

CONCEPT NOTE

One day Consultative Session with Judicial Officers on Human rights law, Child protection and the Legal Status of Afghan Refugees in Pakistan

Training Need Assessment

Every organization and institution have to go through phase of development which make possible and able them to achieve the goals. For this purpose, the Organizations or institutions have to come up with new ways to increase effectiveness and efficiency of the services they provide. Therefore, to remain a competitive one and to have the element of sustainability, the key is to invest and focus on training. Having the above object, SHARP has also intended to organize and conduct consultative session/training for the stakeholders including Judicial officers, Prosecution department, police, lawyers etc. who are involved in the protection of human rights especially have a role in the protection of refugees. Taking the above purpose into account and importance of trainings for institutional capacity enhancement, the instant consultative sessions will contribute in assessing the needs, identification of gaps and the areas where a special focus need to be given.

It is an admitted fact that the development of an institution lies with the skills, knowledge, institutional capacity, professionalism, trainings etc. which spontaneously add value to the knowledge base and capacity of the institution or organization. One of the core functions of SHARP is the provision of capacity enhancement of the Stakeholders through Trainings. Therefore, the proposed consultative session will focus on the impact of training programs on the stakeholder's development and satisfaction. This consultative session will revolve around the effectiveness of the Training Need Assessment in relation to the judicial officers and consequently propose the future training on the basis of the feedback and outcomes.

Resultantly, the consultative session aims and will have the following Outcomes;

- To organize and manage more training programs identified after evaluating the instant consultative session
- To explore the need for institutional capacity enhancement and development through effective training

- To now whether the discussed material and module of learning was appropriate and in accordance with the requirement of the training
- To examine the impact of training, its contents, course material, the role of moderator/facilitator and the level of understanding, learning and development of the participants.

On the basis of the above, SHARP as an organization will be able to formulate a comprehensive package of trainings for future.

These proposed trainings will be planned and carried out by adopting a systematic approach, focusing on the real time challenges faced by the Concerned officials while dealing with the issues pertaining to the legal status of refugees. While on the other hand provide a forum of discussion for the issues pertaining to the legal status of refugees.

BACKGROUND

After the declaration of UDHR in 1948, the International Human Rights Regime has expanded significantly covering a wide range of rights in the areas of Civil, Political, Economic, Social and Cultural Rights. To achieve this purpose the United Nations has developed a legal and institutional framework in the areas of aforementioned human rights. Beside the Human Rights Council, there are 9 core international human rights instruments of United Nations and each of them has a committee to monitor the compliance and collect the reports from State parties.

Among these 9-core international human rights instruments Pakistan is a state party to 7 instruments including;

- 1) International Covenant on Civil and Political Rights ratified in 2010
- 2) International Covenant on Economic, Social and Cultural Rights ratified in 2008
- 3) Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1966
- 4) Convention on the Rights of Persons with Disabilities (CRPD) 2011
- 5) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1996
- 6) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ratified in 2010 and;
- 7) Convention on the Rights of the Child ratified in 1990

However, Government of Pakistan has not accepted competence of individual complaint procedure under any treaty.

Along with the above, Pakistan has established constitutional, legal, policy and institutional framework for the protection and preservation of human rights. The Chapter on Fundamental Rights in the Constitution of Pakistan guarantees a set of human rights mentioned above. However, there are critiques that most of these rights are accompanied with “clawback” clauses. Furthermore, in compliance to the international commitment Pakistan has promulgated a range of laws at federal and provincial level for the protection of the rights of the children, women, religious minorities and transgender which certainly has strengthened the human rights regime in Pakistan. However, there is still a need and a room for improvement to strengthen the mechanism and procedure with the changing global environment.

Around the globe, 82.4 million people have been forced to flee their homes due to the fear of persecution, conflict, violence, human rights violations or events of generalized violence and disturbing public order. Among these displaced, nearly 26.4 million are refugees, half of whom are under the age of 18.

Pakistan is among the top three countries (after Turkey and Columbia) which is hosting the largest numbers of refugees on its soil. Since 1979, Pakistan has hosted and still is hosting more than millions of Afghan refugees (1.4 million PoR card holders, 0.8 million ACC holder and a large number of undocumented). The influx of Afghan refugee's arrival started in 1979 when the Soviet forces invaded on Afghanistan which has created a large-scale humanitarian crisis and required a support from the international community. The international community has been contributing a lot but now seems that this issue has lost importance in the eyes of international community and therefore the support has been considerably reduced causing a big burden on Pakistan.

Although Pakistan is not a signatory of the 1951 convention relating to the status of Refugee nor has ratified its Additional Protocol 1967 but despite that Pakistan has extended its support to the Afghan refugees since their arrival. Pakistan is showing full compliance to UDHR-1948, international conventions including ICCPR, ICESCR, CEDAW and other UN treaties. Although Pakistan doesn't have a national law nor has promulgated any legislation to deal the refugees but it has temporary and Adhoc arrangement to deal them. Similarly, in compliance of the international commitments and being a responsible state of the international community, Pakistan

has auxiliary supported the neighborhoods countries by opening its international border to the refugee influx fled from Afghanistan due to generalized war and conflict. The government of Pakistan with the support of UNHCR and international community provided them shelter and other lifesaving facilities.

