



**THE NATIONAL POLICY OF THE ISLAMIC REPUBLIC OF AFGHANISTAN  
ON INTERNAL DISPLACEMENT**

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## **1. Introduction**

### **1.1 Backgrounds and Process**

In accordance with the decision of H.E. President of the Islamic Republic of Afghanistan Hamid Karzai and of the Cabinet, the Ministry of Refugees and Repatriation (MoRR) was tasked with developing this National IDP Policy.

The Policy was developed through a process of broad consultations led by the MoRR. The process was supported by the Inter-Ministerial Coordination Committee on Refugees, Returnees and IDPs (IMCC), chaired by MoRR Minister Dr. Jamaher Anwari; the National IDP Task Force, co-chaired by MoRR and United Nations High Commissioner for Refugees (UNHCR); and an IDP Policy Working Group, chaired by MoRR Deputy Minister Dr. Abdul Samad Hami and assisted by the Head of MoRR's Emergency Department, Meher Khuda Sabar. It was regularly attended by representatives of UNHCR, United Nations Office of Humanitarian Affairs (UN OCHA), International Organisation for Migration (IOM), Norwegian Refugee Council (NRC), and the Afghanistan Independent Human Rights Commission (AIHRC), and attended on an ad hoc basis by others including the Agency Coordinating Body for Afghan Relief (ACBAR), the Afghan Red Crescent Society (ARCS), the Afghanistan National Disaster Management Authority (ANDMA), and the Organization for Health Promotion and Management (OHPM).

A two-day National Consultation in July 2012 launched the process. Upon the official request of the GoIRA, the consultation was attended by Mr. Chaloka Beyani, United Nations Special Rapporteur on the Human Rights of IDPs, who strongly endorsed the efforts of MoRR to develop a policy with broad-based participation of all stakeholders. In line with recommendations of the consultation that greater attention be paid to the views of provincial authorities, in September 2012, MoRR visited and held discussions with key stakeholders in Kabul, Balkh, Faryab, Kandahar, Herat, Paktya and Nangarhar provinces and in the capital. In October 2012, an IDP Advisor, Dr. Laurie S. Wiseberg, was seconded by ProCap (a UN

inter-agency program) to UNHCR and MoRR, and began the serious work of supporting the drafting process. Meetings and consultations continued with the major stakeholders including IDPs and communities affected by displacement, main line ministries in Kabul, Provincial and district Governors, mayors and other local authorities, the Afghan Independent Human Rights Commission (AIHRC), Afghan civil society and NGOs, international humanitarian and development organizations and donors, and influential individuals including parliamentarians and academics. A range of coordination mechanisms, including IDP Task Forces and Protection Cluster working groups at both the national and provincial levels, and ACBAR (the Afghan NGO network) were also consulted. A draft of the policy – in both Dari and English – was widely circulated for comment in March and April 2013 when a second round of provincial consultations was undertaken, in Kabul, Logar, Herat, Balkh, Kandahar, and Nangahar. The draft was amended on the basis of these discussions and other comments received. On 22 May 2013, a second National Consultation was organized which endorsed the draft and recommended that it be sent to Cabinet for adoption.

## **1.2 Acronyms used in this policy**

ACBAR - Agency Coordinating Body for Afghan Relief

AGE – Anti-Government Element

AIHRC – Afghanistan Independent Human Rights Commission

ALP – Afghan Local Police

ANA – Afghan National Army

ANP – Afghan National Police

ANDMA - Afghanistan National Disaster Management Authority

ANSF – Afghan National Security Forces

APMBT Treaty – Convention on the Prohibition of Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction

ARCS – Afghan Red Crescent Society

AXO – Abandoned Explosive Ordnance

CCM - Convention on Cluster Munitions - (Convention on the Prohibition of Use, Stockpiling, Production and Transfer of Cluster Munitions and on Their Destruction)

CDC – Community Development Council

CPAN – Child Protection Action Network

DDA – District Development Assembly

DMC – Department of Mine Clearance

DDMC – District Disaster Management Committee

DoRR – Directorate of Refugees and Repatriation

DRR – Disaster Risk Reduction

EFA – Education For All

EOC – Emergency Operations Centre

ERW – Explosive Remnants of War

GoIRA – Government of the Islamic Republic of Afghanistan

HLP – Housing, Land and Property

HRL – Human Rights Law

ICRC – International Committee of the Red Cross

IDLG - Independent Directorate for Local Governance

IDP – Internally Displaced Person

IEC - Independent Election Commission

IED - Improvised Explosive Device

IHL – International Humanitarian Law

IMCC – Inter-Ministerial Coordination Committee on Refugees, Returnees and Internally Displaced Persons

IOM – International Organization for Migration

LAS – Land Allocation Sites

MACCA - Mine Action Coordination Centre of Afghanistan

MAIL – Ministry of Agriculture, Irrigation and Livestock

MAPA – Mine Action Programme of Afghanistan

MoBTA - Ministry of Border and Tribal Affairs

MoD – Ministry of Defense

MoEc – Ministry of Economy

MoE – Ministry of Education

MoF – Ministry of Finance

MoHRA – Ministry of Haj and Religious Affairs

MoI – Ministry of Interior

MoJ – Ministry of Justice

MoPH – Ministry of Public Health

MoRR – Ministry of Refugees and Repatriation

MoLSAMD - Ministry of Labor, Social Affairs, Martyrs & Disabled

MUDA - Ministry of Urban Development Assistance

MoWA - Ministry of Women’s Affairs

MRRD - Ministry of Rural Rehabilitation & Development

NDMC – National Disaster Management Committee

NFIs – Non-food items

NGO – Non-Governmental Organization

NPPs – National Priority Programs

NRC – Norwegian Refugee Council (NRC)

NSC – National Security Council

OER – Office of Emergency Response

OHPM - Organization for Health Promotion and Management

PDMC – Provincial Disaster Management Committee

PHT – Provincial Humanitarian Team

RHT – Regional Humanitarian Team

SOP – Standard Operating Procedure

UN OCHA – United Nations Office for the Coordination of Humanitarian Affairs

UNHCR – United Nations High Commissioner for Refugees

UNICEF – United Nations Children’s Fund

UNMAS – United Nations Mine Action Service

UXO – Unexploded Ordnance

WHO – World Health Organization

### 1.3 Definition of Terms used in this Policy

For the purposes of this Policy, the terms below are defined as follows:

**Abandoned Explosive Ordnance (AXO)** – explosive ordnance that has not been used during an armed conflict, that has been left behind or dumped by a party to an armed conflict, and which is no longer under control of the party that left it behind or dumped it. AXO may or may not have been primed, fused, armed or otherwise prepared for use.

**Anti-Government Elements (AGEs)** - dissident groups, sometimes armed, challenging the legitimacy of the government often through violent means.

**Anti-Personnel Mine Ban Treaty (APMBT)** - The Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction commonly referred to as the Mine Ban Treaty, which was adopted on 18 September 1997, entered into force on 1 March 1999, and ratified by Afghanistan in March 2003.

**Arbitrary displacement** - unlawful displacement, i.e., displacement that contravenes either national law or international law and standards, including forced eviction

**Area-based response or program** – a response or program which addresses the needs of the population in a specific area (e.g., an informal settlement, a neighborhood, a village) without differentiating between different groups who live there and will benefit such as IDPs, returning refugees or urban poor.

**Armed Forces** – Afghan National Security Forces (ANSF)

**Armed Group** - dissident armed force or other organized armed group that is distinct from the state's armed forces.

**Asylum seeker** – a person who has crossed an internationally recognized border to exercise his or her right to seek asylum from persecution

**Child** - any person below the age of 18 years, unless under the law of Afghanistan applicable to children, maturity is attained earlier, as defined by the UN Convention on the Rights of the Child.

**Chronic Illness** - a human health condition or disease that is persistent or otherwise long-lasting in its effects, usually applied when the course of the disease lasts for more than three months. Common chronic diseases include arthritis, asthma, cancer, Alzheimer's, heart and kidney diseases, diabetes and HIV/AIDS.

**Civilians** - persons not part of the military or of any armed group.

**Compensation** - offsetting economically assessable damage.

**Contingency planning** – making preparations so as to be ready in the event of an emergency, including: pre-positioning stockpiles of food and non-food items, ensuring that staff is trained, and ensuring that there are Standard Operating Procedures (SOPs) in place; identifying most likely and worst case scenarios, including consequences and planning assumptions; and then identifying who would do what in the response.



**Convention on Cluster Munitions (CCM)** -- the Convention which prohibits all use, production, transfer and stockpiling of cluster munitions, adopted on 30 May 2008 in Dublin, signed by Afghanistan on 3 December 2008 and ratified on 6 June 2011.

**Disadvantaged** - persons who may have special needs and/or vulnerabilities, including women, children, the elderly, persons with disabilities, persons with chronic or acute illnesses or health needs, including HIV/AIDS, members of minority groups, the indigenous or any other person with similar special needs and/or vulnerabilities. This term is equivalent to the term “persons with special needs” and “particularly vulnerable” individuals.

**Disaster** – an occurrence causing widespread destruction and distress, generally marked by the loss of life, property and infrastructure including essential services, such that the community concerned can no longer cope on its own. A “natural disaster” results from an event or force of nature such as, floods, earthquakes, avalanches, extreme storms or forest fires. A “man-made disaster” is the consequence of events or forces such as war, pollution, mine and ERW hazards, hazardous materials exposures or transportation accidents.

**Disaster Risk Reduction (DRR)** - activities to minimize vulnerabilities and disaster risks throughout a society, to avoid (prevention) or to limit (mitigation and preparedness) the adverse impacts of hazards, within the broad context of sustainable development.

**Displaced persons** - *see* “Internally displaced persons”

**Displacement** – *see* “Internal Displacement”

**Displacement-affected communities** – communities which are affected by the presence of displaced persons, such as host communities or communities in areas of return or other areas where the displaced are seeking a durable solution to their displacement

**Durable Solution** – a sustainable solution (whether return, local integration or resettlement), as a result of which the former IDPs no longer have needs specifically related to their displacement and can enjoy the same rights as other Afghans.

**Early warning** - the provision of timely and effective information, through identified institutions, that allows individuals exposed to a hazard to take action to avoid or reduce their risk and prepare for effective response.

**Emergency** – a situation created as a result of a sudden on-set crisis or life threatening situation beyond the capacity of people to cope, such as violent conflict, earthquakes, floods, landslides, avalanches, fires, heavy storms, extreme temperatures, health epidemics, epidemics of animals or pest infestations.

**Emergency Assistance** – life-saving assistance provided in response to an emergency.

**Emergency Phase** – the period of time during which there is a serious threat to the life, health or security of the affected population.

**Eviction** – *see* “Forced Evictions” and “Lawful Evictions”

**Explosive Remnants of War (ERW)** - Unexploded Ordnance (UXO) and Abandoned Explosive Ordnance (AXO)

**Forced Evictions** – as defined in Section 5.4 of this Policy

**Go and See Visits** – visits that IDPs are helped to undertake to their place of origin to enable them to decide whether they feel the conditions are conducive to their return (e.g., whether there is enough security, housing, services etc. so they can return in safety and dignity).

**Government** - the Government of the Islamic Republic of Afghanistan

**Guiding Principles** - 1998 United Nations Guiding Principles on Internal Displacement

**Host communities** – Communities which have given shelter to internally displaced people, by letting them settle in their area and often by giving them shelter in their homes and compounds.

**Informal settlements** - areas where groups of housing units have been constructed on land that the occupants have no legal claim to, or occupy illegally and where housing is not in compliance with planning and building regulations.

**Internal displacement** - the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized state borders

**Internally Displaced Person (IDP)** - a person as defined in Section 3.1 of this Policy.

**International Bill of Human Rights** - comprises the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic and Social Rights and their Optional Protocols.

**International Human Rights Law** – the major international human rights treaties that have been adopted since the end of World War II including, inter alia, the International Bill of Human Rights (see above), treaties concerning genocide, torture, racial discrimination, the rights of children, the rights of women, the rights of migrant persons and their families and the rights of persons with disabilities.

**International Humanitarian Law** – a set of rules for the conduct of armed conflict which include restrictions on the means and methods of warfare and the protection of people who are not or are no longer participating in the hostilities. IHL includes the four Geneva Conventions and the three Protocols to those conventions.

**Kuchi** - migratory people in Afghanistan with pastoral livelihoods, including those who have fully or partially settled, but continue to be identified and self-identify as Kuchi.

**Lawful Eviction** – the permanent or temporary removal of individuals, families and/or communities from the homes and/or land which they occupy, carried out in accordance with the law and in conformity with international human rights safeguards.

**Local integration** - acquiring residency rights on a par with that of local inhabitants

**Land Allocation Sites** – areas of land divided into plots designated to be given or sold to beneficiaries (notably, returnees or internally displaced persons) as specified in Presidential Decree 104.

**Land grabbing** – the acquisition of land, often through illegal means and/or at prices well below the market value.

**Man-made disaster** – see “disaster”

**Mine** - Munitions designed to be placed under, on or near the ground or other surface area and to be exploded by the presence, proximity or contact of a person or a vehicle.

**Mine action** - Activities, which aim to reduce the social, economic and environmental impact of mines and ERW

**National institutional focal point** - the institutional part of the GoIRA in charge of the coordination of matters related to internal displacement.

**Natural Disaster** – *see* “*disaster*”

**Non-state actors** – private actors who are not public officials of the state, including armed groups whose acts cannot be officially attributed to the state

**Particularly vulnerable individuals** - *see* “disadvantaged”

**Persons with special needs** - *see* “disadvantaged”

**Profiling** – a data collection activity to obtain an overview of a population of IDPs, disaggregated by sex, age and location, and whenever possible additional information on causes and patterns of displacement, protection concerns, humanitarian needs and potential solutions.

**Protracted displacement** – long term displacement, sometimes amounting to decades

**Referral Pathways** – a detailed system of service providers (those which are community-based as well as government-based) which can assist victims, including contact details, and a clear description of precisely what services they can provide, when and under which conditions; the pathways are often depicted in a flow diagram showing who to contact first and for what, who to contact subsequently, etc.

**Refugee** - every person who qualifies as a refugee under the 1951 Geneva Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. It applies to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

**Reparation** - redress for harm suffered and may include restitution, compensation, rehabilitation, satisfaction and the guarantee of non-repetition according to the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

**Resettlement** - a process of temporary or permanent settlement of displaced or returning populations.

**Restitution** - restoring the situation prior to displacement.

**Returnee** - every person who returns to Afghanistan after he or she was compelled to leave the country due to persecution or a situation of generalized violence, including returning asylum seekers and refugees

**Rights-based approach** - is a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights.

**Security of tenure** - the legal right to protection from arbitrary or forced eviction and harassment, equally relevant to owners, tenants and squatters

**Separated children** – persons below the age of 18 years who are separated from both parents and guardians or any other person who under law or custom is responsible for his/her care.

**Slums** - areas, often informal settlements not in the city master plan, that combine to various extents the following characteristics: inadequate access to safe water, inadequate access to sanitation and other infrastructure, poor structural quality of housing, overcrowding, and insecure residential status.

**Sphere standards** – minimum standards for the provision of assistance in four primary life-saving areas: (1) water supply, sanitation and hygiene promotion, (2) food security and nutrition, (3) shelter, settlement and non-food items, and (4) health, as well as standards for monitoring and evaluating the effectiveness and impact of humanitarian assistance. *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011 edition.

