



COMMITTEE  
FOR THE  
WELFARE OF  
PRISONERS



# The Plight of Afghan Refugees

Incarcerated in Central Prison, Karachi

December 2022



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## **Committee for the Welfare of Prisoners – Legal Aid Office:**

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The Committee for the Welfare of Prisoners - Legal Aid Office (CWP-LAO) is a government funded not for profit Committee established in 2004 under the chairpersonship of Justice Nasir Aslam Zahid. It remains functional through a notification of the Home Department and has been notified under Section 55 of Sindh Prisons and Corrections Services Act 2019. Its key areas of work are: Litigation, Legal Empowerment, Welfare and Research and Policy Advocacy

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## **National Commission for Human Rights:**

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The National Commission for Human Rights (NCHR) is a federal statutory body set up in 2015. NCHR is Pakistan's strongest Commission in broadness of scope and multiplicity of functions. The body's purpose is to investigate and hear human rights complaints; act as a watchdog on legislation, set standards and enable implementation; promote awareness of and act as an advocate for human rights; visit places of detention; enable research and policymaking for human rights.



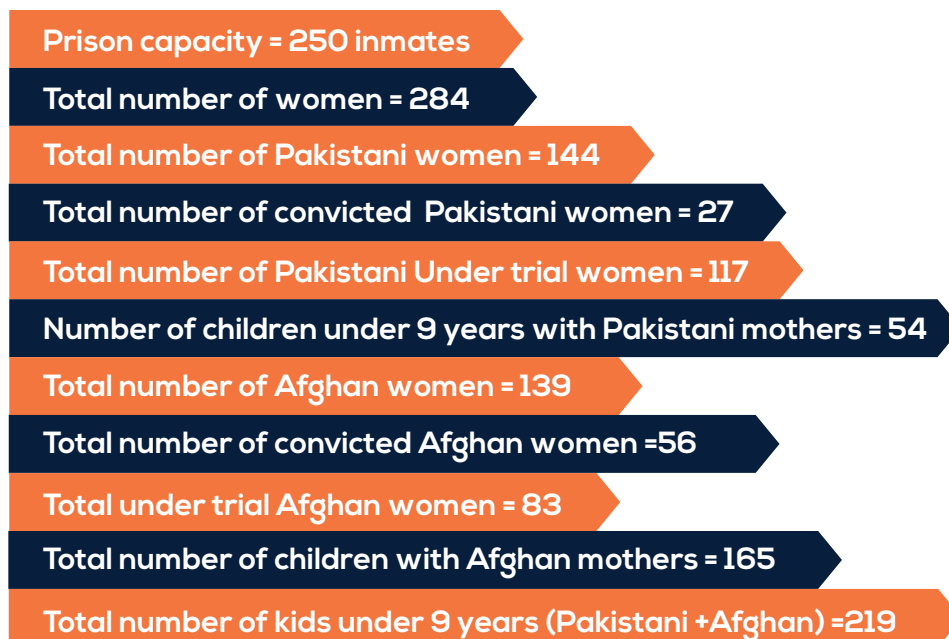
## Executive Summary

This report has been prepared following an onsite visit to Karachi Central Prison by Chairperson, National Commission of Human Rights Rabiya Javeri Agha, Secretary Committee for the Welfare of Prisoners Barrister Haya Zahid, and Fatima Umer Farooqui Research Associate, to inspect the condition of women and children held at the facility. During the visit, the issue of concern that emerged was the status of detained Afghan nationals, particularly women and children.

Following the takeover of Afghanistan by the Afghan Taliban, there has been a drastic rise in Afghans seeking to enter Pakistan for a multitude of reasons ranging from fleeing persecution, seeking medical aid and looking for job opportunities. Between January 2021 and February 2022, UNHCR documented  **117,547** newly arrived Afghans in Pakistan (**European Union Agency for Asylum, 2022**).

The Sindh Government recently conducted a combing operation detaining Afghans who did not enter the country legally to clamp down on illegal border crossings. As a result of the operation Karachi Central Prison now holds hundreds of Afghan women and children and is operating above capacity.

