

Original Paper

Afghan Refugees in Pakistan and Syrian Refugees in European Union: A Comparative Analysis

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Received: December 15, 2022

Accepted: January 2, 2023

Online Published: January 9, 2023

doi:10.22158/jetmm.v5n1p1

URL: <http://dx.doi.org/10.22158/jetmm.v5n1p1>

Abstract

Displaced persons are Refugees, cross borders under coercion by force, leave motherland and difficult to return safely to home of parents. Root word is 'refuge' from which 'refugee' is derived, it means hiding and shelter from danger. Pakistan is not signatory of Refugee Convention 1951 but member of the United Nations (UN). Afghan refugees are living in Pakistan for approximately four decades, the Government of Pakistan provides favorable treatment and atmosphere to Afghan Refugees in Pakistan. Resultantly, Pakistan has been suffering terrorism, political instability, and economic dropdown though after left of United States of America (USA) in 2021, many more Afghan Refugees are expected to migrate to Pakistan. International Community is required to work and ensure peace and stability in Afghanistan in order to ensure returning back of Afghan Refugees to their parent's home safely and work for stability and peace of Afghanistan and the region so that they live there peacefully. According to Universal Declaration of Human Rights' (UDHR) article 14: everybody has freedom and right to enjoy, seek asylum from persecution in other countries. Asylum right not invoked if (i) genuinely arising prosecutions from non-political crimes, or (ii) acts repugnant to principles and purposes of United Nations, and Convention Relating to Status of Refugee signed in 1951 under United Nations High Commissioner for Refugees (UNHCR). There are 145 signatories currently to Refugee Convention 1951 but Pakistan has not yet acceded to Refugee Convention 1951. According to Refugee Convention 1951 preamble: freedom under fundamental rights enjoyed by human beings under Charter of the UN and UDHR without discrimination. The UN has assured efforts to expand freedom under fundamental rights to refugees. Communitarian Critique research methodology is deployed to help understand issues of refugees. Qualitative methodology is used while conducting this research, an analytical and comparative methods to analyze and compare Government of Pakistan's treatment of

Afghan refugees in Pakistan approximately for 4 decades as compare to Syrian Refugees' treatment by European Union (EU). The largest populated migrants refugee country of the world for 4 decades is Pakistan, approximately 5 million Afghan nationals migrated to Pakistan during Cold War and approximately around 1.3 million still living in Pakistan and they are not willing to go back to Afghanistan specially after withdrawal of USA in 2021. The International Community is required, requested, and suggested to wish, help, and endeavor to build up economies of Afghanistan and Pakistan and try to strengthen stability and peace so that remaining Afghan nationals who are living as refugees in Pakistan can go back to their motherland safely, happily, and live there peacefully.

Keywords

Communitarian Critique, Afghanistan, Pakistan, Refugee Convention 1951, Refugees, United Nations, United Nations High Commissioner for Refugees, European Union

1. Introduction

Afghan Refugees almost enjoy same rights as are guaranteed to citizens of Pakistan despite the fact that Pakistan has not yet acceded to Convention Relating to the Status of Refugees 1951 and therefore not duty bound under Convention Relating to Status of Refugees 1951 to give fair treatment to refugees as giving to its citizens. Refugees and Migrants are displaced persons who are forced to cross borders and it is difficult for them to return back home safely. According to article 2 of the Convention Relating to Status of Refugees 1951, refugees are duty bound to follow laws, rules, and regulations of residence country. Refugees have freedom of religion and right to religious education to their children without discrimination based on religion, race, sex, and country of origin. Refugees are considered asylum seekers until they get refugee status. The word refuge is the root word of refugee which means shelter and hiding from danger.

According to article 14 of Universal Declaration of Human Rights (UDHR): everybody has right to apply, seek asylum and enjoy it in other countries from persecution. Asylum right cannot be invoked in cases of genuine prosecution arising from non-political crimes or acts contrary to principles and purposes of United Nations (UN). The Convention Relating to Status of Refugees signed in 1951 under United Nations High Commissioner for Refugees (UNHCR) and came into effect in 1954. Currently, there are 145 signatories to the Convention Relating to the Status of Refugees 1951 as Pakistan has not yet acceded to the Convention.

Preamble of Convention Relating to Status of Refugees 1951 states: human beings enjoy freedom under fundamental rights in accordance with the Charter of UN and the UDHR without discrimination. The UN has assured best efforts to expand freedom under fundamental rights to refugees. Fundamental rights are guaranteed under articles 8-28 of the Constitution of Pakistan 1973 in Pakistan which can also be applicable as per fair treatment to refugees but not as duty imposed upon Pakistan under Convention Relating to Status of Refugees 1951.

