

FEBRUARY 13, 2017

Pakistan Coercion, UN Complicity

The Mass Forced Return of Afghan Refugees



Summary



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Pakistan: Mass Forced Returns of Afghan Refugees

UN Refugee Agency Complicit in Government Coercion



JULY 1, 2016

Pakistan: Renewed Threats to Afghan Refugees

Extend Legal Residency Status Through 2017

“No matter who you are, your heart will turn black with so much abuse.”

-Afghan refugee, 25, returning to Afghanistan, November 2016

For most of the past 40 years, Pakistan has hosted well over a million Afghans, among the largest refugee populations in the world. But over the past two years, Pakistan has turned on the Afghan community. In response to several deadly security incidents and deteriorating political relations between Pakistan and Afghanistan, Pakistani authorities have mounted a concerted campaign to drive Afghans out of the country. In the second half of 2016, a toxic combination of deportation threats and police abuses pushed out nearly 365,000 of the country’s 1.5 million registered Afghan refugees, as well as just over 200,000 of the country’s estimated 1 million undocumented Afghans. The exodus amounts to the world’s largest unlawful mass forced return of refugees in recent times. Pakistani authorities have made clear in public statements they want to see similar numbers return to Afghanistan in 2017.

Pakistan Drives Out Afghan Refugees: "Now You're Calling Us Terrorists?"



Pakistani authorities have carried out a campaign of abuses and threats to drive out nearly 600,000 Afghans since July 2016.

Driven from relatively stable security and economic conditions in Pakistan, the Afghans pushed out are returning to expanding armed conflict in Afghanistan. They also face widespread destitution and a near-total absence of social services, a situation the United Nations High Commissioner for Refugees (UNHCR), the UN refugee agency, has described as a “humanitarian emergency” that aid agencies are “severely constrained in addressing ... due to increasing insecurity and ... dwindling resources.” Unable to return to insecure and poverty-stricken home areas, hundreds of thousands risk joining the 1.5 million Afghans estimated at the end of 2016 to be “internally displaced” within their own country, including almost 625,000 displaced in 2016 alone. This figure excludes the hundreds of thousands of returnees from Pakistan who were unable to return home in 2016. In December 2016, UNHCR warned that the massive number of returns from Pakistan could “develop into a major humanitarian crisis.”

This report—based on 115 interviews with refugee returnees in Afghanistan and Afghan refugees and undocumented Afghans in Pakistan, and further corroborated by UN reports that present the reasons thousands of Afghans gave for coming home—documents how Pakistan’s pressure on Afghan refugees left many of them with no choice but to leave Pakistan in 2016.



Afghans described to Human Rights Watch various coercive factors that began in June 2016 after relations between Afghanistan and Pakistan deteriorated, including: increasingly insecure legal status; government announcements that all Afghans should leave, and the resulting ever-present threat of deportation; daily police extortion that intimidated and stripped them of their limited income and ability to make ends meet in Pakistan; arbitrary detention; police raids

on their homes; exclusion of their children from Pakistani schools and shutting down Afghan refugee schools; and, to a lesser extent, police theft and unlawful use of force. Pakistani police abuses decreased in October 2016, although reports of ongoing abuses continued well into December.

Key among these factors was Afghan refugees' insecure legal status and the related threat of deportation. Until mid-September 2016, Pakistan said the refugee status of Afghan refugees would expire on December 31, after which Afghan refugees were told they would be required to leave or be deported, and in September the authorities extended that date until March 31, 2017. On November 23, the Pakistani federal cabinet reportedly approved an extension of Afghan refugees' status until the end of 2017. However, as of late January, any such decision had not been made public, leaving Afghans in fear of deportation in early April.

■ Border provinces where the majority of Afghan refugees and returnees live



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Before 2016, Pakistan renewed Afghans' refugee status for between 18 months and three years at a time. By extending refugee status for only 12 months or less after that time, and by refusing to re-issue refugees' expired cards after December 2015, Pakistani authorities increased the pressure to return.

Returning refugees also spoke about other factors that influenced their decision to leave. For many, the June 2016 decision of UNHCR—under significant pressure from Pakistan seeking increased repatriation rates—to double its cash grant to returnees from US\$200 to US\$400 per person was a critical factor in persuading them to escape Pakistan's abuses. Many described other factors adding to the misery of official abuses, including a sudden emergence

of anti-Afghan hostility by local Pakistani communities, Pakistani landlords suddenly charging significantly increased rent for apartments and business premises, and the departure of most or all of their relatives and neighbors, which left them feeling exposed and vulnerable to local police abuses.

