

Terms of Reference (ToRs)
Review of Data Protection Legal and Policy Framework for the
Chief Commissionerate for Afghan Refugees
Individual Consultant

1. Background

Pakistan has had a protracted refugee situation since 1979 and is currently hosting 1.435 million Afghan refugees, of which nearly half are women. This is in addition more than 0.8 million undocumented Afghans. The Government of Pakistan (GoP) has been successfully facilitating the voluntary repatriation of Afghan refugees.

Pakistan does not currently have a data protection act. In the absence of this legislation, the Chief Commissionariate for Afghan Refugee (CCAR) would like to review the policies, procedures and practices applied to the management of data on refugees and asylum seekers. to ensure that is it managed according to the existing laws of Pakistan governing citizen's data protection and suggest recommendations to ensure that refugee data protection is aligned with the recommendations of the data protection Act currently under discussion.

2. Objective

The primary objective of this consultancy is to review the existing data protection legal and policy framework of CCAR applicable to treatment of personal data of refugees and making recommendations for addressing gaps identified therein. The review should identify key procedural and policy gaps, propose revisions regarding the management and protection of data related to refugees and recommend actions to ensure alignment with the needs of Afghan refugees and compliance with national obligations and policies proposed under the draft data protection Act.

3. Overview of CCAR and CARs

The Chief Commissionerate for Afghan Refugees (CCAR) is primarily responsible for the protection, registering and documentation of Afghan refugees; managing the administration of refugees, coordinating with international humanitarian and development agencies to provide essential services, and develop policies in collaboration with relevant stakeholders. CCAR acts as the central authority on all Afghan refugee-related matters in Pakistan, offering guidance and direction to the provincial Commissionerate (CARs) and ensuring a consistent approach to refugee management across the country.

At the provincial level, CARs serve as the operational extensions of CCAR. They manage the refugees within their respective provinces, coordinate with local authorities to ensure that refugees living in and outside Refugee villages, have access to essential services and implement the policies and programs developed by CCAR. CARs also play a crucial role in maintaining communication between the refugees and CCAR, ensuring that the needs and concerns of the refugee population are effectively addressed.

The data was collected through the DRIVE (Document Renewal and Information Verification Exercise) in 2022, which was conducted by the Government of Pakistan (GoP), CCAR and UNHCR. The data is stored in a centralized database managed by the Government of Pakistan, specifically National Database and Registration Authority (NADRA). This database

is tightly controlled and typically granted only to select government agencies and international organizations under specific legal or operational frameworks, such as; CCAR, UNHCR, MOI and FIA.

The data confidentiality and protection is ensured through the following clauses:

- i. MoU signed between Islamic Republic of Pakistan and UNHCR in 2006 on Registration of Afghan Citizens living in Pakistan According to Para 6.2 of the MoU signed between Islamic Republic of Pakistan and UNHCR in 2006 on Registration of Afghan Citizens living in Pakistan, both parties undertake to protect the data gathered at all stages of the registration exercise in accordance with the internationally accepted principles of confidentiality. The UNHCR will always have unhindered access to the data.
- ii. Agreement on the Documentation of Undocumented Afghans Living in Pakistan - 2017
According to Para 20 of the agreement signed between M/o SAFRON and NADRA on May 11, 2017, on “the documentation of undocumented Afghans living in Pakistan”, the element of confidentiality and data secrecy stands intact. It states, “all matters pertaining hereto including the data of the citizens in general and the Afghan citizens in specific shall be considered as confidential and shall not be disclosed to any third party without prior mutual agreement.
- iii. DRIVE Exercise: During DRIVE exercise, the element of secrecy and confidentiality has been extended priority. The data gathered during recent DRIVE exercise is secured with NADRA. Since the data is highly sensitive, therefore data is in custody of NADRA (being national repository) on behalf of CCAR to ensure data protection safeguards.

The CCAR extracts information from NADRA on a case-to-case basis as needed as NADRA is the custodian of data.

