



ACCESS

The Role of Courts in Shaping Access to Asylum

PAKISTAN NATIONAL REPORT

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INTRODUCTION: OBJECTIVES OF ACCESS

The research project “Gatekeepers to International Refugee Law? – The Role of Courts in Shaping Access to Asylum” [ACCESS](#) investigates the role of courts in shaping access to asylum. It seeks to understand how courts globally interpret State-developed barriers in light of the Refugee Convention (RC) and other international norms, what socio-legal factors influence asylum access adjudication, and how the emerging jurisprudence shapes international refugee law (IRL) and migration governance.

ACCESS adopts a comparative approach as it relies on data collected from 19 countries, theoretically selected to cover all geographical regions, various legal systems and adjudication models, and different forms of participation in the international refugee law regime.¹

Given the comparative and socio-legal approach of the project, our goal is to collect data through multiple methods that guarantee comparability, comprehensiveness, and reliability of the data.

The data collection template, along with the explanatory guidance used for the preparation of this National Report, can be found at: Lacchei, Alice; Lambertini, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara (2026) National Report ACCESS Project Template. DOI: 10.6092/unibo/amsacta/8984

In addition, the summaries of the judicial decisions analysed in Part II of this National Report and cited throughout this document can be found at: Lacchei, Alice; Lambertini Martinez, Sara Mariella; McDonough, Paul; Moraru, Madalina; Reyhani, Adel-Naim; Scissa, Chiara; Jesudoss, Loretta Mary (2026) ACCESS Mid-Term Dataset: The Role of Courts in Shaping Access to Asylum. University of Bologna. DOI 10.6092/unibo/amsacta/8962. [Dataset]

DEFINING TERMS

‘Asylum’ denotes the protection a state grants on its territory to non-citizens who seek it. It includes a legal status that protects against refoulement and provides a right to stay. In several jurisdictions, e.g. those that do not have domestic asylum legislation, this status might not be labelled ‘asylum’. The research nevertheless includes such equivalent protection under the term ‘asylum’. Similarly, if a national system that includes an asylum status provides additional protection statuses that include a set of rights closely similar to those the 1951 Convention provides for refugees lawfully staying, the research includes those statuses under ‘asylum’.

‘Accessing asylum’ describes using legal and practical avenues to move towards the territory of potential host states, or to enter procedures and other arrangements for obtaining such status (labelled as asylum or not) implemented by a state or on its behalf. Territorial asylum processing (sometimes referred to as refugee status determination or RSD) itself or equivalent practices, however, are not studied here.

‘Barriers to accessing asylum’ refers to measures, arrangements, approaches, implementation practices, or structures that impede access to asylum. They can be implemented by state actors and others (if tolerated by the state); be of a practical or legal character; incorporate socioeconomic and cultural elements; and pertain to administrative or judicial spheres. Barriers implemented after the formal start of territorial asylum processing can be considered, if the processing is conducted as a sham or pretence rather than allowing effective access to asylum.

‘Pushbacks’ denote the removal or non-admittance of individuals trying to access asylum, without a substantive assessment of risks or potential rights violations. They can occur both on land and sea, including on international waters.

¹ Australia; Kenya, South Africa, Tunisia (Africa); Austria, Greece, Italy, Poland, Spain (Europe); India, Malaysia, Pakistan, Turkey (Asia); Argentina, Brazil, Chile, Ecuador, Mexico (Latin America), USA.

‘Pullbacks’ are the dragging back of individuals approaching a destination state to the territory of a state from which they had departed without a substantive assessment of risks or potential rights violations. Such practices are often implemented in cooperation between two or more countries. While typically practiced at sea, such as in the territorial waters of the state of departure, pullbacks can also occur on land.

‘Walls and fences’ include physical barriers that prevent access to territory at or near borders, irrespective of the specificities of the construction or the materials used.

‘Detention’ is the imprisonment or other limitations of the right to liberty and security of person of individuals, territorially or extraterritorially, in connection with their asylum accessing.

‘Externalization of asylum processing’ denotes outsourcing procedures and transferring individuals to other jurisdictions to assess protection claims. Under such a practice, for example, potential destination states disallow asylum procedures on their territory, dismiss the corresponding applications, and deport individuals to cooperating countries. Externalized asylum processes can be based on formal and informal agreements between states.

‘Procedural barriers’ refers to any administrative practice or arrangement which, after individuals (attempt to) claim asylum, impedes the formalization of the application or the commencing of a procedure for obtaining asylum. This barrier can, for example, take the form of sham processes or (fast-track) processes based on the safe third country or safe country of origin concept, or a lack of mechanisms for ensuring appointments at registration offices.

‘Judicial or quasi-judicial body’ is the body that reviews/assesses the legality of the decisions, actions, or omissions of state authorities. This term encompasses the wide range of institutions adjudicating asylum barriers, including government/executive bodies, UNHCR, etc.

‘First instance judicial or quasi-judicial body’ is a court, tribunal, or other quasi-judicial body that hears appeals against administrative or executive decisions. ‘Second instance judicial or quasi-judicial body’ is a court or tribunal or other body that hears appeals against decisions made by a first instance judicial or quasi-judicial body. ‘Third instance judicial or quasi-judicial body’ is a court or tribunal (possibly a constitutional court) or another body that hears onward appeals, i.e., appeals against decisions already made by a judicial or quasi-judicial body of at least a second instance. In some jurisdictions there might be further levels of appeal.

‘Legal system’ refers to deeply rooted, historically conditioned attitudes about law’s nature and role, the legal system’s organization and functioning, and how the law is developed, applied, and interpreted (Merryman, 1985). The most common legal systems are the common law, civil law, Islamic, indigenous and socialist legal traditions (idem).

‘Asylum access adjudication’ refers to judicial examination and review by courts or quasi-judicial bodies of administrative decisions made by executive or immigration authorities regarding asylum.

‘Socio-legal factors’ refer to macro, meso, and micro factors influencing asylum access adjudication in the selected jurisdictions. They can originate at the macro level (state), at the meso level (judicial or quasi-judicial body), and at the micro level (individual). For example, adjudication may be influenced by the level of independence of the judiciary (macro factor) or the specialization of the asylum adjudication system (e.g., specialized courts); or availability of judicial or quasi-judicial bodies resources such as time, funds, human resources (meso factors); or individual characteristics of the actors involved, such as background or gender of adjudicators (micro factors).

‘Judicialization of politics’ refers to the increasing reliance on courts and judicial means for addressing core moral, political, and public policy questions (Hirschl 2013). For an overview of the meanings of judicialization, please refer to Hamlin and Sala (2018), who trace various forms in which judicialization of politics can occur (e.g., expanding the jurisdiction of courts, judicial activism, or due to the large number of cases decided by courts).

'Forced migration' refers to 'a migratory movement which, although the drivers can be diverse, involves force, compulsion, or coercion' (IOM, 2019:77). Although it is not an international legal concept and the use of the term is debated because of the controversial dichotomy of voluntary/forced movements, in this report we refer to forced migration including the movement of refugees and asylum seekers, as well as other displaced persons (including those displaced by disasters or victims of human trafficking) who will not attempt to lodge an asylum application. When referring to 'other displaced persons', we mean those forced migrants who are not registered as asylum seekers or refugees, etc., despite being present in the country.

1. **Functioning:** What is the barrier's specific functioning? How does it prevent individuals from accessing asylum?
2. **Time:** What is the implementation period of the barrier? Is it still in use? Is there a time frame for its planned termination?
3. **Place:** Where is the barrier implemented?
4. **Actors:** Who are the key institutional and other actors implementing the barrier? Are there relevant actors from other jurisdictions or international actors?
5. **Interaction:** How does the barrier interact with other barriers and the country's asylum system?
6. **Development:** What has been the historical and political context for introducing the barrier, and how have its implementation and its character developed over time? (Please consider e.g. corruption, economic or human resources available to implement the barrier, resistance or support by local actors - officials or local community)
7. **Rationale:** What are the stated purposes (e.g., in legislative preambles, government/executive, or judicial statements) the barrier is designed to serve?
8. **Legal Status:** What legal status does the national legal framework provide to individuals prevented by this barrier from accessing asylum? For example, do they fall under a specific (protected or unprotected) category within national law, such as asylum seekers or refugees before formal recognition, or are they treated under the general framework for non-citizens?
9. **Specific Impact:** What is the impact of the barrier on specific groups, such as children, women, LGBTQ+ individuals, or people with disabilities? How does it differ from the barrier's general impact?
10. **Reach:** How many individuals have been affected by this barrier since 2010, both in absolute numbers and relative to the number of procedures for determining protection status in the same period? Has the barrier contributed to less movement of displaced persons towards the country? Please provide an informed estimate if reliable statistics or studies are unavailable.
11. **Source:** What is the legal basis or source of the barrier? Is it grounded in or approved by domestic, international, or supranational law (even if its legality might be contested)?
12. **Justification:** What justifications have the government/executive branch provided for the barrier? Are there official statements or documents that outline these justifications?
13. **Domestic and International Reactions:** What have been the reactions or interventions from domestic actors, international bodies, or other countries?
14. **Externalization:** How does the barrier outsource migration control functions to actors outside the jurisdiction?
15. **Technology:** How does the barrier draw on technological infrastructure or tools to fulfil its functioning?
16. **Other:** Any further information considered crucial for understanding this barrier to accessing asylum and its relevance.

PART 1: BARRIERS TO ACCESSING ASYLUM

I. IDENTIFYING BARRIERS

A. Barriers of general relevance

Walls and Fences: ☒

Pushbacks: ☒

Detention: ☒

Procedural barriers: ☒

B. Barriers of specific relevance

- 1) Denial of Access to Asylum through Internal Enforcement: This barrier is inherently connected with and interchangeable with the ‘Pushbacks’ and ‘Detention’ barriers of general relevance listed above. It is still listed distinctly as a barrier of specific relevance in Pakistan because under an ongoing executive plan, Illegal Foreigners Repatriation Plan (IFRP), there is systematic detention and removal/deportation of Afghan nationals and other foreign individuals already present in the country without an opportunity to seek asylum or undergo an individual risk assessment. The IFRP treats all undocumented, and now in its later phases, even documented, persons as illegal immigrants under the Foreigners Act, 1946, without recognizing potential protection needs. Under this plan, raids, arrests, and deportations across cities, refugee-populated areas, and border provinces are mandated by the executive and occur in the absence of a national asylum system or refugee protection legal framework.
- 2) Discriminatory application of citizenship laws, limiting a means of accessing asylum: The Pakistani citizenship framework includes legal safeguards, such as birthright citizenship under Section 4 of the Pakistan Citizenship Act, 1951, that theoretically and legally protect all children born in Pakistan from deportation, including those born in stateless communities, children of long-term residents, asylum seekers, etc. However, these safeguards are rarely selectively applied and often denied to Afghan nationals, even when they meet the legal criteria. As a result, Afghan-origin individuals born in Pakistan or living there for decades are excluded from acquiring citizenship rights, which could otherwise offer them legal protection against detention or deportation. This selective application disproportionately impacts Afghans, amongst other groups, and undermines legal certainty. Similarly, Section 10 of the Citizenship Act deals with citizenship through marriage, which is discriminatory towards women passing citizenship/right to stay to their husbands, including Afghan refugees and asylum seekers.
- 3) Barriers to resettlement: exit restrictions & visa systems: Entering Pakistan without valid documentation attracts the application of the Foreigners Act 1946, which criminalizes illegal entry and grants the executive broad powers to detain and deport such persons without any mandatory assessment of protection needs or providing access to any asylum process. Detention under Section 14(2) of the Foreigners Act and a pending trial for those detained under this provision have been held by the Ministry of Interior as reasons to deny issuance of exit permits to asylum seekers for resettlement in a third country.

I. UNDERSTANDING BARRIERS

A. Barriers of general relevance

Note: Understanding access to asylum in Pakistan's context

The broad definition of asylum as *'the protection granted by a state to non-citizens who seek it on its territory, a legal status that protects against refoulement and grants a right to stay'*, enables different avenues used to grant legal status and protect non-citizens' right to stay in Pakistan to collectively inform our understanding of what asylum means in Pakistan. 'Accessing asylum' in this context therefore refers to the legal and practical avenues and procedures available in Pakistan for non-citizens to enter the country and obtain a status granting them protection and a right to stay (whether that is referred to as asylum by Pakistan itself or not).

In the absence of a formal legal framework, Pakistan's existing mechanisms on asylum and refugee-related protection include: mandates of UNHCR granted by the Government of Pakistan (provides legal status, a right to stay and protection), constitutional protections that are available to non-citizens/foreigners under the Constitution of 1973 (grants protection of certain rights, including right to life, liberty, dignity to all persons),² and citizenship laws (Citizenship Act 1951) that provide a pathway to legal status, right to stay and protection to non-citizens/foreigners (through birthright and marriage primarily in the context of refugees and asylum seekers).

Barriers to accessing asylum refer to 'measures, arrangements, approaches, implementation practices, or structures that impede access to asylum', understood as broadly defined above in Pakistan's context. These barriers include both: i) legal and practical gaps that prevent a person's access to legal status/right to stay in Pakistan, and ii) legal, practical and institutional acts and omissions that lead to violation of the rights of individuals with already recognized legal status/right to stay, such as deportation despite access to or eligibility for valid documentation.

UNHCR

Pakistan does not have a formal legislative framework governing asylum or refugee status. Unlike many countries with codified asylum laws, Pakistan has neither enacted specific legislation nor ratified the 1951 Refugee Convention or its 1967 Protocol. All asylum claims are processed through a Refugee Status Determination (RSD) procedure exclusively by the United Nations High Commissioner for Refugees (UNHCR) under its mandate (Statute of the Office of the United Nations High Commissioner for Refugees adopted by the General Assembly Resolution 428 (V) of 14 December 1950) and on behalf of the Government of Pakistan under the 1993 Cooperation Agreement between the Government of Pakistan and UNHCR³ - decisions which the Courts have also considered to carry a binding effect. UNHCR has partners across the country to facilitate new applications for asylum, including SHARP and SEHER.⁴ It's important to note that Pakistan does not have a specific visa category or interim legal status mechanism for asylum seekers or refugees. Consequently, many asylum seekers enter the country on regular visas (such as tourist or visit visas) and then approach UNHCR for registration and protection.⁵ It has also been noted that possessing a valid visa is crucial for asylum seekers, as it allows them to legally reside in Pakistan while their asylum claims are being processed.⁶ A valid visa is important because once

² "[C]ertain fundamental rights, including the right to life (Art. 9), protection against unlawful detention (Art. 10), and the inviolability of human dignity (Art. 11), are afforded to all individuals within Pakistan's jurisdiction, irrespective of their nationality. It is therefore the State's constitutional obligation to protect fundamental rights of refugees, as persons, guaranteed under the Constitution, even in the absence of any other law in place for protection of refugees, asylum seekers and related groups in the country." - <https://hrnp-web.org/hrnpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

³ UNHCR, Asylum System in Pakistan - <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan>

⁴ UNHCR Contact: <https://help.unhcr.org/pakistan/contact/>

⁵ (Amel Ghani, 'Pakistan steps up crackdown on Afghan refugees, adds new restrictions' (The New Humanitarian, 23 March 2023) <https://www.thenewhumanitarian.org/news-feature/2023/03/23/pakistan-crackdown-afghan-refugees> accessed 20 May 2025).

⁶ UNHCR, 'Asylum in Pakistan' (UNHCR Help Pakistan) <https://help.unhcr.org/pakistan/asylum/> accessed 22 May 2025.

the registration with UNHCR is completed, asylum seekers become part of the RSD process, and are scheduled for further interviews which can take time, typically more than a year.⁷ In the absence of documentation, in the form of visas (or other below-mentioned documents), the provisions of the Foreigners Act 1951 applying to illegal entrants can apply to asylum seekers awaiting decisions on their asylum applications or even before they are able to access any such process of UNHCR. Moreover, the following documentation has been important in Pakistan's context for the right to stay⁸:

PoR cards: A registration exercise conducted jointly by the Government of Pakistan (through its National Database and Registration Authority (NADRA)) and UNHCR led to the documentation and registration of Afghan refugees, who were then issued Proof of Registration (PoR) Cards in 2007. The PoR cards serve as identity documents granting holders the right to legally and temporarily stay in Pakistan (and exemption from provisions of the Foreigners Act 1946, including from arrest and deportation). Since 2007, an estimated 1.3 to 1.4+ million Afghan refugees hold PoR cards; these PoR cards have been extended every year through Notifications by the Government of Pakistan.⁹ The most recent deadline for PoR cards is 30th June 2025.¹⁰ The government has set up PoR card modification (PCM) centres across the country that provide services to registered Afghan refugees, such as 'corrections to existing PoR cards (e.g. name of the applicant/father/mother/spouse/ dependents age, sex, marital status, photo and address); additions to existing PoR cards: address, telephone number, photo and new born child; replacement of lost, stolen, faded or damaged PoR cards; issuance of a PoR card to registered children that have turned five years of age; registration and issuance of Birth Certificate for children of PoR card holders under the age of 5.'¹¹

ACC cards: The Afghan Citizen (ACC) Cards were a result of an initiative of the Government of Pakistan in 2017-18 to document undocumented/unregistered Afghans in the country. ACC cards provide the right to stay for a limited time but provide lesser protection and rights than a PoR, as it does not recognize holders as refugees. Notwithstanding, ACC cards provide certain humanitarian protections, including against non-refoulement, access to informal work, limited public healthcare, and limited assistance through different programs.¹² It is estimated that there are over 840,000 ACC cardholders in Pakistan.¹³

Persons not possessing a valid visa, PoR card or ACC card are considered undocumented Afghans and will be subject to penal provisions of the Foreigners Act 1951.¹⁴

Note on Asylum Seeker Certificates: An Asylum Seeker Certificate is issued by UNHCR Pakistan to persons who have applied for refugee status, temporarily protecting their right to stay and protecting against deportation while UNHCR evaluates their claim. The Asylum Seeker Certificate has previously been recognized as valid documentation, with many asylum seekers and refugees always carrying these with them. However, reportedly after the Illegal Foreigners Repatriation Plan (IFRP) was announced, UNHCR is no longer issuing Asylum Seeker Certificates, and some other slips from UNHCR partners, such as SHARP and SEHER, are given to persons who have applied for protection or asylum. These slips reportedly have not offered sufficient protection against deportation in the current context.¹⁵

⁷ Verso Consulting, *Report on the Afghan Refugee Crisis* (June 2024) <https://www.versoconsulting.org/wp-content/uploads/2024/06/Report-on-The-Afghan-Refugee-Crisis.pdf> accessed 23 May 2025.

⁸ Global Compact on Refugees, How Pakistan helps Afghans get back on their feet, <https://globalcompactrefugees.org/good-practices/how-pakistan-helps-afghans-get-back-their-feet>

⁹ UNHCR, Proof of Registration Card (PoR)- <https://help.unhcr.org/pakistan/proof-of-registration-card-por/>

¹⁰ <https://www.aljazeera.com/news/2024/7/10/pakistan-says-registered-afghan-refugees-can-stay-for-one-more-year>

¹¹ UNHCR, Information Regarding Proof of registration Card Modification (PCM) Center <https://www.unhcr.org/pk/information-refugees/information-regarding-proof-registration-card-modification-pcm-center>

¹² IOM, News report, 24 December 2021 <https://pakistan.iom.int/news/iom-and-government-pakistan-celebrate-provision-multi-purpose-cash-assistance-afghan-citizenship-card-acc-holders-international-migrants-day-event>

¹³ IOM, News report, 24 December 2021 <https://pakistan.iom.int/news/iom-and-government-pakistan-celebrate-provision-multi-purpose-cash-assistance-afghan-citizenship-card-acc-holders-international-migrants-day-event>

¹⁴ This is prior to the government decision to deport both ACC and POR card holders.

¹⁵ Interview with a lawyer with experience of representing Afghan refugees.

Note on Afghan focus and impact on other nationalities / ethnic groups

The absence of a legal framework on asylum impacts all asylum seekers in Pakistan; these include several different groups and communities, including many ethnic Bengali, Bihari and Rohingya persons who remain without access to any asylum process. However, there has always been a distinct executive framework (comprising executive orders, policies, institutional actors, agreements, etc.) in place specifically for Afghan persons, largely due to their size as a group. Moreover, large-scale detentions and deportations that have taken place in the past and that are ongoing have, in practice, been targeted at and affected Afghan populations almost exclusively.

Primarily, the emphasis on Afghan refugees is due to their unique status as asylum seekers formally recognized by the UNHCR and the Government of Pakistan, unlike other groups who have not applied for asylum through UNHCR or government-recognized mechanisms. One such community is the Bengali population, with an estimated 2 million ethnic Bengalis living in Pakistan. Many reside in Karachi's Machar Colony, which alone hosts approximately 455,000 individuals. Despite living in Pakistan for decades, many since before the 1971 civil war, ethnic Bengalis remain deprived of citizenship and any other official recognition. Their national identity cards were cancelled after the 1971 war, and today they continue to face exclusion from government services. They are unable to obtain identity cards, open bank accounts, access public education, or hold government jobs.¹⁶

Another stateless community is the Bihari population. Initially, around 1.5 million Biharis migrated to Pakistan, either at Partition in 1947 or after the fall of Dhaka in 1971. However, Pakistan accepted only 170,000 of them in the years following the 1971 war, and the rest were left in a legal limbo. Today, Biharis living in Pakistan have not been granted any form of legal status or citizenship, and no legislation exists to regularize their status. Most reside in informal settlements in Karachi.¹⁷ In Bangladesh, the situation of Biharis who supported Pakistan during the 1971 war was eventually resolved when the Bangladeshi Supreme Court granted them citizenship rights, yet no parallel action has occurred in Pakistan. Additionally, around 55,000 Rohingya also reside in Karachi. Like the Bengalis and Biharis, they live without any citizenship rights or legal protections.¹⁸

However, all persons born in Pakistan would still be entitled to legal status under the citizenship laws granting birthright; however, in that space, all these communities find themselves facing a similar exclusion in being recognized as citizens by birth.

Pushbacks:

'Pushbacks' denote the removal or non-admittance of individuals trying to access asylum, without a substantive assessment of risks or potential rights violations. They can occur both on land and at sea, including on international waters, but must relate to the border crossing of individuals.

In Pakistan's context, there is a reported removal and non-admittance of individuals trying to access asylum without a substantive assessment of risks or protection needs, but in the context of mass deportations, it's difficult to find disaggregated data in connection to border crossing on:

- I. How many persons recently crossed the border and were pushed back without any assessment of protection/asylum needs at the border?

¹⁶ Islamabad Policy Research Institute, *Afghan Refugee Issue: Legal and Security Dimension of Repatriation of Illegal Afghan Migrants* (IPRI 2024) <https://ipripak.org/wp-content/uploads/2024/01/Afghan-Refugee-Issue-Legal-and-Security-Dimension-of-Repatriation-of-Illegal-Afghan-Migrants-16jan.pdf> accessed 24 May 2025.

¹⁷ Ibid.

¹⁸ Ibid.

Reportedly, approx. 600,000¹⁹ - 700,000²⁰ Afghans have fled to Pakistan since the Taliban government came to power in 2021. In the absence of valid documentation, these Afghans remain at risk of ongoing detentions and deportations. Many of them would have been deported as well. On data, however, it is unclear how many Afghans from within this group were deported or left on their own to avoid detention, deportation, and a violation of their dignity during this process. Reportedly, from 15 September 2023 to 13 June 2026, 2,500,712 Afghan individuals have returned, and since 1 April 2025, 1,646,679 Afghan nationals have returned, of whom 211,473 (13%) were deported.²¹ It is unclear how many could not access asylum processes or those who had initiated a process and were deported pending assessment.

- II. How many had crossed the border a long time ago, lived in Pakistan since, and were deported without access to asylum? Moreover, there are also those who were deported despite holding PoR cards; although UNHCR and IOM have reported numbers of PoR card holders deported, it is unclear if that number reflects the totality.
- III. How many of those deported without access to asylum or any substantive risk assessment were born in Pakistan and never crossed a border? This group of Afghans and other ethnic groups born in Pakistan has largely been excluded from access to asylum / their right to stay under citizenship laws.

It is well-documented that the cumulative number of those deported includes many Afghans who lived their entire lives in Pakistan since fleeing Afghanistan at an earlier time, others were also born in Pakistan and have never been to Afghanistan, as well as those who recently came and were deported without access to asylum too. However, given that it is not possible to sufficiently distinguish and support with sources the connection to border crossing distinctly for each group, this pushback barrier is framed as a country-specific barrier to be discussed later in the report.

Walls and Fences

Summary: Pakistan and Afghanistan share approximately a 2,600+ kilometre long border, also called The Durand Line, which was established in 1893 through an agreement between Sir Mortimer Durand, a secretary of the British Indian government, and Abdur Rahman Khan, the emir of Afghanistan. Historically, the border has remained a source of tension between both the countries since Pakistan's independence due to a number of factors: Afghanistan's refusal to recognize the international border because of ethnic association and cultural similarities among the local communities living on both sides of the border, mistrust between both countries, cross border militancy due to the political unrest and the security situation in Afghanistan, unregulated cross border movement of individuals and goods on both sides in the past, etc.²² Pakistan started the construction of a large chain-link border fence along its entire boundary with Afghanistan in 2017 in a bid to enhance border management to strengthen national security, combat terrorism, control migration, and control cross-border movement. The fence, equipped with surveillance cameras, infrared detectors and patrolled by security forces, serves as a physical and technological barrier to prevent unauthorized crossings. Although Pakistan originally planned to set up multiple legal entry points, currently only a few crossings are operational, making it extremely difficult for Afghan refugees and asylum seekers to enter legally. Those who try to cross without authorization risk detention and deportation outside of any legal protection assessment, as Pakistan does not have a formal

¹⁹ Refugees International, "THEY LEFT US WITHOUT ANY SUPPORT" Afghans in Pakistan Waiting for Solutions, July 2023

<https://www.refugeesinternational.org/reports-briefs/they-left-us-without-any-support-afghans-in-pakistan-waiting-for-solutions/>

²⁰ BBC, Pakistan expels tens of thousands of Afghans, 19 April 2025 <https://www.bbc.com/news/articles/c74z19pl7wgo#>

²¹ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June

2026, <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

²² Asma Akbar, Analyzing the Durand Line and its Implications for Pak-Afghan Bilateral Ties, *Annals of Human and Social Sciences*, October-Dec 2024, Vol. 5, No. 4 [584 - 595]; Malik Amir Muhammad Khan, Pakistan-Afghanistan Relations: A Historical Perspective, *NDU Journal* 2025 [163 - 178]

asylum system. Moreover, the operational border crossings have been used to deport Afghan persons at scale since the launch of the Illegal Foreigners Repatriation Plan (IFRP) in late 2023.²³

1. *Functioning:* The chain-link border fence between Pakistan and Afghanistan is equipped with surveillance cameras and infrared detectors.²⁴ The fence is covered with barbed wire at the top. Moreover, along the fence, Pakistan also established hundreds of checkpoints along it. Reportedly, checkpoints are built every 100 to 150 meters in populated areas, with lesser numbers in the mountainous terrain. This fortified barrier serves as a physical obstruction designed to prevent unauthorized crossings, including for refugees and asylum seekers, and has severely affected the movement of local communities, many of whom share cross-border familial and tribal ties.²⁵

Historically, unofficial border crossing points played a significant role in enabling movement for Afghan migrants, travellers, workers, and local communities. However, the fencing has sealed off many of these informal motorable routes, which were central to movement, effectively limiting accessibility to Pakistani territory as well as access to asylum. According to the UNHCR data collection drive during 2023 (01 January - 31 December 2023) to monitor unofficial crossings at the border areas, unofficial border movement was historically very low on the Pak-Afghan border, showing that less than 18% of movements to Pakistan happen via unofficial border crossings (compared to 81% in Iran, for example).²⁶

The exact number of official border crossings varies by source, with different numbers of them reported and operational at different times. It is reported that Pakistan has 8²⁷ to 18 formal crossings with Afghanistan²⁸ as well as many unofficial crossings.²⁹ On formal crossings, data from UNHCR (as of 31st May 2026) documents 5 border crossing points: Torkhan, Ghulam Khan, Badini, Chaman and Bahramcha through which returns / deportations have been taking place. It is pertinent to mention that at different times, different border crossings are active for deportations. For example, during the period of 16th to 31st May 2026, the Torkham border crossing was used for 88% of the returns, while Chaman was used for 8% of all returns. The other border crossings were not used at all during this time.³⁰ However, in earlier periods, Ghulam Khan, Badini, and Bahramcha crossings were used.³¹ IOM Pakistan has been tracking movement on the same 5 crossings, also indicating Torkham and Chaman as the main sites for returns and deportations.³²

²³ Although the plan itself does not state it applies exclusively to Afghans, it is in practice applying exclusively to them.

²⁴ Al-Jazeera, Pakistan-Afghanistan border fence, a step in the right direction, 25 Feb 2021 <https://aje.io/7ls2w>

²⁵ European Union Agency for Asylum, Pakistan: Situation of Afghan Refugees – Country of Origin Information Report (May 2022)

https://coi.europa.eu/administration/easo/PLib/2022_05_EUAA_COI_Report_Pakistan_Situation_of_Afghan_refugees.pdf

²⁶ UNHCR (2023). Afghanistan: Border Monitoring, Unofficial Crossing Points - 2023. Accessed from:

<https://microdata.unhcr.org>

²⁷ Reported 8 formal border crossings with Afghanistan include: Torkham and Chaman – Spin Boldak, the key ones. The other 6 are presumed to be bilateral: Arandu (Chit-ral), Gursal (Bajaur), Nawa Pass (Mohmand), Kharlachi (Kur-ram), Ghulam Khan (North Waziristan), Angoor Adda (South Waziristan) and Chaman (Balochistan). See Carvanistan, Afghanistan – Pakistan border crossings <https://caravanistan.com/border-crossings/afghanistan/#afghanistan—pakistan-border-crossings>

²⁸ Crucial Pakistan-Afghanistan border crossing reopens after weeks-long closure, 19th March 2025

<https://www.aa.com.tr/en/asia-pacific/crucial-pakistan-afghanistan-border-crossing-reopens-after-weeks-long-closure/3514398#:~:text=According%20to%20the%20Khyber%20Chamber,contact%20us%20for%20subscription%20options.>

²⁹ Al-Jazeera, Pakistan-Afghanistan border fence, a step in the right direction, 25 Feb 2021 <https://aje.io/7ls2w>

³⁰ International Organization for Migration (IOM), Bi-Weekly Flow Monitoring of Afghan Returnees: Bi-Weekly Report (16 – 31 May 2026) <https://dtm.iom.int/reports/pakistan-flow-monitoring-afghan-returnees-bi-weekly-report-16-31-may-2026>

³¹ UNHCR, Pakistan Afghanistan Returns Emergency Response 37, 3 June, 2025

³² International Organization for Migration (IOM), Bi-Weekly Flow Monitoring of Afghan Returnees: Bi-Weekly Report (16 – 31 May 2026) <https://dtm.iom.int/reports/pakistan-flow-monitoring-afghan-returnees-bi-weekly-report-16-31-may-2026>

An earlier report³³ notes that there are 18 motorable crossings and 235 navigable by foot or animal. The overall trend, however, has been toward formalization of cross-border movement, with key crossings such as Torkham, Chaman, Ghulam Khan, and Angoor Adda featuring immigration and customs facilities, visa requirements, and security checkpoints. These active sites increasingly regulate travel, though the processes differ by location and may change depending on bilateral relations and individuals attempting to cross. Some crossings remain frequently closed or partially operational due to clashes on the border and other disputes between Pakistan and Afghanistan, and each crossing caters to specific types of movement, including trade, passenger travel, and transit.³⁴ Moreover, at any given time, any or all crossings may be effectively closed, while during periods of improved bilateral relations, three or four may be open. Torkham and Chaman are the most critical sites for both trade and travel, while the others, though used for similar purposes, are smaller in scale and tend to be closed more frequently and for longer durations.³⁵

Despite the move toward formalisation, not all crossings are regulated uniformly. Policies at these sites often change over time. While reportedly Angoor Adda crossing had still partially relied on informal agreements for movement (until its subsequent closure), Torkham had already enforced strict passport and visa requirements since 2016.³⁶ These inconsistencies underscore the broader uncertainty in border control practices across the border and their impact on access to asylum.³⁷

2. *Time*: The construction of the border fence began in 2017 as part of Pakistan's broader border security strategy. As of 5th January 2022, 94% of the border had reportedly been fenced.³⁸ The government has not indicated any plans to remove or modify the fence. Instead, the trend suggests that border controls may tighten further in the coming years. This means that Afghan refugees and asylum seekers will continue to face significant difficulties in accessing Pakistan.

3. *Place*: The fence runs along the entire Pakistan-Afghanistan border, covering mountainous and remote areas as well as key border crossings.

4. *Actors*: The paramilitary Frontier Corps are tasked with securing the border and monitoring movement along the fence.³⁹ International organizations, including the UNHCR and human rights groups, have expressed concerns about the humanitarian impact of the fence, contending that it prevents Afghan refugees to flee persecution.⁴⁰ The Afghan government has opposed the fence as an infringement on Afghan sovereignty.⁴¹

³³ Thomas Ruttig, 'The Gates of Friendship: How Afghans Cross the Afghan-Pakistani Border' (Afghanistan Analysts Network, 6 May 2020)

³⁴ Azeema Cheema, Fazal Saeed, Mehran Wazir, Waqas Sajjad, and Shirin Gul, *Transitions in the Borderlands: Cross-border Mobility, Communities and Market Systems Along Pakistan's Frontier with Afghanistan* (XCEPT 2021) <https://www.xcept-research.org/publication/transitions-in-the-borderlands-cross-border-mobility-communities-and-market-systems-along-pakistans-frontier-with-afghanistan/> accessed 23 May 2025.

³⁵ Ibid

³⁶ Al-Jazeera, 'Torkham restrictions stir Pakistan-Afghanistan tension, 1 June 2016 - <https://www.aljazeera.com/news/2016/6/1/torkham-restrictions-stir-pakistan-afghanistan-tension>

³⁷ Azeema Cheema, Fazal Saeed, Mehran Wazir, Waqas Sajjad, and Shirin Gul, *Transitions in the Borderlands: Cross-border Mobility, Communities and Market Systems Along Pakistan's Frontier with Afghanistan* (XCEPT 2021) <https://www.xcept-research.org/publication/transitions-in-the-borderlands-cross-border-mobility-communities-and-market-systems-along-pakistans-frontier-with-afghanistan/> accessed 23 May 2025.

³⁸ <https://www.app.com.pk/national/pakistan-afghanistan-border-internationally-recognized-fencing-to-be-completed-at-all-costs-dg-ispr/>

³⁹ 'Border Fencing the Last Resort' (Weekly Cutting Edge, 15 April 2017) <https://weeklycuttingedge.com/border-fencing-the-last-resort/> accessed 29 April 2025.

⁴⁰ Ratwatte, Indrika. "News Comment: UNHCR: Afghans Struggle to Seek Safety as Borders Remain Shut to Most." *UNHCR – The UN Refugee Agency*, 1 December 2021. <https://www.unhcr.org/news/press-releases/news-comment-unhcr-afghans-struggle-seek-safety-borders-remain-shut-most>

⁴¹ Radio Free Europe/Radio Liberty, 'Pakistan Begins Fencing Border With Afghanistan' (20 June 2017) <https://www.rferl.org/a/pakistan-afghanistan-border-fence/28569496.html> accessed 27 April 2025.

5. *Interaction:* The border fence does not exist in isolation; rather, it interacts with other barriers that make it harder for Afghan refugees to access protection in Pakistan. Afghan refugees face a physical barrier in accessing the territory because of the fencing, others who manage to enter without authorization risk being detained and deported. Those attempting legal entry encounter visa-related challenges, initially introduced at Torkham in a sporadic manner beginning in late 2016 or early 2017, but which have since become progressively more stringent. Over time, visa requirements were extended to other border crossings, significantly reducing passenger traffic. The foremost consequence has been the emergence of severe chokeholds at Torkham, which lacks adequate infrastructure to manage large volumes of travellers. Angoor Adda crossing had been observed to retain some element of procedural relaxation until 2021.⁴² However, even that border crossing was closed in demand for a ‘one document’ / passport to travel between Afghanistan and Pakistan several times over the years, including in 2024 as a result of strained relations with the Afghan Taliban and attacks by the Tehrik-e-Taliban Pakistan (TTP).⁴³ The Angoor Adda crossing reopened after 2 years in October of 2025, which was a celebrated move for trade,⁴⁴ however, due to tensions between Afghanistan and Pakistan within the same month, the crossing closed again soon after.⁴⁵ The limited number of border crossings, arbitrary changes in documents needed, visa regime and heavy security presence, in addition to the clear priority of the Government of Pakistan to deport all Afghans, make it extremely difficult for refugees and asylum seekers to find safe passage, including any assessment of their situation. The fence, combined with other restrictive measures and the national security situation, has effectively closed the door on many Afghans seeking protection in Pakistan.⁴⁶

6. *Development:* The Pakistan-Afghanistan border / The Durand Line has long been a site of geopolitical contestation shaped by colonial legacies, tribal affiliations, and evolving regional dynamics. Drawn in 1893 by the British to demarcate the boundary between British India and Afghanistan and later recognized as the international border between Pakistan and Afghanistan post the colonial rule, the recognition of the Durand Line has always remained contentious among successive Afghan governments, who reject its legitimacy. For decades, the border functioned as a porous frontier embedded in tribal customs, kinship networks, and informal governance mechanisms. Local communities on both sides have historically maintained deep transnational ties, enabling the unregulated flow of people, goods, and ideas, with minimal state interference. This resulted in a hybrid governance structure in the borderlands, where formal state control coexisted with tribal autonomy.⁴⁷

A major shift occurred after the Soviet-Afghan War during the 1980s and the U.S.-led intervention in Afghanistan in 2001, which heightened regional instability and prompted growing concerns over cross-

⁴² Azeema Cheema, Fazal Saeed, Mehran Wazir, Waqas Sajjad, and Shirin Gul, *Transitions in the Borderlands: Cross-border Mobility, Communities and Market Systems Along Pakistan’s Frontier with Afghanistan* (XCEPT 2021) <https://www.xcept-research.org/publication/transitions-in-the-borderlands-cross-border-mobility-communities-and-market-systems-along-pakistans-frontier-with-afghanistan/> accessed 23 May 2025.

⁴³ Previously, individuals crossing the border were issued Tazkira, a paper pass - Pakistan shuts Afghanistan border to Pashtuns; enforces ‘One Document Regime’, April 2021, 2024 <https://www.newsintervention.com/pakistan-shuts-afghanistan-border-to-pashtuns-enforces-one-document-regime/>; The Nation, Local economy suffers due to closure of Angoor Adda Gate, March 10, 2025 <https://www.nation.com.pk/10-Mar-2025/local-economy-suffers-due-to-closure-of-angoor-adda-gate>

⁴⁴ Angoor Adda Border Reopens After Two Years, Dawn, October 1, 2025, <https://www.dawn.com/news/1945691>

⁴⁵ Daud Khattak, *As Afghanistans Border With Pakistan Remains Closed, The Economic And Humanitarian Toll Mounts*, Radio Free Europe/Radio Liberty, June 11, 2026, <https://www.rferl.org/a/afghanistan-pakistan-border-closure-crisis/33777637.html>

⁴⁶ European Union Agency for Asylum, Pakistan: Situation of Afghan Refugees – Country of Origin Information Report (May 2022); Daud Khattak, *As Afghanistan's Border With Pakistan Remains Closed, The Economic And Humanitarian Toll Mounts*, Radio Free Europe/Radio Liberty, June 11, 2026, <https://www.rferl.org/a/afghanistan-pakistan-border-closure-crisis/33777637.html> https://coi.euaa.europa.eu/administration/easo/PLib/2022_05_EUAA_COI_Report_Pakistan_Situation_of_Afghan_refugees.pdf

⁴⁷ Azeema Cheema, Fazal Saeed, Mehran Wazir, Waqas Sajjad, and Shirin Gul, *Transitions in the Borderlands: Cross-border Mobility, Communities and Market Systems Along Pakistan’s Frontier with Afghanistan* (XCEPT 2021) <https://www.xcept-research.org/publication/transitions-in-the-borderlands-cross-border-mobility-communities-and-market-systems-along-pakistans-frontier-with-afghanistan/> accessed 23 May 2025.

border militancy and terrorism. Under increasing domestic and international pressure, Pakistan began to reassert control over its western frontier. This shift culminated in 2017 when the Pakistani government launched a large-scale initiative to construct a physical border fence, covering nearly 700 kilometres—particularly through Khyber Pakhtunkhwa and other sensitive regions to curtail militant infiltration, illegal crossings, and smuggling. However, it also disrupted long-standing familial and tribal connections and was widely criticized by the Afghan government and local communities as a unilateral and divisive move.⁴⁸

The border fencing is particularly relevant in the context of Afghan refugees and asylum seekers, as Pakistan alleges that the border has been used by Afghans to enter Pakistan illegally and has remained a key gateway to promote militancy in the country. The government has intensified its efforts to manage the border because of the deteriorating law and order situation in Afghanistan after Taliban's return to power in 2021 and the increased risk of refugee influx in the country.⁴⁹ The fencing initiative must also be understood in the context of broader geopolitical transformations. The withdrawal of NATO forces, the resurgence of the Taliban, and the regional security dynamics shaped by India's posture, Iran's border concerns, and strategic projects like China's Belt and Road Initiative (BRI) and the Shanghai Cooperation Organization (SCO) have all influenced Pakistan's recalibration of its border policies. The State's measures increasingly reflect a combination of domestic security imperatives and regional counterterrorism alignment.⁵⁰

During the COVID-19 pandemic (2020–2021), these restrictions intensified, with complete closures that disrupted trade, affected economic livelihood, particularly of wage labourers, halted community interactions, and further reinforced the securitization of the border. Temporary openings, such as at Torkham, underscored the fragility and contested nature of the evolving border regime.⁵¹ International Organization for Migration (IOM) Pakistan's Displacement Tracking Matrix (DTM) report, covering March 2020 to August 2021, analysed mobility through Pakistan's Points of Entry (PoEs) during the COVID-19 pandemic, with a focus on Afghan nationals. The report highlighted significant cross-border movement between Pakistan and Afghanistan, particularly through major land crossings such as Torkham and Chaman. Afghan nationals accounted for a large portion of traveller flow during this period, including regular returnees, deportees, and spontaneous returns. Health screenings, quarantine protocols, and mobility restrictions affected Afghan movements, with cross-border travel fluctuating in response to evolving COVID-19 measures.⁵²

Moreover, especially since February 2026, tensions have significantly escalated between Pakistan and Afghanistan, impacting the border between the two countries as well. On February 26, 2026, Afghan forces launched a cross-border offensive on Pakistan, and Islamabad responded the next day with strikes on Kabul, Kandahār, and areas along the border. In the aftermath, borders were closed and trade suspended, with civilian infrastructure, including medical facilities, homes, and markets, damaged on both sides. The UN reported at least 372 Afghan civilians killed and 397 injured in just the first three months of 2026, the highest quarterly toll recorded since 2011. Though there has been a lull in violence since,

⁴⁸ *ibid*

⁴⁹ Abdul Basit, 'The Pak-Afghan Border Fence Is a Step in the Right Direction' (Al Jazeera, 25 February 2021) <https://www.aljazeera.com/opinions/2021/2/25/the-pak-afghan-border-fence-is-a-step-in-the-right-direction>

⁵⁰ Azeema Cheema, Fazal Saeed, Mehran Wazir, Waqas Sajjad, and Shirin Gul, Transitions in the Borderlands: Cross-border Mobility, Communities and Market Systems Along Pakistan's Frontier with Afghanistan (XCEPT 2021) <https://www.xcept-research.org/publication/transitions-in-the-borderlands-cross-border-mobility-communities-and-market-systems-along-pakistans-frontier-with-afghanistan/> accessed 23 May 2025.

⁵¹ *ibid*

⁵² International Organization for Migration (IOM), Pakistan — DTM REMAP: Flow Monitoring at Points of Entry (March 2020 – August 2021), https://dtm.iom.int/sites/g/files/tmzbd11461/files/reports/PAK_DTM_PoE_dashboard_MARCH2020_AUG2021.pdf (accessed June 6, 2025).

analysts warn the crisis is far from over, with mutual trust deeply undermined by Afghanistan's longstanding refusal to formally recognize the Durand Line as the international border.⁵³

7. *Rationale:* Pakistan's government has justified the border fence by stating that it is necessary for national security, border management/controlling irregular migration, and public order.⁵⁴ The government emphasizes that the fence will help prevent cross-border militancy and ensure that migration takes place through official checkpoints. Pakistani authorities contend that both Pakistan and Afghanistan will benefit from the fence, as it will ensure that all movement is controlled and documented. They also argue that the fence will address the long-standing issue of illegal border crossings while maintaining regional security and stability.⁵⁵

9. *Specific Impact:* In addition to obstructing entry, the border crossings have become key sites for enforced or pressured returns, disproportionately affecting already vulnerable populations. According to UNHCR in 2025 alone, 1 million Afghans had returned or were deported from Pakistan, with 474,100 returns added until early June 2026 despite recent border closures due to Afghan-Pakistan tensions. Of these total returnees, since 1 April 2025, 49% were women, of whom 28% were girls and 57% were children.⁵⁶ Moreover, the returnees have been documented to have several layers of additional vulnerability, including those with serious medical conditions, the elderly, pregnant women, persons with disabilities, female widows, and women at risk. For example, according to UNHCR and IOM documentation, 47% of Afghan men and 52% of Afghan women returnees between April 1, 2025, and June 13, 2026, had serious medical conditions.⁵⁷

10. *Reach:* The construction of border fences along the Pakistan-Afghanistan frontier since 2017 has significantly altered migration patterns and humanitarian dynamics. While exact figures are difficult to obtain, it is widely acknowledged that the fencing has restricted the movement of Afghan refugees and asylum seekers into Pakistan, affecting tens of thousands of individuals seeking asylum and protection. It has also led to the expulsion of over a million Afghans. The fence has contributed to a marked decline in cross-border movement, often leaving vulnerable individuals stranded in Afghanistan under precarious conditions. Those unable to cross into Pakistan frequently face heightened risks, including persecution, lack of access to basic services, and severe economic hardship.⁵⁸

In addition to blocking new arrivals, border crossings are increasingly used to facilitate returns and deportations of Afghan refugees. As mentioned above, over 1 million Afghans had already been returned in 2025. Moreover, looking at the period between 15 September 2023 and 13 June 2026, more than two million five hundred thousand Afghans (2,500,712 exactly, as documented by UNHCR & IOM) have returned, of which 10% were deported.⁵⁹

⁵³ OHCHR, *Afghan-Pakistani Border: UN Experts Urgently Call for Lasting Peace*, <https://www.ohchr.org/en/press-releases/2026/03/afghan-pakistani-border-un-experts-urgently-call-lasting-peace>; Al Jazeera, *Over 370 Afghans Killed in Pakistan Conflict in First 3 Months of 2026*: UN, May 12, 2026, <https://www.aljazeera.com/news/2026/5/12/over-370-afghans-killed-in-pakistan-conflict-in-first-3-months-of-2026-un>; Foreign Policy, *The Afghanistan-Pakistan Border Is Still Unstable*, June 3, 2026, <https://foreignpolicy.com/2026/06/03/afghanistan-pakistan-border-violence-pause-taliban-ttp/>.

⁵⁴ Ayaz Gul, 'Pakistan Builds Checkpoints, Plans Fence on Afghan Border' (Voice of America, 28 June 2016) <https://www.voanews.com/a/pakistan-builds-checkpoints-plans-fence-afghan-border/3396059.html>

⁵⁵ Ibid.

⁵⁶ UNHCR Operational Data Portal, *Pakistan-Afghanistan – Returns Emergency Response #52*, June 11, 2026, <https://data.unhcr.org/en/documents/details/122803>

⁵⁷ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June 2026, <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

⁵⁸ Amnesty International, *'Treat Us Like Human Beings': Afghans in Pakistan at Risk of Unlawful Deportation* (April 2025) <https://www.amnesty.org/en/wp-content/uploads/2025/04/ASA3392172025ENGLISH.pdf>; see also Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees*, April 21, 2026, <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

⁵⁹ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June 2026, <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

11. *Source*: Pakistan's border fence is rooted in its domestic border security policies and sovereign right to control its borders.⁶⁰

12. *Justification*: Official statements explain that the fence is necessary to prevent terrorism, illegal migration, and the smuggling of drugs and weapons. The decision to build the fence came after a series of deadly attacks in 2016, which Pakistan attributed to extremist groups operating from Afghanistan. In March 2017, Pakistan began constructing the fence to strengthen border security and control cross-border movements more effectively. To further strengthen its defences, Pakistan has also built nearly 1,000 border forts.⁶¹ The Pakistani military announced that the 2,611-kilometer-long fencing project aimed to reduce cross-border terrorist activities, including the smuggling of drugs and weapons, which often finances terrorist networks.⁶² Recent tensions between both countries have been further resolved around border security; Prime Minister Shehbaz Sharif referred to the border fencing as integral to Pakistan's national security strategy.⁶³

13. *Domestic and International Reactions*: The construction of the border fence triggered mixed reactions both within Pakistan and internationally. The Pakistani government supports the fence, viewing it as a necessary national security and anti-terrorism measure.⁶⁴ However, others, particularly those living near the border, have reported being negatively impacted. Families with relatives on both sides of the Durand Line have seen their daily lives disrupted, as the fence makes it difficult to visit loved ones⁶⁵ or access essential services.⁶⁶ Similarly, traders who depended on exporting food and goods to Afghanistan are also affected, as well as subsistence farmers who rely on cross-border access for their livelihoods.⁶⁷ They face additional barriers, including the need to obtain visas and the imposition of tariffs on agricultural products, which increase costs and reduce profitability. The International Organization for Migration (IOM) has further warned that the escalating cross-border hostilities have resulted in civilian casualties, damage to critical infrastructure, and the displacement of nearly 66,000 people in eastern and southeastern Afghanistan, with border operations at Torkham and Bahramcha suspended due to security concerns — restricting humanitarian access at a time of rapidly increasing need.⁶⁸

14. *Externalization*: N/A

15. *Technology*: The border fence between Pakistan and Afghanistan is equipped with advanced technology, including surveillance cameras, radar systems, and infrared detectors.⁶⁹ These tools are used to monitor the border and detect any unauthorized movements. Aerial surveillance has also been introduced to strengthen detention capabilities. The main purpose of this technology is to prevent all unauthorized

⁶⁰ Frud Bezhan and Daud Khattak, 'Pakistan Fences Off Afghanistan, Impacting Families And Fighters' (RFE/RL, 5 February 2021) <https://www.rferl.org/a/pakistan-fences-durand-line-pashtuns-afghanistan/31087794.html> accessed 6 May 2025.

⁶¹ Abdul Basit, 'The Pak-Afghan Border Fence Is a Step in the Right Direction' (Al Jazeera, 25 February 2021) <https://www.aljazeera.com/opinions/2021/2/25/the-pak-afghan-border-fence-is-a-step-in-the-right-direction>; Ashaq Al-Awsat, 'Pakistan Builds Border Fence Limiting Militants' (Ashaq Al-Awsat, 3 March 2020) <https://english.aawsat.com/home/article/2184561/pakistan-builds-border-fence-limiting-militants> accessed 6 May 2025.

⁶² 'Pakistan-Afghanistan Border Fencing: Security Challenges and Solutions' (The Diplomatic Insight, 8 December 2024) <https://thediplomaticinsight.com/pakistan-afghanistan-border-fencing/> accessed 29 April 2025.

⁶³ *Border Fencing Critical to National Security*, DID Press, June 14, 2026, <https://en.didpress.com/32341/>

⁶⁴ *Border Fencing the Last Resort* (Weekly Cutting Edge, 15 April 2017) <https://weeklycuttingedge.com/border-fencing-the-last-resort/>; see also *Border Fencing Critical to National Security*, DID Press, June 14, 2026, <https://en.didpress.com/32341/>

⁶⁵ Frud Bezhan and Daud Khattak, 'Pakistan Fences Off Afghanistan, Impacting Families And Fighters' (RFE/RL, 5 February 2021) <https://www.rferl.org/a/pakistan-fences-durand-line-pashtuns-afghanistan/31087794.html>

⁶⁶ Daud Khattak, *As Afghanistans Border With Pakistan Remains Closed, The Economic And Humanitarian Toll Mounts*, Radio Free Europe/Radio Liberty, June 11, 2026, <https://www.rferl.org/a/afghanistan-pakistan-border-closure-crisis/33777637.html>

⁶⁷ Arab News, *Pakistan-Afghan Border Closure Costs Exporters \$177 Million a Month, Business Groups Warn*, January 8, 2026, <https://www.arabnews.com/node/2628600/amp>

⁶⁸ IOM, *IOM Warns of Humanitarian Impact of Afghanistan-Pakistan Border Escalation*, March 4, 2026, <https://www.iom.int/news/iom-warns-humanitarian-impact-afghanistan-pakistan-border-escalation>

⁶⁹ *Border Fencing the Last Resort* (Weekly Cutting Edge, 15 April 2017) <https://weeklycuttingedge.com/border-fencing-the-last-resort/> accessed 29 April 2025.

persons, irrespective of them being refugees and/or asylum seekers, from crossing into Pakistan without permission.⁷⁰

Detention

Summary: Detention (in the form of imprisonment, limitations on the right to liberty and security of person) has become a major barrier for Afghan refugees and asylum seekers in accessing asylum in Pakistan, especially following the launch of the Illegal Foreigners' Repatriation Plan (IFRP) in 2023. Arrests and detentions physically limit access to any existing protection avenues and serve to deport detained persons at scale without any substantive assessment of risks or protection needs. This is also causing Afghan refugees and asylum seekers not yet detained to return themselves to Afghanistan, as the fear of being arrested was reported (by 97% of respondents) as the most important reason to return to Afghanistan.⁷¹ All arrests and detentions of foreigners, including Afghans, take place under the broad powers of the Foreigners Act, 1946. This law, although not specific in its application to Afghans, has disproportionately been used to arbitrarily arrest and detain Afghans, including those with valid legal documents like Proof of Registration (PoR), Afghan Citizen Cards (ACC), and other documents issued by UNHCR partners, often based only on their ethnic appearance. Detained individuals are frequently denied access to lawyers, family visits, and information about their cases, violating constitutional rights to due process and protections under both domestic constitutional law and international human rights law. Moreover, at the beginning of 2025, the Government of Pakistan issued a directive for all Afghans to leave Islamabad and Rawalpindi by March 31, 2025. This step not only uprooted those residing in the twin cities but also exposed these individuals, including many of whom were awaiting resettlement, to increased risk of detention and deportation, should they fail to comply with the directive.⁷²

1. *Functioning:* Afghan refugees and asylum seekers in Pakistan are primarily divided into three broad categories in terms of registration status and access to rights: Proof of Registration (PoR) card holders, Afghan Citizen Card (ACC) holders and undocumented Afghans (those with UNHCR partner slips are included in this); all groups have reportedly been impacted *by de facto* detention pursuant to IFRP 2023. Law enforcement authorities have carried out widespread and arbitrary arrests and detentions of Afghan nationals, including those possessing valid legal documentation.⁷³ These arrests frequently occur solely based on an individual's Afghan identity (including suspected Afghan identity, implicating Pashtun / Pakhtun more broadly), without proper verification of legal status or assessment of protection needs. In many instances, there are reported due process concerns, with detention taking place without formal arrest procedures, registration of FIRs or judicial authorization.⁷⁴

Afghans in Pakistan are not detained under a different or separate legal framework from other non-citizens. Instead, they are detained under the Foreigners Act of 1946, which applies to all individuals who are not recognised as citizens of Pakistan. Section 2 of this Act defines a foreigner as any person who is not a Pakistani citizen. This statutory definition does not exclude asylum seekers or refugees. The Foreigners Act grants the Federal Government sweeping powers to issue orders concerning the entry,

⁷⁰ Abdul Basit, 'The Pak-Afghan Border Fence Is a Step in the Right Direction' (Al Jazeera, 25 February 2021) <https://www.aljazeera.com/opinions/2021/2/25/the-pak-afghan-border-fence-is-a-step-in-the-right-direction> accessed 27 April 2025.

