/documentos/IOM_EMM/v1/V1S06_CM.pdf

of those who are granted asylum by the state. According to the convention, a refugee is defined as,

A person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or, owing to such fear, is unwilling, to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling, to return to it.²

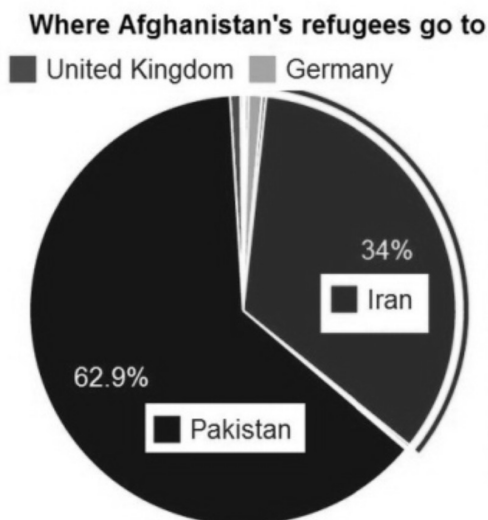
There are 147 signatories to the convention which has been ratified by all under the 1967 protocol. All states privy to the convention need to necessarily abide by it and cooperate with the United Nations High Commissioner for Refugees (UNHCR) in regard to external and internal refugees. The refugees cannot be punished by the states they enter if their life is at stake in their home country. Also, if they are able to provide details to the state authorities, they cannot be imposed with penalties under the refugees' right to be protected against forcible return.

REFUGEES FROM AFGHANISTAN

War has been the greatest enemy for Afghans who have witnessed injustice and instability in the region with the increasing number of conflicts that have been fought on their soil. For years, Afghan refugees have been displaced due to fear of persecution for reasons of race, religion, nationality, armed conflict, and political opinion. In the last ten years, around 5.7 million refugees have been voluntarily repatriated to Afghanistan, mainly assisted by the UNHCR. Despite this, 2.7 million Afghans continue to live in exile in neighbouring countries with the number of refugees returning being recorded low since 2011.³

2. "Convention and Protocol Relating to the Status of Refugees", <http://www.unhcr.org/3b66c2aa10.html>

3. "Afghanistan: What now for Refugees", Asia Report, no.175, August 2009, www.crisisgroup.org/.../asia/...asia/afghanistan/175_afghanistan___what..

Fig 1: Percentage of Afghan Refugees in Host Countries⁴

The first phase of Afghan migration took place soon after the military coup in 1978 against the Daoud government, which was carried out by the Afghan Marxist political group, the People's Democratic Party of Afghanistan (PDPA). With increasing tensions in the region, the Soviet Union, to prevent a political fragmentation in the region, entered Afghanistan in 1979. This presence soon instigated the US and its allies to project the invasion as a threat to the stability of the region and they offered financial and military support to the Afghan fighters, the Mujahideen, to help remove the Soviets from the country. The war in Afghanistan created large scale instability in the region, forcing the Afghans to migrate to neighbouring countries such as Pakistan and Iran. The spread of violence throughout the country, and the recent changes in landownership, social practices and marriage customs along with the changing leadership, forced many to abandon their homeland.⁵ The majority of these refugees were Pashtuns who were mainly peasants, farmers, small landowners and clergy,

4. "Where Afghanistan's Refugees go to", <http://www.intellectualltakeout.org/library/chart-graph/where-afghanistans-refugees-go>

5. Leila Jazayery, "The Migration-Development Nexus: Afghanistan Case Study", *International Migration*, vol. 40, no. 5, pp. 231-254, Special Issue 2, 2002, <http://onlinelibrary.wiley.com/doi/10.1111/1468-2435.00218/abstract>

