Neither Here nor There: Pakistani Hindu Refugee Claims at the Interface of the International and South Asian Refugee Regimes

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Pakistani Hindu refugee claims in India are shaped by both the international refugee regime and the regional South Asian refugee regime, which have overlapping and diverging notions of what constitutes refugeeess. Though both the international refugee regime and Partition-era-derived South Asian refugee regime emphasize vulnerability as a feature of refugeeess, the former evaluates refugee claims on the basis of statelessness and the latter on the basis of a religio-cultural identity. The interface of multiple refugee regimes both opens and forecloses opportunities for those who seek refugee status after crossing the border between Pakistan and India. This article argues that an attention to the interfaces between refugee regimes, and refugees and their advocates, reveals the ambiguities and consequences for people trying to work in and through multiple socio-legal regimes. As Pakistani Hindus and their advocates juggle expectations of what constitutes a good refugee, they are unable to fully satisfy the conditions of either regime's criteria for refugee recognition.

Keywords: refugee regimes, recognition, legal pluralism, India, Pakistan, South Asia, Partition

Introduction

As part of its successful election campaign in 2014, the ruling Hindu nationalist Bharatiya Janata Party (BJP) announced that it would make India a refuge for the world’s persecuted Hindus. The allotment of special visas and permanent residence options for Hindus from Pakistan is a long-standing Indian migration policy that was highlighted and expanded upon in this election campaign. After the 2014 election, the BJP-led Indian Ministry of Home Affairs issued a series of executive orders easing permanent residence and citizenship procedures for Hindus from Pakistan—a population that the Indian state considers to be a persecuted religious minority (MHA 2015). Against the backdrop of rising
Hindu nationalism and the 1947 India–Pakistan Partition, which mapped onto existing Hindu–Muslim divides, and privileged by their religion, Pakistani Hindus embrace their resettlement in India as an exercise of their ‘right of return’. Today, according to Foreigners’ Registration officials in India nearly 2,000 Pakistani Hindus cross the India–Pakistan border and resettle in western India each year. Pakistani Hindus, with the help of advocacy organizations, seek recognition as refugees in India. But, are not refugees, by definition, people who have to leave their homes? How can people who are returning or ‘coming home’ be considered refugees at all?

This article examines how Pakistani Hindu claims for refugee recognition are shaped by multiple refugee regimes. The conventions of the South Asian regional refugee regime allow a configuration of ‘the refugee’ as a subject who is ‘coming home’. Pakistani Hindus, with the help of their advocates, navigate both the regional South Asian refugee regime and the international refugee regime in their struggle for belonging and recognition as refugees in India.

The international refugee regime refers to the post-war system of socio-legal management for displaced and stateless people whose principles are now normative on a global scale. The regime is guided by the 1951 United Nations Convention Relating to the Status of Refugees; the convention defines a refugee as someone who leaves their country of origin due to a real fear of persecution (UN General Assembly 1951). In its original formation, the international refugee regime imposed restrictive spatial and temporal criteria that did not include refugees in South Asia and, as a result, states in the region have not formally acceded to United Nations protocols for refugee treatment (Oberoi 2001). India is not a signatory to the international refugee regime’s 1951 Convention or its 1967 Protocol on refugee status and treatment. Indian refugee law and policy are guided by the conventions of the South Asian regional refugee regime that emphasizes an ideological linkage between religion and territory. The South Asian regional refugee regime emerged out of India and Pakistan’s management of refugees during the Partition era (Robinson 2012). Refugee laws and policies developed in the region after 1947 continue to shape cases that deal with refugee property, resettlement and citizenship in the subcontinent (Zamindar 2007; Shahani 2018). Today, India manages the myriad populations that seek refuge within its borders through case-by-case policies (Chimni 1998). Though the international refugee regime’s laws are not in place in India, its expectations and criteria have become normative and thus impact how government officials enact laws and policies, and how local and transnational groups advocate for refugee recognition for Pakistani Hindus. As such, struggles for refugee recognition in South Asia are influenced by both an international and a regional refugee regime.

Refugee Recognition at the Interface of Multiple Regimes

Pakistani Hindu claims to refugeeess are shaped by multiple regimes and actors that interface with one another. These interfaces generate opportunities and challenges for recognition. Focusing on the challenges that interfaces generate
for refugee recognition, this article argues that an attention to the interfaces between refugee regimes and various actors reveals the ambiguities and consequences for people trying to work in and through multiple socio-legal regimes.

Problematising the selectivity with which ‘official’ refugee status is afforded by the United Nations High Commissioner for Refugees (UNHCR), this article examines how Pakistani Hindu claims to refugees are formulated to seek recognition in a regional refugee regime with a historical and cultural genealogy that differs from the European context that informs international refugee and human rights discourse and action (Chatterji 2012). Regional frameworks, alongside international frameworks, shape the production and management of Pakistani Hindu claims to refugeeness. An attention to interfaces and legally pluralistic contexts also helps us understand how Pakistani Hindus and their advocates draw from a toolkit of intermeshed recognition strategies in the pursuit of refugee status.

