



# National Unity Government of Islamic Republic Afghanistan

## Ministry of Refugee and Repatriation

### Policy Framework for Returnees and IDPs

(27 December 2016)



## **I. OVERVIEW**

1. Since July 2016, more than 570,000 registered and undocumented Afghans have returned from Pakistan, a large majority of whom state their intention to spending the winter in Nangarhar province, (this is roughly 30 per cent of registered refugees and 80 per cent of undocumented returnees). 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 Kunduz.<sup>1</sup>
2. The number of undocumented returnees arriving from Iran has also grown in 2016 compared to previous years with over 410,000 arrivals. The EU also has started to return Afghans who are found not to be in need of international protection following a review of their claims.
3. The prognosis for 2017 is that around 1.7 million Afghans will be on the move, including an estimated return of 12,000 Afghans 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. By mid-December 2016, more than 530,000 individuals have been internally displaced due to conflict. After years of continuously ascending trends, the year 2016 marks a new record-high figure. Hence 31 out of 34 Provinces are producing IDPs, while all Provinces of Afghanistan are hosting displaced populations. Following similar trends as in 2015, the North-East and Southern regions are at the forefront of the humanitarian crisis, accounting for more than 67.5% of new conflict-induced IDPs.<sup>2</sup> The 2016 new displacement adds to substantial numbers of IDPs in more prolonged or even protracted situations, some of them having been displaced for more than 15-20 years and in need of lasting solutions.
5. Planning for the refugees' and migrants' successful return and the response to the needs of internally displaced populations 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 interventions are needed to facilitate durable solutions for returnees and displaced populations. By contrast, as noted in the Afghanistan National Peace and Development Framework (ANPDF), well-planned and managed settlement and re-integration will bring in skills, create new linkages to labor and export markets, and provide valuable lessons in management and nation-building.
6. The National Unity Government's (NUG) goal is to ensure that returnees and IDPs receive decent and humane treatment in line with their constitutional rights as citizens of Afghanistan that will enable them to become productive and well-integrated members of their community. The basic framework for returnees' and IDPs' sustainable integration follows three overall stages, while long-term actions need 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, the assessment 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 so planning must encompass host areas and offset the burden on local services.

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<sup>1</sup> 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 for intensified secondary movements will increase correspondingly

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

The third stage shifts to a focus on livelihoods, employment and integration with the surrounding host communities, markets and government support.

7. Basically we are 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 (region and Europe) of returnees are jointly referred to as “returnees” in this Policy paper.

## **Rationale**

8. The surge in refugee returns from Iran, Pakistan and Europe coupled with IDPs have placed enormous stress on the existing humanitarian resources. Therefore, the (NUG) leadership agreed on a holistic and non-fragmented response in addressing the current returnee and the protracted IDPs crisis. The NUG acknowledged the need for a coordinated response at the highest level led by the Office of the Chief Executive (OCE) over a short, medium and long-term through this policy.

## **II. POLICY FOR RETURNEES AND IDPs**

### **Basis for the Returnees Policy**

9. This policy is prepared to cover the specific needs and interventions in Afghanistan on issues of refugees and IDPs, including who continue to remain displaced within the country. This policy will take into account the National Policy on Internally Displaced Persons, endorsed in 2013, which provides a sound framework for achieving durable solutions for IDP populations in Afghanistan, and the Comprehensive Voluntary Repatriation and Re-Integration Strategy (CVRRS, 2015), approved by the Government. This policy applies on both the Government and to all actors within and outside the country dealing the government also abides by its international obligations with Afghan returnees and IDPs.
10. The foundation of this policy is the Constitution of Afghanistan, especially but not exclusively the following 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 the citizenship and asylum is 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 man or woman – 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**

11. The objective of the Afghan Government's policy for returnees and IDPs is to ensure their safe and successful re-integration into the social and economic fabric of Afghanistan. Government policy 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 who can contribute to the development of the country and this policy aims at tapping into that potential.
12. 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.
13. 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. Therefore, the policy recognizes that large-scale resettlement poses social and economic burdens on host communities. Due primarily to the scale of new returns and internally displaced populations, which now stands at its highest recorded level. Hosting communities are faced with an increased demand on social services such as clinics and schools. For this reason, the Government's policy is to ensure that the impact on host communities are considered, especially when considering interventions aimed at strengthening basic services for all returnee and IDP assistance. Host communities should be assisted to absorb newcomer populations and, after a brief humanitarian transition, there should not be a perceived difference in the levels of treatment and support in order to mitigate tension and avoid stigmatization of those returnees/ IDPs seen to be benefiting from humanitarian assistance.