who felt that their traditional and cultural existence was being threatened. The second phase of Afghan mass migration occurred simultaneously with the withdrawal of the Soviet troops, beginning in 1986 till 1989. The withdrawal was caused by an increase in the internal power struggle of the Mujahideen groups which, in turn, created two parallel migration movements.⁶ With the installation of Najibullah, the United Nations (UN) decided to help out. Repatriation and reconstruction efforts were initiated by the UNHCR through 'Operation Salam' which aimed to create the conditions for the refugees' return, including mine clearance, health programmes, rehabilitation of essential infrastructure and provision of services such as health and education.⁷ However, the programme was fraught with financial, logistical, political and security problems, with limited UN access to assistance in Pakistan and Iran. While many Afghan refugees were encouraged to return, others preferred to stay outside due to the growing unrest. These refugees were mainly urban business professionals (Dari-Persian speaking) who were compelled to leave as they were considered to be Communist supporters by the warlords. Many settled in Nasir Bagh Camp in Pakistan's Peshawar province.⁸ However, ethnic and linguistic differences between the Pashtun and Dari speaking refugees soon gave rise to tensions in the camps. By 1993, the rate of return declined considerably. The subsequent fight for the control of Kabul and Kandahar resulted in the destruction of the cities and displacement of around 100,000 Kabulis.⁹ Many of those who had recently returned to Afghanistan, after 13 years in exile, were once again forced to return to Pakistan or Iran.¹⁰

The third phase of Afghan mass migration occurred after the Taliban took power in 1996. During the Taliban era, there was support from the Pashtun refugees who decided to return in large numbers, feeling a sense

6. Ibid.

7. Rudiger Schoch, "Afghan Refugees in Pakistan During the 1980s: Cold War Politics and Registration Practice ", UNHCR New Issues in Refugee Research, no. 157, 2008, www.unhcr.org/4868daad2.html.

8. Susanne Schmeidl, "Security Dilemmas: Long-term Implications of the Afghan Refugee Crisis", *Third World Quarterly*, vol. 23, no.1, pp. 7-29, 2002, www.jstor.org/stable/3993574

9. "Afghan Refugees in Pakistan: Push Comes to Shove", Human Rights Commission of Pakistan, April 2009, www.humansecuritygateway.com/showRecord.php?RecordId=32538

10. Teresa Poppelwell, " Afghanistan", <http://www.forcedmigration.org/research-resources/expert-guides/afghanistan/fmo006.pdf>

of security with the coming of the Taliban. However, the introduction of a repressive regime, with political instability and economic challenges, soon led to a drought that created widespread food and water shortages throughout the 1990s. A number of people were compelled to migrate under such circumstances and these were mainly non-Muslim religious minorities and Shia Muslims, who felt threatened under the Wahhabi Taliban regime. As famine and diseases spread, many were forced to migrate to Pakistan and Iran.¹¹ Also, the taking over of Mazar-e-Sharif by the Taliban in 1996 resulted in a large number of Afghans, mainly Tajiks, fleeing due to the fear of ethnic cleansing by the Taliban. During this period, an estimated 2 million Afghan refugees fled to Pakistan and about 1.5 million were forced to migrate to Iran. Others migrated to other countries in South Asia, West Asia, North America, and Europe. The fourth phase of Afghan mass migration took place with the US global war on terrorism in 2001, which increased socio-economic and political instabilities that generated large outflows of Afghan refugees. By 2001, 900,000 Afghans were internally displaced due to intense fighting in the region.¹² It is interesting to note that even after the ousting of the Taliban in 2001, not too many refugees returned to Afghanistan. However, the tripartite agreement signed among the Pakistan, Afghanistan and UNHCR and similarly with Iran in 2002, facilitated the return of around 1.5 million refugees to Afghanistan.¹³

Table 1: UN Index for Afghan Refugees in Iran and Pakistan¹⁴

Type	Country	Total
Unregistered Afghans	Iran	1.4 million
	Pakistan	1 million
Registered Afghans	Iran	1 million
	Pakistan	1.9 million

11. S. G. Khattak, "Insecurity: Afghan Refugees and Politics in Pakistan", *Critical Asian Studies*, vol. 35, 2003, pp. 195–208, criticalasianstudies.org/issues/vol35/no2/in-security.html

12. http://afghanistan101.blogspot.in/2012_07_01_archive.html

13. n. 11.

14. "2013 UNHCR Country Operations Profile – Afghanistan", <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6&submit=GO>

AFGHAN REFUGEES IN PAKISTAN

The vast majority of Afghan families in Pakistan arrived in the first years of the refugee crisis. Also, due to traditional migratory routes, a number of Afghans who were present in the Northwest Frontier Province (NWFP) in Pakistan were second and third generation Afghan migrants.¹⁵ The Afghan refugees in Pakistan, mainly from southern and eastern Afghanistan, comprised Sunni Pashtuns (82 percent) who found it easier to migrate to places that were housing other Pashtun ethnic communities while other ethnic groups such as Sunni Tajiks (8 percent), Shia Hazaras (2 percent) and Sunni Balochis (1.7 percent) migrated in small numbers.