The concept of refugeeness encapsulates the interconnections between codified legal stipulations for refugee status under each regime and social practices of refugee recognition that do not necessarily correspond to any discrete legal status. Refugee claimant subjectivity and collective expressions of refugeeness are socially constructed and produced (Lacroix 2004). Pakistani Hindus in India and their advocates understand there to be ‘authentic’ or ‘valid’ forms of refugeeness in each regime and they try to make claims on each by deploying signs of belonging that could yield refugee recognition.

Each regime has some overlapping and diverging fulfilment criteria for refugee recognition, and these criteria shape Pakistani Hindu claims to refugeeness. The Indian government, refugee rehabilitation non-governmental organizations (NGOs), diasporic advocacy organizations and Pakistani Hindus, themselves, dually assert a language of religious nationalism alongside a language of human rights to produce claims to refugeeness that appeal to the conventions and criteria of both refugee regimes.

Both the international refugee and Partition-era South Asian refugee regimes emphasize vulnerability as a feature of refugeeness. However, they differ particularly in their approach to resettlement. The international refugee regime configures hospitality on the basis of a refugee’s apolitical, bare humanity (Malkki 1996). In this schema, refugees are grateful to be resettled anywhere and thus would not express singular attachment to a given host country. In contrast, the Partition-era South Asian refugee regime configures refugees as active subjects who assert their right to belong in a given host country on the basis of a naturalized ideological linkage between religion and territory. Claims of Pakistani Hindu refugeeness emphasize ‘bare humanity’ in an appeal to international audiences. Alongside, claims to refugeeness emphasize Pakistani Hindus’ religious connections to India. This latter emphasis is a continuation of Partition-era discourses that shape the regional South Asian refugee regime while appealing to current Hindu nationalistic fervour. As such, the international refugee regime configures refugees as untethered, passive subjects while
the Partition-era South Asian regime configures refugees as subjects entitled to resettlement based on a religious connection to a territory.

The interface between multiple refugee regimes both opens and forecloses opportunities for subjects seeking refugee recognition. Pakistani Hindus are excluded from belonging within not only a legal definition of a refugee, but also ‘a definition established through the process of labeling [that creates] convenient images and shap[es] public policy practices’ (Zetter 2007: 189). Neither regime, nor the interface of multiple regimes, offers full recourse. As Pakistani Hindus and their advocates juggle expectations of what constitutes a refugee, they are unable to fully satisfy the conditions of either regime’s configuration of refugeeness. Claims-making at the interface of two refugee regimes yields mixed outcomes.

The article is divided into four parts. The first section offers some background on the current Pakistani Hindu refugee situation and lists the various relevant social actors that play a role in refugee management. The second section offers examples of how Pakistani Hindu claims to refugeeness are configured within a regional South Asian refugee regime. Observations from a visit between Indian Ministry of Home Affairs officials, members of parliament (MPs) and Pakistani Hindus in Jodhpur, Rajasthan, illustrate how refugeeeness is constructed within the parameters of a regional regime. The third section details examples of how Pakistani Hindu claims to refugeeeness are simultaneously shaped by the international refugee regime. This section examines a human rights report on Pakistani Hindus in India by the Hindu American Foundation and the reactions of local Indian administrators and bureaucrats towards Pakistani Hindus seeking refugee status in Jodhpur. Together, the analysis demonstrates that Pakistani Hindu produce claims to refugeeeness that appeal to both the international refugee regime’s emphasis on bare humanity and human rights as well as to the regional regime’s emphasis on religious connections to territory. Each regime comprises a range of governance ideals, processes and authorities that seek to manage and shape refugee law and policy. The analysis in these sections historicizes socio-legal notions of refugeeeness and criteria for refugee recognition and contemplates the implications of the salient differences in how refugeeeness is conceived across each regime.

The article concludes with a discussion of how the concept of interface elucidates struggles over refugee classification. This section engages socio-legal studies scholarship that theorizes interfaces alongside a discussion of ‘refugee labelling’ (Zetter 1991, 2007), whereby a legally pluralistic network of refugees, NGOs, governments, diasporic and international bodies shape images and expressions of refugeeeness. The conclusion offers a short discussion of the limitations of prevailing refugee taxonomies in classifying the complexity of refugee migration across multiple regimes.

The Situation of Pakistani Hindu Migration to India

The highest concentration of recent Pakistani Hindu arrivals to India are in Jodhpur, Rajasthan, where they number approximately 15,000, across at least
17 refugee settlements, according to local police reports. While Pakistani Hindus migrating from Sindh (the Pakistani province of origin for the majority) and Punjab also disperse upon arrival to India, Jodhpur has the first major Indian train station that they reach across the international border. It is also one of the demarcated permissible cities of visit on many of their visas, and hence many refugee advocacy and aid organizations are most active in this area. After spending time in India on a short-term visa—typically of 30–45 days in length—Pakistani Hindus either return to Pakistan or apply for permanent residency, with the sponsorship of a local Indian guarantor. After seven years, such permanent residents are eligible to apply for citizenship.

