



Return and displacement in Afghanistan

Discussion Paper

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Background

Recently, 5 reports have been published by international NGOs and human rights organisations on the dire situation for Afghan returnees and IDPs.¹ This paper provides a synthesis of the findings and recommendations of those reports which offer important, evidence-based insight into how to improve the situation in general and provide better policy responses to the protection and humanitarian assistance needs of Afghans being displaced or returning to their country.

Introduction

Last year, 30 out of Afghanistan's 34 provinces were affected by forced displacement. With unprecedented levels of returnees and internal displacement, the situation now constitutes a major humanitarian crisis. Hundreds of thousands of returnees risk joining the estimated 2 million IDPs already in the country. There is a disconnect in understanding the facts about the situation on the ground in Afghanistan and the policies and practices of governments receiving Afghan asylum seekers are therefore inappropriate. Increased forced and coerced returns by countries hosting Afghan asylum seekers risk violating 'non-refoulement', the legal principle which means countries cannot transfer anyone to a place where their life or freedom would be threatened. The situation for IDPs points to an already alarming situation getting worse. Many IDPs face starvation and evidence indicates food insecurity is increasing. Inadequate shelter leaves many exposed to harsh temperatures which causes serious illness and death. Despite the shocking reality, only one quarter of IDP households receive assistance and there is an overwhelming need for more appropriate responses to ensure protection.

Afghanistan has become increasingly insecure, to the point that no part of the country is safe. In 2016, civilian casualties were the highest on record, 2017 saw the deadliest single suicide blast in Kabul killing 92 civilians, only to be surpassed by an even deadlier explosion in the capital in January 2018. Civilian casualties have doubled since 2009. The United National Office for the Coordination of Humanitarian Affairs (UNOCHA) estimates 3.3 million Afghans will need life-saving assistance in 2018.

The current situation

Return

More than 2.3 million people have returned to Afghanistan since the beginning of 2015. Many returns are involuntary and it is questionable whether, given the scale of voluntary return reported, it is truly free of coercion. Over 40 years of conflict in the country have led to several waves of displacement, and returnees have often been away for a long time or might never have even set foot in Afghanistan; about half of the Afghan populations in Iran and Pakistan were born outside Afghanistan. Access to education and healthcare remains a major challenge

¹ The organisations are Amnesty International, European Council on Refugees and Exile, Human Rights Watch, Oxfam, and Norwegian Refugee Council. Full references are noted at the end of this paper.

for returnees and vulnerabilities are higher for unaccompanied minors (about 58% of returnees are under the age of 18), women, those with illnesses or disabilities, and female-headed households.

From Iran (59% of returns since the beginning of 2015)

At the start of 2017, there were 3 million Afghan refugees in Iran – 1 million registered and 2 million undocumented. In early 2017, 1,000-1,500 Afghans were returning to Afghanistan from Iran every day with periods of even higher inflows; in August 2017 over 8,000 returned in a single week. A total of 395,000 Afghans returned from Iran last year. So far, 73,390 Afghans have returned from Iran in the first two months of 2018 and 11,236 undocumented Afghans returned (either spontaneously or through deportation) in the week 11-17 February 2018 – 6% more than the previous week.² Return is often forced or coerced and many returnees are unaccompanied boys who face arbitrary detention and abuse.

Life for Afghans in Iran is not easy. There are restrictions on property ownership and free movement to 28 of the country's 31 provinces. Afghans have limited access to employment (they are not allowed to start their own businesses or be self-employed), they are prohibited from holding a driver's license or owning a vehicle, and problematic laws bar many children and young adults from enrolling in schools and universities. Immigration policies are strict as once a registered refugee leaves the country, they are not allowed to travel back to Iran.

In 2012, Iran began large scale deportations of Afghan refugees. In the same year, Iran, Pakistan, Afghanistan, UNHCR, and 40 other countries adopted the Solutions Strategy for Afghan Refugees which includes a priority focus on voluntary repatriation. Iran has used the threat of returning refugees as leverage in foreign policy negotiations with Afghanistan. There is also great concern over evidence that the Iranian government are recruiting young Afghans (mostly Hazaras) to fight in Syria in exchange for promises of permanent residency or Iranian citizenship.³

Iran does not have an asylum system through which incoming Afghans can seek refugee status. Instead, Iran has implemented 2 major one-off regularisation schemes: the issuing of Amayesh cards in 2003 and the Comprehensive Regularisation Plan (CRP) in 2011. Amayesh card holders are seen as de facto refugees although Afghans arriving after 2003 are not eligible and the renewal process is often too costly for Afghans wishing to remain.

