

Afghan Refugee Rights and National Sovereignty: Pakistan's Border As A Human Rights Frontier (2023-2025)

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Abstract

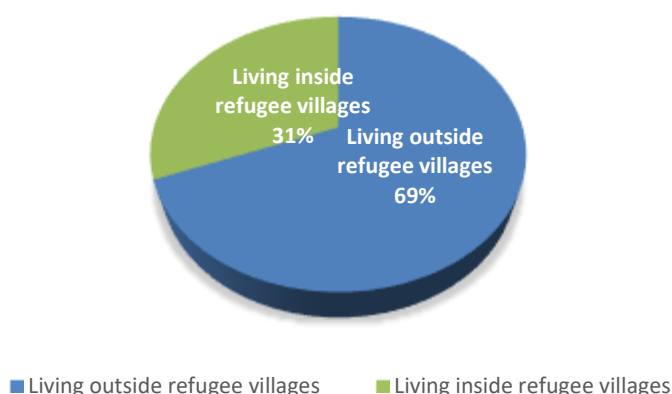
*This research shows how Pakistan has deported 1,088,133 Afghan refugees from Pakistan (2023-2025) while also hosting 3.7 million. The research focuses on the apparent contradiction of Pakistan's adherence to the legal principle of non-refoulement and border control sovereignty. The research employs qualitative legal analysis, including Pakistan's Constitutional Law, international treaties, the ruling of the court case *Rabil Azizi v The State*, and various international sources from UNHCR and IOM, and theories of securitisation. The research concludes that Pakistan employs security discourses and the fact that it is not a signatory to the 1951 Refugee Convention as a means to avoid an individualised assessment of possible deported persons. Through this, Pakistan can mass deport refugees under the guise of complying with legal statutes and creating a legal frontier that protects its borders. The study demonstrates that deportation of certain at-risk groups in plural, i.e. women, stateless children, former officials who are at risk of Taliban persecution, deportation of such groups constitutes a return to legal risk and therefore legal protections become useless without enforcement mechanisms that include aid conditionality and strengthened judicial interstate mechanisms.*

Keywords: *Non-refoulement; State Sovereignty; Securitization; Forced Deportation; Refugee Protection*

Introduction

Since the Taliban re-gained Authority over Afghanistan in August 2021, the world witnessed one of the great displacements of people in modern history, with 1.7 million Afghans fleeing to Pakistan [1]. This has now led the total Afghans in Pakistan to be over 3.7 million people [2]. According to the UNHCR Afghanistan Situation Response Dashboard, Pakistan hosted over 2,8 million Afghan refugees, with 69% living outside formal refugee villages and integrated within urban and semi-urban communities.

Figure 1. Settlement Distribution of Afghan Refugees in Pakistan



Source: UNHCR, 2024

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Figure 1 illustrates that the majority of Afghan refugees in Pakistan reside within local communities rather than refugee camps. This level of urban integration highlights the humanitarian and socio-economic consequences associated with mass deportations, as deportation policies directly affect populations embedded within society rather than transient border crossers. This supports the argument that deportation is not an administrative procedure but a disruption of established civilian life.

This population consists of long-term residents and recent arrivals. UNHCR (2025) reports that more than 1.4 million Afghans hold Proof of Registration (PoR) cards, and around 800,000 hold Afghan Citizenship Cards. The actual number is likely higher due to unregistered groups and those staying in reception centres. Humanitarian agencies consistently report shortages of basic needs, including chronic gaps in health and education services [3]. Vulnerable groups such as women, children, and former government employees face heightened risks due to systematic reprisals in Taliban-controlled Afghanistan [4].

Pakistan's introduction of the Illegal Foreigners Repatriation Plan (IFRP) in late 2023 represents a major shift in its approach to Afghan refugee accommodation [5]. The policy has resulted in the removal of more than 1.5 million Afghans, including individuals recognised by the United Nations and those holding legal documentation [2]. Pakistan has framed this action as the assertion of its legal and territorial sovereignty, marking a departure from its long-standing humanitarian posture toward Afghan displacement [3]. As a result, Pakistan's borders have become a focal point in the global refugee crisis, illustrating a tension between the responsibility to protect vulnerable groups and the sovereign right to control national territory [6].

