



Islamic Republic of Afghanistan

Policy Framework for Returnees and IDPs



Final Version: 1st March 2017

I. OVERVIEW

1. Since July 2016, more than 570,000 registered and undocumented Afghans have returned from Pakistan, a large majority of whom (roughly 30 per cent of registered refugees and 80 per cent of undocumented returnees) stated their intention of spending the winter of 2016/17 in Nangarhar province. Jalalabad, the provincial capital of Nangarhar, has received an estimated 200,000 returnees. Other provincial capitals with high numbers of returnees include Kabul, Pule-e-Khumri and Kunduz¹.
2. The number of undocumented returnees arriving from Iran has also grown in 2016 compared to previous years, with over 410,000 arrivals. Following a review of their claims, the EU also has started to return Afghans who are found not to be in need of international protection.
3. The prognosis for 2017 is that around 1.7 million Afghans will be on the move, including an estimated 12,000 Afghans returning from Germany alone, following the Joint Way Forward declaration between Afghanistan and the EU, as well as other bilateral agreements concluded with EU member states after the Brussels Conference in October 2016.
4. As at mid-December 2016, more than 530,000 individuals have been internally displaced due to conflict. After years of continuously ascending trends, 2016 marks a record high figure. Thus 31 out of Afghanistan's 34 provinces are generating internally displaced persons (IDPs), while all provinces of Afghanistan are hosting displaced populations. Following the trend from 2015, the North-East and Southern regions are at the forefront of the humanitarian crisis, accounting for more than 67.5 per cent of new conflict-induced IDPs². New displacements during 2016 add to the substantial numbers of IDPs in more prolonged or even protracted situations, some having been displaced for more than 15-20 years and in need of lasting solutions.
5. Planning for the successful return of refugees and migrants, and responding to the needs of IDPs, is first and foremost a humanitarian and constitutional concern, but absorbing over one million returnees and IDPs poses severe economic and political risks if not handled properly. Therefore, longer-term development interventions alongside humanitarian ones are needed to facilitate durable solutions for both returnees and displaced populations. As noted in the Afghanistan National Peace and Development Framework (ANPDF), well-planned and managed settlement and

¹ Of those who have returned to Nangarhar province, inter-agency needs assessments show that as many as 52 per cent are living in rented housing, which has caused a sharp increase in rents in some areas. As resources are rapidly depleted and debt burdens grow, the expectation of intensified secondary movements will increase correspondingly

² <https://www.humanitarianresponse.info/en/operations/afghanistan/idps>

re-integration will bring in skills, create new linkages to labour and export markets, and provide valuable lessons in management and nation-building.

6. The goal of the National Unity Government (NUG) is to ensure that returnees and IDPs receive decent and humane treatment in line with their constitutional rights as citizens of Afghanistan, enabling them to become productive and well-integrated members of their communities. The basic framework for the sustainable integration of returnees and IDPs takes place in three stages, with long-term actions needing to be planned in parallel to the humanitarian intervention. In the first humanitarian stage, consideration must be given to issues such as the proper identification of returnees and IDPs, assessments of their needs and intentions and the determination of their entitlements, initially as a provision of emergency support. In the second stage, when returnees and IDPs join existing or new communities or return to their places of origin, efforts must be made to receive them, and planning must encompass host areas and offset the burden on local services. The third stage shifts to a focus on livelihoods, employment and integration with the surrounding host communities, markets and government support.
7. In planning, the Government recognises that it is dealing with three distinct categories of vulnerable people: returnees from the region (Iran and Pakistan), returnees from Europe, and IDPs. For ease of reference, both categories of returnees are referred to as 'returnees' in this Policy Framework.

Rationale

8. The surge in refugee returns from Iran, Pakistan and Europe, coupled with the numbers of IDPs, have placed enormous stress on existing humanitarian resources. Therefore, the Government has agreed on a holistic and non-fragmented response to address the crisis in terms of current returnees and the protracted IDPs. The Government acknowledges the need for a coordinated response in the short, medium and long term, and proposes to do so at the highest level through this Policy Framework, led by the Office of the Chief Executive (OCE).

II. POLICY FRAMEWORK FOR RETURNEES AND IDPs

Basis for the Policy Framework

9. This Policy Framework is prepared to cover the specific needs and interventions in Afghanistan on issues of refugees and IDPs, including those who continue to remain displaced within the country. This Policy Framework takes into account the National Policy on Internally Displaced Persons, endorsed in 2013, which provides a basis for achieving durable solutions for IDP populations in Afghanistan, and the Comprehensive Voluntary Repatriation and Reintegration Strategy, approved by the Government in 2015.