## Statistics of Women's Prison Karachi & children under 9 years



## Data from Remand Home (Juveniles aged 10 to 13 years)

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Total number of juveniles =

59

## Data from Youth Offenders Industrial School (YOIS) children aged 14 to 18 years

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- Total number of juveniles = 346
- Number of convicted Pakistani juveniles = 22
- Number of under trial Pakistani juveniles = 213
- Number of Afghan juvenile prisoners = 111
- Number of convicted Afghan juveniles = 92
- Number of under trial Afghan juveniles = 19



## Number of children/juveniles aged 0 to 18 years at Central Prison = 624

A questionnaire prepared by CWP-LAO, and shared with 146 inmates (the sample survey included **44%** juveniles, **39.8%** women and **16%** men) revealed the following findings:

**75.5%** had arrived in Pakistan in 2022. Most commonly cited reasons for arrival by Afghan women was access to better medical facilities and for deliveries

**52.4%** of Afghan male juveniles and adult prisoners interviewed had come to Pakistan for work opportunities. Mostly, in the informal economy.

**93%** of juveniles interviewed had come to Pakistan for better economic opportunities; they worked at local chai dhabas, as daily wage labourers, or picked garbage.

**82.5%** do not possess a Proof of Registration (PoR) card.

**10.49%** respondents stated that they had a Proof of Registration (PoR) card but could not produce a copy.

**98.4%** of the juveniles interviewed wanted to go back to Afghanistan.

**25.8%** of the respondents had a private lawyer.

**17.5%** women and **36.7%** juveniles reported not having a lawyer.

**71.33%** inmates said they want to return home.

The under trial and convicted Afghans housed at Central Prison Karachi have been lawfully detained as they do not possess a Proof of Registration (PoR) card nor an Afghan Citizen Card (ACC).

While the under-trial prisoners are awaiting decision on their cases, most of the Afghan nationals who have been sentenced under Foreigners Act 1946 have to serve sentences ranging from one to two months.

According to the DIG Sheeba Shah, once the sentences are complete, the Afghan authorities are very prompt in the collection and return of their citizens.

Due to the large number of Afghan women and children at the Prison and severe shortage of prison staff, they remain confined to their barracks not being allowed to go outside for exercise or fresh air.

## **Recommendations:**

The situation that forces Afghan nationals to leave their country is dire. Women face huge threat to their fundamental right to education, work and movement. Medical facilities are badly impacted due to shortage of female medical staff, especially gynecological staff. Men are weighed down by economic difficulties and children often cross the border for menial, informal work such as garbage collection.

In the circumstances, greater sensitivity needs to be shown by the Government authorities. Police must show compassion in the exercise of their power, judiciary may look to ensure the speedy trial of such persons as well. Where sentences are to be awarded, they may be within a minimum time period or they may be token sentences such as being detained until the rising of the court.

Strong liaison must be established between the Prison Administration and the Afghan mission in Pakistan in order to ensure safe and immediate return of these people as stipulated by section 14 B of the Foreigners Act 1946.

This would ensure compassion and alleviate a huge financial burden on the Government exchequer.

## Introduction:

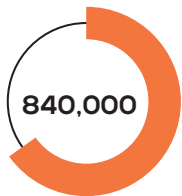
The world watched as US troops withdrew from Afghanistan in 2021 allowing the Taliban to gain grounds, pushing the country into a humanitarian crisis – yet again. The scenes from Kabul airport and the frantic evacuations are still fresh in memory. In a similar fashion, thousands of people made their way from Afghanistan’s borders into Pakistan. Officially, Pakistan’s border remained closed for all except those with valid paperwork for medical reasons, work or to see family. Yet, thousands of Afghans streamed through the Spin-Boldak border crossing in the province of Kandhar into the Pakistani town of Chaman.