Scholars of refugee law identify three interconnected concerns. The first problem is that deportations are occurring systematically even though they conflict with core principles of international law. UNHCR documents around 1.5 million deportations between 2023 and 2025, and neither Pakistan nor the international community has assumed responsibility for addressing these violations [7]. The second problem concerns the use of legal ambiguity. Pakistan cooperates with UNHCR but has not ratified the 1951 Refugee Convention, which allows the state to avoid the obligations embedded in international refugee protection frameworks [8]. The third problem relates to the justification offered for mass deportations. The state relies on broad claims of national security and counterterrorism, yet entire nationalities are removed without individual assessment. This approach conflicts with established international legal norms concerning exceptions based on security [9].

Recent scholarship increasingly highlights the widening gap between security narratives and the protections envisioned under international refugee law [10]. Although research has produced valuable insights into securitisation, legal loopholes, and accountability failures, these discussions remain fragmented. There is no comprehensive study that connects these three dimensions into a single explanatory framework. This paper seeks to address that gap.

Existing literature proposes several solutions. Some authors focus on the absence of domestic refugee legislation in Pakistan and emphasise the need for legal reforms that align with international standards [11]. Others analyse security narratives in government

statements and media reports, arguing that these narratives criminalise refugees by repeatedly presenting them as threats [12]. Additional studies investigate how states use administrative ambiguity and overlapping jurisdictions to conceal deportation processes, resulting in a lack of accountability [13].

One major limitation of previous work is the isolated manner in which these issues have been examined. Scholars often study security discourse, legal frameworks, and accountability gaps separately, but they do not evaluate how the interaction of these elements enables large-scale deportations. As a result, several important questions remain unanswered. One example is how Pakistan continues to claim compliance with refugee protection principles while deporting 1.5 million people. Moreover, although research frequently highlights vulnerable individuals such as women, children, and stateless persons, it rarely considers how mass deportation policies disregard their specific circumstances. The lack of individualised assessments contradicts fundamental principles of international law, including the harm principle and the protection of negative rights.

There is still no study that fully explains how three factors interact in the case of Pakistan: (1) the security narrative portraying Afghan refugees as threats, (2) the legal gap created by Pakistan's non-ratification of the 1951 Refugee Convention, and (3) the absence of international accountability mechanisms that could limit state actions.

Accordingly, this paper has three objectives. The first objective is to demonstrate the extent to which Pakistan's deportation policies violate the customary international law principle of non-refoulement. The second objective is to assess how securitisation discourse and legal ambiguity jointly facilitate the removal of at-risk groups without individual assessment. The third objective is to identify the structural accountability failures that allow these violations to continue without intervention.

Method

This study uses four qualitative approaches: legal analysis, policy analysis, statistical analysis, and discourse analysis. These methods are combined to give a complete understanding of Pakistan's deportation practices and their relationship to international refugee law.

- a. The legal analysis examines constitutional rules, administrative procedures, and relevant court decisions such as *Azizi v The State*. This helps assess whether Pakistan's deportation policies comply with domestic law and with the principle of non-refoulement.
- b. The policy analysis focuses on the Illegal Foreigners Repatriation Plan and related government documents. This method is used to understand how the state justifies deportations and how these justifications have changed over time.
- c. The statistical analysis uses data from UNHCR, IOM, and other humanitarian sources. These data show the scale of deportations and help identify which groups are most affected, including vulnerable populations.
- d. The discourse analysis examines news reports, political statements, and public communications. This method identifies how Afghan refugees are portrayed in national security narratives and how these narratives support mass deportations.

These four methods are used together because Pakistan's deportation system operates through legal rules, administrative decisions, statistical realities, and public narratives. Combining them provides a clearer picture of how securitisation, legal gaps, and accountability failures work together in enabling the deportation of Afghan refugees.

