



HUMAN
RIGHTS
WATCH

“What Are You Doing Here?”

Police Abuses Against Afghans in Pakistan



“What Are You Doing Here?”

Police Abuses against Afghans in Pakistan

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Summary

The police did not used to beat us much before December 16, 2014 [when the Taliban attacked a Pakistani school]. Now they [beat] us for no reason. I am afraid that one day when I won't have bribe money, they will kill me. None of my other family members except me and my brother leave the house now. Our children do not go to school; they do not even go to play outside anymore.... [But] I cannot go back to Afghanistan.

—Karim (a pseudonym), an Afghan shopkeeper living in Peshawar, July 2015

Pakistan has long been host to one of the largest displaced populations in the world. The 1.5 million registered Afghan refugees and 1 million undocumented Afghans that the United Nations High Commissioner for Refugees (UNHCR) estimates were living in Pakistan as of November 2015 include many who fled conflict and repression in Afghanistan during the late 1970s and early 1980s, or their descendants. Some arrived as children, grew up in Pakistan, married and had children of their own who have never lived in Afghanistan. Thirty-five years later, the situation for Afghans residing in Pakistan is increasingly precarious. Unwanted in Pakistan, where they face increasing abuse by the police, many are unwilling to return to Afghanistan due to insecurity and the lack of any means of livelihood.

Hostility towards Afghans living in Pakistan is not new, but it increased dramatically after the so-called Pakistani Taliban, Tehreek-i-Taliban Pakistan, attacked the Army Public School in Peshawar on December 16, 2014, killing 145 people, including 132 children. Since then, Pakistani police have carried out raids on Afghan settlements, detained, harassed, and beaten Afghan men, extorted bribes, and demolished Afghan homes. Every Afghan interviewed by Human Rights Watch who had returned to Afghanistan said that fear of the police was the reason they had done so. Afghans remaining in Pakistan described a repeated pattern of arbitrary detention, extortion, and intimidation. Both registered and undocumented Afghans have been the victims of Pakistani police abuse.

This pattern of widespread threats and abuse is occurring against a backdrop of increasing insecurity and a faltering economy in Afghanistan, which has driven thousands of Afghans to leave the country in 2015 as they seek security and livelihood abroad.

The Afghan men and women whom Human Rights Watch interviewed described how the increasingly hostile climate for Afghans in Pakistan had left them feeling trapped: fearful of returning to Afghanistan; of Pakistani police raiding their homes and workplaces; and of paying bribes to the police to avoid arrest and detention. Many Afghans told Human Rights Watch that they returned to Afghanistan because the rampant extortion meant they could no longer make ends meet in Pakistan.

The uncertainty of the registration process for Afghans in Pakistan has contributed to the problem. The first comprehensive registration of Afghans living in Pakistan, which took place in 2006-2007, provided many Afghan refugees with a Proof of Registration (PoR) card initially valid for three years. The Pakistani government subsequently extended the validity of the cards several times; the PoR cards will expire on December 31, 2015. Following a Tripartite Meeting of UNHCR, Pakistan and Afghanistan in August 2015, plans are being considered to extend the cards' validity to 2017.

Following the 2007 registration, UNHCR considered PoR cardholders (and not undocumented Afghans) as prima facie refugees. Undocumented Afghans—those who did not register—do not have the legal right to reside in Pakistan. Afghans who arrived after the census of Afghans in 2005 have not had an opportunity to register with the Pakistani government and therefore automatically fall into the undocumented category.

A lasting solution to the current situation for both refugees and undocumented Afghans in Pakistan will depend upon improved respect for their rights. It also will require cooperation between Afghanistan and Pakistan to ensure that Afghans who wish to return to Afghanistan have access to education, housing, and health services when they do, and that Afghans who remain have access to appropriate assistance in Pakistan.

While the Afghan government, UNHCR, nongovernmental organizations (NGOs) and other international donors provide some financial assistance to cover transportation costs and immediate needs for registered refugees who return, most undocumented Afghans who do so, apart from a fraction of the most vulnerable, receive no assistance at all.

International donors and the government of Afghanistan should work with UNHCR, and relevant NGOs to ensure that all vulnerable returning Afghan refugees have access to

needed resources and services upon return; and work with the International Office on Migration and relevant NGOs to ensure the same for undocumented Afghans.

Key Recommendations

Human Rights Watch calls on the Pakistan government to act decisively to end the police abuses described in this report. Pakistan's donors and the Afghan government can also take important steps to address these concerns. A full set of recommendations is set forth at the end of this report, but the most urgent steps are as follows:

The Pakistan government should:

- Extend current PoR cards until at least December 31, 2017 and review the PoR system to establish better procedures to avoid the stress and cost of periodic short-term renewals.
- Issue a specific written directive instructing all relevant government officials and state security forces to cease unlawful surveillance, harassment, intimidation, and violence against Afghans living in Pakistan.
- Ensure that all law enforcement and other government officials treat Afghans living in Pakistan with dignity and respect for their human rights in compliance with their domestic and international legal obligations, without exceptions.
- Ensure undocumented Afghans can appeal against a decision to deport them; and ensure that Afghans seeking protection are referred to UNHCR.
- Ratify the Refugee Convention and adopt a national refugee law, as proposed in the 2013 National Policy on the Management and Repatriation of Afghan Refugees.

The Afghan government should:

- Ensure that all returnees have the freedom to settle where they wish and have access to government health and education services regardless of whether they were registered refugees in Pakistan.

UNHCR should:

- Work with the Pakistani government to ensure that Afghans coming to Pakistan can lodge protection claims with UNHCR or, if UNHCR does not have capacity to register all claims, with the Pakistani authorities.
- Continue to emphasize that all returns must be sustainable and genuinely voluntary, while also working with Pakistan to find solutions for those Afghans who, due to their long residency in Pakistan, are unlikely to return.

Afghanistan's and Pakistan's International Partners should:

- Consider providing additional support to Pakistan and Afghanistan to assist with the Afghan refugee population in Pakistan and returnees in Afghanistan, including improving their access to education services, health care, housing, and land.

Methodology, Scope, and Terminology

Human Rights Watch conducted research into abuses against Afghans in Pakistan from April to October 2015. Interviews with Afghans in Pakistan took place in Peshawar. Those with Afghans who had returned to Afghanistan took place in Kabul.

In Afghanistan, Human Rights Watch interviewed 41 men between the ages of 23 and approximately 80, and 9 women between 30 and 50. Interviews were conducted in English or with interpreters. The respondents included former PoR card-holding adults (heads of families) who were being processed at the UNHCR Kabul processing center on May 16 and July 30, 2015. The interviewees were not pre-selected; we interviewed as many as we could among those waiting to complete UNHCR formalities before departing for their new homes.

We also interviewed Afghans in the Kabul area who had been undocumented in Pakistan, identified through lists compiled by humanitarian organizations of all those who had returned between March and July 2015.

Between April and October 2015, Human Rights Watch also interviewed 46 Afghans, both registered and undocumented, living in largely Afghan neighborhoods and markets around Peshawar, Pakistan. None of these respondents was pre-selected.

While these numbers represent a small fraction of the overall Afghan population in Pakistan, their accounts of police abuse are consistent with reports by NGOs and the media that have monitored recent returns, and indicate that the problems that began after the December 2014 school attack have not ended.

Human Rights Watch told all of those interviewed that they would receive no compensation for providing their accounts, and that the interviews were completely voluntary and confidential. All names of interviewees have been withheld for their protection and that of their families, and we have used pseudonyms in describing their cases.

Human Rights Watch also interviewed Pakistani and Afghan government officials, staff of nongovernmental organizations and community-based organizations, UNHCR officials, diplomats, journalists, and other experts.

A *refugee*, as defined under the 1951 Convention Relating to the Status of Refugees, is a person with a “well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion” who is outside their country of nationality and is unable or unwilling, because of that fear, to return.¹ In addition to the Refugee Convention’s narrow “well-founded fear of being persecuted” standard, the international community is increasingly recognizing the need for international protection for people fleeing conflict who face the risk of serious harm if returned.²

An *asylum seeker* is a person who is seeking protection and, as such, is trying to be recognized as a refugee or to establish a claim for protection on other grounds.

This report uses the term *undocumented* Afghans to characterize people in Pakistan who have not registered in Pakistan.

UNHCR in Pakistan works with registered refugees. Undocumented Afghans in Pakistan fall under the mandate of IOM.

This report uses the term *Afghans* to refer to any of the peoples of Afghanistan, regardless of ethnic group.

¹ Convention relating to the Status of Refugees (1951 Refugee Convention), 189 U.N.T.S 150, entered into force April 22, 1954. <http://www.unhcr.org/refworld/docid/3be01b964.html> (accessed August 26, 2015).

² For example, article 15 of the European Union’s Council Directive 2004/83/EC provides subsidiary protection based, among other things, on a “serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict.” “Council Directive of 29 April 2004 on Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons who Otherwise Need International Protection and the Content of the Protection Granted,” 2004/83/EC, Official Journal L 304/12, April 29, 2004, <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32004L0083> (accessed August 26, 2015).