**Tazkera** - the national identification document in Afghanistan

**Temporary resettlement** – a process which is undertaken to move a displaced population when humanitarian, socio-economic and security conditions in the camps and transit centers are unacceptable, without prejudice to the rights of displaced populations to voluntarily return to their areas of origin when conditions are conducive, or the right to fixed permanent residence in an area different from the one of origin.

**Unaccompanied children** – persons below the age of 18 years who are separated from their family (both nuclear and extended) and are totally alone

**Unexploded Ordnance (UXO)** - Explosive ordnance that has been primed, fused, armed or otherwise prepared for use or used, which may have been fired, dropped, launched or projected yet remains unexploded either through malfunction or design or for any other reason.

**Usufruct** – a right of enjoyment of benefits derived from property that belongs to another person or is public property.

**Vulnerability** - a broad term used variously to apply to people, communities, livelihoods, food supplies, community assets, or property. When applied to people or communities, it means those at high risk of being severely impacted, people with special needs, or highly disadvantaged people. The term is also used more generally to describe factors that affect the ability of the community or individuals to respond to natural hazards or extreme events. Vulnerability contributes to the severity of emergency impacts and inhibits effective response.

### **1.3 The Context and Characteristics of Internal Displacement in Afghanistan**

Afghanistan has experienced continuous conflict since 1978, both at the national and the local levels. Added to this is a difficult geography and harsh climatic conditions, which has made the country prone to drought, earthquakes, flash floods and avalanches. The cumulative impact of these challenges on the Afghan population has been severe.

There are a variety of causes of displacement notably armed conflict, generalized violence and serious violations of human rights, natural disasters<sup>1</sup>, development projects<sup>2</sup> and human-made disasters.<sup>3</sup>

It is not always easy to clearly identify the factors that force individuals or groups to flee, as the causes of the displacement in Afghanistan are often multi-causal and multi-faceted. The impact of the on-going conflict and human rights violations may be compounded by a natural disaster, while the lack of critical services in an area may reduce the resilience of populations, making them unable to sustain their families in their places of habitual residence. If the irrigation system in a village is destroyed as a result of aerial bombing in an area experiencing drought, and families can no longer productively farm their land, it is a combination of both conflict and natural disaster that forces them to leave their villages. If there is no effective follow-up in the wake of a natural disaster, i.e., no implementation of early recovery projects, people will be unable to return to their places of habitual residence and end up in displacement – a situation which cannot be attributed solely to “natural” disaster.

Forced displacements also vary considerably with regard to the time-frame of the displacement, the frequency and the distance of the displacement. In some instances, where military engagements have taken place, displacement may be of short duration and to locations not far from people’s habitual residence; people flee the fighting and then, for the most part, are able to return to their homes weeks or months later. However, when conflict intensifies and positions of the warring parties become entrenched, displacement can be increasingly prolonged. Explosive Remnants of War (ERW), land mines/Unexploded Ordnance (UXOs) and the destruction of crops, agricultural fields, homes and properties during fighting also have a direct impact on the ability of displaced populations to return to places of origin and to resume livelihoods.

Additional factors may result in secondary or tertiary displacement: for example, deterioration of the security situation in the places to which IDPs have fled, land disputes, seasonal weather extremes, reduction or absence of critical services/facilities, or the collapse of livelihood opportunities. In such cases, provincial centers and especially large urban centers -- where there is more security, easier access to services such as health and education, as well as potential for livelihood opportunities -- attract people from the insecure rural areas.

In Afghanistan, there are people who have been in displacement for long periods of time<sup>4</sup> and remain isolated from livelihood options and/or services afforded to unaffected communities. For various reasons they are unable to socially and economically integrate in the areas where they took shelter. These reasons may include the fact that they do not have security of tenure for the land on which they are living, that they are of a different ethnic or tribal group from the people amongst whom they settled and are perceived as outsiders, or because local authorities are prepared to offer them “temporary sanctuary” but not permanent residency. As a result, they continue to have special unmet needs associated with their status as displaced populations.

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<sup>1</sup> Both sudden-onset disasters such as floods, landslides, severe storms or earthquakes, and slow on-set disasters such as drought and desertification

<sup>2</sup> For example, in order to build a dam, land is expropriated or flooded and people are forced to relocate.

<sup>3</sup> For example, where a physical environment may be contaminated with toxic substances or littered with the remnants of war.

<sup>4</sup> Often referred to as “the protracted caseload”

Another layer of complexity concerns refugees and undocumented Afghans who over the past decade have returned to Afghanistan from Pakistan and Iran, voluntarily or involuntarily. Substantial numbers of these returnees have been unable to return to their places of origin for reasons of insecurity, lack of services or livelihood opportunities. They find themselves in secondary displacement in conditions very similar to IDPs displaced by conflict or disaster.

What are common to all these various causes of forced displacement are the two core criteria: (a) the movement is forced, there is an element of coercion, involuntariness or lack of options involved; and (b) the displaced remain within the national borders of the country.

The scale of displacement<sup>5</sup> in Afghanistan, and the fact that Afghanistan is still in the midst of a protracted war, has resulted in a situation in which thousands of people, more than half of them children and adolescents, are living under emergency conditions where basic needs are not being met across the health, food, nutrition and protection sectors. The fact that these conditions may be further impacted by recurrent and slow onset, as well as rapid onset, natural disaster, underlines the need for a unified response at all levels of government with support from national and international humanitarian actors.

## **2. The Objective, Policy Framework and Principles**

### **2.1 The Objective**

The objective of this Policy is to set out a comprehensive, effective, and realistic framework which will:

- (a) provide guidance for addressing current and future situations of internal displacement in Afghanistan;
- (b) ensure that approaches to internal displacement are based upon, and respect, protect and fulfill the rights of IDPs throughout the displacement process, including during the search for durable solutions, as provided by the Constitution of Afghanistan, relevant international human rights and humanitarian law and the UN Guiding Principles on Internal Displacement;
- (c) address the emergency needs and concerns of both the IDPs and displacement affected communities including those which host IDPs.
- (d) address the longer term needs of IDPs for economic and livelihood opportunities in the transition from humanitarian assistance to durable solutions.
- (e) identify and promote efforts to prevent or reduce and manage new internal displacement, including through contingency planning and early warning for Disaster Risk Reduction (DRR) to mitigate the impact of natural disasters such as flash flooding and landslides that lead people to lose their homes and livelihoods;
- (f) identify and promote efforts to prevent or reduce and manage new internal displacement, through measures such as early warning about military operations which may affect the life of civilians and civilian property;
- (g) bring an end to displacement by identifying and implementing durable solutions for IDPs;
- (h) set out the roles and responsibilities of different government ministries and agencies, humanitarian actors and other stakeholders in order to secure a predictable, systematic, coordinated and principled approach to internal displacement in Afghanistan; and
- (i) create common and coherent basis for action plans at the national, provincial and local levels and other measures allowing for the implementation of this policy.

### **2.2 Policy Framework and Principles**

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<sup>5</sup> UNHCR has recorded nearly half a million conflict displaced as at end of December 2012. (UNHCR Afghanistan Conflict Displacement Monthly Update December 2012.) If we add in those displaced as a result of natural disaster and development projects, the IDP population in mid-2013 could be as high as 1.3 or 1.5 million.

This policy:

- (a) Recognizes the primary responsibility of the Government to provide emergency assistance, longer term support and effective protection to IDPs in Afghanistan, irrespective of the cause, irrespective of whether those internally displaced are in settlements or living with host families, are in rural or in urban settings, in their provinces of origin or elsewhere in the country.
- (b) Recognizes the Government's commitment to prevent and protect its citizens from displacement, to make contingency plans and put in place early warning mechanisms to prevent the causes of displacement or mitigate its consequences, and to search for durable solutions to displacement that are sustainable.
- (c) Acknowledges the right of IDPs to request and receive assistance and protection as well as support in finding a durable solution to their displacement. The specific needs and vulnerabilities of IDPs and their specific rights shall be at the center of all activities implemented by the Government or any other actor under this Policy.
- (d) Identifies the main actors who will implement this policy and monitor its implementation, setting out roles and responsibilities.
- (e) Recognizes the lead role of the Ministry of Refugees and Repatriation (MoRR) in responding to the protection and assistance needs of IDPs, and the importance of strengthening MoRR, including through developing its human resource capacity and its information management system, and increasing its financial resources, so that it can effectively execute this mandate.
- (f) Acknowledges the particular vulnerabilities of IDPs caused by the very nature of displacement, including loss of homes, loss of livelihoods, separation of families or loss of social and traditional networks, and loss of personal documents, and addresses the particular needs of the most disadvantaged among the displaced. This includes the emergency protection needs for children, adolescents, youth, elderly, widows, pregnant women, persons with a disability or chronic illness, and with appropriate consideration of different protection needs according to gender within any IDP group.
- (g) Recognizes that women, including widows and adolescent girls in displacement, and persons with disabilities, are often at greater risk of physical and sexual violence, as well as poverty, and frequently have no access to critical medical or psycho-social services or law enforcement and legal remedies despite the traumas they experience, and is committed to addressing this concern through appropriate strategies and programs.
- (h) Provides for a common basis for all actors engaged in assisting and protecting IDPs in Afghanistan, devising institutional responses and coordination mechanisms that reflect the roles and responsibilities of authorities at the national and provincial levels, and between relevant humanitarian and development actors, as well as other actors engaged in efforts to prevent, prepare for and respond to a displacement situation as well as in finding durable solutions for IDPs.
- (i) Adopts a rights-based approach to displacement which is based on, reflects and is consistent with the UN Guiding Principles on Internal Displacement of 1998 (see Annex 1). It recognizes the obligations of the GoIRA under international human rights and humanitarian law; and it recognizes the rights of internally displaced persons in Afghanistan as accorded by the Constitution, relevant national law and the aforementioned international legal frameworks.
- (j) Emphasizes the need to protect the rights of IDPs and to help raise awareness of their rights in Afghanistan. This includes underlining the importance of respect for human dignity, the principles of

non-discrimination, equity and equal protection of the law.

- (k) Recognizes that the provision of humanitarian assistance is a neutral act.
- (l) Calls upon all actors in Afghanistan including Afghan government and international forces, Afghan police and militias, Anti-Government Elements (AGEs) and armed groups to refrain from any actions that are conducive to, or lead to, displacement.
- (m) Recognizes the need to ensure accountability and transparency in all relations between affected communities and those rendering assistance to them.
- (n) Recognizes the importance of assisting other displacement-affected communities and families, particularly those which host displaced persons.
- (o) Recognizes the need for an efficient data gathering system, including an information management system to capture dynamic population movements, because accurate and comprehensive data is of paramount importance for the effective provision of required assistance.
- (p) Stresses the importance of including IDPs and other displacement-affected communities in decision-making processes as stakeholders in all matters affecting them, and on local capacity building in all programs in order to promote national resilience and ownership.
- (q) Recognizes that durable solutions for IDPs need to be incorporated within Afghanistan’s national development goals, priorities, strategies and policies.
- (r) Recognizes the need to adapt and harmonize Afghanistan’s legal, policy and institutional frameworks with international standards, to enable the Government to fully assume its responsibilities with regard to the IDPs; and the need for the Ministry of Justice to identify which laws need to be amended and where new legislation needs to be introduced
- (s) Recognizes the need to ensure that IDPs are provided with an appropriate legal framework which guarantees them adequate protection and emergency assistance as well as durable solutions.
- (t) Recognizes that this IDP Policy and related legislation will become an integral part of Afghan national law.

### **3. Internally Displaced Persons (IDPs)**

#### **3.1 Definition**

For purposes of this policy, IDPs are:

*“.... persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.*<sup>6</sup>

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<sup>6</sup> This is the definition provided in the “UN Guiding Principles on Internal Displacement..”



This definition includes, amongst other groups:

- (a) Returnees (returning refugees and migrants deported back to Afghanistan) who are unable to settle in their homes and/or places of origin because of insecurity resulting from armed conflict, generalized violence or violations of human rights, landmines or ERW contamination on their land, land disputes or tribal disputes.
- (b) Persons or groups of persons who are displaced as a result of a development project and who have not received an adequate housing and/or land alternative or appropriate compensation allowing them restore their lives in a sustainable manner.

### **3.2 Special Vulnerabilities of IDPs**

This policy recognizes that internal displacement gives rise to vulnerabilities and particular needs. This includes the need to be able to leave the danger zone and reach an area which is secure, to find temporary shelter and access to basic services and establish livelihoods, to be protected against discrimination on account of their displacement, and to find durable solutions ending their displacement.

The policy recognizes that many IDPs exist on the margins of society, unable to meet their basic needs for food, water, sanitation, housing, health care or education. Many have also been dispossessed of property and off-farm community-lands and are unable to generate incomes. Some suffer from social exclusion, and have lost the safety nets that were formerly provided by their community. IDPs may also face problems because their personal documentation has been lost or destroyed. In the informal settlements where many of the displaced live, culture and custom often confine women to their “homes”, restricting their movement and making it difficult for them to adequately attend to the nutritional, health, educational and social needs of their children.

The policy takes note that within most internally displaced populations, 60% of the IDPs are children and adolescents. While adults face increased risks and hardship under conditions of forced displacement, children and adolescents suffer even more and face even greater risks when they are displaced from their home communities. Protection issues for children and adolescents in displacement include being out of school, lack of normal social development, reduced or absent family and community support structures, greater risk of sexual and gender-based violence, hazardous child labor, harmful social practices including forced early marriage, becoming street working children, or of recruitment by armed forces or armed groups. Children with disabilities are among the most disadvantaged. These various increased risks for children, adolescents and women all constitute the need to regard people who are living under the existing conditions of forced displacement, as having emergency protection needs.

Others who are particularly vulnerable, including to general violence and domestic violence, are women (especially female heads of households, expectant mothers, mothers with young children, and women with disabilities), the elderly, the chronically ill, and persons with disabilities. Also at risk of discrimination are persons whose ethnic origin or religious affiliation differs from the host population, and persons of very low socio-economic status.

The policy recognizes that special measures must be taken to protect the rights and address the needs of such vulnerable IDPs to ensure that they are not discriminated against because of their displacement and that they enjoy equal protection of the law.

### **3.3 Identification and Registration of IDPs**

This policy

- (a) does not bestow IDPs with any legal status but describes a de facto situation of persons having specific vulnerabilities and needs due to displacement.
- (b) does not provide for a general registration of IDPs.
- (c) recognizes that IDPs may be identified and registered where necessary for specific purposes. In particular, individual identification and registration
  - i. is appropriate for targeted interventions such as distribution of humanitarian assistance, access to settlements, distribution of land, registration as voters, provision of compensation or planned return or relocation operations; and
  - ii. is not necessary in the case of area-based responses to internal displacement (notably in urban areas) which do not require the explicit identification of individual IDPs; in such cases, general profiling will be sufficient for purposes of planning and implementing such responses.
- (d) Recognizes that identification and verification of IDPs is the responsibility of MoRR through its DoRRs in the provinces, but that it may be assisted in this task by the humanitarian community, in particular through provincial IDP Task Forces or through other coordination mechanisms that may be established.
- (e) Recognizes that persons defined as IDPs in Section 3.1 shall be regarded as IDPs regardless of whether they stay in identified IDP sites or live in urban areas together with non-displaced people or become internally displaced within a single province or across province borders and irrespective of the cause and duration of their displacement and their origin and ethnicity.
- (f) Recognizes that, for the purpose of deciding who is, and who is not, entitled to receive benefits as an IDP, MoRR and the National IDP Task Force, in consultation with Provincial Governors, District Governors, Provincial Councils, and/or Mayors may, establish such criteria.