## **Policy scope**

14. This policy framework will apply to all returnees who are determined to be citizens of Afghanistan and to internally displaced Afghans.
15. The policy principles governing returnee reintegration will apply to the Government institutions and to all national and international agencies operating in Afghanistan or from elsewhere for Afghanistan. The principles, technical standards, and systems for redress will also apply to national and international voluntary agencies, and to private sector.

## **Basic principles**

16. This policy is built on a number of basic operating principles:
  - a. A single policy framework will govern humanitarian and development assistance for returnees and IDPs. Humanitarian assistance should transition to permanent solutions based on sustainable development as rapidly as possible.
  - b. A 100 per cent registration for all undocumented returnees is to be provided at the major border crossing points with Iran and Pakistan.
  - c. Settlement will be orderly but based on principles of voluntariness,, but the returnees are encouraged to settle in their ancestral places.

- d. The provision of identity documentation and the reduction of any barrier to access basic services, including especially education and health but not limited to these, need to be fast-tracked. Interim documentation measures, such as temporary occupancy certificates, may need to be considered.
- e. Facilitation services to be provided by the Government for those returnees who are willing to move or reestablish their business to Afghanistan.
- f. A “whole of community” approach should be followed wherever possible, according to available means it should include the “hosts” in the definitions of eligibility for humanitarian and development assistance.
- g. Financial packages provided by national and international agencies and foreign governments will need to be recalibrated to levels that can be sustained. They must also be harmonized to the extent possible, taking into account the various existing modalities for assistance, to avoid inequities in treatment.
- h. Land allocation will be critical to the success of durable solutions. 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); and the determination of clear and transparent eligibility criteria for the various categories of people of concern. Land allocation should be also accompanied by other processes aimed at increasing security of tenure for displaced and returning populations, as well as urban poor, such as those foreseen by the Law on Occupancy Certificates, which should be rapidly approved and recognizing the specific needs of returnees and IDPs.
- i. Settlers will be assisted to join local representative bodies such as Community Development Councils, Ghozar and Nahia assemblies, and other forms of local self-government based on the CDC law, providing the legal basis for CDCs and Gozar assemblies to include representation from newly-arrived returnees and IDPs.

### **III. OVERSIGHT AND MANAGEMENT OF THE POLICY IMPLEMENTATION:**

The Government through Cabinet and Council of Ministers will manage implementation of this policy as follows:

1. **Council of Ministers Sub-Committee on Migration Affairs:** The Chief Executive (CE), is leading government short-, mid- and long-term response efforts on returnees and IDPs through the Council of Ministers’ Sub-Committee on Refugees Affairs. The secretariat of the subcommittee is provided by the MoRR. This is the main decision-making body on issues relating to returnees and IDPs.
2. The MoRR is basically providing the necessary support and secretariat function for the Council of Ministers’ Sub-Committee on Migration Affairs and MoRR is the leading implementer of all policies and strategy in this area.
3. **Displacement and Returnees Executive Committee (DiREC):** Assistance for implementing this policy is the main task of the Displacement and Returnees Executive Committee (DiREC), which is

chaired jointly by the MoRR, Office of the Chief Executive and UNAMA. It presides over three working groups that have respectively been established on policy, technical thematic issues and finance. The DiREC comprises the following: Office of the President, Office of the Chief Executive, MoRR, UNAMA, National Security Council, Ministry of Finance, ARAZI, World Bank, UNHCR, IOM and OCHA. The DiREC will provide bi-weekly status updates to Cabinet, Council of Ministers' Sub-Committee on Migration Affairs and to UNAMA on crucial and big picture returnee issues in the country. It will be supported by the following three support working groups: Policy Support, Technical and Financial.