History

Afghan refugees came to Pakistan in various phases, starting with the Panjshir revolt in 1979, when a large number of Afghan dissidents, mainly Tajiks and Hazaras, who were opposed to Prime Minister Daoud's policies, fled to Pakistan.¹⁶ The second was the arrival of Afghan refugees with the onset of the Soviet invasion into Afghanistan. Around 100,000 refugees, mainly from the eastern regions of Afghanistan like Konar, Paktia and Nangarhar, entered Pakistan.¹⁷ As resistance against the Communist regime of Babrak Karmal started to increase, most people fled to Pakistan where relief operations were being initiated in 1979. A cash allowance was provided to a limited number of registered refugees by Pakistan, but employment as a choice of the refugees themselves was restricted.¹⁸

The migrating Pashtun refugees preferred Peshawar as they could easily enter the local markets and also obtain Pakistani identity cards and, therefore, they settled in parts of the Federally Administered Tribal Areas

15. "Afghan Refugees: Current Status and Future Prospects", CRS Report for Congress, January 2007, www.fas.org/sgp/crs/row/RL33851.pdf

16. "Afghan Refugees", Refugee Studies Programme, March 1989, repository.forcedmigration.org/pdf/?pid=fmo:5680

17. Anthony H. Cordesman, "The Afghanistan/Pakistan War at the End of 2011", CSIS Report, 2011, csis.org/publication/afghanistan-pakistan-war-ahe-end-2011

18. n. 16

Afghan refugees who were willingly to fight against the Soviets were provided arms, training and financial support by Pakistan.

(FATA), Balochistan and NWFP.¹⁹ In Quetta, they were, however, put under tribal security. On the other hand, the Hazara refugees took sanctuary under the Hazara leaders in Quetta and a number of Ismaili refugees went to Karachi. The invasion of the Soviets in 1979 and the subsequent entry of refugees into Pakistan provided legitimacy to Pakistan under Gen Zia-ul Haq to intervene in the regional security related decision-making.

Although Pakistan did not sign the Geneva Convention or any other international convention related to refugees, it clearly recognised the Afghans as refugees, a move that was not entirely based on humanitarian reasons. Rather, the Pakistan government's decision was a move to gain international military, economic, and diplomatic status. Most importantly, those Afghan refugees who were willingly to fight against the Soviets were provided arms, training and financial support by Pakistan, which was further facilitated by the United States and other Muslim countries like Saudi Arabia.

Initially, the Afghan refugees could register as refugees only if they resided in the NWFP and Balochistan province. Registration provided the Afghan refugees access to basic necessities and material aid.²⁰ In the beginning, the Pakistan government tried to contain the refugee population in areas where there was cultural affinity between the Afghans and the Pakistani Pashtun population. However, as mentioned earlier, the presence of the other ethnic migrants such as the Hazaras, Tajiks, and Uzbeks fuelled the ethnic divide with the people of the NWFP and Balochistan. Most refugees were employed in construction sites by private companies and Afghans who went abroad from Kabul sent remittances to their families in Pakistan. Afghans opened restaurants in Peshawar and Quetta, as Afghan cuisine and carpets became famous.

19. "Afghans in Pakistan: Broadening the Focus", Briefing Paper of the Afghanistan Research and Evaluation Unit, Collective for Social Science Research, January 2006, www.areu.org.af/.../602E-Broadening%20the%20Focus-BP-web.pdf

20. n. 11

Through education and intermarriages, a large number of Afghans learned Urdu.

