

Report  
**Afghan citizens in Iran**



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Report: **Afghan citizens in Iran**

## **SAMMENDRAG**

Det antas at om lag tre millioner afghanske borgere oppholder seg i Iran. En million av disse har lovlig opphold i landet. De har oppholdt seg i Iran siden før Taliban-regimet falt høsten 2001, og har latt seg registrere under samtlige Amayesh-registreringer. Afghanere som har ankommet etter 2001 anses av iranske myndigheter å være ulovlige innvandrere. Dette notatet belyser situasjonen for afghanere i Iran, både de som har lovlig opphold og de som oppholder seg ulovlig i landet.

## **SUMMARY**

About three million Afghan citizens live in Iran. One million have legal residence in the country. They have been living in Iran since before 2001 and have participated in all Amayesh-registrations. Afghans who arrived after 2001, are considered by the Iranian authorities to be illegal immigrants. This report focuses on the situation of both legal and illegal Afghan residents in Iran.

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## 1. INTRODUCTION

With considerable assistance from the Norwegian embassy in Tehran and goodwill from the Iranian authorities, Landinfo made a short visit to Tehran in November 2010 following a visit to Afghanistan. The main purpose of the visit was to obtain information about the situation for Afghan citizens living and working in Iran. This report is largely based on information gathered during the visits to Iran and Afghanistan, but it also draws on written material dealing with the situation of Afghans in Iran.

## 2. BACKGROUND

The unstable security situation in Afghanistan in recent decades has led many Afghans to seek refuge in the neighbouring countries of Iran and Pakistan. At a meeting with Landinfo in Tehran in November 2010, UNHCR indicated that there are approximately three million Afghans staying in Iran. Roughly one million of them arrived in Iran before the fall of the Taliban regime in 2001. The Iranian authorities have only allowed Afghans who arrived before 2001 to register. They are registered under the so-called Amayesh registrations and have legal residence in Iran. Afghans who have arrived after 2001 are considered illegal immigrants. UNHCR has several offices in Iran and their mandate only includes the Amayesh-registered part of the Afghan population. According to a reliable source, there are probably many unregistered individuals among the Afghans who arrived before 2001.

After the fall of the Taliban regime, several million Afghans have returned from Iran to their home country, both voluntarily and under coercion. Substantial numbers have also crossed the border in the opposite direction, from Afghanistan to Iran, among other things in order to obtain work in Iran. Many of them travel on from Iran to Europe via Turkey. Deputy Minister Abdul Rahim of the Afghan Ministry of Refugees and Repatriations (MORR) stated (interview in Kabul, November 2010) that, unlike the situation along the border between Afghanistan and Pakistan where there is virtually no border control, visa requirements and strict border control apply to Afghan citizens travelling to Iran. It is both expensive and very difficult for Afghans to obtain a visa to Iran. According to Rahim, most of them therefore cross the border with the help of people smugglers. People smuggling is illegal under Afghan law, but no one is prosecuted for it. The attitude among the Afghan population is that people smuggling is acceptable. The smugglers are regarded as 'good helpers' for Afghans who wish to create a new life for themselves outside Afghanistan. Moreover, Rahim claims that it is relatively widespread among prosperous Afghan families to send their children to Europe as asylum seekers.

In addition to a large Afghan population, there are approximately 50,000 Iraqi citizens staying in Iran (UNHCR n.d.).

## 2.1 GENERAL INFORMATION ABOUT AFGHAN CITIZENS IN IRAN

Amayesh-registered Afghans have been staying in Iran for a long time. Almost 70% of them have been living there for more than 20 years. Many of their descendants have not been to Afghanistan and they have poor knowledge about the home country their parents left. Only a few Afghans in Iran live in refugee camps. UNHCR (n.d.) states the following: 'The majority of refugees in the country reside in urban areas, while approximately 3 per cent live in settlements.'

Several sources described the economic situation in Iran as poor, characterized by falling purchasing power and high inflation. At a meeting in November 2010, UNHCR stated that the unemployment rates are high and that there is a competition for jobs. Many employers prefer Afghans to Iranians. Afghans are regarded as hard-working and cheap labour, in part because of low wage levels and because the employers do not pay tax. Most Afghans are unskilled and employed in manual jobs in the building and construction industry, brick production and agriculture. These jobs are often harmful to health and involve considerable risk.