I. Afghan Population in Pakistan: The Politics of Registration

Pakistan has long been host to one of the largest displaced populations in the world. Years of armed conflict—most recently the increasingly violent battle between the Taliban and the Afghan government and its international backers—have driven millions of Afghans outside Afghanistan since the late 1970s. Of the 1.5 million registered refugees and an estimated one million undocumented Afghans living in Pakistan as of October 2015,³ many are ethnic Pashtuns who fled Afghanistan during the late 1970s and early 1980s, or their descendants.⁴ Other Afghans joined this diaspora through the 1990s and up to the present day, including Afghans fleeing continuing conflict and instability, and others hoping to find employment and a better livelihood.

According to a 2005 census, 50 percent of the Afghan population in Pakistan arrived in 1979-80 alone; 77 percent arrived before 1988.⁵ At that time, they were considered *prima facie* refugees because most were fleeing mass executions, enforced disappearances, and indiscriminate bombings that took place following the 1978 coup, subsequent war, and Soviet Union occupation of Afghanistan.⁶ Thirty-five years later, the situation for this population is increasingly precarious. Unwanted in Pakistan, many are unwilling to resettle in Afghanistan, due to continuing conflict, insecurity, and the lack of means of livelihood.

³ UNHCR, “2015 UNHCR country operations profile–Pakistan,” n.d., <http://www.unhcr.org/pages/49e487016.html> (accessed August 22, 2015).

⁴ Approximately 2 million Afghans fled to Iran in this period, where about 1 million remain in an equally precarious state, increasingly unwelcome and often at risk of deportation and other abuse from Iranian authorities. See Human Rights Watch, “Unwelcome Guests: Iran’s Violation of Afghan Refugee and Migrant Rights,” November 20, 2013, <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

⁵ UNHCR, “Census of Afghans in Pakistan, 2005,” n.d., <http://www.unhcr.org/431c7b1a2.pdf> (accessed September 10, 2015). However, Afghans had been crossing the borders for decades before then, and have continued to do so; the border between Pakistan and Afghanistan is disputed and largely unmarked, with a significant segment of the Pashtun population on either side crossing regularly.

⁶ Marjoleine Zieck, “Abstract: The Legal Status of Afghan Refugees in Pakistan, a Story of Eight Agreements and Two Suppressed Premises,” *International Journal of Refugee Law*, April 30, 2008, 20:2, pp. 253-272, <http://ijrl.oxfordjournals.org/content/20/2/253.short> (accessed September 10, 2015). The sheer number of Afghans entering Pakistan in the early 1980s made individual refugee status determination impractical. See, for example, ExCom Conclusion No. 22, Protection of Asylum-Seekers in Situations of Large-Scale Influx, 1981 (noting that persons who “owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of, or the whole of their country of origin or nationality are compelled to seek refuge outside that country” are asylum-seekers who must be “fully protected,” and “the fundamental principle of non-refoulement including non-rejection at the frontier—must be scrupulously observed.”), <http://www.unhcr.org/3ae68c6e10.html> (accessed September 10, 2015).

The Refugees: Political Context

In the early years of the Soviet conflict, the welcome the refugees received in Pakistan reflected the geopolitical dimensions of the war. Eager to use the refugees to bolster its stance against the Soviet-backed regime in Kabul, the government of Pakistan President Zia-ul Haq allowed the fleeing Afghans to settle in camps, but required them register with one of seven Afghan *mujahidin* parties based in Pakistan who were fighting Afghan government and Soviet forces.⁸ Refugees who did so were provided with a passbook (*shanakhti*) which entitled them to assistance, but afforded no legal protection.⁹

Since 1980, the United Nations High Commissioner for Refugees (UNHCR) has provided assistance to these refugees through its counterparts, the Pakistani Commissioner for Afghan Refugees (CAR) and the Ministry for States and Frontier Regions (SAFRON),¹⁰ and through its implementing NGO partners. Through the 1980s and 1990s, contrary to international standards including UNHCR ExCom Conclusion No. 91, the majority of these Afghans were never registered, granted legal status, or issued identity documents by Pakistan.¹¹

Complicating the situation has been the fact that the disputed border between Afghanistan and Pakistan is largely porous, controlled only by a few official checkpoints.

⁷ *Mujahidin* is the plural form of *mujahid*, the term for one engaged in jihad. In common usage and as used here it refers to the subnational military outfits who fought against the Soviet-backed Afghan forces and Soviet units in Afghanistan during the 1980s.

⁸ Zia believed these mujahidin parties were less likely to revive Pashtun territorial and nationalist claims on the border regions of Pakistan. Frédéric Grare, "The Geopolitics of Afghan Refugees in Pakistan," in Stephen John Stedman and Fred Tanner, eds., *Refugee Manipulation: War, Politics, and the Abuse of Human Suffering*, (Washington, DC: Brookings Institution Press, June 12, 2003), pp. 57-94.

⁹ Human Rights Watch, *Closed Door Policy: Afghan Refugees in Pakistan and Iran*, February 2002, <http://www.hrw.org/reports/2002/pakistan/>.

¹⁰ UNHCR in Pakistan worked through these national entities to channel assistance to the Afghan population in Pakistan. F. Grare, "Geopolitics of Afghan Refugees," p. 73. By the end of 1981, the Pakistan government had officially established 300 refugee villages, with UNHCR setting up the basic infrastructure, equipment, and services for each village. Report of the United Nations High Commissioner for Refugees, A/37/12, UNHCR Reports to General Assembly, 18 August 1982, <http://www.unhcr.org/3ae68c88o.html> (accessed September 10, 2015).

¹¹ UNHCR, "Convention and Protocol Relating to the Status of Refugees," <http://www.unhcr.org/3b66c2aa10.html> (accessed November 10, 2015). Pakistan is not a party to the 1951 Convention on the Status of Refugees or its 1967 Protocol. Pakistan's federal domestic laws make no specific provision for refugees. The Foreigners Order of October 1951, promulgated pursuant to the Foreigners Act of 1946, gives the power to grant or refuse permission to enter Pakistan to civil authorities at Pakistan's border. Under the Foreigners Order, foreigners not in possession of a passport or visa valid for Pakistan, or those who have not been exempted from the possession of a passport or visa, can be refused entry. There are no specific provisions for those seeking asylum, or refugees. The Foreigners Order also allows civil authorities to restrict the movements and place of residence of foreigners inside Pakistan, as long as these are made in writing. Foreigners Order, October 1951, 11. Other provisions allow for the arrest and detention of undocumented foreigners. However, from 1979 until 1999, the Foreigners Order went largely unenforced against Afghans in Pakistan.

The so-called Durand Line, the 19th century boundary created by colonial British rulers, cuts through Pashtun and Baloch tribal communities, members of which cross it at will, as do Kuchi nomads who follow migratory routes that transverse the border.¹² The prospect of better wages for unskilled jobs has also long lured Afghan migrants to Pakistan.

The Pakistani government has been shouldering a heavy burden in dealing with the influx of Afghans for over 35 years, and in many respects has responded well. Most Afghans in Pakistan live in urban areas, where they have had access to significant benefits. Many have been able to earn wages which, although at subsistence level or below, provide for a higher quality of life than they would have been able to attain in war-torn Afghanistan. Registered refugees have been allowed to access educational opportunities often of a higher standard than that available in Afghanistan. Some Afghans simply would not have had access to education at all in Afghanistan.

The promise of an end to the conflict and reconstruction in Afghanistan helped encourage 1.5 million Afghans to return to Afghanistan from Pakistan by the end of 2002.¹³ The large number of returnees overwhelmed available assistance in Afghanistan, particularly as many returnees settled in already crowded urban areas, prompting international organizations to call for a more gradual pace of returns and better needs assessments to assist with reintegration.¹⁴ Since then, UNHCR and partner NGOs have advocated for the importance of the sustainability of returns and promoted projects with this aim.

The pace of returns slowed over the next few years, however, not primarily because of a shift in policy, but because Afghans who had the means went back in the first years after the defeat of the Taliban government in late 2001. Many of those who remained in Pakistan lacked land, family or livelihood to which to return.¹⁵ Among those who did not return in

¹² For more on the Durand Line controversy and its implications for Pakistan's relationship with Afghanistan, see Owen Bennett-Jones, "Across the Durand Line," *London Review of Books*, 36:18, September 25, 2014, <http://www.lrb.co.uk/v36/n18/owen-bennett-jones/across-the-durand-line> (accessed September 10, 2015).

¹³ UNHCR Statistical Yearbook 2005, Annex III, p. 231. See www.unhcr.org/cgi-bin/texis/vtx/statistics/opendoc.pdf, (accessed September 10, 2015); and UNHCR, Afghanistan Country Operations Profile, www.unhcr.org/pages/49e486eb6.html (accessed September 10, 2015).

¹⁴ Erin Patrick, "Reconstructing Afghanistan: Lessons for Post-War Iraq?" Migration Policy Institute, April 1, 2003, <http://www.migrationpolicy.org/article/reconstructing-afghanistan-lessons-post-war-iraq> (accessed August 27, 2015).