As of January 2022, UNHCR stated that of the approximately

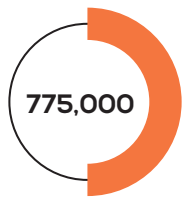
 **3 million**  
Afghans living in Pakistan

around  **1.4 million**

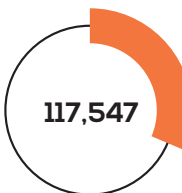
were PoR (Proof of Registration) cardholders; approximately



held an ACC (Afghan Citizen Card)



were undocumented Afghans (European Union Agency for Asylum, 2022). In wake of the deteriorating economic and humanitarian situation in Afghanistan in 2021, the number of Afghans seeking refuge in Pakistan was expected to increase. Between January 2021 and February 2022, UNHCR documented



newly arrived Afghans in Pakistan (European Union Agency for Asylum, 2022).

While Pakistan has been hosting Afghan refugees since 1979, its attitude towards them is now changing. The presence of Afghan refugees in the country is now increasingly considered a strain on the national resources and the economy. The unspoken yet firmly entrenched perception is that the influx of refugees has a direct causal connection with the increase in street crimes, drugs, and militancy .

As a result of a recent combing operation in Sindh, **277**<sup>1</sup> Afghans are imprisoned in Youthful Offenders Industrial School (YOIS), Women’s Prison and Central Prison Karachi – charged with violating the Foreigners Act 1946 – a law which empowers authorities to deport foreigners lacking proper documentation. These under trial and convicted prisoners include men, women with children and juveniles. This brief aims to summarize the legal status of Afghans in the country, the laws pertaining to foreigners in Pakistan, and present a situational analysis of under trial and convicted Afghans in Central Prison and the Women’s Prison in Karachi as of 12<sup>th</sup> December 2022.

<sup>1</sup> Official numbers as obtained from the prison administration on 12th December 2022.



## Legal status of Afghan Refugees in the country:

The Government of Pakistan distinguishes between recognized refugees and those without recognition – who are considered undocumented immigrants. This distinction is critical in determining the freedom, security and facilities they may avail. In general, Afghan immigrants in Pakistan can be classified into four groups: Proof of Registration (PoR) holders, Afghan Citizen Card (ACC) holder, Afghan nationals with valid visas, and undocumented illegal immigrants.



In 2006, the Government of Pakistan, with the UNHCR, began registration of Afghan refugees to issue Proof of Registration (PoR) cards. These PoR cardholders are considered registered refugees with legal protection and basic rights.

The Government of Pakistan, in 2017, initiated a project to issue Afghan Citizen Cards (ACC) supervised by NADRA and the Ministry of Refugees and Repatriation Afghanistan to register unregistered Afghan immigrants. The ACCs were issued as a part of a 'Comprehensive Policy on the Voluntary Repatriation and Management of Afghan nationals' adopted by Pakistan in 2017 (European Union Agency for Asylum, 2022).



These cards serve to protect card holders against violation of their rights and provide legal protection from deportation, arbitrary arrest or detention under the 1946 Foreigners Act, until cardholders obtain documents such as Afghan passport to return to Afghanistan (European Union Agency for Asylum, 2022).



## Laws pertaining to foreigners in Pakistan:

Pakistan is neither a signatory to the United Nations Convention Relating to the Status of Refugees 1951 nor to the Protocol Relating to the Status of Refugees 1967 (European Union Agency for Asylum, 2022). Nevertheless, Pakistan has considered the Afghans arriving in the country post 1979 as refugees. Pakistan does not have specific national legislation that concerns refugees and establishes the rights and responsibilities of refugees.

The Foreigners Act 1946 and the Foreigners Order 1951 are two pieces of legislation which deal with foreigners. Both regulate the entry, stay and movement of foreigners -neither making any special provisions for refugees. According to these laws, all foreigners without documentation including refugees and asylum seekers are subject to arrest, detention and deportation. Such provisions leave Afghan refugees extremely vulnerable to persecution and abuse, especially at the hands of law enforcement agencies.