### **3.4 When Displacement Ends**

To be internally displaced is to be exposed to a range of particular risks and vulnerabilities. The end of displacement occurs when a durable solution has been found for the IDPs so that they no longer have needs specifically related to their displacement and can enjoy the same rights as other Afghans. In particular, the status of a displaced person shall end:

- (a) Upon voluntary and safe return to his/her former place of residence, with a place to live with security of tenure, access to basic services and livelihood on a par with others who were not displaced; or
- (b) When a displaced person has voluntarily decided to permanently settle either elsewhere in the country or at the place of displacement and has been able to do so, with a place to live with security of tenure, access to basic services and livelihood on a par with others who were not displaced

## **4. Institutional Roles and Responsibilities**

### **4.1 The Primary Responsibility of the GoIRA**

The GoIRA, at the national, provincial and municipal levels, bears the primary responsibility for protecting and assisting all IDPs and displacement affected communities. Such protection and assistance must be extended to IDPs on a humanitarian basis at the onset of an emergency by the provision of life-saving assistance, in their displacement by ensuring that the rights of IDPs are respected and their basic needs are met, and in seeking an end to displacement through durable solutions. The GoIRA also has the responsibility of ensuring that IDPs are included in all national development planning, notably in the National Priority Programs (NPPs).

## **4.2 Ministry of Refugees and Repatriation (MoRR)**

4.2.1 MoRR is the lead government line ministry for addressing the problem of internal displacement with the following tasks:

- (a) Acting as the institutional focal point and provider of last resort in all matters related to internal displacement at the national level.
- (b) Developing a national implementation plan for this Policy.
- (c) Coordinating the implementation of this Policy with other Ministries, ANDMA, provincial and municipal authorities, IDPs and affected communities, civil society, the United Nations, other international organizations and the donor community. To this end, MoRR
  - i. chairs the Inter-Ministerial Coordination Committee on Refugees, Returnees and IDPs (IMCC) to ensure displacement-specific needs are included in sectoral laws, policies, plans and programs of relevant Ministries at national, provincial and municipal levels,
  - ii. chairs the National IDP Task Force comprising members of the international community, civil society and the Afghan Independent Human Rights Commission (AIHRC),
  - iii. Participate in Inter-Ministerial committee related to social protection.
  - iv. participates in relevant coordination meetings of the international community at the request of the Humanitarian Coordinator of the United Nations,
  - v. through its Directorates for Refugees and Repatriation (DoRR) at the provincial level, provides guidance and advice to local authorities on IDP issues and the implementation of this Policy.
- (d) Developing a consolidated information management system, building on current information gathering capacity, to coordinate the gathering of information on the displacement situation, mapping and tracking the movements of the displaced from the onset of an emergency to their achievement of a durable solution, and ensuring an information flow with other actors. This includes the implementation of measures to improve the identification and profiling of IDPs in collaboration with UNHCR, IOM and other actors.
- (e) Coordinating and supporting the development of provincial action plans on durable solutions to internal displacement in accordance with section 8.2 of this Policy.
- (f) Planning, managing and coordinating protection-related activities and programs, including the provision of immediate relief and assistance (i.e., access to food, water, shelter, health care, protection and other basic needs).
- (g) Ensuring that in all protection-related activities and assistance programs, genuine consultations take place with the affected persons, including women, in both the planning and implementation phases.
- (h) Identifying policy and legislative gaps, ensuring that the complexities of the issue are fully understood and reflected, and that problems beyond the scope of the Policy are appropriately highlighted.
- (i) Collaborating with the international community to ensure that internal displacement is adequately reflected in their plans, programs and projects.
- (j) Mobilizing resources in accordance with section 9 of this Policy.

4.2.2 The GoIRA, the international community and other stakeholders in this Policy recognize the need to strengthen MoRR to play this lead role, in particular, the need to develop MoRR's human resource capacity and its information management system, as well as to increase its financial resources.

## **4.3 Coordinating Bodies**

### **4.3.1 Inter-Ministerial Coordination Committee on Refugees, Returnees and IDPs (IMCC)**

IMCC's responsibilities include:

- (a) ensuring a common inter-Ministerial understanding of the IDP situation, including drivers of displacement and obstacles to return or reintegration;
- (b) providing advice on the development and implementation of this IDP policy;
- (c) ensuring a clear division of institutional roles and responsibilities among government bodies relative to their mandated area of responsibility for IDPs; and
- (d) recommending budgetary provisions for the implementation of the IDP Policy.

#### **4.3.2 Afghanistan Natural Disaster Management Authority (ANDMA)**

The Afghanistan Natural Disaster Management Authority (ANDMA) is the designated lead agency mandated to address the immediate short-term emergency needs of persons affected and displaced by natural disasters.

- (a) ANDMA coordinates emergency response and post-disaster recovery efforts in emergencies. Its responsibilities are set out in the “Law on Disaster Response Management and Preparedness” (1 October 2012) and include the following:
  - i. in the emergency phase declaring the disaster level, activating and chairing the Emergency Operations Center (EOC), and mobilizing a Rapid Assessment/Quick Response Team;
  - ii. in the recovery and rehabilitation phase after a disaster, announcing the end of the disaster and leading post-disaster recovery efforts; and
  - iii. with regard to prevention and mitigation for natural disasters, undertaking contingency planning and disseminating early warning information.
- (b) ANDMA is responsible for mine action in the country through the Department of Mine Clearance (DMC), which works in partnership with the Mine Action Coordination Centre of Afghanistan (MACCA), coordinating all mine action activities in Afghanistan.
- (c) On all activities and programs concerning displacement, ANDMA coordinates its work with MoRR at the national level and with the DoRRs at the provincial level as well as with other relevant actors.

#### **4.3.3 National High Commission for Disaster Management (NCDM)**

The National high Commission for Disaster Management (NCDM) is the principal body for setting out national policy direction towards reducing risk of disasters through vulnerability reduction and responding to emergency situations. The NCDM is led by the Second Vice President, with ANDMA acting as Secretariat and the principal executing body at the national level. NCDM has a membership of over 20 key ministries and agencies that represent key sectors with a critical role in managing disasters.

- (a) According to the Afghan Disaster Management Law, the aims of Disaster Management are to reduce (prevent if possible) the potential losses from hazards, assure prompt and appropriate assistance to victims when necessary, and achieve rapid and durable recovery.
- (b) With respect to this policy, NCDM's responsibilities are preventing displacement and mitigating the effects of disasters by:
  - i. identifying and setting strategic directions/measures for disaster reduction;
  - ii. approving national financed preparedness plans, response, and reconstruction plans;
  - iii. national emergency coordination;
  - iv. developing national policies and contingency plans;

- v. managing funds provided for disaster relief purposes; and
- vi. mobilizing international assistance in times of major emergencies.

#### **4.4 Governmental Implementing Partners**

##### **4.4.1 Line Ministries and other Government bodies with Sectoral Responsibilities towards IDPs**

This Policy recognizes the roles of line Ministries and other Government bodies with sectoral responsibilities towards IDPs, including in particular the Ministry of Public Health (MoPH), Ministry of Education (MoE), Ministry of Rural Rehabilitation & Development (MRRD), Ministry of Agriculture (MAIL), Ministry of Urban Development Affairs (MUDA), Ministry of Labour, Social Affairs, Martyrs & Disabled (MoLSAMD), Ministry of Women’s Affairs (MoWA), Ministry of Justice (MoJ), Ministry of Interior (MoI), Ministry of Defense (MoD), Ministry of Border and Tribal Affairs (MoBTA), National Security Council (NSC), Ministry of Finance (MoF), Ministry of Economy (MoEc), Ministry of Haj and Religious Affairs (MoRA), Ministry of Information and Culture, and the Independent Directorate for Local Governance (IDLG).

Each of these ministries/bodies will carry out their responsibilities in connection with IDPs in coordination with the priorities and strategies developed by MoRR and IMCC. In particular, these Ministries, in coordination with MoRR, will:

- (a) review their sectoral laws and policies to ensure they include IDPs and displacement-affected communities, their particular needs and vulnerabilities, and to adapt the laws and policies accordingly;
- (b) review their planning and programming under sectoral laws and policies to ensure that IDPs and displacement-affected communities, are able to access and benefit from such programs on an equal basis with non-displaced Afghans; and
- (c) integrate the specific needs of IDPs and other displacement-affected communities into their sectoral plans, programs and projects in accordance with this policy and the provincial action plans.

The roles of specific ministries and bodies are described in greater detail in Annex 2.

##### **4.4.2 Provincial and other Local Authorities**

4.4.2.1 This Policy recognizes the roles of Provincial Governors and their responsibilities towards IDPs in their respective provinces under national legislation. In particular, Provincial Governors:

- i. are responsible and accountable for emergency response and preparedness in their respective provinces and districts;
- ii. chair the Provincial Disaster Management Committee (PDMC) that draws its participants from government line departments, UN agencies and NGOs;
- iii. are responsible for developing the provincial action plans for durable solutions, including a funding strategy/resource mobilization, in accordance with sections 8 and 9 of this Policy to implement this Policy in their respective Province; and
- iv. have a major role with respect to Land Allocation Schemes (LAS) for IDPs, to ensure that these schemes are sustainable, that the land is allocated in a fair and transparent manner and that this is done in accordance with pre-determined beneficiary criteria.

This Policy recognizes that District Governors, Mayors and other municipal authorities have specific responsibilities towards IDPs in their respective districts and municipalities under the Constitution and national legislation. In particular, District Governors, Mayors and Municipalities:

- i. will consider IDP populations in their development plans, programs and activities;
- ii. will ensure that the IDPs living in their district or municipality can access services, including health, education, neighborhood security, as well as livelihood opportunities, on a par with other residents;
- iii. may develop district or municipal action plans as part of the process of developing provincial action plans in accordance with Section 8.2 this Policy;
- iv. where there are large numbers of IDPs living in informal settlements and in sub-standard conditions, will consider strategies to formalize informal settlements and improve living conditions there, and to provide the urban poor, including IDPs, with low-cost social housing;
- v. will ensure that IDPs living in their districts and municipalities are not subjected to, or threatened, with forced evictions; and
- vi. in developing their annual budgets, will take into account the special needs created by having IDP populations in their communities.

#### **(c) Coordination**

In implementing the tasks set out in this section, all provincial and other local authorities coordinate their work at the national level through the Independent Directorate of Local Governance (IDLG), which will coordinate with MoRR. At the provincial level, local authorities will coordinate with DoRRs and Provincial Governors where applicable.

#### **4.4.3 The Afghanistan Independent Human Rights Commission (AIHRC)**

This policy recognizes the role of the AIHRC as a national human rights institution under Article 58 of the Constitution, to monitor respect for human rights in Afghanistan as well as to foster and protect them, including investigating and verifying cases of human rights violations and taking measures for the improvement and promotion of the human rights in the country.

As set out in section 10 of this policy, the AIHRC will participate in the monitoring and evaluation of the implementation of this policy, with particular concern for reporting on the extent to which the rights of IDPs are respected, protected and fulfilled.

#### **4.5 The role of International Community**

This policy

- (a) Recognizes the important role of the international community as a whole, including humanitarian, development, human rights and peace-building actors, in:
  - i. supporting humanitarian efforts of the government to provide assistance and protection to IDPs and displacement-affected communities during emergencies, as well as during both short and long-term (protracted) displacement;
  - ii. assisting, protecting and supporting durable solutions for Afghanistan's IDPs;
  - iii. assisting MoRR in data collection and analysis;
  - iv. assisting the government in contingency planning and preparedness to meet potential future displacements; and

- v. serving as members of relevant coordination mechanisms, advisory committees or task forces to ensure the implementation of this policy.
- (b) Respects, in particular, the humanitarian principles of humanity, impartiality, independence and neutrality, and the application of these principles by the international community.
- (c) Asserts the need for close coordination between humanitarian and development actors and, in particular, requests the integration of displacement-specific elements in development plans and urban planning.
- (d) Asserts the responsibility of the Humanitarian Coordinator of the United Nations for coordinated and integrated planning and programming of humanitarian and development actors guided by the principles contained herein as well as fundraising for respective activities.
- (e) Recognizes the important role played by international non-government organisations (INGOs) as well as UN agencies and other international humanitarian actors.
- (f) Recognizes the important role of bilateral and multi-lateral donors in assisting, protecting and supporting solutions for Afghanistan's IDPs and in strengthening and supporting MoRR and the AIHRC to effectively carry out their mandates under this policy.
- (g) Requests donors to fund the implementation of action plans for durable solutions under this Policy, to support other programmes and projects to be implemented in line with the principles contained herein, and to allow for flexible funding allocation in the implementation of this Policy, where humanitarian and development interventions need to be combined.

#### **4.6 Afghan Civil Society**

This policy recognizes that civil society, including NGOs, community-based organization, and religious and other shuras

- (a) play a key role in supporting government efforts to reach displaced communities, assess their needs and provide them with emergency assistance;
- (b) assist IDP communities to participate in decisions affecting their lives, to establish appropriate associations and networks for this purpose and, when necessary, advocate on their behalf.
- (c) has a critical role to play in helping to develop programs and activities to assist IDP communities in displacement and in the search for durable solutions, including finding new livelihoods and learning new skills;
- (d) has an important role in monitoring the implementation of this policy;
- (e) will respect the humanitarian principles of humanity, impartiality, independence and neutrality; and
- (f) will coordinate their activities in support of the displaced communities through appropriate networks and mechanisms.

#### **4.7 IDPs and Displacement-Affected Communities**

This policy recognizes that

- (a) IDPs and communities affected by displacement are best placed to understand their own needs.
- (b) Through their *shuras*, their elders, and any associations they establish to promote their views and concerns, they will participate as stakeholders in all major decisions concerning programs, activities and strategies intended to provide them with emergency assistance and durable solutions to their displacement.
- (c) IDP communities should make every effort to solicit the views of women as well as men, of the elderly, of adolescents and children, and of persons with disabilities.

#### **4.8 Adherence to the Policy**

This Policy shall be observed without any adverse distinction

- (a) by all authorities and stakeholders referred to in sections 4.1 to 4.6;
- (b) by the private sector as applicable; and
- (c) by non-state actors, AGE's and similar groups present in Afghanistan. Their adherence to this Policy does not serve to confer legal status on them.

### **5. Actions Required for the Prevention of Arbitrary Displacement**

This policy recognizes that preventing the conditions that drive people into displacement is central to the responsibility of the GoIRA to protect all persons residing within their territories. As elaborated in the Guiding Principles on Internal Displacement, national authorities (including provincial and municipal authorities) must prevent and avoid conditions that might lead to displacement, minimize unavoidable displacement, mitigate its adverse effects, and ensure that any displacement that does occur lasts no longer than required by the circumstances.

#### **5.1 Conflict, Military Operations, Generalized Violence and Human Rights Violations**

##### **5.1.1 Criminal Acts and Human Rights Violations**

While Afghanistan remains in a state of conflict and there are areas of the country where there is no effective control by Afghan National Security Forces (ANSF), the GoIRA will make clear that it holds Anti-Government Elements (AGEs) and other armed groups, international forces, as well as its own forces, accountable for criminal acts and human rights violations which result in forced displacement including:

- (a) discrimination against persons in the enjoyment of any rights or freedoms;
- (b) “land grabbing” which forces people off their land and property;
- (c) genocide, crimes against humanity, war crimes and other violations of international humanitarian law;
- (d) intimidation, threats and harassment, arbitrary killing, summary execution, beheadings, arbitrary detention, abduction, enforced disappearance or torture and other forms of cruel, inhuman or degrading treatment or punishment including disfigurement or mutilation;
- (e) sexual and gender based violence in all its forms, notably rape, enforced prostitution, early marriage and forced marriage, sexual exploitation and harmful traditional practices, slavery, recruitment of children and their association with armed groups or armed forces, forced labor and human trafficking and smuggling; and
- (f) interference with the right to food, including actions which cause food insecurity.