⁷¹ International Organization for Migration (IOM), Bi-Weekly Flow Monitoring of Afghan Returnees: Bi-Weekly Report (16 – 31 May 2026) <https://dtm.iom.int/reports/pakistan-flow-monitoring-afghan-returnees-bi-weekly-report-16-31-may-2026>

⁷² UNHCR and IOM. "Joint Statement: UNHCR and IOM Concerned about Recent Developments Requiring Afghans to Leave Pakistan's Capital." *UNHCR Pakistan*, 5 February 2025. <https://www.unhcr.org/pk/news/joint-statement-unhcr-and-iom-concerned-about-recent-developments-requiring>; Amnesty International. "Pakistan: Opaque Illegal Foreigners Repatriation Plan Targeting Afghan Refugees Must Be Withdrawn." *Amnesty International*, 26 March 2025. <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

⁷³ Human Rights Commission of Pakistan, *Politics over People* (2024) <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf> accessed 29 April 2025.

⁷⁴ Documentation by the Joint Action Committee for Refugees (JAC-R) <https://jacforrefugeespakistan.wordpress.com>

stay, and departure of foreigners. Under Section 3, the government can impose a wide range of conditions, restrictions, and regulations on a foreigner's presence in the country. These powers allow the police to arrest individuals for violating any of the provisions or conditions set under the Act.⁷⁵

A diverse group of Afghans is arrested under this Act because they fall under the category of non-citizens. Section 14 of the Act specifies that any person who violates its provisions or any order issued under it can be punished with up to five years of imprisonment and a fine. Section 14A further restricts access to bail, stating that a person charged under this section cannot be released unless they appear *prima facie* innocent. Section 14B provides that a convicted foreigner may leave Pakistan only with the consent of the Federal Government. Section 14C adds that foreigners who are imprisoned under the Act for lacking permission to stay in the country cannot be released even after completing their sentence. They must remain in custody until deportation arrangements are completed, for a period that can extend up to three months.⁷⁶

In theory, it has been stated that PoR card holders have legal status and therefore cannot be arrested under the Foreigners Act 1946; UNHCR recommends that this card be carried at all times to be presented on demand to law enforcement.⁷⁷ In practice, however, and more recently, specifically due to the IFRP, PoR card holders have faced *de facto* arrest and detention in disregard of any documentation they hold (during the period of extension granted to them to stay in Pakistan). This practice was documented as early as in the first phase of the rollout of IFRP and has continued since, notwithstanding that the government's stated deadline for PoR card holders then was until 30th June 2025 (subsequently extended to 1st September 2025). It is also in principle possible to challenge detention and deportation orders of PoR card holders (ahead of the deadline) in the courts, and the courts have provided them relief owing to their legal status in some cases, including orders prohibiting deportation. Similarly, a degree of protection was there for ACC card holders to challenge their arrest and detention as well during the early phase of IFRP. The same avenues were not available to undocumented asylum seekers or refugees at any point. For example, during a petition challenging the IFRP plan, the Supreme Court of Pakistan sought assurances from the government that registered Afghan refugees would not be "apprehended" or "deported," offering protection to those holding Proof of Registration (PoR) cards and Afghan Citizen Cards (ACCs) at that time.⁷⁸ Moreover, in April 2025, the Peshawar High Court restrained law enforcement agencies from detaining or deporting Afghan refugees holding PoR cards until June 30, 2025, in response to petitions alleging harassment and unlawful detention of PoR cardholders.⁷⁹

In practice, detained refugees/asylum seekers are often denied fundamental due process rights and reportedly face harassment. The situation is worsened by a complete lack of transparency, due process, and access to information.⁸⁰ Lawyers have reportedly been barred from detention centres/holding centres established pursuant to the IFRP, and families are denied visitation and information regarding the whereabouts and well-being of their detained relatives. The absence of public records or official acknowledgment of detentions further exacerbates the issue, leading to cases where detainees disappear without a trace, lacking access to legal aid or the ability to challenge their arrest or detention.⁸¹

⁷⁵ *Who Belongs? Statelessness and Nationality in South Asia* (HRCP 2024) <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf> accessed 23 May 2025.

⁷⁶ Ibid.

⁷⁷ UNHCR, PoR cards - <https://help.unhcr.org/pakistan/proof-of-registration-card-por/#:~:text=PoR%20cardholders%20have%20the%20right,breach%20the%20law%20of%20Pakistan.>

⁷⁸ Dawn, *No registered Afghans will be deported until June 30, SC told*, 7 January, 2025

⁷⁹ Dawn, *PHC stops LEAs from detaining, deporting Afghans having PoR cards*, April 9, 2025

⁸⁰ 'Pakistan: Halt Mass Detentions and Deportations of Afghan Refugees' (ReliefWeb, 4 December 2023) <https://reliefweb.int/report/pakistan/pakistan-halt-mass-detentions-and-deportations-afghan-refugees> accessed 14 April 2025.

⁸¹ Amnesty International, 'Pakistan: Government Must Stop Mass Detention and Deportation of Afghan Refugees – New Testimonies' (Press Release, 8 February 2024) <https://www.amnesty.org.uk/press-releases/pakistan-government-must-stop-mass-detention-and-deportation-afghan-refugees-new> accessed 6 May 2025.

Multiple instances reported to Amnesty International and other human rights observers indicate that Afghan individuals, including those holding valid Afghan Citizen Cards, have been subjected to prolonged detention without any legal basis in the earlier phases of IFRP. For example, on 1 November, at least twelve Afghan small business owners in Lahore were detained for over 24 hours at Nishtar Colony and Garden Town Police Stations. These individuals were neither produced before a court nor had a First Information Report (FIR) filed against them.⁸² Reports also allege that those in possession of valid paperwork have their IDs confiscated upon arrest. Children have also been among those detained, with photos reportedly shared on social media of young Afghans tied with ropes.⁸³ Those under the age of 18 have been placed in juvenile jails and remand homes in Karachi.⁸⁴ The absence of any judicial oversight or legal documentation renders such detentions *de facto* in nature, as they occur outside the boundaries of formal legal procedures.

Further reports from cities such as Peshawar, Quetta, and Karachi suggest that detention is being used as a tool of extortion and coercion. Refugees, including those with valid documents, were stopped arbitrarily, threatened with deportation, and asked to pay bribes to secure their release. A senior journalist in Peshawar informed the Human Rights Commission of Pakistan (HRCP) that although no official record of police corruption exists, field observers have consistently documented numerous incidents of extortion. As the journalist described, “The pattern was clear: the police would stop you on the way and threaten to deport you, no matter if you were a registered refugee or not. They would only let you go after squeezing Rs 1,000 or 2,000 from your pocket.”⁸⁵ A human rights lawyer from the same city confirmed handling several cases involving the detention of legally registered Afghan refugees, in which police officers approached family members for payment. In cases where families were unable to comply, individuals were deported.⁸⁶

Restrictions on movement and their relation to detention

Since January 2025, Pakistan has significantly escalated restrictions on the freedom of movement of Afghan nationals, particularly in Islamabad and Rawalpindi. A government notification dated January 29 directed all Afghan nationals to vacate these cities by March 31. This order applied to two groups: Proof of Registration (PoR) card holders, recognised by UNHCR, who were to be relocated to other parts of the country, and Afghan Citizen Card (ACC) holders, who faced deportation to Afghanistan.⁸⁷ Around the same time, the Interior Minister announced that Afghan refugees could no longer reside in Islamabad without a No Objection Certificate (NOC), a document that is difficult to obtain, with no legal basis clearly explained for the new requirement. These measures led to a spike in arrests and detentions of Afghan nationals, including those with valid documentation. Amnesty International and other rights groups reported a wave of enforcement actions, while IOM recorded nearly 1,000 deportations in January 2025 alone. At least 20% of those deported from Islamabad and Rawalpindi had documentation from UNHCR,

⁸² Human Rights Commission of Pakistan, *Politics Over People: Arbitrary Detention of Afghan Nationals in Pakistan* (HRCP 2024) <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf> accessed 23 May 2025.

⁸³ Image shared on x - https://x.com/Moni_Kakar/status/1671220231887257601; Global Detention Project, 'Afghan Refugees Ordered to Leave Pakistan or Face Deportation' (Global Detention Project, 2023) <https://www.globaldetentionproject.org/afghan-refugees-ordered-to-leave-pakistan-or-face-deportation> accessed 24 May 2025.

⁸⁴ Global Detention Project, 'Afghan Refugees Ordered to Leave Pakistan or Face Deportation' (Global Detention Project, 2023) <https://www.globaldetentionproject.org/afghan-refugees-ordered-to-leave-pakistan-or-face-deportation> accessed 24 May 2025.

⁸⁵ Human Rights Commission of Pakistan, *Politics over People* (2024) <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf> accessed 29 April 2025.

⁸⁶ Human Rights Commission of Pakistan, *Politics Over People: Arbitrary Detention of Afghan Nationals in Pakistan* (HRCP 2024) <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf> accessed 23 May 2025.

⁸⁷ Amnesty International, 'Opaque "Illegal Foreigners Repatriation Plan" Targeting Afghan Refugees Must Be Withdrawn' (Amnesty International, 6 March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

meaning they were recognised as people in need of international protection.⁸⁸ On March 7, another notice from the Ministry of Interior instructed all “illegal foreigners,” including ACC holders, to leave Pakistan voluntarily by March 31, 2025. Although the notice was reportedly removed from the official website, civil society groups such as the Joint Action Committee for Refugees (JAC-R) circulated the directive and confirmed similar eviction efforts in other cities. UNHCR estimated that approximately 144,000 Afghans returned to Afghanistan in April 2025, including 30,000 who were forcibly deported, many of them women and girls now facing increased restrictions and vulnerabilities in the country of return.⁸⁹ The relocation orders and ongoing enforcement actions, especially in Islamabad Capital Territory (ICT), Punjab, and Sindh, deepened fear and uncertainty among Afghan refugees and migrants, regardless of their legal status.⁹⁰

Since the announcement of the government’s deportation plan, reports from Karachi indicate that registered refugees were arrested, their documentation was seized or destroyed by the police, and criminal cases were filed against them under the Foreigners Act of 1946. According to a Karachi-based lawyer, such cases increased significantly with police operations bypassing even minimal legal procedures. Arrested individuals were no longer produced in court, effectively denying them the right to counsel and the opportunity to contest their detention or deportation.⁹¹ These mass arrests, conducted without judicial authorization, further exemplify the practice of *de facto detention*, as they undermine both legal protections and due process guarantees.

The use of detention also raises questions of compatibility with Pakistan’s constitutional guarantees. Article 9 of the Constitution guarantees the right to liberty, and Article 10 sets out safeguards regarding arrest and detention, which is understood as a means of access to protection for asylum seekers and refugees too (as persons) in Pakistan’s legal context. Despite the scale of arrests and detention, there has been a gap in the effective use of such legal protection avenues that exist, including in the role of Pakistani courts who can substantively examine the compatibility of these detention practices with constitutional guarantees, such as the right to life (Article 9 of the Constitution of Pakistan), the right to due process (Article 10) and the right to dignity (Article 14). The Constitutional provisions take precedence over the Foreigners Act 1946, and gaps in judicial scrutiny and the absence of institutional accountability mechanisms further entrench a culture of impunity. One of the barriers faced by Afghan asylum seekers in Pakistan is the reluctance of institutions, including the judiciary, to uphold their rights. In November 2023, the Sindh High Court declined to issue notices on a petition filed by rights activists challenging the deportation of Afghan refugees. The court questioned the maintainability of the petition, asserting that it could not intervene in matters of state policy. It further held that the petitioners lacked *locus standi*, as they were not directly aggrieved, and stated that fundamental rights under the Constitution could not be claimed by non-citizens. This position was taken despite the petitioners’ reliance on Articles 9 and 10 of the Constitution, which refer to the rights of “persons” rather than “citizens,” and despite established legal precedents affirming that these protections extend to all individuals within Pakistan’s jurisdiction. The court adjourned the hearing for three weeks, directing counsel to address the issue of maintainability.⁹² One rights activist recounted a judge in Sindh stating in open court that refugees should not be seen

⁸⁸ BBC News, ‘Pakistan steps up arrests of Afghans without papers. Kabul says it’s a move to expel all refugees’ (BBC News, 14 February 2025) <https://www.bbc.com/news/articles/cgl00ler0rno> accessed 6 June 2025.

⁸⁹ UNHCR Stories, Afghan refugees forced to return face uncertain future (05 May 2025), <https://www.unhcr.org/news/stories/afghan-refugees-forced-return-face-uncertain-future>

⁹⁰ Amnesty International, ‘Opaque “Illegal Foreigners Repatriation Plan” Targeting Afghan Refugees Must Be Withdrawn’ (Amnesty International, 6 March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

⁹¹ Human Rights Commission of Pakistan, Politics Over People: Arbitrary Detention of Afghan Nationals in Pakistan (HRCP 2024) <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf> accessed 23 May 2025.

⁹² DAWN, SHC refuses to issue notices on plea against deportation of Afghan refugees (9 November 2023) <https://www.dawn.com/news/1787656>

through a humanitarian lens but rather as criminals involved in terrorism.⁹³ Such remarks reflect broader societal biases, biases that may influence members of the judiciary and thereby limit the courts' role in safeguarding refugee rights.

This troubling pattern of arbitrary detention of Afghan refugees in Pakistan must also be understood within the broader socio-legal context of the country's legal system and judicial culture. As noted by Osama Siddique, Pakistan's formal legal system often operates in a manner "alien" to the lived realities of marginalized communities, resulting in systemic exclusion and injustice.⁹⁴ This disconnect helps explain why constitutional safeguards, including the right to liberty and due process, frequently fail to protect Afghan refugees from unlawful detention. Similarly, Shoaib Ghias critically highlights the judiciary's pattern of deference to executive authority, especially in politically sensitive contexts, which can lead to judicial reluctance to challenge state policies such as mass deportations.⁹⁵ This judicial culture contributes to the entrenchment of arbitrary detention and lack of accountability observed in the treatment of Afghan refugees.

2. *Time*: Detentions for foreigners, including asylum seekers and refugees, are enabled by the Foreigners Act 1946, and this law has been used for detentions throughout different time periods since the law came into existence until the present day.⁹⁶ Detentions have been used at scale during the first phase of the IFRP, enacted on September 26, 2023, which set a deadline of November 1, 2023, for undocumented Afghan nationals to leave Pakistan voluntarily. This initial phase primarily targeted those without any form of legal identification or registration in Pakistan.⁹⁷

The policy also extended to Afghan Citizen Card holders, who were initially allowed to stay in Pakistan under a specific agreement. However, with the implementation of the IFRP, these cardholders were also ordered to leave the country by March 31, 2025, or face deportation (pre-empted by arrest and detention).⁹⁸ On 7 March 2025, Pakistan's interior ministry launched the second phase of the IFRP plan, cancelling the Afghan Citizen Cards and ordering all card holders as well as undocumented Afghans to leave voluntarily by 31 March 2025 or face deportation. This order was anticipated to affect up to 1.6 million Afghans, many of whom had been living in Pakistan for years, if not decades.⁹⁹ The government later issued a notification offering a degree of relief to Afghan refugees (PoR holders). This notification allowed Proof of Registration (PoR) card holders to remain in Pakistan until at least June 30, 2025. Subsequently, a further final extension was granted until September 1, 2025. The extensions provided a temporary reprieve for PoR card holders, acknowledging their registered status and granting them additional time to potentially find alternative solutions or legal pathways to remain in the country.¹⁰⁰ This barrier, however, is not time-barred as detentions for foreigners, including asylum seekers, is part of the legal framework.

⁹³ The News Times, 'Afghan refugees fear return as Pakistan cracks down on migrants' (13 February 2023)

<https://thenewstimesbd.com/article/afghan-refugees-fear-return-as-pakistan-cracks-down-on-migrants>

⁹⁴ Osama Siddique, *Pakistan's Experience with Formal Law: An Alien Justice* (Cambridge University Press 2015).

⁹⁵ Shoaib A Ghias, 'Miscarriage of Chief Justice: Judicial Power and the Legal Complex in Pakistan under Musharraf' (2011) SSRN https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1163642 accessed 24 May 2025.

⁹⁶ Under Section 3(2)(g) of the Foreigners Act 1946, a foreigner can be arrested and detained in the interest of the security of Pakistan for up to two months and subsequently deported.

⁹⁷ European Union Agency for Asylum, *Pakistan: Situation of Afghan Refugees – Country of Origin Information Report* (May 2022)

https://coi.euaa.europa.eu/administration/easo/PLib/2022_05_EUAA_COI_Report_Pakistan_Situation_of_Afghan_refugees.pdf

⁹⁸ Ministry of Interior, Government of Pakistan, 'Afghan Citizen Card (ACC) Holders to Leave Pakistan by March 31, 2025' (21 March 2025) <<https://www.interior.gov.pk/afghan-citizen-card-acc-holders-to-leave-pakistan-by-march-31-2025/>>

⁹⁹ International Crisis Group, *Pakistan and Afghanistan: Tempering the Deportation Drive* (ICG, 7 March 2024) <https://www.crisisgroup.org/asia/south-asia/pakistan-afghanistan/pakistan-afghanistan-tempering-deportation-drive> accessed 28 May 2025.

¹⁰⁰ Ministry of States and Frontier Regions (SAFRON), 'Extension of PoR Cards' (22 July 2024)

<https://safron.gov.pk/SiteImage/Downloads/Extension%20OP%20POR%20CARDS.pdf> accessed 6 May 2025.

3. *Place:* The practice of arbitrary detention is widespread and not limited to one geographical area. It has been documented across multiple cities and provinces. Notably, Pashtuns and Afghan-origin individuals are being disproportionately targeted, as documented by UN entities and human rights groups.¹⁰¹

While Afghans may be held in regular prisons, especially during the initial stages of arrest and prosecution under the Foreigners Act, they are increasingly being detained in detention centres / holding centres post the announcement of the Illegal Foreigners Repatriation Plan. Reportedly, the Pakistani government has established at least 49 such centres, described as “holding” or “transit” centres, across the country. These facilities are not based on any formal legal framework and function in parallel to the criminal justice system. According to Amnesty International, many of these centres do not provide detainees with basic legal safeguards such as access to legal counsel or contact with family members, and no public information is made available about their operation or locations. This lack of transparency violates fundamental rights to liberty and a fair trial.¹⁰²

4. *Actors:* The detention of Afghan refugees in Pakistan involves a wide range of state actors operating under the direction of the Federal Ministry of Interior. The primary enforcement responsibilities lie with law enforcement agencies, including the police and the Counter-Terrorism Department (CTD), which conduct raids, arrests, and detentions. According to sources within the CTD and NADRA, prior to the announcement of the deportation plan in October 2023, the Federal Ministry of Interior played a lead role and issued directives to all departments concerned, initiating a mapping exercise to update district-wise data on Afghan refugees. This process involved provincial departments, including district administrations, police, provincial revenue departments, and the Special Branch. Some military intelligence personnel were also involved. NADRA officials stated that the mapping zones were identified largely based on refugee data held by the Commissionerate for Afghan Refugees, for the purpose of cross-checking and updating that data.

Senior civilian officials stated that the deportation process was handled by military corps stationed in Peshawar and Quetta, working with provincial home departments. Under this arrangement, holding centres were set up and managed by district management authorities. The police, the Federal Investigation Agency (FIA), NADRA, and the customs department were also involved. NADRA set up stalls inside the centres to obtain detainees' digital thumbprints, while customs monitored the goods carried by deportees. A medical camp was also established at each centre to provide short-term healthcare. Entry into these centres was banned for all except a limited staff of the police, the FIA, and other relevant departments — meaning there was no opportunity to independently assess whether adequate food, water, shelter, medical care, or privacy was provided during detention and transit.¹⁰³

5. *Interaction:* The Foreigners Act 1946 is part of the domestic legal framework, and the government's The Illegal Foreigners' Repatriation Plan (IFRP) is an executive plan, which together create a significant obstacle to Afghan asylum seekers' access to legal protection from detention and removal from their communities before they can pursue any legal remedies and access any existing asylum procedures. Even individuals with valid legal documentation have been arrested, demonstrating procedural inequity and disregard for fundamental rights.¹⁰⁴ The IFRP has also created a climate of fear and mistrust within the Afghan community. Many individuals are now reluctant to approach government authorities or seek legal counsel, fearing detention or deportation. In fact, a majority of those returning to Afghanistan under this

¹⁰¹JAC-R slams crackdown on Afghan nationals in Pakistan' (Pajhwok Afghan News, 4 April 2025)

<https://pajhwok.com/2025/04/04/jac-r-slams-crackdown-on-afghan-nationals-in-pakistan/> accessed 29 April 2025.

¹⁰² Amnesty International, 'Pakistan: Halt mass detentions and deportations of Afghan refugees' (Amnesty International, 2 November 2023) <https://www.amnesty.org/en/latest/news/2023/11/pakistan-halt-mass-detentions-and-deportations-of-afghan-refugees/>

¹⁰³ Human Rights Commission of Pakistan, *Politics over People: The Involuntary Repatriation of Afghan Refugees* (HRCP, 2024), pp. 7–14, <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf>

¹⁰⁴ US Department of State, 2023 Country Reports on Human Rights Practices: Pakistan (February 2024)

<https://www.state.gov/wp-content/uploads/2024/02/528267_PAKISTAN-2023-HUMAN-RIGHTS-REPORT.pdf>

plan consistently report that they are leaving Pakistan primarily out of fear of arrest or forced removal.¹⁰⁵ This reluctance isolates them further from avenues of any existing protection, including legal avenues and access to courts. Restrictions on visitation by legal representatives and family members and the denial of access to legal advice and information further hinder refugees' ability to understand and exercise their legal options.¹⁰⁶

6. *Development:* Detention is a part of the legal framework for foreigners in the Foreigners Act 1946 and has been consistently used to detain asylum seekers; however, its use at scale has been subject to specific social and political contexts.¹⁰⁷ In the current context, large-scale detention has preceded deportations under the IFRP.

Politically, the position of Afghan refugees in Pakistan has undergone marked shifts. Under Prime Minister Imran Khan's administration, there was a tilt toward recognizing refugees' rights and integration. Khan publicly pledged to grant citizenship to approximately 1.5 million Afghan refugees who had lived in Pakistan for decades, emphasizing that children born and raised in Pakistan deserved citizenship as part of a global normative practice. He highlighted the long-term marginalization of refugees, noting the denial of national identification cards and passports despite their prolonged presence in the country.¹⁰⁸

However, this inclusive rhetoric shifted thereafter, and without any tangible steps taken to integrate refugees or develop a legal framework for asylum seekers. The Caretaker Government in 2023 introduced the Illegal Foreigners Repatriation Plan (IFRP), which framed Afghan refugees as a national security threat and economic burden. The plan is still being implemented after the PMLN came to power following the 2024 elections in different phases. This policy shift marked a departure from the citizenship pledge by Khan, reflecting a broader societal and political tendency to view refugees with suspicion and as a liability to Pakistan's resources and stability.

Following November 1, 2023, under the IFRP, there were widespread arrests, detentions, and deportations of undocumented Afghan nationals in the first phase. The government announced that later phases would target Afghan Citizen Card (ACC) and Proof of Registration (PoR) card holders, causing widespread fear of detention and deportation. As of 2026, the IFRP remains active, with increased pressure on all Afghans, including ACC and PoR holders, to leave or face arrests, detention and deportation. ACC holders originally had until March 31, 2025, to leave, and PoR holders had until June 30, 2025, and thereafter until September 1, 2025, to leave Pakistan. Detention continues to be a barrier to asylum, affecting both documented and undocumented individuals.¹⁰⁹

7. *Rationale:* Detention is justified as a procedure under Pakistani law applying to those without valid documentation and who are in violation of other obligations applicable to foreigners under the Foreigners Act 1946, and several executive and policy documents, including the Illegal Foreigners' Repatriation Plan

¹⁰⁵ Staff Report, 'Return of illegal Afghans in full swing amid calls to revisit repatriation plan' (*Pakistan Today*, 4 November 2023) <https://www.pakistantoday.com.pk/2023/11/04/return-of-illegal-afghans-in-full-swing-amid-calls-to-revisit-repatriation-plan/>; International Organization for Migration (IOM), Bi-Weekly Flow Monitoring of Afghan Returnees: Bi-Weekly Report (16 – 31 May 2026) <https://dtm.iom.int/reports/pakistan-flow-monitoring-afghan-returnees-bi-weekly-report-16-31-may-2026>

¹⁰⁶ Human Rights Commission of Pakistan, *Politics over People* (2024) <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf>

¹⁰⁷ Please see Section 3(2)(g) of the Foreigners Act 1946.

¹⁰⁸ Patrick Wintour, 'Pakistan Prime Minister Imran Khan Pledges Citizenship to Afghan Refugees' *The Guardian* (Karachi, 17 September 2018) <https://www.theguardian.com/world/2018/sep/17/pakistan-imran-khan-citizenship-pledge-afghan-refugees>

¹⁰⁹ Ministry of Interior, Government of Pakistan, 'Afghan Citizen Card (ACC) Holders to Leave Pakistan by March 31, 2025' (21 March 2025) <<https://www.interior.gov.pk/afghan-citizen-card-acc-holders-to-leave-pakistan-by-march-31-2025/>>

(IFRP). Detention, therefore, is a key component of the enforcement of immigration laws and executive decisions on immigration, as a standard procedure for processing and removal.¹¹⁰

9. *Specific Impact:* The impact of detention under the Illegal Foreigners' Repatriation Plan (IFRP) is particularly severe for vulnerable groups. Children, who make up approximately 52% of the registered Afghan refugee population in Pakistan, are especially at risk.¹¹¹ In Sindh province alone, reports from as early as December 2022 revealed that 178 children were being held in prisons with their mothers.¹¹² This not only deprived them of education but also placed them in harmful environments that can damage their physical and emotional development. Broader studies also indicate that 80% of Afghan refugee children are out of school due to barriers such as lack of documentation, poverty, and language difficulties, challenges made worse by the fear of detention post the IFRP.¹¹³ Women, particularly pregnant women, also face increased risks and challenges in accessing necessary medical attention.¹¹⁴ According to Moniza Kakar, a human rights lawyer based in Pakistan, even pregnant Afghan women who fled Afghanistan to seek medical treatment are being detained in prisons in Karachi and elsewhere. She stated that one of the female Afghan detainees also gave birth to a child in the Hyderabad jail.¹¹⁵

Despite several insights from lawyers and human rights groups in the field and international human rights organizations documenting the lived realities of Afghan refugees and asylum seekers, including such persons with added vulnerability, there is no comprehensive or holistic official data available on the exact number of Afghan (or others) arrested or detained. IOM and UNHCR have been documenting arrests and detentions of undocumented and ACC-holder Afghans in Pakistan only since January 2023, noting that no data on arrests and detentions for undocumented and ACC card holders was collected prior to 2023 (such data was collected only for PoR holders since 2016 by UNHCR & IOM). Moreover, the UNHCR / IOM data on arrests and detention is disaggregated in i) ACC / Undocumented ii) PoR / Asylum Seekers during the earlier phases of the IFRP, and in the latter phase, the data is clubbed for PoR / Asylum Seekers / ACC / Undocumented. Further disaggregation on gender or any other vulnerability is not available for the total number of those arrested and detained; disaggregation on vulnerability is only available for the total number of returnees from Pakistan to Afghanistan. For example, returnee data collected by UNHCR and IOM between 1 April 2025 and 13 June 2026 reveals that 50.1% (824,469) were male and 49.9% (822,210) were female, and a significant proportion were children and youth: 8.7% (142,786) male and 144,087 female (aged 0–4 years), and 19.6% (322,166) males between 5–17 years and 18.2% (299,470) females between 5-17. Female Adults aged 18–59 accounted for 21.6% (356,000), and male adults 18-50 accounted for 20.1% (332,166), and the female elderly (60+) for 1.4% (22,653) and the male elderly 60+ were 1.7% (27,491).¹¹⁶

Moreover, among the undocumented and ACC-holding returnees as well as PoR holders during the above timeframe, vulnerabilities were acute. In the undocumented and ACC returnees, 47% (13,965 individuals)

¹¹⁰ KabulNow, 'Pakistan Launches Second Phase of Afghan Refugee Deportation, Aiming to Send Back 800,000' (8 July 2024) <https://kabulnow.com/2024/07/pakistan-launches-second-phase-of-afghan-refugee-deportation-aiming-to-send-back-800000/>

¹¹¹ Info Migrants, '52% of Afghan Refugees in Pakistan Are Children' (19 March 2024) <https://www.infomigrants.net/en/post/41041/52-of-afghan-refugees-in-pakistan-are-children>

¹¹² The Express Tribune, '129 Afghan Women, 178 Kids in Jails' (2 January 2023) <https://tribune.com.pk/story/2393552/129-afghan-women-178-kids-in-jails> accessed 13 April 2025

¹¹³ Asia Displacement Solutions Platform (ADSP), Barriers to Education for Afghan Refugees in Pakistan (May 2022) <https://adsp.ngo/wp-content/uploads/2022/05/Barrier-to-Education-for-Afghan-Refugees-Long-Report.pdf>

¹¹⁴ InfoMigrants, '300 Afghan Children and Women Held in Pakistani Prisons for Illegal Entry' (InfoMigrants, 2 February 2023) <https://www.infomigrants.net/en/post/45806/300-afghan-children-and-women-held-in-pakistani-prisons-for-illegal-entry>

¹¹⁵ Kathy Gannon, 'Pakistan's Deportation Drive Leaves Afghans With Nowhere to Go' (AP News, 6 November 2023) <https://apnews.com/article/politics-pakistan-karachi-afghanistan-government-f0778fe81f16a768811c25e270181d35>

¹¹⁶ UNHCR and IOM. "UNHCR-IOM Flash Update #98: Afghan Returns from Pakistan." *IOM Pakistan / UNHCR Pakistan*, June 2026. <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

had serious medical conditions, 32% (9758) were elderly, and 3% (905) were persons with disabilities. Additional groups included pregnant women (1415 individuals, or 5%) and female widows (3016 individuals, or 10%). PoR holders showed similar vulnerability patterns, with 52% (8577) having serious medical conditions, 25% (4214) being elderly, and 11% (1823) identifying as persons with disabilities. Moreover, 11% of the returnees (1964 women) were identified as women at risk¹¹⁷

Noting that detentions and deportations have gone hand in hand post the launch of the IFRP plan, the disaggregated data for vulnerable groups that have been returned, including those that were deported, provides insights on the specific impact arrests and detentions would have had on these vulnerable groups.

10. *Reach*: The detention of Afghan nationals in Pakistan, particularly under the Illegal Foreigners' Repatriation Plan (IFRP), has affected over 2.5 million Afghan individuals, with this ongoing at the time of writing (June 2026). According to UNHCR & IOM documentation, since 2003 (until 13 June 2026), 267,211 Afghans (including PoR / ACC / Undocumented) have been arrested and detained.¹¹⁸ Moreover, from 1 January - 13 June 2026, the top three districts for arrest and detention of Afghans from across Pakistan remained from Chaghi (Balochistan), Peshawar (KP), and Islamabad (ICT).¹¹⁹ Moreover, the data on monthly arrests and detentions by UNHCR-IOM shows that there have been arrests and detentions consistently since January 2024 till June 2026, with increased arrests and detentions in 2025 and 2026 compared to the year 2024. It is also documented that despite PoR card holders having specific dates by which they could return to Afghanistan, first by 30th June 2025, subsequently extended to 1 September 2025, PoR holders have still been arrested and detained within these timelines too, albeit in lesser numbers compared to ACC or undocumented Afghans. After the 1st of September 2025, the extension for PoR holders lapsed, and there has been a significant increase in their arrest and detention, as they have been clubbed together with all other groups of Afghans.¹²⁰

11. *Source*: The legal basis for the detention of Afghan refugees in Pakistan is rooted in domestic law, primarily the Foreigners Act, 1946. This law gives broad discretionary powers to the Pakistani government to arrest, detain, and deport non-citizens deemed to be residing illegally in the country. It does not distinguish between refugees, asylum seekers, or undocumented migrants, allowing for the detention of all individuals without valid immigration status, including those with humanitarian protection needs.¹²¹ Submission by the World Organization Against Torture (OMCT) to the UN Treaty Body also notes the broad powers granted to enforcement authorities by the Foreigners Act 1946, with limited statutory procedural guarantees, and how Afghan nationals are regulated primarily under general immigration control rather than dedicated refugee protection safeguards.¹²² Moreover, the IFRP plan, which is an executive instrument, has largely increased the use of detention as a tool for deportation, raising serious concerns under both domestic and international legal frameworks. It has been reported by human rights lawyers and organizations that arrests and detentions under the executive order IFRP do not necessarily depend on a formal FIR or proceedings under the Foreigners Act, with reports that people are arrested

¹¹⁷ UNHCR and IOM. "UNHCR-IOM Flash Update #98: Afghan Returns from Pakistan." *IOM Pakistan / UNHCR Pakistan*, June 2026. <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

¹¹⁸ Between the first half of 2026 (Jan 1 – June 13) 60,683 Afghans have been arrested & detained, preceded by 165,295 arrested and detained in 2025, 10,566 in 2024 and 30,667 in 2023. See UNHCR & IOM, *Flash Update #98 on Arrest and Detention/Flow Monitoring, 15 September 2023 – 13 June 2026*, IOM Pakistan, June 2026, <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

¹¹⁹ *ibid*

¹²⁰ UNHCR and IOM. "UNHCR-IOM Flash Update #98: Afghan Returns from Pakistan." *IOM Pakistan / UNHCR Pakistan*, June 2026. <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

¹²¹ Human Rights Commission of Pakistan, *Who Belongs? The Foreigners Act 1946 and The Pakistan Citizenship Act 1951* (HRCP 2024) <https://hrp-web.org/hrpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

¹²² OMCT/WGAD, *Afghan Nationals in Pakistan (2023–2026)*, submitted to the UN Committee Against Torture, March 2026, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=OCf5+HU7k70F4pjwMH E0tOpAw4WEExhlJp497wL1HX+LZwehQ71oU8njoT2D058%2F

and deported without any legal process.¹²³ Amnesty International has documented that after 1 November 2023, police moved from registering cases under the Foreigners Act to directly detaining refugees deemed “illegal” at deportation centres, with a complete lack of transparency, due process, and accountability.¹²⁴ Moreover, notably, the IFRP itself states that all undocumented individuals or claimants of refugee status “shall be tried under the Foreigners Act 1946 and parallel efforts shall be made for their repatriation,” effectively making the deportation process simultaneous with, rather than subsequent to, any legal process.¹²⁵

However, under Article 10 & 10A of the Constitution of Pakistan, every individual is entitled to due process and a fair trial, including the right to legal representation and the requirement to be presented before a magistrate within 24 hours of arrest.¹²⁶ These constitutional protections are being routinely violated in the case of Afghan detainees, many of whom are held without charges, legal aid, or court appearances.¹²⁷ Courts can take action to prevent these at scale, but that is dependent on both the scale of legal aid and access to courts, as well as the willingness of judges to proactively grant applicable protections.

12. *Justification*: The Pakistani government has publicly justified the detention and repatriation of Afghan nationals under the IFRP on several grounds, most prominently national security. Pakistan’s interim Prime Minister Anwaar-ul-Haq Kakar stated in November 2023 that “a significant portion of those involved in criminal and terrorist activities are among these illegal immigrants.”¹²⁸ Pakistan’s interim Interior Minister Sarfraz Bugti further claimed that 14 out of 24 suicide attacks that occurred in Pakistan in 2023 were committed by Afghan nationals.¹²⁹ The government has framed the IFRP as a direct response to these rising security concerns, stating that individuals residing in the country without valid documents are violating Pakistani law and must be detained and removed.¹³⁰

13. *Domestic and International Reactions*: Within Pakistan, civil society organizations, human rights activists, and legal experts have consistently raised serious concerns about the broad powers of arrest and detention under the Foreigners Act for being inconsistent with Constitutional protections and Pakistan’s international human rights obligations.¹³¹

14. *Externalization*: N/A

¹²³ Documentation by JAC-R and other lawyers interviewed for this research.

¹²⁴ Amnesty International, *Pakistan: Halt Mass Detentions and Deportations of Afghan Refugees*, November 13, 2023, <https://www.amnesty.org/en/latest/news/2023/11/pakistan-halt-mass-detentions-and-deportations-of-afghan-refugees/>

¹²⁵ See Maja Janmyr, *Pakistan’s Judicial Engagement with International Refugee Law*, International Journal of Refugee Law, Vol. 36(4), February 2025, <https://academic.oup.com/ijrl/article/36/4/397/7994654> Oxford Academic

¹²⁶ Constitution of Pakistan 1973, art 10-A.

¹²⁷ The OMCT submission notes that most detained respondents reported they were not provided access to a lawyer, were not brought promptly before a magistrate, and were not informed of any available appeal procedures prior to deportation. See OMCT/WGAD, *Afghan Nationals in Pakistan (2023–2026)*, submitted to the UN Committee Against Torture, March 2026, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=OCf5+HU7k70F4piwMH E0tOpAw4WEEExhljp497wL1HX+LZwehQ71oU8njoT2D058%2F

¹²⁸ Council on Foreign Relations, *Why Pakistan Is Deporting Afghan Migrants*, December 15, 2023, <https://www.cfr.org/in-brief/why-pakistan-deporting-afghan-migrants>

¹²⁹ Berkeley Political Review, *Pakistan Moves Forward with Mass Deportation of Afghan Migrants*, February 15, 2024, <https://bpr.studentorg.berkeley.edu/2024/02/15/pakistan-moves-forward-with-mass-deportation-of-afghan-migrants/>

¹³⁰ Ministry of Foreign Affairs, Statement by the Spokesperson, <https://mofa.gov.pk/the-following-statement-is-attributable-to-the-spokesperson-in-response-to-media-queries>

¹³¹ Human Rights Commission of Pakistan, *Who Belongs? The Foreigners Act 1946 and The Pakistan Citizenship Act 1951* (HRCP 2024) <https://hrp-web.org/hrpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>; See OMCT/WGAD, *Afghan Nationals in Pakistan (2023–2026)*, submitted to the UN Committee Against Torture, March 2026, https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=OCf5+HU7k70F4piwMH E0tOpAw4WEEExhljp497wL1HX+LZwehQ71oU8njoT2D058%2F

15. *Technology*: Although specific information about the technology used by intelligence agencies to track and identify Afghan refugees is not publicly available, it is known that some Afghan refugees were previously issued biometric identity smartcards by Pakistan's National Database and Registration Authority (NADRA). These smartcards, containing detailed biometric data, are likely one of the tools that the government uses to monitor and identify Afghan refugees within the country.¹³² Moreover, verification offices of NADRA and the FIA have been established at transit points, where officials are continuously screening and processing individuals.¹³³

Procedural barriers:

- **Absence of a legal framework on asylum**

Summary: Pakistan does not have a national asylum framework or any domestic law recognizing the rights of refugees and asylum seekers. Moreover, Pakistan does not have a specific visa category or legal status for asylum seekers or refugees. Consequently, many asylum seekers enter the country on regular visas (such as tourist or visit visas) or through other undocumented means and then approach UNHCR for international protection through registration and refugee status determination (RSD).¹³⁴ This dependency became a procedural barrier in January 2022, when the Government of Pakistan (GoP) issued a Note Verbale / directive instructing UNHCR to cease registering new Afghan asylum seekers, which also exposed refugees and asylum seekers to risks of arrest, detention and refoulement.¹³⁵ Without any alternative state-led system in place to document and/or register individuals seeking refuge, the government-imposed restriction effectively bars access to asylum procedures, placing these individuals in a legal and protection vacuum.

1. *Functioning*: The relationship between the Government of Pakistan and the United Nations High Commissioner for Refugees (UNHCR) concerning refugee registration and Refugee Status Determination (RSD) was historically shaped by the absence of a national refugee/asylum legal framework to regulate the status or rights of refugees within its territory. In the absence of such a framework, asylum seekers, refugees, migrants and other groups in Pakistan were treated under the Foreigners Act 1946, which governed all non-citizens and did not provide specific protections for asylum seekers.¹³⁶

Given this context, UNHCR conducted refugee status determination (RSD) under its international mandate as per the Statute of the Office of the United Nations High Commissioner for Refugees, established by UN General Assembly Resolution 428(V) of 1950.¹³⁷ In Pakistan, UNHCR was authorized to carry out RSD on behalf of the government based on a 1993 Cooperation Agreement between the Government of Pakistan and UNHCR.¹³⁸ While UNHCR registration and RSD under UNHCR mandate were technically distinct processes, in practice, they were often conducted together. During RSD procedures, UNHCR offices typically collected or updated registration information at the same time as they received applications for RSD. Both processes were guided by shared standards and objectives, ensuring consistency in how information was gathered and assessed.

¹³² UNHCR, 'Government of Pakistan Delivers First New Biometric Identity Smartcards for Afghan Refugees' (UNHCR, 4 April 2022) <https://www.unhcr.org/asia/news/news-releases/government-pakistan-delivers-first-new-biometric-identity-smartcards-afghan> accessed 14 April 2025.

¹³³ Staff Report, 'Return of illegal Afghans in full swing amid calls to revisit repatriation plan' (*Pakistan Today*, 4 November 2023) <https://www.pakistantoday.com.pk/2023/11/04/return-of-illegal-afghans-in-full-swing-amid-calls-to-revisit-repatriation-plan/> accessed 6 May 2025.

¹³⁴ (Amel Ghani, 'Pakistan steps up crackdown on Afghan refugees, adds new restrictions' (*The New Humanitarian*, 23 March 2023) <https://www.thenewhumanitarian.org/news-feature/2023/03/23/pakistan-crackdown-afghan-refugees> accessed 20 May 2025).

¹³⁵ UNHCR, 'Annual Results Report 2022' (UNHCR, 3 May 2023) p 5. <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

¹³⁶ Foreigners Act 1946 (Pakistan).

¹³⁷ UNGA Res 428(V) (14 December 1950) UN Doc A/RES/428(V).

¹³⁸ UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan#:~:text=In%20the%20absence%20of%20a,identification%20of%20a%20durable%20solution.>

UNHCR's guide on procedural standards for RSD under UNHCR's mandate comprehensively describes the registration procedures for applicants for RSD and other "persons of concern," including other asylum seekers, refugees, returnees, internally displaced persons, and stateless individuals. UNHCR standard registration is designed to collect basic information on all individuals considered "persons of concern" to UNHCR. The data collected during registration enables UNHCR to better understand the size and characteristics of the population it serves, to plan and deliver protection and assistance programs, to provide referrals for additional UNHCR procedures, and to identify individuals with special needs. The procedural guidelines also require UNHCR to maintain up-to-date registration records for each applicant, including those applying for derivative status.

Besides standard registration requirements, RSD involves a detailed assessment of whether an applicant qualifies for refugee status under UNHCR's mandate. It includes information about the applicant's reasons for fleeing their home country and any other relevant facts that help determine their eligibility for refugee status.¹³⁹ The Government of Pakistan generally accepts UNHCR's RSD decisions and allows both asylum seekers undergoing RSD and those recognised as refugees to remain in the country until a durable solution is identified.¹⁴⁰ Courts have also relied on UNHCR mandates in granting specific relief to asylum seekers. However, it must be noted that refugee status has not been granted to anyone in Pakistan since 2007 by UNHCR and the Government of Pakistan (since the PoR scheme), which also puts the individuals documented with UNHCR at risk of detention and deportation with no legal remedies available.¹⁴¹ It's important to note that possessing a valid visa is crucial for asylum seekers¹⁴² to become part of the RSD process, which typically takes more than a year.¹⁴³ Carrying a valid visa mitigates the risk of detention and deportation, as any foreigner without valid documentation is considered unlawfully present and can be detained or deported under the Foreigners Act of 1946 and the Foreigners Order of 1951.

However, in early 2022, the Government of Pakistan issued a formal Note Verbale instructing UNHCR to suspend/cease registrations for all new Afghan asylum seekers.¹⁴⁴ As a result, UNHCR suspended its registration activities.¹⁴⁵ The absence of a functioning registration mechanism left many Afghan refugees undocumented, heightening their risk of arrest, detention, and refoulement. This directive effectively closed off the only available avenue through which individuals could initiate protection claims under UNHCR's mandate. As there is no national asylum system or interim mechanism established by the State, persons with international protection needs have been left in legal and procedural limbo. This constitutes a procedural denial of access to asylum, not by rejecting claims on their merits, but by obstructing access to the very process required to present those claims.

However, it remains unclear, and no information has yet been found to indicate whether this instruction was ever rolled back or modified at any later stage. UNHCR does seem to have some mechanism to assist new arrival asylum seekers into Pakistan through its partners;¹⁴⁶ however, more information is needed on this.

¹³⁹ UNHCR, *Procedural Standards for Refugee Status Determination under UNHCR's Mandate* (September 2005) <https://www.unhcr.org/sites/default/files/legacy-pdf/43171ac42.pdf>.

¹⁴⁰ UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan>

¹⁴¹ Verso Consulting, *Report on the Afghan Refugee Crisis* (June 2024) <https://www.versoconsulting.org/wp-content/uploads/2024/06/Report-on-The-Afghan-Refugee-Crisis.pdf>.

¹⁴² UNHCR, 'Asylum in Pakistan' (UNHCR Help Pakistan) <https://help.unhcr.org/pakistan/asylum/>

¹⁴³ Verso Consulting, *Report on the Afghan Refugee Crisis* (June 2024) <https://www.versoconsulting.org/wp-content/uploads/2024/06/Report-on-The-Afghan-Refugee-Crisis.pdf>

¹⁴⁴ UNHCR, 'Annual Results Report 2022' (UNHCR, 3 May 2023) <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

¹⁴⁵ UNHCR, *Annual Results Report 2022 – Pakistan* (3 May 2023) <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

¹⁴⁶ UNHCR, *Information for New Arrivals* - <https://help.unhcr.org/pakistan/new-arrivals/> & *Asylum in Pakistan* <https://help.unhcr.org/pakistan/asylum/>. The writer of this report at the time of writing was not able to get clarity on this through conversations with UNHCR partners.

2. *Time:* The procedural barrier emerged formally in January 2022 with the Government of Pakistan's (GoP) Note Verbale instructing UNHCR to stop registering Afghan asylum seekers, solidifying an operational slowdown that began following the August 2021 geopolitical shift.¹⁴⁷ Since then, the halt has remained in place with no formal resolution.¹⁴⁸ While UNHCR has attempted to negotiate the resumption of its mandate registration or a transition to a balanced, government-led asylum system, no meaningful progress has been made toward a protection-oriented framework.¹⁴⁹ Instead, the state's approach pivoted sharply in October 2023 with the implementation of the Illegal Foreigners' Repatriation Plan (IFRP), shifting the focus from protection and registration toward mass deportation sweeps and documentation enforcement.¹⁵⁰ This lack of a formal registration mechanism has left hundreds of thousands of newly arrived Afghans in a persistent state of legal limbo, highly vulnerable to arbitrary arrest and deportation.¹⁵¹

3. *Place:* The barrier applies nationwide, as the registration function previously carried out by UNHCR was available across Pakistan, particularly in key cities such as Islamabad, Quetta, and Peshawar. These urban centres house most Afghan asylum seekers and are focal points for humanitarian access.¹⁵² With the halt in registration, affected individuals in all regions of Pakistan are unable to access protection procedures regardless of location.

4. *Actors:* The Government of Pakistan, through the Ministry of Interior, is the main actor responsible for the restriction, as the Note Verbale was issued by it.¹⁵³ UNHCR is the affected institution, having lost its ability to implement its mandate for new Afghan asylum seekers (post-Taliban takeover in 2021).¹⁵⁴ Asylum seekers, especially new arrivals from Afghanistan, are the primary victims of this policy, rendered undocumented, legally invisible and subject to arrest and deportation.¹⁵⁵ Law enforcement agencies and NADRA further exacerbate this barrier by treating unregistered individuals as illegal immigrants.¹⁵⁶

5. *Interaction:* This procedural barrier interacts with and amplifies other key barriers to protection, particularly documentation, detention, and legal status. Individuals who cannot access asylum procedures remain undocumented and are vulnerable to arrest, deportation, or harassment, as reported in stats in

¹⁴⁷ UNHCR, Annual Results Report 2022 – Pakistan (3 May 2023) <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

¹⁴⁸ UNHCR, Annual Results Report 2024 – Pakistan (30 June 2025) <https://www.unhcr.org/sites/default/files/2025-06/Pakistan%20ARR%202024.pdf>

¹⁴⁹ UNHCR, Operational Data Portal: Refugee Situations – Pakistan <https://data.unhcr.org/en/country/pak> (dashboard for stagnant registration data for newly arrived asylum seekers); see also UNHCR, Annual Results Report 2024 – Pakistan (30 June 2025) <https://www.unhcr.org/sites/default/files/2025-06/Pakistan%20ARR%202024.pdf>

¹⁵⁰ IOM - UNHCR, Joint Flash Update: Arrest and Detention/Flow Monitoring of Afghan Nationals (Issue No. 1, October 2023; updated through 2024).

¹⁵¹ Amnesty International, *Pakistan's Opaque Illegal Foreigners Repatriation Plan Targeting Afghan Refugees Must Be Withdrawn* (26 March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

¹⁵² UNHCR Pakistan, 'How to Contact UNHCR in Pakistan' (UNHCR Help Page) <https://help.unhcr.org/pakistan/asylum/#:~:text=If%20you%20have%20just%20arrived,are%20in%20Peshawar%20%E2%80%93%20contact%20SHARP> (stating "If you are in Islamabad or Karachi – contact SHARP; If you are in Quetta – contact SEHER; If you are in Peshawar – contact SHARP").

¹⁵³ UNHCR, *Annual Results Report 2022 – Pakistan* (UNHCR, 3 May 2023) p 5 https://reporting.unhcr.org/sites/default/files/2023-06/Asia%20-%20Pakistan%20ARR%202022_0.pdf

¹⁵⁴ UNHCR, *Annual Results Report 2024 – Pakistan* (UNHCR, 30 June 2025) <https://www.unhcr.org/sites/default/files/2025-06/Pakistan%20ARR%202024.pdf>

¹⁵⁵ IOM–UNHCR, Flash Update No. 98: Arrest and Detention/Flow Monitoring of Afghan Nationals in Pakistan (June 2026) <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf> (earlier updates confirm arrests and detention as a consistent part of the enforcement of IFRP 2023).

¹⁵⁶ Deccan Herald, Pakistan launches nationwide crackdown on illegal immigrants as deadline expires (1 November 2023) <https://www.deccanherald.com/amp/story/world/pakistan-launches-nationwide-crackdown-on-illegal-immigrants-as-deadline-expires-2752692>; The Express Tribune, Naqvi directs NADRA to aid law enforcement in deportation of illegal immigrants (1 April 2026) <https://tribune.com.pk/story/2600299/naqvi-directs-nadra-to-aid-law-enforcement-in-deportation-of-illegal-immigrants>

earlier sections of the report. Without registration, they are also excluded from health care, education, and legal services, compounding their precarity and increasing their risk of refoulement.

6. *Development:* The barrier developed in the aftermath of the Taliban's return to power in Afghanistan in August 2021¹⁵⁷, which also resulted in an influx of additional refugees. Amidst rising security and political tensions, the GoP increasingly viewed new Afghan arrivals through a security lens. The 2022 directive emerged from this shift in state policy, which moved from informal tolerance to formal procedural restriction, without instituting any alternative legal mechanisms to replace UNHCR's role.

7. *Rationale:* While the government has not publicly articulated a comprehensive justification, informal reasoning points to security concerns, political sensitivities, and economic pressures.¹⁵⁸ Tensions related to the Taliban's control in Afghanistan have further complicated the situation, influencing Pakistan's cautious approach towards refugee registration and protection.¹⁵⁹

9. *Specific Impact:* Vulnerable groups, especially women, children, transgender persons, and persons with disabilities, are severely affected by this procedural vacuum¹⁶⁰. Without documentation, they cannot access services, are excluded from humanitarian assistance, and face heightened risk of violence and exploitation. The psychological toll of uncertainty, fear of arrest, and social exclusion compounds their trauma.

10. *Reach:* Since August 2021, the Government of Pakistan estimates that over 600,000 Afghans have arrived in Pakistan.¹⁶¹ Because of the directive, none of these individuals would have been able to register for asylum through UNHCR. This means hundreds of thousands remain in legal limbo, with no path to real protection, documentation, or basic rights — demonstrating the widespread impact of this procedural barrier.