4. **IDP and Returnee Coordination Unit:** The Coordination Unit will serve the entire structure of the Council – thus including the Displacement and Returnees Executive Committee and the Policy, Technical and Finance working group. It will provide policy advice, coordination and oversight support.
5. **Policy Support Group:** The Policy Support Group is formed by representatives of the Office of the President, The Office the Chief Executive, MoRR, National Security Council, MoFA, ARAZI, MoJ, UNHCR, IOM and OCHA. It will be co-chaired by Office of the National Security Advisor and UNHCR. The objective of the Policy Support Group is to produce policy inputs and recommendations to DREC. The working group will be responsible to: provide a summary overview of gaps between existing legislation and directives, based on the functional requirements of the current situation; define the populations to whom the draft policy inputs and recommendations apply. And provide policy analysis briefings to DiREC (on patterns, trends, forecasts, susceptibility issues) of migration-related information and data collected by national and international agencies.
6. **Technical Support Group:** The Technical Support Group is formed by representatives of the Office of the President, The Office the Chief Executive, MoRR, MoF, MoI, IDLG, MRRD, MAIL, MoLASMD, ARAZI, MUDA, CRIDA, MoE, MoPH, ANDMA, UNAMA, UNHCR, IOM, UN Habitat and World Bank. It will be co-chaired by Office of the President and ARAZI. The purpose of the technical group is to provide guidance on the technical standards and instruments to be used for the resettlement at each of the three crucial stages. The technical standards and instruments recommended by the group will be based on research, analysis and contextualized to the current situation.
7. **Financing Support Group:** The Financing Support Group is formed by representatives of the Ministry of Finance, MoRR, World Bank, UNAMA and UNHCR. It will be co-chaired by MoF and World Bank. The financing group will catalogue the currently existing resources that may be available to support immediate, medium- and long-term response needs; identify the policy decisions and actions required to access available resources; prepare DiREC mechanisms to help the policy and technical groups cost out 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:**

The Government's National IDP Policy and the Comprehensive Voluntary Repatriation and Reintegration Strategy are key policies and strategies to guide Government action. Based on recommendations received from the consultative processes to date, the working groups will focus on the following core areas for protection, assistance and sustainable solutions to returnees and displaced populations:

8. Facilitated repatriation of documented returnees from Pakistan has already temporarily halted due winter pause, effective from 16 Decembers. The winter pause is until 1 March 2017, and the prognosis is that the process of return will restart then. However, a small number of undocumented refugees might arrive during the pause. Moreover, refugees might continue arriving from Iran, but their numbers are not large enough. A financially-sustainable assistance package is needed for all categories of returnees.
9. Analysis of current settlement patterns of the returnees, including improvement of registration of new arrivals at the borders. Also development of a clear methodology of identification of returnees and their integration. Moreover, technical assessments of demand on public services is required by tracking mechanisms which enables identification of final settlements and secondary movement.
10. Winterization coordination between humanitarian agencies and the NUG, clarifying (and where needed defining) roles and responsibilities of each actor in the humanitarian response, establishing institutional structures at local and national levels in line with applicable policies and laws, and implementing the Emergency/ Durable Solutions. The MoRR and ANDMA has designed a winterization plans which was heard by Council of Ministers and if approved they will act and coordinate their plans with the relevant international agencies accordingly.
11. Improving registration and documentation of all returnees through digital registration, quick, easy and transparent access to tazkeras, accepting alternate documentation for quick access to educational institutions for returnee children, promoting birth registration, electronic IDs etc.
12. 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.
13. Access to education and representation in community-based decision making structures:
  - Access to education for returnee students through acceptance of alternate documentation for quick school admissions, waiver for certification fees for educational documents, registration of refugee schools in Pakistan and Iran, recognition of credentials of returnee teachers/professors, etc.
  - 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/returnees, provision of a legal basis for representation of newly arrived returnees/IDPs in CDCs/ GAs, ensuring IDPs/ returnees are part of city governance structures and municipal advisory boards, right to information for all citizens on services, including and especially IDPs/ returnees.
14. 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**

15. The NUG 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.

16. MoRR will be responsible for recording information on the progress of the humanitarian effort. They will provide a bi-weekly progress report to the DiREC.

**VI. REVISIONS TO THE POLICY FRAMEWORK**

17. All three support groups will regularly collect, compile and analyze field implementation data in their respective areas to review what changes are 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.
18. This policy after adoption by Council of Minister will be implemented. The policy will be reviewed and adjusted in the 3<sup>rd</sup> quarter of 2017 to better prepare for better support to returnees and IDPs in 2018 onwards.
19. The policy will be followed by an implementation plan.