Results and Discussion

Results

The Islamabad High Court, in the case of *Rahil Azizi v The State and Others* (PLD 2024 Islamabad 231, decided June 19, 2023), established that Article 9 of the Constitution of Pakistan, which provides for the protection of life and liberty, provides basic and primary protection of refugees, irrespective of the situation of any international treaty [14]. The Court stated that the purpose of seeking refuge for one's life is not illegal. Therefore, the refusal to grant exit permits to people escaping persecution is a violation of constitutional protection [15]. In this regard, the Court specifically stated that it is unconstitutional to refuse to grant an exit permit to a woman fleeing persecution, thus creating a binding precedent that refugees cannot be deported if their life is in jeopardy [15].

However, after this judgment, the Pakistan government, in October 2023, introduced the Illegal Foreigners Repatriation Plan, which was nine months after the Court's decision, and is in blatant disregard of this judicial protection framework [16]. This proves the existence of a gap between the judiciary and the executive in the implementation of the protective framework of refugee protection, as provided by executive action [14]. This decision forms the legal foundation against which subsequent executive actions should be assessed.

Pakistan was deporting Afghans in three phases. Phase 1 (October-December 2023) entailed undocumented Afghans and a deadline of 1 month, leading to the deportation of 468,000 people between October and December 2023 alone [17]. Phase 2 (April-May 2025) will apply to individuals with an Afghan Citizen Card (ACC) and overstayers, where 144,000 Afghans were deported in April 2025, 30,000 of whom were forcibly deported [16]. Phase 3 (finalised in October 2025) expanded on the protection regime, which encompassed the PoR holders, refugees who were officially recognised under the UNHCR. Consequently, from November 5, 2022, when border crossings were reopened, there was a 146% increase in arrests from the previous week [18].

Table 1. Deportation Data (2023-2025)

Phase	Time Period	Category	Number Deported	Notes
Phase 1	October-December 2023	Undocumented Afghans	468,000	One-month deadline
Phase 2	April-May 2025	ACC holders and overstayers	144,000	30,000 forcibly deported
Phase 3	November 2022 onward	PoR holders	Ongoing	146% increase in arrests from November 5, 2022

Total	September 2023- June 7, 2025	All categories	1,088,133	UNHCR-IOM verified data
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Source : UNHCR-IOM, 2025

Table 1 demonstrates the scale and sequencing of Pakistan’s mass deportation operations. From September 2023 to June 7, 2025, there was a total of 1,088,133 Afghans were deported from the country of Afghanistan, according to the UNHCR-IOM data. Regarding the nature of the arrests in 2023, out of the 30,667 Afghan refugees that were arrested, this was the highest that had been recorded in history within the data collection history, establishing a new trend that had never been seen before [17]. Pakistan’s approach had shifted from temporary and selective to systemic and mass deportation, as illustrated by this data [18]. These phases illustrate a systematic escalation from selective removal to comprehensive deportation, signalling a shift in Pakistan’s policy orientation from temporary hosting to strategic population expulsion.

Figure 2. Geographic Distribution of Deportations by Region

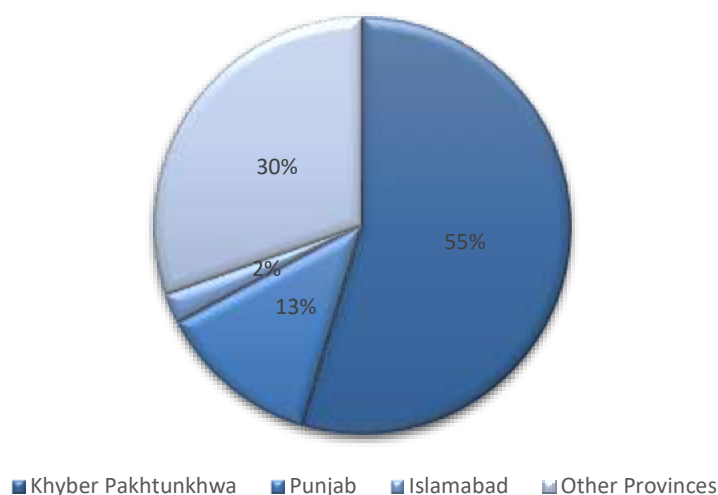


Figure 2 shows that deportations were heavily concentrated in Khyber Pakhtunkhwa (55%), highlighting the regional pressure on refugee-dense provinces. This geographic concentration reflects targeted policing areas rather than uniform legal enforcement, supporting the argument that security framing, not legal review mechanisms, structured deportation practices.