Oppression along caste, class and religious lines, as well as kinship and cultural ties across the border motivate Hindus to leave Pakistan for India. Household survey data that I collected reveals that the majority of Pakistanis seeking refuge in Jodhpur are low and Scheduled Caste or Scheduled Tribe Hindus who work as daily wage agricultural labourers. Most Pakistani Hindus move to India thinking that they will experience less discrimination and be able to access expanded work and education opportunities. Both permanent residency and citizenship forms have sections for applicants to list their reason for applying. Immigration officers, NGO advocates and intermediary typists instruct applicants to cite religious persecution in Pakistan in this section, regardless of the chief motivations of individual families that are often manifold. There is bipartisan political support in India for special visa and permanent residence options for Hindus from neighbouring countries. However, it is the BJP, the ruling Hindu nationalist party, that actually proposed a bill in 2015 that is currently under parliamentary review to expedite the pathway to Indian citizenship for Hindus and other non-Muslim minorities from Afghanistan, Bangladesh and Pakistan, on the basis of their religious persecution.

Once in India, Pakistani families scramble to ensure that their immigration paperwork is in order as they try to secure long-term housing, employment, health care and schooling. There are currently three organizations in Jodhpur and one diasporic organization in the United States that actively assist Pakistani Hindus through the distribution of basic supplies and organization of health, livelihood and educational initiatives. Each of these organizations holds meetings and petitions relevant to governmental immigration officers and politicians on behalf of Pakistani refugees. The Jodhpur chapter of the right-wing Vishwa Hindu Parishad (VHP) aims to help all Hindus in need and fundraises for basic supplies and Hindu festival celebrations. The Hindu Visthapit Sangh (HVS) is a loosely organized collective of Hindus in Jodhpur who migrated from Pakistan in earlier waves, after the Indo-Pakistani wars of 1965 and 1971; it assists with petitioning district-level administrative officers and the filing of bureaucratic paperwork. Finally, the Rajasthan-wide Universal Just Action Society (UJAS) is a registered NGO that does political advocacy work and organizes local refugee empowerment initiatives with the
support of international donors. The Hindu American Foundation (HAF), a diasporic Hindu nationalist political advocacy organization, extends financial assistance to local Pakistani Hindu refugee-relief organizations in Jodhpur.

NGOs like UJAS often function as a conduit between Pakistani Hindus and the Indian state, offering paperwork guidance and sponsorship assistance. Central to the messaging of these organizations is an emphasis on the need for Pakistani Hindus to have refuge in India. They circulate pamphlets, fliers and videos with individual testimonies that cite atrocities against religious minorities in Pakistan, with emphasis on forced conversions of young Hindu women. When politicians, journalists or international aid workers come to Jodhpur, these organizations arrange for Pakistani Hindus to give testimonies highlighting their plight and fear of religious persecution as minorities in Pakistan. Mainstream Indian news outlets describe Pakistani Hindus in India as refugees fleeing religious persecution and sometimes admonish the Indian state for not being more welcoming. These images of Pakistani Hindus as refugees appeal to a ‘humanistic universalization of “the refugee” as an embodiment of pure humanity (and pure victim)’ (Malkki 1995: 12) while also invoking a Hindu–India national imaginary. The next sections present concrete examples of how Pakistani Hindus and their advocates make appeals at the interface of the South Asian regional and international refugee regimes.

The South Asian Regional Refugee Regime

India manages the wide range of refugee populations within its borders on a case-by-case basis. India is not a signatory to the United Nations 1951 Convention or 1967 protocol, which outline a definition for refugees and international standards for the treatment of refugees. In the post-war period when the United Nations was forming protocols for how countries should handle refugee populations, India and Pakistan were trying to figure out how to manage an exchange of close to 15 million displaced people. In this Journal, Cabeiri Robinson (2012) traced the emergence of the refugee as a unique social and governmental category in South Asia in key ways that differ from the international refugee regime. The South Asian refugee regime presumed that that articulation of religio-cultural nationality translated in an obvious way into post-colonial citizenship categories such that Partition’s displaced people were never deprived of the protection of their state (Robinson 2012: 351).

The emerging international refugee regime, which conceived of refugeeeness in terms of statelessness and deprivation of nationality, would not accommodate India and Pakistan’s refugees because they had ‘too much nationality’ and could assert rights to residence in either country (Robinson 2012).

Guided by the Partition-era South Asian regional refugee regime, which affords Hindus the right to seek refuge in India, India adopted a policy of
non-deportation for Pakistani Hindus, even if they do not have valid long-term visas and residence permits. Indian governmental discourse at the executive level and mainstream Indian news media refer to Pakistani Hindus as ‘refugees’. For example, in a recent parliamentary committee report on whether to expedite Indian citizenship for Pakistani Hindus, the Government of India listed the activities of MPs as having included visits to Pakistani Hindu ‘refugee colonies’ in Rajasthan (16th Lok Sabha 2016). Leading English dailies in India, such as the Times of India, regularly refer to this population as ‘refugees fleeing persecution’. Alongside, local and diasporic non-governmental advocacy organizations frame Pakistani resettlement in India as a refugee crisis.

The current debates in India around whether or not to welcome Rohingya refugees show, however, that ‘refugee’ is a label more readily afforded to Hindus seeking refuge in India, and not Muslims (Indian Express 2017). Indeed, narratives of Pakistani Hindu refugee migration to India are premised on an ideological linkage between religion and territory—a key feature of the South Asian regional refugee regime. Whereby Hindus are a natural part of the Indian nation, the narrative is not only that Pakistani Hindus seek refuge in India to flee religious persecution in Pakistan, but that they belong in India, a Hindu homeland.