11. *Source:* The directive originated from the Government of Pakistan via a Note Verbale in January 2022.¹⁶² UNHCR's 2022 Annual Results Report for Pakistan clearly states that it was ordered to cease the registration and documentation of Afghan asylum seekers and has been advocating unsuccessfully for a resumption of its mandate. No legal notification or policy document has been made public.

12. *Justification:* While no formal justification has been published, government discourse has linked the decision to issues of national security, undocumented migration, and institutional control.¹⁶³ The state's expressed interest in developing a national asylum mechanism appears aspirational rather than substantive, as there has been no legislative progress or public consultation to create such a system.

13. *Domestic and International Reactions:* UNHCR and civil society actors have raised consistent concern about the suspension of mandate registration and the risk of refoulement. UNHCR continues to appeal to the Government of Pakistan to maintain the protection space for Afghan nationals in need of safety, urging that any returns must be voluntary, safe and dignified with full respect for the rights and protection of those at risk, and has offered its support in developing a mechanism to manage and register people in need

¹⁵⁷ Zia Ur Rehman, 'Why did the Afghan Taliban sour on Pakistan?' (DW, 20 April 2024) <https://www.dw.com/en/why-did-the-afghan-taliban-sour-on-pakistan/a-68873894>

¹⁵⁸ Dawn, *COAS says illegal foreigners 'seriously affecting' Pakistan's security and economy, backs deportation drive*, (December 7 2023)

¹⁵⁹ Dawn PRISM, *No country to call home: Afghan refugees bear brunt of Pakistan's (in)security*, (September 19, 2023).

¹⁶⁰ Amnesty International, *Meet three Afghans at risk of deportation from Pakistan* (4 April 2025) <https://www.amnesty.org/en/latest/campaigns/2025/04/meet-three-afghans-at-risk-of-deportation-from-pakistan/>

¹⁶¹ See UNHCR, *Annual Results Report 2022 – Pakistan* (UNHCR, 3 May 2023) p 4 https://reporting.unhcr.org/sites/default/files/2023-06/Asia%20-%20Pakistan%20ARR%202022_0.pdf; UNHCR, *Pakistan* (UNHCR Country Operations Page, accessed 27 June 2026) <https://www.unhcr.org/where-we-work/countries/pakistan>

¹⁶² UNHCR, 'Annual Results Report 2022' (UNHCR, 3 May 2023) <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

¹⁶³ Dawn, *COAS says illegal foreigners 'seriously affecting' Pakistan's security and economy, backs deportation drive*, (December 7 2023)

of international protection on Pakistan's territory.¹⁶⁴ However, the government has not reversed its position. International responses to Pakistan's treatment of Afghan refugees have predominantly centred on the country's deportation policies, particularly the mass expulsion of undocumented Afghans, rather than on addressing the procedural barriers to asylum, such as the suspension of UNHCR's mandate registration. The UN has expressed ongoing alarm over Pakistan's escalating deportations of Afghan nationals, with the UNHCR Operational Update for January 2026 documenting mounting protection concerns, including arrests, harassment, and evictions, and continuing to call on the government to exempt Afghans at imminent risk of harm from forced deportation.¹⁶⁵ Similarly, Human Rights Watch has documented the intensification of abusive tactics by Pakistani authorities, including house raids, arbitrary detention, confiscation of documents, and demands for bribes, to compel Afghan asylum seekers to return to Afghanistan, underscoring serious violations of international obligations, particularly the principle of non-refoulement.¹⁶⁶

While these organisations have raised alarms about the immediate dangers posed by deportations, international advocacy has focused significantly less on the underlying procedural barriers, particularly the halt of UNHCR's mandate registration and the broader absence of a domestic legal framework, which effectively denies newly arrived Afghan refugees access to formal asylum procedures.¹⁶⁷ Although some actors, including Human Rights Watch, have specifically called for the resumption of UNHCR registration, this has not become a sustained focus of international pressure.¹⁶⁸ As a result, hundreds of thousands of Afghans remain unable to regularise their status or access protection through formal channels — a consequence less of insufficient advocacy than of deliberate government policy operating in a legal vacuum created by Pakistan's non-accession to the 1951 Refugee Convention and the absence of any national asylum legislation.¹⁶⁹ At the domestic level, courts have intervened in individual cases, for example, the Islamabad High Court ruling in *Rabil Azizi v The State* (2023) and subsequent Supreme Court proceedings (limited questioning on protections for PoR holders) offering some protection to registered refugees — but have not produced any systemic remedy addressing the underlying registration barrier or the legal framework gaps that expose unregistered Afghans to deportation.¹⁷⁰

14. *Externalization*: This is a case of internal procedural obstruction rather than externalization in the conventional sense. The state has long outsourced asylum processing to UNHCR, but now it has restricted

¹⁶⁴ UNHCR, Pakistan (UNHCR Help Site, accessed 27 June 2026) <https://help.unhcr.org/pakistan/>; UNHCR and IOM, Joint Statement: UNHCR and IOM Concerned About Recent Developments Requiring Afghans to Leave Pakistan's Capital (5 February 2025) <https://www.unhcr.org/pk/21217-joint-statement-unhcr-and-iom-concerned-about-recent-developments-requiring-afghans-to-leave-pakistan-capital.html>

¹⁶⁵ UNHCR, Pakistan Operational Update – January 2026 (UNHCR, 20 February 2026) <https://data.unhcr.org/en/documents/download/121203>; Refugees International, Pakistan Must Immediately Halt Deportation of Afghan Refugees (13 April 2026) <https://www.refugeesinternational.org/statements-and-news/pakistan-must-immediately-halt-deportation-of-afghan-refugees/>

¹⁶⁶ Human Rights Watch, Pakistan: Surge in Forced Returns of Afghan Refugees (21 April 2026) <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

¹⁶⁷ UNHCR, Asylum System in Pakistan (UNHCR Pakistan, accessed 27 June 2026) <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan>; Arjumand Bano Kazmi, Pakistan's Judicial Engagement with International Refugee Law (2024) 36(4) *International Journal of Refugee Law* 397 <https://doi.org/10.1093/ijrl/eeaf001>

¹⁶⁸ Human Rights Watch, Pakistan: Afghans Detained, Face Deportation (31 October 2023) <https://www.hrw.org/news/2023/10/31/pakistan-afghans-detained-face-deportation>; Human Rights Watch, Pakistan: Widespread Abuses Force Afghans to Leave (28 November 2023) <https://www.hrw.org/news/2023/11/28/pakistan-widespread-abuses-force-afghans-leave>

¹⁶⁹ Amnesty International, Pakistan: Government Must Stop Ignoring Global Calls to Halt Unlawful Deportation of Afghan Refugees (8 April 2024) <https://www.amnesty.org/en/latest/news/2024/04/pakistan-government-must-halt-deportation-of-afghan-refugees>; JURIST, Explainer: The Ripple Effect of Pakistan's Missing Refugee Law (23 August 2024) <https://www.jurist.org/features/2024/08/23/explainer-the-ripple-effect-of-pakistan-s-missing-refugee-law/>

¹⁷⁰ Kazmi (n 1) 397, 410–414; Amnesty International, Pakistan: Opaque "Illegal Foreigners Repatriation Plan" Targeting Afghan Refugees Must Be Withdrawn (26 March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn>

the functioning of that agency without offering a replacement. This shift effectively undermines access to protection while maintaining plausible deniability regarding the state's obligations.

15. *Technology*: UNHCR's registration and case-tracking systems operate through a combination of telephone-based appointment scheduling with UNHCR partners¹⁷¹ and a digital self-service portal ("My Services"). However, the "My Services" portal is accessible only to those already registered with UNHCR — requiring a prior registration number, email address, and local phone number and so it offers no entry point for new Afghan asylum seekers.¹⁷² Since the 2022 Note Verbale, UNHCR has been further limited, impacting its on-the-ground partners as well in scheduling registration appointments for new Afghan arrivals at all, effectively closing both telephone and digital channels.¹⁷³ Pakistan has established no state-run technological or administrative alternative for initiating asylum claims, and UNHCR's own operational updates note that misinformation within Afghan communities about available processes remains widespread.¹⁷⁴

16. *Other*: While UNHCR remains operational in Pakistan, its mandate has been substantially curtailed for new Afghan arrivals since the 2022 registration halt. Under its Multi-Year Strategy 2025–2027, UNHCR's focus has shifted towards advocating for a national legal and policy framework for asylum and supporting access to essential services for registered refugees.¹⁷⁵ It no longer registers new Afghan asylum seekers or conducts refugee status determination for them after the directive. UNHCR continues to operate Voluntary Repatriation Centres through which it processed approximately 478,000 UNHCR-assisted returns in 2025 and a further 134,100 in 2026 as of 6 June 2026, though it is important to note that these figures encompass both genuinely voluntary departures and returns driven by fear of arrest, which the same source identifies as the primary motivation for the majority of PoR holders returning.¹⁷⁶ The absence of clear public guidance on what UNHCR can and cannot do post-2022 has contributed to misinformation within Afghan communities and a fragmented protection landscape that is difficult for new arrivals to navigate, further entrenching their legal precarity.¹⁷⁷

B. Barriers of specific relevance to jurisdiction

Barrier 1: Denial of Access to Asylum through Internal Enforcement and Deportation

Summary: After the launch of the Illegal Foreigners Repatriation Plan in late 2023, Pakistan has carried out mass deportations of Afghan nationals, denying them access to asylum procedures and forcibly returning them without legal assessment, in violation of the principle of *non-refoulement*. These practices are implemented nationwide through raids, detentions, and removals at major border crossings such as Torkham and Chaman. More than 2 million Afghans have returned under the IFRP as of 13 June 2026,

¹⁷¹ UNHCR, Information for New Arrivals (UNHCR Pakistan Help Site, accessed 27 June 2026) <https://help.unhcr.org/pakistan/new-arrivals/>

¹⁷² UNHCR, My Services Portal (UNHCR Pakistan Help Site, accessed 27 June 2026) <https://help.unhcr.org/pakistan/my-services-portal/> (the portal still in development / phased approach)

¹⁷³ UNHCR, *Annual Results Report 2023 – Pakistan* (UNHCR, 29 May 2024) p 5 https://reporting.unhcr.org/sites/default/files/2024-06/Asia%20-%20Pakistan%20ARR%202023_0.pdf; Refugees International, *They Left Us Without Any Support: Afghans in Pakistan Waiting for Solutions* (July 2023) <https://www.refugeesinternational.org/reports-briefs/they-left-us-without-any-support-afghans-in-pakistan-waiting-for-solutions/>

¹⁷⁴ UNHCR, *Pakistan Operational Update – January 2026* (UNHCR, 20 February 2026) <https://data.unhcr.org/en/documents/download/121203>

¹⁷⁵ UNHCR, *Multi-Year Strategy 2025–2027 – Pakistan* (UNHCR, November 2025) pp 2–4 <https://reporting.unhcr.org/sites/default/files/2025-01/Pakistan%20-%20Strategy%202025%20%E2%80%93%202027.pdf>

¹⁷⁶ UNHCR, *Pakistan-Afghanistan Returns Emergency Response #52* (UNHCR, 11 June 2026, data as of 6 June 2026) <https://data.unhcr.org/en/documents/details/122803>; IOM–UNHCR, *Flash Update No. 98: Arrest and Detention/Flow Monitoring, 15 September 2023 – 13 June 2026* (18 June 2026) <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

¹⁷⁷ UNHCR, *Pakistan Operational Update – January 2026* (UNHCR, 20 February 2026) <https://data.unhcr.org/en/documents/download/121203>

including registered Afghan nationals, women and children.¹⁷⁸ Executed by the Ministry of Interior, police, Federal Investigation Agency (FIA), National Database and Registration Authority (NADRA), and paramilitary forces, the policy has treated all undocumented and even documented individuals as illegal immigrants under the Foreigners Act 1946 and executive instruction under IFRP's different phases, with no recognition of asylum/refugee status or protection needs. Justified by the state on grounds of national security and sovereignty, the policy has led to severe humanitarian consequences, including displacement, family separation and exposure to violence. Civil society and international bodies, including the UNHCR and human rights organizations, have raised serious concerns about the policy and practice, but authorities continue to exclude Afghans from constitutional and international safeguards. Read more on this barrier closely with general barriers: 'Pushbacks' and 'Detention' for relevant overlapping information.

1. *Functioning*: Post the IFRP, the denial of access to asylum through internal enforcement and deportation in Pakistan involves a systematic forcible refusal of entry or expulsion of asylum seekers, primarily Afghan nationals, without allowing them to access any formal asylum process or in disregard of any prior protection claims or process pending. In practice, this means individuals fleeing persecution are turned away at borders or deported (often preceded by detention) from the territory at a later stage as "illegal" foreigners, often without an opportunity to lodge a protection claim/access UNHCR¹⁷⁹ or other avenues of securing a right to stay under the existing legal framework. Pakistan has no domestic asylum procedure, so those seeking refuge are treated under general immigration laws and can be summarily removed, detained or prosecuted for illegal entry.¹⁸⁰ The result is *de facto* refoulement: people are sent back to places like Taliban-ruled Afghanistan where their lives or freedom are at risk, in direct contravention of the principle of non-refoulement.¹⁸¹ For example, rights monitors have documented that large numbers of Afghans have been *coerced* into "voluntary" return or outright deported through police raids and military operations, effectively denying them any chance to seek asylum/asylum procedures.¹⁸² By treating asylum-seekers as trespassers rather than protection claimants, these practices act as a barrier that prevents individuals from accessing asylum at the very first step – they are never able to present their case or reach a competent authority before being forced out of the country pursuant to a specific government executive policy.

2. *Time*: Pakistan's internal enforcement and deportation practices have evolved and are ongoing as of June 2026 propelled primarily by the IFRP. However, an earlier yet significant wave occurred in 2016 as well, when hundreds of thousands of Afghans were pressured to leave – a campaign that was then described as the "*world's largest recent case of mass refoulement*".¹⁸³ After the Taliban takeover of Afghanistan in August 2021 led to a new influx of Afghans,¹⁸⁴ initially Pakistan did not retaliate against the influx by ad hoc

¹⁷⁸ IOM–UNHCR, *Flash Update No. 98: Arrest and Detention/Flow Monitoring, 15 September 2023 – 13 June 2026* (18 June 2026) <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

¹⁷⁹ UNHCR, *Protection Monitoring Update: Afghanistan Situation – Pakistan* (March 2024) <https://data.unhcr.org/en/documents/details/104856>.

¹⁸⁰ European Union Agency for Asylum (EUAA), *COI Report: Pakistan – Country Focus* (December 2024) (8.2. Implementation of the 'Illegal Foreigners' Repatriation Plan' (IFRP) and returns to Afghanistan).

¹⁸¹ Reuters, Pakistan to start expelling undocumented immigrants on Thursday – minister (October 31, 2023) <https://www.reuters.com/world/asia-pacific/pakistan-crack-down-undocumented-immigrants-nov-2-minister-2023-10-31/#:~:text=he%20said;>

¹⁸² Human Rights Watch, Pakistan: Widespread Abuses Force Afghans to Leave (November 28, 2023) <https://www.hrw.org/news/2023/11/28/pakistan-widespread-abuses-force-afghans-leave>; Human Rights Watch, Pakistan: Forced Returns Expose Afghans to Persecution, Destitution (March 19, 2025) <https://www.hrw.org/news/2025/03/19/pakistan-forced-returns-expose-afghans-persecution-destitution>

¹⁸³ Human Rights Watch, Pakistan Coercion, UN Complicity: The Mass Forced Return of Afghan Refugees, (February 13, 2017) <https://www.hrw.org/report/2017/02/13/pakistan-coercion-un-complicity/mass-forced-return-afghan-refugees#:~:text=II,Afghan%20Refugees>

¹⁸⁴ UNHCR, *Protection Monitoring Update: Afghanistan Situation – Pakistan* (March 2024) <https://data.unhcr.org/en/situations/afghanistan>.

arrangements, but by late 2022, the government announced that it would not extend a general amnesty to undocumented Afghans to remain in the country.¹⁸⁵

In October 2023, the Ministry of Interior unveiled the “Illegal Foreigners Repatriation Plan” (IFRP), a nationwide campaign with phases and corresponding deadlines for undocumented Afghans to leave the country or be deported. Phase 1 of the IFRP gave those without valid documents until November 1, 2023, to leave, under threat of forcible removal.¹⁸⁶ The drive continued into 2024 in its second phase targeting holders of Afghan Citizen Cards (temporary registration cards) as well and setting a March 31, 2025 deadline for their departure,¹⁸⁷; with some confusion around the deadline extending to April 2, 2025 due to Eid,¹⁸⁸ and reportedly a subsequent new deadline for 30th April, including for deportation of those Afghan Citizen Card holders and Afghan refugees awaiting resettlement.¹⁸⁹ PoR holders originally had until June 30, 2025, and thereafter until September 1, 2025, to leave Pakistan or face deportation. Detention and deportation have escalated for those remaining past these deadlines; these practices have been a persistent barrier intensifying in late 2023 and ongoing at present (June 2026), with no announced termination timeframe.¹⁹⁰

3. *Place*: This barrier is enforced nationwide, both on Pakistan’s border with Afghanistan and within its territory. Many expulsions occur at major border crossings like Torkham (Khyber Pakhtunkhwa) and Chaman/Spin Boldak (Balochistan), which serve as the conduits for deporting Afghans by land.¹⁹¹ Inside the country, operations span urban centres and refugee-populated areas nationwide, with *holding centres* established in various cities to detain Afghans slated for deportation before bussing them to the border.¹⁹² Since February 2026, enforcement has intensified alongside rising Afghanistan-Pakistan border tensions,

¹⁸⁵ Tweet by then Interior Minister of Pakistan, Rana Sanaullah (December 2022)

<https://x.com/RanaSanaullahPK/status/1608454418390720515?s=20&t=lfh4tuisSu8BhCQEdC3Q2g>; The New Humanitarian, Pakistan steps up crackdown on Afghan refugees, adds new restrictions, (23 March 2023)

<https://www.thenewhumanitarian.org/news-feature/2023/03/23/pakistan-crackdown-afghan-refugees>

¹⁸⁶ Asia Displacement Solutions Platform, Briefing Note: Deported to what? Afghans in Pakistan (October 2023)

https://adsp.ngo/wp-content/uploads/2023/10/ADSP_BriefingNote_Pakistan_2023Oct_FINAL.pdf; European Union Agency for Asylum (EUAA), *COI Report: Pakistan – Country Focus* (December 2024) (8.2. Implementation of the ‘Illegal Foreigners’ Repatriation Plan’ (IFRP) and returns to Afghanistan).

¹⁸⁷ Voice of America, *Pakistan Orders Documented Afghan Migrants to Leave* (March 2025)

<https://www.voanews.com/a/pakistan-orders-documented-afghan-migrants-to-leave/8003029.html#>; Al-Jazeera, Pakistan accelerates deportation of Afghans: UN (15 April 2025) <https://www.aljazeera.com/news/2025/4/15/pakistan-accelerates-deportation-of-afghans-un>

¹⁸⁸ Deportations begin today amid ‘deadline extension’ confusion, DAWN (03 April 2025)

<https://www.dawn.com/news/1901761/deportations-begin-today-amid-deadline-extension-confusion>

¹⁸⁹ *Afghan citizens not resettled by April-end set to be deported*, (April 11, 2025); The Express Tribune, Govt sets April 30 deadline for undocumented Afghans to leave, (April 18, 2025) <https://tribune.com.pk/story/2540785/govt-sets-april-30-deadline-for-undocumented-afghans-to-leave-country>; Ministry of Interior, Government of Pakistan, ‘Afghan Citizen Card (ACC) Holders to Leave Pakistan by March 31, 2025’ (21 March 2025) <<https://www.interior.gov.pk/afghan-citizen-card-acc-holders-to-leave-pakistan-by-march-31-2025/>>

¹⁹⁰ Ministry of Interior, Government of Pakistan, letter to provincial chief secretaries on the Illegal Foreigners Repatriation Plan (4 August 2025); see also Associated Press, ‘Pakistan extends Afghan refugee deportation deadline to Sept. 1’ (6 August 2025); Global Detention Project, *‘Pakistan: Mass Detention and Forced Returns of Afghans Amid Escalating Crackdown’* (May 2026) <https://www.globaldetentionproject.org/pakistan-mass-detention-and-forced-returns-of-afghans-amid-escalating-crackdown>; UN News, *‘UNHCR urges Pakistan to stop forced returns of Afghan refugees’* (6 August 2025)

¹⁹¹ UNHCR Regional Bureau for Asia and Pacific (RBAP), Emergency Update # 9: Pakistan-Afghanistan Returns Response (18 January 2024); European Union Agency for Asylum (EUAA), *COI Report: Pakistan – Country Focus* (December 2024) (8.2. Implementation of the ‘Illegal Foreigners’ Repatriation Plan’ (IFRP) and returns to Afghanistan); The News, Notices served to Afghans living illegally in Khyber, (10 April 2025) <https://www.thenews.com.pk/print/1299836-notices-served-to-afghans-living-illegally-in-khyber>; Dawn, Thousands of Afghans being deported from Punjab, Sindh (07 April 2025) <https://www.dawn.com/news/1902571>

¹⁹² Holding centers are not regular prisons but specific centers established to meet the demands of mass arrests, detentions ahead of deportation. Al-Jazeera, Pakistan confirms its expulsion of more than 80,000 Afghans since April 1, (18 April 2025) <https://www.aljazeera.com/news/2025/4/18/over-80000-afghans-expelled-from-pakistan-as-deadline-nears>

with expanded raids in Pakistani cities and over 146,000 deportations recorded in 2026 to date.¹⁹³ No region is exempt: community-level raids and checkpoints nationwide feed into expulsions concentrated at the border.

4. *Actors:* The barrier is implemented primarily through state institutions: The Ministry of Interior directs policy, including deadlines under the IFRP, with implementation coordinated through an apex committee and supported by provincial and federal police, the FIA, border forces (Frontier Corps, Pakistan Rangers), the military, and provincial home departments.¹⁹⁴ NADRA plays a central role: it can cancel identity documents under the NADRA Ordinance 2000¹⁹⁵, and in March 2026, the Interior Minister formally directed NADRA to fully assist law enforcement in deportations, including clearance processing at the border.¹⁹⁶ On the international side, the Taliban government receives deportees¹⁹⁷, while international organizations such as UNHCR and IOM are involved in voluntary repatriation and assistance to returnees but have no decision-making role in Pakistan's forcible practices beyond monitoring and advocacy.¹⁹⁸

Judicial oversight remains limited but not entirely absent: Pakistani courts have occasionally acted to restrain the authorities, and their orders must then be enforced by the executive.¹⁹⁹ For example, the Peshawar High Court has intervened periodically, most recently halting the deportation of roughly 140 Afghan families for 60 days pending asylum review in July 2026, though such rulings protect only named petitioners rather than establishing a general screening process.²⁰⁰ Overall, enforcement rests with multiple state organs acting with limited independent oversight.

5. *Interaction:* This barrier in Pakistan intersects heavily with other barriers to asylum, such as pushbacks, detentions, walls and fences, as well as procedural barriers, and should be read together due to a significant overlap. For example, arrest and detention are a starting point under the Foreigners Act 1946 and the rollout of the IFRP. For example, since late 2023, many Afghans have been systematically detained in holding centres or existing prisons before being expelled without individualized asylum assessment, blurring the line between punitive detention and deportation.²⁰¹ Enforcement has escalated since the

¹⁹³ Human Rights Watch, cited in Global Detention Project, *Pakistan: Mass Detention and Forced Returns of Afghans Amid Escalating Crackdown* (May 2026) <https://www.globaldetentionproject.org/pakistan-mass-detention-and-forced-returns-of-afghans-amid-escalating-crackdown>

¹⁹⁴ European Union Agency for Asylum (EUAA), *COI Report: Pakistan – Country Focus* (December 2024) (8.2. Implementation of the 'Illegal Foreigners Repatriation Plan' (IFRP) and returns to Afghanistan); Dawn, HRCF fears Afghan deportations can trigger a 'humanitarian crisis' (31 October 2023), <https://www.dawn.com/news/1785283>; A list of law enforcement agencies and allied government departments supporting the Ministry of Interior (MOI) in implementing policies on matters pertaining to foreigners is available on MOI's website. The list of agencies can be found on: <https://www.interior.gov.pk/organizations/>; Dawn, Deportation of illegal immigrants discussed (25 March 2025), <https://www.dawn.com/news/amp/1900112>

¹⁹⁵ Section 18 of NADRA Ordinance grants power to NADRA to cancel, impound or confiscate the legal identity document/Identity card if the card has been obtained by a person who is not eligible to hold such card, by posing himself as eligible.; Dawn, Nadra suspends nationality of viral Arshad 'chaiwala' (9 April 2025), <https://www.dawn.com/news/1903068>

¹⁹⁶ The Express Tribune, *Naqvi directs NADRA to aid law enforcement in deportation of illegal immigrants* (31 March 2026) <https://tribune.com.pk/story/2600299/naqvi-directs-nadra-to-aid-law-enforcement-in-deportation-of-illegal-immigrants>

¹⁹⁷ Dawn, Afghan Taliban govt calls upon UN to ensure 'dignified return' of refugees (8 April 2025), <https://www.dawn.com/news/1902931/afghan-taliban-govt-calls-upon-un-to-ensure-dignified-return-of-refugees>

¹⁹⁸ UNHCR Regional Bureau for Asia and Pacific (RBAP), Emergency Update # 9: Pakistan-Afghanistan Returns Response (18 January 2024).; Human Rights Commission of Pakistan (HRCF), HRCF Urges Protection of Afghan Refugees' Legal Rights (November 2023) <https://hrcf-web.org/hrcfweb/open-letter-calling-for-the-protection-of-afghan-refugees-in-pakistan/>

¹⁹⁹ Al Jazeera, Pakistan's top court hears petition to halt deportations of Afghans (1 December 2023), <https://www.aljazeera.com/news/2023/12/1/pakistans-top-court-hears-petition-to-halt-deportations-of-afghans>

²⁰⁰ Afghan Studies Center, *Pakistan's Afghan deportation drive: When "voluntary return" is not a choice* (July 2026) <https://www.afghanstudiescenter.org/pakistan-afghan-deportation-drive-when-voluntary-return-is-not-a-choice/>; see also Dawn, reported in AtlasPress News Agency, *Peshawar Court Halts Deportation of 140 Afghan Families* (2 July 2026) <https://atlaspress.news/en/2026/07/02/peshawar-court-halts-deportation-140-afghan-families/>

²⁰¹ Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees* (21 April 2026) <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

renewed Pakistan-Afghanistan border clashes in early 2026.²⁰² With no national asylum law, Pakistan has no formal mechanism to distinguish refugees from irregular migrants, so protection is effectively externalized to UNHCR, and even that is sometimes bypassed, as when authorities have attempted to deport registered asylum-seekers, occasionally halted only by court order.²⁰³ The barrier also reinforces documentation controls: authorities can cancel or withhold identity papers via NADRA to strip legal status and facilitate removal, a pattern reflected in ongoing litigation over cancelled ID cards and citizenship claims.²⁰⁴ Physical barriers compound this, funnelling undocumented migrants toward fortified border crossings ("Walls and Fences") where they are directly turned back. Judicial relief remains narrow, as in July 2026, the Peshawar High Court ordered a 60-day halt on deportation of roughly 140 Afghan families pending review of their claims under the non-refoulement principle, but such rulings protect only named petitioners rather than establishing a general screening process.²⁰⁵

In summary, this barrier both relies on and reinforces other barriers – detention is used to execute deportations, document cancellations strip people of legal status to justify detention, summary and forced removals, and the absence of an asylum framework allows these practices to proceed with few legal checks.

6. *Development*: Pakistan has hosted large Afghan refugee populations since the 1980s, but tolerance has hardened over time. Pakistan's first formal registration scheme came in 2006–07, when a nationwide census-linked exercise issued Proof of Registration (PoR) cards to roughly 1.4 million Afghans, granting temporary legal stay.²⁰⁶ A turning point came after domestic terrorism incidents, notably the 2014 Peshawar school attack, were linked to Afghan militants, fuelling tighter control. By 2016, blunt "*time for all Afghans to leave*" announcements and police harassment drove out over 365,000 registered Afghan refugees, a campaign widely criticized as coerced.²⁰⁷ In 2017, Pakistan introduced a second scheme, the Afghan Citizen Card (ACC), to register the roughly 800,000 previously undocumented Afghans who fell outside the PoR system.²⁰⁸ Both card categories were subject to repeated short-term extensions rather than a permanent solution, keeping refugees in continued legal limbo. The Taliban's 2021 return to power triggered a fresh influx, initially met with humanitarian tolerance that waned as Pakistan's own security concerns grew.²⁰⁹ The Illegal Foreigners' Repatriation Plan (IFRP), launched in October 2023, marked a shift from sporadic deportations to a sustained, centrally coordinated campaign, pursued even though it began under a caretaker government whose mandate to launch such a shift was contested (including in the Supreme Court of Pakistan). Overall, enforcement has followed a cycle of leniency and crackdown, intensifying around domestic political and security pressures; police corruption and extortion of refugees

²⁰² Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees* (21 April 2026) <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

²⁰³ Dawn, *Peshawar High Court halts deportation of Afghans awaiting resettlement abroad* (April 2026) <https://www.dawn.com/news/1990702/peshawar-high-court-halts-deportation-of-afghans-awaiting-resettlement-abroad>

²⁰⁴ Dawn, *Nadra suspends nationality of viral Arshad "chaiwala"* (9 April 2025) <https://www.dawn.com/news/1903068/nadra-suspends-nationality-of-viral-arshad-chaiwala>; see also *Hafiz Hamdullah Saboor vs. Government of Pakistan*, W.P. No. 3748/2019, Islamabad High Court (the national ID of a former senator was arbitrarily cancelled on unproven allegations of foreign origin, until the High Court intervened to restore his citizenship rights)

²⁰⁵ Dawn, *Peshawar High Court directs Centre to decide Afghan asylum seekers cases on non-refoulement principle* (10 July 2026) <https://www.dawn.com/news/2013776/peshawar-high-court-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>; Dawn, *Govt stopped from deporting Afghan petitioners for 60 days* <https://www.dawn.com/news/2012366>

²⁰⁶ UNHCR, *Afghans in Pakistan get registered for first ever identification* (16 October 2006) <https://www.unhcr.org/news/latest/2006/10/453391fd4/afghans-pakistan-registered-first-identification.html>; Commissionerate for Afghan Refugees Punjab, *Proof of Registration Card* https://car.punjab.gov.pk/proof_of_registration_card

²⁰⁷ Human Rights Watch, *Pakistan Coercion, UN Complicity: The Mass Forced Return of Afghan Refugees* (13 February 2017) <https://www.hrw.org/report/2017/02/13/pakistan-coercion-un-complicity/mass-forced-return-afghan-refugees>

²⁰⁸ Commissionerate for Afghan Refugees Punjab, Ministry of States and Frontier Regions, Government of Pakistan, *Afghan Citizen Card* https://car.punjab.gov.pk/afghan_citizen_card

²⁰⁹ European Union Agency for Asylum (EUAA), *COI Report: Pakistan – Situation of Afghan Refugees* (May 2022) https://euaa.europa.eu/sites/default/files/publications/2022-06/2022_05_COI_Pakistan_Situation_of_Afghan_refugees_EN.pdf

have been documented as a recurring feature of implementation.²¹⁰ Civil society and courts have periodically pushed back, while economic strain and security concerns have fed public support for the hard line. By mid-2026, the barrier has become fully entrenched: renewed Pakistan-Afghanistan border clashes since February 2026 have driven a fresh escalation, and deportations have exceeded 146,000 in 2026 alone.²¹¹

7. *Rationale*: Pakistan officially frames enforcement as necessary for national security and sovereignty. The primary justification is counter-terrorism: officials have repeatedly blamed militant groups based in Afghanistan for a sharp rise in attacks inside Pakistan since the Taliban's 2021 return, citing Afghan nationals' alleged involvement in specific incidents.²¹² This rationale has sharply intensified since Pakistan-Afghanistan relations entered their most dangerous phase in decades, and cross-border skirmishes escalated into open military conflict in late February 2026, with Pakistan conducting air and artillery strikes on Afghan territory and Taliban forces attacking Pakistani border posts.²¹³ Islamabad has also cited economic strain, arguing no state can indefinitely host millions of undocumented foreign nationals amid worsening domestic conditions.²¹⁴ Domestic political pressure reinforces this posture, while the absence of a national asylum framework leaves authorities with no formal mechanism to assess protection claims, making mass enforcement the default response.²¹⁵ Political expediency plays a role too: deportations signal state control and satisfy popular sentiment. Shrinking international support compounds this — declining humanitarian funding has left UNHCR and aid agencies increasingly unable to counterbalance the state's securitized approach. Together, these security, economic, and institutional factors form the backdrop to the ongoing IFRP campaign.²¹⁶

8. *Specific Impact*: The barrier has disproportionately harsh effects on certain vulnerable groups, whose experiences often diverge from the general impact. Women and girls, children, forcibly returned human rights activists and journalists, as well as ethnic or religious minority groups, are additionally at risk if deported to Afghanistan.²¹⁷ Afghan women activists who fled from persecution under the Taliban are in danger. For them, being deported means a return to a regime that severely curtails women's rights and may target them specifically; thus, the harm of refoulement is amplified.²¹⁸ Women deportees also encounter dangers during the process — reports have raised concerns about harassment or abuse of women in holding centres and on the journey back.²¹⁹ Additionally, this barrier has disrupted the lives of Afghan

²¹⁰ The Telegraph, *Desperate Afghan refugees forced to bribe police to avoid deportation* (18 November 2023) <https://www.telegraph.co.uk/world-news/2023/11/18/afghan-refugees-pakistan-bribe-police-avoid-deportation/>

²¹¹ Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees* (21 April 2026) <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

²¹² Council on Foreign Relations, *Why Pakistan Is Deporting Afghan Migrants?* (15 December 2023) <https://www.cfr.org/in-brief/why-pakistan-deporting-afghan-migrants>; Dawn PRISM, *No country to call home: Afghan refugees bear brunt of Pakistans (in)security* (19 September 2023) <https://www.dawn.com/news/1776555/no-country-to-call-home-afghan-refugees-bear-brunt-of-pakistans-insecurity>

²¹³ The National Interest, *Can Pakistan and Afghanistan Walk Back from War?* (27 March 2026) <https://nationalinterest.org/blog/silk-road-rivalries/can-pakistan-and-afghanistan-walk-back-from-war>

²¹⁴ The Diplomatic Insight, *Beyond Deportations: Trust, Trade, and Tensions in Pakistan -Afghanistan Relations* (July 2026) <https://thediplomaticinsight.com/beyond-deportations-trust-trade-tensions-pak-afghan-relations/>

²¹⁵ Zia Ur Rehman, *Why did the Afghan Taliban sour on Pakistan?* (DW, 20 April 2024) <https://www.dw.com/en/why-did-the-afghan-taliban-sour-on-pakistan/a-68873894>; Gallup Pakistan, *Report on Afghan Refugees* (6 November 2023) <https://gallup.com.pk/wp/wp-content/uploads/2023/11/Report-on-Afghan-Refugees-6-Nov-2023-002.pdf>

²¹⁶ Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees* (21 April 2026) <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>; Amin Ahmed, *Funding cuts amid Afghan exodus irk UNHCR* (Dawn, 21 May 2025) <https://www.dawn.com/news/1912244>

²¹⁷ Hundreds of thousands of Afghans forced back into danger, says UNHCR (29 April 2025) <https://news.un.org/en/story/2025/04/1162706>

²¹⁸ DW, *Afghan women's rights activists in Pakistan fear deportation*, 17 March 2025 <https://www.dw.com/en/afghan-womens-rights-activists-in-pakistan-fear-deportation/a-71951146>

²¹⁹ Nasiba Hamid, *Mass Deportation and Detention of Afghan Refugees from Pakistan: Focusing on the Situation of Women*, Center for Migration Studies (17 September 2024) <https://cmsny.org/mass-deportation-detention-afghan-refugees-from-pakistan-focusing-on-women-091724/>

women who had built some autonomy in Pakistan (such as running businesses and other initiatives); forced return can erase those hard-won gains (even the fear of deportation has impacted working Afghan women in Pakistan).²²⁰ Children are another group that has been specifically impacted. According to UNHCR, out of the total Afghan returns since April 1, 2025, 50% are women, 27% of whom are girls, and 55% are children (as of June 27, 2026).²²¹

Moreover, thousands of Afghan children in Pakistan have been born or raised on Pakistani soil – some don't speak local Afghan languages or have never seen Afghanistan. When deported, these children face many risks, including malnutrition, disease, interrupted education, and potential separation from families while crossing into Afghanistan.²²² There are also reports of transgender persons facing deportation, who would face grave risks if pushed back.²²³ Persons with disabilities face unique challenges due to the risk of deportation, with a lack of essential support for the arduous journey back to Afghanistan.²²⁴ Furthermore, certain ethnic and religious minorities i.e., Hazara Shia from Afghanistan, have fled targeted violence in Afghanistan, and the impact on them of being deported is acutely life-threatening compared to other migrants.²²⁵ Overall, this barrier exacerbates existing vulnerabilities – those who already face discrimination, violence, or special hardships are the ones least equipped to cope with being uprooted and returned to danger. This has been acknowledged by observers who note that women, children, and marginalized groups bear disproportionate trauma and harm due to Pakistan's mass deportations. Please also read the section on the specific impact of detentions.

9. *Reach*: According to UNHCR & IOM documentation, from 15 September 2023 to 13 June 2026, 2,500,712 Afghan individuals have returned. Moreover, since 1 April 2025, 1,646,679 Afghan nationals have returned, of whom 211,473 (13%) were deported.²²⁶ Please see the earlier section of this report on detention under IFRP for a more complete picture of reach, as detention has usually preceded deportation.

10. Source: The legal basis for Pakistan's actions is grounded in domestic law (and executive decisions of the government from time to time, including the IFRP). Domestically, the principal legal source is the Foreigners Act 1946, which is used to remove persons from Pakistan.²²⁷ This Act empowers the federal government to regulate the entry, presence, and exit of non-citizens. Section 3 of the Act authorizes the government to issue orders requiring any foreigner to depart Pakistan, effectively providing the statutory authority for deportation. Additionally, Section 14 of the Act criminalizes illegal entry or stay (with potential imprisonment), thereby buttressing this barrier with a penal framework. These laws, along with the Pakistan Citizenship Act 1951 (which defines who is a citizen and thus who is a foreigner), form the legal basis on paper for expelling undocumented individuals.²²⁸ Notably, nothing in Pakistani domestic law explicitly recognizes the right to seek asylum, nor provides exceptions to deportation for refugees; however, existing avenues under the law, including the constitution and the Citizenship Act 1951, which grants a right to stay to those born here and others through marriage, are not accessible to a majority due to gaps in access and implementation. Pakistan has entered into certain executive agreements related to refugees – for example, the 1993 Cooperation Agreement with UNHCR and subsequent Tripartite

²²⁰ Dawn, 'No one to return to': Afghans fear Pakistan deportation (5 April 2025)

²²¹ UNHCR, Pakistan-Afghanistan - Returns Emergency Response #53

<https://data.unhcr.org/en/documents/details/123129>

²²² Save the Children (April 2025) <https://www.savethechildren.net/news/nearly-50000-afghan-children-pushed-out-pakistan-first-two-weeks-april>

²²³ Amnesty International, Meet three Afghans at risk of deportation from Pakistan (4 April 2025) <https://www.amnesty.org/en/latest/campaigns/2025/04/meet-three-afghans-at-risk-of-deportation-from-pakistan/>

²²⁴ Human Rights Watch, Pakistan: Forced Returns Expose Afghans to Persecution, Destitution (March 19, 2025) <https://www.hrw.org/news/2025/03/19/pakistan-forced-returns-expose-afghans-persecution-destitution>

²²⁵ BBC, Afghan Hazara refugees live in fear of being deported by Pakistan (6 December 2023) <https://www.bbc.com/news/world-asia-67474187>

²²⁶ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June

2026, <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

²²⁷ Foreigners Act, 1946 (Pakistan), Sections 3 and 14.

²²⁸ Pakistan Citizenship Act, 1951.

Agreements with Afghanistan for voluntary repatriation. While not legislation, these agreements implicitly allow the presence of Afghan refugees and task UNHCR with handling their asylum claims. In practice, Pakistani authorities have often honoured UNHCR-issued refugee cards (PoR) by not deporting holders, suggesting a sort of administrative deference to those instruments.²²⁹ However, the IFRP and current practices have been carried out under the claim of domestic legality and in its final phase is now also removing PoR card holders.

Internationally, Pakistan is *not* a party to the 1951 Refugee Convention or its Protocol, which means it does not formally acknowledge treaty obligations under that Convention.²³⁰ However, Pakistan is a state party to other key human rights treaties – notably the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention Against Torture (CAT) – which *do* encompass the principle of non-refoulement (e.g. the obligation not to return people to face threats to life or risk of torture).²³¹ Additionally, the Universal Declaration of Human Rights (UDHR) Article 14 affirms the right to seek asylum. These international norms mean that, despite the lack of a refugee convention accession, Pakistan is bound by customary international law and treaty-based duties to protect individuals from return to persecution or torture. The policy, in ignoring any individualized risk assessment, conflicts with those obligations. Domestically, the Constitution of Pakistan could be seen as another *source* that should temper the barrier: Articles 9 and 14 (right to life and dignity) have been interpreted by courts to extend to foreigners, implying that such practices by the State may lack constitutional legitimacy if they endanger life or liberty.²³²

11. *Justification*: Key justifications are around immigration, border control and national security interests. Justifications on security portray State actions as a counter-terrorism measure, justifying actions that might otherwise be seen as harsh.²³³ In official communications, there's also a humanitarian-sounding justification offered: that the process will be carried out humanely and in an orderly fashion. For instance, authorities announced that women, children, and the elderly would be treated with “utmost respect” during repatriation.²³⁴ This is meant to justify the policy as not cruel but managed and dignified (though reports on the ground often contradict this picture).²³⁵ On the diplomatic front, officials insist there is “no ethnic or discriminatory angle” to the IFRP – *i.e.* the justification is that this is a broad policy applying to all nationalities, not a targeted persecution of Afghans (though Afghans are overwhelmingly impacted). Another rationale is the principle of sovereign control over immigration, as Minister of State for Interior Talal Chaudhry stated that “...no country in the world allows anyone to live without a visa, and Pakistan cannot be an exception.”²³⁶ By this logic, Pakistan is doing what any state has a right to do: regulate its borders and expel those without permission. Officials also emphasize that those being deported are “not refugees” but purely illegal entrants to justify that Pakistan is not targeting bona fide asylum-seekers but rather enforcing immigration law.²³⁷

²²⁹ UNHCR, Pakistan: Cooperation Agreement with UNHCR and Afghan Tripartite Agreement, summary at: <https://data.unhcr.org/en/documents/details/77890>.

²³⁰ UNHCR, *State Parties to the 1951 Refugee Convention* (as of 2024), available at: <https://www.unhcr.org/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>.

²³¹ Amnesty International, *Pakistan's International Obligations and the Rights of Refugees* (November 2023), available at: <https://www.amnesty.org/en/latest/news/2023/11/pakistan-obligations-under-iccpr-and-cat/>.

²³² Constitution of Pakistan (1973), Articles 9 and 14; see also, Lahore High Court judgment in *Muhammad Shoaib v. Ministry of Interior* (2023), discussed in Dawn, *Court Extends Constitutional Protection to Afghan Refugee* (January 2024) <https://www.dawn.com/news/1728997>.

²³³ Dawn, *COAS says illegal foreigners 'seriously affecting' Pakistan's security and economy, backs deportation drive*, (December 7 2023)

²³⁴ Interior minister Sarfraz Bugti unveils final plan for illegal foreigners' evacuation, *Dunya News* (26 October 2023), <https://dunya.com.pk/en/Pakistan/765715-Interior-minister-Sarfraz-Bugti-unveils-final-plan-for-illegal-foreigner#:~:text=,and%20elders%20will%20be>

²³⁵ Documentation by Joint Action Committee for Refugees and other CSO groups working with Afghan communities.

²³⁶ The News, 'No visa, no stay': Pakistan sets April 30 as final deadline for illegal foreigners (18 April 2025) <https://www.thenews.com.pk/latest/1302693-no-visa-no-stay-pakistan-sets-april-30-as-final-deadline-for-illegal-foreigners>

²³⁷ Dawn, *Interior minister insists deportation drive aimed at all illegal residents, not solely Afghans* (7 January 2025)

12. *Domestic and International Reactions:* Domestically, courts have been approached to check on executive policy, and this has carried into 2026. Two separate petitions were filed in the Supreme Court of Pakistan against the IFRP plan. The Human Rights Commission of Pakistan (an independent) civil society organization and activists, including Farhatullah Babar as well as some professors from Lahore University of Management and Sciences (LUMS) petitioned the Supreme Court from late 2023 to halt mass deportations, arguing the caretaker government lacked authority for the policy. These petitions were clubbed and heard together by the Supreme Court.²³⁸ The Court sought government responses and was told in early 2025 that registered Afghans (PoR holders) wouldn't be deported before June 30, 2025, an assurance since overtaken by the accelerated 2025–26 IFRP implementation (as of June 2026, the plan is in its third and final phase).²³⁹ No definitive judgment on the plan followed the petition, and the Supreme Court disposed of the petition after the initial government response.²⁴⁰ Notwithstanding judicial limitations in fully taking up the matter, as noted by the petitioners on the outcome of the litigation, it does signal domestic contestation. Reportedly, public opinion remains split between critics who warn of reputational damage and those who back the government's security rationale, especially as officials continue linking Afghans to militant attacks.²⁴¹ JAC-R also filed petitions against the government policy in all provincial High Courts and the Islamabad High Court; however, no court decided to deliberate on the executive policy.²⁴²

Apart from the holistic challenge to the IFRP in all High Courts, several petitions have been filed in courts across the country on behalf of Afghans detained and at risk of deportation, and different courts on a case-by-case basis have provided some relief. For example, the Peshawar High Court in Dec 2024 (Hashmat Ullah case) invoked Pakistan's obligations under ICCPR and CAT to block deportation of Afghan asylum-seekers pending assessment of their claims, while the Islamabad High Court (Rahil Azizi case) quashed a criminal case against an Afghan refugee, holding that refugees fleeing persecution should not be penalized for illegal entry. Similarly, the Peshawar High Court did direct government authorities to grant documentation (PoR cards & IDs) to Afghan husbands or wives of Pakistani women and men.²⁴³

Moreover, after the Ministry of Interior's order to arrest undocumented Afghans from July 10 onward²⁴⁴, the Peshawar High Court saw a further surge in daily petitions.²⁴⁵ In May 2026 it stayed the deportation of two Afghan brothers who were mid-resettlement to Canada and had worked with U.S. forces.²⁴⁶ In July 2026 it went further, directing the government to decide asylum cases on the non-refoulement principle

²³⁸ Al Jazeera, *Pakistan's top court hears petition to halt deportations of Afghans* (1 Dec 2023)

— <https://www.aljazeera.com/news/2023/12/1/pakistans-top-court-hears-petition-to-halt-deportations-of-afghans>

²³⁹ DAWN, *No registered Afghans will be deported until June 30, SC told* (7 Jan 2025)

— <https://www.dawn.com/news/1883554/no-registered-afghans-will-be-deported-until-june-30-sc-told>

²⁴⁰ Reported by the petitioners in two separate interviews.

²⁴¹ Gallup Pakistan Poll on Afghan Refugees (Dec 2023) — <https://gallup.com.pk/post/35687>; Al Jazeera, *Whats wrong?:*

The silence of Pakistanis on expulsion of Afghan refugees (22 Nov 2023) — <https://aje.io/uqvy10>

²⁴² Interview with JAC-R representatives.

²⁴³ Pakistan Today, *PHC directs Afghan spouses of Pakistanis to seek origin cards from Nadra* (9 March 2026)

— <https://www.pakistantoday.com.pk/2026/03/09/phc-directs-afghan-spouses-of-pakistanis-to-seek-origin-cards-from-nadra>; Nouman Muhib Kakakhel (citing Dawn, 27 September 2025), *Peshawar High Court stays deportation of Afghan refugee married to Pakistani woman* — <https://nmklegal.com/peshawar-high-court-stays-deportation-of-afghan-refugee-married-to-pakistani-woman/>

²⁴⁴ DAWN, *Peshawar High Court directs Centre to decide Afghan asylum seekers cases on non-refoulement principle* (July 2026)

— <https://www.dawn.com/news/2013776/phc-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>; KabulNow, *253 Afghan Families Have Returned Amid Ongoing Forced Deportation from Pakistan and Neighboring Countries* (July 2026) — <https://kabulnow.com/2026/07/253-afghan-families-have-returned-amid-ongoing-forced-deportation-from-pakistan-and-neighboring-countries/>

²⁴⁵ Voicepk.net, *Petitions flood in Peshawar High Court, as Afghan citizens cases surge* (17 April 2026)

— <https://voicepk.net/2026/04/petitions-flood-in-peshawar-high-court-as-afghan-citizens-cases-surge/>

²⁴⁶ *Afghan brothers win court stay against deportation* (14 May 2026) — <https://voicepk.net/2026/05/afghan-brothers-win-court-stay-against-deportation-as-pakistan-quietly-lists-thousands-of-high-risk-nationals/>

and halting deportation of roughly 140 families for 60 days pending review.²⁴⁷ Not all courts have been as protective: in Balochistan, lawyers for Afghan (PoR) cardholders petitioned the High Court to halt their repatriation, but the court declined to block the process outright, instead directing petitioners to engage with the Interior Ministry to establish a proper mechanism for their cases.²⁴⁸

As a civil society organization, HRCP, has remained a domestic critic of the government policy. In 2025, HRCP's fact-finding mission to Balochistan listed respecting the constitutional rights of dignity, equality and protection of Afghan refugees as among its urgent recommendations, denouncing their arbitrary expulsion.²⁴⁹ Moreover, in its 39th Annual General Meeting in November 2025, HRCP stated that it *"notes with alarm the ongoing harassment, detention, and forced repatriation of Afghan refugees, many facing credible threats of persecution, family separation, and severe humanitarian distress," and called on the government to "suspend deportations, ensure due process, and uphold international protection standards."*²⁵⁰ Moreover, in its 2026 annual report found that more than 175,000 Afghan refugees were arrested and detained across Pakistan between January and December 2025 alone and recorded the return of over 1.1 million Afghans to Afghanistan over the same period. HRCP noted that deportation pressure intensified sharply following the outbreak of tensions and conflict between the Taliban and Pakistan, and expressed concern over continued harassment, arrests, and forced deportations, warning that many deportees face family separation and serious humanitarian threats.²⁵¹

Internationally, reactions have been overwhelmingly critical and have escalated alongside the campaign. UN human rights experts appealed in April 2025 and again in August 2025 for Pakistan to halt the expulsions and respect *non-refoulement*, flagging particular risks to former government officials, security personnel, and vulnerable Afghans.²⁵² Pressure continues into 2026, after Pakistan's July 10 deadline, daily returns at crossings like Landi Kotal reportedly tripled to over 10,000, prompting UNHCR to again call for voluntary, safe, dignified returns and exemptions for women heads of household, students, minorities, journalists, and human rights defenders.²⁵³ UNHCR spokesperson Qaiser Khan Afridi said no refugee should be returned to a country where their life or freedom would be at risk, expressing particular concern for women forced to return to conditions where their rights face serious threats, and called on Pakistan to exempt Afghans with urgent protection needs.²⁵⁴

The Taliban called Pakistan's actions "inhumane" and against Islamic principles.²⁵⁵ Relations grew more strained amid armed border clashes in early 2026 that briefly closed crossings, though diplomatic contact

²⁴⁷ DAWN, *PHC directs Centre to decide Afghan asylum seekers cases on non-refoulement principle* (Jul 2026)

— <https://www.dawn.com/news/2013776/phc-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>

²⁴⁸ Voicepk.net, *Afghan refugees in Balochistan continue onwards* (14 October 2025) — <https://voicepk.net/2025/10/afghan-refugees-in-balochistan-continue-onwards/>

²⁴⁹ Voicepk.net, *Fact-Finding Report: 13 urgent recommendations given by HRCP regarding Balochistan situation* (6 August 2025)

— <https://voicepk.net/2025/08/fact-finding-report-13-urgent-recommendations-given-by-hrcp-regarding-balochistan-situation/>

²⁵⁰ Human Rights Commission of Pakistan (HRCP), *Judicial independence, freedoms and safety under siege* — statement following HRCPs 39th Annual General Meeting (Lahore, 23 November 2025) — <https://hrcp-web.org/hrcpweb/judicial-independence-freedoms-and-safety-under-siege/>

²⁵¹ Shamshad News, *Pakistan Human Rights Commission confirms mistreatment of Afghan refugees* (7 May 2026)

— <https://shamshadnews.com/en/pakistan-human-rights-commission-confirms-mistreatment-of-afghan-refugees/>

²⁵² OHCHR, *UN experts call on Pakistan to stop displacing Afghans* (4 Apr 2025) — <https://www.ohchr.org/en/press-releases/2025/04/un-experts-call-pakistan-stop-displacing-afghans>; OHCHR, *UN experts sound alarm on looming deportations of Afghans from Pakistan* (29 Aug 2025) — <https://www.ohchr.org/en/press-releases/2025/08/un-experts-sound-alarm-looming-deportations-afghans-pakistan>

²⁵³ Afghanistan International, *UN Urges Pakistan To Halt Forced Deportations Of Afghans* (11 Jul 2026)

— <https://www.afintl.com/en/202607117510> ;

²⁵⁴ Afghanistan International, *UN Urges Pakistan To Halt Forced Deportations Of Afghans* (11 Jul 2026)

— <https://www.afintl.com/en/202607117510> ;

²⁵⁵ Amu TV, *Taliban condemn Pakistans deportation of Afghan migrants as inhuman* (7 April 2025) — <https://amu.tv/167448/>

persisted; Pakistan's foreign minister visited Kabul in 2026, where the Taliban counterpart reportedly voiced "concern and sadness" over deportations even while discussing security and trade.²⁵⁶

Rights groups and NGOs, such as Amnesty International, have been consistently critical²⁵⁷; in a January 2026 open letter to PM Shehbaz Sharif, it reported a tenfold rise in arrests to over 115,000 cases.²⁵⁸ By June 2026 it described a broader global pattern of Afghan expulsions exposing returnees to arbitrary arrest and family separation.²⁵⁹ Human Rights Watch has accused Pakistan of abandoning refugee protections since a 2016–17 report documenting coercive pressure and UNHCR's silence²⁶⁰; its World Report 2026 recorded at least 531,700 forced departures in 2025, and an April 2026 report found journalists, human rights defenders, and even PoR cardholders being swept up despite protected status — with Reporters Without Borders separately confirming at least nine Afghan journalists deported since 2026 began, some with valid visas.²⁶¹

13. *Externalization*: N/A

14. *Technology*: N/A

15. *Other*: N/A

Barrier 2: Discriminatory Citizenship Laws

Summary: As stated in the introductory note on 'understanding access to asylum in Pakistan's context', citizenship laws under the Pakistan Citizenship Act 1951 constitute one of the recognised pathways through which non-citizens may obtain legal status, a right to stay, and protection against refoulement in Pakistan. Where access to these pathways is denied, restricted, or rendered practically inaccessible through discriminatory application or administrative failure, this constitutes a barrier to asylum as defined in this research. Two groups of asylum seekers should, under the existing legal framework, be able to derive legal status and the right to stay from these provisions: those born in Pakistan under Section 4, which provides for birthright citizenship, and those married to Pakistani nationals, who may in principle acquire legal status by marriage, subject to the gender-based limitations discussed below. However, gaps in implementation by state authorities, and confusion generated by inconsistent judicial interpretation, have prevented these provisions from offering meaningful protection to a significant number of refugees and asylum seekers facing detention and deportation — both in earlier waves and in the ongoing government-led expulsions. The result is a legal framework that is nominally inclusive, can be used to offer protection in the absence of asylum or refugee legal framework but is practically exclusionary, leaving long-term residents, including children born on Pakistani soil, without access to the durable protection these laws can provide.