¹⁵ Rhoda Margesson, "Afghan Refugees: Current Status and Future Prospects," January 26, 2007, Congressional Research Services Report for Congress, file:///C:/Users/User/Downloads/ADA464830.pdf (accessed August 29, 2015).

the early years were Afghans who still had reasons to fear going back, as well as many who had been born and made their lives in Pakistan.

On March 18, 2003, the governments of Afghanistan and Pakistan and the UNHCR established a Tripartite Commission to support an “organized return of Afghans that is sustainable.”¹⁶ The agreement specified that returns were to be based on “the principles of voluntarism and gradualism.”¹⁷

The first comprehensive registration of Afghans living in Pakistan took place in 2006-2007, following a census of the Afghan population held in 2005 which included having Afghan community elders identify long-staying Afghans. The census, which set out to enumerate all Afghans (and their descendants) who arrived in Pakistan on or after December 1, 1979, established that 3,049,268 Afghans resided in Pakistan at that time.¹⁸ Only those who participated in the census could register for residency; those who registered received a Proof of Registration (PoR) card initially valid for three years and subsequently extended, recognizing their status as an “Afghan citizen temporarily residing in Pakistan.”¹⁹ The explicit purpose of the registration exercise was to facilitate the management of Afghan refugees, including through documentation and voluntary repatriation.²⁰

A total of 2.2 million Afghans received PoR cards as a result of the 2006-7 registration process, approximately 900,000 fewer than were counted in the census.²¹ The registration

¹⁶ UNHCR, “Afghanistan Tripartite Agreement with Pakistan,” March 18, 2003, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3e77334d1&query=afghanistan> (accessed August 27, 2015).

¹⁷ UNHCR “Agreement between the Government of the Islamic Republic of Pakistan, the Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees.” Commenting on reports of police harassment as a factor in returns in 2003, the UNHCR Representative in Pakistan at the time, Hasim Utkan, stated that “this kind of harassment is contrary to the provisions found in this agreement.” “Pakistan: Interview with UNHCR country representative,” *IRIN News*, April 1, 2003, <http://www.irinnews.org/report/19558/pakistan-interview-with-unhcr-country-representative> (accessed August 27, 2015).

¹⁸ Census of Afghans in Pakistan 2005, <http://www.unhcr.org/431c7b1a2.pdf> (accessed October 25, 2015); Afghanistan Research and Evaluation Unit, *Afghans in Peshawar Migration, Settlements and Social Networks*, January 2006, <http://www.unhcr.org/43e754da2.pdf>, p. 3 (accessed August 29, 2015).

¹⁹ *Ibid.* The process was extended three months beyond the original cut-off date to accommodate Afghans who had been unable to register before then. However, an unknown number of Afghans still did not register for the reasons listed above.

²⁰ Human Rights Watch email communication from UNHCR, October 15, 2015.

²¹ UNHCR, “Registration report offers insight into Afghans in Pakistan,” May 3, 2007, <http://www.unhcr.org/4639c94b4.html> (accessed September 2, 2015). However, according to an August 2015 report from the special investigator general for Afghanistan reconstruction (SIGAR), UNHCR has consistently been “unable to independently verify the number of Afghan refugees” reported by the Iranian and Pakistani governments, and as a result underestimated the numbers living in both countries. Office of the SIGAR, “Afghan Refugees and Returnees: Corruption and Lack of Afghan Ministerial Capacity Have Prevented Implementation of a Long-term Refugee Strategy,” August 27, 2015, p. 1, <https://www.sigar.mil/pdf/audits/SIGAR-15-83-AR.pdf> (accessed September 10, 2015).

process was extended three months beyond the original cut-off date to accommodate Afghans who had been unable to register before then. Despite this, an unknown percentage of Afghans did not register, possibly out of fear the exercise would be used to deport them, or because they did not understand the importance of documentation, could not afford the bribes that some officials demanded, or could not physically appear at the registration facilities.²² Following the end of the registration, Afghans in Pakistan fell into two categories: those with PoR cards, whom UNHCR recognized as prima facie refugees, and undocumented Afghans.²³ Afghans who arrived in Pakistan after the 2005 census did not have an opportunity to register with the government of Pakistan and therefore automatically fell into the undocumented category.

According to UNHCR, UNHCR in Pakistan conducts refugee status determination (RSD) on behalf of the Government of Pakistan in the absence of a national RSD system. Some Afghans approach UNHCR for RSD while UNHCR proactively identifies others for RSD as part of its protection work in Afghan communities in Pakistan. Afghans approaching UNHCR are referred to NGO partners for an initial screening interview. If they have international protection needs, UNHCR registers them and conducts RSD.²⁴

UNHCR does not have the capacity to conduct RSD for large numbers of Afghans seeking protection in Pakistan. UNHCR was approached by 18,459 individuals in 2013, 16,489 in 2014 and 23,219 up to October 31, 2015, the vast majority being Afghans. In 2013, UNHCR registered 4,956 individuals for RSD, compared to 8,301 in 2014 and 6,063 until October 31, 2015. UNHCR says there was a significant increase in applications to UNHCR during the 2015 security operations targeting Afghans, although when the situation calmed, many of those didn't follow up on their cases. UNHCR also says "refugees recognized under UNHCR's mandate are provided with documentation which is largely respected by the Government of Pakistan."²⁵

²² Human Rights Watch interviewed 17 undocumented Afghans who said they had wanted to register, but could not afford the bribes, or could not afford to lose time from their day jobs to stand in line. Human Rights Watch interviews with undocumented Afghan returnees, April-July 2015.

²³ "2015 UNHCR country operations profile – Pakistan," <http://www.unhcr.org/pages/49e487016.html> (accessed September 2, 2015); IOM, "IOM Humanitarian Compendium," <http://humanitariancompendium.iom.int/afghanistan/2015> (accessed September 2, 2015).

²⁴ Human Rights Watch email communication with UNHCR, November 11, 2015.

²⁵ Ibid.

The Solutions Strategy

In 2011, UNHCR, together with the governments of Afghanistan, Iran and Pakistan, formalized a quadripartite consultative process on Afghan returns to their country that included agreements on continued protection in host countries, support to host communities, alternative stay arrangements, and resettlement to third countries. This process, known as the Solutions Strategy for Afghan Refugees, to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries, emerged out of a concern that humanitarian assistance alone, particularly as it has diminished over the years, is entirely insufficient to address the complex needs of the refugee population and provide a basis for successful returns and reintegration. The strategy obligates the partner governments to undertake specific measures to “anchor Afghan returnees in Afghanistan, and to preserve asylum space in neighbouring states.”²⁶ However, deteriorating security in Afghanistan, together with the slow pace of development and investment in much of the country, has meant that returns have slowed at the same time that pressure from Pakistan on its Afghan populations has increased.²⁷

December 2014 Peshawar School Attack and Aftermath

On December 16, 2014, the Pakistani militant group Tehrik-i-Taliban carried out an attack on the Army Public School in Peshawar, killing 145 people, including 132 schoolchildren.²⁸ In the immediate aftermath, the Pakistan federal government stated that the attack would not prompt any official reprisals against Pakistan’s Afghan population, and SAFRON officials pledged that the government would “maintain its traditional hospitality” toward Afghan refugees.²⁹

Despite these assurances, police abuse and official intimidation of the country’s Afghan population increased significantly, particularly in the first six weeks after the attack, even

²⁶ UNHCR, *Report of the International Conference on the Solutions Strategy for Afghan Refugees, to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries*, May 2-3, 2013, <http://www.unhcr.org/afghanistan/solutions-strategy.pdf> (accessed September 2, 2015).

²⁷ On the situation of Afghans in Iran, see Human Rights Watch, *Unwelcome Guests: Iran’s Violation of Afghan Refugee and Migrant Rights*, November 2014, <https://www.hrw.org/report/2013/11/20/unwelcome-guests/irans-violation-afghan-refugee-and-migrant-rights>.

²⁸ “Pakistan Taliban: Peshawar school attack leaves 141 dead,” *BBC.com* (London), December 16, 2014, <http://www.bbc.com/news/world-asia-30491435> (accessed September 1, 2015).

²⁹ “No involuntary repatriation of Afghans,” *Dawn* (Islamabad), December 24, 2014, <http://www.dawn.com/news/1152867> (accessed August 31, 2015)

though the government's own investigations did not find "significant Afghan involvement in acts of terrorism."³⁰

From the late 1990s, Pakistani police and other authorities had from time to time threatened and intimidated Afghans. However, in the first weeks after the school attack, such instances of intimidation intensified to unprecedented levels and included threats from police that Afghans should leave the country or face arrest. After the Khyber Pakhtunkhwa provincial government called for all Afghans to leave within a month of the attack, the minister of SAFRON at a joint press conference with the UNHCR representative stated that there was no evidence that registered Afghans had ever been involved in "terrorism-related" activities in Pakistan.³¹ However foreign media quoted an unnamed SAFRON official in January 2015 giving registered Afghan refugees a deadline of the end of 2015 (when the PoR cards were to expire) to leave Pakistan, while cautioning that "unregistered [Afghans] are illegal aliens and have no right to stay."³² In January the federal government launched a 20-point National Action Plan on Counter Terrorism that included establishing a policy on registering and repatriating Afghans living in Pakistan.³³

The Hangu district government in Khyber-Pakhtunkhwa (K-P) province announced on February 11, 2015, that it would require all registered Afghan refugees to relocate to a government-supervised camp and that it would deport all undocumented Afghan citizens.³⁴ Human Rights Watch spoke to many Afghans who said they had relocated to camps and found conditions so intolerable they had decided to return to Afghanistan.