Iran has defined parts of the country as 'no-go areas' for Afghans. There is no up-to-date official overview of which areas this applies to, but they mainly include the areas in the south-east near the borders with Afghanistan and Pakistan. Amayesh-registered Afghans who live in such areas risk forfeiting their rights in Iran. Afghans with legal residence have allegedly also been deported to Afghanistan after having stayed in such areas.

There is a broad consensus that Afghans are subject to widespread and systematic discrimination in Iran. For example, Afghans do not have access to certain banks until after 2 p.m. This is to prevent Afghans from disturbing Iranian customers. Some schools have separate 'shifts' for Afghan children.

According to a European country of origin information (COI) unit, it is forbidden under Iranian law for foreigners to buy or own real property, cars and mobile phones. Afghans who can afford to buy a house or a car therefore have to do so through Iranian front men (2008b). There is, however, information to indicate that foreigners can buy cars and mobile phones in Iran provided that they have legal residence in the country. Foreigners cannot buy or own real property, however.

## 2.2 REPATRIATION AND DEPORTATION

UNHCR stated that approximately 900,000 Afghans have been repatriated since the fall of the Taliban regime. In 2010 (up until November), 7,700 returned voluntarily to their home country (UNHCR, interview in Tehran, November 2010). A large number have also been deported. This is confirmed in a report from the U.S. Department of State:

*In March 2008 the government announced it would deport all Afghans who lacked refugee documentation. According to the UNHCR, the government deported 200,000 Afghans in the first six months of the year and more than one million in the last three years (U.S. Department of State 2010).*

UNHCR Kabul (email, February 2010) confirms the high deportation figures; 289,518 Afghans were deported in 2010, while 324,391 were returned in 2009.

Even though the Amayesh-registered Afghans have legal residence, there is information to indicate that some Afghans in this group have also been deported, although in fewer numbers than unregistered Afghans.

*The Iranian government says the mass deportation is aimed at reducing the number of illegal immigrants in the country, but Iranian officials have also expelled Afghans who have been registered with the authorities, many of whom have been regarded as refugees (panahandegan) for many years. (Human Rights Watch 2007)*

A tripartite agreement was entered into in June 2010 between UNHCR and the Iranian and Afghan authorities to regulate the return of Afghans to their home country.

### **3. AFGHANS WHO ARRIVED IN IRAN BEFORE 2001**

The Afghans who came to Iran before 2001 are recognised as refugees by the Iranian authorities following a general group assessment, provided that they were registered in 2001 and were thereafter registered in all subsequent Amayesh registrations. An Afghan who does not register in one of the registration rounds loses his or her status as a refugee. UNHCR stated at a meeting with Landinfo that it will not be possible for an Amayesh-registered Afghan to re-register if a registration is lacking.

The Iranian refugee authority BAFIA (Bureau for Aliens and Foreign Immigrants Affairs) is responsible for the Amayesh registrations and for issuing identity cards (Amayesh cards) to those who are registered. BAFIA is a subordinate agency of the Ministry of the Interior.

The following is required in order to register under Amayesh:

- Documentation that the municipal tax has been paid (up to USD 200).
- Documentation that the Amayesh card has been paid for (USD 15).

UNHCR claimed that some people do not register because of the relatively high costs associated with registration.

According to a report from a European COI unit, the Amayesh cards are designated according to their colour. In a report from the Afghanistan Research and Evaluation Unit (AREU), the Amayesh cards are described as follows:

*ID cards are required to register children at school and to travel outside of the place of residence registered on the card. Respondents had been issued with various coloured ID cards from BAFIA (pink, red, green, gold), each colour representing a certain year of issue and period of validity. (Abbassi-Shavazi, Glazebrook, Jamshidiha, Mahmoudian & Sadeghi 2008 p. 43)*

Until the registration in 2005/2006, the cards were referred to as *Green Cards*; from 2006 they were light red and were called *Pink Cards*. The Amayesh cards contain information about which town and province the card holders are permitted to stay in.

When travelling to other provinces, a document must be issued for a single journey, a *laissez-passer* (European COI unit 2008a).

UNHCR stated that they had access to a database containing the Amayesh registrations, with the exception of the last registration in December 2010, Amayesh VI. The organisation does not have access to all the registered information, including information about where in Afghanistan the Afghans originate from. UNHCR does have information, however, about the person's name, age and address, as well as the parents' names. The registered information is not always comparable, since different information has been registered in the different registration rounds. For instance, children under school age have been left out in some of the registration rounds (UNHCR, interview in Tehran, November 2010).