After the Soviet withdrawal in 1989, a large number of refugees tried to return to Afghanistan. However the attempt failed in 1992, with the ongoing conflicts between the Mujahideen, mainly the Hizb-e-Islami, Jamiat-e-Islami, and Hizb-e-Wahdat, destabilising the region of Kabul.²¹ The Government of Pakistan also played covertly into the situation by fuelling the conflict through the supply of arms and money. By the time the Taliban took control of Afghanistan in 1996, there was a rapid decline in the international aid to Afghanistan and the food shortage forced many to once again flee the country into Pakistan. With the increasing flow of refugees, after 2001, the Pakistan government decided to close its border with Afghanistan and refused to admit new Afghan refugees. In 2002, the Pakistan government closed a number of camps in the NWFP, including Nasir Bagh, Jalozei, and Kacha Gahri, and also issued eviction orders to the residents in these camps.²² In 2004, other camps in South Waziristan were closed and in 2005, the remaining camps in FATA and two camps in Balochistan were also closed. The closure of these camps effectively displaced many Afghan refugees and also led to violence between the Pakistani officials and Afghans in the region.

Status of Refugees

As a part of the migration, the Afghan refugees in Pakistan resided in settlements or compounded areas called 'villages' which were easier for administration and identification, and provided the refugees with basic amenities.²³ The refugees were not allowed to buy land and property or get involved in Pakistani politics but were allowed to form their own political organisations. Relief operations that took place during the early periods were government funded, managed and amended in 1984 to

21. Shah Mohmand, "The Saga of Afghan Refugees in Pakistan", MEI-FRS, February 2010, www.refugeecooperation.org/publications/Afghanistan/06_mohmand.php

22. "Closed Door policy: Afghan Refugees in Pakistan and Iran", *Human Rights Watch*, vol. 14, no. 2, February 2002, www.hrw.org/reports/2002/pakistan/

23. n. 19

By 2006, more than 2.8 million Afghan refugees had returned from Pakistan, under a UNHCR-assisted voluntary repatriation programme.

introduce self-reliance activities for the refugees.²⁴ Separate organisations called ‘commissionerates’ were established in Peshawar and Quetta to administer the refugees assistance, including registration, settlement in camps and provision of basic amenities. These were further organised into six departments: health, relief, registrar, security, budget and finance.²⁵ International agencies such as the UNHCR and the World Food Programme were instrumental in organising the refugees in Pakistan.

It is interesting to note that many of the Afghan refugees who settled in Pakistan had social networks, kinship and economic contacts existent in the country, which helped ease their transition further. A large majority of refugees was employed as casual wage labourers and the refugees in Karachi largely engaged in business and trade. The refugees were largely dependent on aid money to supplement their low incomes due to their incomplete primary education. Even today, Afghan refugees in Pakistan do not have access to formal employment and a large proportion is made up of children and youth, under the age of 18 (around 1.7 million).

In 2006, the Pakistani government began a registration campaign through which around one million Afghans were registered and provided with official identification (Proof of Registration cards) which would enable them to remain in Pakistan for an initial period of three years, which was, however, extended till 2012.²⁶ The UNHCR and Pakistan agreed in 2009, to allow around 1.7 million refugees to reside in Pakistan. By 2006, more than 2.8 million Afghan refugees had returned from Pakistan, under a UNHCR-assisted voluntary repatriation programme. Unfortunately, with increasing security threats in Pakistan including unemployment and poverty, the validation of refugee identification is to end by July 2013, when the right

24. n. 16

25. n. 21

26. “Midnight Deadline Looms for Afghan Refugees”, *The Newcastle Herald*, June 18, 2013, <http://www.theherald.com.au/story/1580159/midnight-deadline-looms-for-afghan-refugees/?cs=5>

of all Afghan refugees to live in Pakistan will be taken away and forcible deportation will be conducted by the Pakistani officials.

Security

It has been understood that the influx of Afghan refugees into Pakistan has increased the pollution and traffic in the country. Refugees have also replaced locals for lower wages and thereby affecting the employment rates in the country. After 9/11, the attitude of the locals towards the Afghan refugees changed considerably as they wanted the Afghans to return to their homeland due to decreasing living spaces. The refugee camps have also been termed as safe havens for terrorist recruitment, training and accommodation and thereby, the protection by Pakistani officials has decreased with random interrogation forcing the refugees to return on a large scale. The Taliban have been able to easily penetrate the Pashtun dominated camps and blend in with the refugees, making any detection by officials difficult. Most importantly, information on refugees in the FATA region is restricted mainly as UNHCR officials are not allowed into these tribal zones, which poses a problem for the complete repatriation of the Afghan refugees. However, as part of the ongoing repatriation from Pakistan, mainly with the expiry of the Proof of Registration cards, returnees are being given repatriation assistance of \$117 per person, as well as a travel allowance of between \$10 and \$40.²⁷ Around 89,000 refugees returned to Afghanistan from Pakistan last year due to the strict measures.

