



REFUGEE CRISES: Lessons from Pakistan & Beyond

Edited by
MUHAMMAD MAKKI
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1

Introduction

Muhammad Makki and Waseem Iftikhar

In the backdrop of the recent refugee crises in Europe, there is an increasing realisation to commensurate the global menace with deserving attention. Though different parts of the world have experienced and shared the pain of losing their populations into refugee camps and welcoming refugees in millions, yet, the current refugee crisis is arguably the worst humanitarian crisis since the Second World War. The influx of the refugees has jolted socio-political terrains of the host countries, and the collective response has appeared in the form of ‘securitisation’ of migration.

Interestingly, before the current security situations in Syria and Iraq, and the refugee fallout, we appear to have overlooked the enormous experience of Kenya, which has hosted millions of Somali refugees, and how different African nations have addressed the issue of refugees inundating their borders and shores. Similarly, Pakistan’s relation in management of millions of war-stricken Afghan Refugees since 1980s is of significant importance to refugee management in South Asia. In fact, Pakistan has emerged as one of the largest refugee host nation in the world. Despite political turmoil, intense security situation, and economic hardships, the country has managed to gain enormous experience and understanding of the issues regarding the refugee crises, including the ongoing repatriation and rehabilitation process.

The contemporary milieu, conflicts had displaced more people than it could manage and most of the countries experiencing large scale exodus were located in the Middle East and Africa. Around 22 per cent of refugees in the world today represent Syria while rest belongs to Libya, Iraq, Somalia and Afghanistan. Many of these people had found refuge in neighbouring countries such as Turkey, Jordan, Lebanon, Kenya, Ethiopia and Pakistan; significant numbers had also indeed taken the long track to Europe and North America. The countries that had been at the forefront of accepting the new refugees have been Germany, Switzerland, UK, Canada and Japan.

More than 65 million people around the world today had been officially displaced due to wars, violence and persecution; the highest figure recorded by the United Nations since the Second World War. In 2016, more than 360,000 migrants had arrived in Europe. More than 170,000 of them had crossed Central Mediterranean, the deadliest migrant route in the world. Many of them did not survive the perilous journey. A disproportionately large number of those, who perished en-route, were women and children. Most of them had travelled on flimsy dinghies, operated by unscrupulous smugglers, and had died before reaching the shores of their intended destinations.

The fate of those left behind was none the worse. Lacking the courage or resources to seek a new future in distant lands, they remained trapped within their own countries or were pushed into the neighbouring lands. For instance, in Nigeria, the ongoing conflict with Boko Haram had forced 1.8 million people to flee their homes and to seek safety and security in other parts of the country. Lebanon, with a population of only 4.5 million people, was struggling to host 1.2 million Syrian refugees. A growing number of them continue to live in extremely difficult conditions in camps on the borders of both Turkey and Jordan. The influx of refugees into Europe had brought to the fore a host of issues related to security, nationalism, and law and order situations. Policy planners continue to struggle to grapple with issues that necessitate the need to redesign international and national policies to manage the humanitarian crisis and mitigate unsavory side effects that are inevitably linked with it.

Pakistan has also been no stranger to displaced people. Since 1947 (the independence), the country has been called upon to accommodate and rehabilitate large refugee populations. The new state already struggling to establish itself handled the people rendered homeless after the greatest transmigration in history. According to a conservative estimate, about 15 million people switched sides in 1947. By the end of 1979, Pakistan received the second wave of refugees fleeing Afghanistan to escape the Soviet invasion. The third wave was triggered by the US invasion of Afghanistan in 2001. For the past three decades, Pakistan has been hosting nearly 3 million refugees. Second and third generation Afghans, born here, have known no other country, but Pakistan. Most of these refugees have proved to be productive citizens in their adopted country, but many have been ensnared by forces that sponsor illicit activities including terrorism. Prolonged stay in camps and in ghettos has proved to be their undoing and they have fallen prey to virulent ideologies.

Moreover, over the past two decades, Pakistan has experienced and witnessed large scale internal displacement due to turmoil in its tribal as well as settled areas. Despite its limited resources, Pakistan has done its best to handle these displaced people in the best possible manner. The wealth of experience that Pakistan has gained in handling refugees and internally displaced people is

priceless. There is a greater need to collect and collate this vast and unique treasure trove of knowledge for the betterment of the human civilisation. Those countries experiencing an influx of refugees, Pakistan, in particular, has lessons to offer ranging from hosting, managing and rehabilitating refugees and displaced people.

The overarching themes of this book are international, institutional and state approaches toward refugees. This book also highlights the pressing need to share experiences, relating to refugee settlement and their integration in the host societies, in order to better understand the political and security crises, and also to identify different approaches in this regard.

This book documents a collaborative investigation into the meaning and strategies to address the contemporary refugee crises while highlighting lessons that can be drawn from the formidable accomplishments of Pakistan in accommodating refugees. The discussions promulgated in the various chapters of this book aim to be utilised at every stage of a refugee crisis, to implement and maintain peace and stability in the national and international arenas.

The issue of social consequences of migration has attained centre stage in the politics and policy debates around the world. While immediate administrative tasks of refugee settlement and rehabilitation are challenging due to the human dimensions attached to it; the long-term project of social integration of the new groups with the local communities faces more difficulties. To the core of these assimilation problems is the value-conflict between the migrants and native societies, which has posed serious questions especially in the countries with second or third generation of 'migrants'. Deeper understanding of such inter-communal frictions can offer solid stepping-stones for the future social policy interventions. This paper presents the case of Peshawar city and maintains that the existence of value-conflict as equally recognisable and critical in this case where apparently the migrants and the local communities have much in common in terms of their religion, culture and traditions. In order to support this proposition, Asif Mehmood has under taken two questions; what are value-conflicts between the native communities and the Afghans in Peshawar. How these conflicts have been negotiated over the years and witnessed resolution? Through a qualitative methodology, the study will highlight value-conflicts in three important domains of refugee experience i.e. economic sphere, societal domain and on the question of belongingness and repatriation.

Since 2009, a terrorist group, Jama'at Ahle-Sunna Liddaawat wal Jihad (JAS), popularly known as Boko Haram, has remained the single and primary threat to human and national security in Nigeria. Against the backdrop of the foregoing, the Nigerian military has been involved in the fight against insurgency in the North East region of the country. The four Geneva

Conventions of 1949 and the Additional Protocol of 1977 constitutes the central pillars of international humanitarian law, which has to do with the legal framework or set of rules that limits the effects of armed conflicts, protect persons who are not or are no longer involved in the armed conflict, as well as provides restrictions on the means and methods of warfare respectively. The level of organisation, duration, intensity and impact of the insurgency qualifies it as a non-international armed conflict, which is also subject to the principle and framework of humanitarian law. With specific reference to the Nigerian State, Chris Kwaja examines the extent to which its fight against insurgency, with specific reference to the protection of displaced persons has been undertaken within the framework of international humanitarian law. In the context of non-international armed conflict, his paper argues that the Nigerian State has an obligation within the principle of international humanitarian law, to protect and provide for persons displaced as a consequence of insurgency in the North East region.

Martin Sökefeld in his paper historicises the German “refugee crisis” of 2015 in the context of post-World War II politics of migration and asylum in the country, focusing particularly on the reactions to the “crisis” of 1992. That time, Government reacted to more than 400,000 refugees from the Balkan wars with severe restrictions of the right to asylum, framed also within the “Dublin Regulation” of the European Union. It is argued that German politics of immigration was mostly a kind of Realpolitik that subordinated humanitarian considerations to closed-border politics geared at keeping migrants out. Summer 2015, however, saw moments and elements of humanitarianism in German refugee politics, understood, following Didier Fassin, as the introduction of moral sentiments into politics. This “humanitarianism” was mostly accredited to Chancellor Angela Merkel. Yet the commitment of thousands of members of the German public ensured the sustainability of a “welcome culture” intended to accommodate refugees, government politics quickly reverted to new restrictions that keep immigrants for many months or even years in a limbo of waiting. While to some extent government’s humanitarian discourse continues it becomes apparent that humanitarian politics is often mostly a politics of representation that serves to cover up real politics. He concludes that marking the events of 2015 as a refugee crisis enables in the first place the legitimisation of politics of restriction like the externalisation of EU borders into North African countries.

Discussing the issue of the Rohingya people Shireen Mushtaq argues that they are a persecuted ethnic community in the Asian region. The discrimination against these people by the state of Myanmar has created a refugee crisis, which affects the regions of South Asia and East Asia. The state of Myanmar opts for ethno-nationalist policies that have rendered these people without a state of origin. Thousands of Rohingya escaped Rakhine state to become refugees as

Burma labelled them as illegal immigrants. The Rohingya have taken refuge in neighbouring countries like Bangladesh, Malaysia and Thailand in refugee camps where they are seen as creating social and economic problems for the host states. The regional organisations both ASEAN and SAARC lack the organisational capacity to deal with this humanitarian crisis. Both regional organisations have in their charter the policy of non-interference among the member states and this policy creates a loophole in the effectiveness of these organisations to thwart regional crisis, as can be seen in the case of Rohingya people. The review of the policy of non-interference is due to ensure the protection and safety of people faced with persecution by their respective states.

Discussing the plight of the Middle Eastern refugees and the response by most of the European countries, Waseem Iftikhar posits that most of the Syrian and Iraqi refugees have been trying to reach heart of Europe for safety. EU countries have been acting with varying degree of acceptability and involvement towards these refugees. Germany and Sweden are the highest recipients of Middle Eastern refugees. Angela Merkel of Germany for example, has taken more than one million refugees, almost 890,000 applications were received during 2015 and 280,000 during 2016. In a stark contrast, Britain decided to select just little over 6000, out of the total of over five million Syrians, from refugee camps in Middle East. He further argues that ever since this crisis erupted, there has been a clear reluctance from majority of the Europeans to allow these refugees in their countries. Coupled with multiple “speech acts” by EU leaders, the refugee crisis has been effectively securitised in Europe. His research is a study of securitisation of Middle Eastern Refugee issue in Europe, and the European journey from compassion, and hospitality to hostility.

The prevailing refugee paradigm is more state-centric than a global phenomenon. With international legal instruments, global refugee-assistance, and involvement of international border; helping refugees’ effectively without concerned state is not possible. Conflicts during Cold War in 1980s and 90s, such as Afghanistan, Somalia, and Intifada in Palestine, generated large number of refugees, but did not shake the reluctance to examine its basic causes and dynamics of the role of state. The causes seemed obvious. It was not until the chronic Syrian refugee crisis raised its head, that the debate of the causes of refugees as well as the role of the state was reverberated. In the background of recent Syrian refugees and North Waziristan’s mass movement, causes of political tensions, economic roots and ethnic rifts have been analyzed by Sohrawardi, who explains different regimes of refugee crises and emphasises the need for drawing a joint mechanism to draft an international instrument to deal with migrants effectively and justly.

The presence of the huge mass of Afghan Refugees residing (or having lived) in Pakistan is testament of the international community, regional stakeholders,

and Afghan national regimes' inability to solve the root causes of massive human displacement – conflict, disaster, oppression, and chaos. Shabana Fayyaz proposes an integrated counter-terrorism policy response wherein national security and humanitarian interests are inevitably inter-linked. That is, to perceive that security and Afghan Refugee dynamics are inevitably mutually exclusive suffer from a failure of imagination – equally applicable to both policymakers and state institutions.

Using the Copenhagen School of Security Studies' 'New Security' and 'Barry Buzan's Securitisation Theory, Mastoor Quratalain and Tasleem Malik problematize the relationship between security and Afghan-refugees in Pakistan and its empirical application. Their analysis is perceived useful in making a perspective on the extent to which refugees pose challenges to Pakistan's autonomy, sovereignty, capacity, culture identity and security due to emergence of refugee warrior communities, organised criminal networks, armaments and narcotics smugglers, mainly because of the porous Pak-Afghan border. Second, while explaining the theory, the paper digs into how politics of fear and terror played a vital role in the transformation of a humanitarian issue into a security problem. Third, Pakistan's obligations towards Afghan Refugees are discussed in the context of emerging refugee policy. Their analysis further sheds light on the refugee-security nexus. Lastly, they provide some policy recommendations in order to manage current refugee crisis.

We hope that the readers would be able to expand their understanding of refugee acceptance, settlement, integration and finally repatriation.

PART I

HUMAN DISPLACEMENT: STATE OBLIGATION, CAPACITY AND CHALLENGES

2

Pakistan and Afghanistan: The Refugee Challenge (Keynote Speech)

Abdul Qadir Balauch

Before discussing the Afghan Refugee problem in Pakistan, it is very important to understand the country's historic generosity ever since its independence. The founder of Pakistan, Quaid-e-Azam Muhammad Ali Jinnah himself headed the ministry that dealt with the massive exodus of around 10 million people at the time of partition and ensured the provision of basic resources for their quality livelihood. In this background, such crisis could not be dealt without popular support and that it was not the duty of the government or a few limited firms alone to deal with these homeless people.

With regards to the Afghan Refugees, often overlooked aspect is the impacts faced by the urban centres of Pakistan. For instance, the largest city of Pakistan, Karachi, had faced serious consequences because of massive influx of Afghan Refugees. Suffering from the Russian invasion of Afghanistan, approximately numbered around 8 million, around 5 million of refugees settled in Pakistan and the remaining 3 million settled in Iran. Both Iran and Pakistan initially accommodated these refugees in the camps. In terms of responding to this crisis, we must commend Iran's efforts with regards to treating the Afghan Refugees as per the internationally devised practices, given its abundant resources. The inability of Pakistan to do so has been lack of country's own resources and also the reluctance of international donors and generally the European community, after a decade of crises, to continue with their aid programmes. It was with the collaboration of the Pakistani government and the UNHCR that the refugees stationed in the camps were provided with basic facilities including health, education, clean drinking water etc. However, (unfortunately), this cooperation could not live beyond a decade following the settlement of refugees in Pakistan, calling for increased support on a permanent basis. Overall, Pakistan's relation with the tragic and forced migration lingered

on as an unintended and unwanted consequence of the geographical proximity with the troubled land under Russian invasion.

While considering the current state of the refugees who had migrated at the time of invasion, at present only 30 per cent of the refugees are stationed in the camps. The rest are settled in the urban suburbs in major cities of Pakistan and have taken the responsibility of their sustenance on their own. Under the repatriation that began back in 2001, about two million of these refugees had gone back to Afghanistan.

With regards to the Ministry of SAFRON, it had faced serious challenges in handling these refugees. One of the major challenges has been to deal with the dilemma of registered and unregistered refugees. It was during 2007-2008 when the Government of Pakistan realised the significance of the need to register the refugees living in Pakistan. As a result, several refugees voluntarily demanded registration and were issued identity cards as a proof of their documentation. The refugees failing to register themselves did so under the fear, that the process might be used to send them back to Afghanistan. SAFRON has presented the case of Pakistan globally in order to illuminate the ongoing challenges faced by not only Pakistan (i.e. Afghan Refugees) but also globally. In particular, the Ministry of SAFRON has tried to introduce the world community to the unheard services of the Ministry that brought the issues of Afghan Refugees stationed in Pakistan, to the world, who lately did not consider Afghan Refugees a problem at all. The prime concern of the Ministry has been voicing up for the rehabilitation and betterment of Afghan Refugees, in order to ensure their prospective future.

The current Government of Afghanistan under Ashraf Ghani must be well acknowledged in creating a conducive environment for the refugees to return to Afghanistan from Pakistan. Indeed, the government has taken the issue as a serious concern as compared to the Karzai regime. Evidently, the current regime has made possible arrangements to re-accommodate and absorb the Afghan Refugees back to their home. Nevertheless, there are still loopholes and/or limitations in the current system in Afghanistan which is restraining the refugees from returning to their land. This could be attended to, by establishing *special zones* for them in terms of living and also by establishing a *quota* for them in employment, be it in any realm. Residential and financial security, are important factors among others, to make Afghanistan an attractive option for livelihood. In doing so, UNHCR has also showed commitment while offering an individual package US \$200 for the refugees who were returning to Afghanistan.

Mr. Omer Zakhilwal, current Afghan Ambassador to Pakistan, has played a very constructive role in terms of addressing the refugee crisis between

Afghanistan and Pakistan. His office has shown seriousness and dedication in terms of taking Afghans back to their home. With regards, significant number of refugees has returned home, however, an estimate reveals that around 200,000 continue to stay in Pakistan at present. And as much as Pakistan looks up to the international support to repatriate them now, the international community seems to stand at a distance. During the past four decades of serving the Afghan Refugees, the Pakistani government has patiently dealt with similar periods of reluctance and hesitance at the international end.

Solutions and Strategies for the Afghan Refugees (SSR):

Around five years ago, Pakistan formulated and launched a programme titled, '*Solutions and Strategies for the Afghan Refugees (SSR)*'. Through this programme, Pakistan made a commitment that the Afghan Refugees, stationed in the country, would not be forcefully repatriated. Instead, their repatriation will be a voluntary choice and independence of their will, making the process more dignified and distinguishing it from how it had been traditionally done. The other end of the commitment was a financial promise of US \$600 million by the international community, which were to be given to Pakistan under a programme titled '*Refugee Affected and Hosting Areas*' (RAHA). This was aimed at ensuring development of the areas where the refugees were located. However, it is an ironic fact that, after six long years of commitment, a sum of US\$180 million of what was originally promised to Pakistan has been paid. This overall exposes the international commitment to the serious issue of Afghan Refugees.

In brief, Pakistan has done the best in its capacity to serve the Afghan Refugees. It has tried to provide for them just the same resources that it has for its very own people, even if it costs the country beyond its bearing. With the 200,000 refugees still left in the country, the government continues to provide for timely health, education and training facilities. The prime concern of the government remains to carve out responsible, well trained and competent people out of these refugees so that they serve their country well upon their return. In terms of the current refugee crises which emerged from the ongoing unrest in Syria and Iraq, we must also appreciate the generous efforts of Turkey, Germany and Iran in hosting the conflict induced displaced people. In similar to this response, Pakistan had also open heartedly served the Afghan Refugees with the best of its resources, both material and financial. On certain fronts, however, lacks of sufficient support and exhausted financial means have been hindering the path in this service.

3

Sustainable Rehabilitation of Temporary Displaced Persons (TDPs) and Post Conflict Development: The Case of North Waziristan Normalcy Project and the Role of Pakistan Military

Hassan Azhar Hayat

We are all very much aware of *how* the post 9/11 world and consequent ‘Global War on Terror’ had perilous consequences for Pakistan. In order to curb the issue of terrorism from Federally Administered Tribal Areas (FATA), the conducted (effective and successful) operations exposed the Pakistan military to unconventional endeavours particularly with regards to rehabilitate the Temporary Displaced Persons (TDPs), essentially focusing on their resettlement. There is absolutely no doubt about the extent of commitment Pakistan military has shown in order to eliminate the terrorism from Pakistan in general and from the Tribal region of FATA i.e., ‘the epicentre of extremism’ in particular.

The counter operations by the Pakistan armed forces indeed rid the affected areas of the menace of terrorism. In 2008, around one third of the Khyber Pakhtunkhwa (KP) province and FATA were under the control of terrorists. FATA made up around 3.4 % of the total area of Pakistan and constituted 2.8 % of the country’s total population. Pakistan military began its various operations in 2008 which climaxed into Operation ‘Zarb-e-Azb’ which was conducted during 2014. The persistent use of force, exhibited commitment and sacrifice by the Pakistan military against the terrorists’ outfits in the region eventually limited them to the areas of North Waziristan and Khyber Agency, after having successfully cleared the neighbouring regions. Indeed, the catastrophe at the Army Public School at Peshawar in 2014 triggered the

national resolve to hunt and eliminate these terrorist groups and their outfits to their last hiding regions.

One of the major challenges that the military and concerned government departments had to face was the dealing and managing the TDPs. As far as the TDPs were concerned, the biggest dilemma was simultaneously managing their settlement in the designated camps and continuing the kinetic measures against the terrorists. To signify the role of Pakistan in this regard, the case of North Waziristan –‘the most dangerous place on earth’ - is a classic example of witnessing the fruitful impacts of Operation ‘Zarb-e-Azb’ and the establishment of *normalcy* under the guidance of Pakistan military. This unique case-study offers an opportunity to the academics and researchers to highlight the role of Pakistan military and security forces in establishing peace in a war ravaged region and post conflict development. It was of paramount significance that the unconventional role of the Pakistan military and its *humanistic* approach towards rehabilitating and resettling the TDPs of North Waziristan Agency (NWA) was echoed at national and international level.

In doing so, the establishment of the strategic framework of ‘Elements of National Power’ (EONP) is of great significance. The EONP, in view of North Waziristan Agency, assimilated and utilised all of the elements of national power i.e., political, socio-economic and military. The terrorists were completely denied any space in the region and the peace strategy which the Pakistan army followed was clear, that is to say, to *hold, build and transfer*. Overall this approach and strategy primarily shaped an environment for socio-economic development and enduring (sustainable) peace.

From July 2014 to November 2014, Pakistan security forces cleared the core areas under the terrorist influence in NWA. After clearing the targeted areas, the Pakistan security forces shifted their focus to the peripheral areas and the international border between Pakistan and Afghanistan. These military activities were being carried out at one of the most difficult terrains in geographical and social context. In terms of the physical geography, a famous local (Pashto) proverb explains the contextual (physical) dynamics: “When God completed making heavens and Earth, He dispersed the left over rocks in Waziristan.” In these operations against terrorism and terrorists’ outfits in NWA, the deployed military division lost 706 soldiers, but the Pakistan armed forces remained robust in their resolve to rid the region of terrorists.

During TDPs Management, the military was operating in unique circumstances and the first aim was to avoid any collateral damage. Secondly, the military faced difficulty in differentiating between ‘friend’ and ‘foe’ in the NWA. Therefore, careful measures were taken to avoid any mistakes. Lastly, the

military needed to make sure the post-conflict development in order to avoid any conflict recurrence.

According to the estimates, 0.6 million TDPs moved towards the district of Bannu from NWA. In addition to this, around 45,000 locals moved across Afghanistan. In order to facilitate the management of the TDPs, a 'TDP Secretariat' was established in Peshawar. The overall umbrella was provided by Military Operations Directorate which had 11 Corps and 7 Division. They coordinated parallel with the Governor Secretariat, the FATA Secretariat, the Data Bank, NADRA, civil administration, United Nations organs and also INGOs and NGOs. This coordinated effort and setup also brought many challenges for military operations in the region, mainly concerning the secrecy of operations such as population evacuation and timeline. Other challenges included the transport facility, management of household and livestock. The huge financial outlay as per an estimate to get the population back to the previous state was estimated to be 56 billion rupees. However, the unclear timeline of the displacement and no date of return for the TDPs created deep reservations for the TDPs to leave their lands and instilled resentment against the security forces working in the region.

In this vein, the 'strategic direction' of rehabilitation and return is also of great significance. In doing so, establishing *trust* is an important element; the TDPs had to have trust in the State and in the Military and whoever was helping the TDPs. Second, was the introduction of the *new system* as the region functioned on the traditions of old *Riwaj*. The rehabilitation process introduced a new system which included the FATA Reforms. Thirdly, the focus was on sustainable development and long-lasting progress. Simultaneously, it was important to ensure the security to offer and/or promise stability. The local people needed to understand that the military stood with them for the stability of the area. However, all of these measures and their effectivity largely depend upon the political administration and the governance issues.

The return of the TDPs has been a very complex process which comprised of '3-level clearance' stages. The clearance process meant the security forces had special military teams to take up all the explosive, weapons from the affected areas. After declaring a region safe from weapons and explosive materials, basic facilities like water, food, health had to be constructed before the population got back. Before the people actually returned, 'United Nations Disaster Team' made visits and checked if the area was fit enough to live. As the population returned, they hold resentments for the inconveniences caused by the displacement and tending to those have been a challenge.

Around 5 % of the population needed to be rehabilitated in FATA; however, the numbers for NWA were around 15%. Special arrangements were also made

to re-accommodate the population which migrated to Afghanistan as the operation against terrorists commenced in NWA. The development works included establishment of safe drinking water, the re-established educational institutes, along with the market places and mosques and health centres. Over all, infrastructural development in NWA had been continuing unhindered under Pakistan Army. The long route established to connect Bannu to Miran Shah to Afghanistan, was facilitated by USAID. Another route connecting Miran Shah to South Waziristan had been established with aid from UAE and other similar projects are underway, focusing on connecting Miran Shah to Dwa Toi and other areas. Moreover, 224 kilometre roads had been constructed in NWA under the supervision of the armed forces.

These all commendable efforts have been titled as 'New Normalcy' of NWA: the new way of life. In order to ensure the sustainability in the normalisation of the region, it is important for the international community to understand the socio-political environment and spectrum in NWA. In terms of the facilities, State provided for improvement of social environment to the people of NWA, the Military of Pakistan was the primary choice to implement effective control of the area and bring about rehabilitation and reconstruction. It was logical for the people of NWA to fear for their future in the region, especially dreading the return of terrorism, but it was the responsibility of the State to eradicate such fears and instill hope.

The security and stability conditions in NWA now stand visibly improved. Peace had been inculcated in North Waziristan to the point that the local population is now free to move about in the region. The livelihood opportunities are also being created while the economy and trade routes, education and health facilities had been re-established, giving hope to the future generation. They have reoriented from socio-cultural, economic and security perspective. So, while the forces are doing the selective kinetic operations and intelligence-based operations, they are also focusing on the soft strategies to ensure the sustainability and durability of new normalcy in NWA.

In addition to the above, various other contextual factors are important to be understood with regards to NWA and its rehabilitation process. The first factor is the availability of forces in the region and Frontier Corps (FC) Capacity Building. In this vein, both the agencies and their capacities to ensure peace in the region has been significantly improved. In addition, FATA reforms have also to be implemented to ensure the effective outcomes of the ongoing rehabilitation process. The soft measures include facilitating civil administration, creating livelihood opportunities, involving NGOs and philanthropists, engaging the youth, etc. While recalling the medical facilities established, in terms of medical assistance, 93 free medical camps have been established in the last one year. The Norwegian idea of *tele-medics* where the

specialists are able to handle the patients anywhere, they are having also been employed in NWA. Hundred percent polio vaccinations had been carried out and special focus has been given to inculcate the understanding of personal hygiene. Moreover, due to the benefit from the water resources in NWA and lack of electricity, 29 micro hydro-power plants are being installed in NWA in order to provide electricity to those areas.

Certainly that the audience would be surprised to see the engagement of youth in NWA, especially in cultural activities which signals a return of normalcy in NWA. Moreover, community engagement and the establishment of community centres and grooming education have been important steps in this normalcy process. Furthermore, the involvement of armed forces to reinforce women empowerment in the region has been commendable. The region had also been introduced with four art centres to promote art amongst the population. In view of the provision of services of communication, armed forces are trying to re-install the PTCL, radio, electricity, post offices and many of them have been restored. Another concept which the military has given in the region is the *model villages* and, almost 16 of them were under construction in North Waziristan alone.

Agriculture and irrigation practices had also been re-introduced in NWA. In the year 2017 alone, the locals with the support from the rehabilitation elements had ploughed over 32,000 acres of land and produced a bumper yield crops of 16,000 tons of wheat, with the support from the Pakistan Army. Moreover, almost 3000 acres of wasteland had been reclaimed and desalted with the adequate irrigation facilities. Also, a part of value added farming, 78 tunnel farms had been established. And around 150 tons of potato has been sowed. It is important to recognise the help of Faisalabad University, which was instrumental in delineating the areas which were more suitable for farming and getting hybrid seeds. Moreover, in this year they have planted around 1.2 million plants and 250 acres of fruit orchards, vineyard, and date orchards depending upon the suitability of the area. Efforts are underway to start the operations of Afghan Trade Terminal which has been established in NWA.

To conclude, the role of armed forces has been instrumental and they continue to provide security in NWA, assist in border management, governance and socio-economic uplift along with guiding the political administration which has started functioning in NWA. In the future the armed forces shall continue to support the civil administration as they gain complete control of the life in NWA. Rehabilitation is not to be short term, it has to be sustainable and NGOs and philanthropic support is absolutely necessary. Summing it up a quote from David Galula from 'Counter Insurgency: Theory and Practice' can be deemed appropriate in context to North Waziristan.

To confine soldiers to purely military functions while urgent and vital tasks have to be done, and nobody else is available to undertake them, would be senseless. The soldier must then be prepared to become a propagandist, a social worker, a civil engineer, a schoolteacher, a nurse, a boy scout.

4

In the Camps of Brotherhood: Identifying Value-Conflicts between the Local and Refugee Communities in Peshawar, Pakistan

Asif Mehmood

Abstract

The issue of social consequences of migration has attained centre stage in the politics and policy debates around the world. While immediate administrative tasks of refugee settlement and rehabilitation are challenging due to the human dimensions attached to it; the long-term project of social integration of the new groups with the local communities faces more difficulties. To the core of these assimilation problems is the value-conflict between the migrants and native societies, which has posed serious questions especially in the countries with second or third generation of ‘migrants’. Deeper understanding of such inter-communal frictions can offer solid stepping-stones for the future social policy interventions. This paper presents the case of Peshawar city and maintains that the existence of value-conflict as equally recognisable and critical in this case where apparently the migrants and the local communities have much in common in terms of their religion, culture and traditions. In order to support this proposition, the study has under taken two questions; what are value-conflicts between the native communities and the Afghans in Peshawar. How these conflicts have been negotiated over the years and witnessed resolution? Through a qualitative methodology, the study will highlight value-conflicts in three important domains of refugee experience i.e. economic sphere, societal domain and on the question of belongingness and repatriation followed by a descriptive analysis of value-conflict negotiation and resolution.

Introduction

The refugee crisis, in its social manifestations especially, is reshaping internal politics and strongly influencing policy framework around the world. While it has called for serious soul searching on the immediate issues of humanitarian nature; it has also posed harsh questions pertaining to the future of social integration of the refugee communities with the hosts. Particularly, the case of Europe and North America is important where the core of this assimilation debate is the concern on cultural value differentiation between the two sides. Migrant groups from Asian or African countries are finding themselves at odds with the cultural milieu of the West and the majority of Western people are considering this influx an existential threat. The trade-offs for the policymakers are tough on account of balancing cultural diversity, maintaining social cohesion and accommodating the migrant minorities (Heckman, 2005). In these countries, it is believed that the very issue of colliding values is being taken up by the populist anti-immigrant right wing parties and the liberal *left* is either silent, 'politically correct' or giving it merely a humanitarian colour - thus, promoting intolerance within the social groups (Žižek, 2016).

While this value contrast is glaring on the Western front and therefore, requires a thoroughly honest discussion on the subject, this exposition of Afghan migration to Pakistan stresses that the existence of value-conflict is equally recognisable and critical in a case (Afghan migration) where apparently the migrants and the local community have much in common in terms of their religion, culture and traditions. In order to support this proposition, the study takes up two questions; what are value-conflicts between the native communities and the Afghans in Peshawar since their arrival, and; how these conflicts have been negotiated over the years and witnessed resolution or otherwise?

To answer the questions, a qualitative methodology (informal/semi-structured telephonic interviews and secondary sources review) was designed to avail flexibility in data collection and analysis keeping in view the nature of the subject being discussed. Investigation of value divergence in the case of Peshawar is important to note as; (i) the city offers an intricate urban laboratory with a rich history of socio-cultural and economic exchanges between south and central Asian ethnic groups; (ii) this city has long accommodated most of the Afghan migrants (comprising multiple ethnic/religious identities) in Khyber Pakhtunkhwa interacting with a diverse host community and; (iii) being the capital of the province, it has been centrally placed in all the institutional arrangements of migration policy of Pakistani government and the foreign aid agencies which is an important aspect of this investigation in connection with the value-conflict resolution from institutional point of view.

Two sets of components are important to consider as foundation to this study: first, brief historical appraisal of the Afghan migration, their causes, ethnic dimensions and settlement patterns in Peshawar and; second, a short description of the diversity of both the migrant and local communities in the city. It is on the basis of these two undercurrents that inter and intra-communal value-conflicts are illustrated in three main clusters – economic sphere, social interaction and belongingness – in which we note that the realities of the past echo in the migrant community's aspirations and beliefs i.e. their values about each other.

Peshawar: Migration of Multiple Ethnic Identities

Broadly, there have been five Afghan Refugee movements to Pakistan and Peshawar has been the top destination of the migrant groups; (i) Refugees of various ethnic background that fled the Afghan Government purges in 1978 (Saur Revolution) and got settled in Peshawar city; (ii) Mainly Pashtun migrants arrived in the city in the second wave from 1979-1989 due to the Soviet occupation of Afghanistan. These migrants were settled in the camps of Peshawar; (iii) the third wave was between the years 1989-1992 and these comprised migrants of mixed ethnic identities that crossed the border due to infightings of the *Mujahideen* groups etc. mainly in the Capital city of Kabul and other cities. These refugees made city centre their home in Peshawar; (iv) The wave of 1994-2001 witnessed migration of mostly non-Pashtuns, who left Afghanistan due to Taliban persecution of ethnic groups, *Shias* and women especially. The drought that followed this violence in the year 1998 is also partly responsible for this exodus. These groups were settled in the refugee camps and also in the city; (v) The last major influx in 2001-onwards was due to the US invasion of Afghanistan to overthrow the Taliban regime. Ethnically, the refugees were Pashtuns and they were accommodated in the refugee camps of Peshawar (UNHCR, 2004; CSSR, 2006).

Apart from the Afghan-Pashtuns, the ethnic groups that migrated to Peshawar included Tajiks, Uzbeks and Hazaras. Tajiks were non-tribal Persian speaking *Sunni* Muslims coming from the northern Afghanistan. Uzbeks were tribal people who spoke a dialect of Turkish language. In the past, they had been allies of Tajiks and the Hazaras against the Soviets and then the Taliban. The Hazaras formed a distinct group among the refugees due to their facial features. Tribal in nature, the community came from the central Afghanistan. They are followers of *Shia Islam* (Punjani, 2002). It is critical to understand that their socio-political affiliations and conflicts in Afghanistan largely influenced their communal relationships with other groups in Pakistan after the migration.

These Afghan groups are now being repatriated to their country and both 'push and pull factors' are working for this repatriation exercise. The 'push factors'

included promulgation of National Action Plan by Pakistani Government, strict border controls at Torkham and economic hardships, fear of arrest and deportation among the Afghan Refugees. Similarly, the factors that are pulling them out of Pakistan are; Afghan Government's initiative '*Khpal Watan, Gul Watan (Home Sweet Home)*', government promise of land and shelter on arrival, UNHCR's assistance package, better security situation and desire to reunite with the family etc. Due to these reasons, it is believed that around 370,000 registered Afghan Refugees returned to their country in 2016 and still 1.3 million registered refugees live in Pakistan. The crisis will continue till a visible normalisation in Afghanistan (Rummery, 2017).

Focusing on an important aspect of this crisis, this paper is divided into five sections. After the introductory part, the second section deals with various studies conducted in the domain of refugees' value-conflict. The third part is the discussion on the findings on first question as to what are the value conflicts between the migrants and the hosts. The fourth one is the findings of the second question regarding negotiation followed by the concluding thoughts on the issue.

Literature Review

This part deals with the two sets of studies: (i) values, value-conflicts and migrant communities and; (ii) Afghan migration and their interaction with the city of Peshawar. In the following passages, it is established that how the inherent character of human values i.e. conflict is exhibited in various forms, especially in the lives and experiences of the migrant communities. It would be followed by a brief review of the state of affairs of Afghan communities in Peshawar city within the context of this paper.

Values, Value-conflicts and Migrant Communities

Values are 'motivational bases of attitudes and behaviour'. They are beliefs and desirable goals transcending specific actions. They serve as standards and criteria for selection of various actions, policies, people or events etc. Peoples' values make an order of preference. Values face conflict (Rokeach, 1979). 'True face of values appears when they conflict, which is...unavoidable' (Steenhuisen, 2010; Bryson, et al., 2015).

In the organisational settings, Zupan (2012) has shown that educational administrators experience value-conflicts of interpersonal, substantive and procedural nature and they resolve them by taking a moral stand that permits them to adhere to the core values of their own. Mulligan (2004) illustrates how value-conflict impacts political attitudes. He maintains that the value-conflict can be latent or subjectively felt by the mass public. It leads to 'ambivalence, responsiveness to persuasion, attitude instability over time, moderation and

subjective uncertainty'. Further, weak (political) attitudes are rooted in conflicting core values. David Thatcher takes up the issue of value-conflicts in the community policing. He states that when public sector agencies (especially the community policing organisations) establish partnerships with outer world, value-conflicts arise. The conflicts aggravate when the partners stick to their core values. In policing, four types of conflicts arise when these entities strike partnerships with other organisations/groups; (i) community partnership – 'relative importance of soft crime, the proper level of police authority and, the tension between equity and the interests of individual neighbourhoods' (ii) partnership with business sector – 'private sector's responsibility for social impacts' (iii) political partnership – 'fights about money, mistakes, and responsiveness' (iv) inter-agency partnership – 'importance of crime control', and 'proper ordering of organisational domains' (Thacher, 1999).