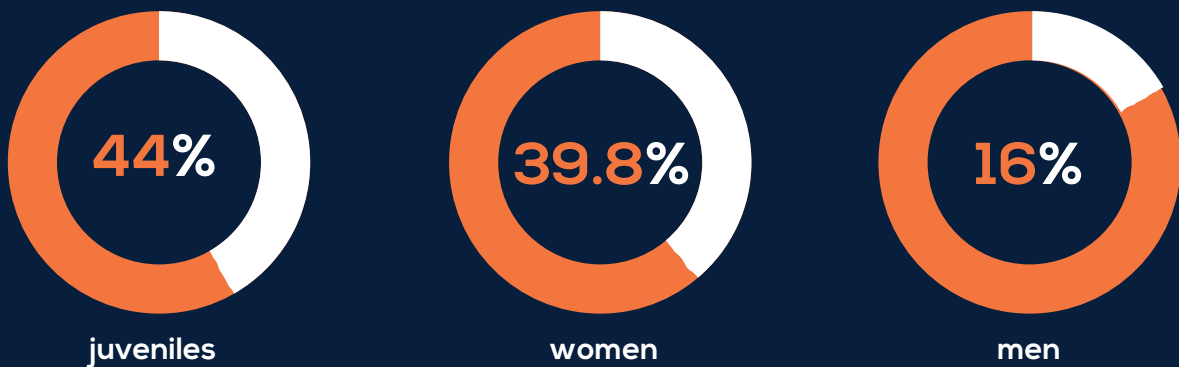
Afghan refugees were exempt from the Foreigners Act 1946 through a policy circular issued by the Government of Pakistan in 1997. A clarification was issued in 2001 by the Government of Pakistan stating that the Foreigners Act 1946 applied to undocumented 'illegal' Afghan immigrants – who do not hold refugee cards or have valid visas (European Union Agency for Asylum, 2022). Since 2007, Afghan refugees registered under the Proof of Registration (PoR) card are exempt from the general provisions of the Foreigners Act 1946 (European Union Agency for Asylum, 2022). Those undocumented are considered illegal immigrants and are subject to arrest and deportation under section 14 A and 14 B of the Foreigners Act 1946 (European Union Agency for Asylum, 2022).



# Under trial and Convicted Afghans in Youthful Offenders Industrial School (YOIS), Women's Prison and Central Prison, Karachi:

A combing operation against illegal Afghan immigrants is under-way in the province of Sindh, as a result of which, the prisons in Sindh are facing an influx of under-trial Afghan refugees. In an attempt to better understand those under-trial Afghans who are currently in prisons and their needs, the Committee for the Welfare of Prisoners – Legal Aid Office has conducted interviews with a total of 143 Afghans. The interviews were conducted face-to-face using a structured questionnaire within the prison facilities. The questionnaire administered aims to capture information on demographics, whether these Afghans possess Proof of Registration (PoR) cards and if they have legal representation.

**Of the total 143 interviews conducted in YOIS, Women's Prison and Central Prison in Karachi;**



Of these an overwhelming majority i.e., **75.5%**

**had arrived in Pakistan in 2022. The most commonly cited reason for arrival in Pakistan for Afghan women was access to better medical facilities whilst male adults and juveniles stated that the availability of better work opportunities was their primary reason**

Rukaya bibi <sup>2</sup>, aged 65, had travelled to Pakistan to see a doctor. She narrated how access to medical treatment had become extremely difficult for women in Afghanistan due to the Taliban regime. Her family had brought her to Pakistan for proper diagnosis and immediate medical attention, however was imprisoned before she could seek medical assistance. She stated that she wanted to go back home once her treatment concluded and regretted not having proper documentation while travelling. She was accompanied by her daughter on this trip – both are now in prison. We heard similar stories of women travelling to Pakistan for proper diagnosis and medical attention, especially since the resurgence of the Taliban regime which resulted in unavailability of female doctors and women-specific health facilities.

<sup>2</sup> Pseudonym used to protect privacy.