³⁰ Human Rights Watch interview with Pir Baksh Jamali, Federal Secretary, Ministry of States and Frontier Regions, Islamabad, August 3, 2015.

³¹ "No coercive measures: 'Registered refugees have nothing to worry'," *The Express Tribune*, December 24, 2014, <http://tribune.com.pk/story/811432/no-coercive-measures-registered-refugees-have-nothing-to-worry/> (accessed November 10, 2015). PoR card-holders are required to provide biometric data, thus making it easier for the authorities to verify their identities.

³² Gabriel Dominguez, "UNHCR: 'Refugees should not be forced to leave country of asylum,'" *Deutsche Welle* (Berlin), January 25, 2015, <http://www.dw.com/en/unhcr-refugees-should-not-be-forced-to-leave-country-of-asylum/a-18278498> (accessed August 31, 2015).

³³ "P.M. Sharif announces antiterrorism action plan," *Newsweek* (Pakistan) December 25, 2014, <http://newsweekpakistan.com/pm-sharif-announces-antiterrorism-action-plan/> (accessed November 1, 2015). Following the announcement of the plan, security raids were carried out country-wide, not specifically in Afghan settlements, but in areas where Afghans reside. After the federal government clarified the right of Afghan PoR cardholders to remain in Pakistan, the raids concentrated on areas where undocumented Afghans lived. However, since registered Afghans and undocumented Afghans typically reside in the same communities, the PoR cardholders continued to be affected by these raids. Human Rights Watch email communication with UNHCR, October 15, 2015.

³⁴ Frud Bezhan, "Afghan Refugees Flock Home Amid Claims Of Intimidation, Harassment," *Radio Free Europe*, March 4, 2015, <http://www.rferl.org/content/afghanistan-pakistan-refugees-intimidation/26881851.html> (accessed August 31, 2015).

SAFRON Federal Secretary Jamali told Human Rights Watch that the federal government had to intervene to convince the provincial government of K-P to “display restraint” to prevent mass deportations of Afghans after the December 16, 2014 Peshawar school attack. He said:

[The] provincial government of K-P wanted to oust the Afghan refugees immediately post-the December 16 attack.... The K-P government has become really aggressive [towards Afghan refugees] and we also have reports of harassment from ... Peshawar and other areas of the K-P. We have taken [up] the matter of harassment with the K-P government [but] the K-P government is not maintaining as much oversight over the police on the issue of harassment of Afghans as it should.³⁵

The threats had an enormous impact. According to UNHCR, nine times as many registered Afghans returned from Pakistan to Afghanistan in January 2015 as in December 2014.³⁶ As mid-winter is traditionally a low season for repatriation, those who felt they had to return faced additional hardships. Nearly all of those returning came from three Pakistani provinces—Khyber Pakhtunkhwa, Azad Kashmir, and Punjab—where an increase in arrests, detentions, and evictions of Afghans were reported during the same period.³⁷

The overwhelming majority of undocumented Afghans who left Pakistan after December 16, 2014, were not formally deported, but were categorized as “spontaneous returns.”³⁸ IOM reported that more than 33,000 undocumented Afghans had “spontaneously returned” from Pakistan from the beginning of 2015 through the first two weeks of February 2015, a 155 percent increase from all spontaneous returns in calendar year 2014.³⁹ An IOM official told Human Rights Watch that many of the unregistered Afghan returnees reported that they had left Pakistan to escape harassment following the Peshawar attack.⁴⁰ The rate

³⁵ Human Rights Watch interview with Pir Baksh Jamali, Federal Secretary, Ministry of States and Frontier Regions, Islamabad, August 3, 2015.

³⁶ “Pakistan: Stop Forced Returns of Afghans,” Human Rights Watch News Release, February 21, 2015, <https://www.hrw.org/news/2015/02/21/pakistan-stop-forced-returns-afghans>.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid. The rate of spontaneous returns of undocumented Afghans increased from an average of 59 a day in 2014 to 749 in the first six weeks of 2015.

⁴⁰ Ibid.

of returns of undocumented Afghans has slowed since March 2015, but remains considerably higher than the 59 per day average rate for 2014.⁴¹

NUMBER OF UNDOCUMENTED RETURNEES IN 2015⁴²

DATE	SPONTANEOUS RETURNS	DEPORTEES	TOTAL
Jan 2015	22,274	1,472	23,746
Feb 2015	18,935	1,575	20,510
Mar 2015	11,855	1,472	13,327
Apr 2015	7,920	1,229	9,149
May 2015	7,569	1,118	8,687
Jun 2015	5,245	845	6,090
Jul 2015 ⁴³	1,804	495	2,299
Aug 2015	3,089	914	4,003
Sept 2015	1,472	800	2,272
Totals	80,188	9,920	90,041

The numbers of returning refugees (PoR card holders) is tallied separately by UNHCR. Between January and September 2015, 51,294 refugees returned. While this marks a significant increase over the same period in 2014,⁴⁴ that year saw fewer returns than normal due to the political and security transition, presidential elections, and withdrawal of international forces.

As detailed below, many Afghans—both undocumented and registered—told Human Rights Watch that the reason they returned was because the Pakistani police threatened them that the abuse they had experienced would continue until they left for Afghanistan.

⁴¹ “Return of Undocumented Afghans from Pakistan IOM- OIM Update as of 6 April 2015,” International Organization of Migration news release, April 6, 2015, http://afghanistan.iom.int/sites/default/files/migrated_files/2015/02/Return-of-Undocumented-Afghans-from-Pakistan-Update-as-of-6-April-2015.pdf (accessed September 1, 2015).

⁴² These numbers are from the Torkham border crossing, where most Afghans entering Afghanistan enter. IOM “Return of Undocumented Afghans from Pakistan,” Update as of 5 September 2015, http://afghanistan.iom.int/sites/default/files/Reports/return_of_undocumented_afghans_from_pakistan_-_update_as_of_5_sep_2015.pdf (accessed November 10, 2015).

⁴³ All returns declined during the month of Ramadan.

⁴⁴ UNHCR, “Afghanistan voluntary repatriation and border monitoring monthly update, 01 January–31 August 2015,” August 31, 2015, <http://www.refworld.org/publisher,UNHCR,,,55f907f14,o.html> (accessed September 25, 2015).

In August 2015 UNHCR told Human Rights Watch that it continued to receive “many reports of instances of intimidation, harassment and arrests” of Afghans after December 16, including demands for bribe money, which UNHCR concluded was “greatly impacting the decision of Afghans to return [to Afghanistan].”⁴⁵ UNHCR told Human Rights Watch that the agency had concerns regarding the returns of Afghans to Afghanistan being fully voluntary.⁴⁶

In both its August and September 2015 monthly updates, UNHCR report noted that:

[I]n general, eviction notices by the authorities, harassment, intimidation, movement limitations, economic factors, settlement closure/consolidation and fear of arrest and/or deportation were mentioned by interviewed returnees as the main push factors of return from Pakistan so far this year.⁴⁷

Media reports also describe continuing strong-arm tactics by Pakistani security forces which Afghans have said was aimed at pushing them back to Afghanistan. On August 30, 2015, the media reported that Pakistani security forces had forcibly evicted 1,300 Afghans from the town of Sialkot in a bid to encourage them to return to Afghanistan.⁴⁸

In their 26th Tripartite Commission Meeting,⁴⁹ on August 22, 2015, Pakistan and Afghanistan presented plans for the return and reintegration of Afghan refugees as part of the joint process both had previously agreed to; based on progress in the Afghanistan plan, SAFRON’s plan included a recommendation for PoR card extensions until the end of 2017. As of November 2015, that recommendation awaited approval by other ministries in the Pakistan government.⁵⁰

⁴⁵ Human Rights Watch interview with UNHCR, August 25, 2015. The total number of Afghans arrested or detained in the first six months of 2015 was higher than “the total tally of the previous two years combined.”

⁴⁶ Ibid.

⁴⁷ UNHCR, “Afghanistan voluntary repatriation and border monitoring monthly update, 01 January—31 August 2015,” August 31, 2015, <http://www.refworld.org/publisher,UNHCR,,,55f907f14,o.html> (accessed September 25, 2015); UNHCR, “Afghanistan voluntary repatriation and border monitoring monthly update, 01 January—30 September 2015,” September 30, 2015.

⁴⁸ Frud Bezhani, “Afghan Refugees Again On The Run -- This Time From Pakistan,” *Radio Free Europe*, August 30, 2015, <http://www.rferl.org/content/afghanistan-pakistan-refugees-again-on-the-run/27216943.html>, (accessed August 31, 2015).