Though the reasons for Pakistani Hindu migration to India are myriad, the state recognizes persecution of religious minorities in Pakistan as its only legitimate motivation. A singular narrative of religious persecution in Pakistan as the cause for a Hindu exodus to India supports the state’s vision of a Hindu–India. Pakistani Hindus claim autochthony through the geographically delimited ideology of Hindutva. As part of Hindutva, the primacy of civilizational Hinduism in India entitles its practitioners to make superior claims on a sacred geography that is mapped onto the Indian subcontinent (Savarkar 1969; Jaffrelot 2009).

Refugees co-fashion scripts with state actors about their reasons for seeking refuge (Ticktin 2011). Guided by the Indian state’s terms for recognition, Pakistani Hindus narrate their suffering in terms of religious persecution on official documents. For example, in their applications for residence permits in India, Pakistani Hindus affix affidavits attesting to the persecution or fear of persecution that they experienced as Hindu minorities in Pakistan. In applications for Indian citizenship, Pakistani Hindus list their status as a ‘minority in Pakistan’ as the reason for their application. A computer typist narrated to me the story of a middle-class Pakistani Hindu man who had moved to India for marriage and work purposes and did not want to include an affidavit attesting to religious persecution in Pakistan as part of his residence permit application. Nonetheless, the local immigration office required such an affidavit from the applicant, who relented. In my fieldwork, I also observed many interactions between government officials, politicians and refugees in Jodhpur, in which state officials and Pakistani Hindus co-constructed narratives of refugee migration.
In June 2016, at a citizenship application camp for Pakistani Hindus in Jodhpur, organized by the Ministry of Home Affairs, Home Secretary Rajiv Mehrishi arrived with his retinue, comprising the district collector, divisional commissioner and other noted officials. Sitting back in a plush chair covered with a white sheet, the home secretary asked assembled NGO leaders to invite a few refugees to present their cases directly. The presence of a high-ranking official, and the opportunity to be face to face with him, generated excitement among the crowd of Pakistani Hindus in attendance.

Ramabai, a daily wage agricultural labourer who had moved to India 10 years ago, stood quiet for a few moments before saying ‘We were very troubled there [in Pakistan].’ ‘Who, the Muslims bothered you?’ asked the secretary as he looked to his assistants to ensure they were taking note. Ramabai was quiet and the home secretary repeated his question with emphasis on ‘Muslims’. ‘Yes, yes,’ interjected a man standing behind her.

Later that summer, two years after the BJP’s winning electoral campaign promised India as refuge to the world’s persecuted Hindus, Home Minister Rajnath Singh introduced a bill to amend the Citizenship Act to reflect this priority. The proposed bill would expedite Indian citizenship for Hindus, Buddhists, Christians, Jains, Sikhs and Parsis from Pakistan, Afghanistan and Bangladesh. A 30-member Joint Parliamentary Committee (JPC) was convened to review the bill. As part of the committee’s three-day ‘study tour’, in Jodhpur, these MPs, accompanied by parliamentary staff and Jodhpur district officials, visited Pakistani Hindu refugee colonies and heard from refugees and their advocates. As one MP later explained to me, the study tour was a way to hear authentic voices directly and see refugee conditions first hand.

At the committee’s first stop, around 40 people quickly gathered in front of the cars and most of the MPs stepped out to see the crowd. The chairman, Satyapal Singh, a BJP MP and former Bombay police commissioner, led the encounter while one of the assistants to the secretary of the committee took notes. Though the logistics of the MPs’ visit had been carefully arranged and the list of colonies they would visit clearly mapped out, the field encounters were a bit haphazard. At one point, when he was not receiving the answers he wanted about religious persecution, the chairman reminded the crowd that they were in India, not Pakistan. In these exchanges, state officials, together with the refugees, were actively moulding a narrative of religious persecution as the chief motivation for seeking refuge in India.

Mr Singh posed a series of questions to the people standing around, asking why they had come to India. There was an energetic murmur in the crowd. A few men shouted out that they just wanted a place to live and had no other issues. The chairman inquired as to whether they were forced to convert to Islam in Pakistan and whether they could visit temples there. The murmur intensified into a loud hubbub as voices spoke over each other. A thin woman in a colourful pink and yellow skirt spoke up and said that, after the demolition of the Babri mosque in India, Hindus in Pakistan faced
intensified violence and targeting as retribution. Though Pakistani Hindu youth have no direct memories themselves of the aftermath of the 1992 Babri mosque demolition, they commonly cite retribution against Hindus in Pakistan after the demolition when explaining their reasons for seeking refuge in India. A young man stepped up to add that, in Pakistan, his children were called infidels and forced to read Islamic books at school. In Sindh, he worked as an agricultural labourer and his family was not allowed to eat the same utensils as their landlords. After moving to India, this man’s low-caste Bhil identity continues to inhibit opportunities for resettlement in Jodhpur, where housing and employment networks are chiefly organized along caste lines.

‘Modiji [India’s Prime Minister] has invited us. Hindustan is for the Hindus,’ asserted a young woman, when asked why she had come to India. Her brother talked about how India should give them panaah (refuge) because they are Hindus. After about a half hour of piecemeal conversations with whoever spoke up amidst the hectic frenzy, the committee drove to their next stop. The centrality of a Hindu–India imaginary and a narrative of Hindu suffering in the struggle for refugee recognition are evident in these encounters between state officials and Pakistani Hindus.