This research uses Communitarian Critique research methodology to help understand the problems of refugee diaspora belonging to Afghanistan, Syria, Libya, and Iraq in the research settings of Pakistan and Europe. The conduct of research is qualitative. This study examines, analyses, and critique guaranteed fundamental rights under Constitution of Pakistan 1973, UDHR and Convention Relating to Status of Refugees 1951 to asylum seekers. This study is also a comparative analysis of the fair treatment by the Government of Pakistan with afghan refugees and arguably unfair treatment by European Union (EU) with Libyan, Syrian and Iraqi refugees.

For 4 decades, Pakistan is the largest populated refugee country in the world. Approximately, 5 million Afghan Refugees migrated and moved to Pakistan and approximately around 1.3 million are living in Pakistan and not willing to go back to their motherland. International Community is suggested and required to help and endeavor build up economies of Pakistan and Afghanistan and strengthen stability and peace in Afghanistan and Pakistan so the remaining Afghans can go back to their motherland safely, happily and peacefully live there. It is also suggested that EU should open borders and welcome affected refugees from affected countries of Arab World and therefore International Community should help building up economic and political stability and spreading peace so that Syrian, Iraqi and Libyan refugees go back to their homeland and make contribution fully towards stability, peace, and happiness of humanity.

2. Afghan Refugees in Pakistan

Pakistan is an Islamic State under article 2 of Constitution of Pakistan 1973, member of the United Nations (UN) as not signatory of Convention Relating to the Status of Refugees 1951 (Zieck; 2010). The economy of Pakistan has been going down since the end of cold war in 1989. There is political instability which is also cause of the bad economic situation in Pakistan (Akhtar; 2008). Afghan refugees are still living in different parts of Pakistan around 1.5 million and are not willing to go back to their homeland. So, the bad economy as well as political instability are two main obstacles in providing favorable treatment to refugees in Pakistan. The Government of Pakistan have been doing its best efforts to provide equal treatment to refugees living inside Pakistan. Mostly refugees in Pakistan are afghan nationals who came during cold war in 1979-1989 around 5 million and reluctant to go back to Afghanistan that is why the Government of Pakistan seeking help from international community to work for stability and peace of Pakistan and Afghanistan so that nationals of Afghanistan can go back to their motherland happily and live there peacefully (Safri; 2011).

Afghan refugees enjoy fundamental rights in Pakistan, living happily and participating in trade and economic activities throughout Pakistan. Article 4 of the Convention Relating to the Status of Refugees 1951 states that every state is required to give favorable treatment to refugees in territories of the state as are provided to nationals of the state regarding freedom of religion and religious teachings to their children (A 4 Convention; 1951). Though Pakistan is not signatory of the Convention Relating to Status of Refugees 1951 but helped and supported afghan refugees for decades. The Constitution of

Pakistan 1973 guarantees fundamental rights to all citizens of Pakistan and the Government of Pakistan is duty bound to provide these rights which includes protection of life and liberty which also includes easy public access to pure food and health care facilities to all, illegal detention protection, right of fair trial, due process, against forced labor protection, slavery, human trafficking and no child under 14 years can be employed for hazardous work at hazardous place, retrospective punishment protection, protection of home against torture, protection against self-incrimination and jeopardy, freedom of assembly, association, movement, profession, trade, and business, freedom of speech, right to information on all matters of public importance, right to manage religious institution and to profess religious belief, against imposed religious taxation protection, protection against compulsory attendance of religious institution, protection of property rights, right to acquire property, rule of law, right of education to all children under 16 years of age, right to access public places, against discrimination in services protection, and protection of culture and language (Ahmed; 2021).

Afghan refugees enjoy some of the fundamental rights in Pakistan viz life, liberty etc., Pakistan is not duty bound under Convention Relating to the Status of Refugees 1951 but still stood stand helping afghan brothers for decades. Due to good hospitality of Pakistani nationals, 1.3 million afghan refugees are reluctant to go back to Afghanistan (Khan; 2017).

Right to life and liberty protected under the Constitution of Pakistan 1973 which also include easy access to pure food and affordable medical facilities. Article 22 of the Convention Relating to Status of Refugees 1951 asks contracting states to provide favorable treatment in education as they provide to their citizens. Education right is protected under article 25A of Constitution of Pakistan 1973. A child under the age of 16 years is protected to have been provided free education by the Government of Pakistan and his education expenses are required to be beard by the Government of Pakistan (Mukhtar; 2016).