# 61.4%



of women interviewed stated that they had children imprisoned with them. All these children are aged under 9 years and their total number comes up to 165 children. All women and their children are housed in the same barracks due to overcrowding and language barriers (most speak Dari and Farsi which are not commonly spoken in Pakistan).

The recent influx of Afghan under-trial prisoners has led to prisons operating beyond their maximum capacity – the authorized capacity for Women’s prison Karachi is 250, it is currently operating at

# 18.8%



overcapacity <sup>3</sup>. Such conditions present a health hazard and can lead to outbreaks of contagious diseases and viral infections. This also does not present an ideal situation especially with the onset of the winter season. Furthermore, journalists have covered the phenomenon of a mass mental health crisis afflicting Afghan women <sup>4</sup> overcrowded prisons and the trauma of being arrested and detained only exacerbate their mental health.

**Amongst the Afghan male juveniles and adult prisoners interviewed,**

# 52.4%



had come to Pakistan for work opportunities. Most of them lacked proper paperwork and therefore were mostly involved in the informal economy.

**Of the juveniles specifically,**

# 93%



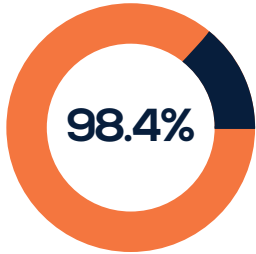
had come to Pakistan for better economic opportunities; they worked at local chai dhabbas, as daily wage laborers, or picked garbage.

<sup>3</sup> Population Statement of Sindh Prisons as it stood on 30th November 2022.

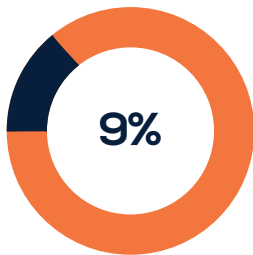
<sup>4</sup> <https://undark.org/2022/07/13/mass-psychogenic-illness-in-afghanistan/>



Gul Muhammad <sup>5</sup>, 14, and his younger brother had come to Pakistan in search of work on their own whilst their family remained in Afghanistan. The brothers hoped to contribute towards the financial wellbeing of their household by working as daily wage laborers. They were arrested from Sohrab colony in Karachi. Gul Muhammad's younger brother, aged 9, was also arrested. Gul is unaware about his brother's whereabouts; he suspects that he is in Remand Home <sup>6</sup> Karachi.



**98.4%** of the juveniles interviewed were eager to go back to Afghanistan and be in the company of their families and loved ones.



**9%** of the respondents (i.e., 14 individuals) claimed that they were born in Pakistan. Article 4 of the Pakistan Citizenship Act 1951 stipulates that:

*'4. Citizenship by birth. Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth: Provided that a person shall not be such a citizen by virtue of this section if at the time of his birth: (a) his father possesses such immunity from suit and legal process as is accorded to an envoy of an external sovereign power accredited in Pakistan and is not a citizen of Pakistan; or (b) his father is an enemy alien and the birth occurs in a place then under occupation by the enemy.'*

However, the status of citizenship is not extended to Afghan refugees in Pakistan even if a child of an Afghan refugee is born in Pakistan. It has been reported that the second, third and even fourth generations of Afghan refugees born and raised in Pakistan still live in legal limbo (European Union Agency for Asylum, 2022) at the risk of being deported to Afghanistan – a country they have not even seen.

**An overwhelming majority of the respondents i.e.,**

**82.5%**

**do not possess a Proof of Registration (PoR) card.**

**10.49%**

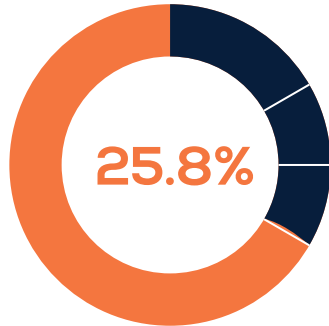
**respondents had stated that they hold a Proof of Registration (PoR) card,**

<sup>5</sup> Pseudonym used to protect privacy..