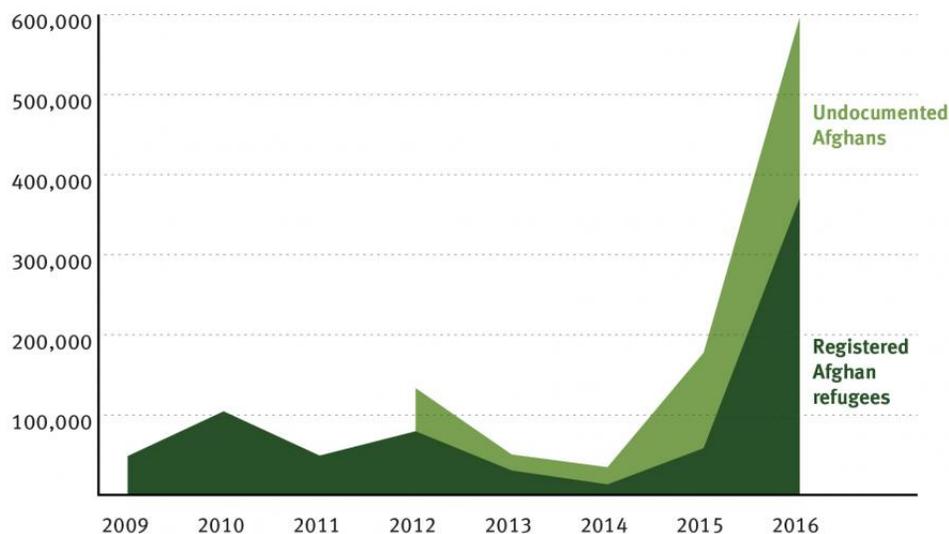
Pakistan is bound by the universally binding customary law rule of *refoulement* to not return anyone to a place where they would face a real risk of persecution, torture or other ill-treatment, or a threat to life. This includes an obligation not to pressure individuals, including registered refugees, into returning to places where they face a serious risk of such harm.

Pakistan's coercion of hundreds of thousands of registered Afghan refugees into returning to Afghanistan violates the international legal prohibition against *refoulement*.

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.

Unknown numbers of undocumented Afghans who left Afghanistan for the same sorts of reasons as those who were registered as refugees before 2007, and who have wanted—but not been allowed—to file asylum claims with the Pakistani authorities should therefore also have a protected status in Pakistan, but have been denied it. Many of the 205,000 undocumented Afghans coerced out by Pakistan's abuses since July 2016 may therefore also be victims of *refoulement*.

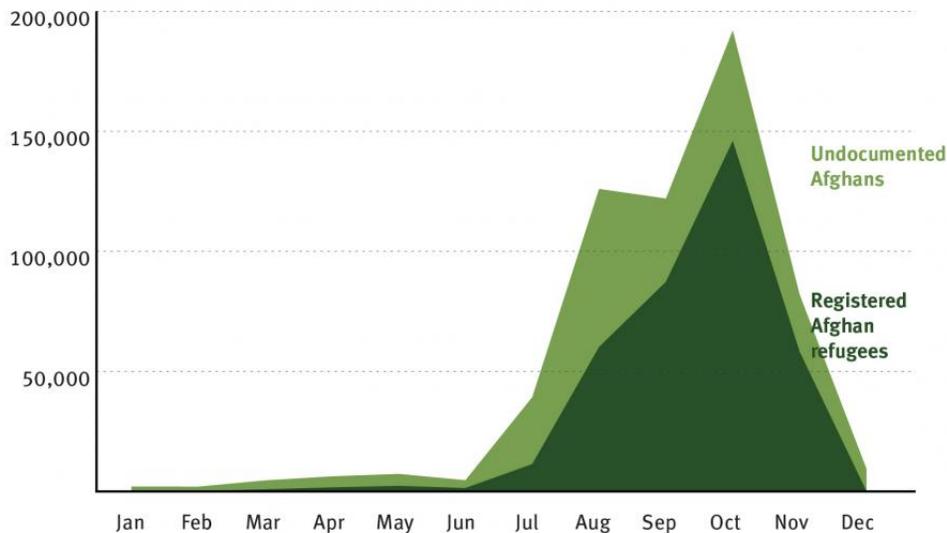
Afghans Returned from Pakistan, 2009 – 2016



Human Rights Watch calls on Pakistan to avoid recreating in 2017 the conditions that coerced Afghan refugees to leave in 2016. This means Pakistan should act to end all police abuses and revert to its previous policy of extending Proof of Registration (PoR) cards by at least two years. To avoid creating anxiety about possible deportation in the

middle of winter, it should extend cards until at least March 31, 2019 and commit to announcing by latest October 31, 2018 whether the authorities plan to extend the cards by a further two years beyond that date. The authorities should also allow undocumented Afghans seeking protection to request and obtain it in Pakistan.

Afghans Returned from Pakistan, 2016



In the second half of 2016—when hundreds of thousands of Afghan refugees and undocumented Afghans were unlawfully coerced out of Pakistan—UNHCR remained publicly silent about Pakistan’s large-scale refoulement of Afghans, not once stating that many of those returning were primarily fleeing police abuses and fear of deportation and that Pakistan’s actions were unlawful.