If Afghan women are returned to Afghanistan, they will be severely persecuted. The Taliban has fully disregarded women's education other than primary school, barred women from studying medicine and engineering, and has instituted full body covering dress codes for female university students who are only permitted to attend university three days a week. The Taliban has also removed all female employees from universities, and women are no longer permitted to enter parks or public areas. Their ability to work is restricted by movement and dress code policies that require a male guardian to be present. For women who are deported from Pakistan, they lose their jobs, their daughters lose the ability to go to school, and they all lose the ability to move freely [19]. Recent UN and NGO reports indicate that the Taliban has issued over 80 decrees restricting women’s movement,

employment, and education since August 2021, intensifying the severity of risk upon return.

Another group highly at risk is stateless children. Over 100,000 Afghan children born in Pakistan to registered refugees are neither citizens of Pakistan nor Afghanistan. Due to the lack of official birth certificates and identification documents, they are barred from entry to Pakistani schools, and they are ineligible to apply for Pakistani National Identity Cards (CNICs). They become stateless should they end up being forcibly returned to Afghanistan. Such exclusion occurs despite the guarantees of the Constitution of Pakistan, which specifies that all children under the age of 16 have the right to education [20].

Former Afghan government workers, soldiers, and human rights activists have been documented to have experienced Taliban oppression, such as executions, torture, forced conversions, and flogging. It has also been increasingly documented that the risk of such abuse is rising for returnees with a government or security background [21]. The Pakistani government labels all Afghans “security threats” and “illegal foreigners” with no evidence that any one individual poses a risk. This class-based labelling permits to deportation in masse. It fails to make the necessary individual assessments and sends them out into grave danger [16].

Discussion

The study reveals that the securitisation of the Afghan refugees in Pakistan is presented as a policy instrument, which facilitates the exploitation of non-refoulement commitments, although it also seems to be law-abiding. This also fits and extends current securitisation theory. According to the Copenhagen School securitisation theory, an issue that is socially constructed as an existential security threat through securitising discourse allows states to enforce extraordinary measures and breach legally permitted measures. This rhetoric of Pakistani Afghan refugees as “security threats” that legally justifies the “repatriation of illegal foreigners” has been used by the Pakistan government and fully closes” this securitisation. What the research shows is that existing securitisation literature has not addressed the relationship between securitised discourse and the loss of particularised legal consideration [22].

As specified in Article 33(2) of the 1951 Refugee Convention, all states must assess threats on an individual basis. The state is justified in returning refugees if, on an individual basis, they are found to be “a danger to the security of the country” or pose “a danger to the community.” These legislative provisions clearly mandate that there be a linkage of individual case assessments to documented security threats. The evidence demonstrates that Pakistani governmental rhetoric engages in categorical expressions of security incorporating the usage of terms such as “illegal aliens” and “security threats,” which, to the entire population, and, to even those portions of the populace that are refugees and recognised as such by the UNHCR, eliminates the possibility of individual assessments that such international law would require. This reflects a working form of securitisation discourse that operationalises mass deportation by treating all members of an identified population group as security risks that is, undocumented Afghans, ACC holders, and PoR holders. This, in turn, contributes to the development of the theory of securitisation by

showing that, rather than being a sophisticated and rhetorical form, it provides a basis for explaining how securitisation functions to replace legal assessments with security assessments of an entire population group.[23]