May Paomay illustrates inter-generational value-differences within the Chinese American families e.g. Chinese values of interdependence and strong family bonds are in contrast with the American values of 'self-assertiveness and independence'. The parents are experiencing that the children are fast losing these values because they do not want to feel excluded in the American society. Similarly, gender segregation in various roles and values of risk taking and adventurousness are discouraged by the Chinese parents unlike the Americans (Tung, 2008). Kimberly Calderwood and others have shown value-conflicts faced by migrant students working as social workers in Canada. While they had assimilated to the Canadian society a great deal and the social work culture of the country, their family values conflicted with those of the Canada and their job – social work. The same caused stress in their lives (Calderwood, Harper, Ball, & Liang, 2009). In the context of recent tensions between the Muslim immigrants and the Western societies, Ronald Inglehart and Pippa Norris have demonstrated that 'the basic social values of Muslim migrants fall roughly midway between those prevailing in their country of origin and their country of destination...[and] they gradually absorb much of the host culture.' (Inglehart & Norris, 2009).

Viola (2015) makes an important contribution to the negotiation and resolution of the value-conflicts among the migrant groups. She argues that negotiation is a 'de facto method for managing conflicts of...values'. The negotiation is only fit in the case of conflict of interests and not in the conflict of values, or rights, or identities of the migrants. Managing conflict of values requires more complicated procedures than simple negotiations. If negotiation of migrant values is meant for gradual adaptation taking place during the migration process, it can be taken as a process in the new context in the succession of generations. It gives birth to new forms of 'cultural hybridism, which can produce forms of disorientation and existential uprooting or instead generate

new cultural identities. The negotiation comes to the fore as a necessity thrust upon the migrants for cohabitation in a multicultural milieu.

Afghan Migrants: Moving the focus to the Value-Conflict

Afghan migration to Pakistan has been analysed in depth from various perspectives. The focus, however, largely remained on the historical, political or institutional sides of the refugee settlements in Pakistan. For example, Shireen Issa and others have highlighted migration patterns of Afghan Refugees, Pakistan's policies and programmes and the geopolitics that has been influencing the refugee influx (Issa, Desmond, & Ross, 2010). Saito & Kantor (2010) focused on re-integration of young Afghan returnees to Afghanistan from Iran and Pakistan. This is the generation that was born and brought up in these countries and upon repatriation; their expectations about the homeland have been highlighted Monsutti (2010) maintained that Afghan migration was not entirely due to war, poverty or insecurity. It was also because of the nomadic nature of Afghan people who see mobility as a planned strategy. He asserts that in exile and migration, integration and permanent return are seldom. Conner (1987) in an early essay, presented rationale of Afghan migrants moving to the city of Peshawar.

Non-governmental entities associated with refugee aid activities have been taking stock of the Afghan migration to Pakistan since the start. For example, Overseas Development Institute, in their report, focused on various aspects of Afghan migration in the urban context of Peshawar detailing settlement and displacement patterns, access to the urban services, housing, land and employment etc. and a review of the international aid mechanism working in the city to help migrants in various issues (ODI, 2013). Collective for Social Science Research in collaboration with Afghanistan Research and Evaluation Unit, Kabul conducted multi-faceted reviews of the Afghans in three cities of Pakistan – Karachi, Quetta and Peshawar. Taking up five themes in Karachi – reasons to migrate, making Karachi their destination, livelihood patterns, access to social services and security and vulnerability –the report maintained that the Afghan Refugees were 'located on the geographical, economic and social margins of the city life' (CSSR, 2005). In a similar report for the city of Quetta, reference has been made to the intra-communal conflict on the value of integration of Afghan migrants of all ethnicities – Pashtuns, Hazaras, Uzbeks and Balochs etc. It is maintained that the tolerance for the Afghan Refugees has declined over the years (CSSR, 2006). The third report pertains to the refugees in Peshawar city. The report extensively reviews topics of pivotal nature – e.g. reasons to migrate to the city, housing, employment, access to social services and repatriation etc. (CSSR, 2006).

As the issue of values of the migrant communities around the world is taking the centre-stage, this study attempts to connect itself with the body of research in migration studies that focus on the value-conflicts of migrant communities with the host groups or within their families or inter-generational differentiations or the integration or the assimilation values etc. It attempts to be a valuable addition in connection with a long standing migration issue in a volatile region of south and central Asia.

The Clusters of Value-Conflicts

Refugees and the City Economy

Broadly, divergence of choice in livelihood among the Afghan communities made the city economy a less competing ground in this context. Largely considered to be having values of 'hard-work' and 'dedication' to tough laborious jobs, most of the lower strata Pashtuns opted for jobs ranging from construction workers and mechanical assistants to street vending etc. Whereas, the *Farsiwans* thought to be closer to the value set of 'education' 'modernism' and 'professionalism' have been connected to the white-collar jobs or artistic professions in the city. Afghan Pashtuns are considered to be much closer to the values enshrined in *Pashtunwali* than the local urban Pashtuns of Peshawar. The very factor contributed to making them good entrepreneurs of the city. The communitarian values of 'trust', 'honesty', 'courage', 'passion for self-sufficiency' and 'dedication' not only brought moral support from their Afghan (Pashtun) community but also financial backing and cooperation in their businesses. On this very account, the local Pashtuns are considered to be weaker because of losing values of *Pashtunwali* (Junaid, Mehboob-ur-Rashid, & Shaheen, 2013).

The biggest value-collision in Peshawar between Afghans and the locals has been on 'economic inclusion' of the migrants that has kept the local community and the state institutions on one side, and the migrant communities on the other, since the start of Afghan settlement in the city. The Afghan community has not been included in the economic sphere by official restrictions on formal identification documents, regular employment, basic infrastructure and social services, banking facilities, access to land and housing market and sale/purchase of moveable and immovable properties. Thus, leaving them at the mercy of locals acting as their proxies and middlemen in all such matters.

Understandably, the economic exclusion is connected to the social exclusion and vice-versa. And it is because of the formal barriers that Afghans are attributed to a phenomenon (elsewhere) named as 'perverse integration' by renowned urban sociologist Castells (2000), and defined as socially excluded individuals becoming part of the criminal economy with its interdependence on the formal economy and political institutions to earn their living. The local

community considers that the Afghans are involved in criminal activities like drug trafficking, smuggling, illegal money exchange and are connected to the war and conflict in the region (Latendresse, 2007). Though the scale of their attachment to hardcore registered crimes might not be as big as alleged (Khan, 2017), yet scale of the informal economy of Peshawar involving the migrants is massive where more than half of the migrant population is just the daily wagers (Firdous, 2016) who are prone to economic exploitation more than anyone else.

In the wake of National Action Plan and repatriation drive, the migrants' values of 'economic inclusion' and 'upward mobility' have been pitted against the state and local community value of 'security' and thus jeopardising one mutual value of 'prosperity' for the city and the migrant communities both. For example, the carpet industry that employed around 5000 migrant families (mainly non-Pashtuns) in Peshawar and elsewhere in Khyber Pakhtunkhwa will lose its skilled labour in this sector (Razzaq, 2017) as in the gemstone, antique jewelry and related retail business dominated by the Afghans in Peshawar in the on-going repatriation campaign (Mateen, 2016). Similarly, the advantage of Afghan presence in the transport, cargo and trading businesses and their cross-border networks will also be lost (Latendresse, 2007).

The Social Relations of the Communities

In a social milieu that appears to have more similarities than differences, inter and intra-communal value divergence in the city runs deeper in the social order. It seems that the Pakistani homeland security policy *vis-à-vis* migrants have been influenced by the community perceptions. One historic belief of the local population of the city is that the Afghan migration has corrupted the local moral values and destroyed the youth with drugs, weapons, prostitution and homosexuality. Within the Afghans, both Pashtuns and non-Pashtuns blame each other for this. This is in sharp contrast to the Western refugee dynamics where the migrant community feels that the hosts' values as 'immodest'. Here, in the case of Afghan migration, the hosts are claiming that the migrant community has polluted the moral fabric.

The *Farsiwans* are considered to be modern having their 'Russian connection' in the past and 'European connection' at present – reminding one of the erstwhile forward looking Kabul. They maintain close association with their diaspora abroad, which is an important network for their socio-economic existence in the city. They value education (especially English language) more than any other in the city and are considered to be more tolerant religiously. Their outlook towards women participation in the public domain is open and broader including education, jobs or family affairs. Whereas, the Afghan Pashtuns are taken to be conservative in all these domains in contrast to the

urbanised local Pashtuns who generally share this open space of values with the *Farsiwans*.

The drivers of socio-spatial values of integration or segregation, over the years, have been social networks of ethnicity, kinship, religious affiliations or even the income level within the city centre and the camps. For example, Hayatabad comes to the fore as an evidence of an upper class neighbourhood with integrative socio-spatial values hosting all the local and migrant communities – Pashtuns, Hindkowans, Farsiwans and Hazaras (PDA, 2015). Similarly, Ismaili community with strong communitarian bonds migrating from Afghanistan were settled in an already planned site between Sikandar Town and Aman Colony Peshawar established by the local Ismaili community members to host their Afghan guests leaving their country after Taliban persecution in 1996. Both the towns were designed to house Ismaili community from the northern areas and other parts of Pakistan to avail subsidised housing. This community further facilitated the Afghan Ismailis to move to other parts of Pakistan and abroad through a non-governmental entity (CSSR, 2006).

Hazaras in Peshawar offer a unique case as their presence cuts across socio-spatial, political and religious value-conflicts – ‘livability versus persecution’. Their distinct facial features, easily recognizable as non-Pashtuns, historic affiliation with Northern Alliance in Afghanistan and their adherence to *Shia* Islam is reported to have brought to them a strong anxiety of animosity with the local and Afghan Pashtuns and thus a deep fear of persecution from these groups. It is because of this angst that Hazaras never settled in the refugee villages. Instead, they opted for the city centre. Since they were not allowed to own property, they had to seek rental solutions for their housing through an agreement with the locals. The Hazaras had been complaining about breach of rental contracts with no legal recourse and high costs due to undue commissions to property dealers and landlords (Punjani, 2002).

Sense of Belonging and Repatriation

In the refugee experience, the ‘home’ takes different meanings and definitions. It is a ‘geographical, historical and emotional space that has political implications’ which are attached to material and symbolic resource distribution in a multicultural society (Mohanty, 2003). Multiplicity of meanings might be relevant to other ethnic groups in Peshawar; the first generation Afghan Pashtuns considered the city their home due to centuries old tribal, familial, lingual and traditional connections to this soil. This strong sense of belonging is reflected in poetry of Pashtun poet Khushal Khan Khattak (Schiller, 2009).

As the Afghan Refugees are being pulled and pushed for leaving Pakistan, despite strong socio-economic ties of the older generations to the city, the young Pashtuns face the real challenge. Unlike their parents, they were born

and brought up (and educated) in Pakistan. Attached to the urban ethos of Pakistani society, they have fear of violence in Afghanistan. They have limited information of the social norms of Afghanistan and don't have skills of the older generations to assimilate themselves in the new economic realities if they are repatriated. They might want to be incorporated in the formal employment sector in Pakistan (CSSR, 2006), but, they are being pushed to go back. The Pakistani state is not allowing them to institutionally integrate with the local society even if they were born here and even their mothers belong to Pakistan (Khan, 2016). The dilemma of the young Afghans is compounded by the ongoing Pak-Afghan mistrust where Pakistan is being dubbed as one of the key actors responsible for the violence and instability in the country (Khan, 2017). For the second generation 'migrant' Pashtuns, a country that is not letting them stay anymore and is supposedly responsible for the unfavourable conditions in Afghanistan, is like an enemy state.

The non-Pashtuns who did not have a stronger attachment to Peshawar (or for that matter Pakistan) are more willing to go back to Afghanistan and then planning to go Europe or North America where they have already established ethnic connections. The willingness is fueled by the institutional checks particularly targeting non-Pashtuns. Apart from the overall tough conditions for them in the city, daily incidents, that mounts psychological pressure to leave, have been quoted. For example, Hazaras complain about excessive security checking by the Police on daily basis at various points in the city. Uzbeks and Tajiks talk about instances where the identity cards have been snatched from them and also undue verifications of their rental housing by the security agencies etc.

The Negotiation of Value-Conflict

In countries like Pakistan where refugee settlement constantly remains an issue of management and administration due to ineffective institutional structures, the social questions of culture, values and identities are left unattended. This situation does not acknowledge the notion that the socio-economic issues pertaining to the diverse migrant communities are largely based on the undercurrents of their cultural, social and religious aspirations, beliefs, preferences and norms etc. In the short run, the informal economies start absorbing the migrants in these countries to give a kick-start to their life but as the dust settles, the value-conflicts start to appear at all levels in society.

Understandably, the value-conflicts are not easy to negotiate as they require procedures of their own (Viola, 2015), the reality in the case of Peshawar, in this context, appears to be the victim of either obsession of the state institutions with the immediate settlement, rehabilitation and provision issues, or of the complacency with the idea that since Afghan communities have had a strong

socio-economic bond with Pakistan, there is little to worry about in this domain. Therefore, inter and intra-communal value-conflicts stood almost untouched during the entire period of their stay. In the absence of such a negotiation, the stereotypes and false perceptions about the refugee communities strengthened over the years and resulted into their exploitation. The blame-game on various issues (drugs, weaponisation, terrorism etc.) continued. The day-to-day targeting of a particular community by the security agencies went on and the persecution of the other became regular news.

The mistrust grew so much that even in the second generation ‘migrants’ strong resentment has been noticed for the local society on constant socio-economic exclusion of the refugees. The case of second-generation Pashtun youth invites attention in this regard that considers itself confronted by tough choices ahead – go back to an unstable country or stay in one that does not allow them a legal status. In this scenario, the entire policy on Afghan migrants needs to be reconsidered, taking into account the necessity of negotiation of the value-conflicts.

While enabling conditions at the institutional level facilitating value-conflict negotiation are critical, there are certain factors at work within the communities – migrant and the hosts. Gordon (1964) suggested three models of negotiation; *first*, the migrant community accepting the dominant culture; *secondly*, merger of both the communities into a new form; *thirdly*, *maintaining* the cultural pluralism for selective domains like education, work and politics etc. and keeping the rest of the values preserved. At the inter-communal level, Eisenstadt (1954) postulated four stages: 1) acquisition of language, norms, roles, customs etc.; 2) adjustment for the new roles/changes; 3) development of a new identity and value-set; and 4) participation in the host community’s institutions.

Conclusion

In the context of regional dynamics of Afghans’ migration, a number of questions are important for the Pakistani government to consider. It needs to re-evaluate as to whether the repatriation of the refugees is the final solution (Omata, 2011) keeping in view the fact that the international organisations, especially UNHCR, have been suggesting Pakistani government for absorption of the registered refugees instead of repatriation (Ali, 2015; Rummery, 2017)? How Pakistan looks at the uncertainty on the stability of Afghanistan also taking into account the mutual mistrust of Afghan and Pakistan government coupled with new regional alignments with competing interests in Afghanistan, Russia, China, US, India and Pakistan (Masood, 2017)? How far Pakistani government can realistically gauge its institutional capacity to ensure repatriation and future control on the influx through fencing of the borders or

identity or travel document checks? What will be the repercussions of a flawed or selective implementation of the repatriation policy?

While the institutional aspects are important, realistic reassessment of the entire issue is also required keeping in view the social and cultural aspects which otherwise appear to have been overlooked in the past. Focused on the mediation of value-conflicts that aims at better assimilation of the Afghan Refugees, these negotiations may take place at two levels; institutional and community. To begin with, the state might think about lifting those conditions which impede 'economic inclusion' of the refugees – the foremost value-conflict. For instance, the registered Afghans may be allowed to own property and enter land and housing market. Similarly, the second generation which was born and raised in Pakistan or if their mothers are Pakistani nationals may be allowed to have formal identification documents to avail regular employment. High skilled Afghans can be integrated to benefit local economy. Moreover, constant persecution of a particular community on account of their distinct faith or features may be addressed and ensured that they are brought in the mainstream. Once the enabling environment is available, the communities will have better platforms to socially interact without fear, mistrust, exploitation or threat to their existence.

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5

Obligation in the Fight against Insurgency in the State of Nigeria

Chris Kwaja

Abstract

Since 2009, a terrorist group, *Jama'at Ahle-Sunna Liddaawat wal Jihad* (JAS), popularly known as *Boko Haram*, has remained the single and primary threat to human and national security in Nigeria. Against the backdrop of the foregoing, the Nigerian military has been involved in the fight against insurgency in the North East region of the country. The four Geneva Conventions of 1949 and the Additional Protocol of 1977 constitutes the central pillars of international humanitarian law, which has to do with the legal framework or set of rules that limits the effects of armed conflicts, protect persons who are not or are no longer involved in the armed conflict, as well as provides restrictions on the means and methods of warfare respectively. The level of organisation, duration, intensity and impact of the insurgency qualifies it as a non-international armed conflict, which is also subject to the principle and framework of humanitarian law.

With specific reference to the Nigerian State, this paper examines the extent to which its fight against insurgency, with specific reference to the protection of displaced persons has been undertaken within the framework of international humanitarian law. In the context of non-international armed conflict, this paper argues that the Nigerian State has an obligation within the principle of international humanitarian law, to protect and provide for persons displaced as a consequence of insurgency in the North East region. The paper provides some policy recommendations with respect to the state obligation in the context of humanitarian responsibility for Internally Displaced Persons (IDP), as well as the insurgents.

Background/Context

...the only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not a sufficient warrant. John Stuart Mill (1806-1873).

We live in a global environment; you must be conscious of your actions. President Muhammadu Buhari, 2015.¹

The end of a thirty months civil war (1967-1970) represents the first time in the history of Nigeria that the Nigerian State confronted the issue of displacements and how to respond to the needs of IDPs. Within this period, there was no policy or law at the national, continental and global level on the rights, needs and security of IDPs. The post-civil war programme on Reconciliation, Reintegration and Reconstruction (3R), launched by General Yakubu Gowon's regime, did not have a specific component on IDPs.

In the aftermath of the civil war, Nigeria has confronted series of human and natural disasters that have resulted in large-scale displacement of people, which include instability in the oil-rich Niger Delta region, communal conflicts and identity based conflicts in several parts of the country respectively. A study conducted by the National Commission for Refugees (NCFR), revealed that between 2001 and 2007, various forms of communal clashes, identity conflicts natural disasters, resulted in the displacements of more than 1,200,000 persons in several states across the country.²

Since 2009, the Nigerian State has been involved in a counter-insurgency operation against the radical Islamic sect JAS,³ popularly known as *Boko Haram*.⁴ The activities of *Boko Haram* shook the very foundation of the country in all facets of human life. The Nigerian State resorted to the use of maximum retaliatory means in combating insurgency in the North East region. The issue of state obligation regarding the protection of IDPs and the insurgency dominated the Amnesty International report. Forced displacement

¹ Address by President Muhammadu Buhari at the graduation of 174 military officers of the senior course 37 of the Armed Forces Command and Staff College, Jaji, Kaduna State, 3rd July, 2015.

² See National Commission for Refugees, State by State Assessment of IDPs in Nigeria, [www.internal-displacement.org/8025708F004CE90B%28httpDocuments%29/4B10BF14F26F8871C125751C004472BE3/\\$file/IDP+assessment+-+NCFR.pdf](http://www.internal-displacement.org/8025708F004CE90B%28httpDocuments%29/4B10BF14F26F8871C125751C004472BE3/$file/IDP+assessment+-+NCFR.pdf)

³ See Policy Brief, Comparative perspectives on the evolution of JAS Insurgency and its Future Scenarios, Abuja: Office of the National Security Adviser (ONSA), 2015.

⁴ Boko Haram, which means western education, is forbidden engaged in armed struggle against the Nigerian state with the primary goal of instituting a theocratic state under strict Islamic Sharia laws.

as a consequence of insurgency in the North East region has heightened pre-existing vulnerabilities for the 14.8 million people. As captured by the Federal Republic of Nigeria (2014), the severity of the insurgency, which requires a comprehensive and coordinated response by the Nigerian State, has manifested in the following ways:

1. Mass displacements and migrations;
2. Creation of refugee populations and other forms of inhuman conditions;
3. Undermining of agricultural and other economic activities with potential for famine;
4. Destruction of infrastructure and undermining the rule of law, public safety and security, and national cohesion;
5. Enabling crime and instability;
6. Exacerbating community tension and increasing the threshold of violence;
7. Constituting an obstacle to development;
8. Diverting resources away from critical areas of need;
9. Creating conditions for aggravating human rights' violations and abuse;
10. Undermining investment and tourism;
11. Encouraging of violent response to grievances;
12. Contributing to the proliferation of Small Arms and Light Weapons (SALWs); and
13. Entrenching fear and insecurity.

It is against the backdrop of the foregoing that this paper examines state response to insurgency-induced displacements, in the context of the existing regime of IHL. In this paper, I argue that state obligation, anchored on the philosophical foundation of IHL has to do with responsibility of the state regarding IDPs, with specific reference to their rights to life and humane treatment.

Key Statistics of Population Displacement as a Consequence of Insurgency in the North East Region

Description	Figures
• People affected by the insurgency	14.8million
• People killed as a consequence of the insurgency	20,000
• People in need	7million
• People displaced from the insurgency across Nigeria	2.2million
• IDPs living in formal camps	400,000
• IDPs living with host communities	1.8 million
• Nigerian refugees in neighbouring countries	165,000
• Percentage of IDPs that are women	53%
• Percentage of IDPs that are children under 18 years	57%
	17,534

Table 1: Source: (Federal Republic of Nigeria, 2015)

International Humanitarian Law and State Obligation:

International Humanitarian Law (IHL), popularly referred to as the law of war or law of armed conflict, constitutes a set of codified rules, which limits the effect of armed conflict. It protects persons who are not, or are no longer, participating in the hostilities and restricts the means and methods of warfare. In the case of Nigeria, the principles of IHL applies to both victims of insurgency, most of whom were displaced and dislocated from their places of abode, as well as insurgents that were arrested and held in detention by the Nigerian State.

An important component of the IHL is contained in the four Geneva Conventions of 1949 and the Additional Protocol of 1977, which constitutes the central pillars of IHL (Akpoghome, 2015). This has to do with the legal framework, or set of rules, that limits the effects of armed conflicts, protects persons, who are not, or are no longer, involved in the armed conflict, as well as provides restrictions on the means and methods of warfare respectively. The level of organisation, duration, intensity and impact of the insurgency qualifies it as a non-international armed conflict, which is also subject to the principle and framework of humanitarian law.

Non-international armed conflicts are those restricted to the territory of a single State, involving either a regular armed force (Nigerian military), or fighting groups of armed dissidents (*Boko Haram*). Despite the fact that the insurgency took a regional dimension with huge humanitarian impact for the Lake Chad Area (Cameroon, Chad and Niger Republic), the operations of the Multi-National Joint Task Force (MJTF) was not within Nigeria.

International and National Instruments Related to Displacements and State Obligation:

There are two sets of principles related to displacements and state obligation with specific reference to insurgency in the North East region. The first is the international principles, while the second has to do with the national. As a member of several supra-national institutions, Nigeria is bound to respect these principles as part of its obligation. The national principles and instruments are designed to complement the international instruments.

International Instruments and Principles:

The United Nations Guiding Principles on Internal Displacements

In 1998, the Guiding Principles on Internal Displacements were presented to the United Nations Commission on Human rights'. It defined Internally Displaced Persons (IDPs) as:

Persons, or group of persons, who have been forced or obliged to flee or to leave their homes, or place of habitual residence, in particular as a result of, or in order to, avoid the effects of armed conflict, situations of generalised violence, violation of human rights' or natural or human made disasters, and who have not crossed an internationally recognised State border.⁵

In a significant way, the UN guiding principle is a reflection of the provisions of international human rights'' law and international humanitarian law, which seeks to protect displaced persons. In fact, this was the first and deliberate move by the international community through the United Nations that drew attention to the fact that states have the primary responsibility of protecting displaced persons. The focus here has to do with identifying and guaranteeing the rights relevant to the protection, of displaced persons, their protection and assistance, as well as during return or resettlement and reintegration (Kalin, 2008).

United Nations Security Council Resolution 1325

From a gender standpoint, United Nations Security Council Resolution 1325, which was adopted in 2000, also represents an international instrument that focuses specifically on women, peace and security. UNSCR 1325 draws attention to the plights of women, girls and children as victims of armed, including their conditions as refugees and IDPs. On this note, it affirmed the need for member states and the international community to fully implement International Humanitarian and Human Rights Law that protect the rights of women, girls and children during and after conflicts. Specifically, it highlighted issues related to increasing female participation in decision-making with regard to conflict prevention and resolution; equal participation, as well as their full involvement in all efforts for the maintenance and promotion of peace and security; and above all, embracing a gender perspective during repatriation, settlement, rehabilitation, reintegration and post-conflict reconstruction.⁶

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, otherwise known as the Kampala Convention, which came into force in 2012, represents the first continental instrument that

⁵ See Guiding Principles on Internal Displacements, United Nations Commission on Human Rights, 1998.

⁶ See United Nations Security Council Resolution 1325, Adopted October 2000.

legally binds state to protect displaced persons.⁷ The Kampala Convention defined IDPs as:

Persons, or group of persons, who have been forced or obliged to flee, or to leave their homes, or places of habitual residence, in particular as a result of, or in order to, avoid the effects of armed conflict, situations of generalised violence, violations of human rights⁷ or natural or human made disasters, and who have not crossed an internationally recognised state border.⁸

Some of the key milestones relating to the Kampala Convention have to do with the fact that it reinforces the primary responsibility of the state to protect displaced persons; it provides for a legally binding definition of who a displaced person is; establishes the rights of displaced persons to be protected by the state; as well as facilitates the adoption of national legislations on assistance for, and protection of, displaced persons among others.⁹

Article 1 (1) of the Kampala Convention provides that, “Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced”.

Article 3 (1 & 2) states that, “national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction” and that, “Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request”.

As a state party to the Kampala Convention with primary responsibility for the protection of displaced persons within its territory, Nigeria was one of the first countries to assent to the treaty in 2009, as well as ratified it in 2012. Despite the fact that Nigeria is yet to incorporate the Kampala Convention to a national law, concerning IDPs, it remains a binding obligation on the Nigerian State.

⁷ In October 2009, the African Union became the first continental body in the world to craft a legally binding instrument for the protection of displaced persons.

⁸ See Kampala Convention, Article 1(k).

⁹ See Internal Displacement Monitoring Centre (IDMC), *The Kampala Convention two years on: Time to turn theory to practice*, Briefing Paper, 2014.

Key Features of the Kampala Convention

- It reinforces the primary responsibility of the state to protect IDPs.
- It establishes a definition of an IDP that is legally binding.
- It addresses potential causes of displacements.
- It facilitates the adoption of national legislations on IDPs.
- It emphasises the need to secure funding on IDPs' protection.
- It enshrines the rights of individuals to be protected from displacements.
- It holds all those involved accountable for their actions.
- It prohibits armed groups from committing acts of displacement.
- It states that IDPs should not be discriminated upon.
- It states that States should collaborate with civil society and other actors.
- It makes national authorities responsible for achieving durable solutions.

Table 2: The Kampala Convention¹⁰

The Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism

In July 2012, a high level conference on victims of terrorism was hosted in Spain, under the auspices of the Global Counter-Terrorism Forum (GCTF) Countering Violent Extremism (CVE) Working Group. Participants at the conference recognised the need for collaboration and partnership on the development of a document that outlines good practices for assisting victims of terrorism. This led to the drafting of what is known as the “Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism”. The Madrid Memorandum spelt out certain principles that should guide how victims of terrorism or insurgency are supported. They include:¹¹

1. Ensuring effective and appropriate coordination among concerned bodies responsible for the provision of direct assistance (military and non-military);
2. Encouraging state actions that are focused on victims' needs and consistent with a set of guidelines – immediacy, accessibility, simplicity, unity, resilience and comprehensive assistance;
3. Enacting a legal framework for the provision of support for victims of terrorism;
4. Providing financial assistance and other forms of support to states dealing with the challenges of providing multi-disciplinary responses and assistance to victims of terrorism;
5. Developing a victim list containing identity and contact information;
6. Protecting privacy and confidentiality of the victims;

¹⁰ The Kampala Convention Two Years On: Time to Turn Theory into Practice, Briefing Paper: Norwegian Refugee Council (NRC) and Internal Displacement Monitoring Centre (IDMC), 2013.

¹¹ See Madrid Memorandum on Good Practices for Assistance to Victims of Terrorism Immediately after the attack and in Criminal Proceedings, available in www.thegctf.org/documents/10162/72352/13Sep19_Madrid+Memorandum.pdf

7. Establishing accessible crisis services;
8. Protecting victims in counterterrorism investigations and criminal proceedings;
9. Providing victims with access to justice, including legal aid at no cost, as well as information, as appropriate, about the criminal justice process and the case;
10. Providing victims, when appropriate and in accordance with the relevant national law, with the opportunity to meet directly with the lawyers prosecuting the case;
11. Providing victims with the opportunity to attend court proceedings and, as appropriate, to be accompanied by a victim services professional;
12. Enabling participation by victims at appropriate stages of criminal proceedings;
13. Preventing secondary and repeat victimisation within the criminal justice process by providing sensitive training to judges and other participants in the criminal justice system;
14. Providing victims timely, accurate, and complete information about rulings, verdict, appeals, and the availability of compensation programmes; and
15. Provide victims with appropriate information when no court hearings are held.

The primary responsibility for implementing IHL in the North East region lies with the Nigerian State. In the context of the foregoing, state obligation has to do with responsibilities of the state regarding IDPs, with specific reference to their rights to life and humane treatment. The Kampala Convention recognises both state and non-state actors have obligation to respect the rights of IDPs. While the State has a duty to ensure these rights are protected, they also have an obligation to hold members of armed groups criminally responsible for human right abuses and violation of international humanitarian law.¹²

Despite the fact that Nigeria is a signatory to key international instruments such as the UN Guidelines on displacements and the Kampala Convention, all these are yet to be adequately reflected in its national policies and strategies on the protection of IDPs. Hence, most of its response in the context of obligations to IDPs have been *ad hoc*, uncoordinated and fragmented (Kyari, 2017).

One dominant feature of the international instruments on displacements lies in the recognition that States have primary responsibility to protect displaced persons within their jurisdictions. As the primary duty bearers on IDPs, States are required to put in place concrete policies and laws on displacements that uphold the rights of displaced persons through the development of national policies and strategies on internal displacements.

National Instruments/Principles on IDP Protection

The primary responsibility for displacements and IDPs related response lies with the States. In line with calls by the international community through the key international instruments on displacements as highlighted in this paper

¹² See Kampala Convention, Article 7(4).

above, the Nigerian State has responded to displacements related issues in several ways.

National Commission for Refugees (NCFR)

Between 1989 and 2003, Liberia was engulfed in armed conflict, which resulted in the death of over 200,000 people, with about 1.2 million displaced (Bellamy and Williams, 2010). A major manifestation of the humanitarian crisis that was a consequence of the armed conflict had to do with the issue of displacements across the West African region (Kwaja, 2015). Nigeria, as a country, had to put in place measures towards addressing this challenge. The NCFR was created through the National Commission for Refugee Act 1989, under Decree No. 52 of 1989, Cap. 244 LFN 1990, now Cap. N. 21 LFN 2004.¹³ The core mandate of the NCFR was to lay down general guidelines related to safeguarding the interest and treatment of persons who sought refuge in Nigeria, as a consequence of the conflict in Liberia.

National Emergency Management Agency (NEMA)

The primary responsibility for protecting displaced persons lies with the Nigerian State. While it has the primary responsibility towards IDPs, its responses in exercise of this responsibility often tend to be *ad hoc*, uncoordinated and, sometimes ineffective. State response to displacements as a consequence of insurgency in the North East can be categorised into two. The first has to do with the hard approach involving the use of the military for the protection of civilians and containment of the insurgents. The second approach, which is largely softer in nature, focuses on the provision of relief and other forms of humanitarian response.

NEMA was established through the NEMA Act 1999 (Decree No.12 of 1999 now Cap. N.34. LFN 2004).¹⁴ Section 6(1) of the Act establishing NEMA outlined the functions of the institution to include:

1. To formulate policy on all activities relating to disaster management in Nigeria and co-ordinate the plans and programmes for efficient and effective response to disasters at national level;
2. Co-ordinate and promote research activities relating to disaster management at the national level;
3. Monitor the state of preparedness of all organisations or agencies which may contribute to disaster management in Nigeria;
4. Collate data from relevant agencies so as to enhance forecasting, planning and field operation(s) of disaster management;

¹³ National Commission for Refugee Act 1989, under Decree No. 52 of 1989, Cap. 244 LFN 1990, now Cap. N. 21 LFN 2004.

¹⁴ See NEMA Act 1999 (Decree No.12 of 1999 now Cap. N. 34 LFN 2004).

5. Educate and inform the public on disaster prevention and control measures;
6. Co-ordinate and facilitate the provision of necessary resources for search and rescue and other types of disaster curtailment activities in response to distress call;
7. Co-ordinate the activities of all voluntary organisations engaged in emergency relief operations in any part of the Federation;
8. Receive financial and technical aid from international organisations and non-governmental agencies for the purpose of disaster management in Nigeria;
9. Collect emergency relief supply from local and foreign sources and from international and non-governmental agencies;
10. Distribute emergency relief materials to victims of natural or other disasters and assist in the rehabilitation of the victims where necessary;
11. Process relief assistance to such countries as may be determined from time to time;
12. Liaise with the United Nations Disaster Reduction Organisation or such other international bodies for the reduction of natural and other disaster;
13. Prepare the annual budget for disaster management in Nigeria; and
14. Perform such other functions, which in the opinion of the Agency are required for the purpose of achieving its objectives under this Act.

The NEMA Act also called upon the 36 states of the federation and the Federal Capital Territory (FCT), to establish State Emergency Management Agencies (SEMA) to undertake similar tasks. By design, the activities of the NEMA and SEMA were meant to achieve the mandate highlighted above. The federal government of Nigeria also established the Victim Support Fund and the Presidential Initiative on the North East (PINE), as part of efforts to provide holistic support for displaced persons both in terms of short-term and long-term recovery measures.

By design, the NCFR, NEMA and SEMAs were not established to handle long-term displacement issues. Hence, the absence of a comprehensive and concrete policy on displacement and IDPs remain a major humanitarian challenge for the Nigerian State. A major critique of NEMA's response to displacements has to do with what has been termed the 'vulture concept', characterised by a state of inertia pending the occurrence of disasters, after which the organisation becomes active and gradually dies out until another disaster occurs (Ayeni, 2007).

The Nigerian Constitution

Section Four of the Nigerian constitution provides that the protection of lives and property is the primary responsibility of the Nigerian State.¹⁵ The first attempt by the Nigerian State to respond to insurgency in the North East region involved the use of the military for the maintenance of internal security and protection of civilians. The Federal Government of Nigeria has openly cautioned its officers and men of the military to discharge their duties with the

¹⁵ See the 1999 Constitution of the Federal Republic of Nigeria (as amended).

highest level of professionalism, and in line with both national and international ground norms.¹⁶

The Nigerian constitution defines obligations and clarifies the roles of the military in Section 217 and 218 respectively. While Section 217 deals with establishment and composition of the armed forces of the Federation, section 218 describes and regulates command and operational use of the armed forces of Nigeria. Section 217 Sub-Section (1) states that, there shall be armed forces for the Federation which shall consist of Army, Navy, and Air Force, and such other branches of the armed forces of the Federation as may be established by an Act of the National Assembly. In sub section (2) it states, the Federation shall, subject to an Act of the National Assembly made in that behalf equip and maintain the armed forces, as may be considered adequate and effective for the purpose of: (a) defending Nigeria from external aggression. (b) maintaining its territorial integrity and securing its borders from violation on land, sea or air (c) suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an act of the National Assembly and (d) performing such other function as may be prescribed by an Act of the National Assembly.