In accordance with its obligations under the 1949 Geneva Convention and its 1977 Protocols, the GoIRA will:

- (g) avoid the conduct of military operations in civilian areas, if there is a risk of displacement of the civilians or harming them and civilian objects;
- (h) provide safe passage for communities or individuals who are leaving their areas due to conflict, insecurity or natural disaster;
- (i) provide safe passage for humanitarian aid to people in need;
- (j) investigate adequately and independently all allegations of harm and attacks that resulted in displacement, loss of civilian lives, livelihoods and homes; and
- (k) see that compensation is provided to communities displaced and affected as a result of the



military operations.

### **5.1.2 Legislative Review**

The Ministry of Justice (MoJ) will review current legislation to ensure such accountability, as well as guarantees of non-discrimination and access to justice for persons in displacement; if deemed necessary, existing legislation will be amended or new legislation drafted by the MoJ and proposed to Parliament.

### **5.1.3 Ethnic and Tribal Conflict**

In cases where ethnic and tribal conflicts and disputes threaten to lead to displacement:

- (a) The GoIRA will continue its practice of dispatching mediation teams to find acceptable solutions that avoid displacement.
- (b) For this purpose, it will establish a Mediation Committee which reports to the Office of the President to oversee the process of mediation and to ensure the impartiality of mediators as well as accountability and transparency and that all efforts are taken to achieve a speedy response.
- (c) The composition of this Committee will be broad-based and include male and female Members of Parliament, representatives of the Ministry of Border and Tribal Affairs, of the Afghanistan Independent Commission on Human Rights, and from civil society, amongst others.

### **5.1.4 Explosive Remnants of War (ERW)**

This policy recognizes that:

- (a) one of the greatest current hazards in Afghanistan is the prevalence of ERW, including mines and UXOs;<sup>7</sup>
- (b) demining is a pre-requisite for people to settle or return in safety to their lives and livelihoods and for socio-economic development to take place; and
- (c) the lost access to large quantities of productive land for livelihoods and settlement only serves to reinforce poverty, de-stabilize communities, and undermine opportunities for socio-economic development.

The policy acknowledges the importance of the work of the Mine Action Programme of Afghanistan (MAPA), which is coordinated by the Mine Action Coordination Centre of Afghanistan (MACCA), working with the Afghan Government's Department of Mine Clearance (DMC) on demining, including mine/ERW risk education.

The policy recommends that the work of MAPA be expanded wherever possible as a matter of priority; and this work be guided by the work plan of the Convention on the Prohibition of Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (APMBT Treaty) extension, which outlines the plan to declare Afghanistan mine free by 2023.

## **5.2 Natural Disasters**

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<sup>7</sup> As of January 2013, the lives and livelihoods of people in more than 1,700 communities remain affected by landmines, ERW, and abandoned Improvised Explosive Devices (IEDs) spread over an area of over 570 sq km.

This policy recognizes that:

- (a) many of the natural disaster hazards such as earthquakes, flash floods, and harsh winters, are most effectively addressed through early warning and emergency preparedness measures; other hazards, such as drought, chronic flooding and avalanches, can only be effectively managed through disaster risk reduction (DRR) and large-scale development interventions, including infrastructure repair and riverbank reconstruction.
- (b) As set out in the “Law on Disaster Response, Management and Preparedness,”<sup>8</sup> the NDMC with ANDMA as the Secretariat, will continue and intensify its efforts on prevention, mitigation, preparedness and response measures for natural disasters to reduce the risk of such hazards occurring, the loss of life, the damage and the displacement that can ensue.
- (c) Such preparedness measures include contingency planning, mapping areas of populations at risk, monitoring potential disasters, disseminating early warning information, and organizing education and awareness raising activities. This also requires that measures are in place for rapid response to such disasters with local officials trained, emergency stocks pre-positioned, and sites allocated in preparedness for any displacement influx.
- (d) There are areas of the country which are subject to recurrent hazards, such as seasonal flooding, or avalanches, which force communities off their land on a regular basis. MoRR in cooperation with ANDMA, the IDLG, and MRRD, and with the involvement and consent of the affected communities, will make all efforts to relocate them permanently to safe areas, and then to prohibit rebuilding on flood plains or other such disaster-prone areas.
- (e) Displacement following natural disasters can also be attributed to the lack of early and effective recovery efforts to assist people to rebuild their homes, their farms and their irrigation systems, to restock seeds and animals, and to restore basic services (water, health, education). Frustration at being unable to restart their livelihoods or to access services can trigger their departure, usually towards urban centers. Thus, early recovery is a key element for the prevention of displacement and all relevant line ministries, including MAIL, MRRD, MoPH, MoE, MoLSAMD and IDLG will prioritize this in their strategies and programs and in the implementation of this Policy.

### 5.3 Development Projects

This policy recognizes that

- (a) the compulsory acquisition of land for public purpose including infrastructure projects displaces people, forcing them to give up their land, homes, assets and means of livelihood, and may have traumatic psychological and socio-cultural consequences.
- (b) the Government must prevent or minimize displacement caused by projects carried out by public or private actors for the purposes of development by requiring that:
  - i. the stakeholders concerned explore feasible alternatives, with full information provided to, and genuine consultation with persons who would be displaced by projects;
  - ii. the relevant Government authorities carry out socio-economic and environmental impact assessments of a proposed development project as well as a feasibility study prior to undertaking such a project.
  - iii. such assessments must take into account the differential impacts of displacement on marginalized groups including women, children, older persons, and persons with disabilities.

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<sup>8</sup> Gazetted 1 October 2012, issue no. 1089.

- (c) should there be no alternative to displacement, and if the project is deemed to be overwhelmingly in the public interest, families and communities that will be displaced will be fully consulted about where, when and how they will be relocated, be given acceptable alternative accommodation in compliance with international human rights standards on adequate housing, assisted to relocate, and paid appropriate compensation for the expropriation of their homes and property, not only for private farmlands but also for off-farm community lands, such as those used for grazing or forb cutting.
- (d) in many cases, a system of extending cash compensation does not, by itself, enable the affected families to obtain cultivable land, off-farm community land for grazing their animals, land on which to build a home, and other resources that they need to surrender to the state.
- (e) some persons may not be eligible for compensation due to lack of proof of ownership of property, such as landless agricultural workers, tenants and artisans living in poverty, who are critically dependent on their acquired assets for subsistence/livelihood. Such persons will be compensated for any loss of livelihood, and special programs will be developed by MRRD, MAIL, MUDA, MoLSAMD and other relevant line ministries, including programs of social housing and social support, to assist such families not only to relocate but to find sustainable employment opportunities.
- (f) where the development project is an economic enterprise producing revenue for the state or private actor, the affected community must be given a reasonable proportion of employment opportunities, favored over those not directly affected; additionally or alternatively, the affected community should be given the opportunity to acquire shares in the enterprise, with dividends placed in an appropriate Community Fund to be expended on community projects.
- (g) the affected community has the right of formal protest and appeal and appropriate mechanisms will be established to provide for their right to be heard and where appropriate legal aid to enable legal claims to be brought.

#### **5.4 Prohibiting “Forced Evictions”**

MoRR and the humanitarian community are conscious that the situation of IDPs and others living at risk of forced eviction in informal settlements is an urgent humanitarian issue in need of redress.

This policy:

- (a) Defines forced eviction as the permanent or temporary removal of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection.
- (b) Acknowledges that forced evictions “constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement.”<sup>9</sup>
- (c) Also recognizes that the owners of land have valid claims to their property, and may ask that the informal settlers vacate the land, especially if they have plans for the use of the land, or for reasons of public safety and security.
- (d) Provides that lawful evictions can take place only if they are carried out in accordance with Afghan national law and the provisions of international human rights treaties.
- (e) Notes that there are various statutory laws of Afghanistan which include direct or indirect statements that eviction should not take place except when it is sanctioned by law and carried out in accordance with legally defined procedures.
- (f) Notes the importance of MoJ in reviewing the legislation in (e) above with a view to amending the law where necessary or drafting a new law, to ensure effective protection prior to, during and after an eviction of individuals, groups and communities.

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<sup>9</sup> Basic Principles and Guidelines on Development-based Evictions and Displacement, Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, A/HRC/4/18.Ibid.

- (g) These measures should in particular guarantee that
  - i. people are not left homeless and landless as a result of the evictions and unable to sustain their dependence on their farms and off-farm lands; and if needed they will get assistance to construct new shelter for their family;
  - ii. evicted people are not worse off after the eviction and their livelihood is maintained recognizing that farmers, if given alternative land to cultivate, will need to be assisted until they can plant and harvest a crop in their new location; and
  - iii. particular attention is devoted to vulnerable groups including children, the elderly and persons with disabilities or who are ill, and the rights of women in particular.

Guidelines to provide safeguards, prior to, during and after an eviction, and mitigate harm and suffering are included as Annex 4 of this policy.

## **6. Displacement in the Emergency Phase – Assistance and Access**

### **6.1 Emergency Assistance and Protection**

#### **6.1.1 Principles**

This policy recognizes that:

- (a) The emergency phase of displacement focuses on life-saving measures.
- (b) Depending on the circumstances which led to the displacement, the IDPs may need emergency shelter, medical care, potable water, food, non-food items (NFIs) and protection from harm.
- (c) For persons with disabilities, the chronically ill, the elderly, and other especially vulnerable individuals, measures need to be taken to ensure that they can physically access this assistance.

#### **6.1.2 Emergency Response**

During the emergency phase of displacement, MoRR will, with assistance from relevant coordination mechanisms, line ministries, agencies and the humanitarian community:

- (a) carry out assessments of needs of the displaced population and organize the appropriate response in accordance to the Sphere standards<sup>10</sup> which cover four primary life-saving areas of humanitarian aid: water supply, sanitation and hygiene promotion; food security and nutrition; shelter, settlement and non-food items; and health action.
- (b) register displaced families and or individuals for the purposes of receiving assistance;
- (c) ensure that there are measures in place for preventing and responding to child protection risks which include separation from their family, sexual and gender-based violence, and harmful coping strategies, exploitation and abuse. These prevention and response interventions will include:
  - i. mechanisms to monitor these protection needs;
  - ii. referral pathways to respond appropriately to special needs;
  - iii. safe spaces for women, children and adolescents within IDP sites;
  - iv. a system for tracing missing persons, particularly children separated from their parents; and for family reunification. This task is currently performed by MoLSAMD in its role as Chair of the Child Protection Action Network (CPAN), with support from the International Committee of the Red Cross (ICRC) and the Afghan Red Crescent Society (ARCS); and
  - v. community mobilization in fostering support for children and adolescents at risk.

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<sup>10</sup> The Sphere Handbook: *Humanitarian Charter and Minimum Standards in Humanitarian Response*, 2011 edition.

- (d) ensure that those involved in emergency response, including search and rescue, are following the Standard Operating Procedures (SOPs) of the Ministry of Interior (MoI) for the handling and identification of mortal remains.
- (e) ensure that mortal remains of IDPs are not despoiled or mutilated, facilitate their return to next of kin wherever possible, dispose of them respectfully where this is not possible, and ensure that the gravesites of IDPs are respected and that their relatives can visit them.
- (f) ensure that MoLSAMD prioritizes the needs of the most vulnerable and is providing appropriate support to persons with disabilities, orphans and widows.
- (g) ensure that, should it be necessary to set up camps to accommodate persons who have been displaced, this will be done in accordance with the Sphere standards and offer safe and secure shelter and basic services to the IDPs.
- (h) ensure that, if it is not possible for people to return to their homes after displacement as a result of natural or man-made disasters or conflict, that measures are taken to relocate them to an area that is safe and secure, in consultation with them and with their consent. Such relocation efforts will be coordinated by MoRR.
- (i) ensure through the Ministry of Interior (MoI), in consultation when necessary with the Ministry of Defense (MoD), that the police are responsible for maintaining law and order in the communities where the IDPs have settled; and that, where applicable, they also provide protection to the facilities and assets of humanitarian and development partners.
- (j) coordinate with MoI and MoD to ensure that displaced persons have the freedom to move and have access to all areas where various economic and social activities take place, on a par with those who have not been displaced, unless there are specific threats to the security and safety of the IDPs which justify restriction of their freedom of movement.
- (k) coordinate with ANDMA/DMC and MACCA to ensure that area is free from risk of mine and ERW for people to settle or return in safety to their lives and livelihoods and for socio-economic development to take place.

## **6.2 Problems of Humanitarian Access**

The policy recognizes in accordance with International Humanitarian Law (IHL) that humanitarian access refers to both the ability of humanitarian actors to reach populations in need and the ability of affected populations to access assistance and services. To ensure the effects of displacement do not result in the violation of the rights of displaced persons to access humanitarian assistance and protection or restrict their right to freedom of movement and access to basic services, the GoIRA will ensure that:

- (a) The ANSF (ANA and ANP) and other specialized national security bodies will exercise primary responsibility and have the necessary capacity to provide security for IDPs and to personnel of humanitarian and development agencies.
- (b) Authorities concerned shall grant and facilitate passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.
- (c) Where humanitarian access to displaced persons is hindered, the GoIRA shall use all appropriate means, including provision of security services in accordance with humanitarian guidelines and policies, and permitting and facilitating dialogue /negotiations as applicable, so that humanitarian and development partners can reach displaced persons in order to provide them with needed assistance.
- (d) In instances of conflict involving the GoIRA, humanitarian actors are not prevented from accessing populations in need, regardless of their side in the conflict, in accordance with the principle of neutrality.

## **6.3 Documentation**

### **6.3.1 General Information**

This policy recognizes that

- (a) The personal documents of people who flee their homes and areas of habitual residence are frequently lost or destroyed, and IDPs are often unable to obtain or replace such documents while they are in displacement. This includes national identity (ID) cards (tazkera), birth certificates, passports, and marriage licenses. Other important documentation which may be lost includes title deeds to land and houses, lease agreements, election cards, school records or diplomas, records of entitlement to pension or disability cards.
- (b) The tazkera is a vital document for all Afghans as it is necessary for identification at police check-posts, property acquisition, sometimes for enrolling children in schools, getting a government job, obtaining a passport, registering marriages, accessing courts, and sometimes for receiving humanitarian assistance; and that the lack of a tazkera can lead to discrimination, marginalization and even the denial of citizenship and statelessness.
- (c) The Department of Population Registration (DPR) within the Ministry of Interior (MoI), which is responsible for issuing the tazkera, in accordance with existing Civil Registration Laws, is currently introducing, in cooperation with the Ministry of Communication and Information Technology, new E-Tazkera (Electronic National Identification Document) containing biometric information, to replace the six different paper tazkeras currently in use.
- (d) The failure to issue IDPs with lost or destroyed documents shall not in any way impair the exercise or enjoyment of their human rights.