From Pakistan (41% of returns since the beginning of 2015)

Pakistan has sheltered at least 1 million Afghans ever since the 1978 Soviet invasion of Afghanistan and the number reached as many as 3 million from 1986-1991. In 2016 figures stood at 2.5 million Afghan refugees in the country - 1.56 million registered and 1 million undocumented.

Although Pakistan has no asylum system, in 2007 they granted 2.15 million Afghans temporary legal status to stay in the country until 2009 and issued each person a Proof of Registration (PoR) card. At the end of 2009, PoRs were extended for 3 years to 2012, and were again extended another 3 years to 2015. Starting in 2016, short-term extensions became the norm starting with back-to-back 6-month extensions in 2016. A 3-month extension to March 2017 was eventually followed by an extension to the end of 2017. In January 2018, the future of registered refugees hung in the balance as no extension was announced until the end of the month and even then, there were conflicting reports about the extension length. In March it was confirmed cards would be extended until the end of June 2018. Despite the extensions, no new cards have been issued and registered Afghans must carry their expired cards from 2015. All Afghan refugees arriving after the 2007 round of regularisation are undocumented and since UNHCR has very limited capacity for processing claims under their Refugee Status Determination procedure, many remain undocumented.

² [Return of Undocumented Afghans, Weekly Situation Report 11-17 February 2018 \(IOM\)](#)

³ [Afghanistan: no safe country for refugees \(Pro Asyl, May 2017\)](#)

Pakistan's policies and treatment towards Afghans in the country drastically changed in 2015 after a terrorist attack on the Peshawar Army Public School killed 145 people, including 132 children. The attack resulted in the Pakistani National Action Plan on Counter-terrorism which included a new policy to register and repatriate Afghans from Pakistan (based on unproven claims that Afghans were involved in the terrorist act). Pakistan then revealed plans to return 1.5 million Afghans by the end of 2017.

The new policy led to widespread abuses against Afghans from the Pakistani authorities in what has been called a 'campaign of coerced repatriation'. Reported abuses used to force return include: daily systemic extortion by police, arbitrary arrest and detention, unlawful use of force, deportation threats from Pakistani government officials and a country-wide announcement that Afghans should leave, police raids on refugee shelters and homes, house demolitions, the shutting down of Afghan refugee schools and exclusion of Afghan children from state-run schools, police stealing expensive trade tools leaving Afghan refugees unable to work and exposing them to destitution, and claims that expired PoRs are grounds for deportation. There has also been an increase in anti-Afghan hostility from Pakistani communities as shown by Pakistani landlords doubling or tripling rent for apartments and businesses occupied by Afghan tenants. Tensions related to improved Afghanistan-Indian relations and clashes at the Torkham border have not helped the situation.

In what Human Rights Watch calls the 'world's largest unlawful mass forced return of refugees in recent times', 600,000 Afghans returned from Pakistan in 2016 (370,000 registered, 230,000 undocumented). Of those returned from Pakistan, 81% of registered returnees are women and 52% are undocumented women. Most returnees from Pakistan settle in Nangarhar and approximately 25% of returnees settled in Kabul in 2016.

Constant abuses, intimidation, insecure legal status, and fear of deportation has led many families to leave before deportation takes place in order to avoid family members being split up, giving them a chance to sell their belongings before losing everything, and pre-empt winter deportations so as to find shelter before it gets too cold.

From Europe and the UK (0.6% of returns since the beginning of 2015)

The 2015 European Agenda on Migration set out a new policy which aims to increase the ability of Member States to return refugees and migrants. Increasing returns is now used as a primary tool for migration management and, in the case of Afghanistan, overriding any concerns about the worsening security situation.