An Amnesty International report revealed that in the course of its security operation against *Boko Haram* in the North East Region, the Nigerian Military extra-judicially¹⁷ executed more than 1,200 people; arbitrarily arrested at least 20,000, mostly young men and boys; and at least 7,000 people have died in military detention as a result of starvation, extreme overcrowding and denial of medical assistance.¹⁸ Here, the Nigerian Military was reported to have adopted measures such as illegal detention of suspects without trial, special rendition of prisoners from one prison or location to another, for the purposes of torture or imprisonment among others.

A report released by the Office of the National Security Adviser (ONSA) pointed to the fact that among the several challenges confronted by the security forces deployed in the fight against terrorism in the North-East, allegations of unprofessional conduct, human rights' and international humanitarian law

¹⁶ In Press Statement on Wednesday, 24th June 2015, the Permanent Secretary of the Ministry of Foreign Affairs, Amb. Bulus Lolo drew attention to the fact that in line with its training, the Nigerian military ensures the highest level of professionalism in its counter-terrorism operations, and the military is committed to ensuring that officers and men involved in wrongdoings will be investigated.

¹⁷ Extrajudicial killing here has to do with the killing of persons by government authorities outside any judicial, legal process.

¹⁸ Stars on their shoulders, Blood on their hands. War crimes committed by the Nigerian Military. Amnesty International, June, 2015.

violations were identified.¹⁹ From the standpoint of non-international armed conflict, under what condition or circumstance can persons who have taken part in acts of terror, become victims of right abuse? While there are no laws that prohibit States from detaining persons on security related issues, there is a need to strike a balance between what is regarded as legitimate security concerns and the need to respect the rights of persons deprived of their liberty.²⁰ An important question here, too, has to do with whether the Nigerian State has demonstrated enough capacity to investigate and prosecute officers and soldiers involved in extra-judicial killing of civilians and other acts related to war crimes and crimes against humanity.

Beyond the need to adhere to human rights' and humanitarian laws, is the Code of Conduct (CoC) or Rules of Engagements (RoE)²¹ with respect to the fight against insurgency by the Nigerian Military? The issue of CoC and RoE has been a problematic one in view of the secrecy associated with it.²² The provisions of the CoC of the Nigerian Armed Forces on internal security and aid to civil power operations is clear on the fact that the document was designed based on the principles of IHL and humanitarian laws. There is a need for the military authority to make the document public in a bid to ensure that government, civil society, communities and the international community, closely monitor the operations of military personnel. This will go a long way in instilling or restoring public confidence on the military.

States are also required under the IHL to search for, and bring people accused of grave violations of human rights' to justice. In the case of Nigeria, this applies to members of *Boko Haram*, responsible for the humanitarian crisis that created the conditions for displacements, as well as the Nigerian Military involved in the fight against insurgency. For instance, the prosecution and subsequent conviction of Jean Pierre Bemba Gumbo on war crimes and crimes against humanity by the ICC represents a landmark judgment on command

¹⁹ See Policy brief, Comparative Perspectives on the Evolution of JAS insurgency and its Future Scenarios, Abuja: Office of the National Security Adviser (ONSA), 2015.

²⁰ This statement was captured by the Jakob Kellenberger, former President of the International Committee of the Red Cross (ICRC) at the 61st Session of the United Nations commission on Human Rights, 6th March, 2005.

²¹ Competent authorities issue Rules of Engagement, showing the circumstances and limitations within which military force may be employed to achieve their objectives. See Rules of Engagement Handbook by the International Institute of Humanitarian Law, available at www.usnwc.edu

²² Under the direction of the former Chief of Defence Staff, Air Chief Marshal Paul Dike, a Code of Conduct for Nigerian Armed Forces Personnel on Internal security in Aid to Civil Power Operations was prepared in February 2010. The document was restricted to only the armed forces, with an instruction that it should not be given to the press or any person not authorised to receive it. This has serious implications for transparency and accountability in the counter-terrorism operations.

responsibility. As President and Commander-in-Chief of the *Mouvement de Liberation du Congo* (MLC), he was convicted for crimes committed by soldiers under his command.²³ This conviction stemmed from the fact that despite being aware of the crimes committed by soldiers under his command, he failed to exercise his authority to investigate and prosecute properly (de Vos, 2016). Also, he failed to take all necessary and reasonable measures to prevent, repress or punish crimes, to remedy deficiencies in training, or to exercise his control properly. The conviction of Bemba by the ICC was no doubt the first conviction of a military commander for crimes committed by soldiers under his command. The key lesson from Bemba's conviction is that for military commanders who fail to take decisive measures to monitor, document and prosecute soldiers who commit crimes against the population they are expected to protect, they stand the risk of been held personally liable.

Unclear Understanding of Government's Responsibility to Protect Civilians

The lack of a clear understanding of governments' responsibility to protect, in the context of its responsibility to IDPs, represents a major challenge to the security and safety of IDPs in the North East. For instance, it has been observed that the emphasis placed by the military on defeating the insurgents, as against civilian protection, underscores the Nigerian State's neglect in prioritising civilian protection in the current military operations. In fact, the guiding document on counter-insurgency as contained in Nigeria's National Counterterrorism Strategy did not make an explicit mention of civilian protection by security personnel. Emphasis is placed more on the protection of critical national infrastructure, transportation systems and crowded places (Centre for Civilians in Conflict (2015).

Human Rights

Human rights' violation constitutes one of the biggest obstacles to the protection of IDPs in the North East region. There are documented and empirical cases of the violation of rights of civilians, particularly the displaced, by the military. The narrow focus on defeating *Boko Haram*, at the expense of civilian protection has resulted in series of human rights' violation and civilian harm.

It was observed that Nigeria's security forces have fallen short in three major ways. They have: 1) failed to protect vulnerable communities from violence; 2) failed to prevent collateral damage during counter-*Boko Haram* operations; and 3) directly targeted civilians with unlawful detention, harassment, destruction

²³ See Bemba Case, The Prosecutor v. Jean-Pierre Bemba Gombo, ICC-01/05-01/08, available at www.icc-cpi.int/car/bemba

of property, sexual violence, indiscriminate targeting of certain groups (young men), torture and excessive use of force causing injury and death (Centre for Civilians in Conflict, 2015).

Duplicity and Weak Coordination among Institutions

Outside the three core institutional frameworks for responding to IDPs related issues, the Federal Government of Nigeria launched the Victim Support Fund (VSF), Presidential Initiative on the North East (PINE), Presidential Committee on the North-East Initiative (PCNI), known as “The Buhari Plan”, as well as the Safe School Initiative (SSI). The lack of clarity on their mandate has raised series of concerns regarding overlapping and duplicity. The frosty relationship that has been created accounts for the weak coordination, which has made it difficult for the Nigerian State to respond to IDPs related issues in a sustained, comprehensive and coordinated manner.

Conflict over an Institutional Focal Point on Displacements and IDPs

In line with calls for countries to develop normative instruments and frameworks on displacements, Nigeria’s national policy on IDPs was drafted. The process of transforming the draft policy into action was hampered by challenge of identifying an institutional focal point among the key institutions involved in handling displacements and IDPs related issues.

Vulnerabilities and Shocks

A common feature of IDPs in the North East is vulnerabilities and shocks. These vulnerabilities and shocks are caused by a number of factors. First, their movement is involuntary. Second, they are disconnected from their original place of abode and livelihood. Third, they are forced to live in camps and under conditions that are unhealthy. Fourth, the insecurity associated with surviving in camps makes them easy targets in the event of attacks. Fifth, they are subjected to all manners of abuses, particularly gender based violence against women and girls. These shocks and vulnerabilities, though, within the jurisdiction of the Nigerian State to handle, constitute major human security threats to IDPs across camps in the North East.

Pathways for State Protection of IDPs in the North East Region of Nigeria

As the fight against insurgency in the North East region continues, with the Nigerian military as its epicentre, we should bear in mind the fact that it is in the most challenging and uncertain moments that its commitment to the rule of law is most severely tested. It has a duty to preserve its sense of

professionalism. If the Nigerian State and its military attempt to fight against terrorism on its own terms, the country is likely to lose its standing internationally in an era in which issues of human rights and humanitarian law are accorded serious attention both nationally and internationally.

The establishment of a human rights desk by the military is meant to ensure it adheres to the principles of human rights and International Humanitarian Law. So far, the military is reported to have monitored and documented cases of human rights violation by its troops. This is with a view to ensuring that those involved in acts of human rights violation are prosecuted. In specific terms, the establishment of the Nigerian Army Human rights Office is meant to strengthen relations between army, the National Human rights Commission (NHRC), Nigerian Bar Association (NBA), civil society and Nigerians in general. The goal is to enhance the performance of the army in the context of respect and protection of human rights both for IDPs and within the wider context of the fight against insurgency.

Human rights should be seen as a core component of the operational strategy of the military. In fact, making civilian protection, particular to the IDPs, a central element of state obligation remains one of the most effective ways of respecting the principles of the IHLs and other relevant principles related to civilian protection. In this case, the military must redefine its role from one that is more concerned about defeating insurgency (Centre for Civilians in Conflict, 2015), to one that is committed to saving civilians' lives, particularly IDPs.

Pending the launch of a national policy and strategy on displacements and IDPs, the Nigerian government should streamline its mechanisms for emergency response. Since NEMA was established for such purpose, it should be strengthened rather than creating or putting in place more policies, which amounts to duplicity. In absence of a clearly defined framework and mechanism for implementation that spells out the responsibility of these institutions, the overall goals of protection and provision for IDPs may be undermined as a result of competition and absence of synergy.

Concerned by the absence of a national policy on IDPs, several organisations such as the UNCHR and the IDMC, partnered with key Nigerian institutions such as the NCFR and NEMA among others, towards the design of a national policy, which also incorporates the standards of the Kampala Convention. The Nigerian government should ensure the passage of the draft IDP policy as a basis for ensuring a more comprehensive and sustainable prevention, protection and assistance to IDPs. As a pillar for effective state response, crafting a national policy on displacements and IDPs would help in clarifying institutional roles and mandates, increase the predictability of action, as well as the actions to be taken towards the protection of IDPs.

The safety of IDPs both in host communities and camps constitutes responsibility as well as challenge for the Nigerian State. As these categories of people live in constant fear over their lives and safety, the primary responsibility of the State should be to guarantee their safe return from countries such as Cameroon, Chad and Niger Republic, as well as security for those that are displaced within the country.

The proposed national policy on IDPs must recognise the vulnerabilities that women and girls face. There should be specific provisions relating to monitoring, reporting and prosecution of persons involved in gender-based violence, in line with the United Nations Security Council Resolution (UNSCR) 1325 and 1960 respectively.²⁴ While UNSCR 1325 is focused on women, peace and security, UNSCR 1960²⁵ called for an end to sexual violence in armed conflict, particularly against women and girls, and provided measures for ending impunity for perpetrators of sexual violence, including through sanctions and reporting measures.

Conclusion

The protection of the rights of victims of insurgency and IDPs should be the primary duty of the Nigerian State. In a country that is faced with huge challenges in governance, poverty, social inequalities and impunity, which push vulnerable individuals and groups into virulent ideologies with catastrophic consequences to the rest of the population, acts of terror become exacerbated and sustained. Hence, the urgent need to address the lingering crisis associated with the responsibility of the Nigerian State to protect and provide for its citizens in line with its constitutional mandate. This mandate, in the context of IDPs, should be anchored on the obligation to protect and promote the enjoyment of their fundamental rights and liberties.

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²⁴ United Nations Security Council, Resolution 1325, Adopted by the Security Council at its 4213th Meeting, on 31 October 2000.

²⁵ United Nations Security Council Resolution 1960, Adopted by the Security Council at its 6453rd Meeting, on 16 December 2010.

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6

Managing Refugees, Achievements and Failures and Overview of Pakistan's Exteriors

Rustum Shah Mohmand

Mr. Shah began his address by greeting the speakers, hosts and the audience. His presentation, from its initiation, gripped the core subject of the Conference; Pakistan's *role* in the Afghan Refugee crises. He contended that when the Afghan Refugee crises erupted, Pakistan had limited choice in the matter and it eventually had to agree to accommodate them. The refugees were pouring in through the border between Afghanistan and Pakistan and keeping in view the perilous conditions they were escaping; Pakistan did not even establish any criteria for selectively choosing the refugees. He continued that Pakistan shouldered its humanitarian responsibility towards its brothers in distress. However, Mr. Shah pointed out that while Pakistan did not draft a concrete or sustainable policy to accommodate them, it also did not formulate a policy to repatriate them after the turmoil had left Afghanistan.

Mr. Shah stated that at that time, Pakistan did not expect that the number of refugees from Afghanistan would swell to become 3.2 million. While quoting data on Afghan Refugees, he mentioned that the 5 million Afghan Refugees documented in Pakistan include the ones born within Pakistan and expanded their families here. According to him, the highest number of refugees at any time in Pakistan reached 3.2 million and not more. Adding to the response of Pakistan, he stated that Pakistan acted spontaneously and its response encompassed moral and humanitarian values which also echoed international concerns. The humanitarian concern was evoked by the Pakistan's response as Pakistan, at that point, deemed it necessary to reach out to its neighbour in distress which had been invaded and stripped off its sovereignty. Mr. Shah outlined that several institutions and organisations were established to register the refugees from Afghanistan and to document their arrival. Moreover, he

continued, camps were also established along the north-western border of Pakistan to accommodate the Afghan Refugees.

After shedding light on the response of Pakistan, Mr. Shah invited the attention towards the lessons that can be learned from the experiences Pakistan has towards accommodating the refugees. He pointed out that Pakistan settled the refugees on the lands collectively owned by the communities or the Government of Pakistan and did not infringe upon the property of the private citizens of Pakistan. Mr. Shah believed that this policy was quite wise and prevented altercations between the Pakistani citizens and the Afghan Refugees.

Secondly, he focused on the fact that Pakistan was quite mindful to propagate the idea that peaceful co-existence between locals and refugees, was the bedrock to handle the refugee crises and prevent conflicts from multiplying. Mr. Shah said that the Pakistani government knew that there might be clashes for the resources or the management of refugees might turn too difficult to handle, and in this view, the idea of peaceful co-existence had to be propagated vehemently. He continued that the Pakistani government tried to create genuine interest in its population towards the Afghan Refugees and tried to denote them as assets than a burden. Moreover, he stated, that services, contracts, income generating schemes, were introduced and a realisation was spread that a huge economic activity was around in the wake of the refugee settlement. Not only this, he continued, everywhere committees were formed to organise locals and refugees, they would meet once a month under the leadership of the local administrator of refugees' camps and tried to sort out problems which would rise inevitably in the course of two different communities living side by side for the first time. The issues were sorted out in respect of both communities, this policy was really the defining moment, he emphasised, as never in the long stay of the Afghan Refugees has there been any occasion when refugees were pitted against the locals or the locals pitted against the refugees. Mr. Shah believed that clashes, that have taken place between the locals and the refugees, have been a result of governmental interference. He stated that the Afghan Refugee crises may not be the most protected refugee problem because the Palestinian refugee crises (seventy years old), the Rohingyas and others have become more detrimental to the human civilisation; however, the issues of the Afghan Refugees still persist. He reiterated that there has been no instance of clashes or a conflict of interest between the two communities; this was the other pillar of Pakistan's policy of handling refugees.

Mr. Shah added that Pakistan did a number of things which, the locals realised, were going to be left to them once the refugees had left, for instance, roads, tube wells, school buildings, hospital buildings, sewerage systems, and drainage systems etc. He drew special attention to the afforestation schemes that the locals have been provided along with seeds and fertilisers to spur the

process. Moreover, he highlighted another pillar of Pakistan's policy, that Pakistan never made a distinction on the basis of ethnicity, culture or faith in handling the refugees, whether it was a Farsi or a Pashto speaker, they used to live alongside the Pushtoons and the Tajik refugees in the villages. Also, no policy was implemented differentiating between the people on the basis of their political affiliations. For instance, he continued, that if somebody was affiliated with *Harkat-ul-Jihad-al-Islami* or *Jamia Islamia* or *Hizb-e-Islami*, or somebody was a Tajik, or a Pushtoon, or Uzbek, or Turkmen, or if someone was a Muslim or a non-Muslim, as long as he was an Afghan Refugee, Pakistan's mandate was to look-after and take care of them just like any other refugees.

Pakistan was also steadfast in its attempt to deliver rations to the refugees and to provide grants and to establish infrastructure. Mr. Shah contended that the outcome of this policy was that no one died of starvation amongst the refugees and no one was denied the right to access education. He emphasised that more than five hundred and fifty schools were built in the frontier, more than hundred and twenty hospitals were built for the refugees, anyone who wanted to get education; it was on their doorstep. Moreover, he informed the audience that vocational centres were setup so that people would be trained in skills which would not only be of use of help to them in Pakistan, but also of help to them in their own Country-Afghanistan. This particular policy focused to instill professional skills in the refugees so that they did not become a burden on the economy of this country or the country they would eventually return to.

After shedding light on the considerably successful policies that Pakistan implemented, Mr. Shah also discussed the failures in policies that Pakistan faced while dealing with the Afghan Refugee crises. He was saddened to outline the reversal of certain policies in recent times that had given positive outcomes while dealing with the Afghan Refugees. Moreover, he believed that the prosecution of the refugees by the authorities in Pakistan and their forceful repatriation had resulted in the disruption of cordial relations between Pakistan and Afghanistan. Mr. Shah was of the opinion that the refugees were wrongfully charged for crimes that they had not committed and were not involved in organised crimes against the State of Pakistan. He held that no report or conclusive data suggested that the refugees were the sole reason of the increase in crime rates in Pakistan, especially the Khyber Pakhtunkhwa (KP).

Mr. Shah believed that the repatriation dates by Pakistan, by which it expects all the refugees to return to Afghanistan, were unrealistic as the perilous conditions in Afghanistan would not have subsided by then. He further added that there was insurgency in twenty-four provinces of Afghanistan and it was expanding. He added that the regions to which most of the refugees belonged were devoid of any foreign assistance, NGOs, UN organs or even proper roads.

The writ of the government had failed in these areas and, he added that, forty percent of areas in Afghanistan are out of the control of the government. Along with the expanding insurgency, the threat of *Daesh* was also visible, in at least three provinces, in Afghanistan. Therefore, forceful repatriation was not the answer to the plights of the refugees and it also tarnished the humanitarian image, Pakistan had cultivated so far within the region and the international community. He raised his concerns that Pakistan should not be destroying their goodwill by short-sighted policies which are based on erroneous assumptions or unverified reports. He added that Pakistan will be committing a very historic and a monumental blunder if it pursues its policies of prosecuting them, pressing them, intimidating them into repatriation against their will, pushing them into an uncertain future at a time when insurgency in their country is spreading insecurity. While hoping for a positive response and a sustainable policy from Pakistan, he ended his address after thanking the audience.

Notes from Panel Discussion Session I

Chaired by Dr Arshi Saleem Hashmi

Dr. Arshi Saleem Hashmi chaired the panel discussion for the first session. She started the discussion by commenting on the papers presented by the speakers of the conference, and by also discussing the state stability and its parameters. While discussing the state capacity and the issue of human displacement, internal displacement or refugee problem, she addressed the question that arises frequently in such a discourse that; *what is exactly the strength of the state?*

Dr. Arshi stated the traditional definition of the strength of a state would be an area where the state has the monopoly of territory and monopoly over power, but then what exactly is required to maintain that power. There are cases where a state is stable in terms of border, but the internal instability is what makes it vulnerable. For example, Pakistan is a stable state as compared to other states like Afghanistan and so on, but there are conflictual areas in Pakistan due to poor governance and weak administration that make it weak internally. Dr. Arshi asserted that it is more than having institutions like armed forces and other security institutions, the political stability is the most important factor for defining a state's strength and the states that face instability from within have very weak internal system.

While commenting on the first presentation by Major General Hassan Azhar Hayat she stated that the General gave a very clear explanation of what was actually going on in North Waziristan. But the question, that arises, is that the army is using soft approach along with the kinetic approach to deal with the situation, but she was of the view that this would be a temporary solution until and unless a participatory democracy exists. There are FATA representatives, but until and unless the local people participate in the struggle, all solutions would be temporary in nature. Commenting on the second paper that was presented by Asif Mehmood, Dr. Arshi stated that the paper was quite interesting, but she was of the view that the assumption was the migrants go on to settle in other areas where it is inevitable to get conflict between the native and the refugees. But she was of the opinion that issues arise when refugees move into areas where there are meager economic opportunities and hence the idea of peaceful co-existence is difficult to implement.

Dr. Arshi commented on Dr. Chris' paper that the opening statement of his paper was that Pakistan and Nigeria have similar problems, but she had a different opinion as insurgency, terrorism and violence is one different concept as compared to refugee displacement and internal displacement of people, and in case of Nigerian people were also moving out of the state when refugees from other states come to Nigeria however, in case of Pakistan, refugees came from Afghanistan and Pakistan did have internal displacement, but Pakistanis were not refugees travelling to neighbouring countries. She stated that we do have internal issues to deal with, but the borders are intact while Pakistan is handling refugees. In case of Nigeria, she commented that the things were more complex because people started to migrate to other countries also. While commenting on Rustom Shah's address, Dr. Arshi stated that he mentioned that there was a time when we successfully managed the bulk of refugees arriving in Pakistan. However, she opined that the issue started when our own people started to complain that they were not getting their rights because of the refugees. So this confrontation between the locals and the refugees made the issue of internal displacement intense. Hence, the people started suggesting that the only solution to the problem is that these refugees go back.

The panel discussion welcomed questions from the audience and the first question was concerning the resistance the military operations receive in Pakistan as they displace the locals who detest those circumstances and are reluctant to move. The first question was addressed by Major General Hassan Azhar Hayat who commented that the people in FATA and particularly in North Waziristan were hostage in the hands of the terrorists, so when the operations started the movement of the people was a compulsion, and they had no choice. He commented that the people had to move to save their own lives. However, he stated that the important thing was their resettlement and rehabilitation after the operation concluded. He contended that the main issue was the old *riwaj* and the *jirga* system as they had no laws, so the strategy was to increase the interaction. Hence, to convince the people, he continued, the army had to understand their culture, their *riwaj* and extend support to gain their trust in order to implement reforms in the area. The General concluded that the whole system worked in a sphere in which interaction was absolutely essential.

The second question posed by the audience inquired about the completion of the rehabilitation process in NWA and whether there was a timeline that the army was following. The questions also extended to raise the concerns of the rehabilitated population which still faced certain grievances. Major General, in response, stated that he would not deny that there are complaints among the TDPs regarding their rehabilitation. He answered the first part of the question by stating that he was not aware of the exact number, but there were agencies that were working on the projects in North Waziristan and 209 projects have been completed in South Waziristan. Moreover, he continued, the projects are

huge so an exact timeline cannot be given, but unfortunately, the Annual Development Project was spread on a three years' time, but there was no transparency in the working of the projects because of the tribal culture, however the military was trying to let the FATA Secretariat know that how much money was allocated to the projects and how much of it has been spent to keep an account of the allocated amount. Additionally, he emphasised, the shops or infrastructure that had been destroyed was a necessary action, as those places were being used by the terrorists to hide weapons. He commented that their operations encountered a grocery store that had weapons and ammunition stored in the basement and many such shops had grenades, rifles and other weapons. The General stated that as far as the destroyed homes were concerned, the state had declared that those people whose houses were completely destroyed would be given Rs. 400, 000 and those whose houses were partly damaged would be given Rs. 165,000. He concluded his answer by stating that the state was trying its best to address these grievances.

Another question raised the concern that if there were any mechanisms in place where civilian capacity could also be integrated with military which could be institutionalised and then add to the country's capacity as a whole. The question also continued to inquire if there were measures being taken, especially focusing on communities, to prevent such conflicts in the future. Major General Hayat responded by stating that as far as civil-military collaboration was concerned, the people from FATA needed to take a stand.

The last question of the first panel discussion focused on the Sikh community living in Waziristan areas, who were the Pashtu speaking Sikhs not the Punjabi speaking Sikhs. The question concerned if there were any mechanisms which guaranteed their well-being and also of the other religious groups in the area, such as Christians and Hindus. The General answered that these minorities left before the operation *Zarb-e-Azb* started, so these were not part of the current TDPs programme. Mostly, the TDP return had been from 2014 onwards, and the minorities had already been settled in Karachi or other cities in Pakistan. Moreover, stating that the minorities or other populations that had settled elsewhere returned to get the funds and then went back to the areas they had settled.

Dr. Arshi concluded the session by thanking all the participants and the speakers.

PART II

**REFUGEE CRISES IN A
GLOBALISED AND POLITICISED
WORLD**

7

Managing Refugees; Achievements and Failures and Overview of Pakistan's Exteriors (Keynote Speech)

Hazrat Omer Zakhilwal

The Afghan Ambassador began his address by thanking both the hosts of the conference; NUST, and HSF, for organising the event and for inviting him to be part of it. He extended his appreciation to all the speakers by saying that they had a great authority over subject. He said that the topic of the conference was quite close to his sensibilities; as he was a former refugee himself and he was representing a country with the most protracted refugee crises in the world; Afghanistan.

He commented that the subject of the conference expanded to include the experiences of the refugee hosting countries and the lessons that can be drawn from their experiences and in this scenario, Pakistan occupied a significant position. The Ambassador shifted to speak about his personal experience a refugee in Pakistan around 1985 and recalled that most of the Afghan population in Pakistan, at that time, shared a similar background. He emphasised that the decision to abandon one's home, in the challenging most times, is a tough decision to make and he believed it was dreadful to imagine that 65 million of the world's population, including citizens of Syria, Iraq, Yemen and Afghanistan majorly, had to go through the same ordeal. Moreover, he contended that only 1/3rd of them opted to move to another country while the remaining 2/3rd decided to stay in their home countries despite the threat to their lives, but became internally displaced instead. He added emphasis upon this argument and suggested that host countries should bear in mind the conditions the refugees face and the lives they leave behind.

The Afghan Ambassador reverted back to his own experiences where he found a new home in Peshawar, in Pakistan. However, he outlined that, the material facilities given by his host country did not bring peace and happiness as much as a positive response from the locals of the host nation did. In view of this argument, the Ambassador further added that, the citizens of host nations should bear in mind that their welcoming response holds a far greater impact on the lives of refugees than any other facility. Furthermore, he added that notions regarding the refugees should not be generalised such as that the refugees aim at becoming a burden on the host nation; rather they strive to be considered an asset to the host country. He added that refugees possess skills and aspiration which should be utilised by the host nation. The Ambassador mentioned that the carpet weaving skills brought by the Afghan Refugees has positively added to the economy of the country and, such contributions should be appreciated and encouraged. He stated that it was perhaps the attitude of the host country to allow them to live their lives, the way they want to, and earn their living and offer their services, whether those are just ordinary labour services or skills.

The Ambassador shared his personal views stating that the ideas in the West suggesting that refugees bring with them violence and conflict was biased and logically untrue as, he contended, these are exactly the conditions they ran away from, while leaving their homes. He shed light on the importance of statistics related to the refugees and stated that in the case of Afghanistan, in the past 2-3 years the news that the Afghans are leaving their country and knocking on the doors of European countries was true. However, he said that, if you total them up maybe a couple hundred thousand of people may have left, but then probably in the past 2-3 years close to 2 million have also returned to Afghanistan. For example, only from Pakistan in last year, seven hundred and fifty thousand refugees returned to their home and another three hundred thousand returned from Iran to Afghanistan. He continued to shed light on the trends of Afghan Refugee migration to Pakistan as, in 1992, when the expectation was that peace had returned to Afghanistan millions of refugees left, but unfortunately things did not work out and they came back to Pakistan. In 2002, when the Taliban regime collapsed, again a big wave of refugees returned to Afghanistan, but most of them stayed back and then last year the third biggest wave of the returnees from Pakistan into Afghanistan. He commented that these trends showed again, that to the refugees their home country is still the dearest and, if they believe that they could live with less harm in their home country, they will return to it.

The Ambassador continued by saying that safety, food and security are crucial to life, but identity surpasses them in significance to an individual. However, he added that, the refugees have to live with diminished identities in their host nations. He added that refugees possess minimal rights, no political power, and

an unstable self-image. The refugees, unwilling to compromise on their identities, return to their home country to once again become citizens with right to life instilled with more than just basic necessities.

As he drew closer to concluding his address, he stated, that increased *securitisation* against refugees and the subsequent unwelcoming stance may have been influenced by politics more than other factors. Moreover, he reiterated that, refugees are victims of the danger and, not *the* danger. Therefore, he advocated for an increased investment in the refugees which had the potential to contribute to the economic growth of the host country. The Ambassador was keen to suggest that developed Western nations which led international campaigns such as War on Terror or regime change in many countries, during the Cold War and after it, should shoulder the responsibility of the consequences of their actions, essentially highlighting that the international refugee crisis was a responsibility of the states of the world. The Ambassador bid his thanks towards the organisers and the audience and concluded his address.

8

Between Humanitarianism and Political Realism: Anthropological Perspectives on the “Refugee Crisis” in Germany

Martin Sökefeld

Abstract

The article historicises the German “refugee crisis” of 2015 in the context of post-World War II politics of migration and asylum in the country, focusing particularly on the reactions to the “crisis” of 1992. That time, Government reacted to more than 400,000 refugees from the Balkan wars with severe restrictions of the right to asylum, framed also within the “Dublin Regulation” of the European Union. It is argued that German politics of immigration was mostly a kind of *Realpolitik* that subordinated humanitarian considerations to closed-border politics geared at keeping migrants out. Summer 2015, however, saw moments and elements of humanitarianism in German refugee politics, understood, following Didier Fassin, as the introduction of moral sentiments into politics. This “humanitarianism” was mostly accredited to Chancellor Angela Merkel. Yet the commitment of thousands of members of the German public ensured the sustainability of a “welcome culture” intended to accommodate refugees, government politics quickly reverted to new restrictions that keep immigrants for many months or even years in a limbo of waiting. While to some extent government’s humanitarian discourse continues it becomes apparent that humanitarian politics is often mostly a politics of representation that serves to cover up real politics. It is concluded that marking the events of 2015 as a refugee *crisis* enables in the first place the legitimisation of politics of restriction like the externalisation of EU borders into North African countries.

Introduction: What is a Crisis?

In conventional understanding, a crisis is a turning point, a difficult phase and a decisive moment between periods of “normalcy”. At present, however, “crises” abound; for instance, we have the financial crisis, or more specifically in Europe, the Euro crisis, and we have economic crises around the globe. The current temporality of crises is not just a moment but rather a protracted and dynamic state of affairs – the end of which is not in sight. In contrast to the conventional understanding of the term, crises have become normal. Thus, the “refugee crisis” in Europe, which, according to popular discourse, began in 2015, goes on. Migrants still attempt to enter Europe, and European states take ever-increasing measures to fend them off. Discussing a “refugee crisis” rather obscures the fact that these events are lined up in a longer historical chain of developments that include other “crises” and which are in fact rather a state of normality for migration politics and policies in Germany. In spite of their normalcy, however, placing the “crisis” label on such events invokes a semantic of danger, of emergency – a state of affairs that requires unprecedented steps to be taken. The marking of events as crisis enables to do things that would otherwise be largely impossible. Sabine Strasser speaks about “crisis effects” and requires us to consider the consequences of marking a particular time as a crisis (Strasser, 2016). We need to consider, then, which political measures are enabled and legitimised by flagging recent events as a “refugee crisis”?

Politics of Migration in Germany

Since the 1970s, the debate about immigration – migrants as refugees included – has been a field pivotal to the self-understanding of German society. Until very recently, the dominant political discourse on migration in Germany insisted that the country was *not* an immigration destination, a perspective linked closely to German ideas of citizenship based *onus sanguinis* (“the right of blood”), that is, dependent upon descent and not *onus solis* (“the right of the soil”), i.e. not depending on birth on a territory and participation in the body politic. The dominant perspective was and continues to be that immigration is a *problem* for German society, notwithstanding a few reforms to citizenship legislation. This is contradiction of the fact that after WWII, migrants travelled – and were even invited – to Germany as solution to a problem, namely the lack of a workforce in the nation’s fast-growing post-war economy. These migrants were called “guest workers”, a designation that strictly implied temporary work and residence in Germany only and precluded their “integration” – today’s buzzword – into society. This was a fiction, of course, but a very persistent one that for decades the dominant political stakeholders refused to give up. In addition, the insistence that Germany was not a country of immigration was the expression of a *normative idea*, namely that it must not be a country that was open in this regard, which was never an apt description of the empirical

situation. It has to be noted, however, that in the context of the Cold War, Germany always welcomed refugees from the socialist countries. These were not conceptualised as immigrants. “Refugee” was a positively connoted category at that time and these refugees were considered as fully deserving admission and protection in the country.

Post-war immigration started in the late 1950s as labour migration, but during the 1970s, most immigrants arrived in Germany via family unification, and later, after 1980, as refugees, i.e. as migrants applying for political asylum. Certainly, not all asylum seekers were entitled to political asylum according to the strict letter of the law, which requires proof of personal political persecution, but almost no other avenue was open for migration to the country. Originally, German law on asylum was intended to cater for refugees from the “communist bloc”. Yet, after the end of the Cold War, and especially from the 1980s onward, people set in motion by all kinds of conflicts across the globe arrived as asylum seekers. The spectre of the “economic refugee” became a notorious figure of German (anti-)immigration discourse and legislation, invented to accommodate all migrants that could not prove individual political persecution and who therefore did not qualify for political asylum according to German law.

The “Refugee Crisis” of the 1990s and its Effects

The early 1990s saw a major rise in the numbers of refugees arriving in Germany, mainly as a result of the Balkan wars and the disintegration of Yugoslavia. The figure reached more than 430,000 incoming refugees in 1992, a doubling of numbers within one year. This development was met with conflicting responses from the German population: on the one hand, an increase in deadly racist violence against all sorts of migrants in Germany – not only recent asylum seekers – and on the other hand, strong expressions of solidarity with the refugees. The German government reacted by thoroughly restricting the law on asylum, because the governing parties feared the rise of xenophobic factions on the extreme right. Thereafter, numbers of refugees receded substantially, mainly as a consequence of the Dublin regulation coming into force in the European Union in 1997. The regulation is an EU law decreeing that those EU member states, whose territories refugees enter into, are responsible for the examination of their asylum applications. While outwardly the Dublin regulation was intended to preclude multiple applications for asylum in the European Union, it actually served as a bulwark for the economically strong EU member states, including Germany, to get rid of the “refugee problem”. The responsibility for the asylum procedure was “deported” to EU frontier states bordering the Mediterranean, i.e. Spain, Italy and Greece, because these countries were the refugees’ major entry points to Europe. Refugees that moved on to other EU states while their asylum application was still in process in these countries were pushed back. Until 2012, this enabled

Germany a quite comfortable situation with low numbers of refugees, i.e. fewer than 100,000 applications per year. The situation changed in 2013, however, especially due to refugees and migrants travelling from the West Balkan states, mostly Albania and Kosovo. Numbers crossed the line of 200,000 applications in 2014, reaching almost 500,000 in 2015 and around 750,000 in 2016 (figures include both new and successive applications),²⁶ the bulk of whom came from Syria, Afghanistan and Iraq.

Humanitarianism

The concept of humanitarianism figures prominently in the title of this article, but according to my brief résumé, German migration politics do not have much linkage with humanitarianism. Following anthropologist Didier Fassin, I understand humanitarianism as the introduction of moral sentiments into contemporary politics. In his book *Humanitarian Reason*, Fassin (2012) notes: Moral sentiments have become an essential force in contemporary politics: they nourish its discourses and legitimise its practices, particularly where these discourses and practices are focused on the disadvantaged and the dominated, whether at home (the poor, immigrants, the homeless) or farther away (the victims of famine, epidemics, or war). By ‘moral sentiments’ are meant the emotions that direct our attention to the suffering of others and make us want to remedy them.

We cannot find much of this in German politics of migration, although there was of course much humanitarian commitment by non-state actors in the country – actors that often voiced their concerns about the non- or even anti-humanitarian politics of the state. As mentioned, German politics of migration was dominated by the idea that Germany was *not* an immigration country and that migrants largely needed to be kept out. More precisely, and here moral sentiments come to the fore, asylum politics was dominated by the idea that asylum needs to be limited strictly to those who are *really* “deserving”, that is, to those who meet the narrow criteria for political asylum, and that, therefore, all others need to be fenced off. In a strange twist of reasoning, the strict politics of keeping those out who are considered as undeserving, or of deporting them, was presented as a precondition for offering the humanitarian right of asylum to those who were deemed as deserving.

Humanitarian reasoning also left its mark on the reasons for suspending the deportation of rejected asylum seekers. In principle, medical reasons figure strongly in this regard, for instance if a person is unable to travel due to illness, or if he or she suffers from an illness that cannot be treated adequately in the

²⁶ While many more refugees entered Germany in 2015 than in 2016, for administrative reasons many of them could only submit their application for asylum in 2016.

country of deportation. Here too, though, criteria were narrowly defined, and today, very few people actually qualify for the suspension of deportation due to medical reasons.

