

Foreign policy considerations in dealing with Afghanistan's refugees: when security and protection collide

by Joanne van Selm

The values of democracy, justice and freedom are stated goals of the foreign policies of Western states. These are the same values that the terrorist attacks of 11 September challenged. They are also the values that should inform refugee protection policies.

In this article I will examine the ways in which foreign policy considerations played a role for Western states and Pakistan in their handling of the potential refugee crisis resulting from the US bombing of Afghanistan and the simultaneous spread of insecurity and unrest within an already war-ravaged country. Defence and security concerns will be seen to have overridden the obligation of refugee protection and to have driven the foreign policies of all the states involved.

Background

After decades of war, millions of Afghans were already refugees in Iran and Pakistan in September 2001. For over a decade (except briefly at the height of the Balkan conflicts) Afghans have topped the list of asylum applicants in Europe. In Pakistan and Iran, the world's largest recipients of refugees each with some 2 million Afghans, the majority of refugees have remained in camps. Many of those who have fled have used smugglers in exhausting journeys to Europe or Australia.

On 20 September 2001, as part of its initial institutional reaction to the terrorist attacks, the European Union's Council of Ministers (Justice and Home Affairs) requested the European Commission to "examine the scope for provisional application of the

Council Directive on temporary protection in case special protection arrangements are required within the European Union." The Temporary Protection directive is one of the few agreed since the entry into force of the Amsterdam Treaty and should be triggered if the Member States consider there to be a significant influx into the EU. Clearly, there was little likelihood of such a mass influx of Afghans even if more people started to turn to smugglers. The statement that the EU was ready to receive Afghans was a symbolic foreign policy statement. Realities on the ground ensured that the suggested use of Temporary Protection would not clash either with the general tendency to reject Afghan asylum claims or with domestic security fears attached to the arrival of new Afghan refugees.

Preparations

As UNHCR made plans to house an anticipated 300,000 new refugee arrivals in Pakistan, it became embroiled in difficult negotiations with the Pakistani government. Camp sites offered by the Pakistanis had many disadvantages: proximity to the Afghan border, unsuitable terrain, lack of fresh water and the strong anti-US sentiments of the local population. The actual number of people crossing the border, even in the earliest weeks of US bombardment, was much lower than expected: fewer than

2,000 refugees a day, according to NGO reports. Many slipped across remote, unmanned border crossings. After initial policy fluctuations, Pakistan remained resolute in officially closing border crossings, leading refugees to resort to the use of smugglers to find their way to relative safety in Pakistan. Refugees were reportedly paying \$50 a head to smugglers - a significant amount of money for Afghans who have lost everything in years of conflict. Iran similarly acted to limit border crossings, going so far as to deport some 2,000 Afghans during the last months of 2001.

The efforts of UNHCR and others to persuade Afghanistan's neighbours to open their borders were unsuccessful. President Musharraf claimed to fear the arrival of two million new refugees. Pakistan refused to admit the reported 50,000 Afghans gathered on the Afghan side of the border in the eastern province of Paktia. In the days immediately following 11 September the US requested that Pakistan keep the borders closed as a security measure. Not letting anyone out confined not just refugees but also al-Qa'ida to Afghanistan. While the stance had some military and security logic, it flew in the face of human rights concerns. While the terrorists used covert means to cross the borders and regroup, Afghans were refused the right to seek asylum abroad and *refoulement* was implicitly condoned. Many of the men attempting to cross - while Pakistani guards shot wildly into the air above them - were fleeing conscription by the Taliban, yet were deported straight back to Afghanistan.

Myriad questions arise: Why did the security concerns seemingly trump the protection obligations, even in a situation in which the US and its allies knew that al-Qa'ida members could easily cross the frontiers without mingling in refugee flows? Why did British Prime Minister Tony Blair pledge to build "a humanitarian coalition" to match the "political and military coalition" but did not respond to the needs of refugees attempting to flee to Pakistan and Iran? Why did the US and its allies expect Pakistan to shoulder the refugee burden alone? Why did the countries leading the military and political alliance that depended on Pakistani membership and Iranian acquiescence for its viability run the risk of losing support from those states by not stepping in to accept refugees?

Images from the field

These questions become particularly pertinent when contrasted with the different reaction of the same actors when 10,000 Kosovan refugees were prevented from entering Macedonia in April 1999. As images of people trapped in no-man's land and seeking safety on railway tracks were beamed around the world, governments leapt into action. Two programmes were established: the Humanitarian Evacuation Programme which ulti-

mately took more than 90,000 Kosovans to safety abroad and the Humanitarian Transfer Programme which took some 100,000 Kosovans from initial refuge in Macedonia to (slightly) longer-term refuge in Albania before their return to Kosovo. Efforts to restore calm to Macedonia's political landscape were driven by the need to maintain good relations with a nation with NATO bases which would become key staging points for post-intervention peacekeeping missions in Kosovo.

In the case of Afghans trapped on the Pakistan border, the few images that were televised did not make the refugees 'look just like us' in the way the Kosovan Albanians had. Rather than thinking about evacuation programmes, those states already operating regular resettlement programmes in fact cut their programmes significantly in the wake of 11 September (in the US) and public concern at the rate of increased spontaneous arrivals of Afghans (in Australia). For years European governments have portrayed Afghan asylum seekers as invalid claimants of refugee status. Of the 150,000 Afghans who have sought asylum in Europe, only 36,000 have been recognised as refugees. Denials of refugee status have largely been based on the understanding that the Afghans were not fleeing individual persecution on

the grounds contained in the 1951 Convention, or that they were fleeing a non-state actor (the Taliban). Following 11 September, some worried that terrorists might be among the Afghan asylum seekers. In fact, however, none of the 19 hijackers nor any of their suspected accomplices appear to have applied for asylum at any point in Europe or North America.