⁴⁹ The Tripartite Commission is a three-party body dedicated to resolving the issues of Afghan refugees in Pakistan. The Commission consists of UNHCR and representatives of the governments of Pakistan and Afghanistan.

⁵⁰ See “Afghanistan, Pakistan, UNHCR welcome new policies on Afghan refugees in Pakistan and returnees to Afghanistan,” UNHCR press release, August 22, 2015, <http://www.unhcr.org/55dddc4a6.html> (accessed August 31, 2015).

Conflict, Insecurity, and Lack of Livelihoods in Afghanistan

Afghans who have returned to Afghanistan are returning to a country with a widening conflict between government security forces and a number of insurgent forces, including the Taliban. The war has intensified following the withdrawal of most international forces, and the ongoing instability has had serious repercussions for the economy, making it extremely difficult for returning Afghans to find work to support themselves and their families.⁵¹ Many returning Afghans have been unable to go to their home provinces due to the conflict, and have joined other displaced Afghans in informal settlements or in urban centers.⁵² More than 100,000 people were newly displaced within Afghanistan this year, most from southern provinces where fighting has been particularly intense, but also from formerly relatively quiet northern provinces where the Taliban gained control of a number of district centers and fighting has escalated. Nationwide, nearly one million are displaced.⁵³

⁵¹ Kathy Gannon, "Afghanistan Unemployment: Despite Billions In Aid, Afghans Can't Find Work," *Huffington Post*, October 24, 2013, http://www.huffingtonpost.com/2013/10/24/afghanistan-unemployment_n_4155254.html (accessed September 2, 2015); Tamana Mansoori, "Ordinary Afghans suffer from shrinking economy, insecurity," *Kabul Times*, July 14, 2015, <http://thekabultimes.gov.af/index.php/opinions/politics/7386-ordinary-afghans-suffer-from-shrinking-economy-insecurity.html> (accessed September 2, 2015).

⁵² The vast majority of IDPs (including secondarily displaced refugee returnees) are living in host communities, as well as informal settlements, living alongside urban migrants. This secondary displacement is happening at a time when the humanitarian community is least equipped to cope (in terms of dwindling budgets and staff cuts as well as increasing IDP caseloads. Human Rights Watch email communication with UNHCR, October 15, 2015.

⁵³ *Ibid.*

II. Intimidation and Abuse of Afghans in Pakistan

We had to leave. The police were beating us. They took my son and detained him for one month. The police just see us and throw us in jail.

They say, “We don’t care about [PoR] cards, we care about money.”⁵⁴

—Rasul, a near-80-year-old Afghan refugee who fled Afghanistan in the late 1970s but recently returned to Afghanistan citing Pakistani police abuse

The Afghans with whom Human Rights Watch spoke described repeated threats, frequent detentions, regular demands for bribes, and occasional violence by Pakistani police in the months since the Peshawar school attack. The abuse has prompted many Afghans to return to an uncertain fate in Afghanistan; others have remained in Pakistan but live in fear. Many of those we interviewed had PoR cards, but this provided little protection against police harassment and abuse.

Afghans Living in Fear in Pakistan

Qayyum, 24, was born in Pakistan after his parents left Nangarhar province in the mid-1980s. He has lived there all his life. He described how police abuse has increased for Afghans:

Police threaten us more now. They threaten, sometime hit us and ask for bribe money from those who can pay it. I have no money, so I cannot pay bribe money, [so] they question and curse me and then let me go. They don’t only stop us at checkpoints, even the patrolling [police] cars stop when they see us and interrogate [us]. The police come to our shops and harass [us].... It has become very difficult to earn a living because of these factors. We are scared now.⁵⁵

Atif, 30, who was born in Peshawar, described similar abuses. His family came to Pakistan from Kuz Kunar, Nangarhar, Afghanistan in 1981. He grew up in Pakistan and now works as a butcher. He told Human Rights Watch:

In late February or early March [2015] I was arrested from my shop and kept in detention for three days at the University Town police station and fined

⁵⁴ Human Rights Watch interview with Rasul (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

⁵⁵ Human Rights Watch interview with Qayyum (pseudonym), Peshawar, April 20, 2015.

Rs. 5000 (\$50) for no reason.... They wanted bribe money. I paid Rs. 5000 [\$50] as [a] fine and some [extra] money as [a] bribe. I was released when a Pakistani citizen friend of mine gave a surety bond. It has become very difficult to do business. The police come and threaten [us] with eviction every day.⁵⁶

Afghans in Pakistan voiced concern about the seemingly arbitrary nature of detentions.

Muhammad Ibrahim, 25, whose father fled Afghanistan in 1979-1980, has lived in the Tajabad area of Peshawar his entire life. He told Human Rights Watch that police harassment and intimidation had become constant in the aftermath of the Peshawar school attack:

The police harass us every day. Sometimes they arrest us for a few hours, threaten us and then let us go. I feel afraid going out of my house in this area. Five days ago, the police arrested my brother when he went out to get milk, [but] they released him after many hours.⁵⁷

Murad, an Afghan born in Peshawar who is about 27, said that since the Peshawar school attack, the local police have targeted the local Afghan population with random searches, interrogation, and detention:

The situation has become really bad now. There were searches before; however, the police were not as hostile [prior to the Peshawar school attack]. Now they single out the Afghans. I have been arrested four, maybe five times and taken to the police station and interrogated and then let go after a few hours. The police ask for bribe money for no reason. I should not have to pay bribe money.⁵⁸

For many Afghans in Pakistan, the constant abuse also threatened their livelihoods. The Board area in Peshawar includes a small market made up almost entirely of Afghan vendors. On September 30, 2015, Pakistani police raided the market and destroyed most

⁵⁶ Human Rights Watch interview with Atif (pseudonym), Peshawar, April 21, 2015.

⁵⁷ Human Rights Watch interview with Muhammad Ibrahim (pseudonym), Peshawar, April 20, 2015.

⁵⁸ Human Rights Watch interview with Murad, Peshawar (pseudonym), April 21, 2015.

of the shops. Many vendors suffered substantial losses. This is not the first time the police have carried out raids on Afghan shops, usually as part of “anti-encroachment” actions against structures that they allege have been erected illegally, or, in the case of the Board market, to clear space for a new road. While the government may take action against illegal structures, in the case of the Board market, which had existed for 20 years, the authorities provided no notice to the vendors, and carried out the raid with considerable violence against the Afghan shopkeepers.

Jalal Shah, 50, is a vegetable vendor originally from Nangarhar province in Afghanistan, and has been living in Peshawar for 20 years. Shah has a PoR card. His shop was destroyed in the September 30 raid, and since the police have continued to harass him. He told Human Rights Watch:

The traffic police come almost every day now. They literally loot and plunder the shops, demand bribe money from whomever they want and take away anything that they wish. I don't have a shop now and I sell my vegetables by the side of the road. However, I did have a shop—a wooden, covered stall—until a month ago. The traffic police along with some people of the district administration came in the last days of September. The police officers took away all my vegetables and demolished my shop. The demolition continued the entire day and demolished almost every shop in the market. The police say that we Afghans have no right be here and do business.⁵⁹

Sher Khan, 43, owns and runs a chicken shop in the Board area market. He came to Pakistan in the mid-1980s. Over the years the local traffic police would often demand bribes and threaten him with arrest and deportation if he did not comply. According to Khan, however, the raid on September 30 was different. He told Human Rights Watch:

[At first] we did not get too scared since we are used to them harassing us for the purposes of bribe money. However, this raid was different. They begin loading all my birds along with the cages in their police vehicle. The police even took away my weighing scales. The cost of my birds, cages and weighing scales was 50,000 rupees (US\$480). They told me that my shop

⁵⁹ Human Rights Watch interview with Jalal Shah, Peshawar, October 29, 2015.

will be demolished since it was built on government's land and the government now needs the land to widen the road. I have been running this shop for the past 20 years. I pleaded with them. They slapped me on the face and kicked me repeatedly. My shop was demolished in front of my eyes. They arrested my brother Zia-ul-Haq and took him away. I was given a fine of 6000 rupees [\$60]. I paid the fine after two days and only then my brother was released. My birds and equipment were never returned. This has bankrupted me. I am still trying to run my business in this makeshift open-air shop, however it has become very difficult to earn a living now. I have a PoR card and I have been living in Peshawar for the past 30 years. The police cannot treat us like this. They do not treat us as humans, let alone as citizens or refugees.⁶⁰

Raza Gul, 23, is a fruit vendor who also suffered losses in the raid. He told Human Rights Watch:

The traffic police took away everything, my pushcart, vegetables and the little money that I had. The big operation was done a month ago. The police came and started beating us up for no reason. One police constable hit me on the head with a weighing stone and I had to get stitches in my head. They took away our pushcarts and dismantled our shops. Now, they come every day, sometimes twice a day. All of us run when we see the police. Sometimes they take away our pushcarts and fruits and say that the government wants to build a road here, other times they just collect bribe money and leave. Once they take away a pushcart it is never returned. They keep our pushcarts at the Hayatabad police station.⁶¹

Khailullah, 22, is a student at Peshawar University. From 5 p.m. until 11 p.m. he operates a pushcart selling hot soup. He told Human Rights Watch:

I come from a very poor family and for me to afford education I have to work as a pushcart vendor. The harassment by the traffic police and district

⁶⁰ Human Rights Watch interview with Sher Khan, Peshawar, October 28, 2015.