Thus, as a whole, German politics of immigration was mostly a kind of *Realpolitik* that subordinated humanitarian considerations to closed-border politics geared at keeping migrants out. The German concept of *Realpolitik* is imperfectly translated into English as *political realism*, but what it actually involves is giving unequivocal priority to “hard” political (and economic) interests –as they are conceived from particular vantage points, of course. The strict limitation of the refugee influx, in order not to overburden the German welfare system, to steal the thunder of xenophobic forces and, ultimately, to remain in power are such interests. Pointedly, one could say that the opposition of *Realpolitik* versus humanitarianism equals an opposition of interests versus (moral) values, but of course, interests are linked with values, too, and moral values define and justify their own interests.

Intrusions of Humanitarianism

While German politics of migration was clearly dominated by *Realpolitik*, there were also ruptures and intrusions made by humanitarian rhetoric. Shipwrecks in the Mediterranean, in which hundreds of refugees died during the last decade, often made political actors pause and express their concern that this “humanitarian tragedy” must not continue. In mid-April 2015, for instance, 1,200 people drowned in the Mediterranean within a few days.²⁷ Nevertheless, such concerns did not have many practical consequences, as after every such tragic event, this distress lasted for a few days only. After several catastrophic shipwrecks in which many hundreds of people lost their lives, the Italian government, in October 2013, started the naval operation *Mare Nostrum*, intended to save the lives of refugees experiencing distress on their way across the Mediterranean in unfit vessels. When the Italian government proposed that the EU take over, the European Commissioner for Home Affairs, Cecilia Malmström, proclaimed that the EU lacked the funds to do so and that the Italian operation had in fact boosted trafficking across the sea because of the increased chances of being saved. According to her, the Italian mission was more or less responsible for further shipwrecks.²⁸ *Mare Nostrum* was then

²⁷ See the report “Death by rescue,” <https://deathbyrescue.org/> (accessed on 1 July, 2017)

²⁸ “Meer der Hoffnung, Meer des Todes” (Sea of Hope, Sea of Death). Spiegel Online, 15 September 2014. Available online at <http://www.spiegel.de/panorama/fluechtlinge-sterben-im-meer-vor-malta-und-libyen-a-991772.html> (accessed on 9 September 2017).

replaced by the EU mission *Triton*, which focused far more on controlling the maritime border than on saving the lives of refugees in desperate need of help.

Nonetheless, let us move the focus back to Germany. German politicians of the ruling parties generally showed the same reactions to the calamities in the Mediterranean, expressing concerns and demanding that such things must not go on, albeit without taking serious steps to prevent such disasters beyond repeating the demand that trafficking had to be controlled and migrants stopped.

However, there was a marked change of discourse – or rather, an additional thread of discourse – in summer 2015, which is where humanitarian reasoning comes in. The recent development of German refugee politics is generally attributed to Chancellor Angela Merkel. This is, no doubt, too narrow a perspective, but there was a tangible change in her statements that led to this opinion. In mid-July 2015, Merkel took part in a televised discussion with high school students in the German city of Rostock. On this occasion, she was addressed by Reem, a 15-year-old Palestinian girl from Lebanon, who had been living in Germany for four years together with her family as asylum seekers. Recently, her family had been threatened with deportation, and Reem expressed her worries about her own future. Not knowing whether she would be allowed to stay in Germany, she felt distressed, as she was unable to plan her further education. She said, “I do not know what my future will be”. Merkel responded to Reem with a classical “real political” statement, explaining German politics of asylum and emphasising that not all refugees would or could be allowed to stay in Germany. She said, “Politics is sometimes hard”, highlighting that “we cannot do that”, i.e. welcome all potential refugees to the country. Here she used almost the same notorious words as in her press conference six weeks later, only in a negative way. Responding to Reem, she said, “Dann schaffen wir das *nicht*” (“Then we will *not* be able to do this”), in contrast to her later, notorious phrase “Wir schaffen das!” (“We will be able to do this!”), i.e. accommodate the incoming refugees.

After this brief exchange, Reem burst into tears. Merkel was visibly touched and moved. She paused a few moments, which is rather unusual behaviour for a politician live on TV, and then she went over to Reem to cuddle her, trying to console the girl.²⁹ This scene can be interpreted as the intrusion of a humanitarian gesture into real politics. Merkel did not give up her real political

²⁹ The scene can be watched on YouTube: <https://www.youtube.com/watch?v=iWPZuZU5t44>

perspective, but she tried to provide some “humanitarian comfort” rather than a helpless gesture of embracing Reem. The moral sentiment urging for the accommodation of all refugees in search and need of a better life was met by the real political objection that this was a political and practical impossibility. Subsequently, Merkel was highly criticised in the (social) media for how she acted towards Reem. Merkel’s encounter with Reem can be interpreted as a ‘critical event’ in Veena Das’ sense, that is, as an event that enables new ways of action (Das, 1995).

Welcoming Refugees to Germany

There were more catastrophic capsizing tragedies in the Mediterranean, but then, in the second half of August, the “humanitarian crisis” came much closer to the borders of Germany. Large numbers of refugees that had taken the so-called ‘Balkan route’ towards central Europe, after crossing the Aegean from Turkey to the Greek islands, were collecting at Budapest’s Keleti station. While all other countries along the route had kept their borders open, to enable the smooth transit of the refugees, the Hungarian government closed its border to Austria and, insisting on the Dublin regulation, did not allow the refugees’ passage. On August 21, the German Federal Office for Migration and Refugees (BAMF) issued a tweet that in Germany the Dublin regulation would not be applied to refugees from Syria, because of the war and the aggravated humanitarian crisis in that country. While this was not an official, formally published statement, the tweet rapidly circulated among Syrians and other refugees in Hungary and was taken as an invitation to travel to Germany. On August 27, an international governmental conference on the refugee issue took place in Vienna, Austria. On the same day, an abandoned van was found on an Austrian motorway close to the Hungarian border in which 71 refugees had died from suffocation. The participants at the conference, Chancellor Merkel included, expressed their utter horror at this incident (Holmes & Heide, 2016).

A few days later, on August 31, Merkel gave a press conference in Berlin. In her statement she gave top priority to the topic of peoples “from all over the world” seeking refuge in Germany.³⁰ She emphasised the many tragedies and atrocities that had set the people in motion in the first instance and also referred to the people who had suffocated in the van. Merkel stated that many organisational issues had to be tackled in order to deal with this situation, but that first of all, two principle elements needed to be emphasised that should guide all actions in relation to the refugees. The first principle was the right to

³⁰ The full text of Merkel’s statement is available online at the Federal Chancellor’s website: <https://www.bundesregierung.de/Content/DE/Mitschrift/Pressekonferenzen/2015/08/2015-08-31-pk-merkel.html> (accessed on 8 September 2017).

asylum, while the second was the dignity of every human being as enshrined in the first article of the German constitution. This was a clear humanitarian statement, which referred to moral values that should guide political and administrative action. Merkel felt compelled to underline these values, not only because of the sheer number of refugees coming toward Germany, but also, probably more importantly, because for months Germany had been haunted by hate crimes, including arson and the right-wing attacks on refugee accommodation centres. While such crimes were committed by a minority of the population only, they aroused great concern, as they evoked the deadly racist violence of the 1990s and, of course, of Nazism. There was widespread fear that anti-immigrant and anti-refugee attitudes were on the rise and that new movements and organisations of the extreme right, like PEGIDA or the AfD,³¹ could capitalise on such affects and attitudes and ultimately threaten the parties currently in government. Thus, Merkel's invocation of these (moral) principles was meant to preserve the moral integrity of German society and encourage a positive attitude toward the refugees. In this press conference, Merkel uttered the notorious phrase "Wir schaffen das!" i.e. that "we" (the German people) will be able to handle the difficult situation in a positive way. When these words spread via social media, refugees waiting at Budapest's station joyously celebrated Merkel, which gave them strong encouragement to no longer comply with the orders of the Hungarian police to stay where they were but to take their destiny into their own hands – or rather, on their own feet. As a result, they started marching on a motorway toward the Hungarian-Austrian border. Under this pressure, on 1st September 2015, Victor Orban, the Hungarian prime minister, allowed the refugees to cross the Austrian border, while at the same time measures were taken to seal the Hungarian-Serbian border, in order to prevent the influx of further refugees.

On 2nd September, a photo of Alan Kurdi, a two-year-old Kurdish boy from the Syrian town of Kobane, who had drowned on the passage from Turkey to Greece and was subsequently washed up on the beach near the Turkish Tourism Centre of Bodrum, circulated in the press. While hundreds of migrants had drowned previously, Alan Kurdi now became the symbol of the inhumanity of the current attitudes to migration. Again, European and German politicians expressed their horror and vowed that such occurrences must be prevented.

On 4th September, a huge number of refugees approached the Austrian-German border. Many of them expressed their wish to reach Germany, while others

³¹ PEGIDA is the acronym for "Patriotische Europäer gegen die Islamisierung des Abendlandes" (Patriotic Europeans against the Islamisation of the Occident), a right-wing movement against immigration that came into being in October 2014. The AfD ("Alternative für Deutschland", Alternative for Germany) is an originally EU-skeptic party established in 2013, which, since 2015, has taken a strict rightist-populist outlook and mainly advocates anti-immigrant positions.

wanted to continue toward the northern countries. Merkel and the then Austrian Chancellor Werner Faymann decided not to close the border and to allow the influx into Germany. The next day, therefore, a more or less uncontrolled influx of unregistered refugees in Germany began. Crowds of Germans greeted them, for instance at Munich's central station, but also in many other cities, holding placards saying "Refugees welcome" and distributing gifts. In Munich alone, 20,000 refugees were welcomed on September 5th and 6th. The German "welcome culture" was born – in a marked contrast to what government officials generally expected, namely, that anti-refugee sentiments would prevail and that such resentments needed to be prevented and contained by restrictive politics of migration. Although the right-wing groups were able to muster support and created a great clamour, a positive attitude still prevailed, resulting in an unbelievable number of people volunteering to support the newly arrived refugees in many different respects. In fact, in many places, the number of volunteers greatly exceeded the needs of the refugees.

Realpolitik Enters the Scene Again: Restrictive Politics of Asylum

The subsequent politics of migration and asylum in Germany would need a much more detailed and differentiated analysis, the space for which I lack herein. I, therefore, have to restrict myself to the observation that whereas on the surface humanitarian politics largely continued, vowing to welcome and accommodate the refugees and to enable their "integration" in Germany, at the practical, politics largely reverted to the "real politics" of restricting asylum. While, for instance, Syrians initially had been promised generous terms and the speedy granting of asylum, the level of protection was subsequently limited in most cases to temporary "subsidiary protection" only, which, significantly, excluded family reunification. Furthermore, living conditions in refugee accommodation centres were made difficult, restricting, for instance, in many cases the refugees' right to prepare their own food according to their personal habits (Roitman, 2013).

The opposition of "realpolitik" and humanitarian politics helps in understanding the politics of asylum in Germany, albeit not in a straightforward manner which does not necessarily imply that real politics is (morally) "bad" and that humanitarianism is intrinsically "good". In her analysis of French politics on the (non-) accommodation of immigrants, Miriam Ticktin points out that humanitarian politics based on compassion and the urge to alleviate individual suffering is in fact a politics of inequality that solidifies hierarchies and largely precludes equal rights (Ticktin, 2011). Humanitarian state politics is sometimes more concerned with *appearing* to alleviate suffering than with actually "doing well" to people in distress. Humanitarian politics is then in the first place a politics of representation that serves to cover up real politics. In

Germany, for instance, sometimes the suspicion was voiced that, after the circulation of the image of Alan Kurdi on the Turkish beach, the open border policy of late summer 2015 was also intended, in order to prevent “ugly images” possibly emanating from the border between Austria and Germany, namely images of police and border patrols forcefully and violently preventing refugees from crossing the totally unfenced border.³²

It is safe to assume that many different and often contradictory motivations and intentions govern political decisions, the politics of migration and asylum included. In Germany, following the “summer of migration” of 2015, there is a marked contradiction between the continuously voiced insistence that refugees need to “integrate” quickly into German society, and the recent packages of asylum law. These packages largely preclude integration, by restricting refugees’ right to work and education, by requiring them to live in crowded asylum centres often situated on the periphery of towns and cities, i.e. far away from infrastructures, and by the limitation of resources for German language courses. The contradiction between the discourse of integration and the practical politics of keeping refugees for years, waiting in a limbo of uncertainty, could not be more marked.

Unsurprisingly, politics is dominated by strategies and considerations of power: the restrictive politics of asylum intends to placate possible supporters of right-wing groups, taking over some of their demands in a slightly softened manner. It is also meant as a form of deterrence to people across the globe that might consider travelling to Germany as refugees, thereby delivering them the message that living as a refugee in this country is not a walk in the park and that deportation is most likely. In the politically intended urge to decide on asylum applications as quickly as possible, in order to reduce the number of asylum seekers swiftly, decisions on asylum are made as if on a conveyor belt, producing many mistakes and often utterly inhumane outcomes. In many cases, for instance, people have been deported that were indeed already well integrated, and in some cases families were separated by deportation. Official discourse on asylum and refugees is currently dominated by two aspects. On the one hand, there is the emphasis that “deserving” refugees need to be accommodated and integrated, while on the other hand, there is insistence on the strict deportation of the “undeserving” (Holmes and Castaneda 2016). What this discourse ignores, though, is the fact that in many cases it is very difficult, if not outright impossible, to neatly tell the deserving from the undeserving. In most cases, human destinies do not fit neatly into either of these categories.

³² In his account of the events journalist Robin Alexander insinuates that the border remained open only because nobody in government wanted to take the responsibility for such images (Alexander 2017: 23f.).

Conclusion: Crisis Effects

In my interpretation, Chancellor Merkel's encounter with Reem can be regarded as a "critical event" in the sense of Veena Das, namely as an event that enabled new ways of taking action (Das, 1995). Of course, this encounter did not stand alone; it was suspended in a series of events in which the problematic humanitarian aspects of current refugee policies in Europe became most obvious. Nonetheless, this particular encounter touched Merkel directly and she was visibly moved, while at the same time, she was defending the realist rationale of German politics in relation to refugees and asylum. Maintaining this realist position became much more difficult, considering the "humanitarian intrusion". Asylum politics in Germany was subsequently dominated by the tension between real politics and humanitarianism. While "realism" mostly prevailed over practical politics, humanitarianism was increasingly becoming a matter of rhetoric only. Both modes of politics, however, flagged the events in question as a "crisis".

In conclusion, the effects of this particular crisis can be illustrated. I wish to mention only two issues. After 2015, through a number of legislative changes, politics of asylum in Germany became much more rigid and in some aspects even repressive. This effect is amplified by the increasing securitisation of related policies after several attacks committed by men who entered Germany as refugees. Here, two "crises" converge, namely the "refugee crisis" and the "terrorism crisis", enabling in the first place a highly increased level of control and surveillance. At the European level, the refugee crisis enables a new kind of "externalisation policy" that shifts the EU's borders to Turkey and to Northern Africa and turns countries like Turkey, Tunisia, Egypt or even Libya into extra-territorial European border posts. While this is seemingly also meant to reduce the number of calamities in the Mediterranean, the externalisation of borders in fact does not save any lives. According to Giuseppe Loprete, the IOM Chief of Mission in Niger, probably more migrants die while attempting to cross the Sahara than on the passage across the Mediterranean, and yet these deaths are hardly recorded. One significant effect of externalisation is that humanitarian issues are largely pushed out of sight in Europe, while at the same time NGOs running sea rescue operations in the Mediterranean are criminalised as collaborating in human smuggling. The Italian government even termed these rescue operations "pull factors" endangering the lives of migrants. This was not the first time that on a humanitarian pretext the heightened control of maritime borders had forced migrants to take even more dangerous courses. A decade ago, for example, the EU's border security agency Frontex's mission Hera forced back migrants that intended to reach the Canary Islands and compelled them to take the hazardous Sahara route instead – migrants that often had to move because EU fishery policies destroyed their sources of income in

West African states. Gregory Feldman quotes an EU official who, in 2008, had already justified such moves as efforts toward saving lives (Feldman, 2011).

Humanitarianism is often understood as the urge to alleviate the suffering of strangers (Calhoun, 2008), as a “politics of compassion” (Fassin, 2012). However, those in plight must first become visible as humans that deserve compassion and not suffer beyond the sight of those that can alleviate their suffering. Nevertheless, German and European refugee policies ensure that in future, such suffering will not come too close to Europe again. The ordeal of migrants on their way to Europe is hidden behind the smokescreen of the humanitarian rhetoric of saving lives in the Mediterranean. Furthermore, humanitarianism is about compassion and charity; it is not about justice and rights. The humanitarian motive totally ignores the global inequities that, besides political repression, put migrants on the move in search of a future for themselves and their families. In the last instance, then, the humanitarian rhetoric serves to cover-up the effects of an unjust liberal global economic order.

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9

A Critical Appraisal of the ‘Policy of Non Interference’ within ASEAN and SAARC: The Case of Rohingya Refugees

Shireen Mushtaq

Abstract

The Rohingya people are a persecuted ethnic community in the Asian region. The discrimination against these people by the state of Myanmar has created a refugee crisis, which affects the regions of South Asia and East Asia. The state of Myanmar opts for ethno-nationalist policies that have rendered these people without a state of origin. Thousands of Rohingya escaped Rakhine state to become refugees as Burma labelled them as illegal immigrants. The Rohingya have taken refuge in neighbouring countries like Bangladesh, Malaysia and Thailand in refugee camps where they are seen as creating social and economic problems for the host states. The regional organisations both ASEAN and SAARC lack the organisational capacity to deal with this humanitarian crisis. Both regional organisations have in their charter the policy of non-interference among the member states and this policy creates a loophole in the effectiveness of these organisations to thwart regional crisis, as can be seen in the case of Rohingya people. The review of the policy of non-interference is due to ensure the protection and safety of people faced with persecution by their respective states.

Introduction

Burma is a predominantly Buddhist country with a long standing history of Buddhism practiced by the populations, located in the South East Asian region. Burma is home to a number of minority groups as well; the nationally recognised races include Shan, Mon, Kare, Kayah, Chin, Kachin and Rakhine. There are total 135 official national races. Burma has faced a lot of criticism

regarding the use of ethno-nationalist policies that have become a defining feature in domestic politics of the country. The practice of ethno-nationalism means that the ethnicity of the individual of the state is the key element to ensure and secure citizenship. This ethno-nationalism has led to a large-scale violation of minority rights in the state of Arakan, Burma. The violation experienced by the Muslim minority in Arakan has taken place on an institutional and structural level as described by Johan Galtung, as the state and government unconditionally deny the belongingness of the Rohingya Muslims to the state of Burma.

This conflict between the minority and the state has led to a large scale refugee crisis in South East Asia that has several dimensions including human rights' violation, minority rights' violation, and denial of citizenship, human trafficking, marginalisation, racial discrimination, refugees/asylum seekers, terrorism and state sponsored terrorism. All of these problems have an impact on neighbouring states like Bangladesh, Thailand and Malaysia. Furthermore, the categorisation of the people as refugees or stateless people has created an impasse into the resolution of this situation.

The regional response towards the resolution of this dispute has been somewhat varied as the states of South East Asia practice the policy of non-interference in a much strict sense as compared with the West. It makes it difficult to create the international pressure needed to influence a state of origin to repatriate the refugees. There were two regional organisations that come under play in the process; SAARC and ASEAN, as Bangladesh is host to the largest Rohingya refugees and Burma is an active member of ASEAN. Therefore, it is interesting to analyse the regional dynamics that arise due to the refugee crisis in Burma which is also a humanitarian crisis that demands immediate attention.

The first section of the paper will examine the historical basis of the persecution of the Rohingya by Burma and their ethno-nationalist claims. The second section will evaluate the cultural and historical link of Bangladesh with Rohingya. It will also assess the condition of refugee residing in Bangladesh. The third section of the paper evaluates the policy of non-interference as being practiced in the international community and by two major regional organisations closest to regions respectively ASEAN and SAARC. The last section of the paper provides policy recommendation to deal with the Rohingya humanitarian crisis.

Part I: The Rohingya Muslims in the State of Burma

Labelled as 'Slow – burning genocide' (Lindbolm et al, 2015), because of "the systematic, targeted weakening of the Rohingya through mass violence, enforced isolation, disenfranchisement, illness and hunger, and the regime's discriminatory and persecutory policies". The Genocide Convention of 1948

defines genocide as the persecution of a specific group, with act and intent of eliminating a group. Therefore, the situation that the Rohingya people are faced with is referred as *genocide* (Lindblom et al, 2015; Zarni and Cowley 2014).

The Rohingya crisis has emerged as a major humanitarian concern of South East Asian states. The state of Arakan where the Rohingya Muslims reside is known since 1989 as the Rakhine state. Rohingya is a generic term that refers to Sunni Muslims, from a mixed ancestry that includes Arabs, Moors, Turks, Persians, Mughals and Pathans, local Bengali and Rakhine. These people speak a 'chittagongian' dialect of Bengali, therefore they also known sometime as the 'Chittagongians'. These people have been subjected to all sorts of extortion, crimes, forced labour, restriction on freedom of movement, cultural and religious limitations (Kiragu, Rosi and Morris, 2011). The plight of Rohingya Muslims spans for over five decades. The issue itself has several dimensions that include territory, culture, religion, ethnicity and historical background.

The word "Rohingya" is a taboo in Yangon (Rangoon), the capital of Burma, as the government does not recognise the existence of this nationality in their national history. The primary debate that surrounds the plight of Rohingya Muslims is their status as refugees or stateless people, this debate is based on the issue of origin and belongings of this community to the state of Burma. Refugee by definition is someone who is "fleeing from war, conflict, persecution, or a fear of persecution" (Ahsan Ullah, 2011). They are also known as the "stateless people"— individuals that no state adopts *de jure* as their own nationals. Statelessness is sometimes considered as an invisible problem, as these people remain unheard. They are not provided access to jobs, houses, banks or even a marriage certificate. According to the UNHCR, there are 10 million stateless people in the world and the number of refugees from Myanmar rose to 490,300 by 2016 from the previous 481,800 in 2015. In a 2017 UNHCR report, Bangladesh is said to host 276,200, Thailand 102,600, Malaysia 87000 and India 15,600, Rohingya that came from Burma (UNHCR, 2017).

Traditionally, refugees move from a country of conflict to a country of better social and economic conditions, with freedom of religion and culture. In the case of Rohingya, most refugees have fled to the neighbouring Bangladesh that does not offer the pull factors generally associated with refugee flows. This is because of three reasons; firstly, the geographical proximity of Bangladesh and Burma being divided by the river Naf, that is linked to the Rakhine state and; secondly, the religious, cultural, ethnic and historic linkages that Rohingya have with Bangladesh through common ancestors and shared religion and; the thirdly, the chance of repatriation to the state of Burma, the hope of going back to their state of origin. Though Bangladesh is not the only state affected by this refugee crisis other states like Thailand, Malaysia, Cambodia, Laos and Singapore, India are also affected.

Tracing the Ancestry and Historical Linkages of Rohingya

The Rohingya are a Muslim minority of 1.3 million, formerly living in the Rakhine State within Myanmar. In the 2014 census these people were registered as Bengali. The presence of Rohingya in Burma can be traced back to the 15th century in the Maruk-U Dynasty. King Min Saw Mon of the Mrauk-U Dynasty forged an alliance with the Sultan of Bengal to save his Arakan kingdom, the king stayed in Bengal for 24 years and after the restoration of his kingdom he allowed the Muslim Bengali soldiers (the Chittagongians) to live to settle in the outskirts of the Arakan kingdom where they constructed the famous Santikan (Sandi Khan) mosque. Therefore, their presence can be traced back to 1430. The Kingdom established in Arakan remained popular as an oriental destination for many foreigners including the Portuguese voyagers. During the British rule the border of Bangladesh and Myanmar was a soft border as under the British Empire the slave trade and labour movement was a routine activity. After 1937, Burma was given autonomous status and this border gained semi international status. As a reward for siding with Britain in the Second World War, Arakan were promised an autonomous state in Northern Rakhine. The population grew as the Bengalis travelled to Arakan during World War II. The Buddhists viewed these promises with much resentment and thought of Muslims as the invaders (Ahsan Ullah 2011; Green, MacManus, & Venning, 2015).

Later the British withdrawal from the subcontinent created the state of India and the state of Pakistan, later in 1948 Burma became also gained independence. The conflict between East Pakistan and West Pakistan brought about the creation of the state of Bangladesh the immediate neighbour of Burma. Geographically, the Rohingya claim that they have belonged to Burma for centuries even before the Mrauk-U dynasty was established but their claim is contested and not validated based on lack of evidence. The Rohingya's presence is proven only after the first Anglo-Burmese war 1824-1826; it was after 1885 the third Anglo-Burmese war when the British gained control of Burma. The reason why these people travelled in the first place was for labour purposes, the British encouraged the less inhabited areas of Burma to be inhabited by the Bengalis, who would in turn cultivate these lands and use the arable soil for agriculture. These were the earliest Muslims settlers in Burma and gradually their numbers grew and as economic opportunities increased (Chan 2005; Green, MacManus & Venning, 2015).

The State of Burma and the Rohingya People

Rohingya Muslims, as they are known now, started referring to themselves as "Rohingya" as late as the 1950s when the philosophers and thinkers from this group started to narrate their history and culture (Chan 2005). The early 20th Century saw some communal violence between the Indians and the Burmese

during the Indian independence movement. Later on after the independence of Burma in 1948, the rivalry between the 'Chittagongians' and the Buddhists in Arakan increased. Democracy reigned from 1948 to 1962 in Burma; it was during the same time when the first non-western General Secretary of United Nations MrU. Thant, a Burmese was selected (Ardenshorst 2009). The Burma Socialist Party– a military run single party- came to power after a *coup d'état* because of fears of disintegration of Burma due to self-determination movements (Devi, 2014). As a result of this change in governance the Muslims lost their colonial status and concession given by the British colonisers. The British policy that favoured the 'chittagongians' was the *Zamindari* system by which arable land was leased for 90 years to the Bengali peasants, this resentment felt against the Muslims and paved the way for rivalry and conflict between these two communities, quintessentially after the *military junta* came to power (Chan, 2005).

Modernising the Colonial State: From Burma to Myanmar

The state of Burma was granted the name 'Myanmar' by the *military junta*. This was politically a controversial move since the legislative body of the state did not approve this change. Therefore, in case of formal and informal purposes the name Burma and Myanmar are used interchangeably. There states which do not use the name Myanmar in official documents and referrals, such include USA, Canada, Australia, UK because they refuse to recognise the military government. However, the UNO and ASEAN officially refer to Burma as Myanmar (Ardenshorst, 2009).

The foreign policy of Burma has followed the path of non-alignment since its independence. As a nascent state, Burma experienced domestic political problems, economic hardships, separatist and communist movements. Therefore, Burma opted for neutrality in 1961 and became a founding member of the non-aligned movement and chose friendship with all countries. As Burma was a member of the non-aligned movement, she became a member of ASEAN in 1997 after the Cold War. The first military dictator, General Ne Win came to power and implemented the 'Burmese Socialism'; he remained in power for 26 years from 1962-1981. General Ne Win's reign was divided in two periods the 'direct military rule' from 1962–1974, the rule of the Revolutionary Council and the 'constitutional dictatorship' from 1974 – 1988 in which General Ne Win introduced a new constitution and transferred power to himself after holding an election in 1978 and 1981, thus legitimising his dictatorship (Devi, 2014). It was during his reign that the persecution of the Rohingya mounted. Later on, because of his authoritarian style of governance President Ne Win faced heavy opposition; he lost power after the '1988 uprising'. It was after this uprising that Aung San Suu Kyi emerged to prominence in the political landscape of Burma. The *military junta* under the leadership of general Win

formed 'The State Law and Order Restoration Council' (SLORC) they later changed its name to 'the State Peace and Development Council (SPDC). The elections of 1990 brought glory to the opposition party after the parliamentary elections, the National League of Democracy (NLD) won 392 seats out of 485 seats in total, but transfer of power never took place and the popular leader Aung San Suu Kyi was placed under house arrest (Ardenshorst, 2009). The SPDC continued its rule and the government remained under the tight grip of the military.

In 2007 the SPDC faced opposition as 10,000 people marched against the government policies, the government crackdown began and more than 30 people were killed. To ward off international condemnation, a constitutional referendum was conducted. The new constitution had two important features among the others. First, the quota for seats of the military were confirmed in the parliament it was stated as "unelected military representatives take up 25% of the seats in the *Hluttaw* (parliament) and have a veto over constitutional change. This is what the generals called 'disciplined democracy'. The second feature; citizens married to foreigners were barred from the parliament as of "Article 59F of the constitution states that if one of your 'legitimate children... owes allegiance to a foreign power' you are disqualified". NLD leader Aung San Suu Kyi was not only married to a British academic, Michael Aris (1972-1999) in fact her two children have British passports (BBC,2015). The referendum of 2008 held by the government eventually claimed that 98.12% votes of the 92.48 eligible voted in favour of the constitution, the Rohingya were issued temporary registration cards so that they could vote, they were also allowed to vote in the elections of 2010. The entire process was to gain the legitimacy that the dwindling military government needed in the face of domestic and international pressures. Finally, in 2015 the Burmese elections took place with NLD was a participant, a landslide victory of NLD was claimed and accepted but under the very same constitution, the opposition party took the same percentage of votes as that of 1990 results (Ardenshorst,2009; BBC, 2015).

Part II: The Origin of the Rohingya Refugee Crisis

The Rohingya refugee crisis began soon after Burma's independence in 1948 when the union citizenship act was instated. According to the act, the 'indigenous races of Burma' will be allowed citizenship but the Rohingya were not included in that list. Citizens who had proof of families residing in Burma for two generations were granted national registration cards. Initially the Rohingya were provided with cards, but later the process slowed and by 1974 the Rohingya were only issued foreign registration cards and not the national registration cards (Lindblom, Elizabeth, Motala, & Munyan, 2015). This was the beginning of structural discrimination against the Rohingya. The first wave

of migration came in 1977 as a reaction to Operation Nagamin also known as King Dragon Operation by the *military junta*. More than 200,000 Rohingya left for Bangladesh in the year 1978, this number rose to 300,000 in 4 months. This first wave of refugees strained the relations between Burma and Bangladesh, which was a newly established state in the 1970's. The debate began regarding the origin of this community; Bangladesh labelled them as refugees as they were escaping the structural persecution by the government in Burma. Bangladesh labelled these people as “economic Migrants”, whereas Burma labelled them as illegal migrants from Bangladesh based on the colonial past of Burma and British India (Ahsan Ullah 2011). The Rohingya population in Rakhine was 1.2 Million in 1952 that had been reduced to 774,000 in 2008 according to one UNHCR report (Lindblom et al, 2015; Green, MacManus & Venning, 2015).

Evidently, the notorious citizenship laws of 1982 played the most significant role in the creation, aggravation and intensification of the refugee crisis. The 1982 citizenship law in Burma is the reason why Rohingya have the status of stateless people. The citizenship law does not recognise them as nationals of the state. “The United Nations has aptly depicted the Rohingya as ‘virtually friendless’ ” (Abdelkader, 2014). As they have no one to side with them or to provide them with the rights they should be accorded. The Rohingya Muslims have fled the state of Burma because of their ethnic cultural and religious persecution and the structural violence they faced in Burma, especially after the *military Junta* came into power. This ethnic persecution has led to a major refugee crisis on South East Asia.

The 1982 citizenship law classifies citizens based on ethnicity and effectively makes more than one million residents stateless, including the Rohingya and those of Chinese, Indian, Nepali, and Eurasian descent. It has endorsed the ethnic citizenship of the individual and disregards the civic basis of citizenship. These laws recognise anyone whose both parents are any of the 135 official national races the law defines national races as “only ethnic groups that can trace origins back to 1823 or earlier” before the British rule began. The government further asserts that Rohingya are economic migrants and are thus denied citizenship based on the fact that their ancestors are not from the official national races. Naturalisation of only those Rohingya have come about that have provided proof of three generations of ancestors belonging to Burma. The same sets of laws provide three kinds of citizenship; the citizen, the associate citizen and the naturalised (US Department of State, 2011). After the 1982 law was passed, the government withheld ID cards and most Rohingya could not prove the citizenship of their ancestors for three generations. Additionally, naturalisation process demands the fluency in any one of the national languages of the national races but the Rohingya have little or no access to education and

they speak a Rohingya dialect of their respective language. Thus, making naturalisation next to impossible (Lindblom et al., 2015).

Refugee Flows towards Bangladesh

As soon as the refugee flows began, Bangladesh had no choice but to provide refugee status to the Rohingya people. The living conditions of these camps that were initially ten in number and gradually reduced to two as camps were not habitable. Many found refuge in these camps, but there were many who had to live outside of them, numbering up to a 100,000. These Rohingya became known as the invisible refugees as they were not documented under the refugee camps. Varying numbers of statistics exist that document the presence of refugee in a respective state; they are estimated to be up to 400,000 in Bangladesh, a similar number in the Gulf States, some 200,000 in Pakistan, 20,000 in Thailand and 15,000 in Malaysia. UNHCR estimates some 750,000 Rohingya remain in northern Rakhine state and other parts of Myanmar” (Kiragu, Rosi & Morris, 2011). The World Refugee Survey estimates that Myanmar produced 750,000 refugees, with 361,000 in Thailand, 19,300 in Bangladesh 60,000 in India and 79,000 in Malaysia. Millions more have fled from Burma but have not been documented (Ardenshorst, 2009). “The Rohingya crisis is no longer a simple humanitarian tragedy rather is a potential threat to Bangladesh’s internal stability and a source of interstate tensions between Myanmar and Bangladesh” (Ahsan Ullah, 2011).

The United Nations High Commission for Refugees’ operation were established in Bangladesh through a Memorandum of Understanding (MoU) in 1993, this MoU is the sole document that determines the legal status of the UN organ. There are no domestic laws in Bangladesh to regulate the administration of refugees, as the country is not a party to the Refugee Convention 1951 or it’s Protocol of 1967. Furthermore, Bangladesh is not a party to the Statelessness Conventions of 1954 and 1961. The laws instated in the 1951 Citizenship Act of Bangladesh deal the issues of nationality, according to which every person born in the country is entitled to citizenship. The same act also recognises citizenship by descent due to the amendments made in 2009; these laws do not recognise dual citizenship (Kiragu, Rosi & Morris, 2011).

The Refugee Camps in Bangladesh

UNHCR issues photo ID cards to all camp members above the age of five. These cards provide protection but are not endorsed by the Bangladeshi government, therefore, detention and arrest may take place for illegal presence. However, having these cards provides a better chance of being released. A birth registration card is another issue, the non-registration of refugee children with Bangladeshi father or mothers, even though the amendment of 2009 provides people with this right. Thus, the gap of implementing national laws is also a

major problem. Rejection of marriage applications based on the facts that they sometimes come from unregistered and registered refugee, or members of host community and a refugee (registered or unregistered) (Kiragu, Rosi & Morris, 2011). Therefore, the government of Bangladesh has also been unwelcoming towards the Rohingya and the condition of the refugee camps in Bangladesh is evidence to that fact. Evidently, the host state is always pressured to do more but sometimes the will or the ability to act doesn't coincide.

Repatriation Process of Rohingya Muslims

Burma agreed with the help UNHCR to repatriate the Rohingya to the state of Arakan, the enforcement of this became a problem when Burma limited the re-entry of Muslims based on being "genuine citizens" and did not guarantee the monitoring of the repatriation process (Pruitt-Hamm, 1994). Moreover, there was no guarantee to the safety of these people against the maltreatment they would face in the refugee camps in Arakan. Gradually, repatriation slowed down, it wasn't until 1993 that Burma agreed to allow monitoring and access to the repatriation process (Ragland 1994). The process of repatriation, started after negotiations of 12 years that allowed the entry of 226,576 Rohingya to Burma but many came back because of the continued discrimination. Some 5000 came back to Bangladesh out of the 23000 promised to be repatriated. The repatriated people were issued yellow ID cards with the status of returnee and nothing more. The repatriation that took place to Arakan in 1991- 1992 was "premature and coercive repatriation" something that has since then, categorically, been avoided. Among the Rohingya, voluntary repatriation, is now encouraged to ensure informed consent of the process. There were several resettlement cases that were filed and 465 departures took place out of the 1997 persons filed cases. The government of Burma suspended the resettlement process in 2010.