Section 4 of the Pakistan Citizenship Act 1951 states that every person born in Pakistan after the commencement of the Act shall be a citizen by birth. While this suggests a model of *jus soli* (birthright citizenship), in practice the provision is not self-executing, and has been restrictively implemented by the

²⁵⁶ Reuters/Yahoo News, *Taliban minister expresses concern to Pakistan over Afghan repatriation drive* (2026)

— <https://www.yahoo.com/news/taliban-minister-expresses-concern-pakistan-120405739.html>

²⁵⁷ Amnesty International, *Pakistan: Opaque Illegal Foreigners Repatriation Plan targeting Afghan refugees must be withdrawn* (26 March 2025) — <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

²⁵⁸ Arab News, *Amnesty urges Pakistan to halt deportations of Afghan refugees* (Jan 2026)

— <https://www.arabnews.com/node/2628761/pakistan>

²⁵⁹ Afghan Online Press, *Amnesty International warns of rising expulsions of Afghan refugees amid global crackdown* (20 Jun 2026)

— https://www.aopnews.com/refugees_and_migrants/amnesty-international-warns-of-rising-expulsions-of-afghan-refugees-amid-global-crackdown/

²⁶⁰ Human Rights Watch, *Pakistan: Coercion, UN Complicity — The Mass Forced Return of Afghan Refugees* (2017)

— <https://www.hrw.org/report/2017/02/13/pakistan-coercion-un-complicity/mass-forced-return-afghan-refugees>

²⁶¹ Human Rights Watch, *World Report 2026: Pakistan* — <https://www.hrw.org/world-report/2026/country-chapters/pakistan>; Human Rights Watch, *Pakistan: Surge in Forced Returns of Afghan Refugees* (21 Apr 2026)

— <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

state.²⁶² For Afghan refugees in particular, Pakistani authorities have arbitrarily refused to grant citizenship on the grounds of temporary or irregular parental presence, even for children born in the country. While Section 4 confers no express discretion to exclude such children, both administrative authorities and courts have nonetheless applied it selectively — an interpretation the statute does not support. This precariousness affects access to rights, including education, healthcare, housing, and legal employment, and increases vulnerability to arrest, detention, and deportation. When children of refugees are denied citizenship despite being born in Pakistan, this entrenches practical statelessness across generations and effectively negates the possibility of durable solutions for those in need of international protection. This, combined with the absence of any statelessness determination mechanism, transforms the theoretical entitlement under Section 4 into an inaccessible right for many refugees, reinforcing exclusion rather than enabling protection.

Moreover, Section 10(2) of the same law only allows Pakistani men, not women, to pass on citizenship to foreign spouses in the language of the law. As a result, Afghan men married to Pakistani women are treated as “foreigners” and can be arrested or deported.²⁶³ Courts have ruled that this gender-based rule is unconstitutional²⁶⁴, but it is still enforced, pending resistance from the State.²⁶⁵ These legal and administrative barriers prevent many Afghan and other (Bengali, Rohingya) families from gaining legal status, exposing them to detention and deportation under the Foreigners Act 1946. Despite court rulings and criticism from civil society and international bodies, the law has not been reformed. This has left thousands of people without legal protection, many of whom have been arrested and deported as well, including many children. According to UNHCR, 57% of all returns since April 1, 2025 (as of 6 June 2026) were children.²⁶⁶

1. *Functioning*: The pathway to citizenship is one of the protection mechanisms for asylum seekers in Pakistan under the existing legal framework. This barrier functions through a combination of statutory exclusion and administrative discretion. Certain communities, ethnically Bengali, Rohingya and Afghan-origin individuals born in Pakistan, are not granted citizenship automatically, despite Section 4 of the Citizenship Act 1951 that allows for birthright citizenship.²⁶⁷ NADRA and the Ministry of Interior routinely deny such claims, citing lack of documentation or parental nationality and other arbitrary reasons.²⁶⁸ This leaves a large group of individuals born in Pakistan excluded from access to legal protection and the right to stay/asylum. The exclusion is compounded by Section 10(2), which permits only Pakistani men to transmit nationality to foreign spouses on a strict reading of the provision. As a result, Afghan men married to Pakistani women are treated as “foreigners” under the Foreigners Act and denied both citizenship and long-term legal stay. Even efforts to obtain Pakistan Origin Cards (POC) are frustrated by documentary requirements, such as valid passports or visas, which many Afghan applicants cannot produce due to their displacement histories.²⁶⁹ While court rulings have offered relief in several

²⁶² Human Rights Commission of Pakistan, *Who Belongs? The Foreigners Act 1946 and The Pakistan Citizenship Act 1951* (HRCP 2024) <https://hrp-web.org/hrpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf> accessed 14 April 2025.

²⁶³ New York Times, ‘Families Are Split as Pakistan Departs Thousands of Afghan Refugees’ (30 April 2025)

https://www.nytimes.com/2025/04/30/world/asia/afghan-pakistan-deportations.html?unlocked_article_code=1.Dk8.LFXn.WxM-mX0Nq4Hg&smid=url-share

²⁶⁴ Suo Moto Case No. 1/K [2006] PLD 2008 FSC 1,

<https://www.federalshariatcourt.gov.pk/Judgments/Suo%20Moto%20No%201%20-%20K%20-%20of%202006.pdf>

²⁶⁵ Appeals against High Court decisions have been filed by the government; no Supreme Court decision exists on the issue till date.

²⁶⁶ UNHCR, *Pakistan-Afghanistan Returns Emergency Response #52* (UNHCR, 11 June 2026, data as of 6 June 2026) <https://data.unhcr.org/en/documents/details/122803>

²⁶⁷ Pakistan Citizenship Act, 1951, Section 4.

²⁶⁸ European Union Agency for Asylum (EUAA), *Country Focus Report: Pakistan 2024*, Citizenship and Documentation Section

²⁶⁹ RFE/RL's, *The Lucky Few: Pakistani Citizenship Still Elusive For Most Afghan Refugees* (09 July 2023)

<https://www.rferl.org/a/pakistan-citizenship-afghanistan-refugees/32495680.html>

cases, the underlying legal framework remains unchanged till yet, and several of these progressive court rulings have been appealed in higher courts by the government.²⁷⁰

2. *Time*: The barrier has existed since the promulgation of the 1951 Citizenship Act, but its impact has grown more severe in the context of shifting migration patterns and political rhetoric. Although this barrier impacts ethnically Bengalis and Rohingya communities as well, it applies distinctly to Afghans because they are currently exclusively facing the threat of arrests, detention, and deportation post IFRP. Therefore, its consequences have been particularly acute in the aftermath of the Taliban's return to power in Afghanistan in 2021 and the implementation of Pakistan's Illegal Foreigners Repatriation Plan (IFRP) in 2023. Though courts have begun to acknowledge its discriminatory effects, particularly in judgments from 2016 onward—parliamentary or administrative reform has yet to follow.²⁷¹

3. *Place*: The discriminatory application of citizenship laws to exclude persons born here affects ethnic Bengali, Bihari, Rohingya, and Afghan-origin communities throughout Pakistan. Moreover, the discrimination in passing nationality through marriage is particularly visible in Khyber Pakhtunkhwa, Balochistan, and Sindh, where large Afghan refugee populations reside and where cross-border intermarriages are common. Legal challenges to this barrier have arisen in Peshawar, Lahore, Karachi, and Quetta,²⁷² and the matter is currently pending before the Supreme Court of Pakistan.²⁷³ The lack of uniform administrative procedures further compounds regional inconsistencies, leading to greater unpredictability and arbitrary decision-making by state institutions.

4. *Actors*: The primary actors enforcing this barrier are NADRA and the Ministry of Interior, which possess wide discretion over the recognition of nationality claims and the issuance of citizenship documentation. The Federal Investigation Agency and police implement enforcement actions under the Foreigners Act, including detention or deportation of Afghan nationals denied citizenship and therefore seen as foreigners. The judiciary, while occasionally proactive in providing relief, has not been uniformly responsive and, in the case of birthright citizenship, has also contributed to confusing jurisprudence. Civil society actors, such as the Human Rights Commission of Pakistan and legal aid providers, have attempted to challenge the barrier through litigation and policy advocacy.

5. *Interaction*: This barrier is closely intertwined with other exclusionary practices, particularly detention and deportations. Afghan individuals who are denied citizenship, or whose marriages are not legally recognized for nationality purposes, are classified as illegal foreigners and subjected to arrest, detention and deportation under the Foreigners Act 1946 in the current context (other groups lack access to asylum but are not impacted by additional barriers). The denial of citizenship effectively erodes procedural safeguards and bars affected persons from invoking legal protections available to citizens. Judicial inaccessibility compounds the issue, as many affected families lack standing or resources to challenge administrative denials.

6. *Development*: The barrier's development reflects an enduring legal architecture rooted in colonial-era legislation and patriarchal norms. For birthright, there has been a gap in understanding its application to non-citizens, especially certain marginalized communities such as Afghans and stateless populations that have been consistently denied this recognition. On a disparate legal regime for men and women who marry under citizenship laws; despite judgments by the Federal Shariat Court (2006) and High Courts (2016 onward) declaring Section 10(2) discriminatory, no legislative amendments have been made to harmonize Pakistan's citizenship law with constitutional guarantees of equality.²⁷⁴ It is also pertinent to note that the

²⁷⁰ Naureen Masood v. Ministry of Interior (2023)

²⁷¹ Suo Moto Case No. 1/K [2006] PLD 2008 FSC 1 and Mrs Rukhsana Bibi v. Government of Pakistan ([2016] PLD 857).

²⁷² Human Rights Commission of Pakistan, *Who Belongs? The Foreigners Act 1946 and The Pakistan Citizenship Act 1951* (HRCP 2024) 9-12 <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

²⁷³ The Express Tribune, *SC stays PHC judgment on Afghan spouses citizenship rights* (30 October 2025) — <https://tribune.com.pk/story/2574994/sc-stays-phc-judgment-on-afghan-spouses-citizenship-rights>

²⁷⁴ Human Rights Commission of Pakistan (HRCP), *Who Belongs? The Foreigners Act 1946 and Pakistan Citizenship Act 1951* (2024), pp. 9–13 — <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

Government has appealed the decision of the Federal Shariat Court of 2006, and it will be assessed by the Shariat Appellate Bench of the Supreme Court of Pakistan.²⁷⁵ The use of citizenship as a political and demographic tool has intensified over time, particularly in response to refugee influxes and national security concerns. Administrative reluctance to process Afghan nationality claims or those of Bengali communities in Karachi further indicates an entrenched policy preference for exclusion rather than integration.

7. *Rationale:* The government has not issued formal policy documents justifying the interpretation of the birthright provision or the gender-based distinctions in citizenship law. However, statements from public officials and administrative practices suggest an intent to restrict the legal incorporation of Afghan and other nationals on grounds of national security, demographic balance, and immigration control.²⁷⁶

8. *Specific Impact:* The barrier has impacted ethnic Bengalis and Afghans born in Pakistan, including a large population of children born here, who remain at risk of detention and deportation as foreigners, despite having a right to stay under domestic law. Moreover, husbands of Pakistani women from these communities, many of whom are long-term residents with children and deep community ties, are also impacted. Denied citizenship or even legal residency, they live under the constant threat of arrest and deportation; however, the risk of deportation is disproportionately impacting Afghans. Women are deprived of the ability to secure legal protections for their spouses and children, creating unequal burdens within families. Children born to such unions may face difficulties in accessing services, schooling, or registration.²⁷⁷

9. *Reach:* The number of individuals born in Pakistan but denied nationality likely extends into the hundreds of thousands, given the longstanding presence of Afghan refugees and asylum seekers since the 1980s (as well as the long-term presence of ethnic Bengali, Bihari and Rohingya communities). Although exact figures are unavailable, conservative estimates suggest that thousands of Afghan men married to Pakistani women are affected nationwide. In 2023 alone, over 100 Afghan husbands jointly petitioned the Peshawar High Court for relief.²⁷⁸

10. *Source:* This barrier is grounded in Section 4 & Section 10(2) of the Pakistan Citizenship Act, 1951, and in NADRA's restrictive interpretation of the same Act. Its implementation is also supported by provisions of the Foreigners Act, 1946, which governs the treatment of non-citizens. While Pakistani courts have issued rulings calling for reform, including *Naureen Masood* (PHC 2023), *Mst. Amna* (PHC), and multiple judgments by the SHC and LHC, as well as the ruling from the Federal Shariat Court, the statutory framework has remained unchanged pending appeals, and now, the Supreme Court of Pakistan is hearing this matter for the first time.

11. *Justification:* There is confusion regarding the understanding of birthright citizenship amongst relevant stakeholders in the government and courts, and it is denied to Afghans and other ethnic groups without clear legal justification. Prior justifications have included the notion that Afghan refugees are governed under a different framework, so they don't fall under Section 4, and the conflation of the birthright citizenship provision with citizenship by descent, limiting citizenship only to a child whose parent is a citizen.²⁷⁹ Additional reasons include political considerations concerning changing demographics and voting constituencies, relevant to both Afghan and Bengali populations denied legal identity, as seen when

²⁷⁵ Interview with a Lawyer / Petitioner who has filed on the same subject before the Shariat Appellate Bench of the Supreme Court.

²⁷⁶ Observation and experiences of lawyers and activists.

²⁷⁷ Cases in courts across the country reveal this situation, as well as documentation for human rights groups, including Joint Action Committee for Refugees, HRCP & others.

²⁷⁸ *Ms Naureen etc v. Government of Pakistan* (Peshawar High Court, 1 December 2023), as referenced in DAWN, *PHC disposes of pleas of two Afghans seeking Pakistani card* (19 May 2025) — <https://www.dawn.com/news/1911823>; Pajhwok Afghan News, *Cards sought for Afghan spouses of Pakistani women* (2 December 2023) — <https://pajhwok.com/2023/12/02/cards-sought-for-afghan-spouses-of-pakistani-women/>

²⁷⁹ Human Rights Commission of Pakistan (HRCP), *Who Belongs? The Foreigners Act 1946 and Pakistan Citizenship Act 1951* (2024), pp. 5–8 — <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

a 2018 proposal to grant citizenship to Pakistan-born children of Afghan and Bengali refugees drew backlash partly attributed to the demographic and electoral implications of enfranchising a large, ethnically distinct population.²⁸⁰

No clear statutory or constitutional justification exists for the gender-based distinctions under Section 10(2). Government responses in court have invoked vague notions of sovereignty, national interest, or administrative convenience, but have failed to articulate a compelling or legally defensible rationale — in one case, the Sindh High Court noted that federal authorities offered no reason for the classification beyond a bare assertion that the law was framed “in the larger national interests and security.”²⁸¹ Courts have repeatedly held that such distinctions violate Article 25 of the Constitution and Pakistan’s obligations under international instruments such as CEDAW and the ICCPR.²⁸²

12. *Domestic and International Reactions:* Civil society has demanded the implementation of the birthright provision to protect Afghan asylum seekers born in Pakistan. Domestic courts have increasingly ruled in favour of petitioners challenging the gendered application of nationality laws. The Federal Shariat Court has declared Section 10(2) un-Islamic, while the High Courts have recognized the barrier’s discriminatory nature. Civil society organizations have called for legislative amendment and gender-equal nationality laws. International bodies such as CEDAW, the UN Human Rights Committee, and UNHCR have expressed concern about Pakistan’s failure to ensure equal nationality rights and the resultant risk of statelessness.

13. *Externalization:* N/A

14. *Technology:* N/A

15. *Other:* This barrier not only entrenches gender inequality and the additional vulnerability of children but also undermines the rights of mixed-status families and obstructs integration for long-term Afghan residents. The denial of citizenship prevents individuals from participating in civic life, accessing essential services, and enjoying legal security. Without comprehensive legal reform, the exclusion will continue to produce statelessness, familial separation, and legal uncertainty for Afghan communities in Pakistan.

Barrier 3: Barriers to resettlement: Exit permits & Visas

Summary: In the absence of a domestic asylum law in Pakistan, all undocumented entrants and overstaying foreigners, regardless of whether they are fleeing persecution or approved for resettlement, are treated as illegal under the Foreigners Act, 1946. This law provides for the arrest, detention, and deportation of any foreign national without valid documentation. As a result, asylum seekers and individuals awaiting third-country resettlement are subject to criminalization, detention, deportation, and can also be denied exit permissions, effectively blocking their ability to relocate to countries that have granted them refugee status or humanitarian visas.

1. *Functioning:* In Pakistan, the absence of a domestic asylum framework means that individuals fleeing persecution are treated as illegal entrants under the Foreigners Act, 1946, regardless of their protection needs. Section 14(2) of the Act criminalizes anyone who “knowingly enters Pakistan illegally” with no exemptions for asylum seekers or individuals approved for third-country resettlement. As a result, those who enter Pakistan without a valid visa, often due to emergencies such as war or political persecution, face criminal charges and imprisonment under the Foreigners Act 1946 even if they later qualify for refugee status through UNHCR or receive resettlement offers from other countries.

²⁸⁰ Center for Global Development, *With US Withdrawal, Rights of Afghan Refugees in Pakistan Hang in the Balance* (2022)

— <https://www.cgdev.org/blog/us-withdrawal-rights-afghan-refugees-pakistan-hang-balance> ; CBS News, *Pakistans prime minister vows to grant citizenship to 1.5 million refugees* — <https://www.cbsnews.com/amp/news/pakistans-prime-minister-vows-to-grant-citizenship-to-1-5-million-refugees>

²⁸¹ DAWN, *Denying citizenship to foreign spouses of Pakistani women discrimination* (6 March 2024)

— <https://www.dawn.com/news/1819452>

²⁸² Human Rights Commission of Pakistan (HRCP), *Who Belongs? The Foreigners Act 1946 and Pakistan Citizenship Act 1951* (2024), pp. 9–13 — <https://hrcp-web.org/hrcpweb/wp-content/uploads/2020/09/2024-Who-belongs.pdf>

This criminalization has a direct and damaging impact on the resettlement process. Since exit from Pakistan requires clearance and an exit permit from the Ministry of Interior,²⁸³ individuals facing legal proceedings under the Foreigners Act 1946 are often unable to leave the country even after being granted refugee status by UNHCR or humanitarian visas by foreign governments. The pending criminal cases become a legal barrier that effectively blocks resettlement. Detention and prosecution disrupt critical stages of the resettlement pipeline, including interviews, health screenings, security vetting, and biometric collection. If a detainee cannot meet these procedural requirements, their resettlement case may be delayed indefinitely or even closed by the resettlement partner.

This penal framework is applied without regard to protection needs, as Pakistan currently offers no legal mechanism for individuals to claim asylum or seek temporary protection. Without a legal status or pathway to regularization, even registered refugees remain at risk of arrest, detention, and deportation. The Ministry of Interior denies exit permits for those entangled in criminal proceedings under the Foreigners Act, despite their recognition as refugees or selection for resettlement.

A prominent example illustrating this barrier is the case of Ms. Rahil Azizi²⁸⁴, a former Afghan police officer who fled to Pakistan after the Taliban's return to power in 2021. Lacking a visa, she entered the country irregularly and was charged under Section 14(2). While on bail, she was placed under UNHCR supervision and eventually granted refugee status. In April 2023, the Australian government approved her for resettlement and issued her a humanitarian 'Woman at Work' visa. However, Pakistan's Ministry of Interior refused to issue an exit permit, citing her ongoing prosecution under the Foreigners Act. Ms. Azizi had to seek judicial relief, and the Islamabad High Court ultimately ruled in her favour, finding that individuals seeking refuge to save their lives are not criminally liable under Section 14(2). While this judgment is significant, it highlights the extent to which judicial intervention is required to resolve issues that arise due to the lack of protective administrative mechanisms.

Compounding this problem is Pakistan's restrictive visa regime, which neither provides visas for asylum purposes nor allows visa-free entry for those seeking protection. There is no accessible or affordable process for refugees or asylum seekers to legalize their stay, even if they are undergoing resettlement. According to different media reports, the high cost of visa renewals (USD 100 or PKR 20,000 per month), coupled with the limitation of extensions to just one month as opposed to a three or six-month timeframe, creates financial strain and uncertainty.²⁸⁵ This prevents individuals from maintaining legal status while they await resettlement or asylum in a third country, leaving them vulnerable to detention and deportation.²⁸⁶

By July 2025, the situation deteriorated further, and Pakistan effectively halted visa extensions for Afghan nationals altogether, reportedly forcing many to seek renewals through unofficial intermediaries at an exorbitant price.²⁸⁷ This also aligned with no plans to renew roughly 1.4 million Proof of Registration (PoR) cards that lapsed in June 2025.²⁸⁸ The problem escalated again in mid-2026. Following a June 1, 2026 government review of the IFRP, the Interior Ministry ordered the immediate arrest of any Afghan national found without a valid visa, effective July 10, 2026 — while UNHCR's Pakistan spokesperson noted that many of those now being swept up are Afghans whose visas had simply expired without being renewed by the government, rather than people who entered unlawfully.²⁸⁹ A Senate Standing Committee was told that Pakistan deported a total of 1,155,221 Afghan nationals in 2025 alone, including 163,429

²⁸³ Beporsed, 'Afghan Refugees in Pakistan: Visa Challenges and Legal Barriers' (Beporsed, 5 June 2025) <https://www.beporsed.org/en-us/articles/14381279100829> accessed 5 June 2025.

²⁸⁴ Writ Petition No. 1666 of 2023

²⁸⁵ TOLONews, Afghans struggle with costly monthly visa extensions in Pakistan (17 February 2025), <https://tolonews.com/afghanistan-193101>

²⁸⁶ Dawn, Afghans urge PM Shehbaz to halt deportations (24 March 2025) <https://www.dawn.com/news/1899963>

²⁸⁷ Amu TV, *Pakistan halts visa extensions for Afghan nationals, escalates arrests: Sources* (22 July 2025) — <https://amu.tv/187836/>

²⁸⁸ Amu TV, *Pakistan halts visa extensions for Afghan nationals, escalates arrests: Sources* (22 July 2025) — <https://amu.tv/187836/>

²⁸⁹ Voicepk.net, *Expired visas, no renewals: Afghanistans exiles caught in Pakistans latest sweep* (30 June 2026) — <https://voicepk.net/2026/06/expired-visas-no-renewals-afghanistans-exiles-caught-in-pakistans-latest-sweep/>

PoR cardholders, 74,943 Afghan Citizen Card holders, 509,671 undocumented individuals, and 407,178 voluntary returnees.²⁹⁰ UNHCR has urged Pakistan to exempt specific vulnerable categories — including students mid-semester, journalists, religious and ethnic minorities, those married to Pakistani nationals, and people in Pakistan for medical treatment — while continuing to call for a phased, voluntary approach overall.²⁹¹

Thousands of Afghan citizens who fled to Pakistan after the Taliban's takeover, hoping for relocation to Western countries, were deported, while others remain at serious risk of forced return. They reported that visa extensions previously granted every six months have now been reduced to just one month for all categories, including tourist, family visit, and medical visas. This change has made it nearly impossible for refugees, many of whom are unemployed and living in precarious conditions, to comply with the visa process. With an average family consisting of four to five members, the monthly visa cost per person (approximately up to PKR 20,000²⁹²) is financially unsustainable.

Refugees are appealing to Pakistan, the United Nations, and host countries to intervene and prevent their deportation to a regime they fled due to fear of persecution. Many of them, they explain, were collaborators with the United States over the past two decades and face arrest, torture, or execution if returned.

Afghan journalist Asma Saayin, for example, told *Hasht-e Subh Daily* that she initially came to Pakistan on a six-month tourist visa but is now forced to renew it every month. She recounted that police had raided her home twice and arrested her husband both times. She added: “We are left wondering how to renew two visas every month. Just for the registration process, they charge 7,000 rupees, and we have to pay an additional 10,000 to 12,000 rupees to agents to process our visas. Other expenses, including travel and police registration, amount to about 20,000 rupees. We are unemployed, and the situation is extremely dire. The police come every day.”²⁹³

Similarly, Omid Hussaini, who has lived in Pakistan with his seven-member family for over three years, described the new monthly visa renewal requirement as unmanageable amid widespread joblessness and insecurity.²⁹⁴

2. *Time*: The barrier to resettlement has become significantly more prominent following the announcement and implementation of the IFPR plan in 2023. Under this plan, in the first phase, Pakistan initiated widespread detention and deportation of undocumented Afghanis in Pakistan. Even individuals who were fleeing Afghanistan and had pending refugee applications or were seeking third-country settlements were and are at risk under this plan. In its subsequent phases (final phase ongoing as of June 2026), the IFPR effectively criminalized all undocumented and overstaying individuals, regardless of their protection needs or pending cases, placing them at immediate risk of arrest, detention, and forced return against certain timelines.

During the same time period, Pakistan also revised its visa policy for Afghan nationals to restrict new entries and make legal stay increasingly difficult. The updated visa policy requiring short-duration or monthly renewals lacks transparency, as no official implementation timeline is publicly available.

Except for media reports quoting Afghan refugees' experiences with visa procedures, there is no formal government communication outlining the timeline or rationale behind the changes. In addition, while visa

²⁹⁰ Voicepk.net, *Expired visas, no renewals: Afghanistans exiles caught in Pakistans latest sweep* (30 June 2026)

— <https://voicepk.net/2026/06/expired-visas-no-renewals-afghanistans-exiles-caught-in-pakistans-latest-sweep/>

²⁹¹ Ibid.

²⁹² Afghan Voice Agency (AVA), *Afghan refugees in Pakistan complain about high visa renewal costs/\$100 per person for one-month visa renewal* (avapress.com, 18 February 2025) [<https://www.avapress.com/en/news/307884/afghan-refugees-in-pakistan-complain-about-high-visa-renewal-costs-100-per-person-for-one-month>] (<https://www.avapress.com/en/news/307884/afghan-refugees-in-pakistan-complain-about-high-visa-renewal-costs-100-per-person-for-one-month>)

²⁹³ *Hasht-e Subh Daily*, *Afghan Refugees in Crisis: Thousands in Pakistan Face Forced Expulsion* (8am.media, 11 March 2025)

— <https://8am.media/eng/afghan-refugees-in-crisis-thousands-in-pakistan-face-forced-expulsion/>

²⁹⁴ Ibid

extension procedures for nationals of other countries typically take 7 to 10 working days, Afghan passport holders reportedly face processing delays of up to four weeks.

3. *Place:* The IFPR plan and the visa policy for Afghans are implemented throughout Pakistan.

4. *Actors:* The IFPR Plan is being implemented primarily by law enforcement agencies, which conduct raids, arrests, and detentions of Afghans. The Federal Ministry of Interior plays a central coordinating role, as has been discussed in the earlier sections.

The visa system in Pakistan is implemented and enforced by a range of actors. The Pakistani Ministry of Interior, through the Directorate General of Immigration & Passports, is the primary authority responsible for formulating and overseeing visa regulations, including policies on visa issuance, renewal, and overstay penalties. The National Database and Registration Authority (NADRA) maintains identity records and documentation of foreign nationals, which is crucial for processing visa applications and extensions. The Federal Investigation Agency (FIA) is tasked with enforcing immigration laws, including identifying and acting against visa overstays, illegal entry, or document fraud. Additionally, the police are involved in the on-ground enforcement of immigration decisions, including the detention and deportation of individuals with expired or invalid visas. Moreover, the visa policy on Afghanistan also specifies the role of intelligence agencies with respect to the issuance of visas and monitoring of the same under different categories. The policy mentions that the Ministry of Foreign Affairs (MoFA) will share visas issued with the intelligence agencies, and the MOI may cancel visas on the recommendation of security agencies.²⁹⁵

5. *Interaction:* The criminalization under the Foreigners Act 1946 for asylum seekers and refugees operates on its own course outside of protection needs or concern for resettlement. This means all the usual penalties can be incurred, including arrest, detention, and deportation in cases. This situation is aggravated in the context of the IFPR, which in its first phase is targeting all Afghans for deportation. To access any protection at all, an individual must approach the courts, which is not always possible due to several constraints, including the risk of arrest and deportation. Courts have upheld protections and interpreted the Foreigners Act in relation to the circumstances of the asylum seeker in the Rahil Azizi case, which is a key precedent. Notwithstanding, the unstable visa situation coupled with the IFPR creates a cycle of uncertainty and fear, disrupting legal processes and hindering access to long-term solutions, particularly third-country resettlement.²⁹⁶

6. *Development:* The implementation of the IFPR and the introduction of stricter visa regulations for Afghan refugees in Pakistan stem from a combination of political, social, and security concerns. These developments have made it increasingly difficult for Afghan refugees, especially those who are awaiting third-country settlements, to maintain a legal status in the country. As mentioned above, the updated visa policy with a monthly renewal requirement is not publicly available; however, the issue has been raised by Afghan refugees with media agencies.²⁹⁷

On 10 April 2025, a top official warned that Afghans awaiting settlement in the West, including in EU member states, could be deported if host countries did not relocate them by 30 April. Pakistani authorities, however, have yet to take action against this segment of the Afghan population.²⁹⁸

7. *Rationale:* Official reasons for the IFPR Plan and strict visa rules, like those for Afghans, often focus on national security, increasing instances of suicide attacks, and border control. These include stopping possible threats from entering the country, managing migration to avoid overburdening systems, and keeping the country's right to decide who enters. These reasons are often supported by worries about

²⁹⁵ Directorate General of Immigration & Passports, Ministry of Interior, Visa Policy for Afghanistan, last updated on 4 October 2023, accessed on: <https://www.dgip.gov.pk/visa/afghan-visa.php>

²⁹⁶ Dawn, Afghans urge PM Shehbaz to halt deportations (24 March 2025), <https://www.dawn.com/news/1899963>

²⁹⁷ TOLONews, Afghans struggle with costly monthly visa extensions in Pakistan (17 February 2025), <https://tolonews.com/afghanistan-193101>

²⁹⁸ International Crisis Group, Pakistan and Afghanistan: Tempering the Deportation Drive (ICG, 7 March 2024) <https://www.crisisgroup.org/asia/south-asia/pakistan-afghanistan/pakistan-afghanistan-tempering-deportation-drive>.

undocumented Afghan migrants, which are often mentioned in official statements and media, and show broader concerns about possible security risks and strain on social services.²⁹⁹

8. *Specific Impact:* The IFPR Plan and Pakistan's visa and immigration system have had a distinct and disproportionate impact on vulnerable groups among Afghan refugees and asylum seekers, particularly those awaiting resettlement. Children have been reportedly subjected to overstay penalties starting at age 12. While children under 12 are exempt from the surcharge, those aged 12 to 17 face a 50% surcharge for overstaying their visa, placing a financial burden on families and complicating the legal status of minors. Moreover, in the absence of any formal protections or exemptions in place for marginalized groups, including women, persons with disabilities, etc., under Pakistan's visa regime, their vulnerabilities are intensified by the prospect of being returned to a country where they face systemic discrimination, violence, or lack of access to essential services.³⁰⁰

Following the Taliban's return to power, many Afghans crossed into Pakistan irregularly and are now categorized as undocumented. Some were able to obtain visas that have since expired, with Pakistani authorities showing little willingness to grant extensions. For women who fled Taliban persecution, returning to Afghanistan in the hope of securing a new visa could place them in grave danger.³⁰¹

9. *Reach:* Although exact figures are unavailable, according to estimates, over 600,000 Afghan nationals entered Pakistan after the Taliban regained control of Afghanistan in 2021.³⁰² Many of these individuals were impacted by difficulties in renewing or maintaining valid visas, making them vulnerable to detention, deportation, or exploitation. Among them, approximately 25,000 to 30,000 Afghan refugees who are in the process of being resettled to the United States through programs like the SIV, USRAP, or Humanitarian Parole are particularly at risk.³⁰³

10. *Source:* The implementation of the IFPR Plan reflects the state's assertion of its sovereign right to regulate the entry and removal of non-citizens within its territory. This includes the authority to impose visa requirements, deny extensions, and enforce penalties for overstaying. The Ministry of Interior holds the overarching authority to grant, extend, or refuse visas as well as grant exit permits. The Directorate General of Immigration & Passports (DGI&P), an attached department of the Ministry of Interior, is responsible for the operational aspects of visa issuance and management. The DGI&P handles the processing of visa applications, issuance of visas, and maintenance of records related to foreign nationals in Pakistan.

11. *Justification:* These measures are part of the overall context in which staying in Pakistan is discouraged and increasingly punished.

12. *Domestic and International Reactions:* Civil society organisations, refugee advocates, legal professionals, and human rights defenders within Pakistan have consistently raised concerns about the lack of legal protections for Afghan nationals. Groups such as the Human Rights Commission of Pakistan (HRCP) and other local NGOs have highlighted the arbitrary enforcement of immigration laws, the risks of detention and deportation, and the lack of due process in cases involving vulnerable populations, including

²⁹⁹ Reuters, 'Pakistan Orders All Illegal Immigrants to Leave after Suicide Bombings' (Reuters, 3 October 2023) <https://www.reuters.com/world/asia-pacific/pakistan-orders-all-illegal-immigrants-leave-after-suicide-bombings-2023-10-03/> accessed 6 May 2025.

³⁰⁰ Joint Action Committee for Refugees, 'Immediately Stop the Illegal Deportations of Afghan Refugees – Statement by the Joint Action Committee for Refugees' (LinkedIn, April 2025)

³⁰¹ International Crisis Group, Pakistan and Afghanistan: Tempering the Deportation Drive (ICG, 7 March 2024) <https://www.crisisgroup.org/asia/south-asia/pakistan-afghanistan/pakistan-afghanistan-tempering-deportation-drive>.

³⁰² UN OCHA, Relief Web: REGIONAL REFUGEE RESPONSE PLAN FOR AFGHANISTAN SITUATION January December 2023, 9 March 2023, p27.

³⁰³ Joint Action Committee for Refugees, 'Immediately Stop the Illegal Deportations of Afghan Refugees – Statement by the Joint Action Committee for Refugees' (LinkedIn, April 2025)

women, children, and activists.³⁰⁴ Legal experts have also criticized the broad discretion granted to authorities without sufficient judicial oversight or legislative guidance.

At the international level, concerns have been raised over the treatment of Afghan nationals awaiting resettlement through programs like the Special Immigrant Visa (SIV), U.S. Refugee Admissions Program (USRAP), and Humanitarian Parole. US government and Advocacy groups have urged Pakistan to allow these individuals a temporary safe haven without penalizing them for overstaying their visas.³⁰⁵

13. *Externalization*: N/A

14. *Technology*: N/A

15. *Other*: N/A

II. SELECTING BARRIERS

Specifically for case-law analysis in Pakistan, the more relevant barriers for further research would be pushbacks (now internal enforcement and deportation as a country-specific barrier) in a broader sense, detention and discrimination in citizenship as laws and exit restrictions, and the role of courts. There is still more limited data on actual gaps in physical access to UNHCR and its partner locations and the full range of services they can offer in this climate of mass deportations. Externalization-related data is still being investigated as well.

³⁰⁴ Human Rights Commission of Pakistan, ‘Open Letter Calling for the Protection of Afghan Refugees in Pakistan’ (31 October 2023) <https://hrqp-web.org/hrqpweb/open-letter-calling-for-the-protection-of-afghan-refugees-in-pakistan/>

³⁰⁵ Voice of America, US Advocates for Afghan Refugees Amid Pakistan's Threatened Expulsion, <https://www.voanews.com/a/us-advocates-for-afghan-refugees-amid-pakistan-s-threatened-expulsion/7315002.html>

PART 2: CASE LAW ANALYSIS

I. IDENTIFICATION OF BARRIERS IN THE CASE LAW

A. Description of the barriers in the case law

Detention: Detention (in the form of imprisonment, limitations on the right to liberty and security of person) is a key barrier to accessing asylum, especially for Afghan refugees and asylum seekers following the launch of the Illegal Foreigners' Repatriation Plan (IFRP) in 2023. Mass arrests and detentions physically limit access to existing protection avenues and serve to deport detained persons at scale without a substantive assessment of risks or protection needs. (See Part 1 on this Report).

Type of body: Judicial body / constitutional court / appellate court

Barriers to resettlement: exit restrictions & visa systems: Entering Pakistan without valid documentation attracts the application of the Foreigners Act 1946, which criminalises illegal entry and grants the executive broad powers to detain and deport such persons without assessing their protection needs or providing access to any asylum process. Detention under Section 14(2) of the Foreigners Act, along with a pending trial for those detained under this provision, has been cited by the Ministry of Interior as a reason to deny the issuance of exit permits to asylum seekers for resettlement in a third country. Under Section 14(2) of the Foreigners Act, 1946, entering Pakistan illegally is a crime, with no exception for asylum seekers or those approved for resettlement. Even people with UNHCR refugee status or foreign visas can't exit Pakistan without clearance from the Ministry of Interior. If criminal cases are pending for them due to their illegal entry into Pakistan, they are often blocked from leaving without any assessment of their protection needs. Since 2021, more than 600,000 Afghans have entered Pakistan. Many of them do not have valid visas, which puts them at risk of arrest under the Foreigners Act.³⁰⁶ Among them, around 25,000 to 30,000 are in the process of being resettled to the United States through programs like SIV, USRAP, or Humanitarian Parole. However, many of these individuals face long delays or are unable to leave Pakistan because of legal and administrative barriers.³⁰⁷ One major issue is that those without valid documents may face criminal cases under the Foreigners Act, which can prevent them from getting the required exit clearance from the Ministry of Interior. (See Part 1 of this Report).

Type of body: Judicial body / constitutional court / appellate court

Denial of Access to Asylum through Internal Enforcement: The detention and removal/deportation of Afghan nationals and other foreign individuals already present in the country, who are denied any opportunity to seek asylum or undergo an individual risk assessment. It is also not sufficiently documented how many of those deported are Afghans who recently crossed the border to Pakistan (and were not able to access asylum), and how many are those who have resided in Pakistan for a longer time (without access to asylum). In recent times, implemented under policies like the Illegal Foreigners Repatriation Plan (IFRP), these actions treat all undocumented, and in some cases even documented, persons as illegal immigrants under the Foreigners Act, 1946, without recognising potential protection needs. Conducted through raids, arrests, and deportations across cities, refugee-populated areas, and border provinces, these practices occur in the absence of a national asylum framework and often obstruct access to UNHCR. As a result, individuals are expelled without due process, including to Taliban-controlled Afghanistan, amounting to de facto refoulement under the guise of immigration enforcement. ((See Part 1 on this).

³⁰⁶ UN OCHA, Relief Web: REGIONAL REFUGEE RESPONSE PLAN FOR AFGHANISTAN SITUATION January December 2023, 9 March 2023, p27.

³⁰⁷ Joint Action Committee for Refugees, 'Immediately Stop the Illegal Deportations of Afghan Refugees – Statement by the Joint Action Committee for Refugees' (LinkedIn, April 2025)

Type of Body: Judicial body / constitutional court / appellate court

Discriminatory application of citizenship laws, which is a means of accessing asylum: The Pakistani citizenship framework includes legal safeguards, such as birthright citizenship under Section 4 of the Pakistan Citizenship Act, 1951, that theoretically/legally protect all children born in Pakistan from deportation, including those born in stateless communities, children of long-term residents, asylum seekers, etc. However, these safeguards are selectively applied and often denied to Afghan nationals, even when they meet the legal criteria. As a result, Afghan-origin individuals born in Pakistan or living there for decades are excluded from acquiring citizenship rights, which could otherwise offer them legal protection against detention or deportation. This selective application disproportionately impacts Afghans and undermines legal certainty. Similarly, Section 10 of the Citizenship Act deals with citizenship through marriage, which is discriminatory towards women, passing citizenship/right to stay with their husbands, including Afghan refugees and asylum seekers.

Type of Body: Judicial body / constitutional court / appellate court

B. Institutional settings

Pushbacks:

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)
- **Constitutional Court:** The Federal Constitutional Court (FCC)

Detention:

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** District & Sessions Court (local level); High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)
- **Constitutional Court:** The Federal Constitutional Court (FCC)

Procedural barriers:

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** District & Sessions Court (local level); High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)
- **Constitutional Court:** The Federal Constitutional Court (FCC)

Barriers to resettlement: exit restrictions & visa systems

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** District & Sessions Court (local level); High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)
- **Constitutional Court:** The Federal Constitutional Court (FCC)

Denial of Access to Asylum through Internal Enforcement

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** District & Sessions Court (local level); High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)

- **Constitutional Court:** The Federal Constitutional Court (FCC)

Discriminatory application of citizenship laws, which is a means of accessing asylum

- **First instance judicial body:** Magistrate & Sessions Court
- **Second instance judicial body:** District & Sessions Court (local level); High Court (Provincial)
- **Third instance judicial body:** Supreme Court (Appeals only)
- **Constitutional Court:** The Federal Constitutional Court (FCC)

Executive bodies involved in asylum access adjudication

The following are the executive bodies that are involved in asylum access adjudication in Pakistan.

- 1) The Ministry of Interior in Pakistan plays a central role in ensuring internal security, maintaining public order, managing citizenship and immigration, and coordinating with law enforcement agencies across the country. Its functions are derived from Article 99 of the Constitution of Pakistan³⁰⁸, which authorises the Federal Government to distribute responsibilities among its ministries. These responsibilities are formally outlined in the Rules of Business, 1973. According to Schedule II, Entry 15 of these Rules, the Ministry of Interior is tasked with a wide range of functions which are essential to the state's internal governance³⁰⁹.

One of the ministry's primary responsibilities is to maintain internal security and oversee matters of public safety, including those arising from Pakistan's interactions with foreign governments and international organisations. It is empowered to order preventive detention in the interest of national defence, foreign affairs, or the security and stability of the state, as well as for maintaining public order and essential services. The ministry also administers laws related to nationality, citizenship, and naturalisation, and handles all matters concerning the admission, stay, and expulsion of foreigners. This includes policies related to immigration, the regulation of the movement of non-domiciled individuals within Pakistan, and the issuance of passports, visas, permits, and related travel documents. It also manages extradition processes and decisions regarding political asylum.

The Ministry of Interior oversees the National Database and Registration Authority (NADRA), which is responsible for maintaining the national data warehouse and issuing identity documents. The ministry ensures the security of federal institutions and has administrative control over law enforcement agencies, including the Federal Investigation Agency (FIA), Pakistan Rangers, Frontier Corps, Coast Guard, and the Civil Armed Forces. It coordinates anti-smuggling and anti-corruption measures (except for those under the National Accountability Bureau) and supervises the investigation and prosecution of offences listed in the FIA Act, 1974. It also maintains ultimate administrative authority over the country's liaison operations with INTERPOL. The National Database and Registration Authority (NADRA) is Pakistan's public sector institution responsible for the registration and identification of citizens. It was established on March 10, 2000, under the administrative control of the Ministry of Interior, through the National Database and Registration Authority Ordinance, 2000. The establishment of NADRA aimed to modernize and centralize the country's citizen registration system by replacing outdated, paper-based identity systems with a secure, digitized infrastructure.

Under Section 5 of the NADRA Ordinance, 2000, the Authority is mandated to carry out a wide range of functions related to citizen registration and national data management. These include maintaining a comprehensive national database, issuing Computerized National Identity Cards (CNICs), Pakistan Origin Cards (POCs) for overseas Pakistanis, and Alien Registration Cards for

³⁰⁸ Constitution of Pakistan, 1973 – Article 99

³⁰⁹ Rules of Business, 1973 Schedule II, Entry 15 – Ministry of Interior

foreign residents. NADRA is also empowered to register births, deaths, marriages, and other life events, thereby playing a foundational role in identity verification. In line with global security standards, NADRA introduced the Multi-Biometric National Identity Card system in 2000 to enhance the authenticity, reliability, and integrity of citizen data.³¹⁰

- 2) The Ministry of States and Frontier Regions (SAFRON) is responsible for administrative affairs related to Pakistan's tribal areas. It oversees refugee management, rehabilitation of displaced persons, and coordination with international agencies like UNHCR for humanitarian assistance. It also liaises with provincial governments on tribal and frontier matters.³¹¹
- 3) The Federal Investigation Agency (FIA) is Pakistan's investigative and law enforcement agency, operating under the administrative control of the Ministry of Interior. The FIA functions as a border control, criminal investigation, counterintelligence, and internal security agency, with broad jurisdiction over federal crimes. It is tasked with investigating and undertaking operations against terrorism, espionage, smuggling, human trafficking, money laundering, cybercrimes, and other offences outlined in the FIA Act, 1974. Reporting to the Interior Secretary, the FIA also acts as Pakistan's National Central Bureau (NCB) for liaising with INTERPOL, thereby playing a critical role in both domestic and transnational law enforcement.³¹²
- 4) Additionally, law enforcement, including the police force and paramilitary forces for border control, is also involved in implementing barriers to accessing asylum, even if the clear mandate on adjudication is not present.

International or regional organizations involved in asylum access adjudication

In the absence of a national asylum system in Pakistan, UNHCR has historically conducted Refugee Status Determination (RSD) under its international mandate, based on the Statute of the Office of the UNHCR (UNGA Resolution 428(V), 1950).³¹³ This role was formalised through a 1993 Cooperation Agreement between the Government of Pakistan and UNHCR, which authorised UNHCR to carry out RSD on behalf of the government.³¹⁴

The Government of Pakistan generally accepts UNHCR's RSD decisions and allows both asylum seekers undergoing RSD and those recognised as refugees to remain in the country until a durable solution is identified.³¹⁵ Its role has been recognized by Pakistani courts, which have accepted UNHCR-issued documentation as a basis for protection against arbitrary detention, deportation, and refoulement. However, it must be noted that refugee status has not been granted to anyone in Pakistan since 2007 by UNHCR and the Government of Pakistan (since the PoR scheme), which also puts the individuals documented with UNHCR at risk of detention and deportation with no legal remedies available.³¹⁶ In early 2022, the Government of Pakistan issued a Note Verbale instructing UNHCR to suspend new registrations, effectively shutting down the main route for Afghan asylum seekers to initiate protection claims. This has resulted in a procedural denial of access to asylum, as individuals cannot file claims without first registering.³¹⁷ Although UNHCR may still provide limited support to new arrivals through local partners, the exact scope and nature of these services remain unclear.

³¹⁰ (National Database and Registration Authority (NADRA), *Review of NADRA* (Ministry of Interior Pakistan, March 2000) <https://mohtasib.gov.pk/SiteImage/Downloads/WMS%20Committee%20report/NADRA.pdf>.)

³¹¹ Ministry of States and Frontier Regions (SAFRON), Government of Pakistan <https://www.safron.gov.pk>

³¹² Federal Investigation Agency, Government of Pakistan <https://fia.gov.pk>

³¹³ UNGA Res 428(V) (14 December 1950) UN Doc A/RES/428(V).

³¹⁴ UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan#:~:text=In%20the%20absence%20of%20a,identification%20of%20a%20durable%20solution>.

³¹⁵ UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan>

³¹⁶ Verso Consulting, Report on the Afghan Refugee Crisis (June 2024) <https://www.versoconsulting.org/wp-content/uploads/2024/06/Report-on-The-Afghan-Refugee-Crisis.pdf>.

³¹⁷ UNHCR, Information for New Arrivals - <https://help.unhcr.org/pakistan/new-arrivals/> & Asylum in Pakistan <https://help.unhcr.org/pakistan/asylum/>.

In *Rahil Azizi v. Federation of Pakistan*,³¹⁸ UNHCR filed a formal note before the Court in Islamabad, stating that in the absence of national asylum laws, it had been carrying out RSD activities under its mandate. The UNHCR confirmed that Ms. Azizi had been issued an asylum-seeker certificate and was a person of concern, thus protected from deportation under the principle of non-refoulement, a principle enshrined in Article 33(1) of the 1951 Refugee Convention and embedded in international human rights instruments such as the ICCPR and the Convention Against Torture (CAT), both of which Pakistan is a party to. Although Ms. Azizi was later granted refugee status and a humanitarian visa by Australia, she faced delays in receiving an exit permit from the Ministry of Interior due to an FIR filed against her, revealing the disconnect between international protection and domestic enforcement mechanisms.

In *Aamir Aman v. Federation of Pakistan*,³¹⁹ the petitioners held active UNHCR Asylum Seeker Certificates, confirming their pending applications. The court recognized that these individuals had the right to remain in Pakistan while their claims were under review by UNHCR. It further directed that if the claims were denied, the applicants must be granted a 15-day period to explore legal remedies.

These cases demonstrate that UNHCR's decisions are treated with substantial weight and often form the basis for judicial decisions related to the protection and temporary stay of asylum seekers in Pakistan.

The involvement of international organizations such as UNHCR in asylum access and related barriers has been broadly recognized by Pakistani courts, particularly in cases concerning resettlement. Courts have acknowledged the protective role of UNHCR and the significance of its determinations in cases related to resettlement barriers.

UNHCR has played a central role in addressing barriers related to resettlement, particularly where asylum seekers face prosecution under Pakistan's Foreigners Act or denial of exit permits despite being granted refugee status by third countries.

In *Rahil Azizi v. Federation of Pakistan*,³²⁰ Ms. Azizi, an Afghan woman who fled the Taliban and entered Pakistan without a visa, was prosecuted under Section 14(2) of the Foreigners Act, 1946. Although she was granted refugee status by UNHCR and later approved for resettlement by Australia, she was unable to obtain an exit permit due to ongoing criminal proceedings. The Islamabad High Court held that a person fleeing persecution and seeking refuge under international law should not be treated as a criminal under Section 14(2). The court placed weight on her protection claim and UNHCR's role in processing it and affirmed that asylum seekers must not be penalized for unlawful entry when fleeing danger. This judgment reflects judicial recognition of UNHCR's role in safeguarding the rights of refugees and facilitating their protection and resettlement.

In *Aamir Aman v. Federation of Pakistan*,³²¹ Turkish nationals facing visa cancellations sought protection due to their pending asylum claims with UNHCR. The Sindh High Court ruled that although Pakistan is not a party to the 1951 Refugee Convention, it generally respects UNHCR's determinations. The court held that individuals with pending claims before UNHCR have a legitimate expectation of not being deported and should be given an opportunity to present their case. The court also emphasized the need for procedural fairness and allowed the petitioners to remain and work in Pakistan while their asylum cases were being processed.

These cases show that Pakistani courts have acknowledged the authority and protective function of UNHCR, even in the absence of a national asylum law. UNHCR's involvement in RSD (Refugee Status Determination) and coordination with third-country resettlement programs has been critical in shaping legal outcomes, especially in cases where individuals face deportation or denial of exit rights.

³¹⁸ Writ Petition No. 1666 of 2023

³¹⁹ PLD 2020 Sindh 533

³²⁰ Writ Petition No. 1666 of 2023

³²¹ PLD 2020 Sindh 533

C. Legal context and legal system

Legal system

Pakistan follows a common law legal system, inherited from British colonial rule, while also incorporating elements of Islamic law (Sharia) into its legal framework. The Constitution of Pakistan explicitly recognizes the country as an Islamic Republic, and the Objective Resolution, which forms a substantive part of the Constitution under Article 2A, declares that sovereignty belongs to Allah alone and that Muslims shall be enabled to live in accordance with the teachings and requirements of Islam. Furthermore, Article 227 of the Constitution mandates that all existing laws shall be brought into conformity with the injunctions of Islam as laid down in the Qur'an and Sunnah, and no law shall be enacted which is repugnant to these injunctions. As a result, Pakistan's legal system operates through a blend of common law principles and Islamic jurisprudence, especially in areas such as family law, inheritance, and criminal law.