### **6.3.2 Regarding the Tazkera**

In accordance with this policy:

- (a) The MoI will prioritize IDPs who do not have tazkeras for receiving the E-Tazkera and will authorize all central and provincial departments of the DPR to prioritize IDPs for issuance of the E-Tazkera.
- (b) The MoI will ensure that information on how to obtain an E-Tazkera is widely disseminated in IDP communities, along with explanations about its importance, in all languages spoken by IDPs.
- (c) The MoI will ensure that such information targets IDP women, as only a small percentage of Afghan IDP women have a tazkera.
- (d) The Ministry of Women's Affairs (MoWA) will undertake awareness-raising activities about the importance of the tazkera for women and children and on the procedure for obtaining the document.
- (e) Where for cultural reasons some women do not wish the tazkera to display their photograph, they will be given the option of using another form of identification such as fingerprints; or if they agree to have their tazkera issued with a photo, their right to show the photo only to another woman will be respected.
- (f) MoI will cooperate with MOWA, MoLSAMD and MoBTA to see that assistance is given to separated, unaccompanied or orphaned IDP children to obtain tazkeras, and to members of certain groups, notably the Kuchi, Jogi and Chori Frosh, who generally do not have tazkeras and who face special difficulties in acquiring them.
- (g) MoI will modernize the record-keeping of its DPR and centralize in Kabul data that is currently only held in provincial capitals, so that it is not necessary for IDPs to travel to their home provinces to verify their identity, as this is expensive and can be both difficult and dangerous. It will also ensure that the new system allows for the issuance of tazkeras in any provincial capital.

- (h) MoI will also consider alternative forms of proof (e.g., sworn testimony from an elder, a religious leader, a medical doctor) regarding the applicant's identity.
- (i) If there is a fee charged for the tazkera, it should be very minimal and waived in the case of vulnerable IDPs.

### **6.3.3 Regarding Other Lost Documentation**

With regard to the loss of other documents, including those noted in paragraph 6.3.1 (a) of this section, MoRR together with the Ministry of Justice will:

- (a) Review laws, rules and regulations to analyze what obstacles exist to their replacement;
- (b) Recommend necessary measures, including amending legislation and regulations, to ensure that IDPs are issued with documents necessary for the enjoyment and exercise of their rights
- (c) Recommend that relevant national, provincial and district offices be instructed by the Ministry charged with this matter to facilitate the issuance of new documents or the replacement of documents lost or destroyed in the course of displacement, without imposing unreasonable conditions, such as requiring return to one's place of habitual residence in order to obtain these or other required documents, and without excessive cost.

## **7. Providing Assistance and Protection to Persons in Displacement**

### **7.1 Human Rights and Entitlements of Persons in Displacement**

This policy reaffirms that, although they are in displacement, IDPs do not lose the rights or entitlements enjoyed by all Afghans. It recognizes that IDPs may, however, find it more difficult to exercise those rights and to benefit from those entitlements because of their displacement.

#### **7.1.1 Protection of life, integrity, liberty and security**

This policy recognizes that, in displacement, IDPs frequently face threats to their life, integrity, liberty and security. These are the most fundamental of human rights guaranteed under articles 23 and 24 of the Constitution of Afghanistan, as well as in the International Bill of Human Rights, the UN Guiding Principles on Displacement and other international instruments that the GoIRA has ratified.

In accordance with this policy:

- (a) The MoI, which has authority over the Afghan National Police (ANP) and the Afghan Local Police (ALP), has a special responsibility for ensuring the security and safety of persons in displacement, whether in informal settlements, in camps or with host families.
- (b) The police themselves will respect the rights of the IDPs, and that instances of abuse of authority will be swiftly investigated and punished.
- (c) MoI, with assistance from the AIHRC, will provide training to the ANP and the ALP on the special protection needs of IDPs through amendment of the training curriculum of the ANP and the ALP.
- (d) The MoI, in coordination with MoRR, will ensure that:
  - i. there are simple and transparent ways for IDPs to apply to local authorities for protection;
  - ii. the responsible local authority is clearly identified;
  - iii. special attention will be given to ensure that the vulnerability of females heading households, young women and girls, the elderly, the disabled and the chronically ill is not exploited;
  - iv. special measures (e.g., 24 hour hotline numbers, special police patrols) are implemented when circumstances require such measures; and

- v. there are family case units (authorized to register and discuss the family violence cases including rape, forced and child marriages) in police stations in areas where there are concentrations of IDPs, and measures are taken to raise public awareness, including among IDPs, on the existence of these units.
- (e) The MoWA, in coordination with the MoPH and the MoJ, will ensure that women or children who have been physically or sexually abused have access to shelters, to medical and psycho-social care, and to free legal assistance.
- (f) The MoD and the Border Police, which have specific responsibilities in areas of conflict or where there is cross-border fighting or shelling, will provide protection to civilians and take all measures necessary to keep civilians out of harm's way.
- (g) The MoJ, which is directly concerned with protecting and respecting the liberty of IDPs, will ensure that IDPs are not arbitrarily detained and that IDPs accused of crimes and at risk of detention or imprisonment have access to legal assistance.
- (h) The DMC and the MACCA will encourage mine action Implementing Partners to follow the work plan of the APMBT and CCM. This work plan is representing 308 projects which have been categorized based on their effects on the communities and should be completed so that Afghanistan can be mine free by 2023.

### **7.1.2 Right to Freedom of Movement and Residence**

Article 39 of the Constitution of Afghanistan states that: “Every Afghan has the right to travel or settle in any part of the country except in the regions forbidden by law. Every Afghan has the right to travel abroad and return home in accordance with the provisions of law.” IDPs, like all Afghans, have the right to freedom of movement and residence in Afghanistan which includes the right to return and rehabilitate themselves in their places of origin or habitual residence, local integration or resettlement in other areas of the country.

In accordance with this policy, MoRR will ensure that:

- (a) no person will be arbitrarily or unlawfully forced to return to or to remain within a certain territory, area or region.
- (b) national or local authorities will not forcibly relocate IDPs except under exceptional circumstances if provided by law and absolutely necessary to achieve a legitimate and proportionate aim.
- (c) Governors, Mayors and other local authorities shall not prevent IDPs from residing in their areas, and shall not create obstacles to that effect.
- (d) A person's freedom of movement and choice of place of residence will not be subject to any restrictions save those maintained by the law as they are deemed necessary for reasons pertaining to national security, public order, health or safety or other people's rights and freedoms.

### **7.1.3 Right to Adequate Housing and Access to Land**

#### **7.1.3.1 Right to Adequate Housing**

This policy recognizes that:

- (a) One of the greatest needs of the displaced population is adequate housing and that one of the greatest obstacles that internally displaced people in Afghanistan face in their search for adequate housing is lack of access to land and security of tenure.
- (b) IDPs have a right to seek adequate housing in rural or in urban settings.
- (c) Many IDP communities, having no other alternatives, have settled in informal settlements on government or private land which they do not own, sometimes with and sometimes without the agreement of the owners, where they lack security of tenure and are frequently at risk of forced eviction and other harassment.



- (d) Many IDP communities living in primitive shelter conditions are prevented from upgrading the quality of their shelter (e.g., to put in proper water points, sanitation facilities or drainage, to repair roofs, to insulate, or to put in electricity), and humanitarian organizations are prohibited from assisting them to do so, on the grounds that this implies permanence.

In accordance with this Policy, MoRR in cooperation with other authorities and actors described in sections 4.1 will:

- (e) Identify available land, make clear arrangements with the respective land owners and hosting communities, and provide emergency and transitional shelters for homeless IDPs, if necessary with assistance from the humanitarian community.
- (f) take measures to ensure that IDPs in informal settlements are permitted to upgrade their accommodation to meet at least the Sphere standards for emergency shelter; and take measures to assist the extremely vulnerable, especially women-headed households, the elderly, the disabled and chronically ill in this task, while looking to progressively realize their right to adequate housing.
- (g) advocate to ensure that land allocation schemes as provided for in Presidential Decree 104 are sustainable by avoiding the shortcomings described in section 8.3.2 (d).
- (h) explore community-level initiatives to lend, rent or sell land in areas where IDPs have settled.
- (i) explore options which grant IDPs security of tenure including through usufruct schemes.
- (j) explore options to include IDPs within the NPPs for the provision of affordable social housing, particularly in urban areas.
- (k) explore options to provide long-term low interest mortgages to IDPs who are in a position to purchase a home and/or land.
- (l) in consultation with affected communities, encourage municipal authorities to formalize informal settlements and upgrade slum-like areas through area-based approaches in order to progressively realize their right to adequate housing.
- (m) in accordance with the provisions of section 5.4, ensure that IDPs are not subjected to forced evictions and that, should eviction be legally sanctioned, the Guidelines set out in Annex 4 are followed.

#### 7.1.3.2 Criteria for Land Allocated to IDPs

All land allocated to IDPs by central or provincial authorities should meet the following criteria:

- (a) The land should be clear of ERW (landmines and UXOs).
- (b) The land should not be contaminated by chemical or mineral pollutants.
- (c) The land is not at risk of natural disasters such as landslides, floods, or avalanches.
- (d) The area has enough potable water to meet the needs of the community for drinking water and an adequate water supply for other sanitation purposes.
- (e) The area is accessible, within walking distance of a road and transport.
- (f) The allocated land is close enough to a job market or to agricultural land so that there are employment and other livelihood opportunities within an acceptable distance.
- (g) A school and health clinic are at an accessible distance from the allocated land.
- (h) The area is serviced by the police and other law enforcement agencies.

#### 7.1.4 Right to Livelihood

This policy recognizes that:

- (a) displacement often means losing one's livelihood with a resultant sharp decrease in economic, social and living conditions.

- (b) the skills of displaced persons may not be adapted to the new environment in which they are living (e.g., agricultural or pastoral skills in an urban environment), and that IDPs are frequently required to take on extremely low paying unstable jobs increasing the vulnerability and poverty of the family.
- (c) women, who were able to contribute to livelihood in their former homes are not able to work in the places where they have settled creating a higher dependency ratio on the few potentially wage-earning members of the household and sometimes leading to increased child labour, forced or early marriage and other risky coping mechanisms/behavior.

In accordance with this Policy and relevant NPPs:

- (d) The Ministry of Labor, Social Affairs, Martyrs and Disabled (MoLSAMD) will take measures to ensure that all IDPs including women have the right to access job opportunities without being discriminated on grounds of their being displaced or on the basis of their ethnicity (tribal affiliation), place of origin, religion or any other status.
- (e) Jobs of IDPs who were former state employees will, wherever possible, be transferred or relocated to the new place of displacement/residence or necessary efforts will be made to find them alternative government jobs. In all circumstances, IDPs' pension benefits as well as other entitlements will be transferred to their new locations without delay.
- (f) MoLSAMD will develop livelihood programmes, including in urban centers, to benefit both IDPs and the local population, and will encourage public-private partnerships for the creation of job opportunities, and workers and employers organizations.
- (g) MoLSAMD will assist IDPs in search of employment, including by the establishment of employment service centres, and will prioritize IDPs to participate in vocational training programs in order to make them more competitive in the job market. Prior to introducing vocational trainings and livelihood development programs, proper assessments and market analysis will be undertaken to ensure that there will be jobs for those who graduate from such programs.
- (h) MoLSAMD will assist IDPs with disabilities, female-headed households, unaccompanied older people and other vulnerable IDPs to find employment through its programs which explicitly focus on Afghanistan's most vulnerable populations.
- (i) The Ministry of Education (MoE), together with MoLASMD will include IDP youth in the vocational training programs, as described in section 7.1.8 (d) x.
- (j) The Ministry of Rural Rehabilitation and Development (MRRD) and the Ministry of Agriculture, Irrigation and Livestock (MAIL) will include IDPs who have settled in the rural areas in their livelihood and skills development programs, and will develop special strategies and programs for pastoralists (Kuchi) who have become displaced as a result of the loss of their livestock or the disruption of their migration routes.

### **7.1.5 Right to Water, Food, Clothes – Adequate Standard of Living**

This policy recognizes that the life of IDPs can be threatened as much by lack of food, water, or adequate clothing as by direct physical attacks, and that displaced populations, as well as communities hosting the displaced, have a right to request and to receive such assistance.

MoRR will ensure that

- (a) All assistance offered to IDPs and hosting communities is offered on the basis of humanitarian principles while respecting and fulfilling their fundamental rights without any discrimination.
- (b) Displaced persons are not denied life-saving humanitarian assistance on the grounds that such assistance will serve as a magnet or pull factor.
- (c) Winterization packages are provided to help persons in displacement survive extremely cold temperatures.
- (d) There is sufficient, continuous and safe water for personal and domestic use.

- (e) Special measures are taken to ensure that sanitation facilities are secure and accessible to all, particularly to persons with disabilities, to children and to the elderly, and that the sanitation facilities provide adequate privacy for women and girls.
- (f) Consideration is given to the possibility that, in some circumstances (e.g., where local markets are functioning), cash and voucher assistance programs, which permit the displaced to purchase what they need, may be a useful strategy both in urban areas and in rural, remote or inaccessible areas.
- (g) Extremely vulnerable individuals and families are assisted, IDPs are included when emergency relief is distributed to the poor, and that local authorities cooperate with national and international humanitarian agencies able and willing to offer such relief if they themselves are unable to provide it.

#### **7.1.6 Right to Health Care**

According to Article 52 of the Constitution of Afghanistan: “The state is obliged to provide free means of preventive health care and medical treatment, and proper health facilities to all citizens of Afghanistan in accordance with the law.” Article 53 of the Constitution says that: “The state guarantees the rights and privileges of pensioners and disabled and handicapped individuals and as well renders necessary assistance to needy elders, women without caretakers, and needy orphans in accordance with the law.” This policy recognizes that IDPs are entitled to the same full access to basic health services as is enjoyed by other citizens and affirms that IDPs will not be denied access to medical facilities or services on the grounds that they do not have a tazkera.

In accordance with this policy, the Ministry of Public Health (MoPH) will:

- (a) respect, protect and ensure this right to health care to the best of its ability, while factoring in the urgent nature of some IDPs health concerns, particularly during and after displacement.
- (b) place special emphasis on ensuring integrated and gender-sensitive health and nutrition services to all IDPs, particularly the poorest.
- (c) include immunizations for children, pre- and post-natal care for women, and treatment for the chronically ill and malnourished, persons with disabilities, the elderly and those (including especially women and children) who are victims of violence or traumatized by displacement.
- (d) assisted by MoLSAMD, provide psycho-social support for those who have been traumatized by the displacement, and for victims of sexual and other related abuses.
- (e) provide needed physical rehabilitation services and equipment and mobility devices to children and adults with disabilities, such as wheelchairs and crutches, in accordance with the UN Convention on the Rights of Persons with Disabilities.
- (f) expand health care facilities and services, including for physical rehabilitation, in urban centers with expanding populations which include large numbers of IDPs, so that they are sufficient to meet the needs, and accessible to those living in informal settlements; and in these areas, improve the quality of health care, with particular concern for the reproductive health of women and adolescent developmental growth and health of young children.
- (g) support mobile clinics in remote areas where IDPs are unable to easily access health facilities and visit them on a regular basis.
- (h) where humanitarian access to persons in need is blocked due to insecurity, will work with others to establish humanitarian corridors to provide essential medical services to the displaced, including inoculations.
- (i) will take into account the balance between health needs of IDPs and host communities, so as not to create tensions.

In accordance with this Policy and with the GoIRA’s obligations under international law, the MoD and the MoI commit themselves to ensuring that the Afghan National Security Forces (ANSFs) respect and protect medical neutrality, including medical personnel, medical transport, and medical facilities, and recognize humanitarian corridors opened for the purpose of delivering medical care to persons in displacement.