UNHCR was able to settle very few number of cases filed, really indicating the toothless nature of the organisations working (Kiragua, Rosi & Morris, 2011). With the numbers rising each year, states like Bangladesh come under immense economic and social pressure, in such a case the likelihood of a conflict increases. As the matters of human security also comes under play. The Rohingya have also been involved in terrorist activities to avenge the atrocities committed against them. They have also been involved in illegal trade and other activities in the border areas.

Part III: A Critical Appraisal of the Policy of Non-Interference

The definition of intervention/ interference adopted in this paper is a broad one: "activity undertaken by a state, a group within a state or an international organisation which interferes in the domestic affairs of another state" (Jones, 2009). Non-Interference is also a policy endorsed within the UN Charter:

Article 2(4) states “all member states shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of other states.” Article 2(7) states “that nothing in the present charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the member to submit such matters under the present charter, but this principle shall not prejudice the application of enforcement measures under chapter VII.” Therefore, the legitimacy of intervention was provided by article 2 (7) that provides jurisdiction under chapter VII (UN Charter, 2017).

John Locke was of the view that “sovereign legitimacy” derives from social contract, where the individual willfully surrendered his/her freedom to a greater community in exchange for “legislative or supreme power of any commonwealth”, to gain peace, safety and for public good. This allows the states and people to function in harmony, with rights and duties and equality (Marks & Cooper, 2010). Intervention has sometimes taken place to establish sovereign legitimacy or whenever this norm has been violated. The case in point of the Rohingya Muslims is not the first time that such a situation has taken place in East Asia. During the period of decolonisation there have been cases where the UN intervened on some level along with the support of regional organisations.

Intervention in Case of Cambodia (1978) and East Timor (1999)

The case of Cambodia is significant in the case of ASEAN and the general principle of Intervention as was practiced by the UN and South East Asian states at time. Vietnam invaded Cambodia in 1978 after claim of insurgent activity due to disputed borders. A communist government was instated and the Peoples Republic of Kampuchea (PRK – a group of Cambodian communists) was established that controlled Cambodia throughout the 1980s. The UN called for the removal of these foreign forces and accepted the Khmer Rouge democratic Kampuchean (a group supported by China at the time) delegation from Cambodia at the UNO. The failure of the international community to mount a multilateral response to the atrocities of the Khmer Rouge lent greater credibility to the argument that Vietnam's invasion was a necessary act of humanitarian intervention. The UN called for the withdrawal of forces, as a precondition for peace but it was not until 1987 that the two sides came to the negotiating table. ASEAN, then a group of six states, provided its good offices; (Jakarta Informal Meeting) JIM I (1988) and JIM II (1989) took place. They outlined the agreement, which was to be endorsed by the international community. Vietnam announced to withdraw troops in 1989; this paved the way for Paris Peace Conference on Cambodia. Although the conference failed to produce the desired result, however in 1991 framework document agreement was finally signed. According to the framework documents, a United Nations Transitional Authority in Cambodia was established. Secondly “state

sovereignty” was surrendered as troops were sent on ground to Cambodia, under the provisions of Chapter VII of UN Charter. Thirdly a supreme national council was established, with the consent of disputing parties, to arrange for elections (Pruitt-Hamm, 1994).

The policy of non-intervention has experienced a fair share of scrutiny. It was in the late 1990s that ASEAN states, were individually calling for the modification of this policy. The most famous of their proposals was the call by Anwar Ibrahim, the Prime Minister of Malaysia, to deal with the case of Cambodia, *coup d'état* in 1997. It was stated “ASEAN has to accept the dawning reality that with the entry of new members, new problems will emerge”. This was called later as the “constructive engagement”, an idea later supported by the Foreign Minister of Thailand, Surin Pitsuwan. The Minister added that such an intervention should take place where regional security is threatened by the domestic situation of the respective state. Consequently, the idea of constructive intervention was criticised because of its failure in case of Myanmar. Foreign Minister Surin, as flexible engagement, later modified this idea but it only gained the support of Thailand and Philippines and rejected all others (Wu, 2000).

In 1999, the case of East Timor considerably challenged the policy of non-intervention. The case came to light as Indonesia became a major violator of human rights’ in East Timor since 1975. The intervention that took place was both military and diplomatic in nature. The President of Indonesia was domestically criticised for allowing such an intervention, but practically at that point in time the President was under a lot of international pressure to do so. Australian led international forces in East Timor that led to the destruction of pro-Indonesian militia and diplomatically all other East Asian States were requested to play a role as the armed intervention that took place. These states had initially not interfered into the matter of East Timor; evoking the policy of non-intervention they had also shown hesitation in the adoption of UNSC resolution 1264 in the case of East Timor (Wu, 2000).

Post-Cold War Norm of Non-Interference

Intervention has many facets; it can be political, economic, social, cultural and humanitarian. The post-cold war slogan that refurbished the idea of intervention is the Responsibility to Protect (R2P) coined in the International Commission on Intervention and State Sovereignty (2001). R2P is invoked when humanitarian intervention is needed; it was adopted in 2005 UN World Summit Meeting. This came after use of force first took place in Kosovo in 1999 that also expanded the mandate of North Atlantic Treaty Organisation (NATO) though at the time without UNSC authorisation. Under the auspices of Chapter VII of the UN Charter the Responsibility to Protect (R2P) became a

norm as the international community had failed to respond to the Rwanda and Srebrenica crisis of 1994 and 1995 respectively. Regional organisations such as the African Union have incorporated this norm into their charter to ensure the protection of people in case of a crisis. The modern notion of intervention rest on the ‘R2P’, the document that was the outcome of the World Summit meeting of 2005, provides in Article 138 and 139 the parameter of this intervention thus defining in Article 138 what R2P entails. Under Article 138 (World Summit Outcome, 2005):

.....each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

Therefore, the R2P is applicable to the Rohingya refugee crisis as they are experiencing ethnic cleansing, crimes against humanity and genocide. Their situation has not improved in decades, and even with the so called democratic government, the Rohingya are still facing discrimination based on race and violation of their rights. They are rendered stateless people as no one claims them. The situation has though existed for long, but the international community has turned away from addressing this problem under the auspices of Chapter VII or R2P.

Part IV: The Principle of Non-Interference as Practiced by ASEAN and SAARC

ASEAN’s Policy of Non-Interference

ASEAN was founded in 1967 to “accelerate economic growth, social progress and cultural development in the region ... to regional peace and stability through aiding respect for justice and rule of law”. ASEAN introduced a free trade area in 1992 ASEAN Summit, which met with great success and was envisioned to be EU styled economic bloc. ASEAN also met with success in dealing with issues after the Vietnam War. ASEAN increased its membership over the years to include ten countries, of which Myanmar became a part in July 23, 1997. ASEAN operated without a formal charter for decades; members functioned with a structure with few binding commitments and census-based decision making. It was in 2005 when ASEAN members started to discuss-making of a formal charter. Since ASEAN had no formal structures enforcement or liability was a major issue (Ardenshorst 2009).

The ASEAN vision 2020 sets goals for “ASEAN to work towards creating caring societies in which all people enjoy equitable access to opportunities for total human development regardless of gender, race, religion, language, or social and cultural background” (Wu 2000). The ASEAN charter was adopted in 2007, after disagreement about the inclusion of Myanmar with its major human rights’ violations among the member states, the Charter finally came into force on 15 December 2008. The inclusion of Myanmar invited a lot of criticisms, “ fears among ASEAN members regarding Myanmar’s economy and human rights’ practices ultimately were outweighed by greater fears that Myanmar’s continued exclusion from ASEAN would be an open invitation for China and other powers to seize a greater role in the region” (Ardenshorst, 2009; Hasan & Yudarsan, 2017). ASEAN has made a keen effort over the years to endorse and reiterate the concept of Non- Interference making it a part of every subsequent document approved by the member states. Extensive data(Wu, L. 2000) shows the commitment of ASEAN towards the norm of Non-Interference, to include: 1)Regional Agreements/ Forums / Statements; 2) The ASEAN Declaration 1967; 3) Zone of Peace Freedom and Neutrality Declaration 1971; 4) Declaration of ASEAN Concord 1976; 5) Treaty of Amity and Cooperation in South East Asia 1976; 6) Proposal for North East Asia Security Cooperation 1994; 7) Chairman’s statement of the First Asia-Europe meeting 1996; 8) ASEAN Regional Forum; 9) Joint statement of East Asia Cooperation 1999; and 10) ASEAN Joint Statement (1973, 1979,1981,1986, 1997).

The norm of Non-Interference is also known as “The ASEAN Way” - the specific code of conduct adopted by the ASEAN member states for their policy of Non-Interference. This norm practiced by ASEAN is much stricter in comparison to western world some realists claim it to be religiously followed. Eventually the ASEAN members have agreed to, refrain from criticism of states regarding domestic political situation, to deny recognition or any kind of support of rebel group with specific agenda against another member state and providing material and political support to member states (Wu, 2000).

Challenges to the Norm of Non-Intervention

Michael Leifer, describes the Non-Interference as a “cherished principle” of ASEAN members, which is also a major reason for its appeal and popularity, this principle has been revoked a few times in history. Once when ASEAN called for the peaceful resolution of the political turmoil in Philippines in 1986 and second in 1997 when ASEAN intervened diplomatically to resolve the conflict between Vietnam and Cambodia. Even with this the principle of Non-Interference is the only principle which the ASEAN members unanimously stood by over decades (Jones, 2009).

ASEAN consensus on Human Rights' make use of China's human rights' theory as it states that human rights' vary from state to state depending upon their culture and economic development. This defining theory however, lacks equal application. Malaysia, Singapore and Indonesia were primarily favouring this application because of their firm ruling doctrines. After 1990s when Laos, Vietnam, Myanmar joined they practiced an even more systematic restriction on individual and political freedom. On the other hand, Philippines, Thailand followed a more western approach to the provisions of human rights' that led to achieving human security (Wu, 2000). Previous developments show that ASEAN has tried to pay attention to its major human rights' concerns. In 1982 the non-governmental Regional Council on Human rights' in Asia published a non-binding declaration of basic duties of ASEAN people and government. Later on the Bangkok declaration on human rights' was presented in Vienna in 1993; ASEAN also issued an ASEAN declaration on human rights' by that ASEAN inter parliamentary organisation in the same year. This showed the willingness of ASEAN to move beyond the theoretical provision of human rights' and towards a more practical front. Philippines and Malaysia have already established human rights' commissions.

Policy of Non-Interference by SAARC

SAARC came into existence in 1985 as an effort to bring the South Asian States on a regional platform. Like any other regional organisation, SAARC also envisioned regional cooperation, self-reliance and support on a multilateral level. SAARC Charter ensured that this relationship will be based on principles of sovereign equality, territorial integrity and political independence and Non-Interference. All of this with a unanimous decision making process. SAARC has eight member states, Nepal, Bhutan, Maldives, Bangladesh, Afghanistan, Pakistan, India and Sri Lanka (Pattanaik 2006). The charter lays emphasis on the reality of interdependence of the world, the objectives of peace, freedom, social justice, and economic prosperity, by fostering cordial neighbourly relations bounds through history and culture (SAARC Charter, 2017).

SAARC has faced a lot of criticism for its invisible presence in the region, apart from some regional economic integration efforts like SAPTA; it has remained silent on many fronts. The purpose of a regional organisation is to strength the region both internally and to protect the regions interest from external actors, but such has not been the case with SAARC. The South Asian Region has had its fair share of violence done by the state against its people or among the member states. To name a few conflict that SAARC has over looked, the Nepalese civil war 1996-2006, the Sri Lankan civil war, the atrocities committed against the

Bihari's by Bangladesh, the Pakistan-India conflict over Kashmir, all account towards SAARC policy of Non-Interference.

This policy of Non-Interference as practiced by SAARC is different from the one practiced by the ASEAN members. The latter has the power to 'act' whereas the former doesn't have the will to 'act'. The regional hegemony of the geographically large members overpowers the structure of SAARC that results in inconclusive discussion and divided decisions. Since SAARC does not have a dispute resolution mechanism among member states it makes it difficult to resolve the bilateral issues of say, India and Pakistan. Eventually the organisation has not focused on regional concerns like terrorism, refugees, displaced persons etc. Major humanitarian issues have been left unaddressed, due to the presence of an invisible regional organisation that is incapable of functioning and reaching its true potential because of the rivalry of its own member states.

Bangladesh harbours a major number of Rohingya refugees but SAARC has not been able to play a major role in rehabilitating and supporting the government of Bangladesh to deal with this crisis. While most SAARC members have refugees in the respective countries with lesser national restrictions in place, there is no regional framework under the auspices of the organisation to address the issue.

This leads to a vacuum in negotiations that could take place on a regional level between both ASEAN and SAARC to manage the Rohingya Refugee problem. The absence of regional framework in both organisations renders the issues inadvisable as the legislation required for it does not exist. There is no enforcement mechanism, no documents addressing the refugee in the region or the code of conduct regarding refugee or host states in both South Asia and East Asia. In fact, none of the member states of South Asia have ratified the refugee convention of 1951. Same is the case with most South East Asian countries.

Part V: Conclusion and Recommendations

The Rohingya refugee crisis has been dragging on for decades but the international community has not been able to respond to crisis in an effective way. The number of refugees is rising each year, it has become evident that the rigidity in Burma's law and the lack of international pressure is a major reason why nothing has changed. Both SAARC and ASEAN have the policy of Non-Interference that creates a major ambiguity in the functioning and the purpose of these organisations. While SAARC members have created problems in the functioning of the organisation by putting national interest first, it has led to the invisible presence of a regional platform to discuss or resolve issues. The

ASEAN, on the other hand, has had a better history of cooperation among the member states, and this has allowed the organisation to function and progress at a steadier pace. The policy of non-interference followed by ASEAN is more a matter of choice and customary practice, meaning that the members can if they wish cross that particular line and highlight any issues that threaten the peace and stability of the region. However, whenever such cases arise, members have apologised for even commenting on matters concerning other states. Given the fact that there are two regional organisations – ASEAN and SAARC, that can come together to address this humanitarian crisis and resolve the issues in a multilateral setting, is where the contradiction lies. The reason why ASEAN intervened in the case of Philippines, Cambodia, and East Timor was because it was the age of decolonization and the cold war.

The post 1991 era saw structural changes in the international system; it also changed the readiness with which the international community would intervene in internal problems. Compromising the sovereignty of another state based on internal turmoil became an unacceptable norm in the post-Cold War world. The 1990s saw indecision among the UN members on how to deal with issues that are of internal nature, the major fallouts being Rwanda and Srebrenica. The Kosovo case of 1997 changed the perception of nation states, thus came the norm of R2P but this kind of intervention under Chapter VII is not simple or easy.

Additionally, the post-Cold War era saw a stronger front in the form of regional organisations that function as unitary blocs. These regional blocs stood for the protection of the regions from outside influence, such is the example of ASEAN. Therefore, intervention into the Rohingya humanitarian crisis is hampered by the structural and institutional formalities that cannot be compromised without also compromising the integrity of a regional forum and the sovereignty of the state.

Recommendations:

- SAARC should create a regional forum for the refugee problem in the region where discussion can take place to resolve the crisis and to assist the host states.
- SAARC should also develop a refugee fund for the host states so as to facilitate the rehabilitation, assimilation and general wellbeing of refugees in camps and the host states.
- UNHCR should be granted greater access to the refugee camps in the region, so that precise data can be collected.
- Ratification of The 1951 Refugee Convention should be made mandatory for member states in ASEAN and SAARC.

- ASEAN should do more than ‘constructive or flexible engagement’ with Burma and the government should be pressurised to resolve the refugee crisis by amending the 1982 citizenship act or any other national legislation against the Rohingya.
- Both organisations should identify the Rohingya crisis as major humanitarian crisis and adopt a policy that in case of a humanitarian crisis the policy of Non-Interference is not applicable.
- Recognition of Rohingya Muslims as Refugees and not *stateless* people would go a long way to work towards repatriation.
- Burma should opt out of Ethnic nationalist policies and allow Rohingya to be repatriated and naturalised –to pursue civic nationalism.

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10

European Securitisation of Refugees in the Post Truth Era: Promises and Perils of the 1951 Convention on Refugees

Waseem Iftikhar

Introduction

Currently there are 65.6 million displaced people around the globe (UNHCR, 2017a), an average of 20 people per minute are getting displaced. As of June 19, 2017, there are over five million registered refugees, out of these almost 4 million are from Syria (UNHCR, 2017b). This is considered to be the largest human displacement since WWII. As per UNHCR, top three countries hosting highest number of refugees in the world include Turkey, which continues to host the largest number of refugees for the third consecutive year totaling at almost 3 million, followed by Pakistan at 1.6 Million and Lebanon with 1 million (UNHCR, 2017a).

Displaced by the tragedies of war and forced to flee their homes to save their lives, most of the Syrian and Iraqi refugees have been trying to reach heart of Europe for safety. EU countries have been acting with varying degree of acceptability and involvement towards these refugees. Germany and Sweden are the highest recipients of Middle Eastern refugees. Angela Merkel of Germany for example, has taken more than one million refugees, almost 890,000 applications were received during 2015 and 280,000 during 2016 (Lizzie, 2017). In a stark contrast, Britain decided to select just little over 6000, out of the total of over five million Syrians, from refugee camps in Middle East (Kate, 2017). Ever since this crisis erupted, there has been a clear reluctance from majority of the Europeans to allow these refugees in their countries. Coupled with multiple “speech acts” by EU leaders, the refugee crisis has been effectively securitised in Europe. The aim of this paper is to study the

securitisation of Middle Eastern Refugee issue in Europe, and the European journey from compassion, and hospitality to hostility.

Securitisation in *Post Truth Era*

Theory of securitization, as postulated by Barry Buzan and Ole Wæver in their 1998 book, distinguishes the process of securitisation from the process of politicisation of an issue (Buzan, Ole, & Jaap, 1998). Copenhagen School defines securitisation as a process, whereby a securitising actor defines a particular issue or actor as an 'existential threat' to a particular referent object, and this move is accepted by a relevant audience. In this case, the 'securitising actors' have been heads of states, presidents and prime ministers from many EU countries. With the help of popular media and real life campaigns, these leaders have converted refugee issue as 'existential threat' to their countries, culture, religion and, way of life. The anti-refugee rhetoric has been powerful and has been accepted by the masses.

A successful securitisation has three components or steps; existential threats, emergency action and effects on inter-unit relations by breaking free of the rules (Buzan et al., 1998). This means that when a state or nation portrays an issue (for example refugee crisis in this case) as a threat, and the general masses take it to be the truth, the securitisation is efficacious. Once an issue enters the dominion of security, it is dealt with urgency and secrecy, with very few politicians allowed to contribute to further actions and ensuing debates. Instead of dealing with an issue under existing norms and obligations, and through routine discussions, it advances to the realm of 'panic politics'. The ultimate aim of this securitisation as per Post-structuralism therefore is, to silence the already marginalised voices, and to ignore the calls from these destitute individuals for the right of existence.

As it will be explained in this paper, these leaders have created 'speech acts' and rhetoric, successfully generating a discourse of fear of refugees, equating them to terrorists, who would repeat the Paris and Brussels attacks. When a leader through media is able to link refugees to terrorism in a manner as it has been done in many EU countries, it becomes a national security threat. Traditionally, security threat takes urgent and highest priority and allows for enactment of controversial legislation, which may be in contravention to already existing laws and regimes (Balzacq, 2005; Huysmans, 2000).

Linked to the process of securitisation is the concept of '*Post Truth Era*'. In his famous article '*A Government of Lies*', Steve Tesich explained the concept of how the truth is equated to certain undesirable concepts making it highly unpopular (Tesich, 1992). In *Post Truth*, the lies are told as truth and the real truth is demeaned so much that errors become irrelevant. *Post Truth* argument which is quarter of a century old has been repeated during the current refugee

crisis in EU. The domestic audience in Europe was told by their politicians that, we are providing you ‘security’, we are averting the repetition of Paris and Brussels attacks, by keeping these (presumably) terrorist refugees out. We are closing our borders, enacting fences along vulnerable and traditional migration routes, ensuring that the Middle Eastern (mostly Muslim) refugees are kept out of bounds. We are ensuring that they will be forced to follow life risking, expansive, treacherous and longer sea/land routes, and as a result, these refugees might fall into the hands of human traffickers, smugglers and other criminals, to sneak into Europe. Now here is the truth, they would argue, that in the process of doing all of this, we are abandoning international obligations, slating EU refugee and asylum seeker laws, completely ignoring humanitarian cost of such actions and still attacking (where necessary), the Middle Eastern homes of these refugees. Which one do you Europeans, prefer? You have to choose, one excludes the other. All those living comfortably within secure European environment have become complacent with whatever necessary actions their governments take to keep them “secure”, regardless of the fact that the same government has been party to initiating Middle East crisis at the first place. Therefore, the fundamentally free people of Europe have decided to remain free of refugee problem, and made a choice of living in this *Post Truth Era*, where securitisation of refugee issue has become the truth and flagrant violations of international obligations and laws have become irrelevant.

The 1951 Refugees Convention & EU Refugee Laws

Few of the relevant aspects of the convention, which will be under discussion in this paper, are being explained in this section. The basic difference, between IDPs, migrant, and refugees, needs to be clarified. All those who are forced to move out of their homes due to any reason, but are unable to cross the border are termed as IDPs. Migrant is a person, who, under his free will, decides to move from place of residence to another place within, or outside, the borders of his parent country. Reason for such migration could be social, economic and environmental etc. *The 1951 Refugee Convention* (UNGA, 1951) defines refugee 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 to or, owing to such fear, is unwilling to avail himself of the protection of that country.

This definition was ratified in 1951 and a protocol was added to it in 1967, through which the geographical limitations and time binding of pre-1951 cases were eliminated.

Incidentally, this definition is not explicit enough and leaves out war, terrorism and international intervention as causes of exodus of a person from the home country. Another irony of this definition is that a person must cross international border to claim a refugee status, or else he/she would continue to remain an IDP and suffer the absence of any international assistance available for refugees. Similarly, if one leaves the border of the home country, till the time another country accepts him/her as a registered refugee, he/she remains an asylum seeker.

Similarly *Refoulement* (as defined in the convention) also referred as sending refugees back to their places of origin where their lives could possibly be in danger, is against Article 33 of *The 1951 Refugee Convention* as well as *EU Refugee Laws* (FRA, Europe, & Rights, 2014; UNGA, 1951). Another area of concern and discussion in this paper is the discrimination in acceptance of the refugees. As per Article 3 of *The 1951 Convention*, the states are desired to apply provisions of the convention to all refugees, without discrimination on the basis of race, religion and country of origin.

The final aspect of concern in the convention is, that the convention does not apply to those for whom there are serious reasons for considering that they have committed war crimes, crimes against humanity, serious non-political crimes etc. However, the accepting states are required to provide due course of law and right to appeal to such individuals before they are returned. The ensuing sections of this paper explain how the Articles of the convention highlighted here have been ignored by many of the EU states.

EU – Turkey Deal

A deal regarding handling of refugees was signed between Turkey and EU in March 2016 (Samuel, 2016). The summary of the deal is at Annex A. The terms of the deal obligate Turkey to stop the uncontrolled flow of Syrian and other refugees into EU. The deal further obligates Turkey to accept all those entering Greece illegally, and for every Syrian repatriated back to Turkey, EU would accept one Syrian. Parties agreed to accept, "comprehensive, large scale and fast track returns to Turkey, of all irregular migrants not in need of international protection". As *quid pro quo*, EU member states were required to increase resettlement of Syrian refugees living in Turkey and the progress was to be monitored on monthly basis. EU further agreed to accelerate visa liberalisation for Turkish nationals, planned to open the Turkish entry in EU chapter again, and pay Turkey €6 billion as refugee assistance (Samuel, 2016). The 28 EU member states, who otherwise hold divergent views on multiple issues, agreed on this deal in order to stop the unchecked flow of Middle Eastern refugees into main land Europe. This was a major step towards securitisation of refugee issue

by the EU. This deal was made to address the rising populism and religious right in EU and to secure their own political future.

Practice and Perils of Securitisation

This section of the paper explains the violations of the 1951 Refugees Convention, EU Refugee Laws and customary International Humanitarian Law. One of the most obvious results of Turkey-EU deal was that, during 2016 alone, over half a million refugees were forced to face *Refoulment*, with almost 384,000 returning to Afghanistan alone (UNHCR, 2017a). The deal between Turkey and EU may not have worked out as envisaged over the past one and half year, however, it has considerably slowed down the influx of refugees from Turkish side into Greece (Emily, 2017).

A significant, yet ignored, clause given under Article 32 of *The 1951 Refugee Convention*, gives the refugees certain rights towards appeal. This right has been denied to all those who are being repatriated back to Turkey. As per Human Rights Watch, all those who arrived in Greece during 2015 and 2016, through illegal means, were detained and subsequently returned without any chance of appeal.

Greece has been holding wide array of people in these refugee camps, including those with special needs such as women with young children, pregnant women, elderly men and women, disabled with both physical and psychological disabilities. They were not provided any access to health and sanitation facilities not to mention absence of legal assistance (HRW, 2016).

Refoulment and deportations have had both physiological as well as psychological impact on refugees. As per one report by *The New Yorker*, a unique kind of resignation syndrome, called *Uppgiveness syndrom* has effected many children of the refugees in Sweden (Aviv, 2017). After learning that their families will be deported back to the country of their origin, these children have been observed going into prolonged coma. Sweden, which is dripping with wealth, and has traditionally been welcoming towards refugees, is deporting families back to troubled countries, and in the process children are contracting this psychological trauma.

In 2015, out of almost 1.3 Million asylum seekers in Europe, over 100,000 were unaccompanied children and most of them are stranded in refugee camps in France and elsewhere in Europe (Collins, 2017). In a time of life where same age children need parental guidance in doing their homework, these kids crossed continents running for their lives.

Securitisation can best be explained through the lens of Post-structuralism focusing on those marginalised and silenced by the society, such as refugees.

In 2001, Australian politicians, for example, decided that all those arriving on Australian shores through boats constituted an ‘existential threat’ and they securitised the issue. Some of the politicians even went ahead and declared them terrorists (Gelber & McDonald, 2006). This successful securitisation of the asylum seekers’ issue resulted in military deployment and return of large number of asylum seekers. Australians were successful in this securitizing move, allowing them to deploy military, in complete disregard for the international obligations towards this marginalised group. The lessons learnt from Australia are being put to affect in EU. In current EU scenario, the issue has been securitised through linguistic depiction, ‘speech acts’ and rhetoric.

Jean Claude Juncker the president of European Commission said that, “borders are the worst invention ever made by the politicians” (David & Kate, 2016). He stopped short of highlighting the rigors of securitisation, which allows these politicians to take such extreme measures to deny basic human rights’, completely ignoring the international and regional obligations.

As mentioned above, selective and discriminatory acceptance of refugees is against *The 1951 Convention*, which under Article 3, demands International Community to accept refugees regardless of their race, religion or country of origin. Some of the countries in EU have been selecting refugees for repatriation to suit their domestic audience and cultural sensitivities. Cherry picking of refugees is also against the EU Laws (Andrew, 2015).

Slovakia for example, retained 100 Catholic Christians out of almost 200,000 who arrived during 2015 from Syria. Robert Fico the Prime Minister of Slovakia said, “Slovakia is a Christian country, we cannot tolerate an influx of 300,000 to 400,000 Muslim immigrants who would like to start building mosques all over our land and trying to change the nature, culture and values of the state” (Tharoor, 2015). This is precisely the ‘speech act’ that the theory of securitisation refers to, which has an impact on the relevant domestic audience, whose ideas of unknown, unseen refugees are strengthened by such rhetoric.

Poland, in July 2015 took almost 60 ‘Christian only’ families from Syria, since PiS, a right wing populist National Conservative and Christian Democratic Political Party of Poland had argued that “multiculturalism is a failure in Europe” (Andrew, 2015). Countries have also used religion, language skills, family ties and cultural assimilation as pretext for (dis)allowing refugees to apply for asylum. Hungary’s right wing Prime Minister Viktor Orban, said in July 2015,

“For us today Europe is at stake. The survival, disappearance or, more precisely, the transformation beyond recognition of the European citizen’s lifestyle, European values and the European nations. It is clear that we can’t

filter out the hostile terrorists in the huge crowds. The question now is not only what kind of Europe we, Hungarians, would like to live in, rather, will all that we now call Europe exist at all?”(Gorondi, 2015). This is a classic case of creation of ‘existential threat’ through the process of securitisation. By creating a threat to the very existence of EU, Victor was able to build fence along their border with large amounts of contributed money from Hungarian population.

It is unfortunate that Hungarians have such short memories and have completely forgotten 1956, when they became refugees, and were forced to run for their lives, looking for refuge against rise of communism. Governments from around the globe embraced them with open arms. Recalling the Hungarian exodus of 1956, UN Secretary General Antonio Guterres said, “unfortunately today we are witnessing situations in which the amount of suffering is much greater than what we saw in Budapest – and the indifference is also much greater” (Lister, 2015). However, through this securitisation move, Hungarians seem to have clearly brushed off this burden of history.

Czech President Milos Zeman constituted this ‘speech act’ by alleging, “refugees from a completely different cultural background would not be in a good position in the Czech Republic”, and he added “Muslim migrants are potential terrorists” (Andrew, 2015). Zeman seems to have ignored the simple linguistic rebuttal to his ideas that migrants, refugees, Muslims and terrorists are not synonyms.

Strengthening the notion of securitising, another discriminatory effort was made by Lord Weidenfeld, a wealthy British publisher of Jewish origin. He said,

“Our strong argument is that there are Christian minority communities in Syria and Iraq, which are particularly vulnerable and at risk, and we’d argue priority should be given to those. If that’s regarded as discriminatory, we think that’s wrong. There are quite a few EU countries, which have, for years, unofficially given preference to asylum applications of Christian origin” (Andrew, 2015).

While professing this *Post Truth* rhetoric, he actually referred to Belgium, Slovakia, Ireland, Hungary, Poland and Czechoslovakia, all with strong Christian – democrat element in establishment. A clear act of discrimination on religious basis, followed by a blatant denial, substantiated by a redundant argument, makes the entire issue of this discriminatory logic completely irrelevant, and is a classic example of *Post Truth Era* politics.

A strong anti-Muslim campaign has persisted for years in Poland. Posters have been placed in major cities, with nationalist groups attempting to convince the population that accepting Muslim refugees would tantamount to allowing terrorists. There was a backlash against this campaign among the intellectual

elite, but Polish society remains unfriendly towards Muslims (Aline et al., 2015). Polish Prime Minister Beata Szydlo has said, “Poland cannot accept refugees”, following the suit, her Interior Minister Mariusn Blaszcak, drawing links to terrorist attacks in Europe, said, “security of Poland and Poles was at stake” (Dearden, 2017).

Austrian Foreign Minister Sbastian Kurz, seriously criticising the refugee movement into his country and deep into Europe said, “In Greece refugees are being waved through to the heart of Europe. That is simply unacceptable in the long run. The European Union cannot act like a human trafficker”(Philip, 2016). During another criticism, he said, “These refugees are not in desperate need, rather are looking for a better life in Europe” – a ‘speech act’ which equates migrants to refugees. By saying this he effectively blurred the distinction between an economic migrant and a war refugee.

As mentioned here, multiple EU leaders have issued statements, made moves and convinced their public that those arriving from Middle East as asylum seekers are terrorists and need to be resisted. The anti-refugee securitisation act is in effect, and has been successful for many countries such as Poland, Hungary and Czechoslovakia etc.

Many EU countries have also enacted barricades, fences and deployed police to resist any entry into their lands. This is the result of successful securitisation of the issue, which has allowed these politicians to evade their international obligation and break the rules. Turkey, Lebanon and Jordan continue to receive scores of fresh refugees every day however, EU-Turkey deal seems to be eroding. Turkey is fast reaching its optimum refugee holding capacity and EU is slow in accepting refugees from Turkey.

Refugee Crisis in Europe



Map 1: Source: Businessinsider.com (Tasch & Nudelman, 2015)

This discursive EU securitisation has resulted into physical borders and fences on borders, especially on the traditional migration routes. Map 1 above shows the traditional refugee routes to Europe. Majority of these routes have been effectively blocked by fencing, border control and other forms of barricades. There is a fence on Turkish-Bulgarian border covering a 146 km patch out of 260 km long border (Thorpe, 2016). Similarly, other borders that have been barricaded and fenced include Croatian-Serbian border, Greek-Macedonian border and Greek-Bulgarian border, Hungary has fence along Serbian, Croatian, Slovenian and Romanian borders, shutting down all possible entry points into the country. Austria has fence along Slovenian and Italian borders. Besides these countries Latvia, Lithuania, Macedonia, Northern Ireland, Ukraine and Norway all have fenced their borders in order to prevent any refugee influx. The refugee kinetics is more like the flow of the water, one can stop its movement in one direction, however till the time source is treated and proper measures are taken, they will find an alternate route. This route may come at a higher cost, longer land and sea routes, and at the hands of hardened criminals or human traffickers. Till the time the peace is brought in the Middle East and lasting solution is agreed, EU will continue to face this problem albeit at a receding rate.

Conclusion

As per Human Rights Watch, a lack of leadership, vision, and solidarity based on human right principles are at the core of European Union's dismal response to refugee and migration challenges (Watch, 2016). The EU policy is more informed by logic of securitisation rather than the obligation to basic human rights. As mentioned above, European hospitality has been converted into hostility in many EU nations. Germany and Sweden have stood out in displaying leadership and vision towards accepting these refugees, however their capacity is maximising and other EU nations are refusing to take their agreed upon and due share of these refugees.

People who are desperate enough, will under any circumstances, try to reach main land Europe. As the traditional routes are closed, smugglers will diversify and adopt, with a diminishing demand, the price will go up and so will the risk involved in refugee kinetics. EU adopted a clear policy and their message of resistance is visible in shape of fences, barricades and shutting down possible routes. They have also tacitly approved the notion that if there is a strong domestic resistance towards an international obligation, it is acceptable in this *Post Truth Era* to ignore such responsibilities and opt for securitisation. Abdullah Kurdi, the father of Aylan Kurdi who was found dead on shores of Turkey, summarises the conclusion of this paper, "I see countries who build walls and others that do not want to accept us. My Aylan died for nothing, little has changed." (Mal, 2016).

Annex A**Turkey-EU Deal****Turkey will:**

1) Readmit expeditiously all irregular migrants crossing into the Greek islands from Turkey without prejudice to Turkey's current commitments under international law. This readmission process will be for a temporary period and only for humanitarian purposes.

2) For that purpose, station, in agreement with the Government of Greece, adequate number of immigration and liaison officers in the established "Irregular Migration Monitoring Units" mainly in Lesbos, Chios, Samos, Leros and Kos to help facilitate processing of readmission cases.

3) Effectively implement all appropriate administrative and legal instruments to serve above stated purposes, including in the bilateral arrangements that will be put in place in agreement with the Government of Greece.

4) Effectively cooperate with the EU as well as the UNHCR to ensure expedited resettlement in spirit of burden sharing of Syrians to the EU member states, based on the formula of "for every Syrian readmitted by Turkey from Greek islands, another Syrian will be resettled from Turkey to the EU member states."

5) Effectively implement projects, submitted by Turkey and decided upon by the Refugee Facility Steering Committee; and cooperate with the EU member states in any joint endeavour to establish humanitarian safe areas inside Syria.

The EU will:

6) Evacuate completely refugees from the Greek islands and readmit only those, who crossed into the islands after a date to be determined.

7) Cover the cost incurred [in the Readmission process].

8) Referring to Point 5 of the EU-Turkey Statement of 29 November 2015, instead of October, Adopt and implement a relevant EU Council Regulation to realise the lifting of visa requirements for the Turkish citizens in the Schengen zone, by latest end of June 2016, based on an accelerated roadmap, dedicated support and in conjunction with the Readmission Agreement.

9) Effectively and expeditiously resettle Syrians from Turkey based on the formula referred to in Article 4 to balance on a monthly basis, and cooperate

with Turkey in any joint endeavour to establish humanitarian safe areas inside Syria.

10) Prepare for the decision on the opening of new chapters (the accession of Turkey to the EU).

11) Expedite and facilitate the transfer and disbursement of the Refugee Facility for Syrians and decide upon an additional facility of Euro 3 billion until the end of 2018.

12) Review progress jointly with Turkey on monthly basis, including on mutually agreed appropriate locations.

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Notes from Panel Discussion: Session II

Chaired by Professor Tughral Yamin

The panel discussion for the Second Session was chaired by Prof. Tughral Yamin. He started the discussion by thanking the audience and the speakers who spared their time particularly Ambassador of Islamic Republic of Afghanistan, Omer Zakhilwal and also extended his gratitude towards the panelists.