In October 2016, the *EU-Afghanistan Joint Way Forward* —a non-legally binding document which aims to facilitate the return of Afghan nationals from all European Member States, was signed despite wide scale concern that returns were being used as a new mechanism for aid conditionality.

The Joint Way Forward deal puts pressure on the Afghan Government to accept large numbers of returns even though their capacity to absorb and assist new arrivals is worryingly low. While the Joint Way Forward document is public, its implementation plan is not and all records of the Joint Working Group on Migration, which is meant to monitor its impact but rather facilitates its implementation, are confidential. It is unclear if the EU State Building Contract for Afghanistan has any indicators or conditions related to the Joint Way Forward and there are no figures available on the funding packages referenced in the document. Deals such as these have set a precedent as evidenced by Pakistan citing the similar EU-Turkey deal to pressure UNHCR to increase return incentives in exchange for a new PoR extension for Afghan refugees.

One of the focus areas of the new EU Strategy for Afghanistan is to address the challenges related to migration. In doing so it states that it aims to shape a global response based on solidarity and shared responsibilities, implement the Joint Way Forward, and support the dignified return and sustainable re-integration of Afghan refugees from neighbouring countries.

Since the adoption of the above policies, the number of Afghan asylum applications denied by Member States has drastically risen and deportations of Afghans have nearly tripled. Discrimination against Afghan asylum seekers has resulted in their applications being pushed to the 'back of the queue' and a backlog of more than 93,000 applications were pending at the end of July 2017. Since December 2016, the top five countries returning Afghans have been Germany, Denmark, UK, Sweden, and Finland.

It has become increasingly common for Member States and the UK to use the controversial concept of the Internal Protection Alternative (IPA) (or Internal Flight Alternative – IFA) as a basis for denying protection to Afghans. The IPA allows authorities to recognise a person's province of origin is dangerous but rule it reasonable to expect them to live elsewhere in the country upon return. The concept of IPA is legally questionable, has no basis in the Convention Relating to the Status of Refugees, and in the case of Afghanistan, is factually unsound as no part of the country can be considered safe. Some States have changed how they deal with Afghan asylum applications, increasing the threshold for granting protection at a time when the country is becoming progressively insecure. Similar approaches, such as the 'density of danger' calculation have been used for the same purpose.⁴

Some Member States have also sponsored information campaigns in Afghanistan in an attempt to deter migration to the EU. These campaigns have been criticised for failing to provide information about legal routes to the EU, including the right to seek asylum, and are found to be irresponsible in dangerous contexts such as Afghanistan.

The UK considers all provinces in Afghanistan safe for return and finds it reasonable to return or relocate Afghans to Kabul despite reports from UNAMA that the province has the highest number of civilian casualties. There is strong evidence that Afghans have been sent back prematurely by the Home Office, before they've had the chance to exhaust all their legal options. In one case, a court ordered the Home Office to have an Afghan asylum seeker flown back to the UK as he was deported while his appeal was ongoing. There are also serious concerns about Home Office guidelines on the treatment of sexual orientation and identity claims from Afghan asylum seekers.

There is evidence the UK and some other Member States are knowingly deporting minors, including unaccompanied minors through either not properly verifying their ages, removing considerations of whether young people will have a caregiver on return, or waiting until minors turn eighteen in order to deny their claim as an adult. Afghans made up the highest number of unaccompanied children in Europe in 2015 and 2016, with 45,000 in 2015 alone. On return to Afghanistan, many unaccompanied minors have no legal identity which is a barrier to accessing education, health, and other protection services.

On return:

- Assistance is limited and resources are overstretched. The IOM, UNHCR, WFP, and other organisations can provide short-term assistance. However, not all returnees are eligible for reintegration assistance and not all those who are eligible find it easy to claim. There is a discrepancy between aid provided to those returning from Iran/Pakistan with 5%/92% of returnees in each assisted, respectively. On return from Pakistan, the average undocumented family of seven receives less assistance than an individual registered returnee. Part of assistance is in cash grants issued by UNHCR to registered returnees, however there has been speculation about how increasing the amount of cash grant for each individual incentivises return to precarious situations.
- The risk of secondary and tertiary displacement is high. The high number of returns has increased internal displacement as returnees who have inadequate support or end up in volatile areas may find themselves displaced for a second time. One study found 80% of returnees interviewed were willing to re-migrate and reports from Greece indicate some Afghans are now reaching the country for the second or third time. 72% of returnees are displaced upon return.