Articles 17,18 and 19 of the Convention Relating to Status of Refugees 1951 deal with employment. Refugees and Migrants have rights to be engaged in lawful employment as well as self-employment in commerce, industry, and handicrafts to establish industrial and commercial companies (AA 17,18,19 Convention; 1951). Similarly, article 18 of Constitution of Pakistan 1973 guarantees citizens to join any occupation, legal profession, or to conduct any lawful business or trade (A 18 Constitution; 1973). As per property rights are concerned, articles 13-14 of the Convention Relating to the Status of Refugees 1951 state that contracting states are required to provide equal favorable treatment to refugees regarding acquisition of moveable and immoveable properties and rights associated with it. Similarly, according to articles 23-24 of Constitution of Pakistan 1973: every citizen of Pakistan has right to hold, acquire, and dispose of property in any part of Pakistan and all lawful rights of properties are protected under fundamental rights in Pakistan (Mukhtar; 2017).

Article 26 of the Convention Relating to the Status of Refugees 1951 dealing with freedom of movement for refugees in contracting states. Each contracting state is required to allow refugees to choose place of residence and free movement without restriction except in accordance with law.

Similarly, according to article 15 of Constitution of Pakistan 1973: every citizen of Pakistan is guaranteed to remain, enter and freely move throughout Pakistan without any restriction except in accordance with law (Mukhtar; 2015).

Millions of migrants and refugees leave their motherland by force every year and they struggle to seek and receive refuge from violence, conflicts, violation of human rights, natural disasters and persecution. Number of persons forcibly displaced have continued to rise throughout the years specially in 2015-2016 due to Iraqi, Syrian and Yemen civil wars, calling for increased worldwide humanitarian assistance. Migrants and refugees up to 84% find refuge among people who struggle with poverty in low and middle-income countries like Pakistan where survival depends on availability of assistance provided by local communities and International Organizations (Dustmann Et al.; 2017). International Community required to assist the Government of Pakistan so that refugees living in Pakistan can go back to their home country safely.

When the cold war started in 1979, population of Afghanistan were dependent upon cultivation. When afghan refugees entered Pakistan, they got no land therefore they started doing labor works. Cultivated land in Afghanistan have been destroyed due to wars in 3-4 decades therefore Afghanistan need help of International Community to build up cultivation and agriculture industry. Pakistan can help them building up agriculture industry of Afghanistan but has limited resources therefore International Community should come forward and do more for peaceful and stable Pakistan and Afghanistan (Centlivres et al., 1988).

3. A Comparative Analysis of Afghan Refugees in Pakistan and Syrian Refugees in European Union

Pakistan is not a developed country as China, United Kingdom (UK), countries of European Union (EU), and United States of America (USA). It has limited resources to deal with refugees as compare to EU which is consisted of powerful economies of 27 countries. Some EU countries sealed their borders and did not allow Syrian, Iraqi and Libyan refugees to enter their countries (Holtug, 2016). As compare to Pakistan around 5 million afghan refugees came across Pakistan during cold war 1979-1989. The Government of Pakistan has been helping afghan nationals for decades with limited resources and because of the limited resources economy of Pakistan collapsed after 1989 (Hyder et al., 2015).

Afghan nationals are more than happy living in Pakistan. Approximately, 1.5 million Afghan Migrants and Refugees are still in Pakistan and do not want to go back to their homeland and consider themselves as Pakistanis (Ali, 2022). International Community generally and EU specially should learn from Pakistan and allow Syrian refugees to enter their homeland based on humanity as it is above all things, every human is son of Adam and Adam was created from the dust. Almighty Allah states “We created man from sounding clay, from mud moulded into shape” (Al-Quran, 15:26). The basic norm is that there should be no discrimination based on race, religion, caste or place of birth, therefore Syrian, Iraqi and Libyan refugees should be welcomed and treated well in all territories of EU (Fargues, 2014).

Around 1 million refugees entered different countries of EU during 2015-2016 in which mostly Syrians and Iraqi nationals forced to leave motherland due to civil war in their countries. On the other hand, around 5 million afghan refugees crossed borders and entered Pakistan during cold war (1979-1989), 1.5 million are still in Pakistan and remaining refugees went back to their homeland Afghanistan (Zeb, 2013). Economic situation of Pakistan drops down due to afghan refugees and terrorism as well as smuggling started due to cross border intervention. Pakistan has paid a price but still stood stand to help International Community to work for strengthening and stabling Afghanistan (Riedel, 2014).