⁶¹ Human Rights Watch interview with Raza Gul, Peshawar, October 29, 2015.

administration has been continuing for a while now.... In September, they raided the market and took away everything, demolished shops, and arrested people. The government says that a road has to be built here. If this is true then they should resettle us somewhere. They cannot throw us out in the open. The K-P provincial government hates the Afghans. They fine people every day and arrest Afghans for flimsy reasons and only release them after payment of fines.⁶²

Bashir is a 26-year-old Afghan born in Peshawar. His family also moved to Peshawar from Afghanistan's Nangarhar province in the 1980s. Bashir said that police harassment since the Peshawar school attack threatens his livelihood:

[Police harassment] has gotten really bad after the school attack. The amount of bribes that I have to pay has gone up. The police come to the shop almost every day. They take away my chickens without paying and threaten to beat me up if I object. [In July], while I was out in the market with a friend, [the police] arrested my friend and attempted to arrest me. They cursed and threatened me, [but] took away my friend.... I don't know where he is right now.⁶³

Karim, 42, currently living in Peshawar, is originally from Afghanistan's Laghman province. He came to Pakistan with his family in 1985. He told Human Rights Watch that harassment by police and district administration officials was threatening his business and frightening his family members:

I am very afraid now. I can no longer afford to pay bribes. They [police] ask for bribes daily. The district administration fines us [Afghans] for no reason.... If you ask the district administration or the police about these fines, they hit us. My brother, who also works with me, was hit with a weighing stone by the police for not having the bribe money. He had to have stitches in his head after that. The police did not used to beat us much before [the Peshawar school attack of] December 16, 2014. Now they

⁶² Human Rights Watch interview with Khailullah, Peshawar, October 29, 2015.

⁶³ Human Rights Watch interview with Bashir (pseudonym), Peshawar, July 21, 2015.

torture us for no reason. I am afraid that one day when I won't have bribe money, they will kill me. None of my other family members except me and my brother leave the house now. Our children do not go to school; they do not even go to play outside anymore.⁶⁴

Karim said that the prospect of returning to Afghanistan terrifies him due to the worsening military conflict between Afghan government forces and insurgents in his home province of Laghman. Despite what he described as worsening abuses by police in Peshawar, he said that returning to Afghanistan was not a viable alternative for him and his family:

I cannot go back to Afghanistan. The government and Taliban are fighting in Laghman. My association is with Pakistan. It is safer here. I will prefer being tortured and killed here than go back and risk the lives of my family.⁶⁵

Luqman, 30, was born in Afghanistan's Laghman province. He moved to Pakistan with his father when he was 5-years-old. He has never returned to Afghanistan. He works as a barber in Peshawar. He said:

I can hardly pay expenses and survive. Police come in the shop whenever they please. Last month [June 2015], the police came in my shop and arrested everybody present in the shop. I paid bribe money. They took away all [the others], but left me in the shop. Since then I am very scared. People don't come to my shop anymore since the police come almost daily.⁶⁶

Rasheed Muhammad, 25, was also born in Afghanistan's Laghman province and came to Peshawar with his family as a child. Muhammad said that police harassment and demands for bribes since the Peshawar school attack was making his life increasingly difficult:

The police used to ask for bribe money even before the December 16 attack, however the frequency and amount have increased. They abuse us for no reason, even when we pay the bribe money.⁶⁷

⁶⁴ Human Rights Watch interview with Karim (pseudonym), Peshawar, July 21, 2015.

⁶⁵ Ibid.

⁶⁶ Human Rights Watch interview with Mohibullah (pseudonym), Peshawar, July, 22, 2015.

⁶⁷ Human Rights Watch interview with Rasheed Muhammad (pseudonym), Peshawar, July 22, 2015

Afghans in Pakistan also described pervasive discrimination that has worsened since the school attack. Rehman Khan, 35, was born in Pakistan. His family left Afghanistan's Nangarhar province in the late 1970s. He owns a butcher shop. He said that local police and district government officials have harassed him and discriminated against him since the Peshawar school attack. He told Human Rights Watch:

The Khyber Teaching Hospital discriminates against us [Afghans]. [Since December 2014], we can't get an appointment with the doctor and are not given medicine.⁶⁸ The situation has worsened since the school attack. I was detained in June 2015 at a police checkpoint. They released me after 30 minutes only when I paid bribe money.⁶⁹

Khadija, 30, was born in Peshawar and has lived there all her life. Her family fled to Pakistan from Afghanistan in 1981. She feels increasingly insecure and discriminated against since the Peshawar school attack. Although Khadija is a trained nurse, she said that her Afghan nationality makes it increasingly difficult for her to get work. She said, "It is almost impossible to get a job being an Afghan. No one is even willing to consider me for a job. It is becoming very difficult for us to make ends meet."⁷⁰

Maliha, 26, who was born in Peshawar, agreed that one of the most worrying aspects of the official reaction to the Peshawar school attack has been the way it has resulted in de facto discrimination against Afghans seeking medical care and education. Although there is no official policy directive restricting access, Afghans in K-P province told Human Rights Watch that they had experienced such restrictions. Maliha told Human Rights Watch:

It has become difficult [for Afghans] to visit hospitals now. They treat us like second-class citizens and deny us free treatment. Traditional Afghan

⁶⁸ As a government hospital, it is obligated to provide basic medicines free of charge. However some private medical facilities have reportedly stopped providing care for Afghans, and there are concerns that some government-run hospitals may do so as well. See Umer Farooq, "Discrimination or pragmatism? HMC imposes ban on free treatment of Afghans," *The Express Tribune*, September 22, 2015, <http://tribune.com.pk/story/961082/discrimination-or-pragmatism-hmc-imposes-ban-on-free-treatment-of-afghans/> (accessed September 30, 2015).

⁶⁹ Human Rights Watch interview with Rehman Khan (pseudonym), Peshawar, July 22, 2015.

⁷⁰ Human Rights Watch interview with Khadija (pseudonym), Peshawar, July 23, 2015.

schools are being closed. My brother has been arrested and it was only after a Pakistani citizen gave surety that he was released.⁷¹

She said that since the Peshawar school attack, police harassment and intimidation have made their lives increasingly difficult. She told Human Rights Watch:

The police harass my husband almost daily. He has a clothing shop. He has to pay a lot of bribe money and hence [has] very little money left for the [family]. The level of police harassment has certainly increased [since December 2014]. They never used to ask any questions of women at the police check-posts before, but they do interrogations [of women] now.⁷²

Saima, 23, who was also born and raised in Peshawar, agreed that Afghan women were also the victims of Pakistan police harassment. After her husband returned to Afghanistan out of fear of summary arrest and deportation. Saima said her own fear of police harassment and intimidation had effectively rendered her housebound:

The situation is horrific now. The government has asked landlords to check [on Afghan tenants]. My husband and his family were very afraid and my husband has now gone to Jalalabad, Afghanistan, since he is afraid of being arrested again. He was arrested twice after the [December 2014] school attack; the police kept him for a day each time and then released him.... After the school attack the police even come to our houses. That has never happened before. The police have even arrested women from our neighborhood.⁷³

Ali Shah, 26, was born in Peshawar after his family left Afghanistan in the 1980s. Shah said that the risk of summary detention and deportation has increased since the Peshawar school attack:

My family originally lived in Jalalabad, Afghanistan. Just before the month of Ramadan [in May 2015], the police arrested me. They kept me in

⁷¹ Human Rights Watch interview with Maliha (pseudonym), Peshawar, July 22, 2015.

⁷² Human Rights Watch interview with Maliha (pseudonym), Peshawar, July 22, 2015.

⁷³ Human Rights Watch interview with Saima (pseudonym), Peshawar, July, 23, 2015.

[Peshawar] Central Jail for seven days and then deported me to Afghanistan [by] dropping me on the other side of the Torkham border. During this time, they kept asking me for a bribe, but I had no money to pay them. I crossed back into Pakistan two days after my deportation. I am very scared now. Sometimes I remain in the house for days.⁷⁴

Afghans Who Have Returned to Afghanistan

Every Afghan that Human Rights Watch interviewed who had returned to Afghanistan between April and July 2015 cited police abuse and harassment as the main reason for their decision to return. Humanitarian aid workers providing assistance to the returnees also told Human Rights Watch that returning Afghans, including PoR card holders, consistently complained that police abuse had driven them to return.⁷⁵

Kushan, 36, had been living in Kar Khano, near Peshawar, Pakistan, for 25 years after leaving Nangarhar province in Afghanistan in 1990. He made a living buying and selling used goods. He told Human Rights Watch that after the Peshawar school attack, police harassment became unbearable:

Police were detaining people. Several times they stopped me, and I gave them money to let me go. Usually Rs. 200 or 400 [\$2 to \$4]—which is about how much I made every day. But otherwise they take you to the police station. From February, police started coming into people’s houses. I was afraid they might enter mine. It would be bad if I was out—they were searching the ladies.⁷⁶

Marwand, about 28, had been living in Haripur city since 2012 after leaving his home in Baghlan because of increasing insecurity caused by the growing presence of Taliban forces. He told Human Rights Watch:

In March [2015], Pakistan police threatened me in the Haripur bazaar and gave me a five-day ultimatum to leave or I would be arrested and deported.