⁴ For more on the 'density of danger' calculation see [Afghanistan: no safe country for refugees \(Pro Asyl, May 2017\)](#)

- The absorption capacity of local communities and the labour market is limited. Until the security and economic situation improve, they are unable to absorb more returnees. Absorption capacity is currently maintained through a 'patched-up support structure' comprised of often-improvised family arrangements and external humanitarian assistance, which is not sustainable.
- Many face individual risk due to increasing insecurity and destitution. It is not uncommon for returnees to face threats to their safety, little access to land, and other basic needs. 30% of returnees have difficulties finding employment and 18% have trouble accessing food in the areas where they end up. This is compounded by mental health issues and stresses, such as feelings that their migration was unsuccessful.
- Those unable to or afraid of returning to their region of origin are worse off. They tend to have fewer employment opportunities, and less access to land, patronage and support from families.
- The support of family networks is crucial. While it is important for ensuring reintegration is successful it does not automatically make it sustainable.
- Those who have insufficient time to prepare for return are worse off. Those who return after a more gradual process allowed time to develop reintegration strategies and coping mechanisms. So-called 'look and see' visits to plan for return are considered beneficial.
- The Afghan government has been largely unable to allocate land. Access to land is one of the most critical needs for returnees and IDPs to restart their lives and begin the process of reintegration. Returnee settlements make assistance easier, but at the expense of integration and the reinforcement of aid dependency. Often when land has been allocated the plans for its use have been ineffective with many settlements poorly planned or unable to provide basic services.
- There are clear links between returnees and a build-up of local friction and tension. There are two factors crucial to determining the scope of potential conflict related to returnees: 1) absorption capacity at local level, which depends to a certain extent on support from extended family members or on assistance from the government or international agencies. Both types of support are currently unavailable for many returnees; and 2) the (social) adaptation or reintegration capacity of returnees, whether in their communities of origin or in new areas where they wish to settle.
- When returnees live in separate groups, without proper integration within the host communities, there tends to be more potential for tension to arise. With less interaction, the possibilities for misunderstandings, friction, fear and discrimination to arise are higher. Ethnic diversity is not necessarily a cause for more friction and disputes. There are, however, reports of increased number of domestic and women-related violence cases involving returnee families.

Internal displacement

Over 1.9 million people were internally displaced in Afghanistan by the end of 2017. A further 17,200 have been newly displaced in the first two months of 2018. Provinces with the largest displaced populations, including returnees, are Herat, Kabul, Kandahar, Kunduz, and Nangarhar. 72% of returnees are displaced upon return.

The picture is one of prolonged and multiple displacement and is marked by extreme vulnerabilities. In a recent study, 94% of IDPs surveyed reported fleeing due to conflict, violence, or persecution with three quarters unable to go back to their original home due to insecurity. 72% report having been displaced twice and a third have been displaced three times. Movement patterns range from families fleeing for short periods to stay with relatives or temporary settlements to de facto permanent camps. People tend to move within the province when possible, usually to urban areas where employment and humanitarian aid are more easily accessible, and keep as close as possible to familiar areas and social networks.

A majority of IDPs are unaware of their rights under the Afghanistan Constitution and National Policy on Internally Displaced Persons. The main ways for IDPs to access assistance is either through emergency humanitarian assistance or registering claims through the Department for Refugees and Repatriation (DoRR). Lack of humanitarian access to insecure areas prevents aid reaching the most vulnerable. Funding to these areas is also a challenge, for example in 2016 the Common Humanitarian Fund only allocated 2% for areas not under government control. In addition, the registration process to lodge claims with DoRR is so complex and expensive

that it prevents many from receiving aid, especially those outside government-controlled areas. As a result, three quarters of IDP households are not receiving any assistance.