Also, with the overall level of international funding for refugees having decreased, the economic burden on Pakistan has increased significantly. The government has claimed that the country does not have adequate infrastructure to support the remaining Afghan refugees and also prevent any further infiltration of terrorism and non-state actors into Pakistan. In 2006, the Pakistani government closed 32 camps as they were represented as a risk to its national security. The refugees were forced to move to alternative camps or to return to Afghanistan, with a number of camps being closed in Balochistan, despite increasing protests.

27. n. 23.

AFGHAN REFUGEES IN IRAN

Thirty years of war in Afghanistan has left Iran with a large urban refugee population in the world. More are than 1 million Afghans are registered as refugees in Iran, which is also home to another 1.5 million illegal Afghan migrants.²⁸ More than 1.6 million Afghans have returned from Iran since April 2002, but the pace reduced significantly in 2006, with only around 5,000 returning due to lack of a better standard of living in Afghanistan.²⁹ In 2007, with increasing security threats in the region, Iran forced the Afghans to go back to Afghanistan, separating many families and raising concerns of a humanitarian crisis which came under criticism by the UNHCR. Furthermore, Iran has been forcibly repatriating illegal immigrants, which is also a cause of concern for many refugees in the current context.

History

During the Soviet invasion of 1979, thousands of Afghans fled to Iran with its open door policy of championing Islamic brotherhood, which, however, denied the refugees dignified work and initially termed them as violent criminals and drug dealers. During the 1990s, under President Akbar Hashemi Rafsanjani, the government sought to naturalise them.³⁰ Since then, the Afghan refugees, termed as 'involuntary religious' migrants (Mohajerin), have lived among the locals, and have been permitted to work in the Iranian labour market, primarily in the construction, agricultural and general manual sectors. It is to be noted that even prior to the Soviet invasion, it was a tradition in many regions of Afghanistan to send young villagers to Iran as migrant workers from remote areas such as Afghanistan's central highlands comprising the Bamian and Daikundi provinces.

Afghans share a common language (Persian speakers) and a similar culture with the Iranians, and, hence, have more easily integrated into

28. "2013 UNHCR Country Operations Profile - Islamic Republic of Iran", <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96&submit=GO>

29. Mohammad Jalal Abbasi-Shavazi et al, "Return to Afghanistan? A Study of Afghans Living in Mashhad", AREU, 2005, <http://www.areu.org.af/Uploads/EditionPdfs/527E-Afghans%20Living%20in%20Mashad-CS-web.pdf>

30. Bruce Koepke, "The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan", MEI-FRS, February 2011, www.refugeecooperation.org/publications/Afghanistan/03_koepke.php

the Iranian society. The ethnic and sectarian composition of Iran's Afghan refugee population is diverse and includes the majority (40.47 percent) ethnic Shia Hazaras, 22.07 percent Sunni Tajiks, 8.8 percent Sunni Pashtuns, 3.1 percent Sunni Balochis, and 2.5 percent Sunni Uzbeks. Over the years, Iran has sought to integrate the Afghan refugees into the society. They were given permission to work in designated occupations, provided access to free health, education and food subsidies. However, the state did not provide assistance for housing, thereby forcing the refugees to congregate together, creating spontaneous settlements along the border between Iran and Afghanistan, close to Herat's urban areas.³¹ These Afghan colonies were located in geographical areas that have a high demand for manual labour, particularly in the fields of agriculture, construction, brick-making, and stone-cutting. Also, around 25,000 Afghans have been accommodated in refugee camps.³² Iran's Afghan refugee population comprises mainly Pashtuns from the neighbouring province of Farah in western Afghanistan, who adhere to conservative social and cultural practices similar to those of the host country. Therefore, the decision to repatriate depends primarily on the initiative of their tribal leaders.