Prof. Yamin shared his own personal experiences in context of the topic of the conference. He told the audience that he was born to the parents who had migrated to Pakistan from India. He shared with the audience the account of his mother as a young teenager who she migrated from across the border, and in Pakistan, a young terrified teenager who witnessed pillage, carnage on her perilous journey from India in Eastern Punjab from the larger province Punjab of the Indian subcontinent. Dr. Yamin through his personal account wanted to emphasise that his mother and her family were received with open arms and he had a strong attachment with the refugees due to this.

Dr. Yamin continued by further praising the worthy speakers for speaking very eloquently and passionately about the refugees. He also reiterated the Ambassador's stance by stating that nobody leaves his or her land by choice. It is always fear of persecution or wars that make them leave otherwise people do not leave their countries. Commenting on Dr. Martin paper, he said that he had spoken about humanitarian approach towards refugees. Adding to it, he said he was a proud Pakistani due to the fact that his country was once called the *most hospitable country* in the world. Dr. Yamin lamented the recent forced repatriation policies of Pakistan and how it had maligned Pakistan's image. He believed that the issue needed to be solved taking a humanitarian approach rather than a zero sum approach or silent approach. Thereafter the floor was opened for questions.

The first Question from the audience was concerning the Rohingya Crisis and the *Responsibility to Protect* (R2P) it had evoked. However, the question inquired about the underlying causes of the unsatisfactory role of United Nations towards the Rohingya Crisis.

Miss Mushtaq responded by saying that the R2P was a modern version of intervention. It came out as a result of the 1990s crises, resultantly, the prerogatives of UN Security Council is the reason why under Chapter 7 most of the cases are not registered because there is the concept of veto power in UNSC. In order for there to be any kind of resolution that would undermine the national interest of any of the other state. In case of Burma, Russia and China have surely played their part in UNSC which has actually led to this issue not been taken under Chapter 7.

Second Question was asked from Ambassador Omer Zakhilwal. The question focused on the steps being taken by the Afghan government to address the repatriation of Afghan refugees from Pakistan. Additionally, what steps are being taken for rehabilitation process of Afghan Refugees who are residing in camps.

Ambassador Omer Zakhilwal started his response by saying that as he has already said that the first thing for Afghans was to start the return process. The government has certainly resource limitations, but still they are trying to give the refugees feeling of belonging who have been returning after decades. Refugee also particularly poor ones are looking for pieces of land where they could settle and, therefore, there are designated pieces of land throughout Afghanistan mostly being given as places to reside. He reiterated that thus far 750,000 have returned during 2016, and it is a slow process. The pool of refugees is certainly increasing but the security situation during 2017 has been worrisome in Afghanistan. But there are very few people who are regretting the repatriation decision.

Asking the third question, a student wanted to know the reasons for negative Pakistani impression, generally existing in Afghanistan, despite the fact that Pakistan had done a lot in its meager resources to help the refugees for decades

Ambassador Omer Zakhilwal started his answer by saying that Afghans do not have any negative feelings towards Pakistan and Pakistanis. Respect for others is part of Afghan tradition. He further said that although there is different point of view due to separate foreign policies on governmental level but people-to-people relations are good, politicians-to-politicians' relations are good, but there are certain differences on the institutional level. If there is any negativity then it is against institutions not against people of this country.

Fourth Question was directed towards Dr. Martin. The question posited that according to classical realists and to neo-realists, international politics is dominated by power maximization, but we have seen a new trend and new changes worldwide. So did he (Dr. Martin) think a new trend was emerging in the *realpolitik* or something like the accepting more and more refugees is

becoming a prestige what nations did; for instance, in the case of Canada's Justin Trudeau's statement or in case of German Chancellor's statement?

Dr. Martin started his answer by thanking the person and commented how it was a bit difficult to answer such a question. Firstly he explained that he was not a scholar of international studies that is why sometimes the ideas clash. He further argued that there are different trends that can influence a decision and he can try to explain them but there is not one kind of reason for some decisions that are taken for human betterment. So, protecting them is part of policy but that is not the only one, there are other parts of strategy. Questioning from a humanitarian point of view, the policies of migration, we tend to ask whether it is actually simple humanitarian or whether this is also part of some strategic reasoning about how to best protect particular interests. So again, he did not want to reduce politics to simply particular politics but also briefly wanted to speak about the image of others. He further stated that there are also some arguments going on in Germany like public debate and on media discussions about open border. He then also narrated the incident from September 2015, which happened in Austria during the influx of refugees crossing border from Austria into Germany. So he argued that this was really a complex amalgamation of different kind of reasons, interests and parties who have to think about what government is doing as they are not only a single actor. As there are different agencies and authorities that sometimes are completely in conflict with others. So he would not focus simply on one particular kind of understanding and try to figure out the complexity of the entire process.

Professor Tughral ended the panel discussion by thanking everyone for their very enlightening input and questions.

PART III

HUMAN DISPLACEMENT: SUCCESS AND FAILURE OF THE INTERNATIONAL INSTITUTIONS

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Understanding the Afghan Refugee Crisis (Keynote Speech)

Major General Asif Ghafoor

To start with, let me say that over the last 70 years, though the 70 years were difficult, but I think that the last decade was most crucial, most difficult and most challenging in the history of Pakistan. And the good news is that this difficult time looks to be finishing and that we are treading, we expect that the trajectory, that we are following, will take us to the rightful place that Pakistan deserves. I'm not as fortunate as you to be learned on the peace and conflict. The start point could be 1970s, what Pakistan is facing today, the start point is 1979 when the Russians invaded Afghanistan.

There are few constant factors when we talk about Afghanistan and Pakistan. The first constant is the geography as we share our borders with Afghanistan. Anything that happens in Afghanistan directly impacts Pakistan. The other constant is history – the history of conflicts in Afghanistan. Similarly, the third constant is the culture. Few of the cardinals of that culture would share Pakistan and Afghanistan both. So when we talk about Afghan Refugees, these three constants come to play. The variables could be the environment in Afghanistan and the environment in Pakistan, the regional environment or the global environment. So how can we best match these constants and variables? When we talk about the Afghan refugees, I think this is one of the combinations that we have to keep in mind. I am sure this seminar has been going on for two days now. To talk about the issue, I have chosen some slides. I'll just go through those to share my point of view about the Afghan refugees.

As it is said, it began in 1979 with the Afghan war. To start with, there were 3 million people who came to Pakistan and the figure gradually reached to almost 5 million people. It was recognized, by the then US president Ronald Reagan, that we have been admirable with our generosity. Here comes the culture, here

comes the hospitality, of Pakistan that we did not think, what the implications of this influx on Pakistan are and we welcomed anybody and everybody.

From the very first row; how many have you been to any Afghan refugee camp in recent past? So just imagine what would an Afghan refugee camp be in 1980s or 1990s? No security facility, no accommodation arrangements, no education, no electricity, just the food. For more than 38 years we have been hosting these Afghan refugees and now, it is their second, and in certain cases third generation which is living in Pakistan. So from being a variable these Afghan refugees are gradually turning into a constant. So as I said, 38 years of hospitality and care that we have given to Afghan refugees, we failed to contain the refugees geographically. I think Pakistan is the only country which was final destination form any Afghan refugees. Even Iran never allowed the Afghan refugees to go beyond certain areas in which they were supposed to live. Lately, you must have heard that the European countries, they refused to accept refugees from outside. So it takes a big heart to welcome the refugees from outside. More than 150 refugee camps were established in Pakistan. Today we have 54, and out of these camps, we have 43 in KPK, 1 in Punjab and 10 in Baluchistan. As of today, we have 2.7million refugees, out of which 1.5 million are registered while the rest remain unregistered. When I say registered, I mean the Afghan refugees who live inside the camps. We do not know where the remaining live. The recently conducted population census will overcome this problem. Now we will have the record of every Afghan refugee living in Pakistan across the country.

I am sure that this conference must have discussed the recent issuance of a National Aliens Registration Authority (NARA) card, and subsequently a few of Afghans also got the CNIC. Now after the National Action Plan (NAP), every Afghan refugee is supposed to carry this registration card on person at all times.

Along came 9/11, while Pakistan already had thousands of refugees. The Pak-Afghan border which is 2611 km long had only 44000 troops. Out of these almost 30,000 were the second line armed forces from the Frontier Corps. Only 4000 belonged to regular armed forces. When the US bombings started inside Pakistan, where else could the refugees have gone. Along with the Afghan refugees, the terrorists, so to say, taking the advantage of the porous border, lack of troops along the border, crossed the border and came to the Pakistani side. Taking the advantage of the Afghan refugee camps and lack of troops, they managed to morph into the Afghan refugees. I think that was the time when the problem started; because we did not know that who is a peaceful refugee and who is a terrorist among those who has reached those camps. We had a military campaign starting in 2001, major events also occurred in 2007, and we came to 2014 when *Zarb-e-Azb* was also launched. So, the areas in which we

had no sense of differentiating between a refugee and a terrorist, post *Zarb-e-Azab*, Pakistan Army has cleared all those areas. We can very conveniently and convincingly claim that there is not a single 'no go area' all over Pakistan. To do these large scale military operations were launched, areas were cleared, and we knew where we had to go and what areas we had to clear. Having done that, there are now two requirements. One, we have to save the border so that no illegal movement takes place, and second to see that those Afghan refugees who want to return, should go back safe and secure. In order to clear off the remnants of the terrorists, all their abettors and facilitators, Operation *Radd-ul-Fasaad* was launched. Through Operation *Radd-ul-Fasaad*, what we are looking at is that any facilitator, any abettor, who sides with terrorists whether it is inside a registered Afghan refugee camp or whether they are living as citizens of Pakistan, we should break that connectivity. So the formulation of a comprehensive policy to deal with the Afghan refugees, beginning with the registration of all refugees is the 19th point of the National Action Plan.

Now what are the security imperatives to Pakistan with reference to Afghan refugees? Refugee presence is exploitable and a primary driver of blame game. For example, any incident taking place in Afghanistan, Pakistan gets blamed. Similarly, any incident taking place in Pakistan, we also blame Afghanistan, but then, we have reasons to do that. Lately you have seen, closer to *Eid*, four terrorist incidents, Quetta, Karachi and then Parachinar also. We have credible evidences that these were abetted through the facilitators inside the Afghan refugee camps. Through Operation *Radd-ul-Fasaad*, we are trying to break this connectivity between the terrorist that is the leadership from Afghanistan and their facilitators inside Pakistan. As one of the speakers mentioned, one of the most important question is that, how do we control our borders, 2611 km long with a heights ranging above 20,000 feet. We have over 200,000 troops along the Pak-Afghan border. Very conveniently we can take out a 100,000 today, but there are two reasons that we are not doing it. One is that the threat still resides across the border inside Afghanistan, and secondly, we have not been able to develop a proper border coordination mechanism with Afghanistan.

I'll just show you on the slide, this is the Pak-Afghan border, and; the green dots show the presence of our troops on our side of the border. The blue dots show the presence of Afghan forces on their side of the border, the yellow dots show the gaps where there are no troops on the Afghan side. The large gaps in deployment on Afghanistan side, makes our job very difficult, and controlling cross border movement becomes an arduous task. So we held a dialogue with the Afghan authorities and nothing substantial came out of it. Resultantly, under compulsion we had no option but to go for unilateral border management, within our capabilities. So we have started to construct new border posts along the border. On the average, after every 1.5 km we have our border posts or forts where our troops are deployed.

The other factor in border regions is the divided villages. I just talked about the history and culture, when it was a friendly border, there was no war in Afghanistan, people were living and moving across the border conveniently. There are villages on Pak-Afghan border where maybe one door of the house opens towards the Afghanistan side and the other door on Pakistani side. There are girls who are married in Afghanistan and vice versa. So, there are peaceful citizens are living in these divided villages. But what of about the terrorists... they also take the advantage of the divided villages as these villages facilitate their terrorist activities by virtue of geography. So what Pakistan has decided to do is, to fence the Pak-Afghan border entirely along 2611 km. In the first phase we have started to fence the more infiltration prone areas in Kheyber, Kurram, Orakzai agencies and North and South-Waziristan. In phase two we will fence the remaining areas. The slide shows few glimpses of the fencing project that we are undertaking.

Yet another factor is the crossing of the borders. There are two formal crossings i.e. Torkham and Chaman. There are informal crossings and then there are number of other crossings that are not even under observation. It is not possible to control the cross - border movement of the individuals without documents. Therefore, as a result of fencing every crossing will only take place through designated crossing points. These points will be all along the border, known, marked and manned by us. The crossings will only be allowed for the individuals carrying legal visa/permission and documents.

Moving on to the significance of Afghan refugees' repatriation; if there has to be peace in Afghanistan, the three million Pashtuns living on Pakistan side of the border need to go back respectably and voluntarily, and they have to be integrated inside Afghanistan. The population of Pashtuns is more in Pakistan as compared to Afghanistan, but if there has to be an enduring peace and stability in Afghanistan, every Afghan has to return to Afghanistan and participate in nation building activities there. The action plan formulated by Armed Forces of Pakistan desires facilitating the return of the Afghan refugees. This process needs to be honourable, dignified and voluntary repatriation. We are in close communication and collaboration with the UNHCR and other agencies on this issue. The planned repatriation encompassed return of almost 150,000 refugees during 2016, additional 800,000 during 2017 and finally 800,000 the following year. The process will continue till the time all Afghan refugees have been repatriated. Unfortunately this plan has not been implemented. The dates are being extended repeatedly, and we wish that the date given now is implemented.

As we claim that we have hosted refugees for over 38 years. Some of them were born here, have lived here, and own businesses here; the role of media comes in handy at this juncture. When the repatriation starts, media needs to show

responsibility and needs to highlight our point of view. The good job done by Pakistan as a host needs to be aired and the process needs to be informative.

Finally, we desire an early, smooth, honourable and socio-economically gainful and a possibly irreversible repatriation of all Afghan refugees. As I said that peace in Afghanistan is only possible, when all refugees look towards Kabul rather than looking towards Islamabad.

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The Refugees of Syria and Pakistan's IDPs: A Comparative Study of the Role of State in the Management of Mass Movement Crisis

Syed Hussain Shaheed Sohrawardi

Abstract

The prevailing refugee paradigm is more state-centric than a global phenomenon. With international legal instruments, global refugee-assistance, and involvement of international border; helping refugees' effectively without concerned state is not possible. Conflicts during Cold War in 1980s and 90s, such as Afghanistan, Somalia, and Intifada in Palestine, generated large number of refugees, but did not shake the reluctance to examine its basic causes and dynamics of the role of state. The causes seemed obvious. It was not until the chronic Syrian refugee crisis raised its head, that the debate of the causes of refugees as well as the role of the state was reverberated. There is a growing focus on vulnerability in the context of protecting 'vulnerable migrants' or Internally Displaced Persons (IDPs) who fall outside the definition of refugee. Still, the concept of IDPs, especially in terms of Pakistan's tribal areas (North Waziristan) mass movement for Operation *Zarb-e-Azb* is rarely interrogated. During the crisis, it was often used as synonymous with the refugee. A contrast between an IDP and a refugee is rarely considered. New terms like Temporarily Displaced Persons (TDPs) were coined which further confused the whole process of philosophical thoughts of refugees and IDPs. In the background of recent Syrian refugees and North Waziristan's mass movement, causes of political tensions, economic roots and ethnic rifts need a surgical examination. Moreover, the responsible behaviour demonstrated by the state of Pakistan during Operations *Zarb-e-Azb* for IDPs and irresponsible role-played by the state of Syria against its refugees and IDPs needs to be contrasted for drawing a joint mechanism to draft an international instrument to deal with migrants effectively and justly.

Introduction

The definition of a ‘refugee’ in international law is of critical importance as it’s a question of life and death for an individual seeking refuge. A ‘refugee’ is a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, or member of a particular social or political group is forced to flee his home country and due to such fears, is unwilling to return to it. A refugee without crossing international border is called ‘Internally Displaced Person’. The international system of refugee protection was consolidated in the aftermath of World War II and during the tense early stages of the Cold War. Conflicts during Cold War in 1980s and 90s, such as Afghanistan, Somalia, and Intifada in Palestine, generated large number of refugees but did not shake the reluctance to examine its basic causes. The causes seemed obvious. It was not until the chronic Syrian refugee crisis raised its head that the debate was reverberated. Following are the causes of refugee phenomenon with the politics of refugees:

Political Roots

The identity of a person based on his race, religion, sect, nationality, as well as his political and social opinion is a basic cause of his political persecution. Persecution takes place in the framework of fundamental political disputes over who governs the state, how society changes itself, and who controls the power. These disputes produce highly charged atmosphere in the country in the aftermath of a radical struggle – successful or failed. Such revolutionary movements either aim to change the regime or want the creation of a new state. This all fits for Syrian refugee crisis where majority of Sunni sect (74%) is struggling to change regime of Bashar-ul-Asad who belongs to minority sect *Alawite* (12%). To restore order in the country, the State machinery, especially the Syrian military, is killing Sunnis and other the opposition group. This has resulted in huge Syrian refugee exodus.

External political involvement complicates internal conflicts and raises the level of violence. The largest refugee flows in the last three decades – Afghanistan, Myanmar and now Syria – were and are worsened by great powers’ involvement. Currently, France, Turkey, and Russia’s active role and the US passive role are instrumental in taking sides between opposition and government in Syria. External involvement in local disputes often disrupts traditional process of conflict resolution. Contestants are provided with additional military capability to enforce their will. An infusion of military aid prolongs confrontation. The vast majority of refugees are fleeing not from targeted acts of individual persecution, but from indiscriminate violence that imperils civilians and drastically disrupts everyday life.

Economic Roots

Economic deprivation also causes refugees' flow. Poverty begets refugees. It's said that the number of rural poor has doubled since 1950, that per capita incomes have fallen in a number of regions and that malnutrition has risen. All these are economic dynamics of displacement. More than 1.3 billion world population lives in extreme poverty. Nearly 1/2 of the world's population — more than 3 billion people — lives on less than \$2.5 a day.

Violent conflict disrupts food production and its distribution. This results in famine. Lack of availability of medicines musters disease. In Sudanese Civil War, 600,000 people died due to starvation and diseases. The Syrian refugees complain that lack of food, medicines and miserable general living conditions forced them to leave the country. This provides more space to fighting groups. It proves that stagnation and decline in economics results in aggravating conflicts. According to a UNHCR report, economic refugees choose to move in order to improve the future prospects for themselves and their families. Refugees have to move if they are to save their lives or preserve their freedom. They have no protection from their own state — indeed it is often their own government that is threatening to persecute them.

Ethnic Rifts

Ethnic based conflicts have risen in the last few decades. Sri Lanka, Iraq, Ethiopia, Armenia, Azerbaijan, Rwanda, Sudan, and former Yugoslavia are a few examples to quote. Very few modern states are ethnically homogeneous. The 196 or so independent states currently carry at least 5,000 ethnic groups. Ethnic rift takes place for two reasons. First, they are highly vulnerable to political exploitation. Second, the ethnic identity of a single group is all too often made into a defining characteristic of nationality. The latest example is that of Syria where a fierce fighting erupts between Shiite and *Alawites* at one end, and Sunnis at the other. The majority Sunnis claim discrimination, exploitation and persecution at the hands of minority *Alawite* government. Officially, the national character of the country's population is defined in terms of *Alawites*. On the other hand, *Alawites* and Shiites (total amounting to 24% of Syrian population) are fearful of their exploitation at the hands of futuristic Sunni dominated government.

In case of Syria, external forces have exploited the ethnic and sectarian rift. Iran is fully supporting Shiites and Alawites while Saudi Arabia is supplying arms and ammunition to Sunni revolutionary opposition groups. Over and above, active involvement of Russia, Turkey, and France and passive interference of the US has further fueled the fire. These powers' rivalry is a source of patronage for ethnic and sectarian clashes. If the Cold War was dominated by ideological

conflict, it is feared that the post 9/11 era will start a new age of ethnic and sectarian violence, which will result in millions of refugees. We have witnessed this in Afghanistan and Iraq, and are watching with fearful eyes in Syria as well.

All this corresponds to the conclusion that the immediate cause of fight is in most cases an imminent threat to life, liberty or security. However, the use of indiscriminate weapons, the adoption of ruthless policies and the denial of access to food supplies are among the violations of humanitarian law that have become major causes of contemporary refugee flows. In this perspective, as the Syrian conflict continues, millions of refugees are caught in alarmingly deteriorating conditions, facing an even bleaker future. With no solution to the conflict in sight, most of the 4 million Syrian refugees (as per UNHCR statistics) in Turkey, Lebanon, Jordan, Iraq and Egypt, Europe, America and Canada see no prospect of returning home in the near future, and have little opportunity to restart their lives in exile.

There is a dire need for a global refugee regime for normalising refugee life. A refugee is in need of humanitarian support rather than a reason of global, regional or national politics. Thus, a durable solution to the issue is needed without any bias of sect, class, creed or religion. Conflicts are meant for resolution. They must not be the reasons of distressing innocent humanity.

Outset of IDPs

The military operation on 15th June 2014 triggered off mass movement of IDPs from North Waziristan towards the settled areas of Pakistan. Since the military operation was not pre-planned rather pre-empted, spared little time to people for evacuation with sufficient livelihood. It created an emergency situation in which people were warned to make exodus within two days' periods. Given the suffering of people with lacking basic amenities, army facilitated a safe corridor for two days to mobilise the release of as much IDPs from North Waziristan as possible (Shah, 2014). At the outset of displacement from North Waziristan around 435,429 people were reported to displace according to the figure given by FATA Disaster Management Authority (FDMA). Further, toward the end of June the number of IDPs grew in size up to one million in numbers following further exit relief issued by the Army. Thus the total number of IDPs from the FATA/KP is estimated to be over 1.3 million and this information is obtained from ECHO, UNOCHA, UNHCR, and FDMA (Dashboard, 2014).

The total numbers of families rendered homeless were as much as 62,493, including 211,549 male and 236,883 female members, while the number of children was 339,456. The IDPs started moving toward Bannu where the government had provided them with camping facilities, however, large number of them went to Lakki Marwat, Tank, Dera Ismail Khan, Charsadda, Peshawar, Hangu and other part of KPK, where they settled in the rented houses or with

the relatives. Even in Banu, considering the shambling facilities at camps, many people stopped living in camps and preferred to stay at hospitals, schools, mosques and rented houses. The OCHA report confirmed a large number of people had to share small rooms in the scorching heat, adding that the government's established camp in the Frontier Region of Bannu had attracted only 28 families (Dashboard, 2014).

The overall number of IDPs registered by the Government as at 21 July 2014 was 90,836 families or 993,166 individuals (giving an average of 10.9 individuals per family), approximately 74% of whom are women and children. The very large family size reported may be due to cultural, religious and tribal affinities, but is subject to verification. On 26 July 2014, after verification by the National Database and Registration Authority (NADRA) to remove duplication, the Government reported that just 52,000 IDP families had been verified and would receive family cash grants, presently amounting to PKR 22,000 per month (Graham, 2014).

Staying Places

On 23 June, 2014 the government expressed its inability to cope with the problem of IDPs and extended a formal request to the UN sponsoring non-governmental organisation and private NGOs for providing financial support to around one million displaced people from North Waziristan. Moreover, the government aids covered only those people who were found registered. According to the data given by FDMA, around 17,000 families sought registration while those who came out of North Waziristan through less frequented routes, were left unregistered, hence did not receive any financial support from the government (International, 2014).

As of 17th June, in Bannu four distribution points had been installed at Sports Complex Bannu, Government Elementary College Ghoriwala, Degree College Mamash Khel, and a fourth Distribution Point at Vocational Training Centre for Women at Bannu had also been provided.

WFP has distributed 769 tons of food rations to 8,382 families. Each WFP food basket contains food items enough for 12 people for 15 days and is worth PKR 4,500 (Dawn, 2014). Distributions were progressing from two hubs in Bannu, while they had been completed in Lakki Marwat. WFP had carved out two distribution points, one in each Lakki Marwat and Bannu, while IDPs in Tank were receiving food from WFP's existing facility. Another distribution point in Dera Ismail Khan had also been operational (Dawn, 2014).

Relief and Assistance

On 27 June, the Prime Minister announced Rs 20,000 for each family as Ramadan Package after visiting the IDPs in Bannu district. Subsequently, the government provided cash assistance of \$200 to each registered family. Thereafter, each family had received a monthly allowance of \$150. This new allowance was intended to enable families to afford the rent incurred. Besides, the government had distributed 8,000 SIM cards for the distribution of cash grants (BBC, 2014). According to National Disaster Management Authority, the cash had been distributed to 4,777 affected families by 30th June 2014.

The Pakistan Army had started off distribution of food rations, as provided by the United Arab Emirates. The humanitarian community supported the government in provision of emergency health kits, non-food items and food packages. The humanitarian response was growing and more organisations were reaching out. A number of NGOs and charity organisations were also active in carrying out relief activities on the ground, making direct contact with the IDPs (DW, 2014).

Health Assistance

By 27 June the authorities and WHO had vaccinated 256,466 IDPs against polio. WHO provided vaccination including 50,000 Oral Rehydration Solutions for Bannu. (Khan & Walsh, 2014). Oral Rehydration points were settled in major hospitals and the points. More than 100,000 ORS sachet were sanctioned for district Bannu. Refresher trainings were needed for Lady Health Workers, Lady Health Visitors and Midwives. Partner organisations had to join into provide mother and child health care services. There were only four female medical officers in Bannu, necessitating more female medical staff. In the wake of the future malaria and dengue season, mosquito nets and other measures for mosquito control were also needed. Partners also necessitated to start nutrition projects with a prime focus on IDP children in Bannu. Mental and Psychological health issues demanded serious attention (Shehzad, 2014).

Government Departments and their Roles

The government has placed the leading role to the Ministry of States and Frontier Regions (SAFRON) for the rehabilitation of the IDPs. NDMA was funneling the necessary support to FATA Disaster Management Authority (FDMA), Provincial Disaster Management Authority KP (PDMA KP), Pakistan Army and other stakeholders for effective management of the humanitarian crisis (Shehzad, 2014). The NDMA team was deployed in District Bannu, Khyber Pakhtunkhwa to monitor the ongoing status of IDPs situation and buttressed and coordinated with SAFRON / FDMA / PDMA KP and in handling and management of the displaced people.

Immediate Call for Response

Given the situational analysis, it was found that in order to fetch food for the reported case load of over 70,000 families, 3,670 tons of food per month was needed. However, trucks carrying supplies faced delay due to stringent security checks. It was felt with huge urgency to take way with necessary food, health, protection activities as well as water, sanitation and hygiene (WASH). Utmost funding resources were needed to shore up the humanitarian response (Aljazeera, 2014).

There was a need to shore up the details on the location of IDPs in hosting areas so that resources might be allocated to relevant health facilities. There was a need for uninterrupted supply of medicines to the affected districts to cover the growing burden of IDPs. Reproductive health services were needed to be strengthened. This could have been achieved through partaking of health partners and refresher trainings for trained staff including lady health workers and midwives. There was a need of planning vaccination activities and arrangement of health education sessions, especially in areas where IDPs were in large numbers. Nutrition projects, with a prime focus on IDP children in Bannu, was considered with ample priority. Further, mental and psychological health issues needed attention. A number of other issues needed attention, for instance, Help Desks, especially for separated, unaccompanied and missing children were not available that could help them ensure their access to services and in family tracing and reunification (Buncombe, 2014).

Finally, security remained to be a barrier and it was hoped that the two government entities, PDMA and FDMA would facilitate smooth travel of implementing partners to the displacement areas. Access was also a major issue for all the humanitarian agencies to respond to the emergency needs of the IDPs. Number of clusters which were active in KPK Province, responded to the ongoing needs of the IDPs and returnees (Forced Migration Review, 2008).

Return of IDPs

Towards the end of December 2014, “Pakistan Army cleared 90 percent of North Waziristan Agency of terrorists.” According to Major General Zafarullah Khan, Chief Operation Officer of *Zarb-e-Azb*, “forces killed 1,198 terrorists and injured 356 during the on-going military operation launched in June 2014.” Roughly 2,708 square kilometer of the area was cleared in June, while military pledged to clear rest of the areas of North Waziristan as well. During this operation, Pakistan Army faced 197 casualties. Prime Minister Nawaz Sharif praised its military while saying, “Operation *Zarb-e-Azb* had inflicted a fatal blow on terrorists and Pakistan’s armed forces had given exemplary sacrifices in this operation.”

North Waziristan is reputed for receiving intense weather, especially in winters, but Pakistan military was tactically successful enough applying its counterterrorism strategies and executed its offensive skills incomparably against terrorists in that inhospitable terrain. This successful operation brought partial relief to the long terrorist infested areas. According to ISPR, “Huge cache of arms and ammunition, communication equipment, and other logistics facilities, used by terrorists has been destroyed uprooting their ability to attack as a coherent force.” During the ongoing Military Operation *Zarb-e-Azb*, large numbers of alleged terrorists had been arrested by the Pakistan Army (ISPR, 2014).

Problems on IDPs’ Return

When displaced people of Swat started going home in July-August 2009, they found destroyed houses, schools, clinics and hospitals; damaged fields and orchards; markets crippled by food shortages; and the military’s continued curfews. Nearly 40 percent of IDPs had been returned to home according to the statement issued by ISPR on 15th November, 2015. However, presently a lot of families still struggling to go back home. They confronted the same situation, as their countrymen faced in South Waziristan. Therefore, displaced people argue that they were not sure whether the government was committed to pledges it made to pay compensation on their losses and rebuild their shattered houses. The complete return of the Pakistani displaced people turned into a major challenge between the government and the army if the government fails to fulfill all its commitments (Dashboard, 2014).

The Internally Displaced People (IDP) from North Waziristan called for compensation and reconstruction of their homes before they return from the IDP camps. They have also demanded compensation for basic necessities before they return to North Waziristan. While giving an interview to Tribal News Network, tribesmen revealed that: houses, markets and other infrastructure had been destroyed in military operation against militants in the agency and that the government should complete reconstruction work before sending them back to the area. According to IDP, government should at least dish out PKR 3 lac to each family because on their return they might face serious problems in their lives. Their houses, and business, had been completely turned to rubble. Moreover, harsh weather of their area increases the vulnerability.

According to Government of Pakistan, \$753 million aid is needed for the rehabilitation of the IDPs. On 11th November 2014, Pakistan launched second donors’ conference for return and rehabilitation phase. The government was convinced to collect \$753 million (Rs 75.4 billion) for the return and rehabilitation agenda. The World Bank and European governments positively

reacted to the request by assistance of \$375 million. UK provided assistance of \$150 million, World Bank contributed \$108 million whereas Italy provided assistance of \$76 million, but United States did not provide any assistance to the IDPs.

It was anticipated that US would announce aid for internally displaced in the third donors' conference. But the US ambassador to Pakistan Richard Olson did not commit any aid for displaced people. In the earlier meeting, "Olson had told Pakistan's Finance Minister Ishaq Dar, that US would disburse \$532 million to Pakistan under the Kerry-Lugar assistance package, of which \$250 million would be for the IDPs." It was known that United States had come under pressure from India over its monetary supply to its non-NATO ally, Pakistan. India wants US to stop all the assistance to Pakistan as long as the latter was providing refuge and assistance to all those alleged terrorists and did not encounter them to death. Pakistan had to disburse assistance in various sectors of the devastated North Waziristan.

From this amount, Islamabad wants to spend Rs 12.5 billion for cash disbursement, Rs 11.5 billion for rehabilitation costs, Rs 1.4 billion for transportation and Rs15 billion for compensation of damaged private property, Rs 5 billion for restoration of basic services and Rs 30 billion for reconstruction activities. Moreover, government of Pakistan also needed Rs 35 billion for establishing a Counter Terrorism Task Force. According to FDMA report, "damaged facilities sector-wise breakup includes total 31 educational institutions (six institutions were 100 percent destroyed, nine were 50 percent destroyed and sixteen were 20 percent destroyed), eight health facilities, two buildings of the works and services department, 13 facilities of livestock, seven agriculture, eight public health engineering, 35 municipal committee including 21 shops, two sport facilities and 19 irrigation department facilities have been damaged" (Tribune, 2014).

Pakistan's Response to Afghan Refugees

Pakistan's policy toward Afghan Refugees has suffered with some changes concerning to national and international politics as well as the magnitude and span of displacement. This section is deemed to highlight the evolution of Pakistan's refugee policy. Zia-ul-Haq's regime in Pakistan, which came to rein by a military coup, resulted in the expulsion of a democratically elected Prime Minister Zulfikar Ali Bhutto, had fallen short of legitimacy both within and outside Pakistan. The Soviet invasion of Afghanistan privileged General Zia-ul-Haq with a chance to draw connections with the world, established his credentials, and gained diversified assistance for hosting Afghan refugees. Zia-ul-Haq tactfully capitalised on that opportunity by adopting a policy that contained multiple elements and declared a new turn in Pakistan's history.

These elements included: 1) all Afghans who aspire to come to Pakistan would be met with warm welcome; 2) the stay of Afghan Refugees would be free of time constrained, and their repatriation would be hinged on peace and security in their own country 3) Afghan refugees would have the freedom of movement and the freedom of enterprise within Pakistan. Afghans would not be permitted, however, to own properties in Pakistan; 4) they would not be tolerated to get involved in Pakistan's internal affairs or politics, but would be at liberty to organise their own political organisations; 5) international donors would be sought to rehabilitate the refugees in camps all across the country.

Zia-ul-Haq's policy was supplemented by a political ambience, which let free flow of humanitarian aid to refugees. The time Soviet intervention transpired, the United States decided not to confront the Soviet Union directly, but instead to invest in arming, training, and financing the Afghan resistance to the occupation. Thus, Western and other extra regional powers so-called capitalist bloc, could inflict debilitating financial losses on the Soviet Union at minimal risk to them. They carved out a policy and the United States eventually joined. They found a willing partner in Pakistan, where the unlawful regime of a military dictator sought international legitimacy and material support.

Conclusion

Refugees crossed over into Pakistan from all over Afghanistan, albeit there were fewer from the western part of the country. They came with few or no belongings, often physically exhausted because they would have travelled mostly at night, on foot or on mules, traversing a difficult terrain. Their immediate requirement was food, water, and shelter. Looking after a population of over three million refugees was a huge task both administratively and financially. The response to this enormous challenge was equally bold and vigorous. All resources, domestic and external, were mobilised to support and sustain the displaced population (Middle East Institute, 2010).

International assistance was sought, and was forthcoming without any reservations. As the refugee case load increased, separate organisations called "commissionerates" were set up in Peshawar and Quetta to administer the provision of assistance to refugees. Another smaller version was later created in Lahore. They were assigned the following tasks: Registration of each and every refugee family including details of family members, age, province and district of origin, date of arrival, ethnicity, etc.

The two most crucial partners in this large endeavour were the World Food Programme (WFP) and the UN High Commissioner for Refugees (UNHCR). While the WFP took care of three basic food items (i.e., wheat, edible oil, and skimmed milk), the UNHCR took responsibility for tents, kerosene oil, sugar, water supply, schools, basic health clinics, roads, and electricity (in some

camps). While the WFP and UNHCR had their central offices in Islamabad, they had (and still have) their branch offices in Peshawar and Quetta. Later, with the cooperation of the World Bank, projects were executed in sectors such as forestation, canal, patrol, roads, etc. Income-generating schemes were also started in some selected areas, including honey bee heaving, carpet weaving, and handicrafts etc. Security was provided by guards who in some cases were fresh inductees, but mostly were former trained police or paramilitary personnel. We must emphasise the complete understanding and cooperation that then existed between the commissionerates and the two main UN Agencies responsible for providing relief and succor to the refugee (MEI, 2011). This spirit of cooperation helped ensure that the huge operation could be carried out smoothly over such a long period of time. UN agencies were not the only external source of support. Dozens of NGOs, mainly from Western countries, extended assistance in a number of sectors: food aid, education, basic health care, vocational training, water supply, child care, maternity health care, inoculation, tuberculosis and polio control, modernised farming techniques, workshops for women, provision of child care, sanitation, sewing, and handicrafts. Some NGOs left an indelible imprint on the lives of the destitute refugees: The International, Rescue Committee, Care, Swedish Committee, Norwegian Church Aid, Save the Children, and the Saudi Red Crescent Society to name but a few, made a remarkable contribution to the care and support of Refugees.