The Norwegian embassy in Tehran (email, September 2010) has stated that, according to UNHCR, the Iranian authorities seem to only require the head of the household to be present during registration. This means that other family members (spouse and children) may have been registered even though they had left Iran at an earlier date.

### **3.1 EDUCATION, HEALTH AND WORK**

An Amayesh card entitles Afghan children to education, but it does not mean that the children actually attend school. According to a European COI unit, one year of schooling costs an average of USD 150 in 2004 (European COI unit 2008a).

According to the UN High Commissioner for Human Rights, costs are an important reason why many of the Amayesh-registered children do not go to school.

*The United Nations Association of Iran (UNA-IRAN) noted that Afghan children were entitled to education from elementary to high school but must pay annual education fees which, in spite of supportive laws with regard to cost reductions for the more deprived refugees, a substantial number of families could not afford. As a result, children were deprived of education. (UN Human Rights Council 2009)*

Some Afghans attend schools run by aid organisations or by members of the Afghan community (European COI unit 2008b). According to the U.S. Department of State, some Afghan children have been deprived of the right to an education in order to pressure the family into repatriation (U.S. Department of State 2010).

Afghans have access to university on the same conditions as other national groups, but must have left Afghanistan with a valid passport and visa for Iran to be able to matriculate. After completing their education, they forfeit their refugee status and are required to return to their home country (UNHCR, interview in Tehran, November 2010). It is challenging for Afghan students both to finance their studies and to return to Afghanistan upon completion of their education. These factors probably contribute to the relatively low number of Afghan students.

Registered Afghans with health insurance have access to public health services. Health insurance is expensive and it only covers 80% of the expenses in the event of illness or injury. As a rule, those who do not have insurance must pay the full cost of treatment themselves. According to the UN, the result is that Afghans do not have access to, or have reduced access to, health services: "The majority of refugees, due



to financial problems, refrained from going to hospitals, resulting in the gradual spread of chronic diseases' (UN Human Rights Council 2009).

Up until 2008, Amayesh registration did not entitle people to work in Iran. After 2008, Afghans have been given the opportunity to apply for a work permit when they register. According to UNHCR (interview in Tehran, November 2010), 300,000 permits were issued in the first year. The work permits are valid for six months, but they can be extended for a further year. No clear information was provided about the cost of having a work permit issued, but in 2008 the fee was allegedly USD 70. It was also stated that a law has been passed to regulate work permits and that, pursuant to this law, the fee is USD 500. UNHCR had received unconfirmed information that the fee has been reduced to USD 50. According to a reliable source, applicants are required to have an offer of employment in specific industries where there is high demand for unskilled labour. The philosophy is that Afghans should not push Iranians out of the employment market.

Even with a valid work permit, the Amayesh-registered Afghans do not have the same access to health insurance and unemployment benefits as Iranian citizens (UN Human Rights Council 2009).

#### **4. AFGHANS WHO ARRIVED IN IRAN AFTER 2001**

The Iranian authorities regard all Afghans who arrived in Iran after 2001 as illegal immigrants. The justification is that the authorities regard Afghanistan as a country with a lawfully elected government and that Afghans therefore do not need protection. Neither UNHCR nor any other organisation has a good overview of how many Afghans are unregistered, when they came to Iran (before or after 2001, cf. 2), or where they live.

Iranian authorities do not assess the protection needs of Afghans who have arrived since 2001. At a meeting in Tehran in November 2010, UNHCR stated that it does not have a mandate to work with this group and cannot officially conduct assessments of whether Afghans who contact the organisation meet the conditions pursuant to the UN Refugee Convention<sup>1</sup>. According to UNHCR, it is nonetheless possible for the organisation to provide some assistance, and it can refer individuals who are particularly vulnerable, or who have a need for protection, for resettlement in a third country.

According to UNHCR, one and a half million Afghans were registered in connection with a headcount of illegal Afghan immigrants in summer 2010. UNHCR stated that it was unsure why the headcount was carried out and what the Iranian authorities plan to use the information for: whether they aim to legalise the status of this group or plan to deport more of them to their home country.

Given that they are considered to be illegal immigrants, they can be deported without notice. The Iranian authorities routinely forcibly return Afghans to Afghanistan

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<sup>1</sup> Iran ratified the UN Refugee Convention in 1976.

irrespective of their period of residence and whether other family members are staying in Iran. UNHCR claimed that the Iranian authorities are reticent about deporting women and children. Other sources have provided information about the deportation of women and children that appears to diverge on this point:

*On March 22, the UN Children's Fund (UNICEF) and provincial authorities reported that more than 1,000 children deported to Afghanistan's western province of Herat in 2008 faced poverty and were at risk of abuse. (U.S. Department of State 2010)*

As regards access to legal aid, it is very limited. UNHCR claimed that only a few lawyers (14 to 15 persons) provide free legal aid to Afghans.