International legal frameworks, sources, and legal grounds

In evaluating the legality of barriers to asylum, Pakistani courts, despite the absence of a domestic asylum framework and Pakistan's non-signatory status to the 1951 Refugee Convention, have broadly referenced international treaties to interpret fundamental rights in the Constitution in alignment with Pakistan's international commitments. In *Rahil Aziz v Federation of Pakistan*,³²² the Islamabad High Court invoked Articles 31 and 33 of Convention Relating to the Status of Refugees 1951, Article 3 of the Convention Against Torture (CAT), and Articles 2, 9, and 12(2) of the International Covenant on Civil and Political Rights (ICCPR) to uphold the principle of non-refoulement, reject criminal liability for irregular entry by refugees, and call for a procedural mechanism for asylum seekers. The Court recognized the doctrine of incorporation, affirming that international law that supplements domestic law may be applied even where Pakistan is not a formal party. Similarly, in *Hashmat Ullah v, the Interior Ministry of Pakistan*,³²³ the court affirmed the applicability of international human rights instruments such as the ICCPR, UDHR, and CAT, recognizing that non-citizens are entitled to protection from being returned to countries where they risk torture, thus upholding the principle of non-refoulement. Invoking the doctrine of incorporation, the court extended constitutional protections to non-citizens and cited Articles 4 and 9 of the Constitution, Article 3 of the UNCAT, and Articles 6, 7, and 13 of the ICCPR, which safeguard the right to life, protection from torture, and due process. Referring to Article 14 of the UDHR, the court emphasized Pakistan's obligation to fairly assess asylum claims prior to any deportation. In *Naureen Masood v Government of Pakistan*³²⁴ the Court cited Article 16 of the Universal Declaration of Human Rights (UDHR) and Article 23 of the ICCPR to uphold the right to citizenship of a spouse married to a Pakistani woman.³²⁵ Similarly, in *Fazal Haq v NADRA*³²⁶ the Court cited Article 7 of the Convention on the Rights of the Child (CRC) and Article 15 of the Universal Declaration of Human Rights to uphold the principle of *jus solis* to grant citizenship under Section 4 of the Pakistan Citizenship Act, 1951. These cases illustrate a consistent judicial approach where courts draw on international human rights law, particularly instruments like ICCPR, CAT, UDHR, CRC, and the Refugee Convention (even if not ratified), to assess the legality and fairness of state action related to asylum, detention and access to legal identity.

Use of Foreign Case Law and Legislation in the Adjudication of Asylum Access Barriers

Yes, judicial bodies in Pakistan do invoke foreign case law, though selectively, primarily to fill gaps in domestic jurisprudence, support legal reasoning, or illustrate comparative legal principles.

³²² Writ Petition No. 1666 of 2023

³²³ Writ Petition No. 4840 of 2023

³²⁴ Writ Petition No. 2469-P of 2022

³²⁵ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

³²⁶ Writ Petition No. 1254 of 2022

In *Aamir Aman v Federation of Pakistan*,³²⁷ the Sindh High Court referred to the Indian case *Dongh Liam Kham v Union of India*³²⁸ to compare how courts in similarly placed jurisdictions, without formal asylum legislation and not party to the 1951 Refugee Convention, have treated refugee rights. The Indian court upheld non-refoulement as part of the right to life under Article 21 of the Indian Constitution. While the Court found the Indian judgment useful for comparative purposes, it distinguished the facts and concluded it did not directly support the government's case. This shows that foreign decisions are persuasive, and courts apply them cautiously, assessing their relevance to factual contexts.

In *Saeed Abdi Mahmud v NADRA*,³²⁹ the court explored the principle of *jus soli* (citizenship by birth) by citing foreign constitutional traditions, particularly from the United States and the United Kingdom. Judgments such as *United States v Wong Kim Ark*³³⁰ and references to the 14th Amendment were used to trace the historical and legal evolution of birthright citizenship. These references helped clarify the conceptual basis of Pakistan's own citizenship laws and aligned judicial reasoning with comparative legal developments.

Similarly, in *Naureen Masood v Government of Pakistan*, the court invoked UK jurisprudence to review administrative decisions for irrationality. It applied the *Wednesbury* unreasonableness test from *Associated Provincial Picture Houses Ltd v Wednesbury Corporation*,³³¹ and later developments such as *Council of Civil Service Unions v Minister for the Civil Service*³³². These cases helped the court frame the standard for striking down administrative decisions that are illogical or unreasonable, reinforcing principles of fairness and reasonableness in Pakistan's judicial review framework.³³³

In *Fazal Haq v NADRA*,³³⁴ the court examined citizenship by birth under Section 4 of the Pakistan Citizenship Act, 1951, and placed Pakistan's position in an international context by noting how countries like France and the UK have moved away from *jus soli*. While no specific foreign cases were cited in this judgment, the reasoning reflected a broader comparative lens, reinforcing that Pakistani courts may refer to foreign legislative trends to highlight Pakistan's legal continuity or divergence.

Reference to decisions from international or supranational tribunals

Judicial bodies make rare reference decisions from international or supranational Courts, especially in the limited context of asylum matters. The research has not yet found cases where such decisions have been cited or have significantly impacted the outcome for asylum in Pakistan.

International human rights standards established by supranational courts

In Pakistan, national judicial bodies occasionally refer to international human rights standards, but not directly to the decisions of supranational courts such as the European Court of Human Rights (ECtHR). Instead, Pakistani courts have drawn on the substantive content of international human rights instruments, such as the ICCPR, CAT, and UDHR, to interpret and assess barriers to asylum, especially in the absence of domestic refugee legislation.

D. Laws and norms at the domestic level

Pakistan lacks a specific, dedicated national legislative framework or statutory act governing refugees and asylum seekers.

³²⁷ PLD 2020 Sindh 533

³²⁸ 2016 226 DLT 208, Delhi High Court

³²⁹ Writ Petition No. 3030 of 2017

³³⁰ 169 U.S. 649, 1898

³³¹ 1948 1 KB 223

³³² 1985 AC 374

³³³ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

³³⁴ Writ Petition No. 1254 of 2022

The principle of non-refoulement

Pakistan is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, and the country, at the time of writing, does not have an express statutory domestic legal provision prohibiting the return of an individual to a territory where they face a threat to their life or freedom. Nevertheless, courts have acknowledged and applied the principle of non-refoulement through the lens of constitutional rights, customary international law, and international human rights treaties to which Pakistan is a party, such as the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT).

In *Rahil Azizi v Federation of Pakistan*³³⁵, the Islamabad High Court held that section 14(2) of the Foreigners Act, which criminalizes unauthorized entry, must be interpreted considering Article 3(1) of CAT and Articles 9 and 12(2) of the ICCPR, which protect the right to liberty and freedom of movement. The Court found that returning Ms. Azizi, a former Afghan police officer fleeing Taliban persecution, could violate the principle of non-refoulement. The judgment emphasized that laws should not act as a “trap” for individuals seeking protection and that the intent to save one’s life cannot be treated as an unlawful act.

Similarly, in *Hashmat Ullah v Interior Ministry of Pakistan*³³⁶ the Peshawar High Court ruled that individuals seeking protection cannot be summarily removed without due consideration of their asylum claims, even if they entered Pakistan unlawfully. The court recognized the obligation to assess the risk of torture or harm upon return, reinforcing the application of non-refoulement as part of the constitutional guarantee to life and dignity under Articles 4, 9, and 14 of the Constitution of Pakistan.

The right to asylum

The right to asylum is not recognized nationally; however, certain jurisprudence of the courts has granted protection to asylum seekers (i.e. right to stay in the country). For example, in *Aamir Aman v Federation of Pakistan*³³⁷, the Sindh High Court recognized that individuals with pending asylum applications before UNHCR have a legitimate expectation not to be deported until a decision is made. Similarly, the Peshawar High Court (PHC) in several cases has granted protection from deportation and, correspondingly, a temporary right to stay; in January of 2025, the PHC issued an interim order explicitly restraining the federal government from forcibly repatriating a group of roughly 150 Afghan singers and musicians who had sought asylum after the 2021 Taliban takeover. The Court directed the Ministry of Interior to resolve their asylum applications within two months, ruling that they could not be deported while their legal status was pending determination.³³⁸ Moreover, PHC granted bail to 68 detained Afghan nationals, including many children under the age of 18 and individuals holding Pakistan Origin Cards (POCs). The court emphasized humanitarian considerations alongside domestic protections, establishing that prolonged incarceration under the guise of pending deportation protocols is legally unsustainable.³³⁹

While the entitlements are not codified in law as the right to asylum, such decisions reflect a judicial ability to interpret existing constitutional and international obligations in a manner that offers limited but meaningful protection to asylum seekers within Pakistan.

Sources of international refugee law that are relevant to asylum access adjudication

In Pakistan, the main sources of international refugee law relevant to asylum access adjudication would include various international treaties, including primarily the 1951 Refugee Convention, the 1967 Protocol, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture

³³⁵ Writ Petition No. 1666 of 2023

³³⁶ Writ Petition No. 4840 of 2023

³³⁷ PLD 2020 Sindh 533

³³⁸ Associated Press (AP News): “A Pakistani court suspends the deportation of Afghan singers and musicians” (January 10, 2025), <https://apnews.com/article/pakistan-courts-afghan-musicians-singers-deportation-taliban-b8dd59aec4c704bbba72592fe43d198c>

³³⁹ Ariana News: “Peshawar High Court grants bail to 68 detained Afghan nationals, including minors” (March 19, 2026), <https://www.ariananews.af/peshawar-high-court-grants-bail-to-68-detained-afghan-nationals-including-minors/>

(CAT). Although Pakistan is not a party to the Refugee Convention or the 1967 Protocol, Pakistani courts have nonetheless drawn on key principles from these instruments to interpret domestic laws in a rights-compliant manner.

These international legal standards are incorporated primarily through judicial interpretation. Pakistani courts have applied international legal norms, particularly those consistent with constitutional guarantees, even if Pakistan has not enacted specific implementing legislation. For example, in *Rahil Azizi v Federation of Pakistan*,³⁴⁰ the Islamabad High Court referenced Articles 31 and 33 of the Refugee Convention, alongside Pakistan's obligations under CAT and ICCPR, to interpret Section 14(2) of the Foreigners Act in a way that prevents the criminalization of refugees fleeing persecution. Similarly, in *Hashmat Ullah*,³⁴¹ the court invoked ICCPR and CAT to reinforce protections against arbitrary deportation.

Other obligations stemming from general public law, criminal law, humanitarian law, civil law

Fundamental rights guaranteed in the Constitution of Pakistan, 1973, such as the right to life and liberty (Article 9), dignity (Article 14), due process and fair trial (Article 10-A), and equal protection of the law (Article 4) are available to all persons, regardless of citizenship status. Courts have affirmed in cases such as *Rahil Azizi v Federation of Pakistan*³⁴² and *Hashmat Ullah v Interior Ministry of Pakistan*³⁴³ that these rights apply to asylum seekers. These cases demonstrate how constitutional protections are invoked to prevent arbitrary detention or deportation and to uphold procedural safeguards.

Asylum seekers have been able to challenge decisions affecting their right to legal identity if unreasonable restrictions are placed by executive authorities such as NADRA. For instance, in *Naureen Masood v Government of Pakistan*,³⁴⁴ the court applied principles of judicial review, including Wednesbury unreasonableness, to strike down NADRA's inflexible administrative requirements for Afghan spouses seeking documentation. This illustrates how administrative fairness and proportionality can be used to secure access to legal identity or protection. Courts have also consistently accepted challenges against NADRA's blocking of identity cards previously granted, holding it outside their domain and against constitutional and legal protections.³⁴⁵

Criminal law also intersects with asylum adjudication through the Foreigners Act, 1946, which criminalizes unlawful entry. However, courts have increasingly held that this law must be interpreted considering constitutional and international legal obligations, particularly the principle of non-refoulement, as seen in *Rahil Azizi's* case. There, the Islamabad High Court ruled that refugees fleeing persecution should not be treated as criminals, and that entry without documentation does not automatically warrant prosecution under Section 14(2) of the Act.

Membership in a regional or other international organization

Pakistan is not a member of any regional organization that issues legally binding acts specifically related to asylum. However, Pakistan is a member of the United Nations and has ratified several international human rights treaties that create binding obligations relevant to the rights of asylum seekers as well.

The role of soft law in asylum access adjudication

It is unclear what tangible impact UNHCR guidelines and internal circulars might have had on the adjudication of asylum claims, but arguably these engage governments on policies more than courts. Courts have, however, recognized UNHCR's official mandate and determinations on refugee status when

³⁴⁰ Writ Petition No. 1666 of 2023

³⁴¹ Writ Petition No. 4840 of 2023

³⁴² Writ Petition No. 1666 of 2023

³⁴³ Writ Petition No. 4840 of 2023

³⁴⁴ Writ Petition No. 2469-P of 2022

³⁴⁵ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act. =

adjudicating cases involving refugees and asylum seekers, particularly in the absence of a formal domestic legal framework.

In *Rahil Azizi v. Federation of Pakistan*³⁴⁶, the Islamabad High Court explicitly acknowledged the refugee status granted by UNHCR and held that a person fleeing persecution, such as Ms. Azizi, who had been issued refugee documents by UNHCR, should not be treated as a criminal under Section 14(2) of the Foreigners Act for entering Pakistan without a visa. The court emphasized that the government must create mechanisms consistent with Article 31 of the 1951 Convention (even though Pakistan is not a signatory) to allow asylum seekers to report to authorities and register with UNHCR. It also ruled that refugees recognized by UNHCR should not be detained like undertrial prisoners, and they are entitled to protection from deportation until their cases are resolved.

In *Aamir Aman v. Federation of Pakistan*³⁴⁷, the Sindh High Court instructed that petitioners be allowed to remain in Pakistan until UNHCR had made a final determination, and that the government must provide them the opportunity to seek legal remedies before enforcing deportation.

E. Legal standing

Depending on the nature of the barrier, remedies can be sought at different tiers of the court, including the lower courts (Magistrate) to challenge arbitrary arrest and detentions, as an example. Several cases seeking a wide range of remedies originate in lower courts, but these are difficult to trace.

Additionally, individuals facing barriers to asylum access, such as deportation, detention, or denial of citizenship, usually seek remedies through constitutional petitions filed under Article 199 of the Constitution of Pakistan, 1973, on the grounds that fundamental rights are being violated (which is a broader protection). This provision empowers the High Courts to issue writs for the enforcement of fundamental rights. Petitioners can invoke various constitutional protections, including the right to life and liberty (Article 9), safeguards against arbitrary arrest and detention (Article 10), the right to a fair trial and due process (Article 10-A), and the right to dignity (Article 14).

In addition to asylum-related cases, constitutional petitions have also been filed in matters concerning identity and citizenship in high courts. For example, foreign spouses of Pakistani women who face denial of Pakistan Origin Cards (POC) or national identity documents can challenge these decisions, invoking the right to equality (Article 25), the right to be treated in accordance with law (Article 4), and the protection of the family (Article 35). Courts have provided relief in cases such as *Naureen Masood v Government of Pakistan*³⁴⁸ and *Fazal Haq v NADRA*, where administrative decisions were found to be arbitrary or discriminatory.

Furthermore, public interest litigation (PIL) can be used to challenge broader state actions. Notably, a constitutional petition was filed before the Supreme Court of Pakistan to contest the mass deportation of Afghan nationals under the Illegal Foreigners Repatriation Plan (IFRP). Filed by human rights organizations and individual petitioners, this case was heard before being disposed off by the Supreme Court quickly, still illustrating how constitutional remedies can, in theory, be used to challenge policies affecting large groups.

F. The influence of international Courts

N/A for the cases found under the research to date.

Jurisprudence of supranational courts shaping procedural protections or interpretation

³⁴⁶ Writ Petition No. 1666 of 2023

³⁴⁷ PLD 2020 Sindh 533

³⁴⁸ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

N/A for the cases found under the research to date.

G. Comparative insights

Divergences among judicial bodies

There are notable divergences among the judiciary in Pakistan regarding the legality of asylum-specific barriers, largely shaped by variations in legal interpretation, institutional approaches, and case-specific facts. For instance, earlier rulings like *Dilawar Khan v. State* and *Muhammad Noorullah Kabir v. State* reflect a formalist mindset, treating undocumented migrants as criminals under the Foreigners Act, with little regard for protection needs or international human rights obligations. These courts prioritized immigration control over the rights of vulnerable populations, focusing narrowly on statutory compliance and often overlooking international norms.

In contrast, more recent decisions such as *Rahil Azzizi v. The State* and *Hashmat Ullah v. Ministry of Interior* represent a jurisprudential shift. Courts like the Islamabad and Peshawar High Courts have moved toward a more protection-sensitive, rights-based approach. In *Rahil Azzizi*, for example, the court applied international human rights treaties, emphasized constitutional protections for all persons “for the time being in Pakistan,” and challenged the criminalization of refugee entry. Similarly, *Hashmat Ullah* the Court stressed the obligation to consider non-refoulement claims and ordered the government to process asylum applications despite the absence of a domestic asylum framework. These rulings show a rights-based interpretation of constitutional provisions in alignment with international obligations.

These divergences are partly due to institutional and provincial differences. It can also be argued that newer cases have seen active judicial interventions, partly in response to heightened advocacy, global scrutiny and legal arguments grounded in constitutional and treaty obligations. Still, while some courts are now recognizing the legal standing and vulnerability of asylum seekers, others continue to view them through a national security or immigration enforcement lens.

The divergence also appears in cases concerning citizenship and identity documentation. Earlier cases (e.g., *Ghulam Sana*) adopted a restrictive reading of the Citizenship Act, excluding refugees by default. More recent cases like *Saeed Abdi* and *Naureen Masood*³⁴⁹ have adopted a rights-based reading, curbing administrative overreach and reinforcing statutory entitlements (e.g., birthright citizenship, marriage-based recognition). However, *Saeed Abdi* can be distinguished on the basis that the individual in question was a Somali person rather than an Afghan, as some earlier jurisprudence of the courts has exclusively singled out Afghans as not being eligible for citizenship pathways.

Divergences between national courts and supranational rulings

N/A

Broader principles established by international bodies

National judicial decisions have, at times, aligned with broader international principles concerning the right to asylum, even though Pakistan is not a party to the 1951 Refugee Convention or its 1967 Protocol. Courts have relied on international human rights instruments, such as the ICCPR and the Convention Against Torture (CAT), to interpret state obligations in asylum-related matters, as mentioned above

Best practices or lessons learned from the adjudication of asylum barriers

One such practice is the use of constitutional protections for persons, particularly the rights to life (Article 9), dignity (Article 14), and fair trial (Article 10A) to safeguard the rights of asylum seekers and prevent arbitrary deportations or detention.

³⁴⁹ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

Judges have also demonstrated a willingness to interpret these constitutional rights broadly, considering international human rights principles. For example, in cases like *Aamir Aman v. Federation of Pakistan* and *Rahil Azizi v. Federation of Pakistan*, courts acknowledged refugee status determinations made by UNHCR and used them as a basis to halt deportation, citing potential threats to life and liberty. This indicates a flexible and humanitarian approach to adjudication, even in the absence of binding refugee laws.

H. Role of expert testimony

The Higher Courts have appointed an *Amicus* to assist in ongoing matters before it.

I. Future Directions

Emerging trends or evolving issues in asylum law

Yes, Higher Courts in Pakistan have shown a case-by-case willingness to protect refugee rights through constitutional interpretation, particularly by invoking rights to life, dignity, and due process. However, recent political and policy shifts have created an increasingly restrictive environment for refugees and asylum seekers, particularly Afghans, and corresponding pressure on institutions, including the judiciary.

A key structural change has been the reconstitution of the Judicial Commission of Pakistan (JCP). Following the 27th Amendment in late 2025, parliamentary and executive members now hold decisive weight in appointments, and the creation of the Federal Constitutional Court (FCC) has replaced the Supreme Court as the ultimate guardian of fundamental rights. The FCC's inaugural judges were appointed directly by the President, a concern for separation of powers.

For asylum seekers, these changes carry critical implications. Pakistan lacks a dedicated asylum law, so adjudicators now operate under heightened scrutiny. The 26th Amendment also introduced annual performance reviews and allowed “inefficiency” as a ground for removal of a vaguely defined standard that could deter judges from ruling against government deportation or restrictive policies for fear of career repercussions. Moreover, with a greater role of the political representatives in appointing judges, the independence of judges deciding rights-based issues is an issue.

An evolving issue of particular significance is the legal status of Afghan spouses and their children. The *Naureen Masood* case had previously established an important precedent under Section 10 of the Pakistan Citizenship Act, 1951, facilitating documentation for men married to Pakistani women. However, in late 2025, a three-judge bench of the Supreme Court suspended the judgment, creating a legal vacuum for thousands of “mixed” families. This suspension halts the progressive interpretation of Section 10, leaving foreign spouses of Pakistani women vulnerable to deportation or denial of identity documents. For example, in *Fauzja Bibi and another v. Federation of Pakistan / NADRA*, Writ Petition No. 1111-P/2026, decided by the Peshawar High Court on April 6, 2026 and subsequent petitions before it, the Peshawar High Court has been forced to intervene on an individualized basis, such as by issuing a time-bound 6-month protective interim order restraining Law Enforcement Agencies (LEAs) from deporting the petitioner's Afghan spouse under the Foreigners Act, 1946, while directing the family to resubmit individualized pleas to NADRA.³⁵⁰ Pending the Supreme Court decision, a permanent, streamlined regulatory pathway remains contested at the apex court, the High Court routinely issues case-specific protective orders.³⁵¹

Additionally, the 27th Amendment empowered the executive to transfer High Court judges across provinces without consent, with refusal constituting misconduct. This creates the potential for

³⁵⁰ *PHC disposes of plea of woman seeking POC for Afghan spouse*, Dawn News (Published April 6, 2026), <https://www.dawn.com/news/1988997>

³⁵¹ See e.g., *Mst. Andaleeb & Rahman Gul v. Federation of Pakistan / NADRA*, Writ Petition No. 582-M/2024 (Peshawar High Court, Judicial Department), https://peshawarhcmg.gov.pk/case_files/2025/2025_04_30/250430110425am165.pdf; See also the Ministry of Interior's response in *Mst. Mulqais Bibi vs. Federation of Pakistan & others*, W.P. No. 531-M/2023 https://peshawarhcmg.gov.pk/case_files/2025/2025_02_11/250211103432am184.pdf

administrative control over which judges hear sensitive asylum matters, effectively weakening judicial independence in migration-related cases.

II. IDENTIFICATION OF LEADING DECISIONS

Detention:

- 1) Writ petition No. 1666 of 2023, *Rahil Azizi vs The State & Others*.

Procedural barriers:

Barriers to resettlement: exit restrictions & visa systems:

- 1) Writ petition No. 1666 of 2023, *Rahil Azizi vs. The State & Others*.
- 2) Writ petition No. D-6606 of 2016, *Aamir Aman vs. Federation of Pakistan*.

Denial of Access to Asylum through Internal Enforcement:

- 1) Writ petition No. 4840 of 2023, *Hashmat Ullah etc. vs. The Interior Ministry of Pakistan through Secretary Interior, Islamabad etc.*
- 2) Writ Petition No. 1030 of 2025, *Jamal Uddin and Others vs. Federation of Pakistan, and others*.

Discriminatory application of citizenship laws, which is a means of accessing asylum

- 1) Writ petition No. 2469-P of 2022, *Mst. Naureen Masood vs. Government of Pakistan*.
- 2) Writ Petition No. 3030 of 2017 *Saeed Abdi vs. National Database Registration Authority & Others*.

A. Description of the barriers in the selected decisions

Formality or informality of the barrier

Detention: In *Rahil Azizi*, the barrier comes directly from the legal framework of the Foreigners Act 1946, particularly the possibility of prosecuting someone under section 14 for illegal entry. The legal issue before the Court was how the law itself is interpreted and applied to a refugee who entered the country without authorisation, but to save her life. The Court clarified that the purpose of the Foreigners Act is to regulate entry and exit, not to criminalise people who cross borders out of necessity, especially when they immediately present themselves to the authorities. It held that the intention to seek refuge cannot be treated as an “illegal purpose” under section 14(2), which means the legal barrier that could turn asylum seekers into offenders is narrowed through interpretation. Since there was no evidence that Ms. Azizi knowingly entered illegally rather than to seek protection, the Court rejected the idea of treating her as a criminal under the Act and instead directed the Interior Ministry to issue an exit permit.

Barriers to resettlement: exit restrictions & visa systems:

In *Rahil Azizi*, the barrier is the criminalisation risk attached to irregular entry and exit under the Foreigners Act. Although Ms. Azizi entered Pakistan without prior authorisation, the Court held that this kind of entry cannot automatically be treated as a punishable offence when it is linked to a genuine attempt to seek refuge. The Court emphasised that the purpose of the Act is to regulate migration, not to criminalise forced movement for survival. By rejecting the application of section 14 in a punitive way and directing the Interior Ministry to issue an exit permit, the Court enabled the resettlement of Ms. Azizi to Australia.

In *Aamir Aman v. Federation of Pakistan*, the barrier is more clearly linked to the visa system as an administrative gatekeeping mechanism for stay and exit regulation. The abrupt refusal of state authorities to extend visas created an immediate risk of forced departure for Turkish nationals who had previously remained in Pakistan lawfully. The Court recognised that even in the absence of refugee legislation, the state must comply with constitutional guarantees, particularly the right to life and due process. It held that

the petitioners had a legitimate expectation to be heard before visa extensions were refused and allowed them to remain in Pakistan while their asylum claims were pending before UNHCR.

Denial of Access to Asylum through Internal Enforcement:

In *Hashmat Ullah v. Interior Ministry*, the barrier appears through internal enforcement under the Foreigners Act, where Afghan nationals were subjected to deportation proceedings due to irregular entry without documentation. The key issue was that Pakistan lacked a formal asylum framework, so their protection claims were not being processed. The Court held that unlawful entry cannot, by itself, justify denying protection against refoulement, and that asylum claims must still be given due consideration before removal. It clarified that seeking refuge is not an illegal act under section 14(2) and that constitutional rights apply even to non-citizens.

In *Jamal Uddin v. Federation of Pakistan*, the barrier is more about internal administrative enforcement through residence control and policing practices, even though the petitioners had lawful temporary status under Proof of Registration (PoR) cards. The risk of harassment and eviction reflected how enforcement actions on the ground can override or undermine existing legal stay arrangements. The Court intervened by directing authorities to comply with the existing notification and restraining any unlawful eviction or harassment. This shows a formal but implementation-level barrier, where protection exists on paper but access to secure residence is affected through enforcement behaviour, which the Court had to regulate through clear compliance orders.

Discriminatory application of citizenship laws, which is a means of accessing asylum

In *Mst. Naureen Masood v. Government of Pakistan*, the Court examined NADRA's requirement that Afghan spouses of Pakistani citizens present valid foreign passports and visas for Pakistan Origin Card (POC) registration. It held that this requirement was overly rigid and not explicitly mandated under the POC Rules, 2002, particularly given the applicants' long-term residence and weakened ties with Afghanistan. The Court found that NADRA's discretion must be exercised flexibly, taking into account alternative evidence such as marriage and residency history, to protect constitutional rights to family life under Articles 4 and 35. It further held the policy to be arbitrary and unreasonable, directing NADRA to treat the passport/visa requirement as non-mandatory and to issue reasoned decisions in case of refusal.³⁵²

In *Saeed Abdi v. NADRA*, the Court addressed the denial of a CNIC to a person born in Pakistan to Somali parents. It reaffirmed Section 4 of the Pakistan Citizenship Act, 1951, holding that citizenship by birth applies except in limited statutory exceptions (diplomatic status or enemy alien). The Court ruled that the petitioner was legally entitled to citizenship and that NADRA could not deny identity documentation where legal criteria were met. However, it clarified that formal recognition through the Ministry of Interior was still required before issuance of a CNIC.

Administrative obstacles faced by the applicant(s)

Detention: Rahil Azizi encountered significant administrative obstacles in accessing protection despite promptly approaching the authorities and being recognised as a refugee. Rather than being treated as someone seeking safety, she was dealt with primarily through the lens of immigration enforcement. A major barrier arose when the Ministry of Interior refused to issue an exit permit because criminal proceedings under section 14(2) of the Foreigners Act were pending against her. This prevented her from travelling to Australia, where she had already been granted asylum.

The absence of a domestic asylum framework or clear procedures for handling asylum claims meant that authorities lacked guidance on how to distinguish asylum seekers from other undocumented migrants. As a result, Ms. Azizi remained caught in legal and administrative processes for months, even though her

³⁵² *Federation of Pakistan through Secretary Ministry of Interior v. Mst. Naureen Masood*, Civil Petition for Leave to Appeal (C.P.L.A.) No. 544/2024 (Supreme Court of Pakistan, Appellate Jurisdiction) has suspended the operationalization of the blanket Peshawar High Court directive in this case pending a final constitutional determination of the Citizenship Act by the Supreme Court.

refugee status was not in dispute. These shortcomings led to unnecessary delays, prolonged uncertainty, and hindered her ability to reach safety. Recognising this, the Islamabad High Court criticised the state's approach and stressed that individuals seeking asylum should not be criminalised or prevented from accessing protection because of administrative delays and procedural gaps.

Barriers to resettlement: exit restrictions & visa systems: In both *Rabil Azizi v. The State* and *Aamir Aman v. Federation of Pakistan*, the applicants ended up trapped in administrative processes that made it difficult for them to access protection or move forward with resettlement.

In *Rabil Azizi*, even though she had already been recognised as a refugee by UNHCR and had a humanitarian visa from Australia, she was still unable to leave Pakistan because the Ministry of Interior refused to issue an exit permit. The refusal was tied to a pending criminal case under section 14(2) of the Foreigners Act, which had been initiated before her protection status was clarified. Lower courts were reluctant to intervene, and this allowed the situation to continue for longer than necessary, keeping her in a form of legal and practical limbo. The Islamabad High Court criticised this, noting that the lack of coordination between domestic criminal procedures and international protection needs effectively left an asylum seeker stuck in prolonged uncertainty.

In *Aamir Aman*, Turkish nationals who had been living and working legally in Pakistan suddenly faced the non-renewal of their visas without prior notice or clear reasoning. This happened even though they had pending asylum claims with UNHCR and no allegations of wrongdoing against them. The removal decisions placed them at immediate risk of deportation, forcing them to turn to the courts just to maintain their stay while their protection claims were still pending. The Sindh High Court noted that, in the absence of a proper asylum framework, relying on discretionary visa decisions without basic procedural safeguards exposed individuals to serious instability and risk.

Denial of Access to Asylum through Internal Enforcement: In both *Hashmat Ullah v. Ministry of Interior* and *Jamal Uddin v. Federation of Pakistan*, the petitioners encountered significant administrative obstacles that directly hindered their ability to access asylum or protection mechanisms. These obstacles were not only procedural but also structural, rooted in the absence of a formal asylum law or national refugee status determination system in Pakistan.

In *Hashmat Ullah*, the Peshawar High Court specifically recognized that no governmental mechanism existed through which individuals could formally apply for asylum. The Court noted that while the UNHCR is mandated to conduct refugee status determination (RSD) under the 1993 Cooperation Agreement, the federal government retains ultimate authority over whether an individual may remain in the country. However, the state had failed to even consider or process the petitioners' asylum claims, despite their engagement with UNHCR and the serious risk of persecution they faced as artists under Taliban rule. This inaction effectively blocked any path to legal protection. The petitioners were denied recognition and procedural engagement simply because they were undocumented, illustrating how executive inertia functions as a tool of exclusion. The Court concluded that this inaction violated Pakistan's obligations under international human rights instruments such as the UNCAT and ICCPR, which require states to at least consider claims where refoulement risks exist.

Similarly, in *Jamal Uddin*, the administrative obstacle was not the absence of a legal status per se, since the petitioners held Proof of Registration (PoR) cards, but rather the failure of law enforcement and administrative agencies to comply with federal notifications extending their lawful stay. Despite the issuance of a notification allowing PoR cardholders to remain in Pakistan until June 2025, the applicants faced ongoing harassment, threats of eviction, and fear of deportation. These actions indicated a lack of coordination and enforcement discipline within the state apparatus, where provincial or local officials disregarded formal federal protections. The court's intervention was necessary to reaffirm compliance with existing administrative orders, highlighting the fragility and unpredictability of legal protections for asylum-seekers in Pakistan.

Discriminatory application of citizenship laws, which is a means of accessing asylum: In both cases, administrative hurdles effectively blocked people from securing legal status or protection, leaving them stuck in uncertainty and forcing them to go to court as a last resort.

In *Saeed Abdi Mahmood*, the applicant, born in Islamabad with a valid birth certificate, was still denied a CNIC by NADRA simply because his parents were not Pakistani. Instead of applying the clear wording of Section 4 of the Citizenship Act, NADRA subjected him to extra, unclear verification requirements. This delay had real-life consequences, limiting his access to education, work, and legal protection, and the Court criticised this kind of administrative rigidity as inconsistent with both the law and constitutional guarantees.

Similarly, in *Naureen Masood*, Afghan spouses of Pakistani citizens were required to produce documents like valid Afghan passports, visas, and security clearances, even though these requirements were not clearly set out in the POC Rules. For many long-settled families, these demands were difficult or impossible to meet, especially given their weak ties to Afghanistan. The result was prolonged uncertainty and repeated delays in obtaining legal recognition, with applicants left in a fragile legal position. The Court found these practices to be disproportionate and lacking in due process, noting that they undermined fair access to lawful residence and protection pathways.³⁵³

Challenges related to their legal standing or capacity

Detention: Initially, Rahil Azizi's undocumented entry was treated as a criminal act, reflecting a widespread presumption in Pakistani legal practice that undocumented migrants lack legal standing to assert rights. However, the Islamabad High Court directly confronted and overturned this assumption. It held that all persons "for the time being in Pakistan," irrespective of their legal status, are entitled to fundamental rights under the Constitution. The court invoked Articles 4 (right to be dealt in accordance with law), 9 (right to life), 10A (right to a fair trial), and 14 (right to dignity) to affirm Azizi's standing to seek protection, challenge her prosecution, and demand a lawful exit. Furthermore, the court relied on international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), both ratified by Pakistan, to emphasize that refugee protection is a binding obligation. The court accepted her UNHCR refugee certificate and Australia's offer of asylum as credible evidence of her vulnerability and protection status. Thus, while her legal standing had been contested in lower courts and by administrative authorities, the High Court's ruling redefined her position not as an offender, but as a rights-bearing individual with legal capacity to demand protection and relief. This was a landmark moment in recognizing constitutional and international law as tools to expand access to justice for asylum seekers in Pakistan.

Barriers to resettlement: exit restrictions & visa systems: In both *Rahil Azizi* and *Aamir Aman*, the applicants were allowed to bring their cases before the courts, and their legal standing was not formally challenged. However, in the absence of a national asylum framework, their standing was based on informal or discretionary recognition rather than statutory rights. In *Rahil Azizi*, lower courts refused to quash the FIR under the Foreigners Act despite her confirmed refugee status, reflecting how undocumented entry undermined her legal position until the Islamabad High Court intervened. Similarly, in *Aamir Aman*, the government argued that the Turkish petitioners had no right to remain once their visas expired, but the Sindh High Court affirmed their right to procedural protection while asylum applications were pending. Though the applicants ultimately secured relief, their standing remained fragile, highlighting the risks asylum seekers face in the absence of clear legal protections under domestic law.

Denial of Access to Asylum through Internal Enforcement: In both *Hashmat Ullah v. Ministry of Interior* and *Jamal Uddin v. Federation of Pakistan*, the applicants did not face significant challenges to their legal standing or capacity to bring the case. In fact, both High Courts affirmatively recognized the right of non-

³⁵³ A note to keep in mind that this ruling is currently suspended and before the Supreme Court of Pakistan. (*Federation of Pakistan through Secretary Ministry of Interior v. Mst. Naureen Masood* C.P.L.A. No. 544/2024 (Supreme Court of Pakistan).)

citizens, including undocumented individuals and asylum seekers, to approach the courts for protection under Pakistan's Constitution.

In *Hashmat Ullah*, the federal government argued that since the petitioners were undocumented Afghan nationals, they had no right to invoke the constitutional jurisdiction of the court. However, the Peshawar High Court explicitly rejected this position, relying on Articles 4, 9, 10, and 10A of the Constitution, which guarantee fundamental rights — such as the right to life, liberty, due process, and protection from arbitrary detention — to "every person" on the soil of Pakistan, regardless of citizenship status. The Court held that the denial of even a procedural mechanism to present a protection claim amounted to a breach of both constitutional and international obligations. The judgment reaffirmed that individuals facing a risk of refoulement have the legal capacity to seek judicial protection, even if their stay in Pakistan is technically unauthorized.

Similarly, in *Jamal Uddin*, there was no dispute over the petitioners' standing, as they were registered Proof of Registration (PoR) cardholders with temporary legal status. The Islamabad High Court accepted their petition and granted relief without questioning their capacity to bring the case. This further emphasized that individuals under threat of harassment or forced return — even when formally recognized as refugees or asylum seekers — retain full access to judicial remedies.

Therefore, in both cases, the applicants were able to assert their claims without procedural hurdles related to standing. In fact, the courts used these cases to reaffirm the broader principle that constitutional protections extend to all persons within Pakistan's territory, thereby strengthening legal access for vulnerable migrant and refugee populations.

Discriminatory application of citizenship laws, which is a means of accessing asylum: In both cases, the applicants successfully established legal standing, though their capacity to bring the case was shaped by the precariousness of their legal status and the broader context of exclusion they were contesting. In *Saeed Abdi Mahmood*, while the petitioner was not recognized as a citizen by NADRA, he was able to assert standing based on his birth in Pakistan, possession of official documentation (birth certificate, academic records), and the direct violation of rights under Section 4 of the Citizenship Act. The court did not question his locus standi and instead recognized that individuals in his situation must be afforded access to constitutional remedies, especially when faced with administrative denial of fundamental rights. However, the lack of a CNIC and the administrative classification of his parents as foreigners posed indirect challenges by reinforcing the perception of his "non-citizen" status, which he had to legally overcome through judicial intervention.

In contrast, *Naureen Masood*³⁵⁴ involved Afghan nationals married to Pakistani citizens were seeking Pakistan Origin Cards or nationality. Although their foreign status and lack of complete documentation could have made their legal position uncertain, the Court accepted their petitions mainly because the harm they faced, family separation, lack of legal recognition, and exclusion from citizenship pathways was directly linked to their marital relationship with Pakistani citizens, who are protected under the Constitution.

The case shows how access to court often depends on whether applicants can connect their claim to a recognised constitutional right, in this case, family life and protection from administrative overreach. While standing was ultimately granted, both this case and others highlight how uncertain legal identity can make it difficult for stateless persons or asylum seekers to even reach the stage of adjudication. These barriers don't necessarily block claims outright, but they make access to justice fragile and heavily dependent on judicial discretion.

³⁵⁴ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

Hearing

Detention: Rahil Azizi was heard by the Islamabad High Court through legal counsel in an in-person hearing. While the judgment does not specify the format of the hearing, the standard practice for High Court proceedings in Pakistan, especially in constitutional petitions under Article 199, is to conduct them in person with oral arguments. The court's detailed reasoning and explicit acknowledgment of Azizi's individual circumstances demonstrate that she was not only heard procedurally but that her personal story and legal position were meaningfully considered in the final judgment.

Barriers to resettlement: exit restrictions & visa systems: In both *Rahil Azizi v. The State* and *Aamir Aman v. Federation of Pakistan*, the applicants were heard by the respective High Courts through in-person proceedings.

Denial of Access to Asylum through Internal Enforcement: In both *Hashmat Ullah v. Ministry of Interior* and *Jamal Uddin v. Federation of Pakistan*, the applicants were heard directly by the judicial forum — the High Courts — in person and through counsel.

In *Hashmat Ullah*, the petitioners were represented by counsel, and the case was substantively argued in court, with the bench also appointing an *amicus curiae* to assist with legal questions concerning Pakistan's obligations under international law and the applicability of constitutional protections to non-citizens.

Discriminatory application of citizenship laws, which is a means of accessing asylum: In *Saeed Abdi Mahmood*, the Islamabad High Court conducted a full hearing where arguments were presented by legal counsel for the petitioner and representatives from NADRA, the Ministry of Interior, and other state actors. The judgment references the presence and submissions of various government officials and legal representatives, indicating a standard in-court adversarial process. Similarly, in *Naureen Masood*³⁵⁵, the Peshawar High Court heard multiple connected petitions collectively in person, with legal representation for the petitioners and respondents present in court.

Legal aid

Detention: Rahil Azizi had access to private legal representation supported by UNHCR, which played a critical role in the outcome of her case. Her lawyer effectively argued that Azizi's status as a refugee, first recognized by UNHCR and later accepted by Australia, rendered her prosecution under the Foreigners Act not only unjust but unconstitutional. Legal counsel introduced both constitutional arguments and international legal standards, drawing on the ICCPR, CAT, and customary principles such as non-refoulement, to build a case for dismissal of the FIR and for the issuance of an exit permit. The Islamabad High Court engaged extensively with these arguments, including the doctrine of incorporation, which it used to integrate Pakistan's international obligations into its interpretation of domestic law. Without this level of informed and strategic legal advocacy, it is unlikely the court would have adopted such robust rights-based reasoning. Thus, the presence of high-quality legal aid was determinative in shifting the court's view from a procedural to a protection-based analysis, and it exemplifies the critical role legal representation plays in facilitating access to justice for asylum seekers.

Other barriers: In all other cases, the applicants were represented by lawyers, and there is no information available on whether legal aid was made available officially.

Applicant's vulnerability

Detention: Ms. Azizi's vulnerability was central to the Islamabad High Court's reasoning. The court recognized that she was not simply an undocumented migrant but a woman fleeing persecution from Taliban-controlled Afghanistan, who had sought refuge in Pakistan after a regime change. It acknowledged her refugee status as certified by UNHCR and her accepted resettlement by Australia as decisive indicators

³⁵⁵ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

of her protection needs. The court emphasized that prosecuting or detaining such individuals under the Foreigners Act not only violates international norms but also violates basic constitutional protections, particularly the right to life, liberty, dignity, and due process. The court also highlighted the broader systemic vulnerability of asylum seekers in Pakistan, who are often criminalized and detained for months due to the absence of a clear asylum regime or standard operating procedures. Azizi's personal circumstances, coupled with her legal status, prompted the court to frame its judgment around the need for institutional safeguards, recommending that the government develop a mechanism to identify and shield refugees from criminal enforcement.

Barriers to resettlement: exit restrictions & visa systems: In both cases, the applicants were considered vulnerable, and this recognition significantly influenced the adjudication process. In *Rahil Azizi*, as mentioned above. In *Aamir Aman*, while the vulnerability of the applicants was less pronounced, the Sindh High Court still recognized that the Turkish nationals and their families were at risk of harm if deported while their asylum applications were pending. The Court accepted their pending UNHCR status as an indicator of possible risk and directed that no adverse action be taken until the asylum process concluded. In both cases, courts were clearly guided by humanitarian considerations, treating the applicants' vulnerability as a key factor in their entitlement to protection.

Denial of Access to Asylum through Internal Enforcement: In both *Hashmat Ullah v. Ministry of Interior* and *Jamal Uddin v. Federation of Pakistan*, the applicants were considered vulnerable individuals, and this recognition clearly influenced the courts' adjudication and the form of relief granted.

In *Hashmat Ullah*, the vulnerability of the applicants was central to the petition. The applicants were Afghan nationals who had fled the Taliban regime and specifically identified themselves as artists and performers, a group directly targeted by the de facto authorities in Afghanistan. The court acknowledged the risk of torture, persecution, and degrading treatment if the petitioners were returned, particularly due to their association with show business — an industry banned by the Taliban. The Peshawar High Court cited international legal instruments, including the UN Convention Against Torture (UNCAT) and the ICCPR, to affirm that Pakistan had a duty to at least consider such protection claims. This recognition of the applicants' social and political vulnerability, along with their risk of refoulement, was pivotal in justifying the court's direction to the federal government to review their asylum claims and refrain from deportation pending a decision.

In *Jamal Uddin*, while the judgment does not explicitly refer to the applicants as “vulnerable,” the context strongly implies vulnerability due to their status as registered Afghan refugees under the PoR card scheme. The petitioners sought protection from harassment and eviction despite holding valid documents that allowed them to reside legally in Pakistan. The Islamabad High Court's willingness to issue a protective order, instructing authorities to comply with legal notifications and not harass the petitioners, demonstrates a judicial sensitivity to their precarious legal and social position, especially given the risks associated with potential deportation to Taliban-controlled Afghanistan.

Discriminatory application of citizenship laws, which is a means of accessing asylum: In both cases, the courts were clearly aware of the applicants' vulnerable position, and this shaped how they approached the issues. In *Saeed Abdi Mahmood*, the Islamabad High Court didn't explicitly label the petitioner as “vulnerable,” but it was evident that he was a young person born and raised in Pakistan to foreign parents, living without any formal legal identity documentation. The Court showed concern for this legal and social limbo created by NADRA's refusal to issue a CNIC. By relying on the clear wording of Section 4 and the constitutional guarantee of equal treatment under Article 4, the Court effectively recognised that people in such situations require closer scrutiny of administrative decisions that affect their basic rights and access to services.

In *Naureen Masood*, the vulnerability of the applicants was more explicitly addressed. The Peshawar High Court considered the long-term residence of Afghan nationals, their integration into Pakistani society, their familial ties through marriage, and the risk of family separation as compelling human factors. The court

emphasized that requiring a valid Afghan passport and visa for individuals who had lived in Pakistan for decades, often without ties to their country of origin, imposed an unreasonable burden that failed to account for their lived reality. The judgment referenced constitutional protections for the family unit and cited international human rights norms, including the Universal Declaration of Human Rights and ICCPR, reinforcing the idea that vulnerability, particularly of stateless spouses and their families, required a more humane and context-sensitive interpretation of the law. In both cases, the applicants' vulnerable positions influenced the courts to adopt a rights-based, protective approach, challenging rigid bureaucratic interpretations and reinforcing the role of the judiciary in safeguarding marginalized populations.³⁵⁶

B. Impact of the judicial body's decision

Detention: The *Rahil Azizji* judgment has influenced legal practice and emerging jurisprudence in Pakistan regarding asylum seekers and undocumented foreign nationals. It is one of the first Pakistani High Court decisions to explicitly articulate that refugees cannot be criminalized merely for unlawful entry, and that constitutional rights extend to all persons, regardless of nationality or documentation status. Since the ruling, it has been cited in legal briefs and public interest litigations. In short, *Rahil Azizji* is helping to reorient legal responses to irregular migration in Pakistan from criminal enforcement toward rights-based protection.³⁵⁷

Barriers to resettlement: exit restrictions & visa systems: Both *Rahil Azizji* and *Aamir Aman* have been cited in subsequent judicial proceedings, notably reflecting a growing judicial awareness of asylum-related protections in Pakistan.

In the aftermath of *Rahil Azizji*, the Islamabad High Court not only called on the federal government to establish a formal asylum framework and stop the detention of recognized refugees but also saw this judgment invoked in later litigation. For instance, a Supreme Court petition filed by Farhatullah Babar in November 2023 cited *Rahil Azizji* alongside *Aamir Aman* to seek protection for Afghan refugees facing deportation.³⁵⁸ Commentators describe *Rahil Azizji* as “charting a pathway” by grounding domestic interpretation of foreign laws in Article 31 of the 1951 Refugee Convention.³⁵⁹

Aamir Aman has similarly had resonance. Courts have referred to its recognition of procedural fairness for asylum seekers and the acceptability of deferring visa decisions pending UNHCR determination, reinforcing the principle that executive discretion must align with humanitarian and legal safeguards. The judgement of *Rahil Azizji* itself refers to *Aamir Aman* when discussing how UNHCR determinations carry a binding effect.

Although no formal asylum legislation has followed, these decisions function as legal precedents guiding lower courts and administrative bodies toward greater protection of refugee and asylum-seeker rights. The cases have been being cited in new petitions like the *Hashmat Ullah* case, to prohibit arbitrary detention, enable exit for resettlement, and encourage development of SOPs aligned with international norms.

Denial of Access to Asylum through Internal Enforcement: The *Hashmat Ullah v. Ministry of Interior* decision has influenced subsequent case law and legal practice in Pakistan, primarily by reinforcing the principle of non-refoulement and constitutional protections for non-nationals. The Peshawar High Court has consistently applied and built upon *Hashmat Ullah*'s reasoning, notably in its April 9, 2025, ruling that explicitly barred law enforcement agencies from harassing Afghan refugees holding valid Proof of

³⁵⁶ Ruling currently suspended while the matter is pending before the Supreme Court.

³⁵⁷ Arjumand Bano Kazmi, “*Illegal Migrants or Refugees?*” DAWN (15 October 2023)

<https://www.dawn.com/news/1781102/illegal-migrants-or-refugees?utm>

³⁵⁸ Shahid Rao, “*SC moved against refugees repatriation*” The Nation (07 November 2023)

<https://www.nation.com.pk/07-Nov-2023/sc-moved-against-refugees-repatriation?utm>

³⁵⁹ Arjumand Bano Kazmi, “*Illegal Migrants or Refugees?*” DAWN (15 October 2023)

<https://www.dawn.com/news/1781102/illegal-migrants-or-refugees?utm>

Registration (PoR) cards, affirming their legal right to stay until June 30, 2025.³⁶⁰ This demonstrates the Court actively upholding procedural norms and individual rights. Furthermore, subsequent petitions, such as *Mst. Andaleeb & others v. Federation of Pakistan & others*, have leveraged this precedent to seek protection against forced deportation and assert fundamental rights for Afghan nationals, indicating that *Hashmat Ullah* has instilled confidence in the judiciary's willingness to intervene.³⁶¹ The judgment's affirmation that fundamental rights extend to "any person who happens to be on the soil of Pakistan for time being" is a crucial interpretive move, making international obligations domestically enforceable through judicial review, even in the absence of specific domestic asylum legislation.

While *Hashmat Ullah* has nudged executive agencies toward greater caution in specific instances, signalling a "subtle shift" toward procedural norms in migration enforcement, its broader impact on the sweeping Illegal Foreigners Repatriation Plan (IFRP) remains complex and somewhat limited. The Peshawar High Court's directive for law enforcement to be informed about the PoR card ruling suggests an attempt to regulate executive conduct at the enforcement level. However, the executive's overall implementation of the IFRP has largely continued, with mass deportations of over 1.08 million Afghans by June 7, 2025, and ongoing reports of harassment and arbitrary arrests, including those with Afghan Citizen Cards (ACCs).³⁶² This persistent tension highlights a significant gap between judicial pronouncements aimed at individual protection and the executive's policy of mass expulsion, which often prioritizes perceived national security interests and utilizes broad "illegal foreigner" terminology to circumvent international legal definitions and protections.

Discriminatory application of citizenship laws, which is a means of accessing asylum: Both *Saeed Abdi Mahmood* and *Naureen Masood* have had a noticeable influence on subsequent case law and administrative practices related to citizenship and identity recognition in Pakistan. The *Naureen Masood*³⁶³ case has become a key precedent in the Peshawar High Court's approach to handling Pakistan Origin Card (POC) applications by foreign spouses, especially Afghan nationals. Since its issuance in December 2023, the judgment has been cited in subsequent rulings, including a notable 2025 case titled *Mst. Sanam Saleem v. Government of Punjab*, where the Peshawar High Court instructed NADRA and the Ministry of Interior to process POC applications in line with the *Naureen* principles, prohibiting rejections based on non-statutory requirements like passport and visa production, and emphasizing the need for individualized assessment and procedural fairness.³⁶⁴ This demonstrates that the decision has not only influenced judicial reasoning but is also shaping institutional practices by compelling NADRA to act within the legal bounds set by the POC Rules.

Similarly, the *Saeed Abdi Mahmood* case has been influential in reinforcing the interpretation of Section 4 of the Citizenship Act, 1951, as a clear entitlement to citizenship for individuals born in Pakistan, barring the two narrow exceptions outlined in the statute. The Islamabad High Court's recognition of the principle of *jus soli* has been cited in legal commentaries and indirectly referenced in arguments before other high courts, including in Lahore and Peshawar, particularly where undocumented children of long-term migrants or stateless persons have sought identity documents. Although the case focused on a Somali-born applicant, its doctrinal clarity on birthright citizenship has been adopted more broadly in advocacy and litigation concerning Afghan-origin individuals born in Pakistan. Importantly, the court's insistence

³⁶⁰ TNN, 'PHC Bars Harassment of Afghan Refugees with PoR Cards' TNN (9 April 2025) <https://tnnenglish.com/phc-bars-harassment-of-afghan-refugees-with-por-cards>

³⁶¹ *Mst Andaleeb & others vs. Federation of Pakistan & others*, (WP No. 436-M of 2025) https://peshawarhcm.gov.pk/case_files/2025/2025_04_24/250424032335pm1389.pdf

³⁶² Amnesty International, 'Urgent Action: 1.4 Million Refugees Need Registration Renewal' <https://www.amnesty.org/en/wp-content/uploads/2025/06/ASA3395192025ENGLISH.pdf>

³⁶³ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

³⁶⁴ Writ Petition No.5222-P/2024 <https://www.peshawarhighcourt.gov.pk/PHCCMS//judgments/WP5222-2024-----06-05-2025.pdf>

on literal statutory interpretation over discretionary administrative filtering has helped limit NADRA's scope for arbitrary refusals.

C. Consistency with previous jurisprudence

Reasons and extent of these differences

Detention: *Rahil Azizi* represents a clear jurisprudential divergence from how Pakistani courts have historically treated undocumented migrants and foreign nationals under the Foreigners Act, 1946. Earlier decisions, such as *Dilawar Khan*³⁶⁵ *v. State* and *Muhammad Noorullah Kabir v. State*,³⁶⁶ reflect a formalist and enforcement-oriented approach. In *Dilawar Khan*, the Balochistan High Court ultimately corrected a procedural flaw in the trial of an undocumented Afghan juvenile but made no effort to assess his potential protection needs or refugee status, instead treating him purely through a criminal lens. Similarly, in *Noorullah Kabir*, the Sindh High Court focused narrowly on whether the trial court had authority to order deportation, while ignoring the applicant's statelessness and prolonged post-sentence detention, effectively viewing him as an administrative problem rather than a rights-bearing individual. In contrast, *Rahil Azizi* breaks with this restrictive pattern by explicitly recognizing that the absence of a domestic asylum law does not absolve Pakistan of its international obligations, particularly under the ICCPR and the Convention Against Torture. The court invoked the doctrine of incorporation, holding that ratified treaties impose binding duties on the state that must inform the interpretation of domestic law, especially when fundamental rights like liberty and dignity are at stake. Rather than criminalizing the applicant, the court acknowledged her as a refugee entitled to constitutional and international protection, embedding refugee safeguards within Pakistan's constitutional order. This marks a clear shift from viewing undocumented foreigners as violators of immigration law to recognizing them as individuals deserving legal protection, placing the Islamabad High Court at the forefront of an emerging rights-based refugee jurisprudence in Pakistan.

Barriers to resettlement: exit restrictions & visa systems: The decisions in *Rahil Azizi* and *Aamir Aman* both partially align with and significantly expand previous jurisprudence of their respective High Courts, marking a notable shift in how asylum-related issues are adjudicated in Pakistan.