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13

Global and Pakistan's Counter Terrorism Strategies: Afghan Refugee Question

Shabana Fayyaz

The presence of the huge mass of Afghan Refugees residing (or having lived) in Pakistan is testament of the international community, regional stakeholders, and Afghan national regimes' inability to solve the root causes of massive human displacement – conflict, disaster, oppression, and chaos. The paper proposes an integrated counter-terrorism policy response wherein national security and humanitarian interests are inevitably inter-linked. That is, to perceive that security and Afghan Refugee dynamics are inevitably mutually exclusive suffer from a failure of imagination – equally applicable to both policymakers and state institutions. The paper addresses the following multifold key concerns:

- How Afghan Refugees have impacted the Pakistan's national security landscape?
- How Islamabad perceives Afghan Refugees as part of the terrorism carnage, and; what policy instruments have been instituted so far to fix this aspect?
- What are the grey areas and loop holes in the Islamabad's Counter-terrorism policy that needs to be fixed versus the Afghan refugees' status in the country?
- Finally, how Islamabad's counter-terrorism posture can be made more inclusive both at the national and bilateral level, specifically relating to Afghanistan.

In crux, the paper aims to have a thread bare scholarly analysis of the Islamabad's counter-terrorism policy situating Afghan refugee as both part of the problem as well as part of the solution on the sustainable footings in the country.

Background of the Influx of Afghan Refugees in Pakistan

A refugee is a person who has been displaced and forced to cross the border because of the situation of conflict or war in the country. After the World War II the UN adopted a legal definition of refugee. According to the definition (UNHCR, Convention and Protocol Relating to the Status of Refugees, 2010), a refugee is one who:

owing to 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

In the light of this convention, refugees have got some rights, such as a right to return, right to non-refoulment, right to family unification, right to travel etc.

There are two main perspectives on refugee influx. The first is humanitarian perspective and the second is political and military perspective. Pakistan has remained a home for more than three million Afghan populations, among the world's largest refugee population, for past 38 years. The issue of Afghan refugees in Pakistan is the protracted one because of long conflict in Afghanistan by the major powers in the past, and now the terrorist organisations, violence and political and economic turmoil has kept the refugee influx alive.

The Afghan migration to Pakistan can be divided into three phases. After the inception of Pakistan, Afghanis moved and settled to the country for trade and business purposes. The first phase of Afghan refugee started in 1978, when following the communist takeover by the People's Democratic Party of Afghanistan (PDPA). By the end of 1979, 193,000 Afghans were recorded seeking asylum (Colvile, 1997). The second refugee influx increased after the Soviet invasion in Afghanistan. The exact number of refugees cannot be calculated since, there have been many attempts of repatriation that have seen the refugees returning, but renewed conflicts have kept them coming back. They first settled in the border areas of Khyber Pakhtunkhwa (KPK) former North West Frontier Province, Federal Administrated Tribal Areas (FATA) and Balochistan. But then they spread to the cities and towns. For nearly three decades, many Afghans were born here, many of whom bought national ID, and some even got married to the locals, and were now well integrated locally. The third phase happened after the incident of 9/11 and US intervention in Afghanistan.

Upon the representation of tribal, ethnic, and linguistic diversification, the Afghan refugees are divided into almost 30 tribal, sub-tribal and family groupings. These migrants have come from almost all parts of Afghanistan.

A large-scale return was initiated after the fall of Kabul to the *Mujahideen* in 1992. Approximately 1.2 million refugees left Pakistan over a six-month period during the spring, summer, and early autumn of that year. By the beginning of 1994, the refugee population in Pakistan had fallen from 3.2 million to 1.47 million (Mardsen, 1998). Another wave of refugees left Afghanistan during the US invasion in the country in 2001. There were almost 200,000 to 300,000 refugees at that time. A mass repatriation was seen in 2002 by the assistance of United Nations High Commission for Refugees (UNHCR) under the tripartite agreements with the governments of Pakistan, Iran and Afghanistan. After the defeat of Taliban in Afghanistan, the Pakistani Government started advocating the return of all refugees to Afghanistan. But they kept coming back due to their relatives and businesses in Pakistan. For example, in 2011, an estimated 160,000 Afghans fled to Pakistan (Hiegemann, 2014).

Greater part of the Afghan Refugees that came to Pakistan, were Pashtun nationals, also included Tajiks, Uzbeks and Hazaras. Because of the cultural, ethnic, linguistic and religious affinities, Afghan refugees easily integrated into the society and lived relatively in peace. This has created resentment among the local population. Many believe that Afghans will not return to their homeland. Afghans on the other hand denied the statement. They wish to return but could not endanger lives of their families. The disputed border has also made it difficult to check the movements.

Over the years, Afghan Refugees have become an issue of concern for Pakistan due to domestic constraints, weak economy, refugee fatigue, declining donor assistance, increase in crime and the threat of terrorism. Hence, Islamabad has begun to raise the issue of their repatriation. Pakistani government has started closing the refugee camps and operating against the illegal camps, after the wave of terrorism in the country. Most of the people believe that Afghans are responsible for cross-border smuggling and for keeping the terrorists in their camps. This has raised a question mark on the security of Pakistan.

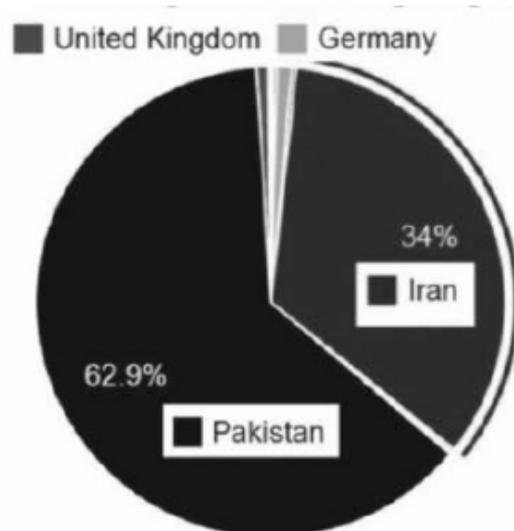


Fig.1: Percentage of Afghan Refugees in host states (Sedghi & Rogers, 2011)

Socio-Economic Impacts of Afghan Refugees on Pakistan

The Afghan refugees can be divided into four groups. First, some relatively well-off Afghans that managed to bring their assets like trucks, cars and busses etc. to Pakistan. They indulged in transportation businesses. They rarely lived in camps but managed to rent some houses in cities and big towns of the country. The second category was educated Afghans who were part of the educational sector in Afghanistan. These people are given the jobs of teachings in camp schools or some have managed to take teaching jobs in local schools, few more were appointed in the camps' management. The third category, are those who fled with little household goods and small herds of domestic animals. They were from agricultural background. They mostly resided in the camps and some of them worked in the refugee-related projects such as reforestation and small scale farming. Lastly, the largest number of Afghan refugees is just the common folk, and mostly old aged men, women and children who had barely managed to escape the war. Some of them are still living in camps and are dependent on the government of Pakistan. The position of Pakistan, from social and economic point of view, is not very strong. These refugees are believed to be a burden on the economy of Pakistan. Most of them started working in the country which helped in generating the revenue but that was not enough.

The overall presence of around five million refugees has added a strain on Pakistan's environment (Khan, 2016) infrastructure, local economy as well as resources such as schools and hospitals etc. The existence of refugees has

driven earnings downward, since refugees are willing to work for less. Many refugees have established “refugee villages” on the private land of locals (Chattha, 2013) and despite having lived in peace, due to the increase in crime and growing wave of terrorism, they were forced to leave.

In 2005 a survey was conducted to verify the number of Afghans residing in Pakistan. (UNHCR, Census of Afghans in Pakistan, 2005). The task was very difficult to conclude because most of the refugees have acquired a fake identity card, fake domicile and documentation. The prolonged stay of refugees in the country has increased the security concerns of the locals, in terms of drug trafficking, food security, economic security, human security, environmental security and national security etc. Ever since the migration happened, the population of the bordering provinces has increased from 10%-15%. This has caused human and health security issues. In Balochistan, the Pashtun refugees outnumbered the local Baloch and eroded the Baloch predominance. Some refugees have indulged in easy business like smuggling goods and drugs. This has increased the usage of drugs in Pakistan. The immediate increase in population by 3-5 million makes it considerably difficult to meet food needs. But the bigger problem is the smuggling of food across border which has caused food scarcity in the country.

As the people were driven away from their homes with little food and few possessions, they turned to the environment as a means of support. The massive influx of the migrants has resulted in broad environmental damage in Pakistan, much of which is certainly irreversible. The impact of these refugees on non-renewable natural resources is of particular concern, as it can have a drastic long-term effect. For the buildup of refugee camps, trees were cut down to provide support for shelter, while branches collected for firewood and charcoal. Foliage was cut to feed livestock, ground vegetation cleared to make way for farming, even tree roots were dug up in extreme conditions and used as firewood. Eventually the land became unfit for even the most basic forms of agriculture. The resulting rapid and uncontrolled deforestation since the 1980s has left the area with only about 12% of its original forest cover. Water reserves in these areas are facing a serious threat due to over consumption. They not only serve as a source for domestic and agricultural water use, but also as wildlife habitat. As a result of these untenable practices, the whole ecological balance of the area has been disturbed (Aslam, 2002).

Impact of Afghan Refugees on the landscape on national security of Pakistan

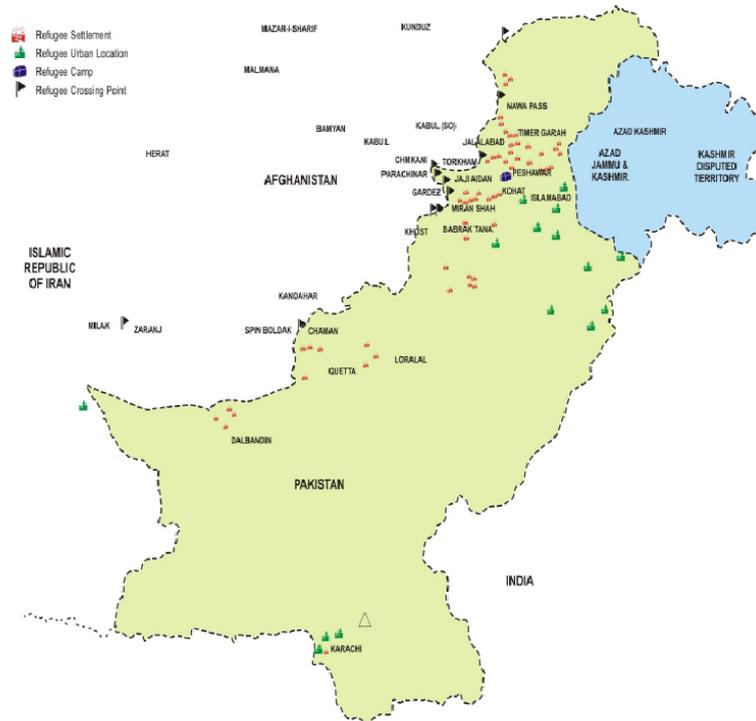


Fig.2: Location of Afghan Refugees in Pakistan (National Internal Security Policy, 2013)

Security is an overriding priority for all nations. Security consists of not only military, but also political, economic, social, humanitarian and human rights' and ecological aspects. Most of the refugees have brought illegal arms, without any license with them, which resulted in an abundance of small arms in Pakistan. The guns and small arms that the refugees brought with them, were sold in the open market at very low prices.

After the events of 9/11, the US invasion increased the refugee influx in Pakistan. In which many terrorists fled from the war and hid themselves in the camps. After the influx the terrorists' activities increased in Pakistan. The deadly attacks of APS and Bacha Khan University resulted in increased repatriation and closure of the refugee camps from KP, Balochistan and even from Islamabad.

The presence of large number of Afghan Refugees caused many political and security problems in Pakistan. These included the growth of terrorism, and

sharp cleavages among the political parties regarding the Afghan Refugees and their eventual return. Organised terrorism was virtually never experienced in Pakistan. Acts of terrorism increased manifold. The province of KPK has been worst hit by terrorism. The Kabul regime managed to infiltrate into the refugee camps. In fact, it was commonly believed in Pakistan that many Afghan saboteurs had come into Pakistan in the garb of refugees with the object of spying and creating tensions between the refugees and the locals. Two factors seemed to have contributed significantly towards the augmented terrorism. First, the agents of Afghan intelligence service had been extremely active, in creating not only the potential for riots in refugee villages, and generating hostility between the refugees and the locals, but also been responsible for intermittent bomb blasts in areas of civilian concentrations as well as attempts to destroy targets of strategic importance.

To strengthen the national security, Islamabad instrumented some policies. National Action Plan (NAP) was implemented after the deadly attack of Army Public School. NAP included multiple clauses, in which NACTA (National Counter-Terrorism Authority) was directed to establish a counter-terrorism force and to formulate a comprehensive policy to deal with the issue of Afghan Refugees, beginning with registration of all refugees and to deal with their issues. In 2014, NACTA presented its National Internal Security Plan (NISP) 2014-2018. Some of the tasks included capacity building of security forces, development of an anti-terrorist force at the federal level, cooperation and coordination, and curbing terrorist financing; as well as the repatriation and registration of Afghan refugees. (Zahid, 2016) The NISP venture failed to gain the desired results however, mainly the reason was the inability of the civilian government and the military establishment to reach an agreement on policy execution. Entertaining the Afghan refugees for the last 38 years in the country, has also affected the census. Many Afghan Refugees have the Pakistani nationality and are now the citizens of Pakistan and earn their living here. Rest of the unregistered refugees will be repatriated back to Afghanistan.

Ihsan Ghani, former national coordinator of the National Counter-Terrorism Authority (NACTA), said that Pakistan continues hosting the world's largest refugee population with most of it being undocumented. "No short-term fixes can resolve the situation". There is a need to break the myths and misperceptions about the Afghan refugees. No refugee is above the law of the host country. Confidence-building measures are crucial to continuing long-term relations between the two countries. Ultimate solution lies in Afghanistan through sustainable reintegration of refugees with dignity." (Department, 2016).

The subject of Afghan refugees has become a security issue for Pakistan as these refugee camps have become "safe havens for terrorists" due to

unregulated movements. Adviser to Prime Minister on Foreign Affairs, Sartaj Aziz on said that Afghan refugee camps within Pakistan turned into safe havens for terrorists after the country's armed forces destroyed the militants' infrastructure in tribal areas. "We have re-established our writ over FATA, but if Afghan border remains unregulated, our tribal areas can't stay safe (DAWN, Afghan refugee camps 'safe havens' for terrorists: Aziz, 2016).

A few post-terrorist attack investigations have found the involvement of Afghan refugees in housing or helping the terrorists; and refugee camps also have been used by the criminals as well as the terrorists. It was in this backdrop that the state decided to take measures *vis-à-vis* management of the borders, verification of the identity documents of refugees, their mobile phone SIM cards registration and implementation of visa regime (Jamil, 2017).

To address this issue, the federal government formulated a new policy for the repatriation of Afghan refugees called the National Policy on Management and Repatriation of Afghan refugees.(Bhutta, 2015) More recently, the Capital Development Authority (CDA) in Islamabad flattened a decades old Afghan slum in the outskirts of Islamabad, forcing more than 50,000 Afghan Refugees to leave the area. (Niaz, 2015)The eviction of Afghans from Islamabad was indeed seen as a “successful” implementation of the NAP agenda. Islamabad has the right to take necessary measures if some criminals in the guise of refugees become a source of instability in the country. Balochistan Home Minister Sarfraz Bugti said that security agencies had arrested six Afghan intelligence operatives from Balochistan, who were involved in attacks on FC personnel and citizens, and bomb blasts in Chaman. (Zuberi, 2017)

Interior Minister Chaudhry Nisar Ali Khan on February 2017 said the investigations into recent terrorism incidents had brought out the fact that Afghan refugees were used as facilitators in most of the cases. All those involved in Lahore and Peshawar terrorist attacks, including their facilitators, have been identified. He said that Pakistan extended hospitality towards Afghan refugees during the last 38 years and it was desirable that they should come out to help Pakistan (Mukhtar, 2017).

A major terror attempt was foiled when Counter Terrorism Department (CTD) arrested an alleged terrorist in Peshawar on 24th February 2017. CTD conducted raid near Achini Khor Rang Road on a tip-off from intelligence agencies and rounded up a suspected terrorist identified as Naimatullah alias Fidai. Explosives were also recovered from his possession. According to CTD, the terrorist belonged to a banned organization, is an Afghan national. He was residing in Yakatoot (News, 2017).

About the recent tensions between Pakistan and Afghanistan, the officials are of the view that Pakistan is paying for the policies that it adopted during the

USSR invasion in Afghanistan. The refugees came here with illegal weapons and arms and drugs that brought instability to Pakistan. The Islamabad's decision regarding Counter Terrorism is to pursue the policy of non-interference which means Pakistan will not fight someone else's wars.

Security Measures and Repatriation of Refugees by Pakistan

A clause regarding Afghan Refugees has been added in the National Action Plan after the deadliest attack of APS that states “Formulation of a comprehensive policy to deal with the issue of Afghan refugees, beginning with registration of all refugees.”

After the approval of the policy from the cabinet, the registration and respectful repatriation of the Afghan Refugees started. Refugee is not a permanent phenomenon and they need to return their homeland once the situation became normal. Due to the security concerns, the Pakistani government decided repatriation of the refugees. Attempts of repatriation occurred many times, the largest recorded in 2002 when almost 400,000 refugees left for their homeland (Francis, 2010). The massive repatriation occurred when the Pakistani government announced the closure of the camps in KPK and Balochistan due to security concerns. The camps are considered providing safe haven for the terrorists who fled Afghanistan. In 2010, Pakistan also adopted the Afghan Management and Repatriation Strategy (AMRS) to find a durable solution for the protracted refugees' population. In December 2012, due to the worsening state of affairs in Afghanistan, as well as the challenges impeding the return of refugees, the stay of the refugees was extended until June 30, 2013 as a temporary measure. In July 2013, a new policy on Afghan refugees was approved, which included the extension of the Proof of Registration (PoR) cards and the Tripartite Agreement on Voluntary Repatriation until December 31, 2015 (Khan, 2016).

	Spontaneous returns of registered refugees ²	Spontaneous returns of undocumented refugees ³	Deportations ⁴	Totals (country)
Pakistan	54,717	95,778	20,077	170,572
Iran	57,486	260,558	192,351	455,678
Totals (type of returnee)	57,486	356,336	212,428	626,250

Fig. 3: (Ahmadi & Lakhani, 2016)

The repatriation resumed in 2016 and 2017. Almost 600,000 people were recorded, departing for Afghanistan, including majority of unregistered refugees. Last month, the cabinet had approved a policy pertaining to the repatriation of Afghan refugees and barred entry into the country for those refugees who do not have valid visas. Prime Minister Nawaz Sharif had presided over that meeting during which the refugee repatriation and management policy was approved. The policy calls for strict implementation of Pakistan's immigration laws along the Pakistan-Afghanistan border and ensuring that those without visas are not allowed entry into the country. The policy also permits an extension in the stay of registered refugees in the country till December 31, 2017.

Pakistan's new National Refugee Policy is a comprehensive document, prepared with the realities on the ground in mind. It is not a wish list but a synthesis of practical and logical interventions designed for achieving durable solutions. Although Pakistan's current security and economic situation puts her in a position wherein, she can no longer host millions of refugees on her own, Pakistan continues to stand by her Afghan brothers and sisters. Afghan refugees need international attention more than ever before, and resolution of this protracted humanitarian crisis should be given top priority in any future political settlement regarding Afghanistan (Khan, 2014). While the international community has failed to bring peace and stability in Afghanistan, the refugees are reluctant to go back. Afghanistan's current state of affairs, which is marked by violence, instability, weak social and economic conditions, and poverty, continue to pose serious hurdles for the repatriation of refugees as well as sustainable reintegration of displaced Afghans inside the country. Incoming refugees claim that the Afghan government has not provided any support to them. On the contrary, it is the UNHCR which provides financial support to the registered refugees, which often proves to be inadequate. (Shams & Sayed, 2016).

Future Scenario

The door that welcomed Afghans is now shut and they are being asked to repatriate. However, the porous border makes it difficult to stop those who return. Members of the Taliban and Al-Qaeda network frequently cross the border to seek refuge in the tribal areas. Since 9/11, Pakistan has been in alliance with the United States in its War against Terrorism and has been actively cooperating with it in hunting down Al-Qaeda and the Taliban militants in the tribal belt that borders Afghanistan. However, the international bodies are not satisfied with Pakistan's policy, the US as well as the Afghan governments' demands that Pakistan should do more to go after the Al-Qaeda and Taliban forces on its territory. Pakistan has been accused of protecting the regrouped Taliban who cross into Afghanistan and carry out attacks against the

US coalition forces and Afghan government officials. There have been cross-border violations that have made Pak-Afghan relations tense.

In March 2017, the adviser to the Prime Minister on Foreign Affairs, Sartaj Aziz, received Pakistan-Afghanistan Joint Committee delegation. According to a Foreign Office announcement, the delegation comprised of leading representatives from Afghan government and media. The Adviser briefed the delegation about Pakistan's continuous efforts towards peace and stability in Afghanistan stressing that a peaceful, stable and prosperous Afghanistan was in Pakistan's interest. He emphasised that the two sides should focus on implementation of the agreed mechanism for engagement to address the issues of security, counter-terrorism and border management. Reaffirming Pakistan's dedication to sustained efforts for lasting peace in Afghanistan, Adviser, Sartaj Aziz underlined the significance of politically negotiated arrangement under an Afghan-owned and Afghan-led peace process for resolution of Afghan conflict. The Joint Committee delegation acknowledged Pakistan's facilitation to the Afghan refugees and stressed the need for continuous people to people contacts for strengthening the ties between the two countries.

Border management is extremely important. The Pak-Afghan border is porous and unprotected that is why it is difficult to control the cross-border movement. One cannot bring stability to the country until the border is not secured. Many of the RAW agents have also entered the premises of Pakistan through that border. Islamabad needs to show some leniency in repatriation. Those who are legally registered those who are free from any kind of criminal record, and those who have spouses here, should be compensated by the Pakistani government so that it may create a positive and softer image of the country.

Despite Afghanistan's limitations, the Afghan state needs to take ownership of the issue of refugees so as to accommodate them. Rustam Shah Mohmand, former Ambassador to Afghanistan, said that no law would give Afghan Refugees the authority or citizenship to live in Pakistan so refugee law should be framed. He emphasised that Pakistan should stop the harassment of refugees, create safer enclaves in Afghanistan, stabilise the border with the help of international community and should make a vigorous political intervention in Afghanistan to deal with the situation in a proper manner. For sustainable and long-term repatriation and reintegration, it is imperative that a conducive environment inside Afghanistan is attained. While the Taliban insurgency is a bitter reality that continues to confront the Afghan state, Afghan authorities have to move beyond shifting the blame, and find ways to address the issue of its refugee population.

Conclusion

The Afghan refugee crisis has been one of the largest humanitarian interventions in the world. Refugees preferred to migrate to Pakistan and Iran because of the identical culture, ethnicity and language. The UNHCR has been assisting in refugee repatriation in Pakistan and Iran, mainly through international funding. With the persistent instability in Afghanistan, the migration of Afghan refugees to towns and cities of Pakistan and Iran remains an important issue for the stability and security of the host countries and the region. The socio-economic impacts of this large community are very and complex.

That internal security of Pakistan, which is being challenged by the very presence of the Afghan refugees, has become a rallying point for seeking their 'repatriation'. Pakistan continues to pay a heavy price both in the economic and security terms due to this situation, and a substantial portion of precious national resources both men and material, have been diverted to address the emerging security challenges for the last several years. The rise of violent extremism and increase in terrorism in Pakistan due to instability in Afghanistan not only caused serious damage to Pakistan's economy but has also been responsible for extensive human suffering due to haphazard attacks against the civilian population. Religious radicalism and terrorism, drug smuggling, human trafficking, illegal trade in goods and other law and order issues are some of the major grievances that the government and people of Pakistan have come to face (Saxena, 2015). Pakistan always wanted a dignified repatriation but after the gigantic wave of terrorism commence Islamabad decided forced repatriation and deportation of illegal refugees. The main reason of deportation is the blocking of the fake CNICs and documentation acquired by many illegal or unregistered refugees. Since 2015, more than 100,000 computerised national identity cards, including those issued illegally to foreigners have been blocked (Nation, 2015). According to authorities, majority of Afghan Refugees in Balochistan have been in possession of fake CNICs. Many have voluntarily returned their fake CNICs; and bank accounts, Pakistani passports and driving licenses automatically become dysfunctional with the blocking of cards. Hence, this has encouraged many refugees to come forward and surrender their fake documents (Butt, 2016). Since June 2016, more than 600,000 refugees have been repatriated, which include 365,000 registered refugees.

Even today, the situation in Afghanistan is far from satisfactory, it is enhancing the agony of the friendly neighbours', more specifically that of Pakistan. In recent times no other crisis had so profoundly affected Pakistan as had the continuing Afghan crisis done so far. Pakistan is an underdeveloped country and this issue has caused serious strains on its economy. The presence of these

Afghan refugees poses threat to the security of Pakistan at different levels. At the social level, the existence of Afghan refugees led to disorder in the law and order situation, increasing violence and criminal activity, and aggravated ethnic tension in the KP as well as the Balochistan. The Afghan refugees do not form a group, as they belong to various tribes, with different tribal and judicial systems, which results in tensions and conflict within groups and leads to bloodshed.

Global terrorism and armed conflict in Afghanistan have changed the internal security paradigm of Pakistan. The country is facing serious traditional and non-traditional threats of violent extremism, sectarianism, terrorism, and militancy in addition to worsening crime situation in urban areas. Continuous presence and influx of approximately 1.5 million Afghan Refugees is a key factor for arms' proliferation and a strain on limited resources of the country.

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14

Global Perspective on Refugees: Challenges and Opportunities

Indrika Ratwatte

The speaker began by thanking the distinguished members of the panel, and the guests present at the conference. He stated that it was indeed an honour for him to be there that day at that gathering. The conference was discussing a very pertinent issue as many of the speakers had alluded to, a very pressing issue in their time, also to the region and to the work and security of all concerned. He said that he would like to start by giving a snapshot of the global picture of where the UNHCR was. He remarked that many of the speakers had pretty eloquently talked about the dynamics in Pakistan as well but talking of a global perspective, and reflected on some of the challenges and opportunities UNHCR had *vis á vis* managing current refugees in Pakistan. He voiced his opinion that it was a sad reality that one could see millions of refugees on the march from the Middle East. Similarly, thousands were crossing Mediterranean to reach the shores of Europe for better economic opportunities. This displacement as a result of conflict has been dominating the global landscape and this is a sad reality of the time. He maintained that it was a geopolitical reality that all nation states and member states of the United Nations have to deal with, for better or for worse. He further asserted that looking at some of the elements of the world today; there are some factors which impact them regardless, whether they are in the global south, developed or the developing countries. Today one is clearly in a multipolar world, where unlike before, many times we see unclear and rather ambiguous power relations within states and UN member states. One can easily notice the lack of political willingness even in the United Nations to resolve the root causes of many conflicts around the globe which result into generating many more refugees. Additionally, there has been a proliferation of new conflicts complicating the older ones, which have become protracted, and we have new ones emerging which are increasingly asymmetric. Similarly internal conflicts exist in many regions, which are interconnected, and on top of all of this one can see a global threat of violent extremism and terrorism

coming into the picture in the last decade or so at an unprecedented scale. The increasing engagement of non-state actors has been another phenomenon to impact the geopolitics of the world and the consequent refugee pressure on the international regimes. Sadly, despite many of the developments seen today is result of global inequities in the world. He cited very alarming statistics concerning all stakeholders. For example, the eight richest people in the world own the same amount of wealth as the poorest half of the world, which says a lot about the world we live today. Despite amazing developments which have been made the life easier due to accessible technology, the poorest of the poor still remain marginalised, despite the efforts of nation states particularly in the global south. He mentioned that he belongs to Sri Lanka, and he knew the challenges very well, and in this part of the world As the UNHCR challenges were huge. UNO and its agencies were trying hard to help the nations facing these challenges, but sometimes it becomes a daunting task. The time is moving fast and life for the young generation was to deal with the challenges which had long lasting and major implications. A major issue in the developing world was the population growth, which has been phenomenal in the last few years. He posited that the world could be bracing for 7.5 billion people on earth by 2050 and to nearly 10 billion people worldwide by the end of the century. The next big issue haunting humanity was the climate change.

Whether one likes it or not, climate change is happening; a fact visible in the mountains, the forests, the seas and in the sudden and disastrous climatic changes. The ice caps are melting and the arable lands were decreasing and desertification was taking place in many parts of the world. This situation was likely to directly impact all of us, generating a new kind of climate related migration. People will move from climate hit areas to other areas, again whether they could control it or not that's going to be a phenomenon increasingly happening. For example one can look at Sub Saharan Africa, in the last ten years one can notice the climatic impact. He said that UNHCR has been working in Pakistan for decades to help the Afghan refugees, and he had the privilege to work here from 2003 to 2007. Travelling across Pakistan earlier and now, one can notice environmental impact. He stated that one could see the impact of people on environment, the water tables going down; these were the sad realities of our times. In this respect, the presence of Afghan refugees adds to the pressures on the local ecology and economy. Food and water insecurity were going to be another big challenge for the refugees and locals. This also has an impact on movement; people tend to move from one place to another to secure their food and family.

Another worrisome trend of urbanisation was also underway in Pakistan both by the locals as well as refugees. Globally as well, more and more people are leaving rural areas and going to urban areas, and it is estimated by 2025 that 66% of the world's population will be in urban areas and in the context of Asia

64% of the population will live in urban areas. From economic, national security and food security perspective, this is a worrying trend. In the last 5 years we have seen an amazing trend of people moving for economic reasons, seeking greener pastures, fleeing conflict as refugees and in many ways, countries had migrants, as well as refugees. This unprecedented movement of people shows alarming numbers. It's the highest ever, 65.6 million people have been forcibly displaced today, of which about 25 million are refugees fleeing conflict. This is almost 28,000 people a day, 1,180 people an hour and 20 people per minute, so by the time the talk would finish, almost 400 people would have been forcibly displaced in the world. One in every 113 people around the world was either a refugee, internally displaced or seeking asylum, just in terms of numbers and the phenomenon. Another important thing for UNHCR was to look at the 84% of the refugees who were hosted by developing countries. As highlighted by multiple speakers, he also emphasised the Pakistan has played an exemplary role by hosting millions of Afghan refugees for almost four decades. Other countries included Jordan and Lebanon and many African countries housing refugees were either developing or underdeveloped countries. 9 out of 10 refugees were being hosted in the global south and 50% of the world's refugees came from 3 war torn countries: Syria, Afghanistan and South Sudan. Similarly, 60% refugees were being hosted by Muslim countries led by Turkey, Pakistan, Lebanon and Iran. He maintained that these were some of the facts that needed world attention in order to understand and address the big picture of the global situation of refugees today.

Coming closer to the Afghan refugees 16% of the world's refugee population were Afghan, and 40% of the world's protracted refugees were also Afghans. Syrian conflict is relatively new, so when one looks at Turkey, Jordan, and Lebanon having millions of refugees; it certainly is a huge social and economic burden. Pakistan has been hosting refugees for 40 years, so in terms of protracted nature of the impact of having refugees, socioeconomically, environmentally etc. the protracted refugee hosting countries have a very different impact on its society and people. UNHCR also faces many challenges today. Like Pakistan's protracted refugee situation, where there seems no light at the end of the tunnel is the war torn country of origin (in this case Afghanistan) or similar situation can be seen in Somalia, South Sudan and many other African countries. UHCR wants the refugees to go back to their home countries as a possible solution. The world also has new countries emerging at the same time, causing large scale internal displacement. So the challenge was how one manages protracted refugee situation, which has been there for decades, and emerging crisis at the same time, a serious concern for UNHCR. The UNO is trusted with supporting governments managing refugees and in handling additional burden was coming from new refugees. The home countries need peace before the refugees can go back.

Afghanistan is not stable and completely peaceful yet, so the refugees cannot go back and find a peaceful environment. Similarly, many countries in Africa face same problem. Such refugees have exponential needs, and more people are getting displaced daily, the resource strain is increasing and the support system is not commensurate with the requirements. Sadly the situation of the protracted refugees cannot be compared to fresh refugees, for example from Syria or Iraq etc. The geopolitics, the interests are permeating support to humanitarian causes, is another dark reality of our times. Before looking at the visible causes, like many speakers were saying there are temporary solutions, the real solution is looking at the root causes for the conflicts and enabling refugees to go back in a voluntary and safe manner. The challenge remains because of the political willingness needed by key stakeholders and at end of the day for the UNO. National security concerns are now much more than they were before, violent extremism, global terrorism has compounded the challenges that nation states face. Lastly the role of UNHCR was highlighted by the speaker and its position vis á vis the Afghan refugee situation. He appreciated the National Action Plan in Pakistan, and the efforts of Afghanistan – UNHCR – Pakistan in solving the issue. He summarised that there were three elements to that policy: 1) looking at a visa regime for different categories of Afghans and engaging the Afghan government very much in that process to recognize complete documents for them was critical; 2) adapting a national refugee law, looking at the national security concern and other concerns of Pakistan in line with international standards to see how could they be helpful in managing refugees; 3) also an important step was the documentation of undocumented Afghans on Pakistan's territory.

It is a sovereign prerogative of Pakistan to know who is entering or leaving its territory and manage, and regulate, them according to the laws of the land and that is essential from a national security perspective. So, these elements combined with very careful border management and regulation was a logical framework of these three points in the Afghan refugee management. The repatriation strategy of the government was extremely important and, supporting and facilitating sustainable return and reintegration, voluntary reintegration, voluntary repatriation and reintegration in Afghanistan was of importance. Challenges did remain and UNHCR would be the first institution to acknowledge that almost 4 million Afghan Refugees had gone back as facilitated by UNHCR and the government of Pakistan since 2001. Challenges were there in the return and reintegration of these refugees in Afghanistan. The development investments in these communities and areas in Afghanistan had not been commensurate to the demands. Voluntary repatriation is only successful if those who return, reintegrate and remain in the countries, and do not return or move on to become refugee in another country. If they return to Pakistan, the problems will increase. It is possible that in consultation with Pakistan, people could be allowed to return and work as migrants in Pakistan,

but with proper documentation and visas. This country, for many years, has done the right thing and, that was not because of its obligations to international law, it stemmed from the traditions, the values of this country, the faith of this country, and what it has done for its brethren from across the border. He further added that it was an example for rest of the world to follow, for which Pakistan's efforts need to be recognized and applauded. He concluded by saying that he was aware of the challenges Pakistan has faced, but for him, working with UNHCR, it has been a great privilege to see a country still trying to do the right thing simply because it was the right thing. At the end he thanked the audience.

15

The International Humanitarian Law and Refugees – Security Nexus in Pakistan

Mastoor Quratalain and Tasleem Malik

Abstract

In recent times, the world has become more apprehensive of the dynamics of refugee crisis, for many it is ominous and worrisome because it poses territorial, economic and cultural challenges. Undeniably, becoming a refugee is not self-choosing, rather circumstantial. Pakistan has decades of experience; housing millions of Afghan refugees, however, recently there is a policy shift; is Pakistan a victim of international apprehension of refugees? Answering this question, the paper takes a four dimensional approach, each approach carefully dissects the question. First, using the Copenhagen School of Security Studies' 'New Security' and 'Barry Buzan's Securitisation Theory, the paper problematises the relationship between security and Afghan-refugees in Pakistan and its empirical application contextually in Pakistan. This will be useful in making a perspective on the extent to which refugees pose challenges to Pakistan's autonomy, sovereignty, capacity, culture identity and security due to emergence of refugee warrior communities, organised criminal networks, armaments and narcotics smugglers, mainly because of the porous Pak-Afghan border. Second, while explaining the theory, the paper digs into how politics of *fear* and *terror* played a vital role in the transformation of a humanitarian issue into a security problem. Third, Pakistan's obligations towards Afghan Refugees are discussed in the context of emerging refugee policy. Moving further, the paper sheds light on the refugee-security nexus. Lastly, the paper provides some policy recommendations in order to manage current refugee crisis.

Introduction

International migration and refugees, in particular, have been categorised as one of the most challenging threats posed to the International security. Referring refugees as a threat to state security is termed as *securitisation* of the refugees. The eminent threat of terrorism has compelled states to deter the border crossing of refugees coming from other states. As far as Afghan Refugees are concerned, they have been residing in Pakistan for more than three decades, but in the recent past there has been a noticeable shift in Pakistan's refugee policy from welcoming generously to a "push back". Prior to Soviet invasion of Afghanistan, Afghan nationals used to cross the porous border between Pakistan and Afghanistan due to the presence of ethnic Pashtun and tribal links across the borders. As a result of Soviet invasion, Pakistan opened its borders generously to welcome its Muslim brethren invoking the discourse of the religion/Pan Islamism and 'we-ness'. In 1990s, with the cut in international monetary assistance for its partnership in war on terror Pakistan felt burdened economically due to the presence of a large number of refugees (Khan, 2017).