### 7.1.7 Protection of the Family

Article 54 of the Constitution of Afghanistan states that: “Family is a fundamental unit of society and is supported by the state. The state adopts necessary measures to ensure physical and psychological well-being of family, especially of child and mother...”

In accordance with these provisions, this policy recognizes:

- (a) the need for MoLSAMD, in cooperation with other competent authorities, to protect the integrity of displaced families and communities.
- (b) the need for special efforts to be made, as set out in section 6.1.2 (c) iv, to trace and reunify separated children and unaccompanied minors with their family.
- (c) in cases where children cannot be reunited with their families, such children shall wherever possible receive care in their original communities with the best interests of the child being the primary consideration.
- (d) that displaced persons have the right to obtain information on the fate of their missing relatives and that the MoI, as per section 6.1.2 (d), ensures that procedures are in place for identifying mortal remains of those who have lost their lives in natural or human made disasters or conflict.

### 7.1.8 Right to Education

This policy notes that:

- (a) The Constitution of Afghanistan states, in Article 43, that: “Education is the right of all citizens of Afghanistan, which shall be provided up to the level of the B.A. (*lisâns*)<sup>11</sup> free of charge by the state.” This article of the Constitution also states that: “The state is obliged to devise and implement effective programs for a balanced expansion of education all over Afghanistan, and to provide compulsory intermediate level education. The state is also required to provide the opportunity to teach native languages in the areas where they are spoken.” Article 44 states that: “The state shall devise and implement effective programs for balancing and promoting of education for women, improving of education of nomads and elimination of illiteracy in the country.”
- (b) In addition, the GoIRA, supports the Education for All Initiative (EFA) to bring the benefits of education to “every citizen in every society,” and reaffirmed in 2000, has also committed to six specific educational goals:
  - i. expand and improve comprehensive early childhood care and education, especially for the most vulnerable and disadvantaged children;
  - ii. ensure that all children, particularly girls, those in difficult circumstances, and those belonging to ethnic minorities, have access to and complete, free, and compulsory primary education of good quality;
  - iii. ensure that the learning needs of all young people and adults are met through equitable access to appropriate learning and life-skills programs;
  - iv. achieve a 50% improvement in adult literacy, especially for women, and equitable access to basic and continuing education for all adults;
  - v. eliminate gender disparities in primary and secondary education and achieve gender equality in education, with a focus on ensuring girls' full and equal access to and achievement in basic education of good quality; and
  - vi. improve all aspects of the quality of education and ensure the excellence of all so that recognized and measurable learning outcomes are achieved by all, especially in literacy, numeracy and essential life skills.

In accordance with this policy, the Ministry of Education (MoE), with respect to IDPs

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<sup>11</sup> The B.A. is received at the end of secondary education.

- (a) assumes the obligation to ensure that primary and secondary education is free and compulsory for all IDP children, girls as well as boys.
- (b) affirms and will take measures to ensure that at the primary and secondary school level:
  - i. no IDP student will be denied access to a school on the grounds that they have no school records (children can be tested to find their appropriate grade) or no tazkera;
  - ii. no IDP student will be denied access to the school because they cannot pay for a school uniform, school books, supplies or other similar expenses;
  - iii. schools will do everything possible to accommodate the needs of IDP children with disabilities.
  - iv. in urban centers, IDP children have the right to participate in mainstream education along with local children.
  - iv. there are local educational programs and awareness activities to encourage IDP parents to enroll their children, girls as well as boys, in school, and to discourage harmful traditional practices such as early child marriage and child labor, which prevent children from getting an education.
  - v. there are schools, with appropriate sanitation facilities, located within, or close enough to IDP communities so that girls will be permitted to attend, and that are accessible to persons with disabilities.
  - vi. there are incentives and appropriate support given to teachers, with priority given to displaced teachers, so that they are prepared to teach in remote areas, or in informal settlements, where IDPs are living.
  - vii. where necessary, the number of classrooms, teachers (women as well as men), and teaching materials will be expanded, the curricula revised, and a robust inspection system introduced – so that the quality of the education provided in IDP communities is on a par with that given to other children in the country, able to teach appropriate life skills, and respects the culture of the IDP children.
  - viii. necessary measures will be taken in areas hosting large numbers of IDPs, to expand the number of classrooms, teachers and teaching materials, to adequately accommodate the educational needs of both displaced children and children in the host communities.
  - ix. measures will be taken to implement and improve procedures to recognize certificates that students have earned abroad, as much as some IDP children were formerly refugees/returnees and are now in secondary displacement; and the same will be done to recognize the credentials of IDP professors/teachers who received their training outside of Afghanistan.
  - x. in cooperation with the MoLSAMD, will develop vocational training for youth (including in such areas as computer literacy), literacy programs for children who dropped out of school and for women who never had an education, and adult education programs and skills training for the unemployed. IDPs will be able to benefit, from such educational programs.

#### **7.1.9 Right to Property Protection and Compensation**

This policy recognizes that:

- (a) The Government guarantees displaced persons their rights to property, both moveable and immovable, ownership and compensation of property in case of displacement, demolition or destruction.
- (b) All displaced persons have the right to reclaim any housing and/or land and properties they might have been arbitrarily or unlawfully deprived of; or they shall have the right to compensation for any housing and/or land and property that cannot be practically reclaimed.

- (c) Reparation assistance forms an important component of durable solutions by facilitating the voluntary return of displaced persons, recognizing that injustice has occurred and providing material remedies that assist the reintegration of displaced persons in their places of origin.
- (d) Women, including widows, shall be assisted in claiming their inheritance or access to their *mahr* (dowry) and, where necessary, they shall get free legal assistance to recover their housing, land and property or get compensation for housing, land and property that has been destroyed or damaged.

#### **7.1.10 Right to Freedom of Expression and Access to Information**

According to Article 34 of the Constitution of Afghanistan “Freedom of expression is inviolable.” All Afghans, including IDPs, have the right to freedom of opinion and expression. Article 19 of the Universal Declaration of Human Rights specifies that “this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

In accordance with this policy, MoRR shall:

- (a) take all necessary measures to make information available to IDPs in a form and manner that is accessible to all and notify IDPs of their right to access humanitarian and social assistance as well as to any compensation to which they are entitled, and how to get legal assistance should they need it.
- (b) ensure that IDPs are given information on how to obtain required documentation that they may have lost or that was destroyed as a result of their displacement.
- (c) provide IDPs with information concerning the options they have with regard to durable solutions; this will include comprehensive and timely information in their own language about conditions in their area of origin, about their entitlements and about alternatives.
- (d) in cooperation with IDLG, ensure that important information that pertains to displaced persons is disseminated through local and national government offices, as well as in the local and national media, in all relevant languages;
- (e) ensure that such information is also accessible through community-based organizations, NGOs, mosque and information centers.
- (f) use these means to disseminate and enhance the concept of reconciliation and dialogue with respect to tribal and other conflict; and
- (g) take measures to ensure that the media is not be used as propaganda or to incite violence: freedom of opinion and expression does not extend to hate speech or incitement to violence.

#### **7.1.11 Participatory rights, including the right to vote**

##### **(a) Participatory Rights**

In accordance with this policy:

- i. in all decisions affecting the situation of IDPs, and especially with regard to finding durable solutions to displacement, both IDPs and host communities will be involved in planning, designing and implementing appropriate strategies, programs and activities concerning their return, integration or resettlement.
- ii. in all cases, IDPs are free to make their own informed decisions because they are best placed to determine their actual needs.
- iii. women, the elderly, youth and children, and persons with disabilities will be encouraged and empowered to participate in developing the aforementioned strategies, programs and activities and taking part in all decisions that directly affect their lives.

- iv. MoRR, in cooperation with the MoJ and IDLG, will encourage IDPs to form associations so as to better articulate their interests and advocate for their concerns.
- v. in cases where IDPs are living in camps or settlements, they will be assisted by MoRR to establish camp management shuras (i.e., committees), women shuras, and youth shuras.

### **(b) Right to Vote**

Article 33 of the Constitution of Afghanistan guarantees Afghans “the right to elect and be elected”.

In accordance with this policy:

- i. IDPs, as citizens of Afghanistan, have the right to stand for elections and the right to vote and will not be deprived of these rights on the grounds of their displacement. IDPs can determine if they wish to exercise these rights in their places of origin or their places of displacement (i.e., where they are currently living).
- ii. the Election Commission will take measures to ensure the registration of IDPs, including the issuance of election cards, in their places of displacement without any requirement that they return to their place of origin, unless the IDPs wish to return to their places of origin to be registered to vote there.
- iii. IDP women as well as men will be issued with election cards, and programs encouraging them to run for office as well as to vote will be developed by the Independent Election Commission (IEC), with assistance from the MoWA.

## **7.2 Protracted Displacement**

This policy recognizes that:

- (a) There are persons who have been in internal displacement for long periods of time because the conditions for return, as set out in section 8.3.1 have not been met and other durable solutions described in section 8 have not been found;
- (b) Protracted displacement may create dependency syndromes and abject poverty among IDPs and communities and exacerbates their vulnerabilities, thus having a negative impact not only on the lives of these people but also on host communities as well as the social and economic development of Afghanistan as a whole;
- (c) After decades of protracted displacement, area-based and targeted development and humanitarian interventions are required to improve living conditions of persons and communities in protracted displacement pending return or other durable solutions as well as, where appropriate, of communities hosting them; and
- (d) The authorities and actors referred to in section 4.1-4.5 will take, in particular, the following measures to upgrade living conditions and counter chronic impoverishment so as to avoid the above-mentioned impacts of protracted displacement:
  - i. expanding and upgrading basic services, in particular education and health facilities.
  - ii. upgrading shelter, housing, water, sanitation and other infrastructure in areas inhabited by IDPs to ensure their safety and dignity and avoid the proliferation of slum areas in urban centers.
  - iii. providing an adequate degree of security of tenure of land, either temporary or permanent, or forms of usufruct providing safety against evictions by allowing them to use land temporarily, renting or leasing it to them for a nominal sum as appropriate. This may require allocation of land or facilitation and recognition of community-based arrangements to lend, rent or sell land in areas where IDPs have settled. Mapping of land and identification of property and ownership relations in areas where IDPs live will facilitate such measures.

- iv. implementing livelihood programs and vocational skills training as well as providing access to affordable credits for economic activities and investments.

## **8. Durable Solutions**

### **8.1 General Principles**

In accordance with this Policy, authorities and other actors referred to in sections 4.1 to 4.5, within the framework of their competences and mandates shall:

- (a) Take the necessary measures to create conditions conducive to sustainable durable solutions to internal displacement in order to ensure that displacement does not last longer than required by the circumstances;
- (b) Recognize that the needs, rights and legitimate interests of IDPs will be the primary considerations guiding all decisions on durable solutions, and that they will participate as stakeholders in the planning and management of these solutions.
- (c) Respect the right of IDPs to make, in accordance with their right to settle in any part of the country as provided for by Article 39 of the Constitution and international human rights law, a voluntary and informed decision about their future, including the choice not to return to one's home;
- (d) Accept that under no circumstances will IDPs be encouraged or compelled to return or relocate to areas where their life, safety, liberty or health will be at risk.
- (e) Encourage and support the GoIRA to provide directly for meeting IDP needs for land within national land laws.
- (f) Recognize that an IDP's choice of local integration or settlement elsewhere in the country, in the absence of the option to return, will not be regarded as a renunciation of his/her right to return should that choice later become feasible.

### **8.2 Strategies and Action Plans**

#### **8.2.1 Provincial Action Plans**

This policy recognizes that:

- (a) While there are many common challenges to finding durable solutions for internal displacement across Afghanistan, each province faces a unique situation: the number of IDPs in each province is different; their places of origin and reasons for displacement vary; IDPs have different skills, levels of education and livelihood opportunities; the areas in which the IDPs are living in displacement may be urban or rural; and the availability of land, services, and other resources is not the same everywhere.
- (b) Each province which hosts substantial numbers of IDPs will therefore develop a strategy to address its own unique displacement situation, with an action plan focused on finding durable solutions for its displaced population.
- (c) Developing the provincial strategy and action plan is the responsibility of the Provincial authorities under the leadership of the Provincial Governor, but with the active engagement of the Provincial Councils, District Governors, Mayors, DoRRs, relevant line ministries and other local authorities, and social partners such as workers and employers organizations. (Guidelines for Developing such a Strategy and Action Plan are appended as Annex 3.)
- (d) Where there are municipalities or districts hosting significant numbers of IDPs, such municipalities may wish to detail their own strategies and action plans under the umbrella of the provincial strategy and plan.



- (e) In some cases, it may also be relevant for the provincial authorities from a given area of the country, or from neighboring provinces, to plan regionally, particularly if this expands their options and resources.
- (f) In developing such strategies and action plans, the IDPs themselves as well as other affected communities must be consulted and brought into the planning and implementation process; and all stakeholders must recognize that the decision on whether to return, to locally integrate or to resettlement remains the choice of the IDPs themselves
- (g) All such strategies and action plans should be shared with MoRR, which assumes the responsibility of assisting the provincial authorities to raise the funds necessary to implement the durable solutions proposed, advocating on their behalf with Government and Parliament in Kabul, as well as with international agencies and donors.
- (h) Such strategies and plans should be reviewed on an annual basis, with each Province doing a report to the Oversight mechanism (described in Section 10) on what it was able to achieve and on the obstacles it encountered, and providing its strategy and plan for the subsequent year.

### **8.2.2 A National Implementation Plan**

MoRR will prepare a National Implementation Plan on an annual basis. The first National Implementation Plan will be completed within six months from the adoption of this Policy and will, inter alia, set out how the Ministry will:

- (a) Disseminate the IDP policy to the public and to government agencies to foster greater understanding of its provisions and encourage its implementation.
- (b) In a close collaborative and supportive relationship with Provincial IDP Task Forces, support the provincial planning process, consolidating and prioritizing proposed actions.
- (c) Create an accountability or oversight mechanism to track progress and monitor the implementation of the provincial plans.
- (d) Build the capacity of the Provincial IDP Task Forces so that they can assume the functions set out for them in this policy.
- (e) Undertake a stakeholder mapping and analysis at the national level and encourage Provincial IDP Task Forces to do this for their provinces.
- (f) Provide regular briefings to the line ministries as well as the humanitarian and development communities on the implementation of the policy, including obstacles and opportunities, and ensure their active involvement in implementing the policy.
- (g) Engage in resource mobilization and allocation, including through fund-raising from the national budget and the international community funding mechanisms, for the implementation of the national and provincial action plans.
- (h) Strengthen MoRR's information management system on internal displacement, building on current information gathering capacity in cooperation with international agencies already profiling IDPs and tracking their movements.
- (i) Produce a national profile of the IDP situation in the country and a report on the implementation of this policy for the Office of the President of Afghanistan.
- (j) Review the relevance of the policy and the need for its adaptation or amendment.

## **8.3 Return**

### **8.3.1 Conditions for Return**

This policy recognizes that the following conditions that must be met to consider return an option for durable solution:

- (a) safety, security and stability in area of return;
- (b) safety and security while in transit to areas of return;
- (c) restoration of housing, land and property (HLP) and of community-held lands of returnees or appropriate compensation including acceptable HLP alternatives; Assistance with reconstruction of homes, provision of water, and basic services in area of return to ensure an adequate standard of living and access to basic services for returnees; and
- (d) re-establishment of livelihoods or introduction of alternative livelihood options in areas of return.