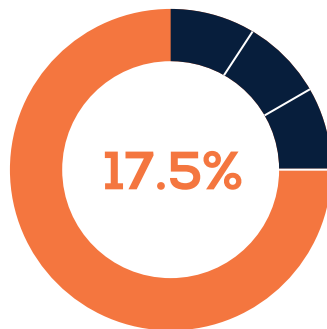
<sup>6</sup> Remand Home houses young offenders under 13 years.

however, none of them were able to produce a copy to the surveyors with many claiming these were taken away at the time of arrest by law enforcement personnel.

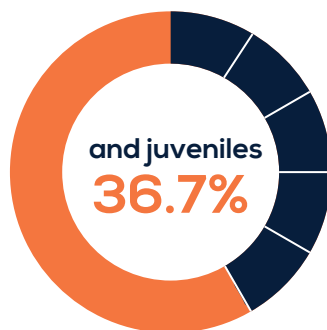
**When asked about access to legal representation, only**



**of the respondents had a private lawyer for their case proceedings.**



**A significant proportion of women**



**reported not having a lawyer.**

Respondents were asked about their willingness to return to Afghanistan and 71.33% said they would happily return home.

## Recommendations:

Based on our findings, it can be concluded that the under-trial and convicted Afghans in YOIS, Women's Prison and Central Prison in Karachi have been lawfully detained as they do not possess a Proof of Registration (PoR) card nor an Afghan Citizen Card (ACC). Due to overcrowding and the trauma of detainment, however, their situation requires attention. Many women prisoners are in need of immediate medical attention and the majority of the juvenile prisoners do not have family in Pakistan. The state of their detention is also straining an already under-resourced prison system.



The backlog of cases in the judiciary is a known fact - according to a 2022 report, 117,790 cases are pending in District Courts in Sindh and 84,000 cases await decision from Sindh High Court (Tanoli, 2022) - these additional trials will further add to the ever-increasing backlog.

In light of these findings, it is suggested that these under-trial Afghans have their trials concluded swiftly and where sentences are to be awarded they are of a minimum time period or token sentences be given such as being detained until the rising of the court so that they are sent back to Afghanistan immediately as stipulated by section 14 B of the Foreigners Act 1946:

***“14B. Deportation pending trial or undergoing sentence of imprisonment. \_\_***

***Notwithstanding anything contained in this Act, the Code or any other law for the time being in force, a foreigner having no permission to stay in Pakistan or for whose deportation arrangements have been made by the Federal Government, may, if his presence in Pakistan is not required in connection with any other case, \_\_***

- (i) with the consent of the Federal Government, be permitted by the Court trying him for any offence under this Act to depart from Pakistan; or***
- (ii) under the order of the Federal Government, be permitted to depart from Pakistan while he is undergoing any sentence passed under this Act.”***



Based on section 14 B of the Foreigners Act 1946, the Court and the Federal Government have the power to deport both, a convict or an under-trial prisoner, at any time.

There is a further need to sensitize the Judiciary and police on this humanitarian crisis. Afghan women under the Taliban regime are facing a huge threat to their fundamental rights, especially right to education, movement and work. Women dissenting against the Taliban regime policies are at grave risk of violent repression, the Government of Pakistan and its various legal institutions – from law enforcement agencies to the Judiciary – need to take this into account when dealing with Afghan women who enter the country through illegal channels.

## References:

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- European Union Agency for Asylum, (May 2022). Pakistan – Situation of Afghan Refugees. Luxembourg: Publications Office of the European Union.
- Afghan Displacement Solutions Platform, (December 2018). On the margins: Afghans in Pakistan. Ministry of Foreign Affairs of Denmark.
- Foreigners Act 1946.
- Tanoli, I. (2022). Over two million cases pending in court across the country. Dawn.
- Billing, L. (2022). In Afghanistan, a Quiet Epidemic of Mass Psychogenic Illness. Undark. Retrieved from: <https://undark.org/2022/07/13/mass-psychogenic-illness-in-afghanistan/>

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