

Left Behind:

Waziristan Refugees in Afghanistan risk being forgotten as humanitarian assistance decreases.

Unable to return to Pakistan and stuck in a legal limbo in Afghanistan, the 72,000 refugees from Waziristan living in Khost and Paktika provinces are being left behind as international organisations withdraw.

Background

In 2014, the Pakistan military operation in North Waziristan District, an area in the northwest of Pakistan and bordering Afghanistan, led to the displacement of thousands of civilians into Afghanistan, primarily into Khost and Paktika provinces. While many of these refugees have since returned – it is estimated that approximately 72,000 refugees remain, the majority living in Gulan Refugee Camp in close to the internationally recognized border between Pakistan and Afghanistan in Khost. In addition, cross-border clashes around the Durand Line in May 2019 displaced a further 750 families from North Waziristan into Khost as well as over 400 refugee families who had been previously residing in Paktika.

Many refugees are apprehensive about returning to Pakistan, as their homes and other infrastructure have been destroyed and rumours that many families have been detained upon return. Those that remain, however, are effectively caught in a legal limbo, unable to access basic rights.

Due to a lack of funding and other priorities, UNHCR closed its Khost office in June 2019 with the intention of handing over the coordination and management of Gulan Camp to the Afghan authorities by 2020. At the

same time many other international organisations have scaled down their assistance and there are even moves now to erase all references to this population from the revised Humanitarian Response Plan (HRP).

Whilst UNHCR provided these families with prima facie refugee status in 2014 it was never formalised. Without adequate national legislation or institutions to handle the administration of this caseload, it is unclear whether following the withdrawal of international organisations - refugees would still be able to access international protection or the humanitarian assistance on which they depend.

Fearful of return:

Whilst there has been no formal survey of the return intentions of the remaining refugee families, the majority of those living in Gulan camp indicate that they consider return at this point impossible due to: the volatile situation in North Waziristan District; the lack of access to basic services in their place of origin; their homes and land being destroyed; the inability to bring back assets they had obtained whilst in Afghanistan; and the fear to detention upon return. While both UNHCR and ICRC have a presence in Peshawar their ability to monitor return movements or conditions for

returning refugees at the border area to Afghanistan is severely restricted.

The situation is further complicated by disputes between the Afghan and Pakistani Governments over the Durand Line (the internationally recognised border between Afghanistan and Pakistan). As part of this dispute the Government of Pakistan has increased fortification of its north-western border, constructing a fence along the Durand line, causing in some cases further displacement of civilians from Pakistan into Afghanistan. With increased barriers to return and without clear information on what awaits them it is likely that the majority of these refugees will remain in Afghanistan for the foreseeable future.

A legal limbo:

While Afghanistan in 2005 acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, Afghanistan has still not implemented a national, legal framework regulating asylum seekers entering Afghanistan. A draft asylum law has been pending with the Ministry of Justice (MOJ) since 2013. There are hopes that this may be adopted in 2020 allowing refugees in Afghanistan to seek asylum and provide a pathway through which refugees can obtain legal status. Should the law be adopted at a National level, further advocacy and support will be required to move from adoption to implementation at a provincial level.

Even if an asylum law is adopted it is unclear whether that will allow refugees from Waziristan to be granted a proper legal status given that the Afghan Government does not consider this specific population to be refugees in the first place due to the Durand Line dispute. As a result - the Afghan Government claims that this population never crossed an international border and are therefore considered internally displaced as opposed to refugees.

However, despite this claim, refugees from Waziristan are currently not only unable to claim rights as refugees – they are also unable to enjoy the same rights as internally displaced Afghans such as freedom of movement beyond the province¹, the right to legally work, the right to be registered in Afghan schools, the right to buy land, and, at the root of the issue, the right

to obtain a *Tazkera* (Afghan National Identity Document).

Whilst the majority of male refugees in Gulistan camp possess Pakistani National Identity Documents, only between 10-25% of the female population do. Most children born in Pakistan do not have their own identity documents before the age of 16 – therefore a growing population will lack any form of legal identification. When it comes to birth registration, children born in the camp hospital or maternity clinic in Khost (operated by ACTD and MSF respectively) receive a birth attestation document. However, these are not formal birth certificates – which would require issuance by the Population Registration Department (PRD) – and the acceptance of these documents by Afghan Government authorities remains unclear.

As a result of political border disputes these refugees find themselves unable to return and stuck in a legal limbo. Afghan authorities claim that they are Internally Displaced Afghans – however there are no regulations, directives or decrees that would provide any access to a *Tazkera* and thereby the citizens' rights that come with it. Neither are there any other initiatives taken by the Afghan authorities that would help legalize their stay in Afghanistan.

Set up for failure:

Against this backdrop, due to a lack of funding and other priorities, UNHCR closed its Khost office in June 2019 and will have no more budget to continue service delivery through its partners to the refugee population by the end of the year. As such UNHCR intends to handover the coordination and administration of the refugee response to the Afghan Government by 2020.