4. Scope of Work

The consultant will be required to:

1. Review existing data protection framework applicable to treatment of personal data of refugees, and policies governing CCAR and CARs’ operations, including GoP laws.
2. Assess institutional structures and functions of institutions that have a role in collecting, managing and accessing data of Afghan refugees. This includes, amongst others, NADRA, CCAR, CAR, UNHCR.
3. Review the processes by which refugee data is collected, stored, managed and accessed.
4. Review the flow of data from NADRA to CCAR and CARs and identify the gaps in maintaining confidentiality and privacy.
5. Identify gaps and inconsistencies in the data protection framework concerning personal data of refugees particularly in relation to prevailing and draft legislation on data protection in Pakistan.
6. Consult with relevant stakeholders, including IOM and UNHCR, to gather insights on existing challenges and practices regarding data protection.
7. Propose recommendations for data protection to address gaps and improve efficiency in the collection, management and protection of refugee data.
8. Review of the existing documents available regarding data processing/protection.

9. Propose to streamline the information flow of data to CCAR and CARs from NADRA with data protection.
10. Prepare and present a draft report for consultation with Government and other stakeholders
11. Prepare and present a final report summarizing the findings, analysis, and recommendations.

5. Deliverables

The consultant will provide the following deliverables:

- i. **Inception Report:** Detailed work plan, methodology and timelines for the review (within two weeks of contract signing).
Stakeholder Consultation Report: Summary of consultations with stakeholders and key insights gathered.
- ii. **Draft Data Protection Review Report:** Analysis of gaps, proposed reforms/actions, and draft amendments to relevant policies
- iii. **Final Data Protection Review Report:** Incorporating feedback from CCAR and CARs' and relevant stakeholders, including actionable recommendations and detailed proposals for data protection framework improvements.

6. Duration of the Assignment

The duration of the consultancy shall be 75 days from the date of signing the contract agreement.

7. Deliverable-based Payment Schedule

Project Phase	Key Deliverables	Days	Payment (%)
Inception phase	Project kickoff, review of existing policies, work plan development	10 days	20%
Stakeholder consultations and fieldwork	Engagement with key stakeholders, data collection, field visits, preliminary analysis	25 days	20%
Draft report preparation	Development of draft data policy framework, internal review, submission of draft	25 days	30%
Review and finalization	Incorporation of feedback, final report delivery, presentation to stakeholders	15 days	30%
	Total	75 days	100%

The price of the Contract will be inclusive of the applicable taxes.

Penalties and Contract Termination: A penalty of 0.01% per day, up to a maximum of 2% of contract value, shall be imposed for delays.

SIRA-CCAR reserves the right to terminate the contract in case of:

- Non-compliance with contract terms
- Failure to deliver within the agreed timeline
- Fraud, corruption, or misrepresentation

- Leaking of the official data or officers' / officials' data.

8. Qualification and Experience

The consultant should possess the following qualifications and experience:

- i. A Master's degree in law, public policy, cybersecurity, or Ph.D. in Legal Studies/Bar at Law, Development Economics, Political Science, Statistics or any relevant subject.
- ii. Master's with 10 years of post-qualification experience in data protection analysis or PhD with 5 years of post-qualification experience in data protection analysis.
- iii. Consultant should have demonstrated experience working on or support/technical assistance to Pakistan's government system,
- iv. Demonstrated experience in legal and policy analysis, particularly in data protection and privacy laws.
- v. Consultant should have Knowledge of Relevant Laws – Familiarity with national and international data protection regulations such as GDPR, Pakistan's Personal Data Protection Bill, and other relevant frameworks
- vi. Proven experience in conducting similar reviews for government, public sector or international organizations.
- vii. Excellent research, analytical, and report-writing skills.
- viii. Prior experience working as an independent consultant or with government agencies on legal and policy matters
- ix. Strong interpersonal and communication skills, with the ability to engage effectively with diverse stakeholders.
- x. Familiarity with other international examples of refugee data protection systems.

9. Reporting

The consultant will report to the Project Director - SIRA.