In *Aamir Aman*, the Sindh High Court built on earlier jurisprudence affirming that foreigners are entitled to certain constitutional protections while in Pakistan, particularly procedural fairness under Article 9. However, the Court went further by treating the government's informal acceptance of UNHCR processes as a binding commitment, and by explicitly restraining executive action against asylum seekers pending UNHCR decisions. This was a measured but progressive step beyond earlier case law, which typically upheld broad executive discretion under the Foreigners Act.

Rahil Azizi, decided by the Islamabad High Court, marked a clear doctrinal evolution. While it acknowledged prior jurisprudence on the application of international law, such as *Federation v. Shaukat Ali Mian*³⁶⁷, it went further by incorporating international refugee principles, including non-refoulement and Article 31 of the 1951 Refugee Convention, into the interpretation of domestic law. This interpretation was more expansive than previous cases, treating asylum seekers not merely as foreigners under immigration law but as rights-bearing individuals protected by both constitutional and international obligations. In doing so, the Court departed from the traditionally narrow application of the Foreigners Act and instead promoted a purposive, rights-based reading.

Thus, while both decisions remain anchored in existing legal principles, they represent a judicial shift toward interpreting Pakistan's legal obligations in line with international refugee protection standards, an area where previous jurisprudence had been limited or silent.

³⁶⁵ Criminal Appeal No. 55 of 2023 <https://portal.bhc.gov.pk/d6b1ec78-81e7-4038-80c9-212cba9acfc9>

³⁶⁶ 2008 MLD 916.

³⁶⁷ PLD 1999 SC 1026.

Denial of Access to Asylum through Internal Enforcement: Both *Hashmat Ullah v. Ministry of Interior* and *Jamal Uddin v. Federation of Pakistan* are consistent with the evolving jurisprudence of their respective High Courts. In *Hashmat Ullah*, the Peshawar High Court explicitly referenced the landmark *Rabil Azizi* case, affirming the principle that undocumented entry alone cannot invalidate an individual's right to seek protection from refoulement. The judgment built upon earlier reasoning from both the Islamabad and Sindh High Courts, which had previously underscored Pakistan's international obligations under treaties like UNCAT and the ICCPR, despite the absence of formal domestic asylum laws. Rather than diverging, *Hashmat Ullah* strengthened this growing body of jurisprudence by applying those principles to a larger group of applicants facing imminent risk of deportation.

Similarly, *Jamal Uddin*, though procedurally limited and newer, aligns with this judicial trend. By reinforcing the requirement that state authorities adhere to official stay notifications for registered refugees, the Islamabad High Court implicitly carried forward the logic of earlier cases like *Rabil Azizi* and *Aamir Aman*, which emphasize procedural fairness and the legal relevance of vulnerability and documentation. Together, these cases reflect a coherent and increasingly protective line of jurisprudence, gradually filling the legislative void with constitutional principles and international human rights norms.

Discriminatory application of citizenship laws, which is a means of accessing asylum: Both *Saeed Abdi Mahmood* and *Naureen Masood*³⁶⁸ represent a judicial shift in Pakistan's approach to interpreting citizenship rights for foreign-origin individuals. They diverge from earlier jurisprudence in key respects. In *Saeed Abdi*, the Islamabad High Court departed from the precedent set by the Peshawar High Court in *Ghulam Sanai v. National Registration Office* (PLD 1999 Peshawar 18), where the court had held that Afghan refugees, even if long settled in Pakistan, were not entitled to citizenship under Section 4 because of their refugee status. That earlier decision gave considerable weight to the Foreigners Act and emphasized the temporary nature of Afghan refugees' presence in Pakistan. In contrast, *Saeed Abdi* took a literalist and rights-based interpretation of Section 4, holding that birth in Pakistan, with the exceptions explicitly stated in the law, entitled an individual to citizenship regardless of parental origin, excluding only diplomats and enemy aliens.

Similarly, the decision in *Naureen Masood* marks a clear doctrinal and practical departure from earlier jurisprudence and administrative practice concerning the citizenship rights of foreign spouses of Pakistani women. It diverges from the reasoning adopted in *Sharifan v. Federation of Pakistan*, where the court upheld Section 10(2) of the Pakistan Citizenship Act and justified the denial of citizenship to foreign husbands on the grounds of potential immigration concerns and the status of women in private international law.³⁶⁹ In *Sharifan*, the court did not find any violation of Article 25 (equality clause) of the Constitution.

However, subsequent developments, particularly the 2006 *suo moto* ruling by the Federal Shariat Court, began to shift the legal landscape.³⁷⁰ That ruling explicitly held that Section 10(2) of the Citizenship Act was discriminatory and in direct violation of both Article 25 and Article 2-A of the Constitution, as well as Pakistan's international human rights obligations. The Court emphasized the principle of equality between male and female citizens in matters of family and nationality, thereby rejecting the rationale upheld in *Sharifan*.

In line with this evolving jurisprudence, the *Naureen Masood* judgment further advanced the principle of gender equality and non-discrimination, particularly by challenging the opaque and restrictive administrative practices employed by NADRA and the Ministry of Interior. These practices, such as requiring valid passports and visas from foreign spouses, which disproportionately affect Afghans, were previously accepted or overlooked by the courts. In *Naureen Masood*, the Peshawar High Court diverged from this pattern and found such requirements to be unsupported by the Pakistan Origin Card (POC)

³⁶⁸ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

³⁶⁹ [1998] PLD 59 (Lahore).

³⁷⁰ *Suo Moto* Case No. 1/K [2006] PLD 2008 FSC 1.

Rules and unconstitutional, especially considering protections for family life and procedural fairness. The Court also drew upon international human rights instruments, reinforcing its progressive interpretation.

Thus, *Naureen Masood* does not merely follow previous jurisprudence of the same adjudicating body; it diverges from earlier deference to administrative discretion and aligns more closely with recent constitutional and Shariat jurisprudence that recognizes equality in citizenship rights irrespective of gender. It signals a broader judicial shift toward upholding individual rights, family unity, and non-discriminatory access to citizenship for foreign spouses of Pakistani women.

Divergence establishing binding precedent

Detention: In *Rahil Azizi*, it is of key significance that the penal provisions of the Foreigners Act 1946 have been held not to apply in the context of refugees and asylum seekers with clear protection needs. This is a distinct and valuable precedent. The Islamabad High Court in *Azizi* treated refugee protection not as a discretionary humanitarian gesture, but as a binding legal obligation under both the Constitution and international treaties ratified by Pakistan. The court interpreted Section 14(2) of the Foreigners Act purposively, holding that it should not apply to persons entering Pakistan to flee persecution, particularly those later recognized as refugees by UNHCR. Significantly, the court employed international legal instruments (such as the ICCPR and CAT) as interpretive guides, a practice rarely seen in prior immigration jurisprudence in Pakistan. It also reconceptualized undocumented entry, not as an inherently punishable act, but as an exercise of the right to seek refuge when flight is driven by fear for life and liberty. The divergence is profound: it redefines criminal liability under the Foreigners Act, elevates the legal standing of asylum seekers, and imposes judicial limits on executive authority in deportation matters. As such, the decision is both doctrinally innovative and practically transformative, setting the tone for a more rights-compliant approach to asylum in Pakistan.

The decision also comes in the context of the post-Taliban government of 2021 influx of refugees from Afghanistan that Pakistan initially accommodated. Moreover, the role of UNHCR in this case, as well as a clear resettlement pathway, plays a part in the options available to the court.

Barriers to resettlement: exit restrictions & visa systems: Aamir Aman builds on the *Rahil Azizi* case. The courts in both cases expanded their application by incorporating international refugee norms, such as non-refoulement, into domestic legal reasoning. These rulings reflect a natural progression in filling legal gaps due to the absence of a formal asylum framework in Pakistan.

Denial of Access to Asylum through Internal Enforcement: There are no significant divergences between the decisions in *Hashmat Ullah* and *Jamal Uddin*; both reflect a consistent and evolving judicial approach toward protecting at-risk foreign nationals. However, the scope and legal reasoning differ slightly due to the nature of the cases.

Hashmat Ullah involved undocumented Afghan nationals and prompted a broader rights-based analysis. The Peshawar High Court grounded its reasoning in constitutional protections and international obligations under treaties like UNCAT and ICCPR, ordering the federal government to assess asylum claims within a set timeframe. In contrast, *Jamal Uddin* focused more narrowly on enforcing a government notification extending the petitioners' stay, without invoking broader refugee law principles.

Both decisions align with the judiciary's growing tendency to uphold procedural fairness and protection against refoulement in the absence of domestic asylum law.

Discriminatory application of citizenship laws, which is a means of accessing asylum: The divergences in *Saeed Abdi Mahmood* and *Naureen Masood*³⁷¹ from earlier jurisprudence stem primarily from a shift in judicial reasoning, away from a deferential, security-centric approach to a more rights-based,

³⁷¹ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

textual, and purposive interpretation of citizenship and identity laws. In earlier cases such as *Ghulam Sanai v. National Registration Office* (PLD 1999 Peshawar 18), the courts interpreted Section 4 of the Citizenship Act restrictively, emphasizing the applicant's refugee status and reliance on falsified documents as grounds for exclusion, and treating the Foreigners Act, 1946 as overriding. In contrast, *Saeed Abdi* re-centred the analysis around the plain meaning of Section 4, affirming that birth in Pakistan is the primary legal condition for citizenship, with only two specific exceptions. The Islamabad High Court explicitly rejected the notion that refugee status alone nullifies a birthright claim, thereby reinterpreting the legal threshold for citizenship by birth and reasserting the primacy of statutory guarantees over administrative assumptions.

In *Naureen Masood*, the divergence lies in the court's direct challenge to administrative overreach. Historically, NADRA imposed undocumented conditions, such as requiring a valid foreign passport and visa, even for Afghan spouses of Pakistani citizens, that were seldom scrutinized by courts. However, the Peshawar High Court in this case carefully dissected the legal text of the Pakistan Origin Card Rules, particularly Rule 4(5), and found that NADRA's internal instructions lacked legal basis and were inconsistent with both the rules and the constitutional right to family life. This marked a departure from earlier judicial reluctance to interfere in matters framed as national security or immigration control and introduced a more balanced approach that weighed administrative concerns against human rights and statutory protections.

The reasons for these interpretive shifts appear to lie in a growing judicial recognition of the harsh real-world consequences of legal limbo, especially for long-settled migrants, stateless persons, and mixed-nationality families. Courts now appear more willing to engage with constitutional principles (Articles 4, 9, and 35), the literal text of the law, and even international human rights norms to counterbalance executive discretion. The extent of these divergences is significant—not only in legal outcome but also in how rights, vulnerability, and statutory interpretation are framed. They reflect a broader evolution in Pakistani jurisprudence toward more inclusive readings of citizenship, challenging past practices that marginalized asylum seekers and refugee-adjacent communities through bureaucratic gatekeeping.

The decision aligns with or differs from resolutions on similar barriers

Detention:

Yes, *Rahil Aziz* was decided by a High Court, and its reasoning is binding on all subordinate courts. While Pakistan does not have a horizontal binding precedent system for high courts, such rulings, especially those interpreting constitutional rights and international obligations, carry strong persuasive value nationwide. Given the lack of Supreme Court precedent on refugee rights or the interpretation of the Foreigners Act in protection contexts, *Rahil Aziz* now serves as a leading authority. Lower courts across the country, especially those handling FIRs under the Foreigners Act, are increasingly asked to apply this reasoning. Legal representatives and human rights lawyers are invoking *Azizi* in bail applications, writ petitions such as the *Hashmat Ullah Case* and the Supreme Court petition pending adjudication,³⁷² and deportation challenges to argue that refugee status should shield individuals from criminal prosecution and arbitrary detention. Moreover, the judgment's call for institutional reform (such as SOPs to screen asylum seekers) is beginning to influence how some government departments approach the issue. In practical terms, it sets a judicial standard for future protection-sensitive adjudication, and its core principles are already shaping both courtrooms and policy discussions.

Other barriers:

All other cases are also of respective high courts and will be binding on subordinate courts while persuasive for other high courts. The Supreme Court decisions are binding on all subordinate courts (including high courts), however, no Supreme Court decision is yet available on the subject.

³⁷² Shahid Rao, 'SC moved against refugees repatriation' *The Nation* (07 November 2023)

<https://www.nation.com.pk/07-Nov-2023/sc-moved-against-refugees-repatriation?utm>

Evolutionary or restrictive approach

Detention: *Rahil Azizi v. Federation of Pakistan* represents a significant and defining example of an evolutionary approach to asylum barriers within Pakistan's judicial landscape. While it is extremely helpful to the current situation of asylum seekers as a precedent and relied upon in other cases, it's not clear whether future higher courts or the Supreme Court will necessarily build on this (considering the current political context and mass ongoing deportations). The case itself marks a crucial departure from a historically restrictive paradigm, where undocumented individuals, including asylum seekers, were often prosecuted and detained under the Foreigners Act, 1946, without due consideration for their protection needs or international obligations. Justice Babar Sattar's ruling adopts a rights-based and humanitarian framework, interpreting domestic law in consonance with Pakistan's constitutional values, particularly Articles 4, 9, 10-A, and 14, and the country's international commitments.³⁷³ The court's assertion that criminal liability cannot attach to individuals genuinely fleeing persecution, coupled with its robust application of the doctrine of incorporation for international human rights law, including principles of non-refoulement and Article 31 of the 1951 Refugee Convention (even though Pakistan is not a signatory), demonstrates a progressive shift in refugee jurisprudence. This judicial stance directly challenges the notion that mere illegal entry or overstay constitutes a criminal offense for those seeking asylum, effectively recognizing a *mens rea* (criminal intent) defence rooted in the pursuit of protection.³⁷⁴

This evolutionary judicial approach, also mirrored in interim orders by courts like the Peshawar High Court preventing forced repatriations, seeks to bridge the significant protection gap caused by Pakistan's lack of a formal, comprehensive national asylum law. The *Rahil Azizi* judgment explicitly calls for institutional reforms, urging the government to establish clear procedures for identifying and processing asylum seekers, thereby preventing criminalization and arbitrary detention, and to develop arrangements for their lodging.³⁷⁵ Academic literature and human rights organizations consistently highlight this legislative vacuum and the vulnerability it creates for refugees.³⁷⁶ While the judiciary, particularly the Islamabad High Court, is actively working to set contours for a more rights-sensitive approach, there exists a profound tension with the executive's predominantly restrictive policies, exemplified by the "*Illegal Foreigners' Repatriation Plan*" (IFRP), which has led to mass deportations and a widespread crackdown on undocumented Afghans.

Despite the profound legal significance and progressive tone of *Rahil Azizi*, the practical implementation of its recommendations for administrative reform by the executive has been limited. The government has largely continued with its policy of mass deportations under the IFRP, leading to a stark divergence between judicial pronouncements and executive action. This situation underscores that while the judiciary, in part, has been taking an evolutionary stance, pushing for greater alignment with international protection principles and domestic fundamental rights, the overarching state approach remains largely restrictive and unaligned with these judicial precedents. Therefore, while the decision itself fits well within an emerging evolutionary judicial approach, its effectiveness in fundamentally altering the broader state approach to asylum barriers is currently constrained by executive policy.

Notwithstanding the above, it is pertinent to note that the context in which the judiciary is operating has significantly altered post the 26th and 27th Constitutional Amendments, raising significant concerns of

³⁷³ Arjumand Bano Kazmi, 'Pakistan's Judicial Engagement with International Refugee Law' (2025) 36(4) *International Journal of Refugee Law* 397, <https://doi.org/10.1093/ijrl/eeaf001> <https://academic.oup.com/ijrl/article/36/4/397/7994654>

³⁷⁴ Arjumand Bano Kazmi, "'The law is not meant to act a trap': How can Pakistan change its approach to Afghan refugees and asylum seekers?" *Lacuna Magazine* (18 October 2023) <https://lacuna.org.uk/justice/how-can-pakistan-change-its-approach-to-afghan-refugees-and-asylum-seekers/>

³⁷⁵ Raas Nabeel, 'Case Note: *Rahil Azizi v the State and Others*' *Research Society of International Law (RSIL)* (18 October 2023), <https://rsilpak.org/2023/case-note-rahil-azizi-v-the-state-and-others/>

³⁷⁶ Arjumand Bano Kazmi, 'Pakistan's Judicial Engagement with International Refugee Law' (2025) 36(4) *International Journal of Refugee Law* 397, <https://doi.org/10.1093/ijrl/eeaf001> <https://academic.oup.com/ijrl/article/36/4/397/7994654>, <https://academic.oup.com/ijrl/article/36/4/397/7994654?login=true>

judicial independence and making it difficult for judges to go against executive policies, including on asylum matters.³⁷⁷

Barriers to resettlement: exit restrictions & visa systems: As discussed above under ‘Detention’, *Rahil Azizi*, represents a significant and defining example of an evolutive approach to asylum barriers within Pakistan’s judicial landscape. As for *Aamir Aman*, the decision fits squarely within an evolutive approach to asylum barriers endorsed in *Rahil Azizi*, directly contrasting with the executive’s often restrictive stance. The Sindh High Court, in *Aamir Aman*, demonstrated a clear willingness to restrain executive discretion by recognizing the legal weight of pending UNHCR applications and mandating that the government refrain from deporting applicants during their status determination process. This ruling, further reinforced by cases like

Rahil Azizi, crucially reinterpreted Section 14(2) of the Foreigners Act, clarifying that “the intent to seek refuge to save one’s life is not an illegal purpose” when read in conjunction with fundamental constitutional rights. This judicial interpretation significantly limits the criminalization of irregular entry for genuine asylum seekers, thereby reducing a major barrier to protection. This judicial trend stands in stark contrast to the executive’s actions, particularly the “Illegal Foreigners’ Repatriation Plan” (IFRP), which has led to mass deportations of Afghan nationals, including those with some form of documentation, often without adequate distinction between undocumented migrants and asylum seekers.³⁷⁸ Despite Pakistan not being a signatory to the 1951 Refugee Convention, its High Courts have proactively engaged with international human rights treaties like the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT), to which Pakistan is a party, to uphold the principle of non-refoulement. This “creative interpretation” of existing legal instruments and the consistent respect for UNHCR’s mandate highlight the judiciary’s role in constructing a protective framework for refugees in the absence of specific national refugee legislation.

However, this evolutive judicial approach operates within a complex and often contradictory landscape. While judicial decisions like *Aamir Aman* provide vital procedural safeguards and a legal shield against arbitrary executive actions, they are often reactive and cannot fully counteract the broad, sweeping directives of the executive, as seen with the ongoing IFRP. The absence of a comprehensive national refugee law means that protection remains largely contingent on individual litigation and judicial intervention, rather than a predictable, codified system. Thus, while *Aamir Aman* represents a significant evolutive step by a judicial body, the overall approach to asylum barriers in Pakistan remains a precarious balance between judicial protection and executive restriction.

Uniform across all cases, this evolving judicial posture suggests growing judicial endorsement of refugee rights in line with constitutional and international norms.³⁷⁹

Denial of Access to Asylum through Internal Enforcement: The decisions fit squarely within an evolving, protective judicial approach to asylum barriers in Pakistan. Courts have increasingly prioritized procedural fairness and *non-refoulement*, especially amid the harsh IFRP policies targeting Afghans.

In *Hashmat Ullah*, the Peshawar High Court stepped in to ensure that deportation actions did not override individual protection needs, directing the government to pause enforcement and evaluate each asylum claim under international human rights norms. Likewise, in *Jamal Uddin*, the Islamabad High Court stopped harassment of PoR cardholders under existing legal protections, further reinforcing due process. These rulings collectively point to a judicial trajectory increasingly resistant to executive enforcement, sweeping away procedural review.

³⁷⁷ Constitution (Twenty-sixth Amendment) Act, 2024

https://www.na.gov.pk/uploads/documents/671f74b8da9e0_263.pdf; Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

³⁷⁸ Amnesty International Urgent Action, ‘Pakistan: 1.4 Million Afghan Refugees at Risk of Deportation’, Index: ASA

33/9519/2025 <https://amnesty.ca/urgent-actions/pakistan-1-4-million-afghan-refugees-at-risk-of-deportation/>

³⁷⁹ While this has been the case, the future is more uncertain post constitutional amendments impacting the judiciary.

Discriminatory application of citizenship laws, which is a means of accessing asylum: The decisions in *Saeed Abdi Mahmood* and *Naureen Masood*³⁸⁰ clearly fit within an evolutive judicial trend that is slowly emerging in Pakistan in response to the long-standing exclusion of asylum seekers, refugees, and stateless persons from citizenship and legal identity frameworks. Both cases signify a shift toward a rights-based, textual, and humanitarian interpretation of the Pakistan Citizenship Act, 1951 and associated administrative rules. This trend diverges from earlier restrictive jurisprudence, where courts largely deferred to the executive's discretion in matters concerning foreigners, particularly Afghan refugees. As recent legal commentaries and reports have noted, such as UNHCR's *Statelessness in South Asia* (2023) and Jinnah Institute's briefing on *Legal Identity and the Afghan Refugee Population in Pakistan* (2022), there has been growing concern about the arbitrary and gendered application of citizenship laws, as well as the absence of legal protections for refugees born in Pakistan. The *Saeed Abdi* judgment, by reinforcing Section 4's jus soli principle, and *Naureen Masood*, by curbing NADRA's use of non-statutory barriers to marriage-based recognition, demonstrate judicial resistance to informal administrative exclusions and mark a cautious movement toward legal inclusivity.

These decisions also reflect an increasing judicial willingness to engage with international legal norms, such as the Universal Declaration of Human Rights and ICCPR, particularly in the *Naureen Masood* ruling, which referenced the right to family life and protection against arbitrary state interference. In this context, the rulings align with a broader global shift toward softening internal legal regimes for refugees and asylum seekers through case law, in the absence of comprehensive national asylum legislation. While Pakistan has not ratified the 1951 Refugee Convention, these judgments show how courts can still provide meaningful protections through progressive statutory interpretation, filling legal and policy gaps. Therefore, these decisions are best understood as part of an important evolutive approach to asylum and citizenship barriers in Pakistan's judicial landscape.

However, as mentioned above, how this approach and jurisprudence will be carried forward post the 26th and 27th Constitutional Amendments changes to the judiciary are yet to be seen. There are key concerns about judicial independence, which is likely to impact the judicial approach on all matters relating to the executive, including policies relevant to asylum.³⁸¹

³⁸⁰ It is important to note that the judgment has been suspended by the Supreme Court and remains under adjudication, with significant implications for future cases concerning Section 10 of the Pakistan Citizenship Act.

³⁸¹ Constitution (Twenty-sixth Amendment) Act, 2024

https://www.na.gov.pk/uploads/documents/671f74b8da9e0_263.pdf; Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

PART 3: SOCIO-LEGAL FACTORS

This third part of the Report is divided into four sections: I) Procedures in asylum access adjudication; II) Judicial or quasi-judicial bodies in asylum access adjudication; III) Other actors in asylum access adjudication; IV) Socio-political context.

I. PROCEDURES IN ASYLUM ACCESS ADJUDICATION

A. Access to judicial or quasi-judicial bodies

Pakistan's legal system theoretically provides mechanisms to challenge the legality of all asylum barriers noted; however, in practice, numerous obstacles prevent asylum seekers from effectively accessing these remedies. A significant disparity exists between the protections available in law and the procedural realities on the ground.

The legality of detention, for example, is formally subject to judicial scrutiny. Detainees can be produced before a magistrate, and higher courts can intervene through constitutional remedies such as a writ of habeas corpus.³⁸² However, in practice, detentions of asylum seekers are frequently arbitrary, carried out without due process or timely judicial oversight. Law enforcement agencies often do not record arrests, deny lawyers access to detention centres, and in many cases, asylum seekers are deported before their cases can be heard in court, rendering legal recourse ineffective. This practical inability to access the justice system transforms a legally reviewable barrier into one that is functionally immune from judicial oversight, as seen in the ongoing implementation of the Illegal Foreigners Repatriation Plan (IFRP) (as mentioned in earlier sections of this report).

Similarly, the legality of discriminatory application of citizenship laws can be challenged in court, as evidenced by multiple petitions concerning birthright citizenship and marriage-based nationality claims.³⁸³ However, to establish legal standing and maintain a case, petitioners must usually possess some form of documentation, such as birth certificates, marriage certificates, or even UNHCR-issued asylum-seeker cards. This requirement disproportionately affects undocumented asylum seekers, who may be dismissed at the threshold for a lack of evidence or procedural maintainability. While in some cases the judiciary has shown a willingness to address these barriers, such relief is inconsistent and remains contingent on the asylum seeker's ability to navigate a system that often disqualifies them before their case can be heard.

Challenges to the visa system and restrictions on movement are also legally permissible but practically difficult to pursue. The Ministry of Interior's discretion in issuing and denying exit permits, as well as its recent policies mandating internal relocation for certain Afghan nationals, has been challenged in court. Yet, as with other barriers, judicial review is limited and often defers to executive authority on matters of national security or public policy. Consequently, many of these policies operate with limited effective

³⁸² **Article 199 of the Constitution of Pakistan (1973)** empowers High Courts to issue writs for the enforcement of fundamental rights. It authorizes the Court to make orders:

- directing a person performing functions in connection with the affairs of the Federation, a Province, or a local authority to refrain from acting unlawfully,
- requiring a person to do what the law requires,
- declaring that an act done without lawful authority is of no legal effect,
- and ensuring that "no person is deprived of life or liberty save in accordance with law."

This provision is the legal basis for constitutional petitions (writ jurisdiction), including those challenging detention, deportation, denial of citizenship, or other barriers affecting asylum seekers

³⁸³ Such as *Mst. Amna and Another vs. Federation of Pakistan* PLD 2024 Peshawar 57 and several other cases on Section 10 of the Citizenship Act 1951. Please note however that the Supreme Court in October of 2025 suspended the Peshawar High Court ruling that granted Afghani men citizenship based on their marriage to Pakistani women. The matter is still pending in the Supreme Court (at the time of writing), which will be making an interpretation on this subject for the very first time. The suspension of the earlier ruling of the Peshawar High Court has an impact on this remedy in the interim for Pakistani women married to foreign husbands.

judicial oversight.

Time as a challenge

For all barriers identified in Parts 1 and 2 of the Report, time is a fundamental challenge that critically undermines access to justice. The Pakistani judicial system is plagued by a massive backlog, with over 2.2 million pending cases nationwide.³⁸⁴ The Islamabad High Court alone had a backlog of over 16,000 cases in 2024.³⁸⁵ For asylum seekers facing the imminent threat of deportation, such delays can be catastrophic. The time lag between arrest and a court hearing can be weeks or months, during which time the individual may be deported, rendering any legal challenge moot. This systemic inefficiency in the justice system works in favour of the executive.

Costs for legal representation

For all identified barriers, the cost of legal representation is another significant barrier. While specific fees for filing writ petitions can be nominal, the overall costs of litigation, including legal counsel, costs for the litigant in approaching the courts for the duration of the case, etc., make the formal legal system inaccessible to most asylum seekers and refugees, who often live in precarious financial conditions. The legal fees for a High Court case can be substantial,³⁸⁶ a sum far beyond the means of most. This financial barrier directly connects economic vulnerability to legal precarity, creating a situation where only those with external support can even attempt to access justice.

Spatial and geographical issues

Yes, spatial barriers undermine access to judicial bodies. The remoteness of border locations, detention centres, and their distance to courts and other state institutions responsible for certain remedies (NADRA, Ministry of Interior, etc.), coupled with the state-imposed restrictions on the freedom of movement for asylum seekers, creates logistical hurdles for lawyers and family members seeking to intervene.³⁸⁷ This physical inaccessibility compounds the procedural and financial challenges, further isolating vulnerable populations from legal recourse.

Practices to overcome these challenges

Civil society organizations play a pivotal role in addressing the challenges faced by asylum seekers and refugees, particularly in bridging the critical gap between legal frameworks and their practical implementation. These organizations often step in where governmental or intergovernmental bodies may have limitations, providing essential services that are otherwise unavailable.

SHARP (Society for Human Rights and Prisoners' Aid), operates as an implementing partner of the UNHCR (United Nations High Commissioner for Refugees).³⁸⁸ SHARP, like many other similar organizations (such as SEHER in Balochistan, Imkaan Welfare Organization in Karachi, etc.),³⁸⁹ establishes and runs vital legal aid centres. These centers serve as a first point of contact for individuals in need, offering free legal advice tailored to the complex and often rapidly changing landscape of asylum

³⁸⁴ An Evaluation of Pending Cases in the Judiciary of Pakistan: Figures and Statistics, accessed September 12, 2025, <https://pssr.org.pk/issues/v6/2/evaluation-of-pending-cases-in-the-judiciary-of-pakistan-figures-and-statistics.pdf>

³⁸⁵ Islamabad High Court struggling to cope with backlog - Pakistan - DAWN.COM, <https://www.dawn.com/news/1851477>.

³⁸⁶ Revision of Rates of Professional Fee Structure for Panel Advocates and Advocates on Record - FBR, <https://download1.fbr.gov.pk/Docs/20247291573645454PanelAdvocatesFBR15.05.2024.pdf>

³⁸⁷ Explainer: The Ripple Effect of Pakistan's Missing Refugee Law - JURIST - Features - Legal News & Commentary, <https://www.jurist.org/features/2024/08/23/explainer-the-ripple-effect-of-pakistans-missing-refugee-law/>

³⁸⁸ LAP – Legal Assistance Project - SHARP PAKISTAN, accessed September 16, 2025, <https://sharp-pakistan.org/projects/lap/>; also pertinent to note that within CSOs, there are those that are UNHCR implementing partners (and receive funds from them) and those that are not UNHCR partners officially but still support refugees in diverse ways, including legal assistance, livelihoods, empowerment etc.

³⁸⁹ List of UNHCR partner organizations across Pakistan available on their website: <https://help.unhcr.org/pakistan/contact/>

and refugee law. Beyond advice, these organizations also provide crucial legal representation, advocating on behalf of asylum seekers and refugees in various legal proceedings. This representation is critical, as navigating legal systems can be incredibly daunting for individuals who may not speak the local language, understand the legal jargon, or have access to the necessary resources.

In addition to direct legal assistance, civil society organizations undertake broader advocacy efforts. They work to protect and promote the rights of their clients, often engaging with policymakers and public bodies to highlight systemic issues and propose legislative or policy reforms. Furthermore, they are instrumental in raising awareness about legal protections available to asylum seekers and refugees, informing individuals of their rights and the processes they can follow to seek protection. This educational aspect is vital in empowering vulnerable populations.

However, the capacity of these organizations, despite their dedicated efforts, is inherently limited. They often face significant resource constraints, including funding, staffing, and logistical challenges. This limitation is starkly illustrated by situations where organizations are overwhelmed by the sheer volume of requests for assistance. For instance, a message on SHARP's website indicates that while they strive to provide support, they cannot influence UNHCR's internal processes, nor can they realistically respond to the hundreds of queries they receive on a daily basis.³⁹⁰ This highlights the immense pressure on these organizations and underscores the persistent gap between the demand for services and the available capacity to provide them. The challenges faced by civil society organizations in this field are a testament to the scale of the global refugee crisis and the urgent need for more comprehensive and collaborative solutions.

Implications of the above-mentioned challenges in accessing justice in asylum access adjudication.

The implications of these difficulties are profound. The barriers to accessing justice effectively limit the types and volume of cases concerning asylum seekers that reach the courts. Only a small, self-selecting group of individuals, often those with some form of documentation or external support or resources, can initiate legal challenges. This influences the jurisprudence, as the courts have usually been exposed to cases with relatively stronger factual and legal standing. As a result, the judiciary's role has primarily been reactive and limited to providing relief in specific cases individually rather than challenging the overarching policy of mass deportations or mass exclusion of groups born in Pakistan from citizenship documentation. Even when courts have set important precedents, as in the case of *Naureen Masood*, their impact often becomes piecemeal due to executive indifference and implementation gaps. As such, litigants, even after a successful court order, continue to incur costs in enforcing the same with executive authorities (and if authorities refuse to implement, litigants must come back to courts to file a contempt case (rarely happens). Lawyer insights reveal that despite clear judicial orders, agencies such as NADRA routinely refuse compliance, forcing repeated litigation on the same issues and undermining the potential for systemic change. It is also pertinent to note that most of the jurisprudence from the courts on access to asylum in Pakistan to date has come from the high courts (provincial). An appeal from the high court is filed before the Supreme Court of Pakistan, and any decision of the Supreme Court is therefore binding on all high courts. In October of 2025, an important decision of the Peshawar High Court recognizing Pakistani women's right to pass on citizenship to their foreign husbands (including those of Afghan origin) was suspended by a three-member bench of the Supreme Court. While the matter is still pending before the Supreme Court, the former access granted by the high court for Pakistani women and their foreign husbands no longer exists. This is the first time this matter has come before the Supreme Court, and whatever the Supreme Court decides will have implications for access to asylum through this provision.³⁹¹

³⁹⁰ SHARP PAKISTAN – Society for Human Rights and Prisoners' Aid, accessed September 16, 2025, <https://sharp-pakistan.org/>

³⁹¹ 'SC suspends PHC ruling granting citizenship to Afghan man married to Pakistani woman', The Nation, October 30, 2025

B. Legal aid

Procedural aspects in law and in practice for obtaining legal representation

In Pakistan, the formal legal framework does not provide for state-funded legal aid specifically for asylum seekers and refugees. While the Legal Aid and Justice Authority Act 2020 creates a framework for legal aid in criminal and civil cases, it does not extend to undocumented migrants, asylum seekers, or refugees. The responsibility for providing legal representation falls almost entirely on a network of non-governmental and international organizations. In practice, this takes the form of legal aid centres and pro bono legal services.

Availability of free legal aid

Free legal aid is available under specific circumstances and is contingent on the programs offered by International and national organizations like UNHCR, the Society for Human Rights and Prisoners' Aid (SHARP), the Norwegian Refugee Council (NRC), and the International Refugee Assistance Project (IRAP), etc.³⁹² SHARP, for instance, has been a UNHCR implementing partner since 1999, providing legal assistance, counselling, and court representation for Afghan and other non-Afghan asylum seekers and refugees. This includes assistance with Refugee Status Determination (RSD) claims and, where necessary, court representation to challenge illegal detention or harassment by law enforcement. Many other organizations provide legal aid services to refugees and asylum seekers across the country.

Main challenges asylum seekers face in obtaining legal representation

Obtaining legal representation remains a significant challenge. Asylum seekers face a general lack of awareness of legal procedures, a fear of approaching authorities or lawyers, and a scarcity of legal aid providers, particularly outside major urban centres with large refugee populations.³⁹³ The available legal aid is often overburdened and cannot meet the high demand. For instance, the IRAP's program for Afghan arrivals in the U.S. was terminated due to a lack of funding, highlighting the precarious nature of this form of legal assistance.³⁹⁴ The message from SHARP to Afghan applicants on its website further underscores this, emphasizing its limited role in UNHCR's selection process.

Implications of the availability, quality, and accessibility of legal aid

The provision, quality, and accessibility of legal aid are critically important for the fairness and effectiveness of asylum adjudication processes. The landmark Rahil Azizi case serves as a prime example of this undeniable truth. In that instance, the presence of skilled and dedicated legal counsel was not merely helpful but instrumental in enabling the court to thoroughly engage with intricate constitutional and international legal arguments. The lawyer's strategic interventions and profound understanding of the law were decisive factors, successfully persuading the court to transcend a narrow, procedural interpretation of the Foreigners Act. This pivotal shift led to a robust, rights-based analysis that ultimately upheld the principles of justice and human rights.

Conversely, the absence of such vital legal assistance frequently leaves asylum seekers in a precarious and vulnerable position. Without expert guidance, they are often unable to navigate the labyrinthine complexities of legal frameworks, documentation requirements, and court procedures. This often culminates in their immediate detention or, even more severely, their swift deportation without the benefit of any meaningful judicial review. This stark reality regrettably reinforces a deeply concerning perception: that legal protection, rather than being an inherent and inalienable right, is instead a mere privilege. This

<https://www.nation.com.pk/30-Oct-2025/sc-suspends-phc-ruling-granting-citizenship-afghan-man-married-pakistani-woman>

³⁹² Pakistan Legal Assistance - Rights in Exile, accessed September 16, 2025, <https://rightsinexile.org/legal-assistance-by-country/pakistan-legal-assistance/>

³⁹³ Challenges on Access to Justice for migrants, accessed September 16, 2025, https://mfasia.org/migrantforumasia/wp-content/uploads/2018/05/Access-to-justice-is_MFA.pdf

³⁹⁴ Immigration Legal Services for Afghan Arrivals (ILSAA), accessed September 16, 2025, <https://ilsaa.acf.hhs.gov/>

“privilege” becomes contingent upon the unpredictable and often severely limited access to high-quality legal aid, thereby undermining the fundamental principles of due process and equal access to justice for those seeking refuge.

C. Lodging the appeal

The procedure for lodging an appeal or a legal petition to challenge identified asylum barriers is governed by specific procedural codes. For a constitutional petition, the process involves filing a formal writ under Article 199 of the Constitution in the respective High Court. This is a paper-based process with strict deadlines and requirements. While some High Courts have introduced online tools for checking case status and cause lists,³⁹⁵ the physical act of filing the petition and the associated documents remains a mandatory step. Similar processes exist for filing appeals against a decision of the high court to an appellate court.

Implications of the procedure in law and practice regarding the procedural aspects for lodging the appeal in asylum access adjudication.

A key discrepancy between law and practice is the lack of a standardized, asylum-specific procedure for lodging appeals. Given the absence of a national asylum law, asylum seekers must rely on a general constitutional remedy that affords rights to all persons in a territory, which is often not tailored to their unique circumstances. Additionally, statutory law exists on foreigners, which must be assessed simultaneously. This forces petitioners to navigate a complex legal landscape designed for a different purpose, leading to difficulties in establishing rights-based arguments vs government policies in courts, delays, potential procedural errors, as well as inconsistent interpretations by judges.

The lack of online access to court records further compounds the problem, requiring physical visits to the court and a dependence on institutional staff, which can be an additional barrier. The logistical and procedural complexities of this formal process effectively deter unrepresented asylum seekers from pursuing legal action.

D. Hearing

Hearings in asylum-related cases follow the general rules of civil, constitutional, or criminal procedure, as no specialized asylum hearing process exists. Before Magistrates’ courts and Sessions Courts, hearings in detention cases (such as bail petitions) are usually brief and adversarial, focused narrowly on compliance with the Foreigners Act rather than broader human rights considerations. Proceedings are typically in person, oral, and held in open court. Lawyers generally present arguments on behalf of asylum seekers/refugees, while state counsel or police officials appear for the government.

At the High Court level (and above), hearings are conducted before a bench of one or more judges, usually in open court.³⁹⁶ Proceedings remain oral, and while judges have the discretion to admit international law arguments, many hearings are dominated by questions of maintainability rather than substantive refugee protections. For instance, the Sindh High Court has dismissed petitions on the grounds that fundamental rights are for citizens,³⁹⁷ whereas the Islamabad High Court has been more open to arguments based on non-refoulement and international law. Higher Courts can also appoint an *amicus* to assist the courts in specific thematic areas relevant to the case.

³⁹⁵ ISLAMABAD HIGH COURT, accessed September 16, 2025, <https://ihc.gov.pk/>

³⁹⁶ FAQs - Islamabad High Court, accessed September 16, 2025, <https://mis.ihc.gov.pk/frmFaqs>

³⁹⁷ Find citation

Implications of the procedure in law and practice regarding the hearing

Asylum seekers face practical hurdles in attending hearings in person, often rendering their meaningful participation virtually impossible. This is particularly true for those detained in remote facilities or subject to state-imposed movement restrictions, who face formidable challenges in reaching the designated hearing locations. Consequently, their ability to engage with the asylum process becomes almost entirely reliant on their legal representatives. However, this reliance is often compounded by the fact that legal counsel may themselves face restricted access to their clients, hindering their ability to adequately prepare for the hearings. As mentioned above, physical access to courts and lawyers is a spatial barrier, requiring resources, that many asylum seekers don't have or at least cannot continue to have for the duration of the case.

E. Deliberation

In Pakistan's superior judiciary, the deliberation process is a cornerstone of judicial decision-making. This process typically involves panels of judges, whose size varies from a single judge for less complex matters to larger benches, often comprising three, five, or even more judges, for cases of significant legal or constitutional importance. After the 26th Amendment, the composition of these benches is decided by the Judicial Commission of Pakistan (JCP), comprising senior judges of the Supreme Court, the Federal Law Minister, the Attorney General for Pakistan, members of Parliament from both the government and opposition, and representatives of the legal profession.

While the legal framework formally accommodates dissenting opinions, a crucial element of judicial independence and intellectual discourse, there are indications of underlying institutional friction and a perceived lack of genuine, collective deliberation. This concern was notably brought to light in a letter from four senior Supreme Court judges. This communication highlighted a "unilateral process" where a single judge attempted to approve new rules through circulation, rather than through full and open deliberation involving the entire court.³⁹⁸

Deliberations in asylum cases are no different than usual, though due to the asylum area being more heavily linked to government policy and politics, judicial decision-making is naturally likely to be impacted by the level of independence of the judiciary as a whole and the ability of individual judges to take decisions against government policies within their broader institutional structure.

Implications of the procedures in law and practice regarding the deliberation

Although it's difficult to assess based on Pakistan's current case law, specific trends in asylum cases where a single or more judges have made decisions. However, it can be noted that the jurisprudence is inconsistent and judicial attitudes, leanings on rights-based arguments (including reliance on international human rights law guidelines) vary from court to court and judge to judge based on several factors. Notwithstanding, the implications of internal processes within the judiciary, including their independence from pressures, as an institution, are significant. A lack of a genuine culture of deliberation can lead to inconsistent jurisprudence and may compromise the judiciary's role as a cohesive and independent check on the executive. When decisions are made without more collective consensus, they may lack the institutional weight needed to compel compliance from government bodies.

F. Review of decisions

Judicial review of asylum-related decisions could be sought through an appellate process, with decisions from the High Courts being reviewable by the Supreme Court under Article 185 (which provided for the appellate jurisdiction of the Supreme Court over High Court judgments). However, recently, pursuant to

³⁹⁸ Four judges boycott full court deliberations on new rules - Newspaper - DAWN.COM, accessed September 16, 2025, <https://www.dawn.com/news/1940655>

the 27th Constitutional Amendment passed in November of 2025,³⁹⁹ a new court has been created above the Supreme Court of Pakistan, namely, the Federal Constitutional Court of Pakistan, which has the power to review decisions of both the high courts and the Supreme Court.

Broadly, High Courts have exercised wide powers of judicial review under Article 199 (allowing any aggrieved person to challenge actions taken without lawful authority or in violation of fundamental rights), enabling individuals to contest administrative or executive decisions affecting their legal status. Decisions of the High Courts are binding on all subordinate courts within their jurisdiction (making High Court rulings binding on lower courts, though only persuasive for other High Courts). Before the 27th Amendment, the Supreme Court's decisions were binding on all courts across the country in accordance with Article 189, including the High Courts. The 27th Amendment has amended Article 189, which now states that decisions of the Federal Constitutional Court and Supreme Court are binding on other courts based on the revised mandates of both courts, but also clearly adds that decisions of the Federal Constitutional Court are also binding on the Supreme Court. The amended Article 189 states that “(1) *Any decision of the Federal Constitutional Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan including the Supreme Court.*” Noting further that, “(2) *Any decision of the Supreme Court shall, to the extent that it decides a question of law or is based upon or enunciates a principle of law, be binding on all other courts in Pakistan except the Federal Constitutional Court.*”⁴⁰⁰

While previously, only the Supreme Court could hear all appeals from the High Courts, Article 175F., added through the 27th Constitutional Amendment, states that the FCC has jurisdiction to hear appeals from High Courts where a) an act of the parliament so provides, b) if the High Court certifies that the case involves a substantial question of law as to the interpretation of the Constitution; or from a judgment or an order of a High Court made under Article 199 only if the Federal Constitutional Court grants leave to appeal.⁴⁰¹ Article 175F further states that “(2) All petitions for leave to appeal, appeals or review applications, to which clauses (1) and (2) apply or any other proceedings falling within the jurisdiction of the Federal Constitutional Court, filed or pending before the Supreme Court prior to commencement of the Constitution (Twenty-seventh Amendment) Act, 2025, stand transferred to the Federal Constitutional Court and shall only be heard and decided by that Court.”⁴⁰² This means that all decisions of the high courts, including those on access to asylum using constitutional provisions, can theoretically be appealed before the new FCC.

Implications of the functioning of judicial (or quasi-judicial) review mechanisms

The functioning of the judicial review mechanisms has notable implications. While High Courts in cases like Rahil Azizi and Hashmat Ullah have provided progressive rulings, the lack of a binding Supreme Court precedent on asylum rights (even prior to the recent constitutional amendments) created a patchwork of legal protection. On the contrary, there is a cause for concern on even past protection wins, with the Supreme Court recently suspending a Peshawar High Court ruling relating to married Pakistani women being able to pass on nationality to their foreign spouses, in particular, Afghan husbands. While the matter is still pending in the Supreme Court, any final decision will have implications for jurisprudence on this subject. It is also notable to mention here that the FCC can also take up this matter from the Supreme Court, as well as arguably any other such matter relating to access to asylum, decided by the High Courts,

³⁹⁹ Constitution (Twenty-seventh Amendment) Act, 2025
https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁰⁰ Constitution (Twenty-seventh Amendment) Act, 2025
https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁰¹ Provided that no appeal shall lie against a judgment or an order of a High Court made under Article 199, in a case where subject matter relates to family and rent matters. (Article 175F) - Constitution (Twenty-seventh Amendment) Act, 2025
https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁰² Constitution (Twenty-seventh Amendment) Act, 2025
https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

if it raises a question of interpretation of the Constitution, as most of these cases do in the context of fundamental rights.

Assessing more at the high court level, firstly, high court decisions are susceptible to changes from the Supreme Court and the FCC taking up any of these matters. Even without that, there is variation in practice and jurisprudence; one provincial High Court's willingness to intervene in a particular province does not guarantee that the same level of protection will be offered elsewhere. Moreover, with the recent judicial changes through the 26th and 27th amendments, there are concerns regarding the independence of the judiciary from the executive,⁴⁰³ which has particular implications for the judiciary intervening against executive policies, such as their policies on asylum seekers.

It is also important to mention that prior to any constitutional amendments, a petition challenging the IFRP has been pending before the Supreme Court since late 2023 (as mentioned in Part 1 of the Report), which also revealed an institutional reluctance to issue a broad, binding judgment that would be seen as a direct confrontation with executive policy. Litigants and activists are at the same time also reported to be apprehensive of following up with the superior court, lest a concerning precedent emerges from the Supreme Court that does not yet at least exist. Moreover, with the FCC, it seems any decision from the Supreme Court would not be final on this issue.

G. Procedures in decentralized states

Pakistan has a decentralized political system with four provinces and a capital territory. Following the 18th Amendment, this system became further decentralized, with many subjects devolved to the provinces and only those on the Federal Legislative List retained at the centre.⁴⁰⁴ However, in the judicial sphere, the application of key federal laws remains uniform. The Constitution, the Foreigners Act, 1946, and the Code of Criminal Procedure, 1898 (CrPC) apply consistently across the country, ensuring that court procedures such as filing, hearing, and adjudication follow the same framework nationwide. As a result, while governance is decentralized in many respects, the judicial process governing foreigners and criminal justice is procedurally uniform throughout Pakistan.

H. Influence of procedures in practice and the role of courts

Divergence Between Formal Asylum Procedures and Actual Practice for Asylum adjudication

The disparity between formal legal asylum procedures and the actual experiences of asylum seekers is a critical issue. The rapid nature of executive decisions, the substantial cost of legal representation, and the requirement for in-person legal proceedings collectively establish a systemic barrier. This barrier significantly restricts access to justice, limiting it to a small demographic capable of navigating such litigation. While the judiciary, particularly in some high-profile cases, has attempted to shape procedural protections and broaden the interpretation of asylum rights, its influence remains largely at the micro-level of individual cases. Rulings, such as those in the cases of Rahil Azizi and Hashmat Ullah, have been instrumental in either introducing or reinforcing the principle that asylum seekers are safeguarded by constitutional and international law and should not face criminalization solely for irregular entry. However, the judiciary's capacity to fundamentally alter macro-level executive policies, particularly those related to mass deportations, remains significantly constrained, and even more so, with the recent constitutional

⁴⁰³ International Commission of Jurists (ICJ), Pakistan: 26th Constitutional amendment is a blow to the independence of the judiciary, 21 October 2024, <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary/>; International Commission of Jurists (ICJ), Pakistan – Dismantling Justice: A Full-Frontal Assault on the Rule of Law, 13 November 2025, <https://www.icj.org/pakistan-dismantling-justice-a-full-frontal-assault-on-the-rule-of-law/>

⁴⁰⁴ Overview of the Constitution (Eighteenth Amendment) Act, 2010, Final Report of the Implementation Commission, Government of Pakistan (2010) <https://ipc.gov.pk/SiteImage/Misc/files/Year%20Books/Final%20Report%20of%20Implementation%20Commission.pdf> accessed 13 September 2025.

amendments impacting the judiciary's independence from the executive.⁴⁰⁵

Impact of Judicial and Quasi-Judicial Jurisprudence on Procedural Protections and the Interpretation of Asylum Rights

The jurisprudence of judicial bodies in Pakistan has shaped the substantive interpretation of asylum rights rather than procedural protections. High Courts, acting under Article 199, have on occasion extended fundamental rights, including the right to life and liberty (Article 9) and due process guarantees (Articles 4 and 10A) to non-citizens. These rulings have, for instance, restrained arbitrary arrests and deportations or recognized that asylum seekers cannot be deprived of constitutional protections solely based on their legal status. However, this body of jurisprudence has not generated distinct procedural safeguards, such as a guaranteed right to appeal, access to legal aid, or specialized adjudicatory processes, for asylum claims more broadly.

Influence of Supranational Court Jurisprudence on Asylum Procedures and Rights Protections

In Pakistan, the jurisprudence of supranational courts has not played a determinative role in shaping procedural protections or the interpretation of asylum rights, although comparative insights are used by lawyers as persuasive authorities in High Court cases. Unlike jurisdictions that are directly bound by regional courts such as the European Court of Human Rights etc. Pakistan does not operate within a supranational judicial framework. As a result, decisions of international or regional bodies have no binding authority and have not introduced, reinforced, or modified domestic procedural requirements such as the right to appeal or access to legal aid. At most, Pakistani courts have occasionally referred to international instruments like the 1951 Refugee Convention or broader human rights treaties, but such references have remained persuasive in nature and have not altered the procedural architecture established under the Constitution, the Foreigners Act, 1946, or the Code of Criminal Procedure, 1898.

II. JUDICIAL BODIES IN ACCESS TO ASYLUM

A. Institutional configuration

Pakistan's judiciary is a common-law, federal system with multiple tiers, which has recently undergone significant changes pursuant to two constitutional amendments (26th and 27th Amendments to the Constitution of Pakistan).⁴⁰⁶ Prior to the 27th Constitutional Amendment passed in November 2025, the Supreme Court of Pakistan (SC) was the apex court of the country, followed by five High Courts (HC) (one for each province and one for Islamabad) and subordinate district/ sessions courts at the trial level. In parallel, there is the Federal Shariat Court (FSC) that reviews laws for compliance with Islam. All decisions of the Supreme Court were binding on all lower courts, including the FSC and HCs. Decisions of the FSC are binding on all high courts and lower courts, while decisions of the HC are binding on all courts below it.

The Judicial Commission of Pakistan (JCP) and the Supreme Judicial Council (SJC) are constitutional bodies (not courts) that manage judicial appointments and discipline. The JCP nominates judges to the Supreme and High Courts, while the SJC (composed of senior judges⁴⁰⁷) handles removal for misconduct

⁴⁰⁵ Constitution (Twenty-sixth Amendment) Act, 2024 https://www.na.gov.pk/uploads/documents/671f74b8da9e0_263.pdf ; Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁰⁶ Constitution (Twenty-sixth Amendment) Act, 2024 https://www.na.gov.pk/uploads/documents/671f74b8da9e0_263.pdf ; Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁰⁷ SJC composition has also been impacted by the 27th Amendment to the constitution, see [3 key judicial bodies reconstituted in light of 27th Constitutional Amendment](#), Dawn, November 18, 2025

or incapacity. These bodies are part of the broader judicial governance structure but not courts per se.

No specialized asylum or immigration tribunal exists; instead, migration and asylum-related issues (often framed as violations of fundamental rights under the Constitution) are heard in these general courts. For example, recent judicial decisions on asylum have come through constitutional petitions in the High Courts.⁴⁰⁸

These decisions have emanated from the High Courts under their mandates under Article 199 to issue writs (habeas corpus, mandamus, certiorari, etc.) to enforce fundamental rights and review executive actions.⁴⁰⁹ The Supreme Court (prior to the recent Constitutional amendments) was the appellate body with powers to review decisions of the High Courts, but it also had original jurisdiction in inter-governmental disputes and broad public-interest writ jurisdiction (Article 184(3)) to enforce fundamental rights across Pakistan. It also heard appeals (Article 185) and advisory references (Article 186). The High Courts and the Supreme Court could decide cases on both law and fact; they could annul executive or administrative acts and order relief (e.g., stays of deportation, release of detainees, or directions to agencies).

The 26th Amendment to the Constitution created a new constitutional bench structure⁴¹⁰ (Article 191A) in the Supreme Court – benches of five or more judges, nominated by the Judicial Commission of Pakistan (JCP), to handle constitutional and fundamental rights cases exclusively.⁴¹¹ Similar provisions (Article 202A) allow provincial assemblies to establish constitutional benches in High Courts. This meant cases involving asylum and human rights would go to specially designated benches whose composition is determined by a more politically influenced JCP (discussed below). The 26th Amendment further abolished the SC's and HC's *suo motu* powers (Article 184/199) – only constitutional benches can hear such matters, and only on petitions filed by parties.⁴¹²

Thereafter, the 27th Amendment changed things further. It established a new court, namely, the Federal Constitutional Court (FCC), in essence above the Supreme Court of Pakistan. The FCC is empowered to hear all matters relating to the interpretation of the Constitution (previously the mandate of the Supreme Court) and therefore can take up any such matters from the High Courts or the Supreme Court. Moreover, under Article 175E. Only the Federal Constitutional Court “to the exclusion of every other court” has original jurisdiction in any dispute between any two or more Governments (previously such power was with the Supreme Court).⁴¹³ Decisions of the FCC are binding on all Courts below it, including the Supreme Court, while a decision of the Supreme Court is binding on all lower courts but not on the FCC.