10. This Policy Framework is intended to be applicable to all Government ministries and agencies, and to all actors operating within Afghanistan. In addition, this Policy Framework is intended to be compatible with the Government's obligations and commitments under applicable international agreements and conventions with regard to Afghan returnees and IDPs.
11. The foundation of this Policy Framework is the Constitution of Afghanistan, especially but not exclusively the following Articles and clauses:

Article Four, Ch. 1, Art. 4

The nation of Afghanistan consists of all individuals who are the citizens of Afghanistan.

No member of the nation can be deprived of his citizenship of Afghanistan. Affairs related to citizenship and asylum are regulated by law.

Article Six, Ch. 1, Art. 6

The state is obliged to create a prosperous and progressive society based on social justice, protection of human dignity, protection of human rights, realization of democracy, and to ensure national unity and equality among all ethnic groups and tribes and to provide for balanced development in all areas of the country.

Article Twenty-Two, Ch. 2, Art. 1

Any kind of discrimination and privilege between the citizens of Afghanistan are prohibited. The citizens of Afghanistan – whether men or women – have equal rights and duties before the law

Article Thirty-Nine

Every Afghan shall have the right to travel and settle in any part of the country, except in areas forbidden by law. Every Afghan shall have the right to travel outside Afghanistan and return, according to the provisions of the law. The state shall protect the rights of citizens of Afghanistan outside the country.

Policy Objectives

12. The objective of the Afghan Government's Policy Framework for returnees and IDPs is to ensure their safe and successful re-integration into the social and economic fabric of Afghanistan. The Government's aim is to minimize the time returnees and IDPs spend in transitional arrangements, and to encourage their active participation in the identification of long term, sustainable solutions that promote their self-reliance and development. Afghan citizens returning from other countries are a valuable source of knowledge, experience and skills able to contribute to the development of the country; this Policy Framework aims at drawing on and realising that potential.

13. Returnees and IDPs should be assisted to find productive employment as rapidly as possible. There is to be no distinction between returnees, IDPs and other citizens with respect to their rights to public services, legal protection, or participation in Afghanistan's political and electoral institutions.
14. The lack of consistent documentation and registration systems in Afghanistan has been an enduring obstacle to the transparent, accountable provision of individual entitlement assistance in a context where fraud and corruption remain serious obstacles. Lack of identity documents is an issue that cuts across all categories of displacement and return. Modernization, innovation and policy reforms are urgently needed to facilitate the documentation process.
15. This Policy Framework also recognizes that large-scale resettlement poses social and economic burdens on host communities, especially given the record numbers of new returnees and IDPs. Host communities are faced with increased demands, especially on health and education services. For this reason, the Government aims through this Policy Framework to ensure that the impacts of returnees and IDPs on host communities are considered, especially when considering interventions to strengthen basic service provision for returnee and IDPs. Host communities should be assisted to absorb newcomer populations. In addition, after a brief transition period to resolve immediate humanitarian needs, there should be no perceptible difference in the degree or nature of treatment or support offered to resident communities and newly arrived families and individuals. Doing so is necessary to mitigate tensions and avoid stigmatization of returnees or IDPs.

Policy scope

16. This Policy Framework is intended to apply to all returnees who are determined to be citizens of Afghanistan and to internally displaced Afghans.
17. The basic principles governing returnee reintegration, set out below, are intended to apply to all Government institutions and to all local, national and international organisations and agencies operating in Afghanistan. The principles, technical standards, and systems for redress are intended to apply to national and international voluntary agencies, and to the private sector.

Basic principles

18. The Basic Principles of the Policy Framework are set out below:
 - a) A single Policy Framework will govern humanitarian and development assistance for returnees and IDPs.
 - b) Humanitarian assistance should transition to permanent solutions based on sustainable development as rapidly as possible.
 - c) 100 per cent registration for all undocumented returnees is to be provided at major border crossing points with Iran and Pakistan, on a fast-track basis.