Status of Refugees

Under the Iranian Refugee Proceedings, an individual is recognised as a refugee if he is: (1) crossing the border into Iranian soil; (2) a foreign national submitting a request to receive refugee status from Iran and enter Iranian soil; (3) a foreign national residing inside Iran submitting a request for receiving refugee status. Further, for the request to be processed by the refugee committee, the requesting party must have the following qualifications: (a) should be subject to one of the reasons prescribed in Article 1 of the Convention Relating to the Status of the Refugee and have a clean background; (b) should have not committed war crimes, or crimes against humanity or severe violation of public rights; (c) should have gone through the proper process of becoming a refugee; (d) should give a guarantee to

31. n. 10.

32. n. 34.

Iran is now host to second and third generation Afghans who speak authentic Farsi dialects.

abide by internal Iranian laws for the duration of his/her residency in Iran. Upon issuance of the refugee status by the refugee committee, the individual is also issued a refugee card and prescribed a place of residence.

While consistently cooperating with the UNHCR, the Iranian government has preferred to manage its refugee population via its Ministry of Interior's Bureau of Aliens and Foreign Immigrants Affairs (BAFIA), together with some government-approved non-governmental organisations and minimal international support or interference. Over the last decade, the Iranian government has regularly registered its refugee population. An initial identification and registration exercise of the refugees was carried out in 2000, followed by frequent registration exercises in 2003, known as Amayesh. This process of sequential registrations has enabled BAFIA to provide refugees with adequate assistance and to monitor emerging trends, including the growth rate of the Afghan refugee population. Renewable registration cards are issued by BAFIA once an Afghan refugee re-registers and pays the necessary registration fees and municipality taxes.

With more than three decades having elapsed, Iran is now host to second and third generation Afghans who speak authentic Farsi dialects. The Iranian government estimates that the Afghans living in Tehran in large numbers are primarily single men originating from areas in Afghanistan with high unemployment. While most come to Iran for a short stay of one to two years, many travel between the two countries over longer periods of time. Iran continues to provide educational opportunities to Afghan refugee students up to pre-university level. Until 2005, Afghan refugees had the option to enrol in either Iranian schools or in Afghan-run private schools, which also admitted undocumented Afghans. While not approved by the Iranian government, these Afghan-run schools were registered with the Afghan Embassy in Tehran. However, following a decree issued by President Mahmud Ahmadinejad in 2009, all Afghan children, including undocumented Afghans, have been permitted to enrol in Iranian schools

once their family has registered with BAFIA and paid the school fees. According to the Iranian government, since this decree, 60,000 undocumented Afghan children have availed of this opportunity to attend school. In addition to these pre-university students, Afghan theology students are also studying in Iran.

The majority of refugees in Iran are concentrated in urban areas around the country and only around 5 per cent live in camps.

The voluntary repatriation programme which began in 2002, under the tripartite agreement facilitated the return of refugees from Iran. Some received assistance, which included transportation to the border, small cash grants and assistance packages, while others returned unassisted.³³ In addition to UNHCR-assisted voluntary repatriations of refugees, undocumented Afghans are allowed to return spontaneously to Afghanistan each year. By applying for an exit *Laissez-Passer* from the Afghan Embassy or Consulate in Mashad, undocumented Afghans have the opportunity to return to Afghanistan, via self-funded transport to the Afghan border, without being penalised by Iran's disciplinary forces. According to the Afghan Embassy in Tehran, on average between 600 and 1,000 single Afghans apply for a *Laissez-Passer* every day.³⁴

Unlike in Pakistan, where many Afghans live in refugee camps, the majority of refugees in Iran are concentrated in urban areas around the country and only around 5 per cent live in camps. However, in the current scenario, Iran's worsening economic crisis and government policies have prompted a number of Afghans to return home or migrate further to Turkey and Greece.

Challenges to Security

With the mass inflow post 2001 seeming to threaten internal stability, the Iranian government announced residential restrictions, including in those provinces where Afghan nationals were living in large numbers. This meant that those who had been living in a place for years had to relocate to another

33. Ritendra Tamang "Afghan Forced Migration: Reaffirmation, Redefinition, and the Politics of Aid", *Asian Social Science*, vol. 5, no. 1, January, 2009

34. Abbasi-Shavazi et al, n. 29.

approved location. Fourteen provinces of Iran, including the provinces of Lorestan, East Azerbaijan, North Khorasan, Sistan and Balochistan, Western Azerbaijan, and Kurdistan as well as the islands of Kish, Gheshm and Abu Musa, have been designated as off limits for the Afghans with restrictions on other cities approved for Afghan residency. Even along Iran's major border with Afghanistan in the province of Sistan and Balochistan, trespassing Afghans are arrested. Furthermore, many of the restrictions, such as in Yazd, Fars and Isfahan province, create employment problems for the Afghans, as well as for the agriculture sector in which they are employed.