However, given the limited resources of the Afghan Government in Khost – as well as severe displacement challenges elsewhere in the country, it is unlikely that the Government will be able to take over coordination of the already limited service delivery in the near future. This situation is further compounded by the lack of investment in camp management. Whilst the majority of refugees live in Gulistan camp, there has never been any formal camp management of the site. As a result, there

¹ Those without Tazkeras can face barriers crossing checkpoints, particularly at the boundaries of provinces.



Robina studied a masters in political science in Pakistan. After fleeing Pakistan in 2017 she is now a teacher as part of NRC's education in emergencies programme in the camp. "We left all our belongings and were separated from our relatives back in Pakistan, but the humanitarian organizations were a great help in standing on our feet again. Now, many of them are withdrawing from the camp and hundreds of Pakistanis will be losing their jobs and the future of thousands of the refugee children will be dark."

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is an absence of adequate monitoring of the population's needs, and gaps in service delivery at the present time and so no way to ensure that services continue and the needs of this population are met once a handover takes place.

Similarly, the land on which refugees reside in Gulan Camp is also disputed between two tribes, both claiming ownership of the land. Whilst there have been limited issues for the Waziristan population resulting from these land disputes to date this has largely been attributed to the fact that these tribes have benefitted as well from the humanitarian assistance provided (i.e. roads, water systems, schools, clinics etc.). As humanitarian assistance decreases these issues could become more pertinent.

Finally, whilst the risk of deportation to Pakistan remains small, without adequate legislation or directives from the Government of Afghanistan allowing these refugees to regularise their stay they will be unable to access durable solutions or adequately integrate into the local community – remaining confined to Gulan Camp and reliant on decreasing humanitarian assistance.

Left behind and ignored:

Despite the commitments made by the Government of Afghanistan, International Donors and humanitarian organisations to ensure that 'no one is left behind' – these refugees are at risk of being forgotten and unable to access their basic rights. Despite the Government's insistence that they are IDPs, due to their lack of Afghan citizenship these refugees still find themselves unable to integrate into Government programmes or even enrol their children into schools.

To address this, NRC with the support of Norwegian Agency for Development Cooperation (NORAD) has provided education for up to 20,000 refugee children. However, after multiple years this emergency modality is becoming increasingly unsustainable. In an attempt to expand capacity to eventually integrate these children into the formal education system, with the support of the Pakistan Afghanistan Tajikistan Regional Integration Program (PATRIP) Foundation, NRC is also supporting the absorption capacity of local schools to enrol more children. However, these additional classrooms continue to sit empty in the absence of policy change.

A longer-term approach to address the needs of this population is required. Recent global initiatives such as the Comprehensive Refugee Response Framework (CRRF) and the Global Compact on Refugees should provide an opportunity to begin to address some of the barriers faced by refugees in Afghanistan – by encouraging the Government of Afghanistan to adopt the draft Asylum Law and provide refugees from Waziristan some mechanism to formalise their legal status. Once these legal barriers are removed, the CRRF pilot should also be used by UNHCR and Donors to ensure that these refugees are able to benefit from and their needs are adequately addressed in the Government’s National Priority Programmes.

However, Government institutions across Afghanistan, including in Khost, are already stretched to breaking point, dealing with continuous internal displacement, widespread poverty and insecurity. The expectation that these institutions will be able to also take on additional coordination and management responsibilities in the short-term is unrealistic. In the meantime, these refugees remain effectively dependent on humanitarian assistance. Assistance that is decreasing as international organisations, including UNHCR and WFP, begin to withdraw or scale down their interventions.

If the international community is to live up to its commitments to leave no one behind it is imperative that adequate attention and resources are directed towards the Waziristan refugee population, both in the long term through integration into government development programmes and the immediate term through the continued inclusion of this population in the HRP until they are able to achieve durable solutions. If not, whilst both the Governments of Afghanistan and Pakistan lay claim to their citizenship, a generation of refugee children risk growing-up with no place to call home.

NRC recommendations:

To the Government of Afghanistan:

- Adopt and implement the Asylum Law
- Allow refugees access to some form of legal status granting them access to freedom of movement and other basic rights such as education, right to work etc. whilst the Asylum law is being concluded.

To the Government of Pakistan:

- Ensure that refugees from North Waziristan District are able to voluntarily return to their areas of origin in safety and dignity
- Allow independent organisations to observe that the rights of returning refugees are respected

To UNHCR:

- Urgently reconsider the closure of their Khost programme until durable solutions – specifically verifiably safe & voluntary return or local integration can be achieved

To the Humanitarian Coordinator:

- Ensure that the refugee population in Afghanistan is included in the Humanitarian Response Plan and not neglected

To Donors:

- Provide adequate funding for refugee protection, assistance and durable solutions and ensure that the needs of refugees are effectively addressed within their development programmes.