- d) The reduction of any barriers to accessing basic services, including but not limited to education and health services, will also need to be fast-tracked, including the use of interim documentation measures, such as temporary occupancy certificates, where considered appropriate.
- e) The Government will provide facilitation services for those returnees willing to relocate or re-establish their businesses in Afghanistan.
- f) A “whole of community” approach should be followed wherever possible. According to resources available, this approach should include the host communities in definitions of eligibility for humanitarian and development assistance.
- g) Financial packages provided by national and international agencies and foreign governments must be calibrated at levels capable of being sustained for an agreed period of time. Financial packages must also be harmonized to the extent possible, taking into account the various existing modalities for assistance, to avoid inequities in treatment.
- h) Benefits for returnees and IDPs should distinguish between the legal entitlements being provided, and the longer-term investments that will materialize as part of the government’s long-term development programming.
- i) Building sustainable settlements for returnees and their hosts is the main means for absorbing resettlers and IDPs. Given the constraints on budget, land, and other resources, all options, including land allocation, land consolidation, rentals, and other means for supporting returnees should be explored.
- j) Land allocation will be a central contributor to the success of durable solutions, but land allocation and registration can only proceed following a proper identification of suitable and viable sites, according to established technical criteria; a verification of the land’s legal status by ARAZI (Tasfiya process); the land is free of mines and explosive remnant of war and the determination of clear and transparent eligibility criteria for the various categories of people of concern. Other processes to ensure security of tenure for returnees and IDPs, as well as the urban poor, should accompany land allocation. To do so, the Government will seek approval of the Law on Occupancy Certificates to recognise the specific needs of returnees and IDPs.
- k) Settled returnees and IDPs will be assisted to join local representative bodies such as Community Development Councils, Ghobar and Nahia assemblies, and other models of local self-government. The CDC Law provides the legal basis for CDCs and Ghobar assemblies to include representation from returnees and IDPs.

III. OVERSIGHT AND MANAGEMENT OF POLICY IMPLEMENTATION

19. The Government, through the Cabinet and Council of Ministers, will manage implementation of this Policy Framework as follows:

- a) **The High Migration Council**, chaired by the President of Afghanistan, is the apex body for defining national policy and resolving issues of policy interpretation and updating.
- b) **Council of Ministers' Sub-Committee on Migration Affairs**. The Chief Executive will lead the Government's short, medium and long-term response efforts on returnees and IDPs through the **Council of Ministers' Sub-Committee on Migration Affairs**. The Sub-Committee will be the main decision-making body on operational issues relating to returnees and IDPs. The Secretariat of the Sub-Committee will be provided by the Ministry of Refugees and Repatriation (MoRR).
- c) **Displacement and Return Executive Committee (DiREC)**. DiREC will lead and oversee the implementation of this Policy Framework, which will be chaired jointly by nominated representatives from the Office of Chief Executive (OCE), Ministry of Refugees and Repatriations (MoRR), and the United Nations Assistance Mission to Afghanistan (UNAMA). Membership of DiREC will comprise nominated representatives from: the Office of the President, the OCE, MoRR, UNAMA, the National Security Council, the Ministry of Finance, the Office of the State Minister for Disaster Management and Humanitarian Affairs, ARAZI, the World Bank, UNHCR, IOM and OCHA. DiREC will provide fortnightly reports to the Cabinet, the High Migration Council, the Council of Ministers' Sub-Committee on Migration Affairs on crucial returnee issues in the country. A Coordination and Oversight Unit will support DiREC.
- d) **DiREC Working Groups**: Three working groups addressing policy, technical and financial support issues will support DiREC. Membership in the working groups will vary depending on the issues at hand.
 - i) **Policy Support Group**: The Policy Support Group will comprise representatives of the Office of the President, National Security Council, OCE, MoRR, , ARAZI, UNHCR, IOM and OCHA. The Policy Support Group will be co-chaired by representatives from the Office of the National Security Advisor and UNHCR. The Policy Support Group will produce policy inputs and recommendations to DiREC and be responsible for providing a summary overview of gaps between existing legislation and directives, based on the functional requirements of current circumstances; define the populations to whom the policy inputs and recommendations should apply; provide policy

analysis briefings on patterns, trends, forecasts, and susceptibility issues derived from migration-related information and data collected by national and international agencies.

- ii) **Technical Support Group:** The Technical Support Group will comprise representatives of the Office of the President, OCE, MoRR, the Ministries of Finance, Interior Affairs, Rural Rehabilitation & Development, Agriculture, Irrigation & Livestock, Labour, Social Affairs, Martyrs & Disabled, Urban Development Affairs, Education, and Public Health, the Office of the State Minister for Disaster Management and Humanitarian Affairs, the Independent Directorate for Local Governance, ARAZI, CRIDA, UNAMA, UNHCR, IOM, OCHA, UN Habitat and the World Bank. It will be co-chaired by representatives from the Office of the President and ARAZI. The purpose of the Technical Support Group is to provide guidance on the technical standards and instruments to be used for the resettlement at each of the three crucial stages. Technical standards and instruments recommended by the Group will be based on research, analysis and contextualized to the current situation.
- iii) **Financing Support Group:** The Financing Support Group will comprise representatives of the Office of the President, Ministry of Finance, MoRR, World Bank, UNAMA and UNHCR. It will be co-chaired by MoF and the World Bank. The Financing Support Group will catalogue existing resources that may be available to support immediate, medium- and long-term response needs; identify policy decisions and actions required to access available resources; prepare DiREC mechanisms to help the Policy and Technical Support Groups to cost proposals and calculate aggregate financing needs, with appropriate classifications for humanitarian and redevelopment programming as well as on- and off-budget support.