#### **4.1 EDUCATION, HEALTH AND WORK**

One of the sources Landinfo met with in Tehran stated that children without a valid ID card are not allowed to attend school. This will apply to the children of unregistered Afghans, but it could also apply to certain Iranian children (interview, November 2010)<sup>2</sup>. There are institutions in Tehran that provide education for children who do not have rights or who have dropped out of the ordinary educational system. Only a few receive such an offer, however. At some of the institutions, Afghan children account for as many as three quarters of the pupils (Naser Khosro Children's House, interview in Tehran, November 2010).

The Afghans have developed different strategies to compensate for the lack of educational provision. One example of such a strategy is to borrow an ID card or other proof of identity from someone registered under Amayesh and to use it to gain access to education (European COI unit 2008b). Another alternative is to use schools run by international NGOs or educational provision organised by the Afghans themselves. Private education often takes place in homes or mosques. There were 10,000 Afghan pupils attending such private schools in 2005/2006 (Abbassi- Shavazi et al. 2008, p. 18).

Unregistered Afghans cannot take out health insurance, and Afghans staying illegally in Iran do not have access to the public health service either. One source believed that it is nonetheless possible to get treatment in the event of a life-threatening illness or injury. Unregistered Afghans will be able to obtain treatment at private health institutions, but they must pay for the treatment from private funds.

There are NGOs and individual doctors who offer treatment to unregistered Afghans on a voluntary basis. Landinfo visited a children's hospital in Tehran in November 2010 that treated children suffering from cancer. The hospital treats children irrespective of nationality, residential status and ability to pay. According to representatives of the hospital, this means that children of unregistered Afghans can get treatment as well. For patients who do not have health insurance, the cost of treatment is covered by charities.<sup>3</sup> According to the hospital management, there is a long tradition of charity in Iran and people are mostly generous. The hospital also

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<sup>2</sup> Children born after so-called *temporary marriages* (in reality prostitution) are not issued ID cards and are thus not entitled to attend school.

<sup>3</sup> Alms or a charity tax (Zakat) are one of the five pillars of Islam. The charity tax should be around 2.5% of income.

receives a block grant from UNHCR. The management stated that no children in need of treatment are rejected. A total of 1,000 Afghan children have been treated under the hospital treatment regime.<sup>4</sup> Forty Afghan children had received treatment in 2010 (as of the end of November). Children are referred after being diagnosed, which means that the child must have consulted a general practitioner. It was stated that a consultation costs USD 5, and that the price for a specialist consultation could be USD 25. Tests carried out in order to diagnose the patients are expensive. The hospital appeared to be both well-run and well-equipped and it gave the impression of offering high-quality treatment.

Unregistered Afghans are left to work illegally and many of them make a living from casual work. Wages are very low and the normal pay is between USD 100 and 150 a month (European COI unit 2008b). UNHCR stated that the workers do not have any rights and that if problems arise with the employer, no organised assistance is available.

## 5. MARRIAGE

Afghan citizens cannot marry each other pursuant to Iranian law, regardless of whether or not they are registered. Marriages between Afghan citizens will thus not be registered in public marriage records. Nor, as a result, will Afghan married couples be able to obtain documentation from the Iranian authorities that they have entered into marriage. Afghans in Iran are often married by a mullah. Afghan foreign service missions in Iran can issue confirmation of a marriage between Afghan citizens. According to the Afghan embassy in Oslo (telephone conversation, February 2011), the Supreme Court in Afghanistan has authorised all the country's foreign service missions to solemnise marriages and to issue confirmation of marriages that have been entered into. As is the case for Afghan documents in general, such documents will have low notoriety, among other things because of a lack of underlying documentation for the confirmations and because of widespread corruption in the Afghan government administration (Landinfo 2010).

According to information received by Landinfo in Tehran in November 2010, marriages between Iranians and Afghans are relatively unusual. In a report from AREU, it is pointed out that there are little statistics that can determine the extent of such marriages, but it indicated that, as of 2001, approximately 50,000 such marriages had been entered into (Abbassi-Shavazi et al. 2008, p. 38).