The illegal presence of Afghans in Iran places an additional financial burden on the Iranian government. It has been estimated that every Afghan living in Iran, whether a refugee or an illegal migrant worker, costs the Iranian government a minimum of two dollars a day.³⁵ In addition, the Iranian government claims that illegal Afghans pose threats to its national security, especially by becoming victims to insurgents and narco-traffickers near the Afghan border.

Many Afghans who cross the Afghan border illegally attempt to evade Iran's disciplinary forces by using the services of human smugglers. In this regard, the Iranian government has been trying to regularise the entry of Afghan workers and provide them work and labour permits. The BAFIA has stepped up random inspections of building firms and factories, threatening to shut down those that employ undocumented workers. The government also announced that marriages between illegal migrants and Iranians would not be recognised and illegal immigrants would not qualify for refugee status. Children of an illegal immigrant thereby have no legal status, barring them from education and health care.³⁶ Iranian law prevents Afghan nationals who do not have a valid passport, visa and work permit from holding governmental jobs, buying or selling land, enjoying socialised governmental health care, opening a bank account, registering a cell phone, or any other activity that requires official registration. Afghans without an

35. n. 30.

36. "Go Back Home: As Iran's Economy Slides, Afghan Refugees are Being Penalised", *The Economist*, February 16, 2013, <http://www.economist.com/news/middle-east-and-africa/21571935-irans-economy-slides-afghan-refugees-are-being-penalised-go-back-home>

Iranian citizenship, even those who fled to Iran 30 years ago, including children born to Afghan families inside of Iran, are still considered foreign nationals and do not enjoy any citizenship rights. Ironically, a large number of the workforce comprises Afghan migrants who, due to their low wages, are allowed to work but, on the other hand, due to their inability to follow up on their legal rights, are simultaneously abused by the Iranian construction managers.³⁷

CONCLUSION

The Afghan refugee crisis has been one of the largest humanitarian interventions in the world. The UNHCR has been extremely instrumental in the assistance, refuge and repatriation of Afghan refugees in Iran and Pakistan, mainly through administered refugee camps. Over the years, funds from other countries have been collected by the UNHCR to the tune of \$1,000 for the cost of each repatriation. During the civil wars in Afghanistan, around 234,000 refugees took asylum in different parts of the world, including Germany, Austria, Netherlands and Denmark. Also, the refugees preferred to migrate either to Iran or Pakistan based on ethnicity, religious sect and political affiliation as a major factor. The 2011 industrialised country asylum data noted that there was a 30 percent increase in applications from Afghans from 2010 to 2011, primarily towards Germany and Turkey, reflecting the unwillingness of the Afghan refugees to return and the eagerness of those still residing there to continue to do so.³⁸

A number of reasons underlie the limited repatriation of Afghan refugees to their homeland. These can be understood as the following:

- Many Afghans have no land to return to in Afghanistan. While assistance is available from the Afghan government for eligible landless Afghans, these transfers would require legal assistance to clarify complex land titles.
- There are only few employment opportunities for the returnees in Afghanistan, restricted mainly to rural areas such as agriculture.
- The deteriorating security environment in Afghanistan does not

37. "Iran: An Afghan Free Zone?", Justice for Iran, June 2012, <http://justiceforiran.org/wp-content/uploads/2012/06/Iran-anAfghanFreeZone-layout-Final.pdf>

38. "Afghan Refugees", <http://costsofwar.org/article/afghan-refugees>

encourage sustainable repatriation, with an increasing number of mines in, and flow of armaments into, the country.

- Living conditions in Iran and Pakistan continue to be considerably better, with access to basic health care, education, employment and affordable housing in a secure environment.
- There are human rights violations, ethnic rivalries, low basic health care and malnourishment in the country with economic vulnerability and insecurity. Also, assistance is provided predominantly in Kabul and other main cities, with few activities in the rural areas.