‘In Pakistan, we are targeted for being Hindu. This [India] is our real homeland’ is a common refrain uttered by Pakistani Hindus while explaining their decision to move to India. When Pakistani Hindus say they are refugees who belong in India, they are invoking a communalist, Partition-era logic whereby Pakistan was created as a homeland for the subcontinent’s Muslims, while India was established as a secular nation state and de facto haven for Hindus. The pervasive mapping of religious identification onto nationalist consciousness (Ghosh 1998) and the concomitant idea that Pakistan is for Muslims and India is for Hindus continues to shape the geopolitics of the subcontinent.

In the South Asian refugee regime, refugee subjects are entitled to belonging in their respective religio-national homeland. Instead of identity and territory being de-linked in the refugee movement process, one key aspect of identity—religion—is singled out and emphasized. Pakistani refugees’ Hindu identification is re-linked in India, perhaps even as a condition of resettlement. Hindu identification allows Pakistanis to make a claim to physical settlement in India—their ‘homeland’—pointing to a re-embeddedness of identity and territory that operates to configure holy land as homeland, and the homeland as holy (Sand 2012). Current Pakistani Hindu claims to refuge in India are a prolonged unfolding of the unsettled Partition borders that people still regularly cross for work, religious pilgrimage and kinship (Van Schendel 2005; Zamindar 2007).

In their literature, organizations like UJAS call Pakistani Hindus in India sharanartis, meaning ‘refugees’ in Hindi. This vocabulary is a continuation of Partition-era discourse in which Hindus migrating from modern-day Pakistan to India were referred to as sharanartis and Muslims that migrated from
India to seek refuge in the new nation state of Pakistan were called *muhajirs* in reference to those devotees that joined the Prophet Muhammad on his *hijra* or pilgrimage from Mecca to Medina. Seven decades after Partition, Pakistani Hindus continue to assert a ‘right to belong’ in India on the basis of their Hindu identification and ancestral kinship ties to the region. In the South Asian refugee regime, refugees have been evaluated in terms of how their movements correspond to national ideological projects. As Tahir Naqvi (2012) has shown, in this Journal, Muslims from Muslim-minority provinces in India made claims on the new state of Pakistan, through an expression of sacrifice. Naqvi argues that a Muslim’s decision to abandon their homeland in India was imagined as the ‘embodiment of authentic transcendental value’ (2012: 485). The notion of a Hindu *sharanarti* in India still holds a religious currency and, at the policy level, India embraces Pakistani Hindu refugees, as their exodus from Pakistan reifies a Hindu nationalist project. As the next section shows, an embrace of Pakistani Hindus also positions India as a human rights actor in the South Asia region.

While the South Asian regional refugee regime offers Pakistani nationals a pathway into India through Hindu identification, the regional template has limited parameters for refugee recognition. For example, the Indian state’s emphasis that suffering be narrated chiefly in terms of religious persecution obscures other forms of marginalization that Pakistani Hindus face, such as caste and economic oppression. Despite the steady rise of Hindu nationalism in India, the Indian government does not invite Hindus from Pakistan to India on the sole basis of their Hindu religious identification. Rather, India’s extension of refuge to Pakistani Hindus is qualified on the basis of their persecuted religious minority status. ‘Fear of persecution’ is a criterion for refugee status under the international refugee regime. Though the South Asian refugee regime offers a template for Pakistani Hindus to seek refuge in India, the next section shows how Pakistani Hindu claims to refugee status are also shaped by the international refugee regime.

The International Refugee Regime

‘You’ve come to the wrong place. Go to Europe. There are nice examples of refugees for you there. Syrians and Africans. These Pakistanis, they choose to come to India.’ These were some of the first sentences that a mid-ranking Indian immigration officer in the Foreigners’ Registration Office (FRO) Jodhpur, Rajasthan, said to me after I told her that I wanted to learn more about Pakistani Hindu refugees in India. The image of Alan Kurdi, the Syrian toddler who drowned in the Mediterranean Sea, had been circulating the week of my meeting with this immigration officer. It was a warm day and the air cooler was not fully working; in part, this officer probably just wanted me to leave, so I did not think too much about her comment on who makes for a ‘nice example’ of a refugee. But, as I continued to meet other local officers who oversee the registration of Pakistani nationals in
India, I encountered the same stance—a stance that rejected Pakistani Hindus’ claims of being refugees on the basis of their alleged preparedness and exercise of choice. The kinds of comments I regularly heard from officers that manage Pakistani Hindu registration and resettlement in Jodhpur included: ‘These people plan ahead and come with valid visa documents. Refugees do not come with papers’ or ‘Some of these people return to Pakistan. If it is so bad there why do they go back?’

Pakistani Hindus do not adhere to predominant notions of what it means to be a refugee, even within India. The pervasiveness of the international refugee regime today means that Pakistani Hindu claims of refugeeness are subject to an assessment that is informed by international standards. For example, local immigration officers cite the international refugee regime’s criteria for refugeeness to cast suspicion on Pakistani Hindus in India who may be selective and strategic about where they seek resettlement. Officers’ citations of choice and preparedness call into question the vulnerability of Pakistani Hindus who seek relief from religious persecution in Pakistan and a better life in India. Thus, though claims of Pakistani Hindu refugeeness draw from a regional refugee regime that legitimates Hindus’ right to refuge in India, the international refugee regime’s criteria for refugeeness also shape how Pakistani Hindus are received within the very South Asian context that they tailor their claims to.