IV CORE FOCUS AREAS

20. The National Policy on Internally Displaced Persons and the Comprehensive Voluntary Repatriation and Reintegration Strategy are key guides for Government action. Based on recommendations received from the consultative processes to date, the three DiREC Support Groups will focus on the following core areas for protection, assistance and sustainable solutions to returnees and displaced populations:

- a) The facilitated repatriation of documented returnees from Pakistan has been temporarily halted for the winter period since 16 December 2016 until 1 March 2017. The prognosis is that the process of return will then restart. However, a small number of undocumented refugees might arrive during the pause, as well as limited numbers of refugees from Iran. A financially sustainable assistance package is needed covering all categories of returnees.

- b) Analysis is needed of current settlement patterns of returnees, including improvements to the registration of new arrivals at Afghanistan's borders. Development of a clear methodology of identification of returnees and their integration is required. Moreover, technical assessments of the demand on public services is required by tracking mechanisms to enable the identification of final settlements and secondary movements.
- c) Winterization coordination between humanitarian agencies and the Government, clarifying (and where needed defining) the roles and responsibilities of all humanitarian actors, establishing institutional structures at local and national levels in line with applicable policies and laws, and implementing both emergency and durable solutions. MoRR and ANDMA, as part of the Office of the State Minister for Disaster Management and Humanitarian Affairs, have designed winterization plans that have been presented to the Council of Ministers. If approved, both bodies will act and coordinate their plans with relevant international agencies.
- d) Other priorities include:
 - i) Improving the registration and documentation of all returnees through digital registration, rapid and transparent access to tazkeras, accepting alternate documentation for quick access to educational institutions for returnee children, promoting birth registration, electronic IDs, etc.
 - ii) Addressing land allocation and security of tenure through viable site selection criteria, clear eligibility/prioritization criteria for target groups to apply for land, land tenure security, Law of Occupancy Certificates, upgrading irregular settlements on non-contested land, affordable social housing options, transitional shelters, formal transfers of land titles, and expansion of service delivery to these areas.
- e) Access to education and representation in community-based decision making structures:
 - i) Access to education for returnee students through acceptance of alternate documentation for quick school admissions, waivers for certification fees for educational documents, registration of refugee schools in Pakistan and Iran, recognition of credentials of returnee teachers/professors, etc.
 - ii) Enhancing representation in community-based decision making structures through allocation of a fixed percentage of urban CDCs to informal settlements with high number of IDPs and/or returnees, provision of a legal basis for representation of newly arrived returnees and/or IDPs in CDCs and Ghozars, ensuring IDPs' and returnees' representatives are included in city governance structures and municipal advisory boards, ensuring the right to information for all citizens on services, including and especially IDPs and/or returnees.

- f) Improving returnee access to livelihoods and jobs through socio-economic baselines, market assessment, institutional mapping, Jobs for Peace initiatives, facilitated access to labour markets and an enabling environment for livelihoods in the host/return area.

V. MONITORING, CITIZEN FEEDBACK AND REPORTING

- 21. The Government will establish an inter-agency monitoring cell under the authority of the DiREC whose purpose is to collate information on the progress of the settlement operation. This body will have final jurisdiction over the accuracy of information.
- 22. MoRR will be responsible for recording information on the progress of the humanitarian effort, and provide a fortnightly progress report to the DiREC.

VI. REVISIONS TO THE POLICY FRAMEWORK

- 23. All three Support Groups will regularly collect, compile and analyse field implementation data in their respective areas to review what changes may be required in the Policy Framework. These will be shared with the DiREC, who in turn will make the required amendments, following consultations with the Cabinet.
- 24. This Policy Framework will be implemented after adoption by Cabinet. The Policy will be reviewed and adjusted as necessary to better prepare for support to returnees and IDPs from 2018 onwards.
- 25. Following adoption of the policy by Cabinet, an Implementation Plan will be developed for agreement.