



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

DISCUSSION PAPER

Towards a comprehensive solution for displacement from Afghanistan

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Towards a comprehensive solution for displacement from Afghanistan

- 1. Introduction:** The change of fortunes in Afghanistan since the fall of the *Taliban* and the signing of the Bonn Agreement in late 2001 was exemplified by the return of almost 2 million Afghans during the course of last year. Under normal circumstances a population movement of this dimension would signal an end to a refugee situation. But over three million Afghans remain in the neighbouring countries with substantial numbers even further afield.¹ Indeed, it is now a quarter of a century since Afghans first began leaving their country. Many developments and changes have taken place over the intervening years. The purpose of this discussion paper is to encourage a fresh appraisal of this situation and its longer-term implications, and to stimulate reflections on possible policy options for its future management.
- 2. UNHCR, Afghanistan, and the governments of the principal asylum countries of the region** are currently working within the legal frameworks provided by Tripartite Agreements until 2005. The latter represent a continued commitment to approach and manage the situation as a refugee problem including the important dimension of protection. They accord primary importance to voluntary repatriation as the key durable solutions objective. They also reflect a pragmatic compromise among the signatories which implicitly acknowledges that after so many years of conflict Afghanistan's recovery will be gradual and its absorption capacity correspondingly limited. The time frame signals, however, that the patience and generosity of the asylum countries are not limitless and that they expect progress towards closure of this long-standing problem. It is also broadly co-incident with the calendar of the Bonn Agreement that is currently scheduled to conclude next year following the holding of elections and the establishment of a new government. These events will have an important influence on the direction of future policy initiatives.
- 3. The need for a comprehensive approach:** There is wide agreement among all constituencies that voluntary repatriation is the preferred durable solution. UNHCR anticipates that conditions inside Afghanistan will gradually improve and that return will be continuous and substantial over the period 2003-2005. In partnership with the respective governments and other actors, UNHCR is fully committed to further enhancing repatriation opportunities and sustaining reintegration within Afghanistan, and to identifying and overcoming impediments to return in the asylum countries.

¹ This figure is based on government estimates of all Afghans in Iran and Pakistan. At the end of 2002, the numbers of persons of concern to UNHCR were estimated at 1.1 million in Iran and 1.2 million in Pakistan.

4. It is widely recognized that the causes of displacement from Afghanistan have become much more complex over the years. Indeed, many of the reasons why Afghans originally left their homes no longer apply. As such, explaining the continued presence of such a large population or seeking solutions for them in refugee terms alone is insufficient. Economic factors have played an increasingly influential role in cross border movements and in sustaining the Afghan presence abroad. But prolonged displacement and decisions about return are also influenced by many other reasons. Some groups may continue to be at risk of persecution on ethnic, religious, or other grounds, especially by non-state actors. Law and order within Afghanistan remains fragile and unable to redress the human rights abuses that still trouble parts of the country. Afghanistan's economic and social recovery is underway but is as yet unable to offer a sustainable livelihood for many. Moreover, Afghans have developed a broad range of relations with their host communities after such a long period of exile. In summary, a new approach is required to address a situation for which additional solutions that lie outside UNHCR's mandate need to be found.
5. UNHCR is convinced that repatriation will allow considerable progress towards resolving the Afghan refugee problem over the next three years. However, given the complexity and fluidity of the situation in Afghanistan, and in view of the protracted nature of displacement and the migratory characteristics of cross border movements, it is probable that there will be substantial number of Afghans in the neighbouring countries of asylum at the end of 2005. UNHCR considers that it is now timely and appropriate for all stakeholders to begin preparations for a more comprehensive approach to manage this challenge. Due to its inherent complexity and the consequent need to break new ground in addressing it, UNHCR believes that this process should be initiated at the earliest opportunity in order to ensure that new arrangements can be agreed and designed before the end of 2005.
6. In proposing this initiative, UNHCR's analysis has been shaped by three primary considerations - that (a) the future management of population movements that are now increasingly migratory and economic should be lodged within normalised regional and bilateral relations, (b) continued international engagement and support will nevertheless be required to develop and underpin such a transition in view of its diverse challenges, and (c) there will be a refugee and protection dimension to the post 2005 situation. The continuing presence of large numbers of Afghans does pose difficulties for the host governments that need to be addressed. In that connection, UNHCR believes firmly that it is very much in the interests of all concerned parties that new arrangements are devised to intensify efforts enhancing return and sustainable reintegration, to address and regulate labour and other forms of migration, to define and support an appropriate new status and conditions for long staying Afghans in the asylum countries, and to determine those in need of international protection.

7. UNHCR is of the view that the post 2005 situation should preferably be approached as a migration and a development challenge. This will need, *inter alia*, the further development of effective partnerships between governments and technical cooperation agencies with the required competences, expertise, and resources. It believes that its own mandate and expertise will be of continuing relevance to some of the Afghan population that will remain after 2005. In that context, and subject to an assessment of the post Bonn Agreement situation in Afghanistan, it may consider invoking the cessation clause as one element of the overall policy framework. The office is however fully committed to ensuring that a broad and inclusive process can be initiated that will design, support, and implement the necessary measures within a new set of arrangements. Above all, UNHCR is strongly motivated by a desire to pre-empt a situation developing where a significant number of Afghans will be left with no clear status or options, or left in unacceptable conditions after 2005.
8. **Key challenges:** During 2003 and 2004, UNHCR considers that the key tasks for the design of the post-2005 arrangements will be (i) identifying the mechanisms and participants to steer the process from consultation through to execution, (ii) defining the components of a new policy framework, (iii) planning implementation arrangements, and (iv) mobilising resources. To assist with these tasks, UNHCR is considering the establishment of an Afghanistan Policy Unit operating under the *aegis* of the High Commissioner's Convention Plus initiative that will be dedicated to policy planning, formulation, and implementation for the post 2005 Afghanistan situation.

Mechanisms and participants: In view of the nature of the issues to be addressed, the initial process of consultations will need to be broad and inclusive. It should encompass concerned governments in the region and in the donor countries, technical cooperation agencies, and civil society organizations. Its aim should be to solicit opinion and build consensus around the objectives and conduct of the process. The preferred mechanism(s) - international, regional, bilateral - to be used to carry the new policy framework through negotiation to execution should emerge from the consultative process.

Defining the components of the policy framework: There will be a need over the period 2003-2005 to begin moving towards a reappraisal of the Afghan populations in the neighbouring asylum countries. As alluded to earlier, this process must reconcile a long-standing acceptance of Afghans as a refugee and humanitarian problem with a more contemporary analysis that takes into account the changing political, economic, and social context in the region. In very general terms, the present Afghan populations in the asylum countries may be divided into four categories:

- (One) persons who wish to return to Afghanistan when conditions improve;
- (Two) persons who are in need of international protection and assistance;

- (Three) persons who have entered the neighbouring countries for the purpose of finding temporary employment or for some other legitimate reasons but retain links with, and will return to, