

## Push to Return

Despite a long history of Afghans migrating to Iran, their legal status has become increasingly more difficult as time passes. Until 1992, they were able to register as “involuntary migrants” with automatic residency rights, access to health care and education, and permission to work.<sup>1</sup> Indeed, the Iranian government recognized an Islamic duty to host Muslims fleeing the religious persecution of the aesthetic Soviet Union. Iran received much less international assistance for Afghan refugees than Pakistan did though and, as such, only 3% of Afghans refugees were settled into specific camps. Instead, they were integrated into Iranian communities.<sup>2</sup> However, once Ayatollah Khomeini died and the Soviet Union fell, Iran began to treat Afghans as mere migrants and not as people fleeing religious persecution. “In 1997, the Iranian government effectively stopped granting newly arriving Afghans automatic residency status, launched a major program to register undocumented Afghans already in the country, and stepped up efforts to deport Afghans.”<sup>3</sup>

In 2003, the Iranian government created *Amayesh* cards in order to keep track of Afghans who were already granted residency. If cardholders are found with an expired *Amayesh* card, they are deemed unlawfully present and deportable. During deportation, which Afghans have

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<sup>1</sup> Human Rights Watch, “Unwelcome Guests: Iran’s Violations of Afghan Refugee and Migrants Rights,” 19, last modified November 2013. <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

<sup>2</sup> Zusanna Olszewska, “The Poet's Melancholy: Depression, structure of feeling, and creativity among Afghan refugees in Iran,” *Medicine Anthropology Theory* 2, no. 3 (2015): 83-104.

<sup>3</sup> Human Rights Watch, “Unwelcome Guests: Iran’s Violations of Afghan Refugee and Migrants Rights,” 20, last modified November 2013. <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

virtually no procedural means to challenge, they face possible police violence and forced labor while in detention, theft and high deportation fees, and poor conditions in the detention facilities. Since 2003, the UNHCR has regarded all Afghans with *Amayesh* cards as refugees. However, it is nearly impossible for any Afghan who has arrived after 2003 to secure such a card.

Theoretically, Afghans can renew their *Amayesh* cards each year – but eventually the Iranian government could decide to strictly limit cards or revoke them altogether. It has already pressured some Afghans with *Amayesh* cards to give them up in exchange for work and residency permission.<sup>4</sup> Since at least 2007, no newly arriving Afghans may register as asylum-seekers.

[T]hey face severe restrictions on freedom of movement, as well as arbitrary limits on access to education, employment, Iranian citizenship, and marriage rights. All Afghans and other foreign nationals are subject to travel restrictions in many areas of the country, and documented Afghans are restricted to working in specific professions, all of which are menial and many of which are dangerous. Afghan refugees are required to give up their refugee status prior to entering university and are barred from a variety of degree programs.<sup>5</sup>

Family and immigration laws present another challenge for Afghans and children of mixed-status couples. For example, Iranian citizenship is derived solely from the child's father, and Iranian women cannot transmit their citizenship to their foreign spouses or to any children they have. This applies to over 30,000 Iranian women who have married Afghan men and, if the men are undocumented, the government will not recognize the marriage at all. In the eyes of

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<sup>4</sup> Human Rights Watch, “Unwelcome Guests: Iran’s Violations of Afghan Refugee and Migrants Rights,” 7-10, last modified November 2013. <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

<sup>5</sup> Human Rights Watch, “Unwelcome Guests: Iran’s Violations of Afghan Refugee and Migrants Rights,” 9, last modified November 2013. <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

Iran, the children of Iranian women and Afghan men are Afghans. However, in the eyes of Afghanistan, their children are not so. As such, these children are effectively stateless. They do not have birth certificates and often have to attend illegal, self-governed schools. These children also cannot receive travel documents, formal government support, or identification cards.<sup>6</sup>

Some sections of Afghanistan's border with Pakistan are quite porous. Ethnic groups, such as Pashtuns, have lived in the region since long before the modern Afghan-Pakistan border came into existence. Various tribes do not accept this as an international border and, as such, have moved back-and-forth across it.<sup>7</sup> Afghan Pashtuns fleeing into Pakistan have sometimes found it easier to find sanctuary with Pakistani family members and to assimilate with a local population of other Pashtuns.

In the 1980s, Afghan refugees could secure identity and ration passes for humanitarian assistance. However, once the Soviets vacated Afghanistan, Western appetite for assisting Afghan refugees in Pakistan dwindled and an assisted repatriation program was begun. They were not legally allowed to work and, while their children could access public education, it was often on a space-available basis. Afghan refugees were subject to social discrimination, including blame by politicians for acts of terrorism within the country. Nevertheless, the

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<sup>6</sup> "Country Reports on Human Rights Practices for 2015: Iran," Department of State Bureau of Democracy, Human Rights and Labor, accessed April 17, 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

<sup>7</sup> Waseem Ahmad, "The Fate of Durable Solutions in Protracted Refugee Situations: The Odyssey of Afghan Refugees in Pakistan," *Seattle Journal for Social Justice* Vol. 15, Iss. 3 (Spring 2017): 608-609. <https://digitalcommons.law.seattleu.edu/sjsj/vol15/iss3/10/>.

Pakistani government usually provided protection to Afghan refugees (rather than deportation) and cooperated with the UNHCR in its delivery of services to them.<sup>8</sup>

By 1995, ration passes were no longer issued and refugees could no longer get assistance, leaving “Afghan families in a miserable and vulnerable situation.”<sup>9</sup> The Government also issued a policy on urbanization, lifting restrictions on remaining within refugee camps. In this context, almost 70% of holders of Proof of Registration (PoR) cards that show permission of legal presence, live outside formal camps.<sup>10</sup> Since Pakistan lacks legislation for refugee determination, it signed an Agreement of Cooperation with the UNHCR in 1993 in which it has allowed asylum-seekers to stay based on UNHCR determination of refugee status.<sup>11</sup>

In 2012, the UNHCR collaborated with the governments of Afghanistan, Iran and Pakistan to create a Solutions Strategy for Afghan Refugees (SSAR) and build a repertoire of country-specific projects in conjunction with 50 development and humanitarian agencies in order

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<sup>8</sup> “Country Reports on Human Rights Practices for 2015: Pakistan,” Department of State Bureau of Democracy, Human Rights and Labor, accessed April 19, 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

<sup>9</sup> Waseem Ahmad, “The Fate of Durable Solutions in Protracted Refugee Situations: The Odyssey of Afghan Refugees in Pakistan,” *Seattle Journal for Social Justice* Vol. 15, Iss. 3 (Spring 2017): 614. <https://digitalcommons.law.seattleu.edu/sjsj/vol15/iss3/10/>.

<sup>10</sup> Waseem Ahmad, “The Fate of Durable Solutions in Protracted Refugee Situations: The Odyssey of Afghan Refugees in Pakistan,” *Seattle Journal for Social Justice* Vol. 15, Iss. 3 (Spring 2017): 636. <https://digitalcommons.law.seattleu.edu/sjsj/vol15/iss3/10/>.

<sup>11</sup> Waseem Ahmad, “The Fate of Durable Solutions in Protracted Refugee Situations: The Odyssey of Afghan Refugees in Pakistan,” *Seattle Journal for Social Justice* Vol. 15, Iss. 3 (Spring 2017): 611-612. <https://digitalcommons.law.seattleu.edu/sjsj/vol15/iss3/10/>.

to focus on health, education and livelihood.<sup>12</sup> However, five years later, reviews of the SSAR are less than positive.

[O]ne of the principle objectives of the strategy had been to incentivize Iran and Pakistan to abstain from policies pushing out refugees, in exchange for increased funding and international attention to the topics of return and reintegration. While the plan did succeed in providing a platform for regional discussions between the three countries...it failed to deter Iran and Pakistan from hardline policies toward refugees.<sup>13</sup>

Within one month of the SSAR's creation, Pakistan declared that it would not extend the Proof of Registration cards for Afghan refugee beyond 2012 (but relented in what has become a continuous cycle of threats and extensions). "In December 2015, the government stopped reissuing Afghans' Proof of Registration documents. It most recently extended the documents' expiration until the end of 2017, at which point all Afghans would be in irregular status, without rights and subject to deportation."<sup>14</sup> Words and policies have been combined with violent actions of harassment, police abuse and mass expulsions.

After 40 years, entire generations of Afghans live in Iran or Pakistan without ever having lived in Afghanistan and are not accustomed to life in Afghanistan. However, they are not legally recognized as having any citizenship other than Afghan, may not have official refugee documentation or identification, and, at best, are considered to be as guests (with virtually no protection or rights and the continual possibility of spontaneous expulsion). Still, to some

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<sup>12</sup> "Afghan Solutions Strategy," UNHCR, accessed April 17, 2016. <http://www.unhcr.org/pages/4f9016576.html>.

<sup>13</sup> Matthew Willner-Reid. "Afghanistan Displacement Challenges in a Country on the Move," *Migration Information Source* (November 16, 2017), para. 5, <https://www.migrationpolicy.org/article/afghanistan-displacement-challenges-country-move>.

<sup>14</sup> Kathleen Newland and Brian Salant, "Top 10 of 2017 – Issue #7: Increased Focus on Forced Return of Migrants and Asylum Seekers Puts Many in Peril," para. 8, last modified December 12, 2017. <https://www.migrationpolicy.org/article/top-10-2017-issue-7-increased-focus-forced-return-migrants-and-asylum-seekers-puts-many>.

Afghan refugees in Iran and Pakistan, restrictions on education, prohibition from certain job classifications, never gaining citizenship, being a scapegoat for social and political problems, or living without proper documentation is preferable to the violence and restrictions of Afghanistan.<sup>15</sup>

Beyond Pakistan and Iran, Afghan refugees are being pushed out of other countries as well.<sup>16</sup> In 2016, the European Union signed an agreement with Afghanistan “clearing the way for returns of failed asylum seekers,” alongside similar bilateral return agreements of Germany, Sweden and Finland.<sup>17</sup> The United Kingdom has returned over 2,000 young Afghan men who arrived as unaccompanied children seeking asylum. When researchers attempted to stay in touch with these young men during the first year after return to Afghanistan, they lost contact with many of them due to internal displacement, physical risks of continued contact with Westerners, and/or social stigmatization associated with perceived Westernization. From the young men whom researchers were able to contact, they gleaned evidence of the following:

weakened or disappeared family and social networks; fear of stigma and discrimination impeding the formation of new social networks; challenges in accessing institutional support; generalised insecurity and victimisation; the near impossibility of continuing in education after forced return; the difficulty of finding sustained work; mental health

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<sup>15</sup> “Country Reports on Human Rights Practices for 2015: Pakistan,” Department of State Bureau of Democracy, Human Rights and Labor, accessed April 19, 2016. <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm>.

<sup>16</sup> Matthew Willner-Reid. “Afghanistan Displacement Challenges in a Country on the Move,” *Migration Information Source* (November 16, 2017), para. 32, <https://www.migrationpolicy.org/article/afghanistan-displacement-challenges-country-move>. Afghans filed over 386,000 asylum applications in Europe between 2015-16.

<sup>17</sup> Kathleen Newland and Brian Salant, “Top 10 of 2017 – Issue #7: Increased Focus on Forced Return of Migrants and Asylum Seekers Puts Many in Peril,” para. 5, last modified December 12, 2017. <https://www.migrationpolicy.org/article/top-10-2017-issue-7-increased-focus-forced-return-migrants-and-asylum-seekers-puts-many>.

difficulties and protracted deterioration in emotional well-being; and limited access to essential support and health care.<sup>18</sup>

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<sup>18</sup> Emily Bowerman, “Risks Encountered After Forced Removal: The Return Experiences of Young Afghans,” *Forced Migration Review* 54, (February 2017): 79-80, <http://www.fmreview.org/resettlement/bowerman.html>.