The Afghan refugees are struggling for 40 years to find durable solution to their status however, the situation remained unchanged rather it going worse day by day.

UNHCR the mandated agency of United Nations has the responsibility to provide protection and support to the refugees and PoCs across the globe. Being a mandated agency of the UN system, UNHCR has tremendously doing its job for the protection of refugees. In Pakistan, UNHCR is working closely with the government of Pakistan and other Local and international organization for the uplift and protection of refugees.

The current situation of Afghanistan is not stable and the most favorable durable solution i.e. voluntary repatriation is not possible for the Afghan refugee living in Pakistan while the local integration and resettlement are no more an option for them. Hence, they have no preference than to live as refugees in Pakistan. They are facing various issues including but not limited to fragile economic condition, access to social service such as access to health, education, restricted mobility, inadequate livelihood opportunities, cultural and harmful traditional practices and access to formal justice. They are also facing legal issues such as detention and harassment, access to formal legal services etc. In result, the informal justice system is prevailing among the refugee in shape of **Jarga** for conflict resolution which sometimes causing serious violation of human rights. Similarly, they are facing numerous issues due to lack of sufficient identity documents which ultimately affecting their stay here in Pakistan.

UNHCR along with its partner SHARP has been working to provide a conducive and safe environment for the protection of refugees. SHARP being a partner of UNHCR has contributed a lot for the provision of mixed solution to the issues of refugees as well as to ensure their protection.

In this regard, SHARP Pakistan in collaboration with UNHCR is holding the proposed consultative session for the Judicial Officials on Human rights, refugee rights and the legal status of Afghan refugees in Pakistan. The target audience of the training will be in-service Judicial officers. The One-day consultative session will cover important topics such as basic concepts of

International human rights law, the international refugee law and the status of Afghan refugees in Pakistan and contemporary issues related to Child protection.

OBJECTIVE

- a) To strengthen legal support system for the Afghan refugee living in Pakistan by involving the Judiciary, Prosecution and police officials through consultation session.
- b) To enhance the capacity of the relevant stakeholders about various concepts of Refugee law and the legal status of Afghan refugees in Pakistan.
- c) To have an open discussion with the officials in presence of UNHCR in order to find out solution for the issues faced by the Refugees
- d) To reinforce the coping strategy and provision of affective legal remedies to the vulnerable refugee in Pakistan within the contemporary legal system.

RATIONAL:

SHARP-Pakistan desires to work together with all the relevant stakeholders including Government Line departments, Judiciary, UNHCR and Non-governmental Organization in order to support and provide a conducive environment for the refugees living in Pakistan. In fact, judiciary is the main stockholder which deals with refugees' legal issues and provision of legal services to them. Hence, SHARP is intended to organize consultation session with the Judicial officers of Khyber Pakhtunkhwa to have a detail discussion on human rights, refugee rights in the light of International Laws, refugee convention and legal instruments, international protection and the status of Afghan refugee in light of the local laws and national policy of Pakistan. The session would be an interactive and all the participants will have open option to discuss the refugee issues and challenges in the light of national and international laws. The discussion would be facilitated by SHARP, UNHCR officials and a resource person. The participants will do brainstorming on the contents, will bring clarity on the legal status of Afghan refugee living in Pakistan which will ultimately be beneficial for the refugee while accessing to the legal services in a long run.

EXPECTED OUTCOME:

- The participants will be updated about the current situation of the refugee and durable solution trends of the Afghan refugee living in Pakistan.

- The session would be an opportunity for all the stakeholders to discuss openly the issues particularly related to the legal status of afghan refugees in view of the refugees convention and the context of the Foreigners' Act 1946
- The consultative session will be a learning opportunity for the participants to learn from each other experiences and enhance their capacity while dealing the refugee legal issues
- The consultative session will enable the participants to identify the gapes in laws, procedures and practice in dealing with refugee legal issues.
- The session will ensure the safety, dignity and respect of the rights of the refugee living in Pakistan.

Training Methodology and Facilitation:

The session will be facilitated through a consultative approach including power point presentations, groups discussions and group activities. The participants will have the opportunity to openly discuss and interact with the facilitators and with each other during the sessions.

Training Module:

The training module will consist of:

- International human rights law (i.eUDHR, ICCPR,ICESCR,CRC.CEDAWetc)
- 1951 Refugee convention relating to the status of refugees and 1967 Additional Protocol
- International protection Mechanism and role of UNHCR
- Government of Pakistan notifications
- Child Protection
- Constitution of Pakistan

Facilitators

Representatives from UNHCR, SHARP and resource person will facilitate and moderate sessions. Generally, the selected facilitators of the workshop are familiar with the refugee protection challenges, local culture and language as well as evolving political discussions pertaining to Afghan refugees.

Venue:

Khyber Pakhtunkhwa judicial academy Peshawar