### **8.3.2 Facilitating Return**

MoRR will, in cooperation with other relevant authorities and actors referred to in sections 4.1-4.5 and in genuine consultation with internally displaced persons:

- (a) provide relevant and accurate information to IDPs on the situation in their home areas and facilitate go and see visits to inform their voluntary decision to return.
- (b) support IDPs willing and able to return home through programs which aim at creating the conditions specified in section 8.3.1.
- (c) ensure that IDPs are included in “area-based programs” in high return areas, and in “reintegration sites” developed to support the return of Afghans who were refugees.
- (d) help those who are landless to acquire land in accordance with the provisions set out in Presidential Decree 104 on Land Allocation Schemes, bearing in mind that such schemes have failed to produce sustainable return where the land allocated lacks potable water and other basic infra-structural necessities, where it is far from labor markets and livelihood opportunities, and where basic services (particularly health care and education) are absent or inadequate.
- (e) support programs of dialogue and reconciliation and of free legal assistance in areas where there were formerly conflicts between the returning IDPs and their neighbors.
- (f) support the development of strategies and engagement by development actors to ensure the absorption capacity of the community to which IDPs return.

## **8.4 Other Durable Solutions: Local Integration and Resettlement Elsewhere in the Country**

This policy acknowledges the need for strategies and programs that will permit internally displaced people to integrate locally or resettle elsewhere in the country, and in particular:

- (a) that MoRR and all authorities and actors described in sections 4.1-4.5 respect the right of the IDPs to freedom of movement and resident as set out in section 7.1.2, and, in particular, that local, municipal and provincial authorities accept the right of IDPs to integrate locally or resettle elsewhere in Afghanistan and accord them the status given to others who reside in that area.
- (b) that Provincial and District Governors and Mayors, with the support of relevant national authorities and the international community, and in consultation with the IDPs and the displacement affected communities, assume the responsibility for developing provincial-level or municipal-level action plans as described in Section 8.2.

- (c) that such action plans include, strategies and programs for ensuring the IDPs right to housing and land as set out in section 7.1.3 (e)-(m) and their right to livelihood, as set out in section 7.1.4 (d)-(j).
- (d) that such action plans should recognize that displacement-affected communities, as well as IDPs, are frequently poor and disadvantaged, that IDPs put an added burden on their fragile service infrastructure; and that to avoid creating antagonism and jealousy, area development plans should target the host communities as well as the IDP communities.
- (e) that in searching for durable solutions for the internally displaced, the GoIRA acknowledge the strong pull of urban centers; that the Ministry of Urban Development Affairs (MUDA) ensure that IDPs living in the informal settlements in urban areas benefit from the National Priority Programs (NPPs) to provide housing and infrastructure improvements (to water and sanitation, electricity, roads); and that IDPs benefit from Master Urban Plans to regularize many of the informal settlements and from improved land titling, so that they get security of tenure and can make improvements to their shelters without fear of eviction.
- (f) that where IDPs have purchased land, local integration will be supported through livelihood projects and improvement of services.
- (g) that MRRD and MAIL develop strategies to address the needs of pastoralists who have become IDPs, as set out in section 7.1.4 (j).
- (h) that national and international actors incorporate national, provincial and municipal actions plans for IDPs into their general and sectoral development plans and programs and address internal displacement wherever relevant in all their development activities.

## **9. Funding**

### **9.1 Implementation of this Policy is funded through**

- (a) direct budget allocation to MoRR to implement this Policy;
- (b) direct budget allocation to provide provincial and municipal authorities with core funding feeding into the implementation of the provincial-level action plans;
- (c) inclusion of activities under this Policy into the budget allocations to relevant line ministries and other Afghan authorities mentioned in this Policy;
- (d) other funding allocations acquired by MoRR for the purpose of implementation; and
- (e) international funding received by Provinces and Municipalities on the basis of funding strategies attached to provincial action plans.

### **9.2 For the purpose of implementing this policy, the Ministry of Finance (MoF) will:**

- (a) allocate adequate budget and funding to MoRR to meet the needs of IDPs.
- (b) build the capacity of the MoRR in designing realistic budget and funding proposals to the MoF.
- (c) allocate or design an IDP Trust Fund or an IDP National Budget item which all relevant government agencies can draw on to provide specific services and programmes for IDPs.
- (d) allocate emergency funding for MoRR and flexibility in the use of the budget for the IDPs so that MoRR is able to adequately respond to emerging and emergency situations.
- (e) allocate adequate funds to the AIHRC so that the monitoring tasks assigned to it under Section 10 of this policy can be effectively carried out.

## **10. Monitoring and Reporting**

The implementation of this Policy is monitored by an oversight mechanism which will be established by MoRR's unit of monitoring and evaluation, together with the AIHRC and the monitoring and evaluation unit in the Office of Administrative Affairs of the President. Other relevant national and international stakeholders can be invited to participate in the process of monitoring and evaluation.

The oversight mechanism:

- (a) will develop a monitoring and evaluation matrix, with appropriate benchmarks and indicators against which to measure implementation.
- (b) will provide to the Office of the President of Afghanistan an annual public report indicating progress made, obstacles to implementation, and coherency with the Policy framework.
- (c) may also prepare special reports highlighting particular problems regarding implementation where it deems this to be necessary, in particular in order to respect, protect and advocate for the rights of persons in displacement and to overcome obstacles preventing the implementation of durable solutions
- (d) for the purpose of monitoring the implementation of this policy, has the authority to follow-up with line ministries and government departments, and with Provincial, District and Municipal authorities regarding their implementation plans and efforts.
- (e) will receive funding adequate to enable it to perform the monitoring and reporting work required by this policy.

## Annexes of this Policy

### 1. Guiding Principles on Internal Displacement

## 2. Roles and Responsibility of Line Ministries and Other Government Agencies

## 3. Guidelines for Developing Provincial Action Plans for Durable Solutions

## 4. Guidelines for the Mitigation of Harm and Suffering in Situation of Forced Eviction

### 1. Annex 1. Guiding Principles on Internal Displacement

#### Introduction - Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:

- (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
- (b) States when faced with the phenomenon of internal displacement;
- (c) All other authorities, groups and persons in their relations with internally displaced persons; and
- (d) Intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

#### Section I. General Principles

##### *Principle 1*

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

***Principle 2***

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

***Principle 3***

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

***Principle 4***

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

**Section II. Principles Relating to Protection From Displacement**

***Principle 5***

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

***Principle 6***

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.

2. The prohibition of arbitrary displacement includes displacement:

(a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;

(b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;

(c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;

(d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and

(e) When it is used as a collective punishment.

3. Displacement shall last no longer than required by the circumstances.

***Principle 7***

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.

2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

- (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
- (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
- (c) The free and informed consent of those to be displaced shall be sought;
- (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
- (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

***Principle 8***

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

***Principle 9***

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

**Section III. Principles Relating to Protection During Displacement**

***Principle 10***

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

- (a) Genocide;
- (b) Murder;
- (c) Summary or arbitrary executions; and
- (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

***Principle 11***

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

***Principle 12***

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

***Principle 13***

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

***Principle 14***

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.
2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

***Principle 15***

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

***Principle 16***

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.
2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.
3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.
4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives

***Principle 17***



1. Every human being has the right to respect of his or her family life.
2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.
3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.
4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

***Principle 18***

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:
  - (a) Essential food and potable water;
  - (b) Basic shelter and housing;
  - (c) Appropriate clothing; and
  - (d) Essential medical services and sanitation.
3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

***Principle 19***

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.
2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.
3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

***Principle 20***

1. Every human being has the right to recognition everywhere as a person before the law.
2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.
3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

***Principle 21***

1. No one shall be arbitrarily deprived of property and possessions.
2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:
  - (a) Pillage;
  - (b) Direct or indiscriminate attacks or other acts of violence;
  - (c) Being used to shield military operations or objectives;
  - (d) Being made the object of reprisal; and
  - (e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

***Principle 22***

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;
- (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
- (e) The right to communicate in a language they understand.

***Principle 23***

- 1. Every human being has the right to education.
- 2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
- 3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
- 4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

**Section IV. Principles Relating to Humanitarian Assistance**

***Principle 24***

- 1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
- 2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

***Principle 25***

- 1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
- 2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
- 3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

***Principle 26***

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

***Principle 27***

- 1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.
- 2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

## **Section V. Principles Relating to Return, Resettlement and Reintegration**

### ***Principle 28***

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.
2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

### ***Principle 29***

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.
2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

### ***Principle 30***

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

## **Annex 2. Responsibilities of Line Ministries and other Government Agencies**

### **1- Ministry of Interior Affairs**

- The MoI and Afghan National Police (ANP), in accordance with article 5 of the Police Law, shall pay significant attention to maintain security in the areas where IDPs are settled. This Ministry shall make all efforts in assisting the national and international aid and humanitarian agencies in providing assistance and other facilities to IDPs.
- Based on the enacted laws of the country, the MoI and the ANP shall facilitate the daily activities of IDPs in their areas, maintain security, safeguard their civil rights and prevent any kind of immoral and unethical activities which can go against or damage their human dignity.
- The MoI and ANP shall make every effort to take into account the cultural and traditional values of the people of Afghanistan, among them the IDPs, during the process of distributing electronic identity cards to IDP women.
- The MoI and ANP, in cooperation with MoRR, shall take appropriate measures during the process of identification and registration of IDPs to maintain security and public order in their areas.

### **2- Ministry of Public Health**

Under the section of right of access to basic healthcare services

In accordance with article 52 of the Afghan Constitution,

Internally displaced persons, like other citizens of Afghanistan have the right to access health services. This article stipulates that no IDP shall be deprived of access to health facilities based on not having an identity card (Tazkera).

In accordance with this policy the Ministry of Public Health:

- While recognizing the urgency of health problems of some IDPs, particularly during their displacement and afterwards, shall observe the IDPs' rights of access to health care services and shall make every effort to ensure the fulfillment of this right.
- Shall insist on the provision of all health care and nutrition services for all IDPs, with particular attention paid to the poorest IDPs.
- Shall include IDPs in all vaccination campaigns, pre and post-partum services, treatment of chronic diseases and malnutrition, and also shall provide health care services to the disabled, the elderly and those who have fallen victim to violence or are mentally ill as a result of their displacement.
- In cooperation with the MoLSAMD, shall provide mental health and social services to victims of sexual violence or other kinds of violence.
- In accordance with international human rights convention and the Convention on the Rights of Persons with Disabilities, shall provide necessary means such as wheelchair, crutches etc. to disabled IDP children and elderly.
- Shall expand its health facilities and services in cities with changeable population and where there are a large number of IDPs, so that these services are enough to meet the needs of IDPs as well as the people living in informal settlements. Moreover, this Ministry shall improve the quality of health care services, with particular attention to provision of reproductive and child and adolescent health services.

- Shall provide mobile clinics in the remote areas where IDPs may not have easy access to health facilities so that they can have regular access to health services.
- In the areas where, due to insecurity, the roads are closed for humanitarian agencies to provide assistance to needy people, the Ministry of Public Health, in cooperation with other aid agencies, shall use other channels to provide to IDPs basic health care services, including vaccination campaigns.
- Shall take into account the balance between the needs of IDPs and host communities to prevent any kind of tension among them.

### **3- Ministry of Economy**

While prioritizing the development projects and programs of ministries and other agencies, the Ministry of Economy has always tried to take into consideration the IDPs and returning refugees and this will be continued in the future as well.

### **4- Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD)**

- Identification and categorization of types of skills and competencies available among IDP families based on the primary data compiled by MoRR, UNHCR or other agencies involved.
- Introduction of IDP job seekers to government, nongovernment and private sector employers.
- In collaboration with MoRR and financial support from donor agencies, provide market oriented skill development opportunities to IDP through existing Vocational Education Training Centers or specifically designed courses/ facilities.
- Incorporate/ consider IDP issues in the development of policies, strategies and plans of action within MoLSAMD mandate.

### **5- Ministry of Urban Development Affairs (MUDA)**

The Ministry of Urban Development is ready to assist the Ministry of Refugees and Repatriation in providing adequate shelter and livelihood opportunities for returnees and IDPs in the center and in provinces.

If land and funding is provided to the Ministry of Urban Development, this Ministry will provide detailed plans for IDP townships, with all necessary infrastructural facilities such as schools and other facilities.

### **6- Ministry of Border and Tribal Affairs (MoBTA)**

In case the tribal and ethnic conflicts may lead to displacement of people, the Ministry of Borders and Tribal Affairs will cooperate in establishing the mediator committees to resolve the conflict.

### **7- Ministry of Rural Rehabilitation and Development**

- National Water Supply Program

Provision of safe potable water by digging shallow wells, establishment of water supply systems, construction of hygienic latrines, provision of environmental health education in the areas to which the IDPs have returned.

- National Rural Access Program  
Construction of rural dirt roads, bridges, and culverts in the areas where IDPs live so that they have access to markets, clinics and other public places
- National Area Based Development Program  
Construction of buildings for clinics, schools and centers for other social services in the areas where IDPs have returned.
- National Solidarity Program  
Provision of social services and implementation of infrastructural projects through the establishment of District Development Councils in the areas where IDPs have return.
- Department of Social Protection  
Construction of gabion retaining walls, launching of food for work projects with cooperation of WFP. Technical issues related to different projects and their social aspects such as the effects of the mentioned activities on IDPs' return and reintegration through the Department of Social Security is evaluated regularly.

#### **8- Ministry of Women's Affairs (MoWA)**

MoWA will assume the following responsibilities with respect to this IDP Policy:

1. Identification and categorization of types of skills and competencies available among IDP Women and girls based on the primary data compiled by MoRR, UNHCR or other agencies involved.
2. Registration of IDPs seeking jobs into the database of Employment Services Centers of MoWA form where they can get reputed jobs. Though this is the responsibility of the Ministry of Labor, Social Affairs, Martyrs and Disabled.
3. Introduction of IDP job seekers to government, nongovernment and private sector employers through the Directorate of Economic, Health and Education and Social Affairs.
4. In collaboration with MoRR and financial support from donor agencies, provide skill development opportunities to IDP through the MoWA training centers.
5. Identification and registration of women and girls who are facing violence and process their cases to realize their rights.
6. Provide shelter for the IDP women and girls whose lives are in danger or have security problems and/or do not have family members to support them.
7. Incorporate/consider IDP issues in the development of policies, strategies and plans of action within MoWA mandate.

#### **9- Ministry of Defense (MoD)**

The Ministry of Defense shall have the following responsibilities with regard to disaster affected people:

- 1- As you are better aware, the Ministry of Defense shall perform its duties in safeguarding the independence, freedom, national interests, territorial integrity, national sovereignty, and national values of the country, maintaining peace and stability, and fighting against internal and external enemies.

- 2- In the emergencies caused by natural and man-made disasters, (earthquake, storms, drought) the Ministry of Defense, in cooperation with governmental and non-governmental organizations, is committed to provide any kind of assistance to civilians.
- 3- Maintaining security is one of the key tasks of the Ministry of Defense. This Ministry, based on a request from the National Afghan Police, provides supportive help in maintaining security for the people of Afghanistan, particularly to vulnerable individuals.