Was the UN prepared?

In the case of Kosovo, UNHCR was stung by criticism that it had only prepared for 100,000 displaced persons, whereas a million people crossed the borders of Kosovo in just a matter of weeks. In the case of Afghanistan after 11 September, UNHCR had established contingency plans for 300-400,000 arrivals. In fact, from 11 September to 29 October only some 80,000 people crossed the borders into Pakistan, very few of them registering at UNHCR's 15 new staging camps to receive international aid. Most blended into existing camps or simply disappeared into the existing Afghan society in Pakistan. Some reports suggested that UNHCR was confused about which refugees were where, indicating that recommendations on registration and management highlighted in the independent Kosovo evaluation might not have been acted upon.

Refugees from Kosovo, 1999.



By 6 November, 135,000 had crossed the frontiers, still less than half UNHCR's contingency figure. Many tens of thousands more had been displaced within Afghanistan, leaving the local workers of international agencies scrambling to use those supplies which were on hand and which survived US bombing.

Where are the refugees?

In the absence of photogenic images, public pressure for moves to protect refugees in Pakistan was lacking. Seemingly UNHCR was prepared and more or less coping. Whereas Macedonia had been urged to open its borders in order to prevent human suffering, Pakistan was permitted to keep its border closed. While the West maintained a diplomatic silence on the issue of the closed borders, there was probably private relief among political leaders well aware that in the eyes of their own public fear of terrorists far outweighed sympathy for refugees.

An unnamed UNHCR worker was cited in a Dutch newspaper as saying: "Why are all these politicians visiting Pakistan now? It doesn't help anything. We are still the only ones who are screaming that the border between Afghanistan and Pakistan must be opened, and opened now." While visiting leaders such as Dutch Prime Minister Wim Kok claimed that the refugees would cross the border regardless of its closure if they really needed to, the reality was that few people were crossing. They clearly feared the consequences of trying to do so: the uncertainty of their reception and the bleak prospect of returning to refugee camps which

many had left earlier in order to return to Afghanistan.

Who risks what?

In 1999 NATO risked losing the support of Macedonia for its military intervention in order to assist refugees. In the case of Pakistan, however, the loss of a strategic military ally was a risk the West was not prepared to take. Had the humanitarian suffering been so great that Pakistan asked for help, the allies might have had to respond. Islamabad, however, seemed embarrassed at the prospect of requesting help, fearing that acknowledgement of a crisis could add to domestic instability. General Musharraf's regime was caught in a dilemma. It could not handle a massive refugee flow nor the added opposition to its controversial alliance with the US that an enhanced refugee presence would bring. Neither did it want to be blamed for a humanitarian disaster. The solution was to minimally release the tension on the border by allowing through a few people without ever advertising the fact and thus opening the floodgates. The government knew that it was not in its interests to let the Pakistani people know just how many people UNHCR could not account for as they had disappeared into existing camps or gone to live with relatives.

The US and its allies needed Pakistan, Iran and other states bordering Afghanistan in the initial stages of their fight against global terrorism. Driven by geo-political and strategic concerns, they could not afford to see any friendly or willing ally turn against them. It would have been

foolish to lose the support of such states because they were feeling overburdened by the presence of massive refugee populations and saw the West shirking its responsibility of refugee protection. The US and its allies were not concerned enough to protest at the border closures, nor to advertise the consequences to the general public in the West.

In his address to a Joint Session of Congress on 20 September 2001 President Bush starkly stated: "Every nation, in every region, now has a decision to make. Either you are with us, or you are with the terrorists." It seems that some states have understood being with the US as implying that they must avoid being even passively involved in humanitarian crises which could be a source of political embarrassment at a sensitive moment. This misunderstanding can even lead states (such as Pakistan) to avoid making requests for assistance in meeting their international obligations to protect refugees. We should be wary of accepting the creation of a world in which free, democratic and humanitarian states turn their back on their principles and reject like-minded people from their societies. While strategy and defence might require sacrifices, the principles of access to asylum and *non-refoulement* are surely too high a price to pay – and lead us away from the democratic, free and just world the war on terror claims to be protecting.

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1 Conclusions adopted by the Council (Justice and Home Affairs) Brussels, 20 September 2001, SN 3926/6/01 REV 6, paragraph 30

2 Human Rights Watch *Closed Door Policy: Afghan Refugees in Pakistan and Iran*, Vol 14 No 2 (G), February 2002, <http://hrw.org/reports/2002/pakistan/index.htm> p23.

3 Ewen MacAskill, Anne Perkins and Richard Norton-Taylor 'Blair gives aid pledge', *The Guardian*, 28 September, 2001.

4 Matthew J Gibney 'Kosovo and beyond: popular and unpopular refugees', *Forced Migration Review*, issue 5, pp28-30.

5 'The Kosovo refugee crisis: an independent evaluation of UNHCR's emergency preparedness and response', UNHCR, February 2000.

6 Frank Poorthuis 'Wel even slikken, de mensen willen de grans over' (Hard to swallow, the people want to cross the border), *De Volkskrant*, 29 October 2001 [author's translation].