In the post 9/11 scenario and with the US war on terror, refugees were further securitised in the national security discourse shifting from 'we-ness' to 'othering'. Later the US war on terror was dubbed as the Pakistan's war on terror under the National Action Plan (NAP), which was launched as a purgation strategy, particularly after an attack on Army Public School, with a shifted discourse the image of Afghan refugees in popular imaginaries is that of a dangerous *other*, held responsible for adulterating Pakistani culture and social norms. The morally debased 'other' is said to be involved in weaponisation, violence and debauchery. These imaginaries reflect the fear constructed through the law of exception finding its ways in populist imaginaries through a network of threads connecting fear with the dangerous 'other' in national and international discourses on immigration and terrorism.

In this paper, we have investigated into the dialectics of security and humanitarianism in the refugee politics. Refugee is securitised, while it is also a humanitarian issue. In the recent global refugee crisis, with troops on borders, the nation state is securitising the refugee.

Theoretical Framework

The research will use the concept of 'new security' as given by Barry Buzan (1998), representative of Copenhagen School, accepts the salience of conceptualised security as a process of social construction of threats, which includes securitising actor (mostly political elite), who declares certain matter as urgent and a posing threat for the survival of the referent object, that once

accepted with the audience, legitimises the use of extraordinary measures for neutralisation of the threat. Thus, the issue is securitized and removed outside the normal bounds of democratic political procedure and put on the “panic politics” agenda.

Securitisation is an inter-subjective process. It is the act of taking the ‘abnormal situation’ (as it is constructed) from the domain of normalcy into the domain of special politics as a securitising move. The securitisation move is the discourse or the speech act of the political actor that takes the form of representation in language or text, of existential threat to the survival of the referent object. The operationalisation of securitising move into securitisation occurs when the audience accepts the existence of the threat and hence legitimising the overriding of rules. Securitisation, thus, cannot be imposed (Buzan et al., 1998).

Discourse is a “particular way of talking about and understanding the world” (Jorgensen and Philip, 2002). It is a set of statements, or utterances, or speech acts, through which things are not only said but made, done, constituted and transformed. Security becomes a self-referential practice through speech acts. Speech acts are not mere ordinary conversation, without any strategic function to be performed; instead they are a selected set of statements. Foucault defined discourse as follows (Edkin, 1999):

Discourses are tactical elements or blocks, operating in the field of force relations; there can exist different and even contradictory discourses within the same strategy; they can, on the contrary, circulate without changing their form from one strategy to another, opposing strategy

The lexicon of the security discourse, namely the binarism of *us v/s them*, ‘the dialectic of trust and fear’, are common themes in the politics of refugee protection (Shum, 2001; Afzal, 2006). They are being constituted in speech acts and discourses (Baker and Enery, 2005), through hostility themes in public statements, newspapers, media, etc. as ‘waves’ of ‘unwanted invaders’ (Parker, 2015), ‘terrorists’ (Seidman, 2010), ‘criminals’, ‘barbarians’, ‘wasted lives’ (Bauman, 2013), etc. The images are suggestively constitutive of the threat and fear which is attached to the figure of refugees and produces an emergency security situation against which the host has to secure itself.

The counter discourse to the security discourse with binarism of *us vs. them* or *worth vs. worthlessness* in refugee politics is that of the cosmopolitan humanitarian values. The cosmopolitanism has emerged as an antithesis to nationalism, national identity and sovereignty. Pugh (2010) has countered the hegemonic discourse of threat and securitisation of refugees and represented the issue as a social welfare issue, which should not be dealt with the ‘structural

features of International system', but the functional transnational cooperation. The policies of forced repatriation or securitising the refugees challenge the cosmopolitan humanitarianism. Arendt (1973), has described that rights given to the refugees are negative and the solution to refugee problem is to give positive rights i.e., right to claim other rights. According to Cole (2016), refugees as active subjects must have a say in framing ethical and political framework within which their question is debated. Benhabib (2004) has declared that there is a contradiction in state's sovereign right to control borders and the universal human rights. It is through ongoing "democratic iteration" a universally applicable solution to this problem is possible.

In sum, speech act is the securitising move. What follows is the acceptance of the speech act by the audience. Employing the theories of language and post structuralism, not all text or discourses are effectual. Now the question arises who can utter security legitimately, those uttering security must be socially positioned political actors.

Afghan Refugees in Pakistan: Obligations of a Host

Since the massive migration of Afghan refugees in the aftermath of Soviet invasion, UNHCR and Pakistan have jointly managed the issue of Afghan refugees in Pakistan. In fact, the only legal document to administer non-citizens is 1946-Foreigners Act; therefore, it is essential to highlight the status of refugee under UN Convention, Refugee Law and Humanitarian Law. It is noteworthy that 1951 Convention of UN has fundamental role in the development of Refugee laws, where refugee is defined as an individual "who has a well-founded fear of persecution because of his/her Race, Religion, Nationality, Membership in a particular social group, or Political opinion, who is outside his/her country of origin and, is unable or unwilling to avail him/herself of the protection of that country, or to return there, for fear of persecution" (ICRC, 2005). It is interesting to note that although any kind of national refugee legislation has not yet been adopted by Pakistan. Austrian Centre for Country of Origin and Asylum Research and Documentation (2013) note that Pakistan is neither state party to the 1951 Convention relating to the status of refugees nor it has signed its 1967 Protocol and even not complied to the 1954 Convention pertaining to the stateless persons, yet, it has valued Refugee laws and nevertheless, *de facto* accepts the moral rights mentioned in these conventions.

This section intends to analyse Pakistan's responsibilities and obligations towards Afghan refugees with respect to International Humanitarian Law, Human rights' Law, Refugee Law and Pakistan's cooperation with UNHCR. These refugees have been given rights and privileges under Human rights' Law, International Humanitarian Law and Refugee Law. There is interplay between

these three legal frameworks and they complement one another in more than one ways. IHL deals with the conflict or war time situations, while on the other hand Human rights' Law applies in all times, during war and peace. The main objectives of International Humanitarian Law constitute; protection of human life, prohibition of persecution and torture, ensure basic rights for criminals and to prohibit discrimination.

Likewise, the foundation of IHL is humanity, which exists beyond the borders; hence, responsibility to protect the non-combatants is of international community. Responsibility to protect is a core part of the International Humanitarian Law. The responsibility to protect (R2P) is a principle, which seeks to ensure that the international community never again fails to act in the face of genocide and other gross forms of human rights' abuse (ICRC, 2015). International Humanitarian Law is interlinked with Refugee Law and provides two-tiered protection to the refugees who find themselves in a state involved in war or an armed conflict. Firstly, it grants civilian refugees right of protection as they are not part of hostilities. Secondly, additional protection and rights are provided to refugees, since they are living as aliens in a state party, to conflict or war (ICRC, 2005). Furthermore, the balancing of humanitarian protection and military necessity is another central point in IHL. Those who remain safe during an armed conflict, sometimes, prefer to flee in other states, usually in neighbouring states, to evade the effects of hostilities as Afghans moved to Pakistan during, and after, the Soviet invasion of Afghanistan. Refugee Law, adopted on 28 July, 1951, assigns and excludes these displaced persons from status of refugee and protects the rights of refugees (UNHCR). In fact, Human rights' Law is integrally related to Refugee Law and regulates that states must have respect towards these individuals (ICRC, 2015). Most of the migrated Afghans were attributed as refugees, not by Pakistan but by UNHCR, according to 1951 Convention.

The major obligations and responsibilities of a 1951 Convention signatory state towards refugees, including cooperating with UNHCR in the exercise of its functions and facilitating its duty of supervising the application of the Convention, are to: improve or maintain quality of registration and profiling, ensure uniform treatment and standards of protection and services for all refugees, foster security from violence and exploitation: protection of children strengthened and provide food assistance to meet immediate food needs (UNHCR, 2015). Since Pakistan is not a state, party to the 1951 Convention and its protocol, but huge number of refugees are living within the territory of Pakistan posing security, economic and legal challenges. Pakistan has responsibilities towards these refugees on humanitarian grounds. Firstly, Pakistan has obligation to deal with these refugees with respect, while they are living within the territory of Pakistan. Secondly, if they are being treated under Refugee Law, they have the right to live in Pakistan until situation is not normal

in Afghanistan. Thirdly, Refugee Law grants refugees the legal status and the right to be protected against forcible return, or refoulement, to a territory, country of asylum, where their lives, or freedom, would be threatened. Since Pakistan accepts moral rights of refugees, hence, Pakistan has the moral responsibility to ensure the protection against their forcible return. Furthermore, fourth responsibility is that now they are repatriated, the entire repatriation process must be conducted with respect and dignity.

In fact, Pakistan has been hosting millions of Afghan refugees since last three decades. It is argued by some scholars that in the past, during President Zia-ul-Haq regime, Pakistan not only hosted the Afghan refugees but also recruited them as *Mujahideen* to fight against USSR during 1980s (Terry, 2002). The impact of this war resulted Afghans not to return to their homes for decades and instead they preferred to stay in Pakistan (Grare & Maley, 2011). It is noteworthy that Pakistan is the second largest refugee hosting state (Jenner, 2015). After Syrian refugees, Afghan refugees are the second largest refugee community in the world (Ruiz, 2004), where every fifth refugee is of Afghan origin. 95 percent of these refugees are residing in Pakistan and Iran while 5 percent are living in other 68 states (UNHCR, 2015). The largest percentage of Afghan refugees migrated to Pakistan. Afghan refugees migrated and moved to Pakistan prior to 1979 due to family connections, for trade and other economic activities, but the influx increased drastically after the Soviet invasion in Afghanistan in 1979. In 1989, Afghan refugee population was estimated to be 3,270,000. Besides this, from 1980-2002, Afghan refugees, living in Pakistan, were categorised as largest single refugee population in any country of the world (Dupree, 1988). Then, Afghans moved across the border and majority of them migrated towards Pakistan in order to escape the viciousness of conflict and war. Austrian Centre for Country of Origin and Asylum Research and Documentation (2013) posits that these refugees moved mainly in KP (Khyber-Pakhtoonkhwa), FATA (Federally Administered Tribal Areas) and also in Balochistan. 63% of refugees live in urban and rural areas and 37% of refugee population resides in Refugee Villages (RVs) which are located in Khyber Pakhtunkhwa, Balochistan and Punjab Refugee camps were established in these areas and were jointly managed by Pakistani Chief Commissionerate for Afghan Refugees (CCAR), Ministry of State and Frontier Regions (SAFRON) and UNHCR (Khan, 2015).

Pakistan along with UNHCR initially provided basic facilities and rights to registered refugees, which were extended gradually, and they enjoyed services just like Pakistani citizens. It is worth mentioning here that the facilities are officially provided to only registered refugees, because of porous Pak-Afghan border, there are massive unregistered migrants and their exact number still remains unknown. Pakistan granted refugees right of freedom to move. Unlike Iran, refugees in Pakistan were not limited to camps; rather they were allowed

to move freely in the country. Whether restricting refugees in their camps is a violation of humanitarian law, it purely depends on the national security agenda of a state. Iran not only limited their movement towards other cities but also imposed restriction in the political participation of refugees, while Pakistan did not implement any such policies. Furthermore, according to 1946 Foreigners Act, in Pakistan, unregistered foreigners are prohibited to be employed but Afghan refugees are major part of informal sector in Pakistan, particularly in KP and despite not having the right to own trucks, they have an influential role in managing the transportation system in KP (UNHCR, 2009). Pakistan, facing enormous internal as well as external security challenges, has shifted its priorities towards internal stability of the state, thus, has taken firm stance for the repatriation of Afghan refugees. It remains a matter of debate how humanitarian (refugee) issue transformed into a security concern and in what ways state security is inextricably connected with human security.

Refugee-Security Nexus in Pakistan

In order to understand the development of refugee-security nexus in Pakistan, few factors need attention. Firstly, in fact, Pakistan does not determine the refugee status but rather it is determined by UNHCR, therefore, to categorise who is a refugee in Pakistan, among Afghan population, remains a critical question (Kronenfeld, 2008). Nevertheless, all Afghan individuals do not cross border to escape conflict, but many of them also cross for economic activities, particularly in search of job (UNHCR, 2009). However, it is assumed that cross border movement brings grave security challenges, both traditional and non-traditional security threats for Pakistan, for instance; refugees' facilitation to militant groups operating in FATA and other areas, their alleged support for radical elements as well as their involvement in terrorist activities, smuggling, drug trafficking and other illegal chores, have raised dire security risks for Pakistan. These are the unproven allegations. Therefore, besides generously supporting the war-affected refugees, considering these grave security challenges, Pakistan termed refugees a security hazard for its stability. Although, NADRA officially registers many refugees, but political actors claim that the massive unregistered refugees have raised security concerns in Pakistan. Besides other reasons, this may be considered as one of the factors in transformation of a humanitarian issue into a security issue.

It is not necessary that refugees conduct all illegal activities only and they are solely attributed for the instability and worsening security milieu in Pakistan, but in some terrorist activities and criminal cases, refugees have been traced. From 2014 to 2016, in KP, out of 23,007 individuals involved in organised crimes, merely 300 were found to be Afghan refugees (Khan, 2017), which is only 1.3% of total individual involved in crimes. By blaming refugees as primary factor involved in terrorist activities, society is convinced to consider

refugee as an existential threat. Refugees have been securitised by these securitisation moves. As Buzan argued that securitisation cannot be imposed (Buzan et al.,1998), therefore, it is worth mentioning here that ruling elite in Pakistan has not alone attributed refugees as a threat, rather society has accepted the danger ,and now it has become an inter-subjective reality.

After the social acceptance of any existential or constructed threat, rules and regulations are formulated to deal with that particular threat. Socially positioned political actors legitimise security threat and special measures are taken to deal with the posed challenge. After the Army Public School (APS) attack on 16 December 2014, Government of Pakistan formulated 20 points National Action Plan (NAP) as a counter terrorism strategy and to effectively administer the Afghan refugee repatriation policy (NAP, 2015). Thus, as an outcome, Afghan refugee repatriation process started more swiftly. It is an agreed upon fact that refugees were not alleged to conduct this attack but it was revealed that this attack was planned in Afghanistan which caused Pakistan to take this action. Here, once again, refugees are linked with the security situation in Pakistan. Refugees are accepted by a state on humanitarian grounds and their repatriation is subject to peace and stability in the home country. They are not repatriated once there is instability in the host country rather they have special protection rights and privileges under International Humanitarian Law and Refugee Law to live in a state party to war or in a destabilised state.

Repatriation Policy

Afghanistan is world's largest country to receive repatriates from Pakistan, Iran and other states (UNHCR, 2015). Till December 2016, 221,000 refugees returned to Afghanistan. The causes to increase in refugee repatriation include firstly, border management measures which require every Afghan refugee to have e-passport and valid Pakistani visa, for instance, lack of possession of travel documents lead to a refusal, to almost 6000 Afghans, to enter into Pakistan daily. Secondly, the expiration of validity of Proof of Registration (PoR) cards which has been extended several times. Thirdly, the blocking of fake identity cards acquired by Afghan refugees (Gul, 2016). Fourth, despite safety measures and assurances by Pakistani officials, security operations in tribal areas raised security concerns among the refugee community (UNHCR, 2016), and lastly, recent Pak-Afghan border clashes, strained political relationship and intensifying tensions between Islamabad and Kabul caused increased repatriation.

Pakistan has controlled migration practice through strict border management rules and measures. Pakistan has shifted its policy of welcoming refugees to the repatriation policy of Afghan refugees considering them as economic, political and security threat. This policy has created fear and terror, particularly, among

the unregistered refugees. For Pakistan, it is important to repatriate Afghan refugee as a security measure, and it should be voluntary, in a respectable and a dignified manner.

Government of Pakistan and UNHCR has adopted new strategies to support voluntary repatriation. In this regard, UNHCR announced to extend its support for returnees in resettlement and reintegration in Afghanistan. UNHCR provided \$400 as repatriation grant per person. In 2011, UNHCR provided assistance to 52,096 registered Afghan refugees for their voluntarily return to Afghanistan. The number of refugee returnees till date is around 600,000 including 365,000 registered refugees (HRW, 2017). The aid provided to refugees is much less than the number of returned refugees and they have to face economic difficulties in resettling.

Besides Pakistan and UNHCR's role in repatriation process, the government of Afghanistan also encourages repatriation of Afghans so that they can contribute in the reconstruction and peace building in Afghanistan. The first official stance of Afghan government is Ashraf Ghani's campaign of "Khapan Watan, Gul Watan" (the grass is green in my land) to call refugees back home and guarantees stability and economic boost. But contradictory to President Ghani's call, many refugees are still reluctant to repatriate and even, many have left Afghanistan for other countries (Ghani, 2015). During 2016 almost 250,000 Afghans left for Europe in a single year (Danish, 2016). The contemporary political, economic and security environment in Afghanistan is not considered adequately suitable for refugees to return. International community and Afghan national unity government have not only been unsuccessful in bringing peace and stability in Afghanistan. Decreased economic growth, poverty, instability, Taliban's greater insurgency moves, increase in violent incidents, deteriorating social conditions dominate the contemporary Afghanistan which, definitely, pose severe obstacles in resettlement and reintegration of Afghan refugees. It was explicitly revealed in a US Special Inspector General for Afghanistan Reconstruction (SIGAR) report that "Afghanistan is worse off today than it was before 2001". Therefore, the situation is not conducive for returnees and as a result of Pakistan's repatriation policy, refugees will have to face challenge of resettlement and reintegration in Afghanistan. Pakistan's repatriation policy has created a fear particularly among the unregistered refugees. It is important to repatriate Afghan refugees as a security measure, but it should be in a respectable and dignified manner.

Refugee – Security Nexus

This section will deal with discourse analysis of the policy shift in Pakistan regarding Afghan refugees: how politics of fear played a vital role in the transformation of a humanitarian issue into a security problem through speech

acts and by extension the victimisation of the *'other'*; technically sharing certain commonalities with Pakistan, yet seen as the outsider *'other'*. Therefore, inter-subjective understanding of refugee as threat in Pakistan is induced. The securitisation of migration as a risk is a *'political technique of framing policy questions in logics of survival with a capacity to mobilise politics of fear in which social relations are constructed on the basis of distrust'*(Huysmans, 20016, in Michel Humphery, 2014).

Pakistan has been hosting Afghan refugees generously in the past, but there is a clear shift in this open door policy to expeditious repatriation. The closure of camps and education institutes, along with the issuance of deadlines to leave Pakistan, are but a few manifestations of the end to the policy of generous hospitality. The statements of the political elite and media representations of refugees have constituted a public resentment against the Afghan refugees as the outside *'other'* threatening the state and society in Pakistan. Shift in policy is ascribed to weak economy, terrorism, drug trafficking, increase in crimes and declining donor assistance for the refugees. The common themes in the discursive representation have been identified as those aimed at representation of a human face of Pakistan being a compassionate country extending generous support to the world's largest refugee population for a very long period of time.

The image of an Afghan refugee in popular Pakistani imaginaries is that of a dangerous *'other'* held responsible for adulterating Pakistani culture and social norms. This morally debased other is said to be involved in weaponisation, violence and debauchery. These imaginaries reflect the fear constructed through the law of exception, finding its ways in populist imaginations through a network of threads connecting fear with the dangerous *'other'* in national and international discourses on immigration and terrorism. The dualities of *us* and *them* are deployed at the refugee figure which becomes a surrogate border politically and culturally.

This transition has effect on the refugee phenomenon as refugees are now considered threat to state as well as community, which is supposed to be cultural and homogenous. The focus on identities has extended the security discourses beyond the state into the communities.

Nations are constructed at the site of exercise of control and domination by the state. The state, through securitising the culture and society extends its governmentality to the managing of feeling of insecurity (deeply embedded in the national imaginaries through constructed fear), which becomes the basis of unity amongst its citizens by excluding the dangerous *'other'*. The securitisation of cultural identities thus develops a new form of Social contract whereby the insecurities of citizens are managed by the pastoral state. Securitising immigration and asylum constructs political trust, loyalty and

identity through the distribution of fear and intensification of alienation (Huysmans 2006).

This narrative of threat to the purity of national identity is premised upon the totality and homogeneity of cultures. Culture like the linguistic sign is known through its difference from other cultures. The claims of purity of cultures have been challenged by the discourses on cultural diversity and globalisation in an attempt to de-locate and de-historicise the cultural specificities.

Present discourse of securitisation of refugees and their involvement in violent acts within Pakistan is aimed at producing a categorising practice differentiating good Muslims of Pakistan versus the bad Muslims in Afghanistan. Refugee figures is being used as the outside *'other'* of the purity narrative of Islam as practiced and represented by the state of Pakistan. However, the same refugee figure was constituted as Afghan *'mohajir'* during Gen Zia regime to house refugees through securitisation of religion. This discourse was constituted around the binary of *ansaar/mahajir*, to produce human face of Pakistan engaged in hospitality of largest refugee population: the binary had deeply embedded and sacred historical roots in early Islam as was associated with the Holy Prophet and his companions. The discourse was constituted in an attempt to securitise the religion (which was carried out to be under threat by a demonised anti-religious and atheistic power in the world). Pakistan helped refugee influx despite not being signatory to UN Convention, however, legal vacuum was filled up by the Islamic and Pashtun traditions. Discursive elements of Pashtunwali code (Khattak, 2009) were deployed as *mal mastia* (hospitality and support), *nanwatay* (protection to those who seek it), etc.

This discourse of securitisation of religion and counter-discursive force of *Jihad* served Pakistan's influence and interests in Afghanistan when the religion was securitised; refugees were desecuritized, and therefore normalised, within the discourse of religion and Pashtunwali code, also strengthened by large prowess of Middle Eastern aid through religious organisations. The waning of national interest in Afghanistan resulted in securitisation of the protracted refugee situation, constituting them as a radical threat to the peaceful Islamic republic of Pakistan. However, with the changing power dynamics, the spectre of nation state has returned with all its force.

The border discourse has produced the figure of refugee as a threat to the sovereignty of Pakistan, as elsewhere. Modern nation state system considers refugees as an anomaly, a matter out of place, which is to be normalised and corrected by its placement back to where it belongs. The control of borders is a major component of the securitization, sovereignty and the governmentality. Humphrey (2014) has discussed that the securitisation of migration extends the

governmentality beyond the borders, from producing national order to managing global disorder.

Pakistan shares a 2600 KM long border with Afghanistan. A total of 11 out of 34 Afghan provinces border Pakistan and 27 villages are spread on both sides of border. The populations at both sides of borders have stronger and deeper ethnic links than their new nationalist identities (Ehsan, 2016). The border is said to be porous and busiest one with 5,000 -30,000 people and 1000- 1200 cargo shipments vehicles crossing in either direction on a given day. According to the UN Office on Drugs and Crime (2014) 87 % of the total opium in the world is grown in Afghanistan. Between 300 and 500 heroin-producing factories are operating in the Afghan provinces of Helmand and Nimroz bordering Pakistan.

The rising graph of terror attacks, the success of operation *Zarb-e-Azb* and launching of new cleansing operation throughout the country and particularly in the border areas, the border with Afghanistan has become securitised. The tighter border management regime includes construction of a gate at Torkham, strict visa and passport regimes, biometric verifications and scanning of cargo vehicles as part of NAP devised to curb terrorist.

Afghanistan has been opposing all these unilateral border control measures by Pakistan, because they have reconciled with the idea of Durand Line as the international border. The unilateral management of border is not effective either, unless, some bilateral arrangements are agreed upon. There are about 262 crossing points on the 2600 km long Pak-Afghan border. In order to give impression of sealing borders off , the authorities in Pakistan have sealed 8 crossing points at Torkham, Spin Boldak, Ghulam Khan (North Waziristan), Angoor Adda (South Waziristan), Arundu (Chitral), Nawa Pass (Mohamand), Gursal (Bajaur), and Kharlachi in Kurram Agency. Closing these crossings still left the terrorists with 254 options available. The unilateral strict border management and the strict border control may imply a forced push back of Afghan refugees which is not in line with the international humanitarian law (Ehsan, 2016).

Ever since the international donors lost interest in assisting, Afghan ‘refugee fatigue’ has been felt in Pakistan as a burden to the national economy. Since the withdrawal of Soviet forces from Afghanistan there was a cut in international humanitarian relief for refugees. The result was a paralleled cut over the years in budget for Afghan Refugees. The spirit of *Ansaar e Madinah*, as was invoked and followed, by the State of Pakistan, during the early wave of refugees, had economic dimensions besides its spiritual, ethical and humanitarian dimensions. The transportation of frozen meat and dates in chartered planes from Saudi Arabia and US aid coming to Pakistan in lieu of

Pakistan's support in ousting communism from Afghanistan made the refugees an economic asset.

With the cuts in international monetary assistance for refugees paralleled with declining international interests in the refugee figure led to Pakistan abandoning the spirit of *Ansaar*. Reuse was there, but recycling of the economically discarded/useless refugees was strictly checked. The discourse shifted to speedy repatriation as refugees were constructed as a threat creating financial problems for the local citizens (Khan, 2016).

Policy Recommendations

Pakistan has neither any national legal document pertaining to the refugee status within its borders or asylum seekers nor it is a signatory of the 1951 Convention, therefore, Refugee Status Determination is conducted under UNHCR's mandate. UNHCR determines asylum seekers and refugees to stay in Pakistan for a particular duration and usually, Pakistan respects its decisions. Although, Foreigners Act 1946 exists to regulate non-citizens but it lacks any provision to deal legally with refugees. Hence, it is the requirement of the time for Pakistan either to become state party to the 1951 Convention or to devise a national legal document to govern and administer the treatment and reception of refugees under its own national legal framework.

Refugee crisis is a humanitarian issue and it must be dealt on humanitarian grounds instead of its transformation into a security threat, which raises fear and threat among the refugees and also makes it difficult for refugees to settle either in host country or in the country of origin after repatriation.

In the current state of affairs in Afghanistan, security environment is not conducive for refugees to return, there are additional options, which might be adopted by government of Pakistan other than focusing on repatriation of refugees. Afghan refugees might be converted from liability into asset by issuing work permits, to registered qualified Afghan professionals, who can provide their services in different sectors as well as it would generate a goodwill gesture towards Afghanistan. Furthermore, Pakistan should increase investment in Afghanistan and Afghan investment should also be encouraged by Pakistan, which would ultimately build trust and rapprochement between the two states.

UNHCR and Pakistan should allocate adequate funding to improve the education system for the children of Afghan refugees. Pashto and Persian must be compulsory for Afghan students in order to retain their identity on the one hand and to assist them in reintegration process in Afghan society on the other hand. Moreover, special seats and scholarships should be allocated for Afghan

refugees to ensure their constructive contribution in Pakistan or in Afghanistan if they return back home.

To develop a framework to deal with Afghan refugees should be part of Pakistan's national debate and repatriation policy as well as overall Afghan policy must be discussed in the Parliament and National Assembly rather than Foreign Ministry, Interior Ministry or Military alone deciding the fate of the Afghan refugees. The policy must reflect opinion of Afghan people or their representative government.

Besides this, Pakistan, UNHCR and Afghanistan government must also be involved to devise an acceptable solution for current refugee crisis. Moreover, the tripartite agreement, between Pakistan, Afghanistan and UNHCR, needs to be reviewed considering the contemporary refugee issues. Advocating the interests of either of the two states must not overlook the humanitarian needs of refugees.

Conclusion

Lexical representations of refugees and the national narrative on their repatriation are discourses, which became dominant through power relations. Discourses are never complete; they are constitutive of their lack and deficit. Prevalent securitisation discourse of Pakistani state hides the factors of possible radicalisation of some members of refugees, as it barely mentions integration failure of Afghan refugees by the state despite being Muslims, *Pashuns* and partners in Afghan *Jihad* in the late 1970s. This also implies the socio-economic conditions refugees had to live in, lacking any prospect for naturalisation, citizenship, participation and lack of civic rights. Besides the above, they have been allegedly part of radicalisation project of Pakistani state for the Afghan *Jihad*, which influenced probably many of them. Camp phenomenon, aid agencies and NGOs particularly Muslim aid agencies, proliferation of *madrassa* culture, etc. – all led to the alleged radicalisation of part of the refugee community.

Refugees are not a permanent phenomenon, but anti-refugee rhetoric and discursive practices are reifying the status of refugees as dangerous 'other' to the nation state system. Refugee is temporary phenomenon, but the anomalous identities are permanent, they have been reified and politically stabilised/reproduced even beyond the condition which (re)produce them.

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Notes from Panel Discussion: Session III

In response to a question raised by the audience, Major General Asif Ghafoor responded that, “if you are convinced that Pakistan is the part of the problem and not the solution... First of all, as a Pakistani, you have to convince yourself that whatever you did was right or wrong. All policies look very easy to be indoctrinated, but at the point one who takes the decision, takes the decision based on certain interests, based on logic and that is the best solution. One can convincingly say that Pakistan has always been the part of the solution not the problem. We have to understand this first. If we aren't convinced in house, how can we convince others? So, what is the problem? Who are we? We are a Country, a Muslim Country, a Nuclear Muslim Country, with a potential to do anything and everything. Why the problem, that we are facing, is not been faced by anybody else. Because we are relevant, if we weren't relevant nobody would have done what was done to us. If Pakistan was to destabilise the region, we wouldn't have given the sacrifices, of almost 73,000 uniform persons. We are housing over 5 million refugees. Not pushing them. As General was saying, if we were irrelevant, we were part of the problem, we would have been eliminated by them. We are part of the solution. So, first of all, you, as a Pakistan, be convinced that we are not destabilising the region.

With regards to terrorism, name a country which has defeated the terrorism other than Pakistan. If there are hypothetically 10 thousand terrorists in the Pakistan, (and the number is much more), take one thousand and put them in any country, even in America, what do you think, they would have sustained? Fifty countries are fighting inside Afghanistan as part of NATO and US missions. They have gone back leaving incomplete and unfinished agenda, but whatever achievements they have made there, was it possible without Pakistan. So, are we part of the problem? So, are we destabilising the region? Let me tell you who is destabilising the region.

There are three things which are: 1) protect the ideology of the country; 2) give security to the people of the country; and 3) give food to the people of the country. Is Afghanistan doing any of these three things? As long as Afghanistan looks towards Pakistan through the lens of Anti Pakistan forces, the region will never be stabilised. The day Afghanistan looks towards Pakistan with the lens of their own national interests, region will be stabilised. So please be assured that we are part of the solution”.

Professor Soharwardi added that, “Starting from 1950’s, Pakistan was the part of a bigger game. 1950’s and 1960’s cold war started and Pakistan became a US ally. In 80’s the 2nd Cold War started, Brzezinski, US National Security Advisor, admitted that we (the USA) basically grew the situation in Afghanistan. It was not that it developed by itself. He states and he admits that, Soviet Union was not interested in invading Afghanistan. It was stated that they were invited in Afghanistan. Brzezinski himself accepted that this was the invasion that we made possible. Once again Pakistan was with US. 1992, Soviet Union gets disintegrated and Pakistan is abandoned to sort out the regional problems.

The thing is that this kind of behaviour that a state, a rental commodity kind of stuff is practiced here. That is the place where Pakistan is wrong. In the last few years we see the drastic change in Pakistan foreign policy. It is now altering its relationship with the USA, and taking good care of its self-interest.

Stating that Pakistan’s role in destabilising the region is the bit of overstatement. I feel because of the international scenario; every country has got role to play in that. Now that role is negative or positive, that depends on the circumstances that we are engulfed by the time. Of course, Ayyub Kahn’s policies, General Zia’s policies and General Musharraf’s policies, we can’t say that a state has got the propensity to destabilize the region. That is like going too far.

The next question was asked by the audience, “Why didn’t Pakistan sign Geneva Convention? When are we going to send Afghanis back to Afghanistan? We talk about refugees, but have we ever talked on any forums about the Baloch people migrating to other areas because of terrorism?”

Major General Asif Ghafoor replied, “First of all we have to understand that we are Pakistanis first and provinces come later. Balochistan is the largest province in the country. We were the struggling economy, after independence. Do you think Balochistan is as bad as it was 20 years ago? You yourself sitting here, is the testimony that Balochistan is not today what it used to be. Do you think CPEC is spearheaded by the Balochistan? The amount of infrastructure being developed in Balochistan is unprecedented. The status quo is dangerous, but if the things are changing positively, that is good.

First of all you have to be convinced that Balochistan is the like any other parts of Pakistan. We are integrated kind of population. You don’t have to be a victim of outside propaganda, you are from the Balochistan, can you name any hostile agency which is not there in Balochistan? Any hostile intelligence agency of the world which is not there in Balochistan? The first positive thing that comes to your mind is resilience that this nation has shown for 70 years. Despite all the hostilities, we are succeeding and we will succeed. There could be

shortcomings on our part, everybody has follies. Optimistically, I would say be positive, be part of the solution”.

Closing Remarks by Principal NIPCONS

The Principal began his closing remarks by thanking the honorable ambassadors, distinguished guests, speakers, faculty members, students and the participants of the two days International Conference on Refugee Crises: Lessons from Pakistan & Beyond.

He continued by expressing that it was a matter of great pleasure to thank them for their participation on behalf of Rector NUST, Lieutenant General Naweed Zaman, HI (M), (Retired) and the Centre for International Peace & Stability (CIPS), and to express his heartfelt gratitude to all those, whose hard work and dedication had helped make this event a success.

He asserted that after two days of intense activity under the auspices of CIPS, they were now well familiar with its mandate. He remarked that at the cost of some repetition, he puts forth the view that this Centre is not only a teaching institution, it also acts as a Think Tank that frequently takes up issues of national and international importance. It examines these from an academic point of view by organising intellectual discourse, by hosting conferences, seminars, workshops, and other academic activities. The sum total of these academic undertakings is then collated and published as conference proceedings. These finished products add to the existing body of knowledge and become important documents for future research, particularly in the areas of national and international peace and stability.

He stated that these activities require a lot of time and hard work to materialise and the organisers of this event deserve his appreciation and praise. It was indeed a colossal task that spanned months of painstaking efforts to bring together this impressive assembly of speakers. The concept paper was drafted, call for papers were announced, abstracts were shortlisted and invitations sent out all around the globe. He declared that it would appropriate to mention the conference partners-Hanns Seidel Foundation (HSF), and the University authorities, for all their help, support and encouragement in making the logistics of this event possible.

He said that the speakers of the conference provided them thought provoking ideas to take home for further rumination. He added that he was particularly glad on how well they theoretically and empirically handled the three sessions on: Human Displacement: State Obligation, Capacity and Challenges; Refugee Crisis in a globalised and politicised World; and Human Displacement: Success and Failure of International Institutions.

He voiced the opinion that all three sessions highlighted the nuances of the refugee crisis and opened the door for further research. Today, refugee crisis has moved from being a domestic or regional problem and has assumed global proportions. Those in Pakistan have long struggled to handle refugees from outside and their own people displaced due to internal conflicts for many years. For the past three decades, Afghan refugees have made Pakistan their home. He suggested that Pakistan's management of refugees may not have been perfect but it definitely deserved praise. He further said that it certainly has lessons for more advanced countries in Europe that are struggling to address the influx of refugees from the Middle East.

He was of the view that the refugee crisis is not merely a political problem, its socio-psychological and economic implications somewhat outweigh the political aspect. The psychological trauma faced by refugees should be of a greater concern to all. He insisted that the horizontal and vertical displacement, that takes place in a state caught in the web of institutional politics, is tragic. Victims of the conflict are left to fend for themselves, as states disintegrate and human traffickers begin to pry on human misery. He declared that beyond any iota of doubt, refugee crisis deserves to be accorded a multilateral attention. The response should be an integrated and coordinated effort amongst the states, their institutions and concerned international entities, respectively.

Lastly, he affirmed that the aim and objective of CIPS is to create an enabling environment to discuss, understand, and possibly find constructive and workable solutions to all forms of conflicts. He said that they hoped that with this kind of academic gatherings, the desired objectives have been achieved to a great extent.

Once again on behalf of CIPS, he thanked all the speakers for sharing their wealth of knowledge and experiences with them. He said that he was particularly thankful to the active participation of the honourable ambassadors from Afghanistan, Syria and Sudan, diplomats stationed in Islamabad, scholars from abroad and from within Pakistan for their constructive participation.

He concluded his speech by saying:

“War is expensive, Peace is priceless, War is sweet and adventurous to those who haven't tasted it, being a refugee (a byproduct) of war is inhumane”.