From the research, Pakistan's lack of signatory status to the 1951 Refugee Convention is not a neutral status, but instead, a tactical institutional arrangement that facilitates deportation while upholding a superficial belief in the tenets of protection of refugees. This finding is in tension with the majority of legal scholarship on non-signatory status, which legal scholars assume to be a nullifiable legal limitation on obligations, rather than inquiring how states engage in a legal non-signatory status to strategically accommodate inaction on obligations to refugees. The Rahil Azizi judgement, with previous legal authority, created a binding precedent which sustained that Article 9 of the Constitution of Pakistan is binding in the provision of protection of refugees, and pertaining to the non-signatory status of the Convention, offered no legal deference to the protection of other treaties. Yet, in the IFRP of the government, which was in effect in relation to the Azizi judgment, there was an act of deliberate executive override of the constitution's protection of refugees [24].

This is what the literature on strategic governance refers to as strategic ambiguity: nations keep their institutions opaque on their commitments on the protection of refugees so as to keep their options open in terms of law enforcement and hopefully not violate their commitments. Pakistan considers non-refoulement as (at least in public) customary international law, cooperates with UNHCR in terms of formal Memoranda of Understanding, has constitutional protections for refugees, and has implemented mass deportation policies. This is not the kind of arrangement that represents a legal contradiction. Rather, it functions strategically. It is Pakistan's arrangement on mass deportation that preserves the allegations of treaty breach, which are a formal requirement for international legal accountability mechanisms. Recent research on refugee governance has shown that in order to shape perceptions, states actively produce the image of cooperation, symbolic crackdowns, plausible numbers, and fake generosity and crackdowns use signs whereby verification is often replaced by visibility, and connectivity often replaces commitment. In this case, minimum adequate control or visible control is what Pakistan demonstrates in these mechanisms. Formal commitments to refugee protection are comprised of UNHCR cooperation and constitutional promises, while practical enforcement is completely exclusionary. This is a situation where legal obligation and state practice, the result of such a case functioning in tandem, are, in practice and at least in progressive terms, not directly contradictory [25].

The research illustrates a foundational deficit in the enforcement of international refugee protection, as Pakistan is in breach of its customary non-refoulement obligations and is mass deporting 1,088,133 documented people, yet no international accountability mechanisms have consequences. This conclusion broadens academic investigation surrounding state responsibility for violations concerning refugees, which claims that international refugee law examines state responsibility, but 'does not hold states accountable for the forced migration they cause' while state responsibility doctrine requires 'full reparation for the damages caused by the breach of an international obligation.' The accountability gap functions in an intricate manner across various institutional levels [26].

To begin with, not a single international court of law is able to apply non-refoulement with regards to the deportations in question as the International Court of Justice deals with questions of bilateral diplomacy and bilateral dispute mechanisms (neither Pakistan nor the deported Afghan individuals have filed cases); the International Criminal Court is not able to exercise its jurisdiction in the case of non-signatory States, and with respect to crimes that do not reach the threshold of being classified as crimes against humanity (while there are systematic deportations, single deportations lack the requisite elements that prosecutors focus on); and as for the regional human rights mechanisms, their lack of enforcement power over the Asian states is a matter of concrete fact as they are not party to the relevant regional treaties. Second, as for the UNHCR, which is the relevant international organisation with a legal mandate to protect refugees and which is theoretically able to act, it acts (except the enforcement of any international legal principles) through diplomacy and negotiation, and it has accepted and justified the deportation policies of Pakistan, though they are in blatant violation of the non-refoulement principle, and as it has been alleged, in return for the criticism of the policies of deportation, which is primarily focused on humanitarian access. Third, the direct financing of the arrangement by the donor countries which are providing aid to Pakistan creates an institutional interest in maintaining the arrangements as they are and not applying standards concerning the enforcement of the protection and have rather granted, endured, the non-refoulement provisions to be accepted within the context of Pakistan's non-refoulement provision to enable the access of the country, in providing geopolitical cooperation and in establishing an anti-terrorism partnership [27], [28].