Few years were exceptional since the Arab Spring in EU as more than 1 million Arab Refugees undertook dangerous journeys due to bad political situation in their motherland across Mediterranean Sea in search of peaceful and safe dwelling. Despite many indicators that plenty number of people arriving from Arab countries were increasing and many EU countries unprepared to welcome Arab Refugees thus chaos prevailed. Capacity of EU countries are severely tested, Germany, Austria, Italy, Greece, and Sweden affected more than other EU countries. Other countries of EU took measures to restrict access of migrants and refugees to their territories and shift responsibility to neighboring countries (Geddes et al., 2018). In comparison, Pakistan never ceased its borders for refugees and afghan refugees came in great numbers and destroyed economy of Pakistan. Several EU states made efforts to welcome refugees, but EU jointly lack welcoming response as a human society which is required to be corrected. Due to negative responses of some EU countries, there were serious operational ambiguities and difficulties, resultantly precarious circumstances in which migrants and refugees arrived in EU and many died on the way to EU (Fargues, 2012).

People forced to flee in millions from Arab World in past couple of years, especially Syrian, Libyan, and Iraqi refugees in neighborhood of EU. Finding amicable and expedient political solutions to current conflicts that drive people to flee remains critical, and EU needs and suggested to be engaged in these efforts positively. Countries receiving large number of migrants and refugees in addition should receive reasonable economic support to assist and provide amicable solutions for them. Considering reality, it is therefore more important to invest and ensure stabilizing political situation in affected countries (Park, 2015).

EU required to be ready and prepared beforehand for starting and continue receiving, welcoming refugees on its territorial borders by participating and engaging an effective and expedient planning and providing an amicable, efficient, effective, expedient, and better asylum system. Providing safe and secure refugee pathways for EU would provide meaningful, realistic, amicable alternative to irregular movements, human trafficking and smuggling. It is indeed need of the time for approach comprehensive to tackle displacement realities, thenceforth adoption of New York Declaration on Refugees and Migrants on 19 September 2016 (Nancheva; 2015). EU is suggested and required to follow New York Declaration on Refugees and Migrants and imbue engagement, not EU states only as also countries of same origin. Principled, common and pragmatic approach responding to migrants and refugees is possibly achievable within framework of EU.

Pakistan has already done a lot in terms of refugees and if you compare Pakistan with other countries of the world in 4 decades, no country has welcomed more than 5 million refugees as Pakistan did. The performance of Pakistan can be seen after interviewing these afghan refugees who are not willing to go back to their motherland and still 1.5 million want nationality of Pakistan. It is time to humbly and kindly say that the world should do more for refugees as Pakistan has already done a lot and sacrificed a lot and paid the price as well in the shape of bad economy, terrorism and political instability. Pakistan can only help to warmly send off the remaining afghans to their homeland, the rest on the shoulders of the world and the United Nations (UN) which have not done enough under the pressure of the world powers thus should work independently to cure issues of the region and resolve them without discrimination based on sex, place of birth religion, and race.

4. Conclusion and Recommendations

Pakistan is not signatory of Convention Relating to Status of Refugees 1951 but on other hand Pakistan is member of United Nations, therefore rights guaranteed to refugees provided under Convention Relating to Status of Refugees 1951 are not duty imposed upon Pakistan. Fundamental rights guaranteed under Universal Declaration of Human Rights and under Constitution of Pakistan 1973 includes liberty, protection of life which also includes easy access to quality food and affordable free medical treatment as well as protection of religion, right to education, employment, and right to retain, enjoy, dispose, and acquire property guaranteed to citizens as well as to refugees under fair and equal treatment as required by Convention Relating to Status of Refugees 1951.

Pakistan is not duty bound to accelerate treatment favorable to refugees living in Pakistan according to prescribed articles of Convention Relating to Status of Refugees 1951 but still stood supported more than 5 million afghan refugees for over 4 decades. Pakistan is suffering from terrorism, political instability, and economic dropdown, due to 5 million Afghan refugees' migration to Pakistan started due to the cold war in 1979 and around 4 million refugees have gone back to their homeland after the Government of Pakistan asked them to leave and remaining 1.5 million are required to leave Pakistan as soon as possible.

This step is taken by the Government of Pakistan after many terrorist activities occurred in Pakistan with the help and support of afghan refugees living inside Pakistan. Many countries of the European Union (EU) ceased their borders for Syrian, Iraqi and Libyan refugees but still there are around 1 million refugees from Syria, Iraq and Libya due to civil wars in their countries. EU should open their borders for refugees and provide them safe shelters in their territories as they are developed countries and there is no threat to their economies in near future thus there should be no discrimination based on religion, sex, race, and place of birth.

All human beings are created by Almighty Allah from clay and all are children of Adam, therefore there should not be any discrimination bases on race, sex, religion and place of birth as it is agreed upon by all states under UDHR. Therefore, EU countries are requested and suggested to open their

borders for all refugees and International Community is required to work and endeavor for stability and peace of Iraq, Libya, Syria, Yemen, and Afghanistan so that citizens of these countries would return back to their motherland safely, live happily and peacefully.

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