This section examines how Pakistani Hindu claims to refugeeness are shaped by the international refugee regime and how it interfaces with the South Asian refugee regime. Though it has not conferred any official refugee recognition to Pakistani Hindus, the UNHCR office in India sends unofficial signals of its support of this population. For example, the UNHCR website featured a news story of Pakistani Hindus fleeing religious persecution and the India office included photographs of Pakistani Hindus in its 2014 World Refugee Day celebration (Sultan 2014).

Unlike the South Asian refugee regime, where ‘religion’ and ‘nationality’ are the organizing principles, in the international refugee regime, ‘humanity’ is the organizing principle. Specifically, this section offers a brief overview of the international refugee regime and discusses how a diasporic Hindu nationalist organization invokes a language of human rights to appeal to the international refugee regime on behalf of Pakistani Hindus in India. The histories of the international human rights regime and the international refugee regime are now intertwined and human rights standards increasingly shape refugee law (Barnett 2002; Chetail 2014). A violation of an individual’s human rights in their country of nationality has become grounds for refugee status.

An apparent lack of choice is central to notions of refugeeness in the international refugee regime. This is echoed in mass-media primers that differentiate between refugees and migrants, where exercises of choice are mentioned as features of migrant trajectories, not refugee movement. For example, on a myth-busting post on its website, the International Rescue Committee (2015) lists ‘Refugees want to leave their home country’ as a
‘myth’ next to this corresponding ‘fact’: ‘Refugees are forced to flee their homes due to war and persecution. Refugees leave their country because they have no other choice.’ During the height of the Syrian refugee crisis, CNN (Martinez 2015) published a primer entitled ‘Migrant vs Refugee, What’s the Difference?’ that stated

A migrant is someone who chooses to resettle to another country in search of a better life [whereas a refugee is] someone who has been forced to flee his or her home country.

The use of the active voice for the archetypal migrant and the passive voice for the archetypal refugee underscores the passivity of the latter.

In his analysis of a 1988 UNHCR handbook for determining refugee status, Philip Nyers (2013) examines the presumptions that undergird the international refugee regime’s criteria for refugee recognition. The handbook states that ‘A typical test of the well-foundedness of fear will arise when an applicant is in possession of a valid national passport’ (see Nyers 2013: 59). The handbook suggests that, after recognition in a new host country, a sincere refugee applicant would readily surrender their national passport. The underlying assumption is that a person who possesses and clings to any valid identity papers from their national country has state protection and lacks fear, and is thus not a refugee. This example points to the ways that the international refugee regime configures refugees as subjects who are not supposed to be strategic planners who might want to hold on to their national passport in case their situation changes or out of attachment to their nationality. A refugee’s well-founded fear must be overwhelming to the extent that it does not allow strategic planning or ambivalence.

The international refugee regime’s notions of refugeeness are echoed in the stances of immigration officials in Jodhpur when they cite the facts that Pakistani Hindus enter India on valid visas, migrate in small groups and not en masse, and sometimes return to Pakistan as evidence that their fear is illegitimate. In not conforming to international norms of refugeeness, but still calling themselves refugees, Pakistani Hindus come to be seen as suspicious and unsympathetic figures in the eyes of the local immigration bureaucracy. Because local bureaucracies are primary gatekeepers for access to social welfare and official recognition, officers’ empathies shape the daily lived experiences of refugees (Zetter 1991; Glasman 2017). Pakistani Hindus require papers proving lawful residence from the FRO to access schooling, health care, rations and residence in other locales. A lack of bureaucratic sympathy, among other factors, at the local level constrains Pakistani Hindus whose first line of appeal and recognition is the local Foreigner Registration Office.

While the international refugee regime’s expectations of refugeeness may in part constrain Pakistani Hindus, advocacy organizations recognize the power of the regime to confer socio-legal benefits. Local organizations like UJAS appeal to the UNHCR to recognize Pakistani Hindus as refugees. One
organization that UJAS receives funding from is a diasporic Hindu nationalist organization: the HAF. Since 2005, HAF has released an annual human rights report on Hindus in South Asia and the diaspora. The foundation functions as a powerful advocacy organization that ‘interacts with and educates government, media, think tanks, academia and public forums about Hinduism and issues of concern to Hindus locally and globally’ (HAF 2005: iii). HAF seeks to consolidate Hindu identification and situate Hindu suffering as an object of human rights concern. The foregrounding of religious identification as the primary basis on which Pakistani refugees are persecuted obscures the salience of class, gender and other factors that play a role in discrimination and motivations for resettlement. Further, the enrolling of Dalits or Scheduled Castes and Tribes into an overarching Hindu identification elides caste difference and oppression.

HAF issues annual human rights reports on the status of Hindus worldwide. These reports are circulated among government offices and NGOs in the United States and India. The stated objective of their annual report is ‘to subject ... human rights violations to regular scrutiny, which the fate of these communities surely deserve’ (HAF 2005: 1). Pakistan, for having ‘either engaged in or allowed rampant and systematic human rights violations to take place against their minority Hindu populations’, is categorized an ‘Egregious Violator’ alongside Afghanistan, Bangladesh and Malaysia.