We are still a long way from ensuring the day-to-day needs of IDPs are being met. While some gains have been made in ensuring better access to drinking water, electricity, sanitation facilities, and legal assistance; food insecurity has risen significantly and negative coping strategies such as reducing food intake, child labour, taking out loans and accumulating debt (and increased instances of child marriage to get out of debt), are on the rise. Access to employment, shelter, and healthcare are very limited, and competition for the former creates tension in host communities. Lack of identity documents prevents children from enrolling in school however, parents report that even if the documents were secured tuition fees are unaffordable. Women and girls, particularly those with disabilities, face additional risk as new living conditions lead to increased domestic tensions and violence.

Recommendations

Return

1. **Governments hosting Afghan nationals should suspend returns to Afghanistan and immediately stop forcibly returning people until conditions in Afghanistan are stable, and sustainable**, so that people can return in safety and dignity. Sending Afghans back to volatile areas will likely only result in more displacement and fragility.
2. **Governments hosting Afghan nationals should refocus on the bigger picture instead of disproportionately concentrating on increasing numbers of returns.** The existing restrictive policies and practices lead Afghans to risk their lives by taking more dangerous routes to other countries and undermines genuine efforts to stabilise and rebuild Afghanistan.
3. **Care should be taken to ensure voluntary return is truly voluntary and not be used as a facilitating mechanism for deportation.** It should only take place on the basis of full information, go-and-see visits, and informed consent.
4. **Re-open registration for PoR cards in Pakistan or other protected status for those who are undocumented so that they can seek and obtain support and extend PoR cards until at least 31 March 2019.**
5. **End the wide scale abuses of Afghan refugees and asylum seekers which are perpetrated by police and government entities** and protect those Afghans still needing continued protection.
6. **European governments including that of the UK should not use the Internal Protection Alternative (IPA)/IFA, especially in the context of Afghanistan.** It is a legally questionable and factually unsound concept and it adds an additional criterion to eligibility for refugee status beyond those foreseen in Article 1A of the Refugee Convention. Other methods used to lower the threshold of protection such as the 'density of danger' calculation should not be used either.
7. **Do not use development and humanitarian aid, be it financial or other forms of support, to leverage returns and deportations**, or to mobilise other 'tools' for migration management.
8. **The impact of the Joint Way Forward should be monitored openly and transparently**, including the efforts of the Joint Working Group and the policy's implementation by European Union Member States, Afghanistan, communities and individuals, and its impact on fundamental rights.
9. **Ensure fair and effective asylum procedures are being carried out in the best interest of the asylum seeker and establish a high-level of protection**, especially for children and vulnerable groups (including those who have not lived in Afghanistan for long periods and have no family or support networks there, or people who have never been there), and that decisions taken are in-line with the highest standards of international refugee law.
10. **End information campaigns in Afghanistan which seek to deter migration** as they do not provide any information about legal routes to other countries or the right to seek asylum.
11. **Improve the data available on return through establishing and funding systemic, long-term monitoring, especially for vulnerable groups.** This would require the development of a common concept, tools, structures, and indicators to measure the success of return and reintegration programmes in Afghanistan.

Internal displacement

1. **Support and participate in collective efforts to implement Afghanistan's National Policy on IDPs**, including through increasing resources for the Ministry of Refugees and Repatriation (MRR) and its provincial offices.
2. **Support efforts to reform the Department of Refugees and Repatriations' petition system** so that it is streamlined and works in the interest of IDPs and ensure it helps improve the ability to record displacement and respond to it effectively and humanely.
3. **Support the development of a strategy to improve responses to IDPs in insecure areas** as growing parts of the country continue to fall out of government control. Non-state groups must allow humanitarian access to displacement-affected populations living in their areas so that they are able to access assistance.
4. **Advocate for multi-year funding to bridge the response gap** found between new and protracted IDP caseloads – who share many of the same needs and vulnerabilities.
5. **Address the following primary response needs as identified by IDPs themselves: housing/shelter, livelihood opportunities, education, child protection, and psychosocial and gender-based violence services for women.**
6. **Raise awareness among IDPs of their rights as outlined in the Constitution and National Policy on IDPs, and how to access them.**
7. **Work to ensure IDPs are not only viewed as a humanitarian concern but also intersect with development.** Development actors need to be brought into the response framework earlier in order to better target longer-term programmes at displacement-affected communities.
8. **Improve local coordination on responding to displacement needs** and with a focus on planning and an assumption of national responsibility.

References

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