The Civil Code of Iran of 1928 regulates marriage between Iranian and foreign citizens. It contains provisions on citizenship and residence permits for the foreign party to the marriage and to any children the parties may have.

According to article 976 (6) of the Civil Code a foreign woman who marries an Iranian man acquires Iranian citizenship. This was confirmed by the sources

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<sup>4</sup> Not all patients are admitted to hospital and the hospital is medically responsible for patients treated at other institutions.

Landinfo met in Tehran. Any children of such a married couple will be Iranian citizens with the rights pertaining thereto.

Iranian women are not permitted to marry outside *Ummah*, which means that an Iranian woman cannot marry a non-Muslim man.<sup>5</sup> According to AREU, an Iranian woman who enters into marriage with a foreign man<sup>6</sup> can retain her Iranian citizenship. The foreign husband does not become an Iranian citizen, but he can be granted a residence permit:

*Under Article 987, an Iranian woman who marries a foreign national preserves her Iranian nationality unless the national laws of the nationality of the husband are imposed upon the wife by virtue of the marriage contract. But after the death of the husband or after separation, the Iranian wife may apply to regain her original nationality.*

*Legislation which rules on the nationality of children born of an Iranian mother and non-national father, and residency rights of the non-national father, was passed in October 2006 as the Act on determination of nationality of children born into marriages of Iranian women with men of foreign nationality. This Act determines that persons born in Iran as a result of the marriage of an Iranian woman with a man of foreign nationality, whose marriage is registered in Iran according to Article 1060 of the Civil Code, shall be accorded Iranian nationality at the age of 18 years. In relation to the status of the Afghan spouse, the Act states that residence permits shall be issued to fathers of such children. (Abbassi-Shavazi et al., 2008 p. 39)*

## 6. RETURNS TO IRAN

Many Afghan citizens who seek asylum in Norway have stayed in Iran for many years. They often have a stronger connection to Iran than to their home country. A relevant question for the Norwegian immigration authorities is whether the Iranian authorities will accept entry by Amayesh-registered Afghan citizens who have been refused residence in Norway.

Amayesh-registered Afghans lose their status in Iran if they leave the country, provided that the Iranian authorities are aware of it. According to a European COI unit, an Afghan citizen who leaves Iran is obliged to hand in his or her Amayesh card to the authorities in order to apply for a *laissez-passer*. If a person then returns to Iran, he or she will be considered an illegal immigrant (European COI unit 2008b). The same will apply to Afghan citizens who have been in Norway as asylum seekers, even though they have not handed in their Amayesh cards before leaving Iran.

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<sup>5</sup> Cf. art. 1059 of the Civil Code.

<sup>6</sup> Article 1060 of the Civil Code requires the parties to such marriages to obtain the permission of the Iranian authorities before they can marry.

The Norwegian embassy in Tehran has obtained information from UNHCR concerning the possible return of Afghan citizens to Iran. According to UNHCR, several criteria must be met for the Iranian authorities to consider granting entry:

- The person in question must have stayed in Iran before 2001.
- He or she must have been included in all the Amayesh registration rounds.
- He or she must be in possession of a valid passport with a valid visa/residence permit for Iran.
- He or she must have left Iran lawfully, i.e. an ordinary border crossing with an exit permit from the Iranian authorities.

According to the UNHCR, the fact that the person in question has ever been in Iran can be disregarded if these conditions are not met (The Royal Norwegian embassy in Iran 2009).

The information available to Landinfo indicates that it is not possible for first and second generation Afghan citizens in Iran to acquire Iranian citizenship. The only possible exception Landinfo is aware of is in the case of women who enter into marriage with Iranian men, as described above.

The Iranian Civil Code article 976 (1928) states the following concerning citizenship:

*The following persons are considered to be Iranian subjects:*

*(1) All persons residing in Iran except those whose foreign nationality is established; the foreign nationality of such persons is considered to be established if their documents of nationality have not been objected to by the Iranian Government.*

*(2) Those born in Iran or outside whose fathers are Iranian.*

*(3) Those born in Iran of unknown parentage.*

*(4) Persons born in Iran of foreign parents, one of whom was also born in Iran.*

*(5) Persons born in Iran of a father of foreign nationality who have resided at least one more year in Iran immediately after reaching the full age of 18; in other cases their naturalization as Iranian subjects will be subject to the stipulations for Iranian naturalization laid down by the law.*

*(6) Every woman of foreign nationality who marries an Iranian husband.*

*(7) Every foreign national who has obtained Iranian nationality.*

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