⁷⁴ Human Rights Watch interview with Ali Shah (pseudonym), Peshawar, July 22, 2015.

⁷⁵ Human Rights Watch interviews in Kabul, May and July 2015.

⁷⁶ Human Rights Watch interview with Kushan (pseudonym), Kabul, May 16, 2015.

“They told me, “Whatever you have in Haripur we will take.” I went to live in the camp for four months without any work. When I left in May I had to pay bribes to the police along the way: Rs. 25,000 [\$250] at Torkham.⁷⁷

Farhang, 31, originally from Parwan, went to Pakistan with his family in 1992 when he was 8 years old. They settled in the Peshawar area where his father found work as a taxi driver. Farhang eventually found work driving a motorized rickshaw taxi. He told Human Rights Watch:

The police started creating problems. They were going into people’s homes. They came to our house and kicked in the door—this was after the [Peshawar] school incident. The children were very afraid. The police asked us, “What are you doing here?—Go to your own country!” This was about a month ago [early July 2015] It was 1 a.m. ... they put all us men in the police cars and took us to the police station. We spent 11 days in jail. Then they took us to the border and told us to cross. I crossed, but then [a few days later] I returned to take my wife and child to Afghanistan. So I came to Kabul but I don’t have any work here [or] a place to live.⁷⁸

Jaffar, around 40 years of age, lived in Rawalpindi for 20 years after coming to Pakistan as a young man from Baghlan province during the civil war in the mid-1990s. He worked as a laborer and sometimes as a driver. He had a PoR card. He told Human Rights Watch that in April or May, the Pakistani police had forced him and his family to relocate to a camp:⁷⁹

The Pakistan police came and ordered us to leave our houses and move to the Haripur [refugee] camp.⁸⁰ They sent a message through the area representatives, “If you don’t go to the camp, we will throw you out.” So 20 families from our area relocated to the Haripur camp. At the camps there

⁷⁷ Human Rights Watch interview with Marwand (pseudonym), Kabul, May 17, 2015.

⁷⁸ Human Rights Watch interview with Farhang in Kabul, May 16, 2015.

⁷⁹ As noted above, early in 2015, the K-P government tried to enforce an encampment policy, but this was dropped after a few weeks.

⁸⁰ The Haripur refugee camp is located in Hazara, Khyber Pukhtunkhwa province. As of December 2014, it was home to approximately 100,000 people. See “Afghans banned from living in Haripur city,” *Dawn.com*, December 28, 2015, <http://www.dawn.com/news/1153638> (accessed September 2, 2015).

was no electricity, no hot water, nowhere to work. So we had to come [back to Afghanistan].⁸¹

Turab, 42, had lived in Pakistan for 37 years, his parents having fled Kunduz province in Afghanistan as refugees in 1979. They lived in the Shamshatoo refugee village, about 40 kilometers southeast of Peshawar, where he went to school and trained as a homeopathic doctor. He told Human Rights Watch that even though he had a PoR card, in May or June 2015, the Pakistani police began causing serious problems for him:

It began after the [Peshawar] school incident. They were always in the camp, searching homes. I had been working in the city hospital and they were not letting me go to work. Every day they demanded money. Then recently [in May-June] the electricity was cut off in the camp. So we decided to come. We were going to go to Kunduz, but there is too much fighting. So we will stay in Kabul.⁸²

If Turab is unable to find a relative or another place to stay in Kabul, he will join many other returned refugees now living in IDP camps around Kabul.⁸³

Rasul, the roughly 80-year-old refugee quoted at the start of this chapter, originally fled to Pakistan from Baghlan province as a refugee in the late 1970s. He settled in a rented house in the Sargoda Panjao area of Pakistan where he worked as a day laborer for the next 35 years. He had a PoR card. As noted above, he told Human Rights Watch that he returned to Afghanistan in May 2015 after Pakistani police repeatedly demanded bribes from him.⁸⁴

Rasul's son, Gul Mohammad, 23, was born in Pakistan. In January and April 2015, police detained him and demanded money from him. He told Human Rights Watch:

In January, they demanded Rs. 1000 [\$10] from me. So we paid. Then two months after that I was again detained; this time I was put in the jail for one month. My father paid 18,000 rupees [\$180] to get me out. After that

⁸¹ Human Rights Watch interview with Jaffar (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

⁸² Human Rights Watch interview with Turab (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

⁸³ Ibid.

⁸⁴ Human Rights Watch interview with Rasul (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

[police] were frequently asking for [money]. So we left Pakistan. But there are problems in Afghanistan with security and work.⁸⁵

Juma Gul, 42, had left Afghanistan as a child when his family fled to Kohat in 1982. He and his family settled in a rented house in Abbottabad where he grew up. Eventually he became the manager of a small hotel in the city. He had a PoR card. Juma Gul told Human Rights Watch that police abuse convinced him to return to Afghanistan in July 2015:

The police were taking money from us. They came to the hotel always asking “Who is at the hotel—are there Taliban?”—and taking money, so I finally gave up my job at the hotel. I have been doing day labor since then. Before the school incident, they were only looking for Taliban, but after that, a hundred times they took money from me. They would ask me, “Why are you working here?” And still they would take my money.⁸⁶

Police in Kohat detained Mohammad in April; a month later he and his family had returned to Afghanistan. He told Human Rights Watch that the police picked him up at his home immediately after morning prayers one day in May 2015, and kept him until he paid a bribe:

I pleaded with them not to—I am the only one feeding my family and they will die of hunger. They took me to the police station—they told me they were going to release me, this was just an investigation. They asked me if I was a terrorist. They asked for money—I said I can pay Rs. 5000 [\$50], but they kept asking for more. We paid Rs. 60,000 [\$600]. This happened to one out of three families in the area.⁸⁷

Gulnar, about 50, who was originally from Badakhshan, had gone to Pakistan 29 years ago, during the Soviet occupation of Afghanistan. Her husband found work at a bread factory in Bakar, Punjab, where they lived. They did not experience any serious problems until after the Peshawar school attack in December 2014.

⁸⁵ Human Rights Watch interview with Gul Mohammad (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

⁸⁶ Human Rights Watch interview with Juma Gul (pseudonym), UNHCR Encashment Center, Kabul, July 30, 2015.

⁸⁷ Human Rights Watch interview with Mohammad (pseudonym), UNHCR Encashment Center, Kabul, May 14, 2015.

She told Human Rights Watch about the daily visits from the police they had to endure after that:

After the school attack, the police were coming to the area every day. They were pulling us from our houses. One day they came—the men were hiding. They found my father-in-law and jailed him in the Miyawala Jail in Barkot, Punjab, for four months [until April] and we had to pay 70,000 rupees [\$700] to free him.⁸⁸

They said they returned to Afghanistan shortly afterwards to escape any further Pakistani police harassment.

Abdullah, 55, and his brother Rohullah, 32, left Paktia province in Afghanistan as children in the early 1980s, shortly after the Soviet invasion. Their families settled in Kohat camp in Pakistan, then moved into the town where both eventually became motorized rickshaw drivers. They experienced intensive police harassment after the Peshawar school attack through July 2015, when they decided to return to Afghanistan. Abdullah said:

Last year [after the Peshawar school attack], the police started arresting people. The reason we came back to Afghanistan was because the police started coming to people's homes. So that's why—we didn't want them to come into our home.⁸⁹ From our camp, most men were taken. Police came in the middle of the night to take them to jail and then deport them. When they come at night they don't care if you are wearing shoes or how you are dressed – they just take you to the jail and then deport you. Everyone knew—the elders of the camp told us, “You should go or the police will arrest and deport you.”⁹⁰

⁸⁸ Human Rights Watch interview with Gulnar, UNHCR Encashment Center, Kabul, May 14, 2015.

⁸⁹ Many Afghans who had recently returned from Pakistan told Human Rights Watch that their fear that the Pakistani police would enter their homes and violate the privacy of the women in the family was an important factor in their decision to go to Afghanistan.

⁹⁰ Human Rights Watch interview with Abdullah (pseudonym), Kabul, August 3, 2015

Himmat, 37, currently residing in Khair Khana, Kabul, came to Pakistan in the early 1990s after his home in Shomali was looted by armed men.⁹¹ They settled in the Nasir Bagh camp near Peshawar, but moved to Peshawar after its closure.⁹² Himmat and his older brother got work at a small hotel. He told Human Rights Watch that after the Peshawar school attack:

Any time they wanted, the police were coming to our houses. I agreed with [my brother] that one of us should stay at home with our wives and children. Sometimes out of fear we wouldn't go to work and went to bed hungry. Sometimes the police came to our work and we hid.⁹³

Tariq, 61, came back to Afghanistan in February 2015 with a family of 10, after living for 38 years in Charsada, Pakistan. His family was originally from Zabul. They had settled in Peshawar where he had first worked in a shop, and then made a living doing deliveries by bicycle. Tariq described how life changed for them after the Peshawar school attack:

I always left the house early. At 5 o'clock one morning about five months ago [in January 2015], police came to the door and ... they took me and made me get into the police car. My son asked the landlord to help. The landlord vouched for me and I was released. After that we decided to come back here.⁹⁴

⁹¹ Human Rights Watch interview with Himmat (pseudonym), Kabul, May 16, 2015. From 1992 on, Kabul was engulfed in fighting and large parts of the city destroyed. Elsewhere in Afghanistan, commanders and their militia forces carved up the country and ruled their fiefdoms at will.