After outlining a given country’s transgressions of the human rights of Hindus, HAF’s reports make appeals and prescriptions to India and America for greater protection and refuge. These reports are circulated among an international network of NGOs, think tanks, philanthropists, elected representatives in the United States and India, and legal advocates. HAF has also formally appealed to the UNHCR to conduct refugee status determination for Pakistani Hindus in India.

The front matter of each report cites the quote ‘All human beings are born free and equal in dignity and rights’, from the Universal Declaration of Human Rights, 1948, Article 1. In addition to this universalistic claim, HAF’s appeal to the rights of all humans is made in the language of particularistic rights and group identification. The discursive banner of international human rights is premised on the liberal notion of an autonomous individual and offers moral principles that aim to safeguard a set of inalienable rights inherent to all individuals irrespective of any group or other collective status markers (Kapur 2006).

In 2013, HAF conducted a fact-finding mission with a team of medical doctors in Jodhpur to assess the situation of Pakistani Hindus. The following year, HAF published ‘Victims of History: The Untold Story of Pakistani Hindu Refugees in India’—a 20-page human-rights report focusing on Pakistani Hindus in India specifically (HAF 2013). A HAF video accompanying the report emphasizes the forced religious conversions as a violation of women’s human rights in Pakistan. This report was shared publicly as part of a campaign to raise awareness and funds for Pakistani Hindu relief efforts in
Jodhpur. This special report enumerates statistics and individual testimonials about the oppression that Hindus face in Pakistan and the difficulties of seeking refuge in India. HAF cites Pakistani Hindus’ fulfilment of the international refugee regime’s criteria and appeals to the UNHCR to afford refugee recognition to Pakistani Hindus in spite of India’s non-signatory status. Citing India’s past conferral of refugee status to Pakistani Hindus after wars with Pakistan in 1965 and 1971, HAF appeals to India to do the same for recent refugees. Tactically appealing to both the South Asia refugee regime and the international refugee regime, HAF makes appeals for the fair treatment of refugees on the basis of their religious identification as Hindus, as well as their universal humanity.

Classification Struggles at the Interface of Multiple Refugee Regimes

Pakistani Hindu advocacy organizations have to make tactical choices about how to frame their appeals. The organization UJAS, in particular, has to navigate between presenting the organization specifically as a Hindu advocacy organization or a broader human rights organization. Mr Hindu Singh Sodha, the director of UJAS, thinks carefully about when and where to emphasize the Hindu identification of Pakistani Hindus in India. As he explained in an interview, while an emphasis on Hindu plight mobilizes right-wing resources, it also alienates progressives who are keen to distance themselves from any Hindu-specific causes. Appealing to donors on the basis of Hindu suffering attracts a wide international network of Hindu donors but deters secular and progressive donors that are wary of being considered sympathetic to Hindu causes given the political backdrop of rising Hindu supremacy movements in India. Nonetheless, it is precisely an appeal to Hindu suffering that has generated right-wing political interest in the issue, even motivating the ruling party to enact legislation allowing Pakistani Hindus special visa and residence options on the basis of their persecuted religious minority status.

This section examines how Pakistani Hindu claims to refugee status are interfaced across multiple regimes. An attention to interfaces shows how Pakistani Hindu claims to refugee status are situated in multiple regimes, and sheds light on the opportunities and challenges that arise as a result. Interface as a conceptual term captures the generative meeting points of plural socio-legal orders and allows us to grasp the problems of making refugee claims that are shaped by multiple refugee regimes. For example, as we saw in the previous section, the operative tension in HAF’s work is a conflicted project of universalism that employs a language of exceptionalism and emphasizes Hindu suffering. Though human rights discourse aims to transcend the vagaries of state–citizen relations and seeks to codify rights outside of the state–citizen rubric, HAF’s appeals specifically to India to formally accept and grant refuge to Pakistani Hindus are premised on an ideological Hindu–India linkage.
An attention to the interfaces between plural orders, in this case two refugee regimes, serves to foreground socio-legal space as heterogeneous and complex. An attention to interfaces complicates conceptualizations of plural socio-legal orders as stratified (Ferguson and Gupta 2002); rather, multiple socio-legal orders interface with each other in inextricable, imbricated ways. Sally Merry (1992, 2006) conceptualizes the precise mechanisms through which subalterns may utilize the intersections of plural socio-legal orders in their struggles for social justice and enfranchisement. Merry’s notion of the ‘global local interface’ challenges conventional narratives of globalization as a top-down and totalizing initiative. Global human rights discourses offer a resource to social movements through creating a space of reform using a language of standards that is legitimated through a global consensus. Local actors may use human rights vocabulary to render themselves legible on a global stage, which may yield material benefits especially given the current international funding landscape for NGOs. Merry argues that the human rights discourse creates a space of reform using language legitimated by a global consensus on basic life standards. As such, HAF’s reports are useful for Pakistani Hindus to make appeals to the Indian state and make claims under international refugee covenants. The reports help to solicit donations from diasporic Hindus to support UJAS’s local initiatives with Pakistani Hindus in Jodhpur. But HAF’s selective invocation of global human rights for persecuted Hindus eclipses other forms of solidarity in local contexts. HAF’s emphasis on identification as persecuted Hindus as the organizing principle for solidarity foregrounds victimhood in stark religious terms over other collective modes of identity such as caste or class.