Instead, the agency referred in low-visibility updates for international aid donors to a range of factors that were contributing towards Afghan refugees’ decision to leave Pakistan and repeatedly referred to “facilitating voluntary repatriation.” UNHCR said it raised concerns with the Pakistani authorities behind-the-scenes on individual abuse cases or localized abuses, but this approach was a woefully inadequate response to the widespread abuses that were affecting hundreds of thousands of Afghans and that continued unabated for at least three months.

Under its mandate, UNHCR may “facilitate” voluntary refugee repatriation, even where UNHCR does not consider that it is safe for most refugees to return or that their return amounts to a “durable solution.” UNHCR may only “promote” large-scale refugee repatriation when, among other things, UNHCR has formally concluded there is an overall general improvement in the refugees’ country of origin so that they can return in “safety and dignity” and rebuild their lives there in a “durable” manner. Absent reintegration into the local community, voluntary repatriation is not a durable solution. In both cases—facilitation or promotion—UNHCR must be convinced that refugees are in fact returning voluntarily before it supports their repatriation.

By doubling its cash support to each returning refugee to \$400 in June 2016 and maintaining this support until mid-December 2016 while referring publicly to its “voluntary repatriation” work, UNHCR effectively promoted the repatriation of Afghan refugees.

But as this report shows, conditions in Afghanistan have not significantly improved, so vast numbers of returnees have been unable to return to their home areas due to insecurity and extreme poverty. UNHCR failed to ensure that refugees were fully informed of the conditions to which they were returning before deciding to leave. And regardless of conditions in Afghanistan, huge numbers of refugees leaving Pakistan in the second half of 2016 did not return voluntarily. UNHCR therefore fundamentally abrogated its refugee protection mandate by effectively supporting Pakistan's mass refoulement, thereby making UNHCR complicit in these violations.

On January 27, UNHCR wrote to Human Rights Watch, saying "UNHCR shares your concerns regarding the reported push factors affecting the repatriation from Pakistan," that "UNHCR strongly refutes the claim that increasing the cash grant constituted promotion of return," and that the agency "provide[d] support to refugees who make the decision to [return] based on a well-informed consideration of best options" which helped them "meet their most immediate humanitarian needs." UNHCR added that it had nonetheless decided to "reassess whether the cash grant had become a pull factor."

Coinciding with the onset of winter weather, in early November, UNHCR announced it would suspend cash support to returnees in December, saying it had run out of money. As of late January 2017, UNHCR was planning to resume cash support to returnees in early March if donors commit sufficient funds. If UNHCR does so, but remains publicly silent on any further coerced return resulting from Pakistan's threat to deport Afghan refugees at the beginning of April 2017 and possibly from continued police abuses, the agency will continue to be complicit in refoulement.

As long as Pakistan's campaign of coerced repatriation continues, UNHCR should publicly state Pakistan is in breach of its commitments under the Tripartite Agreement with Afghanistan and UNHCR on the repatriation of Afghans in order to ensure they are returning voluntarily. By failing to publicly state Pakistan has breached its commitments, UNHCR also failed to perform its own supervisory role under the agreement, which requires it to ensure that Afghan refugees' repatriation is voluntary.

UNHCR should also suspend its participation in the Tripartite Agreement. Although the agreement commits the parties to ensuring the voluntariness of refugee return, Pakistan flouted those standards in 2016. Continuing to participate in the agreement implies that UNHCR views the current forced returns from Pakistan as voluntary. UNHCR should only resume its participation in the agreement when Pakistan ends its coercion of Afghan refugees and provide them a real choice about whether to stay or leave.

UNHCR should also publicly speak out against any renewed refoulement and make clear that any support it might give to returning Afghan refugees in 2017, whether cash or other forms of support, is driven by the humanitarian aim to minimize suffering resulting from sudden forced return and is not to be viewed as support for the Pakistani position that they returned "voluntarily."

Faced with almost 350,000 Afghan asylum seekers between January 2015 and September 2016, European Union member states have increasingly rejected Afghan asylum claims. In October 2016, the EU used development aid to pressure Afghanistan into accepting increased deportations of rejected Afghan asylum seekers to a country the EU said in late 2016 was facing "an increasingly acute humanitarian crisis."

European Member States should exercise discretion to defer deporting rejected Afghan asylum seekers until it becomes clear how Kabul—where the UN estimates roughly 25 percent of refugee returnees from Pakistan in 2016 have settled—will cope with the massive influx. Otherwise the EU will risk fueling the very instability the EU says it wants stopped.

Human Rights watch calls on international donors to help the Pakistani authorities properly assist and protect Afghan refugees until it is safe for them to return home. It calls on UNHCR to speak out as necessary and challenge any repeat in 2017 of the appalling and unlawful pressure Pakistan placed on Afghans in 2016 that coerced many to return to danger and destitution in Afghanistan in such massive numbers. And it calls on the Humanitarian Country Teams in Pakistan and Afghanistan to speak out if UNHCR fails to do so.

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