These changes alter the institutional configuration and raise serious concerns regarding judicial independence and the role of courts in protecting human rights.⁴¹⁴ Both the 26th and 27th amendment have allowed for greater political influence over appointment of all judges by reconstituting the Judicial Commission of Pakistan (JCP)⁴¹⁵, changing the process for selecting the Chief Justice of Pakistan (CJP) by

⁴⁰⁸ Rizwan Shehzad, ‘Pak law recognises right to asylum: IHC’ *Express Tribune* (Islamabad, 17 September 2023) <https://tribune.com.pk/story/2436357/pak-law-recognises-right-to-asylum-ihc> accessed 12 September 2025.

⁴⁰⁹ The Constitution of the Islamic Republic of Pakistan, 1973.

⁴¹⁰ In addition to several other critical changes to the judiciary.

⁴¹¹ Abu Bakar Khan, ‘Pakistan dispatch: the new 26th Amendment’s drastic impact on Pakistan’s courts’ *JURIST* (22 October 2024) <https://www.jurist.org/news/2024/10/pakistan-dispatch-the-new-26th-amendments-drastic-impact-on-pakistans-courts/> accessed 15 September 2025.

⁴¹² Ibid.

⁴¹³ Article 175E. Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴¹⁴ International Commission of Jurists, ‘Pakistan: 26th Constitutional Amendment is a blow to the independence of the judiciary’ *ICJ* (21 October 2024) <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary/> accessed 13 September 2025.

⁴¹⁵ The 26th amendment reconstituted the JCP by adding six parliamentary/ministerial members (two Members of the National Assembly from treasury/opposition, two Senators, and one Speaker-nominated woman or minority) and a presiding Constitutional Bench judge to the existing members (chief justice, three senior SC judges, law minister, attorney general, and a bar nominee).

creating a Special Parliamentary Committee (SPC) consisting of eight members of the National Assembly and four members of the Senate to nominate the CJP from among the three most senior Supreme Court judges. Prior to the 26th Amendment, the CJP was automatically the most senior judge at the Supreme Court. Similarly, the First Chief Justice of the Federal Constitutional Court and its other judges will be appointed by the President. The 27th Amendment also impacts the judicial members of the JCP, which now include the Chief Justice of the FCC, the Chief Justice of the Supreme Court, the next senior-most judges of the FCC and the SC each, and a judge of the SC or FCC jointly nominated by the CJ of the FCC and CJ of the SC. These changes significantly allow legislative bodies and the government to more directly impact the judiciary, which weakens the ability of courts to protect rights against executive policies, often the case for asylum seekers.

Implications of the institutional configurations of bodies responsible for assessing the legality of the barriers to access asylum in asylum access adjudication.

The institutional configuration, in which general courts rather than specialized asylum tribunals adjudicate refugee and migration cases, creates both opportunities and constraints. On the one hand, the High Courts' constitutional writ jurisdiction provides asylum seekers with a powerful tool to challenge executive actions, giving them access to remedies even in the absence of a statutory asylum law. On the other hand, the lack of specialization means judges often approach asylum cases without consistent expertise, producing divergent outcomes across provinces. The 26th Amendment centralized constitutional adjudication in designated benches, while the 27th Amendment empowers the FCC to have the final say over such decisions. These reforms are too recent to assess real impact on the prior body of decisions relevant to asylum but it is anticipated that with greater executive influence on the judiciary, it may become even harder for courts to protect access to asylum or any rights of asylum seekers at a time when the government has a clear policy of mass deportations.

Power/competences of the judicial bodies responsible for asylum access adjudication

The powers and competences of the judicial bodies responsible for asylum access adjudication in Pakistan are constitutionally defined, and can decide on both law and fact. As mentioned, general courts also hear asylum access matters under their constitutional mandate or under select legislation governing foreigners or citizenship matters. Post the 26th and 27th amendments, there have been changes to the court structure with the addition of a new Federal Constitutional Court as the apex court for interpretation of the constitution, including on fundamental rights guaranteed under the constitution. Decisions of the FCC are binding on the Supreme Court, the Federal Shariat Court, provincial high courts, and all other subordinate courts. The decisions of higher courts are binding on the executive /government, however in practice, there are implementation gaps, and the executive does not always comply.

Implications of the available types of remedies on asylum access adjudication

The availability of these remedies is crucial for asylum seekers, as they provide a direct mechanism to challenge executive action in the absence of a statutory asylum framework. Constitutional petitions before the High Courts allow individuals to secure binding relief such as stays of deportation, release from detention, and directions to administrative authorities, making them the most effective legal avenue where other protections are absent or ineffective. These remedies have also enabled courts to engage with international refugee and human rights principles, ensuring that adjudication addresses both legal and factual merits as seen in the cases of *Rabil Azizji* and *Hashmat Ullah*, (discussed in Part 2 of the Report).

However, the recent 26th and 27th Constitutional Amendments have significant implications for both access to remedies for asylum seekers and the scope of judicial review over executive action. The 26th Amendment restricts the Supreme Court's *suo motu* jurisdiction and restructures the Judicial Commission of Pakistan in a manner that increases parliamentary influence over judicial appointments, raising serious concerns regarding judicial independence and the judiciary's capacity to exercise robust oversight of executive conduct. The 27th Amendment further restructures the judicial framework through the creation of a Federal Constitutional Court, transferring the Supreme Court's jurisdiction over constitutional

interpretation and the enforcement of fundamental rights. This development has particularly serious consequences for refugees and asylum seekers, as constitutional petitions seeking protection from deportation or detention are predominantly grounded in the fundamental rights guaranteed under Pakistan's Constitution. In the context of asylum access adjudication, this institutional reconfiguration risks narrowing the practical effectiveness of constitutional remedies by politicising the forums in which such claims are adjudicated and diminishing the likelihood of independent, rights-oriented scrutiny of executive decisions relating to deportation, detention, and refoulement.

B. Independence

The Constitution of Pakistan provides a clear legal basis for judicial independence. Article 2A, incorporating the Objectives Resolution, guarantees the separation of powers and judicial autonomy. The High Courts and Supreme Court, which, until the recent constitutional amendments, were central to asylum access adjudication, enjoyed formal guarantees of independence from the executive. However, the 26th and 27th Amendments have significantly weakened this framework, as reflected by many within the legal community, by institutionalising political influence in judicial appointments and decision-making, questioning the constitutional vision of independence.⁴¹⁶ In addition to changing the composition of the JCP to include more political representatives, the 27th Amendment (through amendment of Article 200) has also allowed the JCP to recommend the transfer of judges of the high courts, with the threat of disciplinary proceedings (initiated by the Supreme Judicial Council) if any judge refuses to accept such a transfer within 30 days. No criteria is provided for such a transfer, with many perceiving it as a hanging sword. Moreover, if a Judge of a High Court does not accept a transfer recommended by JCP, he will be “deemed to have retired from his office”, which is another form of removal. Prior to this amendment, a judge's consent was necessary for his transfer.⁴¹⁷ In the absence of clear criteria for transferring judges of the high courts, there are concerns of arbitrariness and the threat of transfer as a way to influence or punish judges by political representatives and the government (keeping in mind the revised composition of JCP as well as SJC). Similarly, removing judges who refuse to transfer through disciplinary proceedings also raises concerns of independence of the judiciary.

Autonomy of the managing authority of the judicial or bodies in the field of access to asylum

Managerial authority in Pakistan's judiciary rests with the Chief Justices of the Supreme Court and High Courts, and now the Federal Constitutional Court, supported by registrars and senior judges. These positions are meant to operate independently of the executive, with internal control over rosters, bench constitution, and case assignment. The 26th Amendment altered this by empowering a Special Parliamentary Committee to appoint the Chief Justice from among the three most senior judges, and by authorizing the JCP to evaluate judges' performance. Thereafter, the 27th Amendment further impacted the JCP, with the addition of the CJ of the FCC and other FCC judges (appointed by the President for their first tenure) within the JCP. These reforms reduce the autonomy of court managers, creating legal pathways for political influence over which judges manage or hear asylum petitions. Additionally, the power to transfer high court judges within the JCP (under amended Article 200) is also relevant for independence.

Financial independence

While judges' salaries are constitutionally protected, the judiciary depends on federal and provincial budgetary allocations for its operational expenses. This reliance restricts financial independence, as the

⁴¹⁶ International Commission of Jurists, 'Pakistan: 26th Constitutional Amendment is a blow to the independence of the judiciary' *ICJ* (21 October 2024) <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary/> accessed 13 September 2025.

⁴¹⁷ Article 200(4), as amended by the Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

executive ultimately controls the size and timing of allocations. In practice, courts often operate with limited resources, and asylum cases compete for attention within an overstretched system.

Independence concerning human resource decisions

Before the 26th Amendment, the JCP, dominated by judges, oversaw appointments while the Supreme Judicial Council (SJC) handled removals for misconduct, ensuring internal control. Post-amendment, the JCP was reconstituted to give parliamentary and executive members decisive weight, undermining judicial self-governance.⁴¹⁸ The amendment also introduced annual performance reviews by the JCP and made “inefficiency” a ground for removal, creating uncertainty in tenure and incentivizing alignment with political expectations.⁴¹⁹ No specialized training or appointments for asylum law exist, meaning adjudicators remain generalists. In asylum-related cases, judges may fear that granting relief that allows refugees/asylum seekers to remain in the country could be characterised as inefficient, potentially exposing them to removal or adverse career consequences. This creates a powerful incentive for judges to align their decisions with executive preferences rather than with international human rights obligations or the fundamental rights guaranteed under the Constitution.⁴²⁰ Moreover, the 27th Amendment introduces an additional mechanism of control by allowing the transfer of High Court judges across provinces without their consent.⁴²¹ This significantly enhances executive influence over case allocation, enabling authorities to determine which judges hear particular matters and to favour those whose views align with government interests. Such powers substantially undermine judicial independence and risk distorting asylum adjudication by weakening impartial, rights-based scrutiny.

Internal independence

Internal independence is formally preserved: Article 189 binds lower courts to Supreme Court precedent, ensuring consistency, and Article 190 obliges executive and judicial authorities to implement Supreme Court decisions. Yet, the 26th Amendment created constitutional benches in the Supreme Court and High Courts, whose members are nominated by the JCP. This centralization means that sensitive fundamental rights cases, including asylum petitions, are concentrated in panels whose composition is subject to external political influence, diminishing genuine internal independence. Additionally, the 27th Amendment has now established a Federal Constitutional Court that now holds exclusive jurisdiction over constitutional interpretation, effectively stripping the Supreme Court of its role as the ultimate guardian of fundamental rights.⁴²² Since the first batch of FCC judges is appointed directly by the President on the Prime Minister’s advice, the internal “independence of mind” of adjudicators is now overshadowed by a judicial hierarchy increasingly aligned with executive interests.⁴²³

Furthermore, as mentioned, the 27th Amendment raises questions on the independence of judges, as it amends Article 200 to allow the transfer of High Court judges across provinces without their consent.⁴²⁴ If a judge refuses a transfer recommended by the JCP, they face immediate disciplinary proceedings under

⁴¹⁸ International Commission of Jurists, ‘Pakistan: 26th Constitutional Amendment is a blow to the independence of the judiciary’ *ICJ* (21 October 2024) <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary/>

⁴¹⁹ Prior to the amendments, the grounds for removal by the SJC were incapacity or misconduct - International Commission of Jurists, ‘Pakistan: 26th Constitutional Amendment is a blow to the independence of the judiciary’ *ICJ* (21 October 2024) <https://www.icj.org/pakistan-26th-constitutional-amendment-is-a-blow-to-the-independence-of-the-judiciary/>

⁴²⁰ International Commission of Jurists, ‘Pakistan – Dismantling Justice: A Full-Frontal Assault on the Rule of Law’ (Briefing Paper, 13 November 2025)

⁴²¹ Constitution (Twenty-seventh Amendment) Act 2025, s 32 (amending art 200).

⁴²² Constitution (Twenty-seventh Amendment) Act 2025, s 3 (inserting art 175AA and transferring jurisdiction from the Supreme Court to the FCC).

⁴²³ International Commission of Jurists, ‘Pakistan – Dismantling Justice: A Full-Frontal Assault on the Rule of Law’ (Briefing Paper, 13 November 2025) <https://www.icj.org/pakistan-dismantling-justice-a-full-frontal-assault-on-the-rule-of-law/>

⁴²⁴ Constitution of the Islamic Republic of Pakistan 1973, art 200 (as amended by the Constitution (Twenty-seventh Amendment) Act 2025, s 32).

the Supreme Judicial Council (SJC), which can lead to their removal for “misconduct.”⁴²⁵ This ability to restructure the bench allows the executive to ensure that specific judges, whose views may align with the executive, are the ones hearing critical asylum cases. Consequently, the internal independence of the judiciary is being replaced by a system of “veiled threats,” where adjudicators must weigh their decisions against the risk of transfers or dismissal for inefficiency.

Implications of various aspects of independence

A lack of judicial independence has a direct impact on asylum adjudication. In the past, Pakistani courts have intervened to halt arbitrary deportations and quash the criminal prosecution of refugees by invoking fundamental rights and international principles such as non-refoulement, as in *Rahil Aziz vs Federation of Pakistan*. However, the 26th Amendment’s introduction of annual performance reviews and the vague ground of “inefficiency” for removal create a chilling effect; judges are likely to hesitate to issue remedies that contradict executive migration policy for fear of being labelled “inefficient” and facing dismissal. This structural shift is exacerbated by the 27th Amendment, which established the Federal Constitutional Court (FCC) to take over all constitutional matters from the Supreme Court.⁴²⁶ Since the executive plays a significant role in appointing FCC judges, there is a major risk that the court will prioritize state policy over human rights.

Furthermore, the 27th Amendment’s revision of Article 200 allows the executive-dominated Judicial Commission of Pakistan (JCP) to transfer High Court judges across provinces without their consent.⁴²⁷ This serves as a powerful tool that can be used to remove independent-minded judges from benches hearing refugee cases or government policies on asylum seekers, effectively allowing the state to select adjudicators whose views align with government interests. Consequently, these amendments have shifted the balance of power toward the legislative and executive branches, making it extremely difficult for judicial bodies to independently overturn state actions. For asylum seekers, this undermines their right to a fair hearing, as the judiciary will be heavily influenced by the executive.

Independence of the whole judicial system

Pakistan’s judiciary has had periods of strong constitutional guarantees of independence and has also played an assertive role in checking executive power using its constitutional mandates on rights-based issues. In asylum cases, however, this independence may be under more scrutiny. The absence of a specialized asylum tribunal, reliance on generalist (and biased in some cases) judges, and uneven jurisprudence across different regions already limit predictability. The 26th and 27th amendments have significantly impacted the independence of the judiciary by politicizing appointments and establishing the Federal Constitutional Court, thereby making asylum adjudication particularly vulnerable to executive influence compared to other fields of law, especially at this time.

C. Centralization/decentralization

Pakistan’s judiciary has had periods of strong constitutional guarantees of independence and has also played an assertive role in checking executive power using its constitutional mandates on rights-based issues. In asylum cases, however, this independence is yet to be fully assessed and in the present context, may be under more scrutiny. The 26th and 27th amendments have raised questions on the independence of the judiciary by politicizing appointments and establishing the Federal Constitutional Court to supersede the prior Supreme Court, arguably making asylum adjudication particularly vulnerable to executive influence compared to other fields of law, especially at the time of the IFRP.

⁴²⁵ Amnesty International, ‘Pakistan: Twenty-seventh Constitutional Amendment Attacks the Independence of the Judiciary’ (January 2026) <https://www.amnestyusa.org> accessed 27 January 2026.

⁴²⁶ Constitution (Twenty-seventh Amendment) Act 2025, s 3 (inserting art 175AA).

⁴²⁷ Constitution of the Islamic Republic of Pakistan 1973, art 200 (as amended by the Constitution (Twenty-seventh Amendment) Act 2025, s 32).

Implications of Centralization and Decentralization in Judicial and Quasi-Judicial Bodies for Asylum Access Adjudication

The decentralization of Pakistan's judiciary has important implications for asylum access adjudication. On the one hand, the presence of district courts in every district and High Courts in each province provides asylum seekers with geographically dispersed entry points into the legal system, reducing the need to travel long distances to Islamabad to challenge executive action. This structure has enabled High Courts in provincial capitals, such as the Islamabad High Court and Peshawar High Court, to hear constitutional petitions from asylum seekers and grant relief, including stays of deportation or quashing of prosecutions. On the other hand, decentralization has produced divergent jurisprudence across provinces, as judges interpret constitutional rights and refugee protections inconsistently, creating unpredictability for asylum seekers depending on where they file.

Variation of Judicial and Quasi-Judicial Asylum Bodies Across Regions in Decentralized Political Systems

Pakistan's federal system has a geographically decentralized judiciary, but its structure is uniform across all regions. Each province has a High Court, and every district has a district and sessions courts, all operating under the same constitutional framework and with identical powers under Article 199 to enforce fundamental rights. Thus, while courts are spread across provinces, their organization and competences do not vary.

D. Specialization

Institutional specialization on asylum

There is no specialized asylum tribunal in Pakistan. Lower and District courts hear bail and detention cases involving migrants and asylum seekers, while High Courts decide appeals and constitutional petitions. Other specialized courts exist, such as anti-terrorism courts, banking courts, and the Federal Shariat Court, but none deal with asylum specifically⁴²⁸, although foreigners can be charged with anti-terrorism. Any specialization in asylum law has emerged informally through case law, for example, when High Courts have quashed prosecutions of non-citizens on rights-based grounds.⁴²⁹

Specialized training in asylum

Adjudicators and professionals in Pakistan do not receive systematic or compulsory training in asylum or refugee law. Training opportunities that exist are ad hoc and mainly organized by international organizations such as UNHCR and others, as well as UNODC⁴³⁰ and IOM⁴³¹, focusing on related issues like human trafficking or migrant smuggling. These programs are neither comprehensive nor regular, and do not constitute institutionalized training in international refugee protection. National civil society also holds training and awareness sessions on refugee-related legal protections, but those are also ad hoc.

⁴²⁸ Although recently a petition was filed by lawyers in the Federal Shariat Court challenging the use of the Foreigners Act 1946 for mass arrests and deportations of refugees, arguing its contradiction with Islamic injunctions. The petition argues that Islam recognizes asylum and protection against non-refoulement and unchecked executive discretion.

https://www.linkedin.com/posts/smuazshah_islamicconstitutionalism-federalshariatcourt-activity-7416120992936128513-1Gkf?utm_source=share&utm_medium=member_desktop&rcm=ACoAABmXCiUBnUF_mQIyIymuf2_Csu3uaVh8ufk

⁴²⁹ Rizwan Shehzad, 'Pak law recognises right to asylum: IHC' *Express Tribune* (Islamabad, 17 September 2023) <https://tribune.com.pk/story/2436357/pak-law-recognises-right-to-asylum-ihc> accessed 16 September 2025.

⁴³⁰ Quetta Judiciary Successfully Completes Three-part UNODC Training on Human Trafficking and Migrant Smuggling - United Nations Office on Drugs and Crime, accessed September 16, 2025, <https://www.unodc.org/copak/en/Stories/SP1/quetta-judiciary-successfully-completes-three-part-unodc-training-on-human-trafficking-and-migrant-smuggling.html>

⁴³¹ Strengthening Capacity of Pakistan's Legal Community to Combat Human Trafficking, accessed September 16, 2025, <https://www.iom.int/news/strengthening-capacity-pakistans-legal-community-combat-human-trafficking>

Discrepancies between the specialization provided on paper and the actual specialization

There is no formal specialization on paper for asylum adjudication in Pakistan, and therefore no dedicated training or structures to compare with practice. Courts are generalists in both design and reality. The only shift came with the 26th Amendment, which introduced Constitutional Benches in the Supreme Court and High Courts to handle constitutional and fundamental rights cases. However, this has been superseded by the 27th Amendment, which has established the Federal Constitutional Court, which will adjudicate over constitutional matters. While the government justifies this as a form of “specialization” to streamline constitutional matters, the lack of objective selection criteria for the first batch of FCC judges suggests the shift is more about political control than substantive legal expertise.

Implications of Specialization in Judicial and Quasi-Judicial Bodies for Asylum Access Adjudication

The lack of institutional specialization has led to inconsistent and unpredictable outcomes in asylum adjudication. Judges often apply general constitutional or criminal law principles without reference to Pakistan’s international human rights commitments or international refugee law, unless they choose to engage with it voluntarily. This inconsistency undermines legal certainty for asylum seekers. The 26th Amendment’s Constitutional Benches could theoretically provide more focused forums for rights-based cases, potentially allowing some judges to gain expertise, but because their composition is politically determined, the specialization risks being superficial and may not improve the quality or independence of asylum adjudication. Moreover, political influence is likely to be more dangerous for asylum access adjudication using a rights-based lens.

With the 27th Amendment, the Federal Constitutional Court now has exclusive jurisdiction over fundamental rights cases. Hence, asylum cases or matters relevant to refugee deportation and detention argued on the basis of constitutional rights would now be adjudicated by the FCC. However, because the inaugural batch of FCC judges is appointed by the President on the Prime Minister’s advice without objective selection criteria, this specialization is primarily structural and political rather than substantive.

The quality and consistency of decisions are further threatened by the 27th Amendment, empowering the JCP to transfer High Court judges across provinces without their consent. This administrative tool enables the executive to remove independent or “specialized” judges from sensitive cases, replacing them with adjudicators whose views may align more closely with state security policies. Consequently, the lack of genuine expertise in refugee law, combined with centralized political control over the FCC, creates significant barriers to access to justice, as asylum seekers cannot rely on a predictable or independent judicial shield against executive overreach.

E. Human resources

Profile of the group of adjudicators

- *First instance judicial or quasi-judicial body/ bodies:* Magistrate and Sessions judges, who are generalist civil and criminal judges. (There are roughly 4,000 judges across Pakistan serving over 240 million people, producing one of the lowest judge-to-population ratios globally)⁴³²
- *Second instance judicial or quasi-judicial body/ bodies:* Provincial High Court judges, senior career judges with constitutional writ jurisdiction.
- *Third instance judicial or quasi-judicial body/ bodies:* Supreme Court and Federal Constitutional Court judges, often senior jurists promoted from High Courts or the bar. Gender balance remains poor

⁴³² Sumair Abdullah, ‘Explainer: What are ‘judicial reforms’ in the new amendment?’ *Dawn* (Lahore, 21 October 2024) <https://www.dawn.com/news/1866542> accessed 16 September 2025.

across all tiers, with women comprising less than 4.38 of superior court judges.⁴³³ None are asylum specialists.

Selection and appointment

- *First instance:* Magistrates and Sessions judges are recruited through provincial judicial services commissions after competitive exams.
- *Second instance:* High Court judges are appointed by the Judicial Commission of Pakistan (JCP) and confirmed by a parliamentary committee. Under the 26th Amendment, the JCP was restructured to reduce judicial members to a minority (5 out of 13), giving decisive weight to political and executive nominees. Additionally, the 26th Amendment lowered the minimum age for appointment from 45 to 40, expanding eligibility.
- *Third instance:* Supreme Court judges are elevated from High Courts by the JCP and confirmed by the President. The Chief Justice of Pakistan (CJP) is no longer appointed on the basis of seniority; instead, a 12-member Special Parliamentary Committee (SPC) selects the CJP from the three most senior Supreme Court judges. The President appointed the first Chief Justice and the inaugural “batch” of FCC judges solely on the advice of the Prime Minister. Subsequent appointments will be made via the reconstituted JCP.

Clerks, or experts supporting the adjudication function

1. *First instance:* Magistrate and Session courts generally lack clerks beyond administrative staff.
2. *Second instance:* High Courts employ registrars and assistants but not structured law clerks.
3. *Third instance:* The Supreme Court runs a law clerkship program with top law graduates assisting judges in research and drafting.⁴³⁴ Many clerks bring expertise in international and comparative law, which may partly explain the progressive tone in recent superior court decisions affecting refugees and asylum seekers. The newly created Federal Constitutional Court (FCC) may adopt a similar model of clerkships to handle its exclusive constitutional jurisdiction
4. High Courts, FCC, and the Supreme Court can appoint Amicus (third-party experts) to support judicial decision-making on a case-by-case basis.

Interpretation service

No information available on formal processes in this regard. Interpretation is, at best, informally provided to litigants to communicate with the lawyer, courts, etc., on a case-by-case basis.

Quality and availability of human resources

Pakistan’s judiciary is severely under-resourced, with a backlog exceeding 2.2 million cases as of 2025.⁴³⁵ Judges have no mandatory training in refugee law and rely instead on generalist constitutional or criminal law expertise. Support staff and interpreters are limited, particularly in rural or remote areas. These resource gaps undermine timely and consistent adjudication of asylum claims.

⁴³³ Accountability Lab Pakistan, *Policy Brief: Increasing Women in Judiciary* (February 2024) <https://pakistan.accountabilitylab.org/wp-content/uploads/2024/02/Policy-Brief-Increasing-Women-in-Judiciary.pdf> accessed 16 September 2025.

⁴³⁴ Women in Law Initiative Pakistan, *A Guideline to SC Clerkship 2024-25* (LearnPak, August 2024) <https://learnpak.com.pk/wp-content/uploads/2024/08/SC-Clerkship-Guide.pdf> accessed 16 September 2025.

⁴³⁵ Nasir Iqbal, ‘Delays in deciding cases erode public trust: SC’ *DAWN* (16 August 2025 Supreme Court of Pakistan, cited in ‘SCP says judicial reforms significantly reduce case backlog’ *Associated Press of Pakistan* (15 July 2026); see also ‘Pakistan’s judiciary bent into weapon as an extension of the security state: Report’ (IANS, 12 July 2026), citing 2.4 million cases pending nationwide.

Implications of human resources in judicial bodies responsible for asylum access

Human resource shortages result in systemic delays that leave asylum seekers in prolonged legal limbo, often detained while awaiting relief. The absence of specialized training reduces the consistency and quality of decisions, while politicized judicial appointments under the 26th and 27th Amendments may pressure judges to prioritize ‘efficiency’ or executive alignment over rights protection. The limited availability of interpreters and legal aid further compounds barriers to justice, making access to remedies uneven and unpredictable across regions.

F. Tools supporting adjudication

Key organizational tools supporting asylum adjudication

Organizational tools in Pakistan’s judiciary include registries for case intake, bar associations facilitating amicus curiae participation, and occasional collaboration with NGOs or UNHCR to provide evidence and humanitarian context in asylum-related petitions. High Courts and the Supreme Court rely on constitutional petition cells and formal registries, while coordination with executive bodies like police or immigration occurs mostly through procedural directions rather than structured agreements.

Functioning, role, and implementation of IT tools

IT tools remain unevenly implemented. Some High Courts and the Supreme Court use e-filing portals, electronic cause lists, and limited video-conferencing, particularly since the COVID-19 pandemic. District courts remain largely paper-based, with only partial digitization in urban centres. At the superior courts, IT tools primarily assist in streamlining case registration and listing and enabling remote participation, but they are not tailored to asylum-specific cases.

Implications (if any) of organizational tools (especially IT tools) in asylum access adjudication.

Organizational tools, such as amicus appointments and NGO interventions, help compensate for the absence of a statutory asylum system by supplying information to judges. IT tools, where available, improve access by reducing physical barriers to filing and enabling remote hearings. However, their uneven distribution across courts creates disparities: asylum seekers in urban centres may benefit from faster access, while those in peripheral or rural areas face delays due to a lack of digitization. The absence of formalized inter-agency agreements with immigration or refugee authorities further slows adjudication and leaves courts reliant on ad hoc submissions as discussed in Parts 1 and 2 of the Report.

G. Management

Judicial bodies’ managers and middle managers

Post 27th Amendment, Pakistan’s judiciary is headed by the Chief Justice of the Federal Constitutional Court (CJ-FCC) and the Chief Justice of the Supreme Court (CJP) at the apex. The FCC has exclusive jurisdiction to hear any matters pending before any court that involve the interpretation of the Constitution, including on its own motion or as appeals from high courts. The Supreme Court is now only the apex appellate court for all matters, except those involving the interpretation of the Constitution. At the High Court level (second instance), each province (Punjab, Sindh, Khyber Pakhtunkhwa, Balochistan) and the Islamabad Capital Territory has a High Court led by its Chief Justice. Prior to the 26th Amendment, Chief Justices of provincial High Courts managed the formation of all benches, but now JCP has the power to determine judges for specific constitutional benches (created by the 26th Amendment to hear matters pertaining to the constitution).

Chief Justices of High Courts still manage rosters and supervise lower courts and head administrative functions of their courts. At first instance, the District & Sessions Judges head the district judiciary, managing the trial courts (Sessions Courts for serious offenses, District Courts for civil cases) and supervising subordinate magistrates. In immigration or asylum-related cases (e.g., illegal entry under the Foreigners Act), civil administration officials sometimes act as Boards of Inquiry. For example, when

determining the removal of a “foreign” person, the Deputy Commissioner or Assistant Commissioner may chair a quasi-judicial Board of Inquiry under the Foreigners Act. In practice, however, Pakistan has no specialized asylum tribunal; asylum seekers typically appear in ordinary courts (e.g., District Courts or High Courts via constitutional petitions) or seek UNHCR intervention (UNHCR is not a Pakistani body but conducts RSD under a 1993 agreement).⁴³⁶

Direct or indirect influence on asylum access adjudication

Generally (pre-constitutional amendments), by managing benches, controlling rosters and case listings, Chief Justices can indirectly influence adjudication. For instance, Islamabad HC judges have publicly complained that the Chief Justice of IHC assigned controversial cases to certain judges and excluded others from benches.⁴³⁷ Such “bench-packing” can shape how asylum-related petitions are decided too, depending on which judges hear them. At the Supreme Court and High Courts, Chief Justices have also had significant administrative power – they can prioritize (or de-prioritize) certain cases, which affects the speed of asylum-related litigation. At the district level, the District Judges likewise can determine which Criminal or Civil Courts hear cases like illegal-entry trials under Section 14 of the Foreigners Act. However, there is no evidence that judges’ promotions or career advancement have been tied to asylum decisions specifically (given that these decisions are also limited). Managerial influence has appeared mainly through docket and calendar control. (For example, IHC judges noted that cases were predominantly assigned to newly transferred judges, sidelining permanent senior judges, illustrating how administrative decisions can marginalize or highlight certain adjudicators).⁴³⁸

However, post the 26th Amendment, constitutional benches have been created at the Supreme Court (191A) and in all provincial high courts (Article 202A). The JCP is now empowered to nominate judges (and decide the terms of such nomination) on these constitutional benches. Only these constitutional benches (and therefore the judges nominated to be on them) were subsequently allowed to exercise the Supreme Court’s and High Court’s constitutional jurisdiction under Article 184 and Article 199 respectively. Most asylum cases have originated in the High Courts under Article 199. The 26th amendment allows the reconstituted JCP (with greater political membership) to decide, in the absence of clear criteria, which judges can hear matters pertaining to constitutional rights of asylum seekers/refugees, and this is a significant avenue of influence. The 27th Amendment’s newly created Federal Constitutional Court supersedes the constitutional benches of the Supreme Court created by the 26th Amendment. This means now only FCC judges, currently all nominated by the President, are exclusively empowered to decide any matters involving constitutional rights of asylum seekers and refugees,⁴³⁹ as well as those governing matters between governments.⁴⁴⁰

Professional performance measures

Pakistan does not have transparent, outcome-based performance metrics for judges or clerks in asylum matters (or other thematic) cases. Thematically, judges are generally evaluated informally through peer review and formally by the Supreme Judicial Council on grounds of misconduct and incapacity, and post the 26th & 27th Constitutional amendments, an additional ground of ‘inefficiency’ has also been added to

⁴³⁶ UNHCR, ‘Asylum System in Pakistan’ <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan> accessed 15 September 2025.

⁴³⁷ Hasnaat Malik, ‘Judges highlight ‘lack of transparency’ *Express Tribune* (Islamabad, 3 September 2025) <https://tribune.com.pk/story/2564758/judges-highlight-lack-of-transparency> accessed 15 September 2025.

⁴³⁸ Ibid.

⁴³⁹ See Article 175F Constitution (Twenty-seventh Amendment) Act, 2025 https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

⁴⁴⁰ See Article 175E. Original jurisdiction of the Federal Constitutional Court. (1) The Federal Constitutional Court shall, to the exclusion of every other court, have original jurisdiction in any dispute between any two or more Governments. Constitution (Twenty-seventh Amendment) Act, 2025

https://www.senate.gov.pk/uploads/documents/1762598611_995.pdf

assess judges, without further defining what that could mean.⁴⁴¹ There are also no published targets or appellate scorecards for granting asylum or similar outcomes. In late 2025, Islamabad HC judges themselves demanded an “objective framework for performance evaluation,” criticizing existing statistics as misleading (“skewed”) and not reflecting actual workload.⁴⁴² This suggests current “performance measures” (if any) are rudimentary, and post-constitutional-amendments-related changes risk the independence of the judiciary. Court staff and clerks follow administrative rules (e.g., timely filing, case monitoring), but no special appraisal exists for asylum case handling. In practice, broad case disposal rates (not asylum-specific) are the only gauge, and judges have complained that these can be manipulated by roster choices. The lack of clear evaluation systems means quality and independence rely on individual integrity in the existing judicial culture, which has drastically changed post the reforms introduced by the 26th and 27th Constitutional Amendments.

H. Caseload and delays

Caseload of judicial bodies responsible for asylum access adjudication

Pakistan has no separate asylum court system, so exact “asylum case” numbers aren’t tracked. In UNHCR’s Pakistan programme, 2,895 individuals underwent refugee-status determination in 2024.⁴⁴³ Compared to millions of court cases in general, this is small. Most asylum issues enter courts via criminal charges or constitutional petitions under ordinary procedures. The overall judicial caseload is enormous: over 2.2 million cases pending nationwide (with ~55,941 in the Supreme Court alone)⁴⁴⁴. Hence, any asylum-related matters are a minute fraction.

Implications of caseload on asylum access adjudication

However, the general high caseload means that asylum seekers, when they litigate, face the same congested system. The implication is twofold: (a) Asylum claims often get delayed or deferred along with other cases, degrading the timeliness of justice. (b) Judges under heavy workloads may resort to narrow technical rulings or summary dismissals, potentially limiting thorough consideration of refugees’ protection needs. On the other hand, high overall caseloads sometimes force the government to leave asylum seekers in limbo (neither adjudicating nor removing them), which can have life-or-death consequences given Pakistan’s lack of legal protection for asylum seekers.

Delays and backlogs characterizing judicial bodies responsible for asylum access adjudication

Judicial delays are chronic at every level. According to the Supreme Court, over 2.2 million cases were pending in 2025, reflecting years-long waits for ordinary litigants. High Courts similarly report massive backlogs.⁴⁴⁵

Implications of backlog and delays in asylum access adjudication

For asylum seekers, this means any petition or trial waits in the same queue. The Azizi case (an Afghan woman prosecuted under the Foreigners Act) illustrates this: her trial lasted months before reaching the IHC, which itself took time to issue a detailed judgment. At the UNHCR-administered asylum level, delays are also acute: UNHCR reports an average of 638 days from registration to first-instance decision in 2024.

⁴⁴¹ See Amendment of Article 209 of the Constitution, Constitution (Twenty-sixth Amendment) Act, 2024 https://www.na.gov.pk/uploads/documents/671f74b8da9e0_263.pdf

⁴⁴² Ibid.

⁴⁴³ UNHCR, *Pakistan ARR 2024* (June 2025) <https://www.unhcr.org/sites/default/files/2025-06/Pakistan%20ARR%202024.pdf>

⁴⁴⁴ Irfan Aslam, ‘Pakistan’s Justice System in Tatters as Supreme Court Admits Massive Backlog’ *Tribune India* (New Delhi, 25 September 2025) <https://www.tribuneindia.com/news/world/pakistans-justice-system-in-tatters-as-supreme-court-admits-massive-backlog>

⁴⁴⁵ Nasir Iqbal, ‘Delays in deciding cases erode public trust: SC’ *DAWN* (16 August 2025) <https://www.dawn.com/news/1931206>

(well above its 270-day target).⁴⁴⁶ Such delays exceed two years. The implications are severe: judges and clerks are burdened, which can lower diligence and lengthen hearings. Lawyers struggle to keep clients secure, as filing a petition may only postpone removal by a short term. For asylum applicants, delays can be life-threatening: many have been detained or face refoulement risk while waiting. The judiciary has warned that “persistent delays ... erode public trust” and disproportionately harm vulnerable litigants.⁴⁴⁷ In sum, heavy backlogs at all tiers slow asylum access, often contravening the urgency such claims demand.

I. Influence of judicial or quasi-judicial bodies on access to asylum

Impact of case law in the field of asylum access adjudication on legislation

Pakistani courts have not directly changed laws on asylum, largely because no asylum law exists to amend. Instead, case law has highlighted the legislative vacuum. In *Rahil Azizi v. State* (2023), the Islamabad High Court stressed the “clear need to develop a more efficient and robust refugee administration system at the domestic level”.⁴⁴⁸ Judges have signalled that statutes like the Foreigners Act should be reformed or supplemented by an asylum framework. However, the legislature has not acted. No new refugee or asylum statute has been passed since Azizi or similar cases. Thus, case law’s main impact on legislation has been to sound an alarm: courts have essentially invited Parliament to enact an asylum law, but that remains unmet. (For example, despite calls to better distinguish asylum seekers from other foreigners, no amendments were made.)⁴⁴⁹ In short, some of the judicial decisions relevant to asylum so far shape calls for reform but have not triggered formal legal change.

Impact of case law in the field of asylum access adjudication on asylum policies

Although courts cannot create policies, they have directly tempered some executive measures. High Courts have repeatedly stayed or moderated government actions. In early 2025, the Supreme Court asked the government to justify its expulsion orders, and Islamabad HC judges ordered authorities to halt harassment and summary deportations of registered refugees.⁴⁵⁰ In August 2025, the IHC intervened to stop the deportation of 18 Afghans, compelling ministries (Interior, NADRA, FIA, etc.) to explain why their Proof-of-Registration cards were revoked.⁴⁵¹ These rulings forced policy adjustments: the government gave assurances that registered Afghans would not be deported.⁴⁵² And ministries have been more cautious about acting without legal backing. Similarly, the courts have held Section 10 of the Citizenship Act to be discriminatory against married Pakistani women in passing on nationality to their husbands. Although this has not yet resulted in an amendment of Section 10, in practice, earlier judicial decisions (in particular those of the Sindh High Court, which read in gender-neutrality of Section 10) changed the policy, and NADRA has since been required to comply. In this way, individual case law has led to concrete restraints on asylum policies (e.g., pausing crackdowns and ordering documentation), even though no formal asylum system was created. However, particularly on Section 10 cases, all these decisions emanated from the provincial High Courts and the Federal Shariat Court so far. Recently in October of 2025, the Supreme

⁴⁴⁶ UNHCR, *Pakistan ARR* 2024 (June 2025) <https://www.unhcr.org/sites/default/files/2025-06/Pakistan%20ARR%202024.pdf>

⁴⁴⁷ Irfan Aslam, ‘Pakistan’s Justice System in Tatters as Supreme Court Admits Massive Backlog’ *Tribune India* (New Delhi, 25 September 2025) <https://www.tribuneindia.com/news/world/pakistans-justice-system-in-tatters-as-supreme-court-admits-massive-backlog>

⁴⁴⁸ RSIL, ‘Case Note: Rahil Azizi v The State and Others’ (2023) <https://rsilpak.org/2023/case-note-rahil-azizi-v-the-state-and-others/>

⁴⁴⁹ Ibid.

⁴⁵⁰ Amnesty International, ‘Opaque, Illegal Foreigners Repatriation Plan Targeting Afghan Refugees Must Be Withdrawn’ (March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

⁴⁵¹ Afghanistan International, ‘Islamabad High Court Halts Deportation Of 18 Afghan Migrants’ (25 August 2025) <https://www.afintl.com/en/202508252818>

⁴⁵² Amnesty International, ‘Opaque, Illegal Foreigners Repatriation Plan Targeting Afghan Refugees Must Be Withdrawn’ (March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

Court took on one of these cases on appeal and suspended an earlier ruling of the Peshawar High Court, which held section 10 as discriminatory and had ordered legal identity documentation for Afghan husbands of Pakistani women.⁴⁵³ The matter is still pending in the Supreme Court, and whatever the apex court decides will be binding on all other courts, except the FCC (should it decide to take this up from the Supreme Court).

Impact of case law in the field of asylum access adjudication on executive practices

Courts, through their orders, have enforced procedural safeguards on some of the executive's asylum-related practices. By interpreting the law broadly, judges have effectively reined in some practices. For instance, *Azizi* held that fleeing persecution is not a crime under Section 14(2),⁴⁵⁴ meaning police and immigration must consider protection claims rather than simply apply foreigner-status rules. Executives have been directed to reconsider blanket deportation tactics: following court orders, arrests of registered refugees were curtailed pending hearings.⁴⁵⁵ However, practical change is uneven. Pakistan still has no formal asylum registration process (beyond UNHCR's), and border controls remain stringent. In some cases, courts grant individual relief (release or permits), but mass practices (e.g., 2024-25 repatriation plans) have not been fully rescinded by law, only delayed or softened by judicial pressure. In short, case law has injected legal oversight into executive asylum actions (border raids, detentions, NOCs), but without systematic policy reform, the executive retains substantial discretion, moderated only by these judicial rulings.

J. Judicialization of politics

Executive–Judiciary Tensions in Asylum Access Adjudication

Within the judiciary itself, tensions have surfaced pre- and post- the recent constitutional amendments, but in asylum matters, conflict has increasingly taken the form of litigation in individual cases rather than a single unified challenge, and outcomes diverge sharply from court to court. In July 2026, the Peshawar High Court disposed of roughly 140 petitions from Afghan families fearing persecution, halting their deportation and referring their cases to the federal government to assess eligibility on the non-refoulement principle, following an interior ministry order to begin arresting undocumented Afghans that same month.⁴⁵⁶ By contrast, the Balochistan High Court dismissed a comparable petition earlier, accepting a government assurance of compliance with an existing notification rather than imposing substantive protection.⁴⁵⁷ This divergence lends empirical support to lawyers' claims that administrative manipulation of case lists and bench composition can shield the executive from scrutiny in some fora while other courts continue to assert rights protections.⁴⁵⁸ Asylum issues have thus become politicized in court: judges assert rights protections, while the government asserts sovereignty. The scale of the underlying dispute has grown considerably — Human Rights Watch reported over 146,000 Afghans deported in 2026 alone, with Amnesty International putting the cumulative total since 2023 above 1.9 million, including individuals

⁴⁵³ 'SC suspends PHC verdict on issuance of POCs to Afghan nationals', The News, October 31, 2025, <https://www.thenews.com.pk/latest/1354738-sc-suspends-phc-verdict-on-issuance-of-pocs-to-afghan-nationals>

⁴⁵⁴ Rahil Azizi vs. The State (WRIT PETITION NO. 1666 OF 2023).

https://mis.ihc.gov.pk/attachments/judgements/161521/1/W.P.No.1666_of_2023.pdf

⁴⁵⁵ Amnesty International, 'Opaque, Illegal Foreigners Repatriation Plan Targeting Afghan Refugees Must Be Withdrawn' (March 2025) <https://www.amnesty.org/en/latest/news/2025/03/opaque-illegal-foreigners-repatriation-plan-targeting-afghan-refugees-must-be-withdrawn/>

⁴⁵⁶ Peshawar High Court directs Centre to decide Afghan asylum seekers cases on non-refoulement principle *Dawn* (July 2026) <https://www.dawn.com/news/2013776/peshawar-high-court-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>

⁴⁵⁷ High Court of Balochistan, Quetta, Cause List, Principal Seat Quetta (5 May 2026) https://bhc.gov.pk/media/causelists/1101/2026-05-05/single_bench_1_2026-05-05.pdf — lists

"Suspension:527/2025," petitioner Sahibzada Nusrat Hassan Khan Afghani, matching the case reported in press coverage.

⁴⁵⁸ Hasnaat Malik, Judges highlight "lack of transparency" *Express Tribune* (Islamabad, 3 September 2025) <https://tribune.com.pk/story/2564758/judges-highlight-lack-of-transparency>

holding valid documentation.⁴⁵⁹ With the 26th and 27th Constitutional Amendments concentrating greater powers within the legislative and executive branches, the space for judicial disagreement and dissent appears to be narrowing — though some courts continue to resist executive pressure even as others defer to it. The practical effect on asylum seekers' rights has so far been limited: despite four years of litigation, deportations have accelerated rather than abated.

Restriction or expansion of the jurisdiction or competence

No recent legislation has explicitly expanded or curtailed courts' jurisdiction over asylum matters more narrowly, but significant changes have been made to the judiciary overall through the 26th and 27th constitutional amendments, passed in a very short timeframe, that impact the independence of the judiciary, especially needed to protect the rights of asylum seekers.⁴⁶⁰

Pakistan still has no refugee law or dedicated asylum tribunal, and the courts' authority derives from general constitutional and criminal provisions. For example, the Foreigners Act (with minor amendments) remains the basis for handling "illegal" migrants. Executive orders on repatriation (e.g., IFRP) were issued administratively rather than through formal laws. A key change was the 26th Amendment (2024) reconstituting the Judicial Commission of Pakistan by including a greater number of political representatives for the appointment of judges⁴⁶¹ and designating specific benches (and specific judges) to hear constitutional fundamental rights matters, both of which have implications for judges' ability to oversee executive action in the context of asylum. Additionally, with the 27th amendment, the FCC has exclusive jurisdiction over all matters relevant to fundamental rights (previously with the Supreme Court, and so the Supreme Court has been restricted in this way), and it empowers the JCP to transfer High Court Judges without their consent, amongst other things.

Ways to influence policy outcomes

Pakistani judges have used creative legal reasoning to shape asylum policy on the ground, even without new statutory support in this area. The *Azizi* judgment is one example: by reading international law and constitutional rights into the Foreigners Act, the IHC effectively prevented criminal prosecution of an asylum seeker.⁴⁶² This set a precedent that asylum seekers "cannot be incarcerated" under current law, forcing the Interior Ministry to adjust its handling of similar cases. In other words, courts have exercised de facto policy influence via interpretation. This is akin to judicial activism seen in other domains: the judiciary "finds" norms (e.g. non-refoulement from ICCPR/CAT) to bind the executive even though the legislature has not explicitly granted such asylum powers. Thus, despite no formal change in mandate, courts have carved out rights for asylum seekers and imposed legal limits on policies by asserting international refugee principles and fundamental rights as controlling in specific cases, as also discussed in earlier parts of the report. The future role of the courts, however is yet to be seen post the constitutional amendments.

Influence on policy outcomes in practice

Yes, judicial and quasi-judicial bodies in Pakistan have influenced asylum policy outcomes in practice, but their effect is largely limited to individual interventions rather than systemic change. Since the launch of

⁴⁵⁹ Afghan brothers win court stay against deportation, as Pakistan quietly lists thousands of high-risk nationals *Voicepk.net* (14 May 2026) <https://voicepk.net/2026/05/afghan-brothers-win-court-stay-against-deportation-as-pakistan-quietly-lists-thousands-of-high-risk-nationals/>

⁴⁶⁰ The 26th Constitutional Amendment was passed in October 2024, while the 27th Constitutional Amendment was passed in November of 2025.

⁴⁶¹ Siddiqui R, 'Shackling Justice: Pakistan's 26th Amendment and the Death of Judicial Independence' *Modern Diplomacy* (25 October 2024) <https://moderndiplomacy.eu/2024/10/25/shackling-justice-pakistans-26th-amendment-and-the-death-of-judicial-independence/> accessed 16 September 2025.

⁴⁶² Rizwan Shehzad, 'Pak law recognises right to asylum: IHC' *Express Tribune* (Islamabad, 17 September 2023) <https://tribune.com.pk/story/2436357/pak-law-recognises-right-to-asylum-ihc> accessed 12 September 2025.

the Illegal Foreigners Repatriation Plan (IFRP), courts, particularly the Higher Courts, have developed a growing body of jurisprudence that invokes constitutional rights and international refugee norms to protect asylum seekers in specific cases. These judgments demonstrate that robust legal principles are emerging in the asylum field despite a legal vacuum. However, the executive has not substantively altered its broader policy or enforcement framework in response. Instead, implementation continues largely unchanged, meaning protection is secured for individuals only when courts are directly engaged. This creates a cycle in which asylum seekers and advocates must repeatedly return to the judiciary to prevent deportations or rights violations, underscoring that while jurisprudence is developing, systemic executive compliance remains elusive. Moreover, the recent constitutional amendments practically limit the judiciary in its ability to influence the executive, including in asylum matters. It is yet to be seen what impact that will have on prior decisions of the courts on access to asylum.

Assessment of the judicialization of politics in the country

In Pakistan, “judicialization of politics” has traditionally referred to courts actively adjudicating issues of public policy. This has been a well-observed phenomenon in areas like governance, elections and fundamental rights. The asylum context follows a similar pattern arguably: courts are asked to resolve contested political decisions (e.g. mass deportations). Judges have invoked broad constitutional principles to override executive policy influence on a case-to-case basis, reflecting a familiar dynamic of court activism in Pakistan’s context. However, asylum cases have differed in emphasis, for example judges have explicitly cited international refugee norms and human rights in the absence of domestic law.⁴⁶³ The higher judiciary’s approach to asylum (when taken up) has been more rights-oriented (using constitutional fundamental rights) and international-law aware than other cases.⁴⁶⁴ While the overall trend (courts checking the executive) has been similar across fields, asylum litigation has a unique humanitarian angle and relies on external legal standards. In practice, judicialization in Pakistan covers many sectors, and asylum may fit into it as another contested policy area where the judiciary provides oversight, even though the legal basis is mainly international/humanitarian norms rather than domestic statutes, except fundamental rights of persons under the constitution.

In the context of recent amendments to the constitution, politicization of the judiciary has taken on a different meaning that aligns more closely with the idea that politics now plays a greater role in the judicial sphere. With greater role of political and government actors in appointing judges and deciding which judges (and Court i.e. the FCC) will decide constitutional matters, it is a lot more likely that the judiciary will be cautious in acting against government policy.

III. OTHER ACTORS IN ASYLUM ACCESS ADJUDICATION

A. Bodies of the executive branch in asylum access adjudication

The Ministry of Interior (MOI) serves as the central institution overseeing matters of migration and internal security. Its mandate is rooted in the Constitution⁴⁶⁵ and the Rules of Business, 1973,⁴⁶⁶ and it exercises wide-ranging powers relating to citizenship, nationality, visas, deportation, asylum, and preventive detention. The ministry is a federal body, headed by the Interior Minister and supported by the Interior Secretary and attached departments. With direct administrative control over institutions such as

⁴⁶³ See Rahil Azizi & other cases discussed earlier; see also Peshawar High Court's July 2026 order grounding protection for around 140 Afghan petitioners in the non-refoulement principle, despite Pakistan not being a signatory to the 1951 Refugee Convention - 'Peshawar High Court directs Centre to decide Afghan asylum seekers' cases on non-refoulement principle' *Dawn* (July 2026) <https://www.dawn.com/news/2013776/phc-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>

⁴⁶⁴ Ibid.

⁴⁶⁵ Constitution of Pakistan, 1973 – Article 99

⁴⁶⁶ Rules of Business, 1973 Schedule II, Entry 18 – Ministry of Interior

NADRA, FIA, and paramilitary forces, the Ministry is among the most resourceful organs of the federal government, equipped with substantial bureaucratic and enforcement capacity.

NADRA, operating under the Ministry of Interior, is specialized in registration and identity documentation. Established under the NADRA Ordinance, 2000, it possesses technical expertise in digitized registration systems, biometric verification, and the maintenance of a comprehensive national database. Its functions include issuing CNICs, POCs, and Alien Registration Cards, as well as recording vital life events. NADRA is a critical actor in citizenship administration but not one with a human rights mandate.⁴⁶⁷

The Ministry of States and Frontier Regions (SAFRON) is tasked with refugee management and border region affairs. It liaises with provincial governments and international organizations such as UNHCR on refugee policy, Afghan displacement, and humanitarian assistance. While it has expertise in coordination and refugee affairs, its resources remain limited, and much of its work relies on international aid and partnerships.⁴⁶⁸

The Federal Investigation Agency (FIA), under the administrative control of the Ministry of Interior, functions as an investigative and law enforcement agency. Its mandate under the FIA Act, 1974 (and certain other specialized legislation) covers crimes such as human trafficking, smuggling, money laundering, terrorism, and cybercrime, as well as border control operations. The FIA is staffed with investigators, prosecutors, and border control officers and it also acts as Pakistan's liaison with INTERPOL. While its expertise is extensive in federal crime and enforcement, its role in asylum or human rights protection is indirect, focusing instead on migration control and criminal investigation.⁴⁶⁹

Finally, law enforcement agencies, including the Police, Rangers, Frontier Corps, and Coast Guards etc., are security and border control actors. They are not specialized in asylum or human rights, but they nonetheless shape 'access to asylum' through the enforcement of entry restrictions, movement controls, and deportations. Their expertise and mandate remain security-driven, rather than rights-based.

Involvement, efforts, and interests that executive bodies display

The Ministry of Interior (MOI) is the primary executive body responsible for detention and deportation. Notably, on 26 September 2023, the Ministry of the Interior of the Government of Pakistan issued the Illegal Foreigners Repatriation Plan (IFRP), 2023, and on 1 November, the Ministry of Interior issued instructions to all provinces to deport illegal aliens under the Foreigners Act, 1946, deploying law enforcement officials across the country and establishing 49 holding areas to detain undocumented immigrants.⁴⁷⁰ Before Pakistani courts, MOI typically justifies these actions under the Foreigners Act, 1946, citing national security, public order, and immigration control.⁴⁷¹ It has played a central role in implementing the IFRP, under which Afghan individuals, including refugees and asylum seekers, have been detained and deported. The Ministry is also involved in refugee resettlement cases, as exit permits are issued through its offices. Refugees who enter Pakistan without valid visas are frequently charged under the Foreigners Act 1946, as illustrated in cases such as Rahil Azizi⁴⁷² and Hashmat Ullah.⁴⁷³

⁴⁶⁷ (National Database and Registration Authority (NADRA), *Review of NADRA* (Ministry of Interior Pakistan, March 2000) <https://mohtasib.gov.pk/SiteImage/Downloads/WMS%20Committee%20report/NADRA.pdf> accessed 11 September 2025.)