#### **10- The Afghan Red Crescent Society**

- Participating in the assessment of losses and identifying vulnerable areas, collecting information and identifying the needs,
  - Providing emergency assistance (including food and clothing) to affected people,
  - Evacuating disaster affected people and providing temporary shelters to them through local shuras and volunteers,
  - Submitting applications to International Federation of Red Cross and Red Crescent for assistance and reconstruction services,
  - Training and mobilizing volunteers and sending them to affected areas.
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- In accordance with its basic principles, policies and strategies, the Afghan Red Crescent Society, in cooperation with other partners, shall provide emergency assistance to vulnerable IDPs and people displaced by natural disasters in accordance to their policies, strategies, resources and SOPs.
  - As a member of the National high Commission for Disaster Management, the Afghan Red Crescent Society in cooperation with other partners shall make sure that the IDPs are protected and assisted.
  - Examples of assistance and protection services which the Afghan Red Crescent Society, in cooperation with International Federation of the Red Cross and Red Crescent, can provide to IDPs include tracking those who have been lost, provision of basic assistance, rapid needs assessment, provision of potable water and emergency health services, promoting health, provision of emergency shelter and food and non-food items.

#### **11- ANDMA**

##### **Afghanistan National Disaster Management Authority**

The Afghanistan Natural Disaster Management Authority (ANDMA) is the designated lead agency mandated to address the immediate short-term emergency needs of persons affected and displaced by natural disasters.

**The primary responsibilities of this office, enshrined in the law on disaster management, include:**

1. During the occurrence of adverse natural disasters, informing the people of the due to the emergence of natural disasters;
2. In the emergency phase declaring the disaster level and the resultant risks,

3. Activating the Emergency Operations Center (EOC),
4. Mobilizing Rapid Assessment/Quick Response Teams;
5. Coordination in meeting the primary needs of affected people by using available resources;
6. Coordinating the activities of the early warning system before the occurrence of disasters;
7. Coordinating the activities related to risk reduction and mitigation and taking appropriate measures to prevent natural disasters and coordinating reconstruction activities after the disaster using the available resources of line ministries;
8. Afghanistan National Disaster Management Authority, through the Department of Mine Clearance and in collaboration with Mine Action Coordination Centre of Afghanistan, is responsible for coordinating demining activities;
9. The Afghanistan National Disaster Management Authority, in close cooperation with the Ministry of Refugees and Repatriation and other relevant authorities, shall take into consideration those displaced due to natural disasters in all its emergency activities at the national and provincial levels. The roles of MoRR and ANDMA in the implementation of this policy have been clear and the Ministry of Refugees and Repatriation and the Afghanistan National Disaster Management Authority shall work jointly. Refer to annex 2

**The primary role of Afghanistan National Disaster Management Authority with regard to coordination of activities related to the internally displaced persons, taking into account the method of implementation of this policy is mentioned below:**

1. Coordination in meeting the emergency and short-term needs of the displaced persons during the emergencies phase, the continuation of which shall increase the vulnerabilities of the displaced persons;
2. Facilitating employment opportunities and cooperation with the National High Commission for Disaster Management with regard to managing the emergency activities related to the displaced persons;
3. Participating in the survey, registration and verification of IDPs due to natural disasters during the emergency;
4. Participating in managing emergencies during the first 72 hours and announcing the end of emergencies;
5. Addressing emergency incidences in which the IDPs are faced with possible risks of the emergency situation;
6. Other activities, such as employment, reintegration, provision of facilities for IDPs, establishing townships, identifying IDPs and classifying them into different categories, managing returnees' issues inside the country and other key issues will be the primary responsibilities of the Ministry of Refugees and Repatriation.

### **National High Commission for Disaster Management**

The National High Commission for Disaster Management is the leading authority for addressing and coordinating emergencies, decreasing the risks through diminishing vulnerabilities and responding to emergencies.

This Commission is chaired by the Second Vice President of Islamic Republic of Afghanistan while the Afghanistan National Disaster Management Authority is the secretariat of it. 19 ministries and key organizations have the membership of this high commission. The National High Commission for Disaster Management, based on the realization of this policy and its internal duties, has the following responsibilities:

1. Coordination and management of emergencies at the national level;
2. Endorsing national plans (mitigation, preparedness, response and reconstruction);
3. Approving national policies and contingency plans;



4. Mobilizing international assistances in emergencies;
5. Declaring emergency situations and also declaring the end of emergency;
6. Decision making in solving the major problems of those internally and externally displaced.

## **12- Ministry of Education**

- Providing information to the IDPs about the education rights of their children and the enrollment procedures in Afghan schools.
- Establishing local schools in the places where IDPs are living.
- Providing the fast education classes for the IDP children whom their age are above the normal age of school children
- Providing the dormitory facilities for the children of IDPs in nearby cities in order for them to continue their secondary education
- Providing book, stationaries and other necessary items for education

## **13 - Department of Mine Clearance (DMC)**

DMC, the GoIRA is the lead body in charge of demining in Afghanistan. In 2002 the GoIRA requested the United Nations Mine Action Service (UNMAS) to assist DMC to coordinate de-mining across the country. The UNMAS-supported (technical and financial) Mine Action Coordination Centre of Afghanistan (MACCA) fulfills that request in partnership with DMC. The Mine Action Programme of Afghanistan (MAPA) is coordinated by both the UN and GoIRA through their relevant departments which work in partnership (sharing the same offices).

## **14- Afghanistan Independent Human Rights Commission (AIHRC)**

The AIHRC is established as a national human rights institution under Article 58 of the Constitution: *“To monitor respect for human rights in Afghanistan as well as to foster and protect them.”* The Law on the Structure, Duties and Mandate of the Afghanistan Independent Human Rights Commission was adopted by the Council of Ministers in May 2005. Under the Law, the AIHRC is mandated to protect and promote rights and freedoms enshrined in Afghanistan’s Constitution, international declarations, international conventions on human rights, human rights protocols and other international human rights instruments.

Article 5 of the Law establishes five objectives for the AIHRC:

1. Monitoring the situation of human rights in the country
2. Promoting and protecting human rights
3. Monitoring the situation of and people’s access to their fundamental human rights and freedoms
4. Investigating and verifying cases of human rights violations
5. Taking measures for the improvement and promotion of the human rights in the country.

The areas of activity of the AIHRC include: human rights education; child rights, women’s rights, transitional justice, monitoring and investigation and the rights of persons with disabilities. In implementing its mandate and work, the AIHRC cooperates closely with Government, civil society, *Ulama*, media and international partners.

### **Annex 3. Guidelines to Provincial Governors**

#### **For Developing Provincial IDP Action Plans for Durable Solutions**

- (1) With one month of the adoption of this policy, in every province where there are substantial numbers of IDPs, Provincial Governors, in consultation with the Emergency Department of MoRR, should set up a Provincial IDP Task Force. This TF should be chaired by the Provincial Governor and Vice-Chaired by DoRR. For provinces where there is currently no IDP caseload, should that situation change, a Provincial Task Force should be created in line with these Guidelines.
- (2) A major responsibility of the Provincial IDP Task Force is to develop a Provincial Action Plan to find durable solutions for the IDPs in accordance with this policy.
- (3) Provincial Governors should ensure that all important actors are represented on the TF. This should include representatives from the following, amongst others: DoRR, ANDMA, line ministries (e.g., MRRD, MoLSAMD, MoE, MoPH, MoJ, MoI, MoWA), districts and municipalities; UN Agencies, International and National NGOs present in the province, whether engaged in humanitarian or development work; and the Red Crescent Movement. IDPs can either be represented on this body or separately, as noted under 5 below.
- (4) In order to ensure adequate participation in the work of the TF, each relevant government office should be asked to appoint a person of appropriate technical competence and authority (and to designate an alternate), who will regularly and actively engage with the TF. Other agencies represented should also be asked to do the same.
- (5) While the Provincial IDP Task Force, can also be mandated to monitor IDP movements in the province, to do emergency needs assessments and to coordinate response to the humanitarian and protection needs of IDPs, it should recognize that one of its important functions is the development and implementation of this Action Plan.
- (6) The TF should ensure that there is some mechanism in place for consulting with the IDPs and, if such a mechanism does not exist, it should help create it. (It should also make provisions so that the voice of women, the elderly, youth and other special groups can be heard.)
- (7) The TF should also ensure that there is a mechanism for consulting with host communities, regardless of which durable solution adopted: return, local integration or resettlement.
- (8) The TF should do a stock-taking, gathering all existing data available: i.e., how many IDPs there are in the province (disaggregated by age and sex), where they are living, where they originate from, their ethnicity, why they left, how long have they been in displacement, what their intentions are with respect to return, what education and skills they have, what livelihoods they are they engaged in. If this data has already been collected by UNHCR, IOM or DoRRs, there is

- no need to repeat the primary data collection; if data is missing, a profiling can be done to complete the picture.
- (9) Should there be a need for further assessments or profiling, the National IDP Task Force can provide standardized forms for gathering such information. The National IDP Task Force can also provide other kinds of technical assistance to the Provincial IDP Task Forces.
  - (10) The TF should then analyze the data and consult with the IDPs concerned to find the best durable solutions. The analysis should identify which issues pose obstacles for specific groups to reach their preferred durable solution and which situations provide opportunities for achieving sustainable solutions.
  - (11) Based on the stocktaking and analysis, the TF should prioritize among the IDP groups/communities in the province in terms of:
    - a. Vulnerability (which groups are most in need of a durable solution). Vulnerability could include categories such as: persons living in extreme poverty; the homeless or those with extremely poor shelter; those at risk of eviction; those without access to potable water, sanitation, education or health care; persons lacking civil documentation; those who have been in displacement the longest; etc.
    - b. Greatest chance of finding sustainable durable solutions for specific groups (most cost-effective interventions);
    - c. Greatest chance of attracting the required funding and expertise to implement the durable solution.
  - (12) The TF should decide on activities needed, specify those which will be undertaken in the coming year, and indicate who will undertake them and when?
    - a. It is particularly important that there is clarity on who has responsibility for what, what the time-frame is for implementing these activities, what bench marks will be used for evaluating success.
    - b. It is equally important to clearly understand how the planned activities (programs) fit into the larger overall development plans of the province/districts/municipalities -- how they relate to the NPPs or the National Solidarity Program (NSP), to planned urban development -- and what coordination mechanisms exist (or need to be established) to ensure synergy
    - c. Estimate how much will these activities will cost (budget) and indicate where funding can come from.
  - (13) Put all of this into an Action Plan and share it with MoRR which should approve the action plan and help raise funds for its implementation.
  - (14) This Action Plan should be completed within a three month period.

**Annex 4. Guidelines for Mitigating Harm and Suffering in Situation of Forced Eviction, drafted by Afghanistan Protection Cluster, Housing Land and Property Task Force (HLP TF)**

1. *Affirming*, that the House, Land and Property Task Force is a thematic working group under the Afghanistan Protection Cluster and carries out its activities in the context of humanitarian and emergency response to the needs of the TF members' target groups;
2. *Reaffirming* that every woman, man and child has the right to a secure place to live in peace and dignity, which includes the right not to be evicted unlawfully, arbitrarily or on a discriminatory basis from their home, land or community<sup>12</sup>
3. *Recognizing* that the often violent practice of forced eviction involves the coerced and involuntary removal of persons, families and groups from their homes, lands and communities, whether or not deemed legal under prevailing systems of law, resulting in greater homelessness and inadequate housing and living conditions<sup>13</sup>
4. *Reaffirming* the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions set forth in Article 11 of the International Covenant on Economic, Social and Cultural Rights to which Afghanistan is a party.
5. *Recalling* that the Committee on Economic, Social and Cultural Rights has considered in its General Comment No. 4 (1991) on the right to adequate housing, that "instances of forced eviction are prima facie incompatible with the requirements of the [International Covenant on Economic, Social and Cultural Rights] and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law"<sup>14</sup>.
6. *Considering* that the term "forced evictions" is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights<sup>15</sup>.
7. *Emphasizing* that the ultimate legal and political responsibility for preventing forced evictions rests with the Government<sup>16</sup>
8. *Affirming* that where evictions are justified, they must be carried out in strict compliance with the relevant provisions of international human rights law and in accordance with general principles of reasonableness and proportionality<sup>17</sup>, and that safeguards and procedural protection safeguards need to be implemented in order for the eviction to be conducted in a humane and dignified manner,

The Government of Afghanistan, therefore, commits to adopt appropriate strategies, policies and programmes to ensure effective protection prior, during and after an eviction of individuals, groups and communities against forced evictions and its consequences. Including the following elements as safeguards, amongst others:

Prior to an eviction:

- a. The IDPs, refugee returnees and civilians affected by the conflict and/ or natural disasters and at risk of forced evictions are consulted throughout all the process;
- b. Feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Prior to any decision to initiate an

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<sup>12</sup> Commission on Human Rights Resolution: 2004/28

<sup>13</sup> Commission on Human Rights Resolution: 2004/28

<sup>14</sup> E/1992/23, annex III.

<sup>15</sup> Office of the High Commissioner for Human Rights (OHCHR), The right to adequate housing (Art.11.1): forced evictions. CESCR General Comment 7, .20/05/1997), paragraph 3.

<sup>16</sup> OHCHR Prohibition of forced evictions, Commission of Human Rights Resolution, 2004/28

<sup>17</sup> A/HRC/13/20, Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik, p. 12

eviction, authorities must demonstrate that the eviction is unavoidable and consistent with international human rights standards;<sup>18</sup>

- c. Adequate and reasonable notice of eviction is given to all affected persons<sup>19</sup>. Any decision relating to evictions should be announced in writing and should contain a detailed justification for the decision, including on: (a) absence of reasonable alternatives; (b) the full details of the proposed alternative; and (c) where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions.
- d. All eviction decisions should be subject to administrative and judicial review. Legal remedies are provided or available to those who are affected by eviction orders, as well as legal aid to persons who are in need of it and willing to seek redress from the courts;

During an eviction:

- e. GoA officials or their representatives are present during eviction and all persons carrying out the eviction are properly identified prior to the event;
- f. Evictions shall not be carried out in a manner that violates the dignity and human rights to life and security of those affected. States must also take steps to ensure that women are not subject to gender-based violence and discrimination in the course of evictions, and that the human rights of children are protected.
- g. Any legal use of force must respect the principles of necessity and proportionality.
- h. Evictions do not take place in particularly bad weather, during night time or during religious holidays, and preferably not during winter times;

After an eviction:

- i. Evictions do not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the Government must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, relocation or access to productive land, as the case may be, is available<sup>20</sup>, immediately upon the eviction.
- j. Identified relocation sites must fulfill the criteria for adequate housing according to international human rights law. The sites must not be situated on polluted land or in proximity to pollution sources.
- k. Sufficient information will be provided to the affected persons, groups and communities on all State projects and planning and implementation processes relating to the concerned resettlement. Particular attention must be paid to ensuring that indigenous peoples, minorities, the landless, women and children are represented and included in this process;<sup>21</sup>
- l. The Government should take into account all alternative plans proposed by the affected persons, groups and communities;
- m. All persons threatened with or subject to forced evictions have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation,
- n. Individuals affected by eviction enjoy the right to claim adequate compensation for any property affected.

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<sup>18</sup> Basic Principles and Guidelines on Development- Based Evictions and Displacement, A/HCR/4/18

<sup>19</sup> Article 20, Amendment to the Law on Acquisition of Land, Official Gazette # 849, 2005, Afghanistan

<sup>20</sup> The right to adequate housing (Art.11.1): forced evictions. 20/05/1997. CESCR General comment 7. (General Comments) .  
Convention Abbreviation: CESCR GENERAL COMMENT 7 The right to adequate housing (art. 11.1 of the Covenant): forced evictions

<sup>21</sup> Basic Principles and Guidelines on Development- Based evictions and Displacement, A/HRC/4/18