⁹² "Pakistan: Afghan camp closes," UNHCR press release, May 21, 2002, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=search&docid=3cea2cbbc&query=the%20state%20of%20the%20world%20refugees> (accessed September 1, 2015).

⁹³ Human Rights Watch interview with Himmat (pseudonym), Kabul, May 16, 2015.

⁹⁴ Human Rights Watch interview with Tariq (pseudonym), Kabul, May 17, 2015.

III. Relevant International Law

International Human Rights Law

Pakistan is obligated to treat undocumented and refugee Afghans in accordance with its international human rights obligations, notably the International Covenant on Civil and Political Rights (ICCPR),⁹⁵ the International Covenant on Economic, Social and Cultural Rights (ICESCR),⁹⁶ and the Convention on the Rights of the Child.⁹⁷

The ICCPR obligates governments to “respect and to ensure to *all individuals within its territory* the rights recognized in the present Covenant.”⁹⁸ The UN Human Rights Committee has emphasized in relation to the ICCPR that “the general rule is that each one of the rights of the Covenant must be guaranteed without discrimination between citizens and aliens.”⁹⁹ While international human rights law contemplates some distinctions between nationals and non-nationals, e.g. with respect to voting rights, in general discrimination in the guarantee of rights on the basis of nationality is forbidden. Likewise, non-citizens have “the full right to liberty and security of the person” and other fundamental rights and protections.¹⁰⁰

The ICESCR recognizes the right of “everyone” to housing, livelihood, food, education, and health, and requires the state to take steps towards the progressive realization of these rights.¹⁰¹ While article 2(3) allows developing countries to determine to what extent they will guarantee the economic rights of the covenant to non-nationals, they must do so “with due regard to [both] human rights and their national economy.”¹⁰²

⁹⁵ International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, *entered into force* Mar. 23, 1976. Pakistan ratified the ICCPR in 2010.

⁹⁶ International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, *entered into force* Jan. 3, 1976. Pakistan ratified the ICESCR in 2008.

⁹⁷ Convention on the Rights of the Child, G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), *entered into force* Sept. 2, 1990.

⁹⁸ ICCPR, art. 2 (emphasis added).

⁹⁹ Human Rights Committee, General Comment 15, The position of aliens under the Covenant (Twenty-seventh session, 1986), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 18 (1994).

¹⁰⁰ UN Human Rights Committee, General Comment No. 15: The position of aliens under the Covenant, May 11, 1986.

¹⁰¹ ICESCR, arts. 7, 11, 12, and 13.

¹⁰² *Ibid.* art. 2(3).

Moreover, as the UN Committee on Economic, Social and Cultural Rights notes, “The ground of nationality should not bar access to Covenant rights, e.g. all children within a State, including those with an undocumented status, have a right to receive education and access to adequate food and affordable health care.”¹⁰³

¹⁰³ See Committee on Economic, Social and Cultural Rights, General Comment No. 20, para. 30. Under the Refugee Convention, governments are required to “accord to refugees the same treatment as is accorded to nationals with respect to elementary education.” Art. 22(1).

IV. Recommendations

To the Government of Pakistan

- Extend current PoR cards until at least December 31, 2017, and review the PoR system to establish procedures that would regularize the process and reduce the stress to cardholders of periodic short-term renewals.
- Issue a specific written directive instructing all relevant government officials and state security forces to cease unlawful surveillance, harassment, intimidation, and violence against Afghans living in Pakistan.
- Ensure that all law enforcement and other government officials treat Afghans living in Pakistan with dignity and respect for their human rights in compliance with Pakistan’s domestic and international legal obligations.
- Direct the Federal Investigating Agency (FIA) to fully and impartially investigate incidents in which law enforcement and other government officials are implicated in unlawful surveillance, harassment, intimidation, and use of force against Afghan refugees and undocumented Afghans.
- Ratify the Refugee Convention and adopt a national refugee law, as recognized in the 2013 National Policy on the Management and Repatriation of Afghan Refugees.
- Ensure Afghans can lodge protection claims in Pakistan with UNHCR or, if UNHCR does not have capacity to do so, with the Pakistani authorities.
- Ensure undocumented Afghans can appeal against a decision to deport them and receive legal assistance; if they fear persecution or other serious harm in Afghanistan, ensure they are referred to UNHCR, which can determine whether they are refugees or need other forms of protection.
- Ensure that all refugees who decide to return do so in safety and dignity with full respect for their rights.

Regarding Access to Education, Employment, and Other Services for Refugees and Asylum Seekers

- Ensure, consistent with the International Covenant on Economic, Social and Cultural Rights (ICESCR), and article 25A of the Constitution of Pakistan, that foreign national

children, including Afghans, have access to free primary education and access to secondary education on the same basis as Pakistani children.

- Consistent with the ICESCR, provide all refugees and asylum seekers, including Afghans, access to health services and medication on at least the same basis as other non-citizens in the country. All children should have access to affordable health care regardless of their nationality or migration status.

To the Government of Afghanistan

- Ensure that all Afghan returnees have the freedom to settle where they wish and have access to government health, education, and land allocation services regardless of their registered status in Pakistan.
- Urge the Pakistani government to end the abuses against Afghans documented in this report.
- Improve the collection of data from deportees to better track trends and human rights abuses.
- Recognize that a majority of the returning undocumented Afghans have the same needs as registered returnees, and tailor assistance programs appropriately.

To UNHCR and Partners

- Work closely with the Pakistani government to ensure that undocumented Afghans seeking protection in Pakistan are referred to UNHCR.
- Continue to emphasize that all returns must be sustainable and genuinely voluntary, while also working with Pakistan to find solutions for those Afghans who, due to their long residency in Pakistan, are unlikely to return.

For those Afghans Wishing to Return Voluntarily to Afghanistan

- Create and implement youth-sensitive programming that addresses the needs—skills, vocational training, education, and social integration—of second-generation Afghan refugees raised outside the country.
- Create and implement programming that recognizes the preferences of many Afghan refugees from Pakistan to settle in urban centers upon return.

For those Afghans Considering Return to Afghanistan

- Provide up-to-date information on the economic, political, and social context in Afghanistan, by region and province.
- Increase cross-border research initiatives to inform programming.
- Increase cooperation and information-sharing with international NGOs based in Pakistan and in Afghanistan to provide additional support to those working in Iran to help Afghan refugees.

To International Partners of Afghanistan and Pakistan

- Press Pakistan to end abuses by security forces against Afghan refugees and undocumented Afghans.
- Consider providing additional support to Pakistan and Afghanistan to assist with the Afghan refugee population in Pakistan and returnees in Afghanistan, including improving their access to education services, health care, housing, and land.
- Support voluntary repatriation programs so that they meet international standards, as set out in UNHCR's handbook "Voluntary Repatriation: International Protection," and in ExCom Conclusions. Such voluntary repatriation programs should be coordinated and linked with the Afghan government and donors with other reconstruction efforts inside Afghanistan such as human rights monitoring, rural development programs, and demining schemes.

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“What Are You Doing Here?”

Police Abuses Against Afghans in Pakistan

Pakistan has hosted several million Afghan refugees since the late 1970s, but hostility toward its Afghan population increased dramatically after the so-called Pakistani Taliban attacked a school in Peshawar in December 2014, killing more than 100 children. At a time when thousands of Afghans are fleeing insecurity in their country to seek refuge in Europe, pressure and abuse by Pakistani police has driven many Afghans living in Pakistan to return to Afghanistan.

“*What Are You Doing Here?*” describes how Pakistani police have carried out raids on Afghan settlements, arbitrarily detained, harassed, and beaten Afghan men, extorted bribes, and threatened Afghans with deportation. Those abuses have since January 2015 driven large numbers of Afghans living in Pakistan to return to Afghanistan, where they face worsening instability and a widening civil conflict. Every Afghan interviewed by Human Rights Watch who had returned to Afghanistan said that fear of the Pakistani police was the reason they had done so.

This report is based on interviews with 96 Afghans either living in Pakistan or recently returned to Afghanistan. It urges the Pakistani government to extend residency cards for registered Afghans, which are due to expire on December 31, 2015, until at least the end of 2017. It also calls on Pakistan to stop security force intimidation and violence against Afghans living in Pakistan.

(above) An Afghan family collects their belongings as Pakistani authorities demolish their home outside Peshawar, Pakistan. May 2015.

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(front cover) An Afghan girl stands by the doorway of her family's mud house in a poor neighborhood on the outskirts of Islamabad, Pakistan. December 2014.

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