The documented risks of persecution for deported women, stateless children, and former government officials exemplify a particular neglect of the refugee law's emerging application: Refugee law allows for the protection of the above categories, but because Pakistan's deportation policies neglect individual consideration, these groups do not receive protection [29]. Afghan women, for instance, are systematically denied both education and face a loss of employment, stateless children do not receive and thus cannot claim legal protection, and former officials are at high risk of death and torture, but Pakistan's involuntary deportation by nationality remains an impeding factor in the protective and definitional gap [16]. This demonstrates that the securitization-plus-legal-ambiguity mechanism produces material harm to vulnerable populations who would qualify for protection if individually assessed, showing how combined legal and political mechanisms create specific persecution outcomes that cannot be analyzed through separate frameworks alone [16], [30].

The integrated analysis has confirmed the article's three main research objectives. First, regarding the record of mass deportation, this study has revealed a violation of customary non-refoulement by Pakistan and a justification of failures in accountability through exploitation of legal ambiguity, institutional opaqueness of the strategy, and non-existence of international accountability mechanisms, thereby answering the main research question of how Pakistan can both commit to and at the same time commit violation of the protection of refugees and asylum seekers. Second, the research has documented that there is a particular danger of persecution for a subset of the population, thus mass deportation is not a benign border-management operation, for there is a predictable humanitarian harm

that is done to those who should be protected by international law. Third, the research has clarified to an extent the interlinked components of the system of securitisation, the absence of law, and the absence of accountability: as long as the legal system remains open to ambiguity, the discourses of security will continuously undermine the architecture that is designed to ensure accountability, hence crafting an integrated system that permits the architecture to be violated systematically without any consequence [31].

This research sheds light on the fact that security rhetoric, legal loopholes, and lack of accountability work in conjunction and create a mechanism that facilitates the right to breach to the scale of the violation. Prior research isolated these components in the government use of security language as a mechanism to bypass legal obligations and turn individual assessments of refugees into collective exclusion, which is posited as a breach of international law to abide by the law. There are several important unanswered questions on which future research can build: Will Pakistani courts challenge the deportation policy, arguing the Rahil Azizi precedent? Can international courts challenge Pakistan? Will international courts on Pakistan be conditional on the right to breach aid? Is the same breach of the violation mechanism in other countries hosting vulnerable refugees? These questions need comparative work.

Conclusion

The mass deportation of 1,088,133 Afghan refugees between 2023 and 2025 demonstrates that Pakistan's removal practices constitute a coordinated breach of the customary international law principle of non-refoulement, driven by securitisation, legal ambiguity, and the absence of institutional accountability. This study shows that the state's security narrative constructs refugees as collective threats, allowing the executive to bypass individualised assessments that should have been mandatory under both constitutional protections and international standards. Pakistan's non-signatory status to key refugee treaties and the absence of a domestic refugee framework create strategic legal gaps that enable the executive to override the constitutional safeguards articulated in the Rahil Azizi judgment. This institutional vacuum is further reinforced by the lack of jurisdiction of international courts, the diplomatic limitations of UNHCR, and the reluctance of donor states to impose aid-based compliance, resulting in systemic impunity.

The findings also reveal that the consequences of these failures fall most heavily on vulnerable groups such as Afghan women living under severe Taliban restrictions, children rendered stateless and excluded from education, and former officials who face the risk of torture, execution, or enforced disappearance. These realities demonstrate that legal protections cannot remain symbolic. They must be implemented by domestic courts through proactive judicial enforcement, supported by donor states that are willing to use financial leverage to ensure compliance, and reinforced by reciprocal accountability mechanisms among states. With 1.4 million registered refugees still facing the threat of deportation, the need for concrete action is urgent. It is not enough to document violations; meaningful enforcement mechanisms are required to ensure that protection norms are upheld and that breaches are effectively pursued.

Future research should explore whether similar patterns of securitisation, gaps in legal frameworks, and structural non-accountability occur in other refugee-hosting contexts, particularly in regions lacking regional human rights courts. Comparative examinations across South Asia, the Middle East, and East Africa would clarify whether Pakistan's case is unique or part of a broader trend in contemporary refugee governance.

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