In spite of their efforts to claim refugee status from the Indian state and the UNHCR, neither Pakistani Hindus nor their advocacy organizations in India have been able to fully obtain recognition as refugees and the material benefits this status confers.

Though the central Indian government has issued several executive notices announcing special policies of accommodation for Pakistani Hindus, local officials often cite the lack of state and district-level authorization notices as reasons they cannot implement central orders. Pakistani Hindus in Jodhpur are currently concentrated in 17 settlements across the city. Eight of these are semi-permanent squatter settlements on the outskirts of the city and do not have running water or electricity. The settlements closer to the city centre are inhabited by higher-caste Pakistani Hindus. Pakistani Hindus without Indian citizenship cannot own property in India and employ agents and relatives to mediate purchases. Pakistanis across all the settlements in Jodhpur continue to wait for access to basic services they are technically eligible for on the basis of their persecuted minority status, such as admission to government schools. Despite having fulfilled the seven-year criteria for naturalization, many Pakistani Hindus end up waiting for India citizenship for over 15 years. During the waiting period, Pakistani nationality prevents them from receiving an official Caste Certificate, opening bank accounts,
legally acquiring cooking gas cylinders, purchasing property and moving outside of the permitted Indian locales listed on their visas, among other restrictions. The refugee label is not only descriptive, but also constructive of refugee experience and expression.

Robert Zetter’s (1991, 2007) analysis of the complex and contradictory process of ‘refugee labelling’ in this Journal is useful for understanding how claims to refugee status at the interfaces of multiple regimes both open and foreclose opportunities. Refugee labels are reductive superimpositions that subjects grapple with as they seek to fulfil various eligibility criteria. While Zetter (2007) contends that a proliferation of refugee labels within the coherent and overarching international refugee regime has yielded more exclusions, this article’s examination of the variations in refugee labels across two refugee regimes also points to how plural taxonomies may continue to restrict rather than expand eligibility. Thus, while a proliferation of refugee taxonomies offers more options for recognition strategies, it does not in itself yield enhanced recourse or recognition for refugee claimants.

Conclusion

An attention to interfaces between the international refugee regime and regional South Asian refugee regime reveals that Pakistani Hindu claims to refugeehood are situated across multiple refugee regimes with mixed consequences. It also illuminates larger questions pertaining to forced migration in Asia, more broadly. Shifting borders and rising nationalisms in the region continue to generate refugee populations who return to live with co-ethnics in a home country that they never themselves left (Ho 2013). While the expansive international refugee regime shapes refugee discourse worldwide, regional refugee regimes provide alternative templates for refugee recognition. Interfaces between regimes generate challenges for refugee claimants. Pakistani Hindus are unable to fully satisfy the conditions of either regime’s mode of what Derrida (2005) has called ‘conditional hospitality’, that is the political dimension of hospitality, that is the institutional arrangements and judicial ideologies that shape distinctions between guests and hosts (Brun 2010: 341). Pakistani Hindus’ emphasis on Hindu identification draws on a Partition-era South Asian refugee regime for making a claim to entitled residence in India that situates them as assertive, strategic subjects in the eyes of local immigration officials. Though a language of refugee protections and human rights violations appeals to international audiences and donors, it fosters suspicion among local immigration officers. Furthermore, while the South Asian regional refugee regime offers Pakistani nationals a pathway into India through Hindu identification, the regional template has limited parameters for refugee recognition. For example, the Indian state’s emphasis that suffering be narrated chiefly in terms of religious persecution obscures other forms of marginalization that Pakistani Hindus face, such as caste and economic oppression.
Besides the fact that multiple options do not mean multiple good options, how might a plurality of choices operate to tire out or immobilize subalterns while also making it difficult to consolidate their limited resources towards taking action in a contained or single arena? This article has pointed to the ways in which pluralization of authority and regulation does not yield enhanced recognition or recourse. Pakistani Hindus and their advocacy organizations have the criteria of two regimes on which to base their refugee claims. They appeal to and invoke the international refugee regime and the Partition-era South Asian refugee regime. Global human rights and refugee discourses present an opening to articulate struggles on an international register. The Partition-era South Asia refugee regime also shapes contemporary claims of Pakistani Hindu belonging in India.

Contrary to what immigration officials think and how socio-legal scholars have predominantly theorized the choices that legal pluralities generate, more options are not necessarily helpful and choices come with various compromises. While the ‘refugee label’ offers potential access to broader global and regional discourses of refugee rights, at the local level, it may encumber Pakistani Hindus and their advocates with the burden of performing and proving victimhood for sympathy to scrutinizing officers who are in charge of filing registration papers. In Jodhpur, locals wonder whether Pakistani Hindus are ‘really’ refugees or ‘just’ migrants—a taxonomy that does not capture the complexity of refugee migration and the continuum of forced and voluntary migration. As Pakistani Hindus and their advocates juggle expectations of what constitutes a good refugee at the interface of multiple refugee regimes, they do not fully comply with either regime’s configurations of refugeeness, ending up neither here nor there.

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