⁴⁶⁸ Ministry of States and Frontier Regions (SAFRON), Government of Pakistan <https://www.safron.gov.pk>

⁴⁶⁹ Federal Investigation Agency, Government of Pakistan <https://fia.gov.pk>

⁴⁷⁰ UNHCR, "Illegal Foreigners Repatriation Plan, 2023," Rights Mapping and Analysis Platform, last modified April 16, 2025, <https://rimap.unhcr.org/node/63575>

⁴⁷¹ "Afghan Nationals in Pakistan (2023–2026)" (UN treaty body submission) — https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=OCf5+HU7k70F4piwMHE0tOpAw4WEEhlp497wL1HX+LZwehQ71oU8njoT2D058%2F

⁴⁷² Writ Petition No. 1666 of 2023

⁴⁷³ Writ Petition No. 4840 of 2023

NADRA, by contrast, is primarily engaged in citizenship and identity disputes. It administers biometric and civil-registration systems, including CNICs, PoR cards, POCs, and vital records. Its role becomes particularly significant when birthright citizenship is denied to children of refugees or when Pakistani women's foreign spouses are refused nationality documents, as seen in Ghulam Sanaï⁴⁷⁴ and Sardar Dawood.⁴⁷⁵ NADRA has also been challenged for blocking CNICs without due process, creating administrative barriers to the exercise of citizenship rights, as in the case of Hafiz Hamdullah Saboor.⁴⁷⁶

SAFRON (Ministry of States and Frontier Regions) functions as the main administrative body dealing with Afghan refugees, particularly in coordinating with UNHCR and provincial authorities on refugee registration, camp management, and humanitarian assistance. While not directly responsible for deportation, SAFRON's policies and coordination mechanisms significantly shape refugees' access to protection and services.

The Federal Investigation Agency (FIA) plays an enforcement role at the borders and within the country, investigating and prosecuting irregular migration, human smuggling, and visa overstays. In asylum-related adjudication, the FIA often appears as a party when refugees are arrested for irregular entry or stay. Its mandate is heavily security-driven, which explains its emphasis on control and enforcement rather than protection. In addition, other law enforcement agencies and government departments support the implementation of the IFRP.

Role of executive bodies and their implications in asylum access adjudication

In the absence of any legal framework on asylum, executive bodies in Pakistan play a decisive role in asylum access adjudication, as mentioned above. In cases such as *Rabil Aziz* and *Hashmat Ullah*, the Ministry argued that irregular entry disqualified petitioners from constitutional protections, framing the issue in terms of security and immigration control rather than protection.

Similarly, NADRA's policies on CNICs and POCs have created procedural barriers for refugee spouses and children born in Pakistan, as seen in cases such as *Amna v. Federation of Pakistan*, *Saeed Abdi Mahmud*, *Naureen Masood*, and *Fazal Haq*.⁴⁷⁷ Courts have repeatedly held that NADRA cannot arbitrarily block or revoke citizenship, yet its administrative control often forces individuals into litigation to assert rights already guaranteed by law, and even if a court decision is in their favour, litigants often have to return back to the courts for implementation.

In sum, the involvement of executive bodies shapes legal outcomes for refugees and asylum seekers, as they actively participate in court proceedings and provide evidence/responses in court hearings, and at the end of the day, are responsible for implementing the decisions of the court.

B. International or regional organizations

In Pakistan, two key international organizations are involved in asylum and migration: UNHCR and IOM. UNHCR specializes in asylum and refugee protection. It carries out Refugee Status Determination (RSD) under the 1993 Cooperation Agreement with Pakistan.⁴⁷⁸ Its expertise lies in refugee protection, statelessness prevention, and durable solutions such as voluntary return, local integration, and resettlement.⁴⁷⁹ The agency operates through a country office and field centres, working with NGOs and

⁴⁷⁴ Writ petition no. 572 of 1995

⁴⁷⁵ Writ Petition No. 999 of 2025

⁴⁷⁶ Hafiz Hamdullah Saboor VS GOP etc. Writ Petition-3748-2019 | 2021 PLD 305 Islamabad

⁴⁷⁷ Mst. Amna and Another vs. Federation of Pakistan, PLD 2024 Peshawar 57; Saeed Abdi Mahmud vs. NADRA 2018 CLC 1588; Mst. Naureen Masood vs. Government of Pakistan W.P. No. 2469-P/2022; Fazal Haq vs. NADRA, Writ Petition No. 1254 of 2022

⁴⁷⁸ UNHCR, Asylum System in Pakistan - <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan>

⁴⁷⁹ UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan#:~:text=In%20the%20absence%20of%20a,identification%20of%20a%20durable%20solution.>

government partners, and manages large-scale documentation such as Proof of Registration (PoR) cards for Afghan refugees.⁴⁸⁰

IOM specializes in migration management rather than asylum adjudication. It provides humanitarian assistance and operational support such as voluntary return, resettlement logistics, medical assessments, and reintegration assistance. IOM has had a presence in Pakistan since 1981, with a formal Cooperation Agreement signed in 2000, and operates through its country office with dedicated teams for resettlement, migration health, and governance.⁴⁸¹

Involvement, efforts, and interests that international and regional organizations display

UNHCR has historically conducted Refugee Status Determination (RSD) under its international mandate, as formalised in the 1993 Cooperation Agreement with the Government of Pakistan.⁴⁸² Its documentation has been treated by Pakistani courts as authoritative evidence of international protection needs, forming the basis for interim relief in cases like *Rahil Aziz v Federation of Pakistan*⁴⁸³ and *Aamir Aman v Federation of Pakistan*.⁴⁸⁴ Courts have explicitly acknowledged the protective role of UNHCR and the significance of its determinations, especially in cases concerning resettlement barriers, where asylum seekers recognised by third countries face prosecution under the Foreigners Act or denial of exit permits despite confirmed refugee status abroad.

The extent of UNHCR's involvement, however, is shaped by its working relationship with the Government and by domestic political considerations. In early 2022, for example, the Government of Pakistan issued a Note Verbale instructing UNHCR to suspend new registrations, effectively shutting down the main gateway for Afghan asylum seekers to initiate protection claims.⁴⁸⁵ Where registration is suspended or exit permits withheld, the procedural gateway to asylum is effectively closed.

IOM has been providing humanitarian and emergency assistance to Afghans as well as documenting and tracking, along with UNCHR, the needs and movement of Afghans in real time. Both entities collect and collate data. For example, IOM's Displacement Tracking Matrix collects flow monitoring data at the various border crossings.⁴⁸⁶ Similarly IOM and UNHCR jointly conduct research to inform a wide range of stakeholders of realities on the ground, such as the "UNHCR-IOM Flash Update" series collects data on the arrest, detention, and deportation of Proof of Registration (PoR) holders, Afghan Citizen Card (ACC) holders, and undocumented Afghan nationals as well as on the outflows of Afghan nationals at various key border crossings (i.e. the Torkham, Ghulam Khan, Chaman, Badini and Bahramcha border crossing points).⁴⁸⁷

Role of international or regional organizations and their implications

In the context of courts, their involvement is mostly evidentiary and supportive through UNHCR-issued documentation, such as asylum-seeker certificates, which courts have often treated as authoritative evidence in protection and resettlement cases. In addition, UNHCR also supports free legal assistance through network of partners to asylum seekers. In addition, as mentioned above, data from both UNHCR & IOM can be used by a wide number of actors, including arguably the courts.

⁴⁸⁰ "Information Regarding Proof of Registration Card Modification (PCM) Center, UNHCR Pakistan"

<https://www.unhcr.org/pk/information-refugees/information-regarding-proof-registration-card-modification-pcm-center>

⁴⁸¹ International Organization for Migration (IOM), 'IOM Pakistan' (IOM Pakistan) <https://pakistan.iom.int/iom-pakistan> accessed 26 June 2025.

⁴⁸² UNHCR, 'Asylum system in Pakistan' <https://www.unhcr.org/pk/what-we-do/protection/asylum-system-pakistan#:~:text=In%20the%20absence%20of%20a,identification%20of%20a%20durable%20solution.>

⁴⁸³ Writ Petition No. 1666 of 2023

⁴⁸⁴ PLD 2020 Sindh 533

⁴⁸⁵ UNHCR, *Annual Results Report 2022 – Pakistan* (3 May 2023) <https://reporting.unhcr.org/files/2023-06/Asia%20-%20Pakistan.pdf>

⁴⁸⁶ International Organization for Migration (IOM), Pakistan, Displacement Tracking Matrix, <https://dtm.iom.int/pakistan>

⁴⁸⁷ UNHCR-IOM Flash Update #96 (15 September 2023 – 30 May 2026), "Displacement Tracking Matrix, June 5, 2026, <https://dtm.iom.int/reports/pakistan-unhcr-iom-flash-update-96-15-september-2023-30-may-2026>

C. NGOs and bar associations

NGOs and bar associations involved in asylum access adjudication

NGO's most directly working in this space are UNHCR partners working in different areas of Pakistan. These NGOs are listed on the UNHCR website⁴⁸⁸ and presently include the following two key partners:

- SHARP Pakistan works on refugee protection and human rights. It provides legal aid, protection services, and advocacy for refugees and asylum seekers. Its work includes supporting people facing police harassment, illegal detention, or difficulties with documentation and registration. It also runs awareness and capacity-building programs.⁴⁸⁹ SHARP has a network of field offices across major cities such as Islamabad, Peshawar, Karachi, Mianwali, and Lahore. Its teams include lawyers, social workers, and counsellors providing legal and psychosocial support.⁴⁹⁰ SHARP operates legal aid clinics, refugee helplines, and mobile legal camps, with at least seven advice/legal aid centres in refugee-populated areas. It has been active since 1999 and collaborates with international donors and UN agencies, giving it strong institutional capacity.⁴⁹¹
- SEHER is primarily in Balochistan, with a rights-based approach focusing on vulnerable and marginalized communities. SEHER works on issues such as child protection, women's rights, social justice, and legal empowerment.⁴⁹² It provides legal aid and advocacy, especially for communities in Balochistan. SEHER has a local and provincial focus, with offices in Quetta and surrounding areas. Its teams are composed of community mobilizers, legal aid staff, and rights advocates.⁴⁹³

The additional NGOs mentioned as UNHCR partners include: SPARC⁴⁹⁴ and International Medical Corps (IMC)⁴⁹⁵ in Islamabad, Inspire Pakistan⁴⁹⁶ in Islamabad, Karachi, Lahore, and Peshawar, Imkaan Welfare Organization⁴⁹⁷ in Karachi, International Rescue Committee in Peshawar and Quetta, Sustainable Peace and Development Organization (SPADO) in Peshawar, Drugs and Narcotics Educational Services for Humanity - (DANESH) in Quetta and Pathfinder in Karachi.⁴⁹⁸

Note: Bar associations are not directly involved in this space.

Involvement, efforts, and interests that NGOs and bar associations

As UNHCR's implementing partner, SHARP and SEHER have provided legal aid, protection, and advocacy for refugees, including representation in cases of detention, deportation, and documentation disputes. Imkaan Welfare Organization in Karachi is one of the only organizations that provides legal assistance to stateless persons (non-Afghan populations, including Bihari, Rohingya, ethnic Bengalis, etc.) and refugees in Karachi. Other rights-based NGOs provide more limited legal services to asylum seekers and are involved in broader documentation, research, advocacy, coalition-building, etc. While bar associations are not involved directly or predominantly, lawyers have served as key activists too on asylum refugee issues, such as the Joint Action Committee for Refugees, a coalition also comprising lawyers and other stakeholders.⁴⁹⁹

⁴⁸⁸ UNHCR Pakistan, 'Contact UNHCR Pakistan and our Partners' <https://help.unhcr.org/pakistan/contact/>

⁴⁸⁹ Rights in Exile, "Pakistan Legal Assistance" <https://rightsinexile.org/legal-assistance-by-country/pakistan-legal-assistance/>

⁴⁹⁰ SHARP Pakistan, "Contact Us" <https://sharp-pakistan.org/contact-us/>

⁴⁹¹ SHARP Pakistan, "About Us" <https://sharp-pakistan.org/about-us/>

⁴⁹² ⁴ SEHER Pakistan, "About Us" <https://seher.org.pk/about-us/>

⁴⁹³ ⁵ SEHER Pakistan, "About Us" <https://seher.org.pk/about-us/>

⁴⁹⁴ SPARC, Pakistan <https://sparecpk.org>

⁴⁹⁵ International Medical Corps (Pakistan), <https://internationalmedicalcorps.org/country/pakistan/>

⁴⁹⁶ Inspire Pakistan, <https://inspirepk.org>

⁴⁹⁷ Imkaan Welfare Organization, <https://imkaan.org>

⁴⁹⁸ UNHCR Pakistan, 'Contact UNHCR Pakistan and our Partners' <https://help.unhcr.org/pakistan/contact/>

⁴⁹⁹ Joint Action Committee for Refugees Pakistan, <https://jacforrefugeespakistan.wordpress.com>

Role of NGOs and bar associations and their implications

As stated above, certain NGOs, primarily UNHCR partners, have been directly involved in providing free legal aid to refugees and asylum seekers facing detention, deportation, or difficulties in obtaining documentation from NADRA. Their role often extends to representing refugees and asylum seekers in court on a case-by-case basis.

Organized or formal involvement of civil society, apart from NGOs

Yes, apart from NGOs, there has been organized involvement of civil society on access to asylum, most notably through the Joint Action Committee for Refugees (JAC-R), a coalition. Formed in 2023 after Pakistan announced mass deportations of Afghan refugees, JAC-R is a collective of lawyers, human rights workers, and citizens. Its work includes providing pro bono legal aid to Afghan detainees, documenting human rights abuses, and intervening in deportation-related cases. For example, JAC-R established a complaint desk outside the Sultanabad “holding camp” in Karachi, assisting refugees and monitoring violations. Their documentation has been cited in petitions before the Supreme Court and Sindh High Court, directly feeding into asylum-related adjudication processes. Additionally, JAC-R has coordinated with UNHCR and local authorities to secure the release of children from detention, reflecting its role in bridging grassroots legal advocacy with formal adjudicatory mechanisms.⁵⁰⁰

D. Supranational courts

In the context of asylum barriers, judicial bodies make rare reference decisions from international or supranational Courts. The research has not yet found cases where such decisions have been cited or have significantly impacted the outcome for asylum in Pakistan. Pakistani courts generally rely on constitutional provisions, domestic case law, international treaties, and occasionally foreign national jurisprudence.

IV. THE SOCIO-POLITICAL CONTEXT

A. Migratory routes and entry points

Main migration routes towards the country since 2010

Since 2010, the primary migration route into Pakistan has been the Pakistan–Afghanistan border, also known as the Durand Line, which spans approximately 2,600 kilometres.⁵⁰¹ This border has historically served as the primary entry point for Afghan refugees, asylum seekers, migrant workers, and traders through several of its border crossings.

A major shift occurred in 2017, when Pakistan began constructing a large chain-link fence along the entire border to enhance national security, combat terrorism, and regulate cross-border migration. The wall, equipped with surveillance cameras, infrared detectors, and military patrols, was intended to block unauthorised crossings.⁵⁰² Although Pakistan initially announced plans for multiple legal entry points, in practice, only a few crossings remain operational, significantly restricting lawful entry for Afghan refugees and asylum seekers.⁵⁰³

For many years, unofficial border crossing points played a significant role in enabling mobility for Afghan communities. However, fencing efforts have sealed off most of these informal routes, thereby reducing

⁵⁰⁰ UN Human Rights Committee, ‘Submission to the Committee in relation to Pakistan’ (CCPR/C/SS/PAK/59896) file:///D:/INT_CCPR_CSS_PAK_59896_E.pdf

⁵⁰¹ Asma Akbar, Analysing the Durand Line and its Implications for Pak-Afghan Bilateral Ties, *Annals of Human and Social Sciences*, October-Dec 2024, Vol. 5, No. 4 [584 - 595]; Malik Amir Muhammad Khan, Pakistan-Afghanistan Relations: A Historical Perspective, *NDU Journal* 2025 [163 - 178]

⁵⁰² ‘Border Fencing the Last Resort’ (Weekly Cutting Edge, 15 April 2017) <https://weeklycuttingedge.com/border-fencing-the-last-resort/>

⁵⁰³ Although the plan itself does not state it applies exclusively to Afghans, it is in practice applying exclusively to them.

access to Pakistani territory and, importantly, access to asylum. According to UNHCR data collection (1 January – 31 December 2023), unofficial crossings accounted for less than 18% of movements into Pakistan, compared to 81% in Iran, showing that Pakistan's border has become increasingly regulated, with migration concentrated at formal crossing points.⁵⁰⁴

The number of official crossings has varied by time and source, ranging between 8⁵⁰⁵ and 18⁵⁰⁶ formal crossings alongside numerous unofficial routes.⁵⁰⁷ A recurring pattern, particularly since the launch of the Illegal Foreigners Repatriation Plan (IFRP) in late 2023, has been the use of these same crossings for large-scale deportations of Afghan nationals. For instance, between 31 August and 6 September 2025, UNHCR and IOM estimated that 100,518 Afghans returned through Torkham, Ghulam Khan, Chaman, Badini, and Bahramcha.⁵⁰⁸ Similarly, during the period from 16th to 31st May 2026, the Torkham border crossing was used for 88% of the returns, while Chaman was used for 8% of all returns. The other border crossings were not used at all during this time. However, in earlier periods, Ghulam Khan, Badini and Bahramcha crossings have been used.⁵⁰⁹ IOM Pakistan has been tracking movement on the same 5 crossings, also indicating Torkham and Chaman as the main sites for returns and deportations.⁵¹⁰

Forced migration routes towards the country within the region

Afghan refugees have been and continue to be deported through the different border crossings under the IFRP plan, which have been open at different times. However, not all border crossings have been used consistently: due to periodic tensions between the two countries, several crossings — including Torkham — have experienced repeated closures and reopenings, most recently in early 2026.⁵¹¹

Main entry points in the country since 2010

Same as the above-mentioned border crossings between Pakistan and Afghanistan.

Implications that migratory routes towards the country have on how judicial institutions

The largest group of refugees and asylum seekers in Pakistan is from Afghanistan, and consequently, the borders most active (including during current deportations) are those bordering Afghanistan. The Pakistani government's existing framework on refugees also predominantly consists of policies for Afghans, even if it is sometimes unstated, such as the current "Illegal Foreigners' Repatriation Plan" (IFRP). Pakistan's relationship with Afghanistan, which is surrounded by national security and counter-terrorism discourse, directly impacts policies impacting Afghan asylum seekers, and this has also seeped into broader judicial attitudes and biases, reflected in some cases. For example, in November 2023, the Sindh High Court refused to entertain a petition challenging Afghan deportations, questioning the petitioners' standing and ruling that non-citizens could not invoke fundamental rights under the

⁵⁰⁴ UNHCR (2023). Afghanistan: Border Monitoring, Unofficial Crossing Points - 2023. Accessed from: <https://microdata.unhcr.org> - (See more information on the border crossings in 'Walls and Fences' section of the report.)

⁵⁰⁵ Reported 8 formal border crossings with Afghanistan include: Torkham and Chaman – Spin Boldak, the key ones. The other 6 are presumed to be bilateral: Arandu (Chit-ral), Gursal (Bajaur), Nawa Pass (Mohmand), Kharlachi (Kur-ram), Ghulam Khan (North Waziristan), Angoor Adda (South Waziristan) and Chaman (Balochistan). See Carvanistan, Afghanistan – Pakistan border crossings

⁵⁰⁶ Crucial Pakistan-Afghanistan border crossing reopens after weeks-long closure, 19th March 2025 <https://www.aa.com.tr/en/asia-pacific/crucial-pakistan-afghanistan-border-crossing-reopens-after-weeks-long-closure/3514398#:~:text=According%20to%20the%20Khyber%20Chamber,contact%20us%20for%20subscription%20options>.

⁵⁰⁷ Al-Jazeera, Pakistan-Afghanistan border fence, a step in the right direction, 25 Feb 2021 <https://aje.io/7ls2w>

⁵⁰⁸ UNHCR & IOM, *Flash Update No. 59: Pakistan – Border Crossings and Returns* (7 September 2025) <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2025-09/unhcr-iom-flash-update-59.pdf> accessed 15 September 2025.

⁵⁰⁹ UNHCR, Pakistan Afghanistan Returns Emergency Response 37, 3 June 2025

⁵¹⁰ International Organization for Migration (IOM), Bi-Weekly Flow Monitoring of Afghan Returnees: Bi-Weekly Report (16 – 31 May 2026) <https://dtm.iom.int/reports/pakistan-flow-monitoring-afghan-returnees-bi-weekly-report-16-31-may-2026>

⁵¹¹ Daily Sabah, *Pakistan reopens border with Afghanistan after weeks of clashes* (31 March 2026) <https://www.dailysabah.com/world/asia-pacific/pakistan-reopens-border-with-afghanistan-after-weeks-of-clashes>

Constitution⁵¹², despite its own established precedent that such rights apply to all persons within Pakistan's jurisdiction.⁵¹³ Remarks by judges framing refugees as security threats rather than individuals in need of protection highlight how societal and political biases may influence judicial reasoning, even if through individual judges. These dynamics are reinforced by the government's consistent narrative that undocumented Afghans pose a security risk, linking them to terrorism and portraying deportations as necessary to enforce immigration law and maintain border control. These narratives shape both policy and judicial responses, limiting the courts' willingness to challenge state barriers such as detention, deportation, or denial of access to asylum. The result is an uneven landscape: international obligations support protection in some rulings (e.g., the Islamabad High Court's *Rahil Azizji* case, the Peshawar High Court's 2026 non-refoulement orders), while political considerations produce deference in others (e.g., Sindh High Court ruling).⁵¹⁴

Implications of country entry points on what happens in judicial institutions

Legal mechanisms are formally uniform across provinces, but practices at entry points i.e., arrests and detention among them, generate the factual record courts actually rule on. A border arrest may prompt a habeas corpus petition; a deportation from an official crossing may be challenged as non-refoulement. Non-judicial actors (Frontier Corps, FIA, police) largely control these facts on the ground, shaping what reaches courts at all. This has intensified through 2026: enforcement now runs through police stations, jails, FIA facilities, and repurposed Hajj camps across Islamabad/Rawalpindi, Lahore, Peshawar, and Quetta, plus holding points near Torkham and Chaman.⁵¹⁵ UNHCR and IOM recorded 28,285 returns in a single week in June 2026 (including 1,727 formal deportations, up 22% week-on-week), and by July, over 10,000 Afghans were crossing daily at Torkham alone (nearly triple the May–June rate).⁵¹⁶ Uniform law aside, entry-point practices determine whether cases reach courts at all, what kinds of claims they raise, and how judges assess the legality of the barriers before them — with enforcement now moving at a pace that likely outstrips courts' capacity for individualized review even where they are willing to engage.

B. Composition and spatial distribution of the forced migration population

According to UNHCR & IOM, since 1 April 2025 (until June 13, 2025), 1,646,679 Afghan nationals have returned, of whom 211,473 (13%) were deported through the borders in Khyber Pakhtunkhwa and Balochistan.⁵¹⁷

Impact of Asylum Seeker and Refugee Inflows on Judicial and Quasi-Judicial Capacity and Adjudication Quality

The practice of arbitrary detention in Pakistan is widespread and not confined to any one city or province. It has been reported across multiple regions, with arrests often carried out based on ethnic profiling. Pashtuns and Afghan-origin individuals are disproportionately targeted, reflecting how ethnic stereotyping has shaped the enforcement of the IFRP. The Joint Action Committee for Refugees documented unlawful operations conducted without due process in Karachi, Gujrat, Layyah, Islamabad, Rawalpindi, Quetta, and

⁵¹² SHC refuses to issue notices on plea against deportation of Afghan refugees *Dawn* (9 November 2023) <https://www.dawn.com/news/1787656>.

⁵¹³ In *Aamir Aman v Federation of Pakistan* (PLD 2020 Sindh 533) holding that such rights extend to all persons within Pakistan's jurisdiction, not only citizens.

⁵¹⁴ On judicial engagement generally, see Pakistan's Judicial Engagement with International Refugee Law *International Journal of Refugee Law* (1 February 2025) <https://academic.oup.com/ijrl/article/36/4/397/7994654>; Peshawar High Court directs Centre to decide Afghan asylum seekers cases on non-refoulement principle *Dawn* (July 2026).

⁵¹⁵ Global Detention Project, Pakistan: Mass Detention and Forced Returns of Afghans Amid Escalating Crackdown (20 May 2026) <https://www.globaldetentionproject.org/pakistan-mass-detention-and-forced-returns-of-afghans-amid-escalating-crackdown>.

⁵¹⁶ UNHCR/IOM Weekly Border Monitoring Update, 7–13 June 2026 <https://data.unhcr.org/en/documents/download/122925>; Pakistan's Afghan deportation drive: When "voluntary return" is not a choice *Afghan Studies Center* (15 July 2026).

⁵¹⁷ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June 2026, <https://pakistan.iom.int/sites/g/files/tmzbd11121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

Loralai, describing the pattern as arrests based solely on ethnicity in violation of Pakistan's Constitution.⁵¹⁸ This approach has even placed some Pakistani citizens at risk when they are perceived to be Afghan: tracking of the deportation campaign confirms that Pakistani citizens have themselves been wrongfully arrested and detained as Afghan nationals during enforcement sweeps. Reportedly, in one Punjab repatriation batch of 594 individuals arrested under the Foreigners Act, 29 turned out to be Pakistani nationals. In one such case, seven were only pulled back from the Afghan border at the last moment after National Database and Registration Authority (NADRA) records confirmed their identity, having been detained partly because they could not speak Urdu or Punjabi.⁵¹⁹

Since the launch of the IFRP, it is difficult to provide an exact figure on the number of petitions filed in court, but reporting confirms a marked and ongoing rise in litigation: legal experts describe an extraordinary surge in petitions filed by Afghan nationals at the Peshawar High Court in the wake of the repatriation drive, with dozens of individuals now approaching the court daily seeking protection orders.⁵²⁰ In addition, numerous petitions have been filed in the High Courts contesting both detention and deportation orders. In several of these cases, the courts have instructed law enforcement authorities to comply with government deadlines and not to arrest Afghan refugees before the expiry of those deadlines, for instance, in July 2026 the Peshawar High Court, disposing of roughly 140 petitions, barred federal and provincial law enforcement from arresting, detaining, or deporting the petitioners for 60 days or until the government determined their asylum status, with a further direction that temporary permits be issued if the government failed to decide within that window.⁵²¹

This influx of litigation has also placed significant strain on the courts, contributing to backlogs and slowing down the adjudication process. Coverage of the Peshawar High Court's docket illustrates the range and volume of this strain directly: on a single day, the court handled bail petitions from a Pakistani-born man attempting to reverse an Afghan Citizen Card he had obtained for work purposes, a Pakistani woman whose husband was detained after she had obtained an Afghan refugee card to access relief benefits, and an Afghan man held as the sole breadwinner for five children, alongside the broader wave of asylum and deportation petitions.⁵²² With many petitions being filed simultaneously across provinces, judges often have limited time and resources to consider each case in detail, which can restrict the effectiveness of legal remedies.

Note: There are regional variations in how the courts, including the provincial and Islamabad High Court, is engaging with petitions brought on these issues. While the Peshawar High Court has been responsive in some cases, the Sindh High Court has not responded in the same way.⁵²³

Impact of Asylum Seeker Demographics on Judicial and Quasi-Judicial Assessment of Barriers to Asylum Access

The large presence of refugees in Pakistan has shaped how judicial institutions address barriers to accessing asylum, particularly in cases where vulnerable groups are involved. Courts have increasingly been called upon to interpret constitutional protections considering international law, despite the absence of a national

⁵¹⁸ JAC-R slams crackdown on Afghan nationals in Pakistan (Pajhwok Afghan News, 4 April 2025), <https://pajhwok.com/2025/04/04/jac-r-slams-crackdown-on-afghan-nationals-in-pakistan/>

⁵¹⁹ Umer Farooq, "Seven Pakistanis escape deportation to Afghanistan," Dawn, November 20, 2023, <https://www.dawn.com/news/1790774>

⁵²⁰ Afghan brothers win court stay against deportation, as Pakistan quietly lists thousands of high-risk nationals, Voicepk.net, May 2026, <https://voicepk.net/2026/05/afghan-brothers-win-court-stay-against-deportation-as-pakistan-quietly-lists-thousands-of-high-risk-nationals/>

⁵²¹ Dawn, *Peshawar High Court directs Centre to decide Afghan asylum seekers cases on non-refoulement principle*, July 2026, <https://www.dawn.com/news/2013776/peshawar-high-court-directs-centre-to-decide-afghan-asylum-seekers-cases-on-non-refoulement-principle>

⁵²² *Petitions flood in Peshawar High Court, as Afghan citizens cases surge*, Voicepk.net, April 17, 2026, <https://voicepk.net/2026/04/petitions-flood-in-peshawar-high-court-as-afghan-citizens-cases-surge/>

⁵²³ Reported by JAC lawyer in Karachi, Sindh.

asylum framework. In *Rahil Azizji v Federation of Pakistan*,⁵²⁴ the Islamabad High Court dealt with the case of an Afghan woman prosecuted under the Foreigners Act for irregular entry. The Court recognized that individuals fleeing persecution must not be treated as criminals and drew upon international instruments, including the 1951 Refugee Convention, the Convention Against Torture (CAT), and the International Covenant on Civil and Political Rights (ICCPR), to uphold the principle of *non-refoulement*. Similarly, in *Hashmat Ullah v Ministry of Interior*,⁵²⁵ the Court invoked the ICCPR, UDHR, and CAT to extend constitutional protections to non-citizens, emphasising safeguards against return to countries where torture or persecution is likely. By invoking the doctrine of incorporation, the judiciary has affirmed that international law can supplement domestic law, even where Pakistan is not a formal party.

While UNHCR documents refugees and Afghans of other statuses in Pakistan,⁵²⁶ other populations (namely, from Yemen, Iran, Somalia, Myanmar, and Syria)⁵²⁷ and the total number of such displaced persons in Pakistan, including undocumented non-asylum seekers and non-registered populations, are not sufficiently documented. These groups are unevenly distributed across the country. As of 30th June 2026, UNCHR notes 666,000 ACC card holders and 159,000 undocumented Afghans.⁵²⁸

According to a 2021 report (The Final Report on Civil Registration Assessment of the Vulnerable Population Groups of Refugees, Asylum Seekers, Stateless Persons and Persons of Undetermined Nationality), it was reported that Pakistan hosts an undetermined number of stateless persons, with those at risk of statelessness or of undetermined nationality is estimated to be up to approximately 3.5 million, comprising ethnic Bihari, Bengali and Rohingya communities. It was also noted that most of this population resides in Karachi, Sindh, and had come to Pakistan before the creation of Bangladesh in December 1971.⁵²⁹ Other reports corroborate the lack of reliable statistics on this group, reporting 2 million ethnic Bengali and a concern for the over 6 million Hazara ethnic group that reside in Pakistan, who remain at risk of statelessness.⁵³⁰ A joint UPR submission for Pakistan to the Human Rights Council during its 42nd Session (23 January to 3 February 2023) by Imkaan Welfare Organization, Nationality for All, and Institute on Statelessness and Inclusion also notes gaps in consistent numbers. The submission states with sources that “according to official Pakistani government data presented to UNHCR, there were 47 stateless people in the country in 2020. In a 2021 article on COVID vaccinations, however, a senior government health official estimated the stateless population at 3 million.¹⁸ There are large groups of undocumented people in the country, many of whom are stateless or at risk of statelessness. There is a reported population of between 400,000¹⁹ and 500,000 Rohingya refugees, 20 almost a million undocumented members of the ethnic Bengali community, around 775,000 undocumented Afghans, Biharis and other undocumented groups in Pakistan.”⁵³¹

⁵²⁴ Writ Petition No. 1666 of 2023

⁵²⁵ Writ Petition No. 4840 of 2023

⁵²⁶ UNHCR - Pakistan Overview of Refugee and Afghans of other status in Pakistan of June 30, 2026, <https://data.unhcr.org/en/documents/details/123273>

⁵²⁷ UNHCR - Pakistan Overview of Refugee and Afghans of other status in Pakistan of June 30, 2026, <https://data.unhcr.org/en/documents/details/123273>

⁵²⁸ UNHCR - Pakistan Overview of Refugee and Afghans of other status in Pakistan of June 30, 2026, <https://data.unhcr.org/en/documents/details/123273>

⁵²⁹ Ministry of Planning, Development and Special Initiatives, Government of Pakistan, UNHCR, and the Regional Support Office of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, *Civil Registration and Vital Statistics (CRVS) Assessment Report: Pakistan* (Bali Process Civil Registration Assessment Toolkit, 2021) <https://crvs.unescap.org/sites/default/files/resources/CRVS%20final%20report-%20Pakistan%20.pdf>

⁵³⁰ Institute on Statelessness and Inclusion / Nationality for All, Pakistan *Statelessness Encyclopaedia Asia Pacific (SEAP)* (last updated 17 June 2025) <https://seap.nationalityforall.org/region/regional-overview/south-asia/pakistan/>

⁵³¹ Imkaan Welfare Organisation, Nationality For All, and the Institute on Statelessness and Inclusion, *Joint Submission to the Human Rights Council, Universal Periodic Review: Pakistan* (42nd Session, 4th Cycle, 23 January – 3 February 2023) https://files.institutesi.org/UPR42_Pakistan.pdf; sources mentioned in the relevant para of the submission: UNHCR, ‘Global Trends: Forced Displacement in 2020’, Annex, Table 5, <https://www.unhcr.org/2020-global-trends-annex-table-statelessness>; Aamir Saeed, ‘Pakistan says will solve tough problem of vaccinating over 3 million stateless people’, Arab News Online, 26 May 2021, available at: <https://www.arabnews.pk/node/1865021/pakistan>; Zia Ur Rehman, ‘Bengali and Rohingya

Implications of the Spatial Distribution of Forced Migration Populations on Asylum Access Adjudication and Procedural Fairness

The spatial distribution of displaced persons in Pakistan has important implications for access to asylum and the way courts receive and handle related cases. Due to distances between remote areas where asylum seekers reside and courts / other bodies responsible for different processes (NADRA, Ministry of Interior), there are real physical access barriers in filing cases and pursuing litigation. These groups need time, resources, networks of support (as well as safety from arrest and harassment on the way) to be able to access institutional remedies far from home and the borders they arrive at. Most Afghan refugees and asylum seekers live in Khyber Pakhtunkhwa and Balochistan, provinces bordering Afghanistan (with sizeable populations also existing in Punjab (and lesser numbers in other provinces) as well. As per UNHCR documentation, 75% of the total registered Afghans with them live outside of refugee villages, with only 25% living within them.⁵³² In peripheral areas, refugees are concentrated in rural districts and refugee villages, where there is limited access to courts, legal representation, and civil society actors. In urban locations, most of these populations reside in urban settlements and slums; however, due to their proximity to urban centres such as Peshawar, Karachi, Lahore, and Islamabad, they are more likely to access lawyers, civil society organisations, and UNHCR offices, which increases their chances of filing habeas corpus petitions or writ petitions challenging unlawful detention and deportation.

C. Political and public debate in the country

Relevance of the topic in political debate

Access to asylum has not featured prominently in Pakistan's political debate, largely because the country lacks a formal asylum framework. It has been intermittently mentioned as a response to any critique that Pakistan has generously been hosting one of the largest refugee populations for the longest period. More generally, government discourse has focused on Afghan asylum seekers in the context of national security, border management, and irregular migration. Pakistan has now deported a total of 2.4 million Afghans between September 2023 and June 2026, with the government consistently citing increasing crime and violence, including suicide attacks, as its justification for the mass deportations.⁵³³ This security framing has been reinforced by specific claims from senior officials; for example, Pakistan's then-interior minister Sarfraz Bugti alleged that 14 of 24 suicide bombings in the country in 2023 were carried out by Afghan nationals, without providing supporting evidence or clarifying whether those responsible were refugees or unregistered nationals who had crossed the porous border.⁵³⁴ The renewed round of deportations in 2026, which followed border clashes between Pakistan and Afghanistan in October 2025, has again been justified by authorities on national security grounds; Human Rights Watch reports that more than 146,000 Afghans have been deported in 2026 alone, with police carrying out arrests during raids and confiscating documents before transferring detainees to holding centres for expulsion.⁵³⁵ Independent monitors have characterized this framing as a deliberate policy choice: the Global Detention Project notes that Pakistan's Illegal

Leaders Gearing up for LG Polls,' The News, (Online, 14 August 2015) <https://web.archive.org/web/20150814203153/http://www.thenews.com.pk/Todays-News-4-333213-Bengali-and-Rohingya-leaders-gearing-up-for-LG-polls>; Usman Ahmad, 'Pakistan's Rohingya Hypocrisy,' The Diplomat, (Online, 20 September 2017), <https://thediplomat.com/2017/09/pakistans-rohingya-hypocrisy>; See UNHCR, 'Global Trends: Forced Displacement in 2019'; UNHCR, 'Global Trends: Forced Displacement in 2020.' Reuters has estimated that there are 300,000 Rohingya in Pakistan, Saad Sayeed and Syed Raza Hassan, 'Rohingya Refugees in Pakistan Fear for Relatives in Myanmar', Reuters, (Online, 10 September 2017), <https://www.reuters.com/article/us-myanmar-rohingya-pakistan-idUSKCN1BL0B4>

⁵³² UNHCR - Pakistan Overview of Refugee and Afghans of other status in Pakistan of June 30, 2026, <https://data.unhcr.org/en/documents/details/123273>

⁵³³ UNHCR & IOM, *Flash Update #98: Pakistan-Afghanistan*, June 2026, <https://pakistan.iom.int/sites/g/files/tmzbd1121/files/documents/2026-06/unhcr-iom-flash-update-98.pdf>

⁵³⁴ Al Jazeera, "Illegal in own homes: Afghan refugees caught in Pakistan -Taliban tensions," October 22, 2025, <https://www.aljazeera.com/features/2025/10/22/pakistan-speeds-up-expulsion-of-afghan-refugees-amid-tensions-with-taliban>

⁵³⁵ Human Rights Watch, "Pakistan: Surge in Forced Returns of Afghan Refugees," April 21, 2026, <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

Foreigners' Repatriation Plan was "adopted in 2023 for purported national security reasons," resulting in hundreds of thousands of Afghans being rounded up in raids and subjected to arrest, detention, and summary deportation.⁵³⁶ The border fence along the Durand Line, for which construction began in 2017, has been similarly justified by Pakistani officials as necessary to prevent terrorism, smuggling, and illegal crossings while channelling all movement through official checkpoints.⁵³⁷ Government spokespeople have consistently maintained that these measures amount to a lawful exercise of immigration control rather than refoulement; Pakistan's Foreign Office has stated that the repatriation process "adheres to international norms and principles" and takes the government's "commitments towards protection and safety needs of those in vulnerable situations seriously".⁵³⁸ This framing positions barriers to asylum as a matter of sovereignty and counter-terrorism policy rather than humanitarian protection, reflecting how political debate in Pakistan continues to emphasize security imperatives over refugee rights even as deportation numbers climb.⁵³⁹

Relevance of the topic in public debate

In Pakistan, the issue of access to asylum for Afghan refugees has become significantly more visible in media and public debate in recent years, particularly since the government began implementing the IFRP in 2023. Public debate also reflects concern and mixed attitudes: some segments of Pakistani society express sympathy for Afghan refugees' suffering, but many media articles and commentary focus on perceived burden (economic, social), security fears, or illegal immigration. Academic research on Pakistani media coverage supports this characterization. A critical discourse analysis of Pakistani media framing of the Pakistan-Afghanistan border conflict found that the "National Security Frame" dominates coverage, with recurring emphasis on terror infiltration, border threats, and militant hideouts, and that Afghan refugees and the border situation are consistently viewed through a securitized lens focused on terrorism, unlawful migration, and drug trafficking.⁵⁴⁰ A separate peer-reviewed study applying Galtung's Peace and War Journalism Model to Pakistani English-language media coverage of Afghan refugees' forced repatriation found that conflict-escalatory frames dominated reporting, that Afghan refugees' own voices were significantly missing from coverage, and that the Pakistani government and military establishment were used predominantly as news sources, with the author concluding that state and military pressures were key reasons why coverage frequently contained negative frames of terrorism and ethnonationalism.⁵⁴¹ Moreover, Ayesha Jehangir, in her 2024 book on Pakistani media and Afghan refugees, found that stereotypical narratives portraying Afghan refugees as "threats" and "burdens" are "almost a standard practice in daily reporting," with refugees consistently framed as "enemies of the state" or a "security

⁵³⁶ Global Detention Project, "Pakistan: Mass Detention and Forced Returns of Afghans Amid Escalating Crackdown," May 20, 2026, <https://www.globaldetentionproject.org/pakistan-mass-detention-and-forced-returns-of-afghans-amid-escalating-crackdown>

⁵³⁷ Ayaz Gul, Pakistan Builds Checkpoints, Plans Fence on Afghan Border (Voice of America, 28 June 2016), <https://www.voanews.com/a/pakistan-builds-checkpoints-plans-fence-afghan-border/3396059.html> (Construction began later)

⁵³⁸ Government of Pakistan, Ministry of Foreign Affairs, "Statement by the Spokesperson," October 30, 2023, <https://mofa.gov.pk/the-following-statement-is-attributable-to-the-spokesperson-in-response-to-media-queries>; Decision to deport illegal foreigners in line with intl norms," The Express Tribune, October 30, 2023, <https://tribune.com.pk/story/2443795/decision-to-deport-illegal-foreigners-in-line-with-intl-norms-fo>

⁵³⁹ Refugees International, "Pakistan Must Immediately Halt Deportation of Afghan Refugees," April 13, 2026, <https://www.refugeesinternational.org/statements-and-news/pakistan-must-immediately-halt-deportation-of-afghan-refugees/>

⁵⁴⁰ Muhammad Huzaifa bin Salih, "Framing of the Pakistan-Afghanistan Border Conflict in Pakistani Media: A Critical Discourse Analysis," *Sociology & Cultural Research Review*, Vol. 04, No. 02 (Oct-Dec 2025), https://www.researchgate.net/publication/396800447_Framing_of_the_Pakistan-Afghanistan_Border_Conflict_in_Pakistani_Media_A_Critical_Discourse_Analysis

⁵⁴¹ Ayesha Jehangir, "Finding peace journalism: An analysis of Pakistani media discourse on Afghan refugees and their forced repatriation from Pakistan," *International Communication Gazette* (2023), <https://journals.sagepub.com/doi/abs/10.1177/17506352221149559>

threats.”⁵⁴² Because the debate is more focused on security and state sovereignty than on humanitarian or legal protection, barriers to asylum are less likely to be questioned, and abuses such as arbitrary detention and lack of access to legal aid receive less consistent public scrutiny.⁵⁴³

Relevance of the topic in public opinion

Surveys by Gallup Pakistan have shown strong public approval for government policies on refugee repatriation. A survey conducted in the first week of November 2023 found that 69% of Pakistanis were aware of the government’s policy to expel “illegally residing” Afghan refugees, and that 84% of all respondents expressed strong approval of the policy, considering it a commendable decision.⁵⁴⁴ This support was echoed in independent reporting: Al Jazeera similarly reported that Gallup Pakistan found 84 percent of respondents “strongly approved” the government’s move to expel undocumented refugees and migrants, mainly from Afghanistan.⁵⁴⁵ Public sentiment is largely shaped by the perception that a large refugee population, primarily from Afghanistan, places a strain on Pakistan’s economy, resources, and security. The same Gallup survey found that 55% of respondents believed the repatriation would positively impact the Pakistani economy, while an even larger share (64%) believed it would enhance domestic peace and order, compared with only 4% who thought it would have an adverse effect on security.⁵⁴⁶ This sentiment is not new: a 2016 Gallup poll had already found that 90 percent of Pakistanis supported blocking Afghans without visas from entering the country to aid counterterrorism efforts, suggesting the securitized framing of Afghan refugees in Pakistani public opinion predates the current repatriation drive by nearly a decade.⁵⁴⁷ This hostility is often fuelled by economic insecurity, the perception of security threats, and political narratives that portray refugees as a source of instability. However, the November 2023 Gallup survey reflects the views of the sample it engaged with and, to that extent, has limited generalizability across time and geography; further research is needed to assess the views of different populations residing in different areas of the country, particularly as economic conditions and security dynamics have continued to shift through 2025 and 2026.⁵⁴⁸

Note: A note of caution is warranted regarding the weight this survey should carry. Gallup Pakistan’s national surveys are typically based on samples of around 1,000–2,000 adults with a margin of error near ± 3 –4 percentage points, but the November 2023 press release does not disclose the exact sample size or regional breakdown for this particular survey, limiting independent assessment of its precision.⁵⁴⁹ It is also worth noting that Gallup Pakistan conducts regular contracted research for the Government of Pakistan and international agencies such as the World Bank and various UN bodies, a standard feature of commercial polling firms and not itself evidence of skewed results, but a relevant disclosure given that the survey concerns a government policy. Finally, the findings reflect a single point in time (November 2023)

⁵⁴² "Examining the Media War on Afghan Refugees in Pakistan: Insights From Ayesha Jehangir," *The Diplomat*, July 1, 2024, <https://thediplomat.com/2024/07/examining-the-media-war-on-afghan-refugees-in-pakistan-insights-from-ayesha-jehangir/>, discussing Ayesha Jehangir, *Afghan Refugees, Pakistani Media and the State: The Missing Peace* (Routledge, 2024).

⁵⁴³ Council on Foreign Relations, "Why Is Pakistan Deporting Afghan Migrants?" (15 December 2023), <https://www.cfr.org/in-brief/why-pakistan-deporting-afghan-migrants>

⁵⁴⁴ Gallup Pakistan, "Public Opinion in Pakistan on Governments Afghan Refugee Policy," (November 2023), <https://gallup.com.pk/post/35573>

⁵⁴⁵ Al Jazeera, "Whats wrong?: The silence of Pakistanis on expulsion of Afghan refugees," November 22, 2023, <https://www.aljazeera.com/news/2023/11/22/whats-wrong-the-silence-of-pakistanis-on-expulsion-of-afghan-refugees>

⁵⁴⁶ Gallup Pakistan, "Public Opinion in Pakistan on Governments Afghan Refugee Policy," (November 2023), <https://gallup.com.pk/post/35573>

⁵⁴⁷ Center for Global Development, "With US Withdrawal, Rights of Afghan Refugees in Pakistan Hang in the Balance," citing a 2016 Gallup poll, <https://www.cgdev.org/blog/us-withdrawal-rights-afghan-refugees-pakistan-hang-balance>

⁵⁴⁸ Gallup Pakistan, "Public Opinion in Pakistan on Governments Afghan Refugee Policy," (November 2023), <https://gallup.com.pk/post/35573>

⁵⁴⁹ Compare with Gallup Pakistan’s standard World Poll methodology for Pakistan, e.g., Gallup, "Pakistanis Discontent Reaches Record High Before Election," noting a sample of 1,000 adults and exclusion of AJK and Gilgit-Baltistan, <https://news.gallup.com/poll/609752/pakistanis-discontent-reaches-record-high-election.aspx>

and may not generalize across regions or to the subsequent years of escalating deportations through 2025 and 2026.

Implications that political debate and public opinion have on what occurs in judicial bodies

In Pakistan, political debate and public opinion significantly influence judicial and quasi-judicial bodies that handle asylum cases, particularly those involving Afghan refugees. The judiciary's approach, while legally mandated to be independent, often reflects the broader political and public sentiment, especially on matters perceived as sensitive "state policy." This is evident in how courts have handled petitions challenging barriers to asylum.

Political and media narratives have consistently framed the presence of Afghan refugees as an economic and security burden. As mentioned above, this narrative, widely accepted by the public, places implicit pressure on the judiciary to not interfere. Moreover, judges themselves do not necessarily hold distinct views because they are judges but bring their own perspectives and biases, along with, as has been seen in certain cases, where Afghan groups specifically have been singled out from protections available to other foreigners. The reluctance of judicial bodies to address these petitions is often justified through procedural and legalistic arguments, such as lack of locus standi (the right to bring a case) or the assertion that constitutional rights do not apply to non-citizens. These arguments, as seen in the Sindh High Court's dismissal of a petition against deportations, where the bench held that the petitioners were not "aggrieved persons" and that fundamental rights could not be claimed by non-citizens, effectively serve as a judicial barrier to accessing legal protection.⁵⁵⁰ In some cases, personal biases of judges have also featured, linked to more arbitrary interpretations of birthright citizenship and other provisions: a peer-reviewed analysis of Pakistan's judicial engagement with international refugee law found that while the Islamabad High Court in *Fazal Haq v NADRA* recognized birthright citizenship for a person born in Pakistan to Afghan refugee parents, expressly invoking Pakistan's obligations under the UDHR and the Convention on the Rights of the Child, both an earlier Islamabad High Court ruling and a Peshawar High Court judgment had previously held that a refugee could not be treated as a jus soli birthright citizen at all — illustrating the inconsistency and case-by-case unpredictability with which similar claims have been resolved.⁵⁵¹ While Pakistani courts have, in some instances, demonstrated a willingness to engage with international refugee law, this has been limited, and the general trend is to defer to the executive on matters of policy.⁵⁵² This is further exacerbated by a lack of a comprehensive national legal framework for refugees, which leaves the judiciary without clear guidelines and makes it susceptible to political influence. That said, individual Peshawar High Court benches have, in a growing number of 2026 cases, issued temporary stay orders halting the deportation of specific Afghan petitioners, including those with pending third-country resettlement claims, awaiting review of their status. In April 2026, a PHC bench restrained authorities from deporting an Afghan family awaiting UNHCR resettlement, citing a UNHCR recommendation for a temporary stay.⁵⁵³ In July 2026, a separate PHC bench went further, disposing of petitions filed by roughly 140 Afghan families and individuals (including former government employees, judges, journalists, and civil society workers fearing persecution) with a direction that the government determine their refugee status and a 60-day bar on their arrest, detention, or deportation in the meantime.⁵⁵⁴ This suggests a case-by-case approach rather than systemic willingness to intervene.

⁵⁵⁰ DAWN, "SHC refuses to issue notices on plea against deportation of Afghan refugees" (9 November 2023), <https://www.dawn.com/news/1787656>

⁵⁵¹ "Pakistan's Judicial Engagement with International Refugee Law," *International Journal of Refugee Law*, Oxford Academic, discussing *Fazal Haq v NADRA* and citing *Hafiz Hamdullah Saboor v Government of Pakistan*, <https://academic.oup.com/ijrl/article/36/4/397/7994654>

⁵⁵² "Pakistan's Judicial Engagement with International Refugee Law," *International Journal of Refugee Law*, Oxford Academic, <https://academic.oup.com/ijrl/article/36/4/397/7994654>

⁵⁵³ DAWN, *Peshawar High Court halts deportation of Afghans awaiting resettlement abroad* (11 April 2026), <https://www.dawn.com/news/1990702>

⁵⁵⁴ DAWN, *Govt stopped from deporting Afghan petitioners for 60 days* (2 July 2026), <https://www.dawn.com/news/2012366>

D. Corruption

Corruption acts as a pervasive and significant barrier to accessing asylum in Pakistan, particularly for Afghan refugees. While official data on police corruption is scarce, a senior journalist and a human rights lawyer have both confirmed that it is a widespread issue. Extortion, specifically, is a common form of corruption. Police officers on the streets frequently stop Afghan refugees, regardless of their legal status, and threaten them with deportation; refugees report being detained even while holding valid visas or UNHCR registration, and told they must pay to secure release, with reported amounts ranging from roughly 10,000 to 40,000 Pakistani rupees.⁵⁵⁵ Human Rights Watch and Amnesty International have documented similar patterns across multiple cities, including Islamabad, Rawalpindi, Karachi, Peshawar, Chaman, and Quetta, with refugees describing arrests during everyday activities such as shopping, travelling to school, and seeking day labour, followed by confiscation of phones and cash and demands for bribes in exchange for release.⁵⁵⁶ Amnesty International separately documented a refugee forced to pay a 30,000-rupee "fine" with no receipt or written justification, and instances of border guards demanding bribes from Afghans holding valid visas.⁵⁵⁷ In more severe cases, registered refugees are unlawfully detained, and their families are approached by police officers demanding payment for release; families unable to pay have seen relatives deported, illustrating how corruption can directly produce the denial of protection and the violation of refugee rights.⁵⁵⁸ This corruption is not limited to street-level extortion — it also manifests within detention centres, where researchers have documented refugees held without food, kept in unlit rooms, and in some cases separated from their children before deportation.⁵⁵⁹ The absence of clear legal frameworks and effective civilian oversight of law enforcement creates an environment conducive to such abuse, compounded by limited resources and insufficient training, which incentivize officers to rely on corrupt practices amid low wages and poor working conditions.⁵⁶⁰

⁵⁵⁵ Human Rights Watch, "Pakistan: Afghans Detained, Face Deportation," October 31, 2023, <https://www.hrw.org/news/2023/10/31/pakistan-afghans-detained-face-deportation>

⁵⁵⁶ Human Rights Watch, "Pakistan: Surge in Forced Returns of Afghan Refugees," April 21, 2026, <https://www.hrw.org/news/2026/04/21/pakistan-surge-in-forced-returns-of-afghan-refugees>

⁵⁵⁷ Amnesty International UK, "Pakistan: Afghan refugees harassed, jailed and forced to pay bribes – new testimonies," January 13, 2026, <https://www.amnesty.org.uk/press-releases/pakistan-afghan-refugees-harassed-jailed-and-forced-pay-bribes-new-testimonies>

⁵⁵⁸ Human Rights Commission of Pakistan, *Politics over People* (2024), <https://hrqp-web.org/hrqpweb/wp-content/uploads/2020/09/2024-Politics-over-people.pdf>, accessed 29 April 2025.

⁵⁵⁹ Human Rights Watch, "Pakistan: Surge in Forced Returns of Afghan Refugees," April 21, 2026 (op. cit.).

⁵⁶⁰ Immigration and Refugee Board of Canada, Response to Information Request, citing Transparency International Pakistan on poor working conditions and economic difficulty as contributing factors to police corruption, <https://www.irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=456316>