The Afghan government's slow process of allocating land to migrants has certainly been a key factor in discouraging refugees from returning. In the case of Afghan refugees in Iran, factors such as the acculturation of the refugees to an Iranian lifestyle, with many of the benefits of an advanced modern society, and the complexity of political, ethnic, tribal, and sectarian adherence in Afghanistan have made the repatriation process redundant. For many, the idea of returning to rural areas in Afghanistan which offer extremely basic infrastructure, social services and employment opportunities, is difficult. In addition, Iranian-educated graduates are frequently exposed to varying degrees of prejudice upon their return to Afghanistan and thereby many younger Afghans prefer to remain in Iran primarily for its greater economic opportunities. However, attempts to encourage Afghan university graduates to voluntarily repatriate are being introduced such as the IOM (International Organisation for Migration) programme, funded by the Japanese government, which is aimed at facilitating the return of more than 100 skilled Afghans from Iran to Afghanistan's public and private sectors.

With instability continuing in Afghanistan, the migration of Afghan refugees to towns and cities in Pakistan and Iran remains a major issue for the stability and security of the region and the host countries. In the current context, land disputes between locals and migrants could lead to future conflicts in the region; and there has been a rise in poverty, population, unemployment and criminality among the neighbours, and other developmental challenges. Unchecked cross-border activities continue to

increase fears of non-distinction between insurgents and migrants, thereby giving more leverage to Pakistan and Iran to intervene, leading to massive informal repatriation. Also, the refugees have become political tools in the hands of both Iran and Pakistan and are being used by both countries to negotiate political, social and economic benefits with regard to Afghanistan and the international security environment. For example, in 2007, the Iranian government enforced a mass deportation of undocumented Afghans through its disciplinary forces because of the lack of any security measures imposed by the Afghan government on the joint border. This sudden influx of a large number of deported Afghans not only strained the capacity of the Afghan Ministry of Refugees and Repatriation, but had political repercussions, with the Afghan Parliament issuing a vote of no-confidence against the Ministers of Refugees and Repatriation and Foreign Affairs.

Secondly, it is important to note that the limitation in the definition of refugees by the UNHCR and other state bodies has been creating issues for the legality of the rights of the Afghan refugees and their existence in the host country, mainly due to the differences in approach.³⁹ This, in turn, has allowed exploitation of the illegal migrants or undocumented refugees and forced repatriation by the state bodies, which continues to remain an issue of threat in the region. Also, the migrants who are not repatriated properly under legal jurisdiction are liable to become victims at the hands of drug and arms cartels through smuggling, trafficking and consumption, thereby adding to the instability in the region. Also, Pakistan being a non-signatory to the 1951 convention, is a major obstacle in finding a sustainable solution to the refugee problem from Afghanistan. Afghan refugees in Pakistan, prior to being officially registered, have complained of extortion and detention by official forces as there is no provision or law under the Pakistani Constitution for the protection of refugees and, therefore, even their movements are heavily curtailed or monitored.

In view of the complexity of the crisis and the challenge to the stability of the region, an international conference in Geneva in May 2012 brought

39. Personal interaction with Harsheth Virk, Regional Adviser (HIV/AIDS), UNODC on June 19, 2013.

Keeping in mind the economic insecurities of the Afghan refugees in India to find jobs, long-term visas are being issued since June 2012 to help them find formal employment in the host country.

Afghanistan, Iran and Pakistan under the auspices of the UNHCR to endorse a Solutions Strategy for Afghan Refugees, which aimed to pursue voluntary repatriation, sustainable reintegration and assistance to host countries. As for India, the issue of the Afghan refugees remains a less likely threat because of the low number of refugees in India (around 25,000) who have come to the country for educational, economic and medical facilities and have, in turn, taken back a large contribution to their home country. Also, keeping in mind the economic insecurities of the Afghan

refugees in India to find jobs, long-term visas are being issued since June 2012 to help them find formal employment in the host country. However, with the withdrawal of the US forces in 2014 and the changing regional dynamics, there is a possibility of complete instability in Afghanistan and an even bigger influx of refugees into countries of South Asia, including India. To control any future crisis, countries like India need to engage regionally with all the weaker sections of Afghan society, mainly the refugees and the internally displaced persons. Most importantly, India should lead the initiative and help countries like Iran to have a clear policy and implementation programme for asylum seekers and refugees, in order to engage them economically and prepare for a crisis situation in the region.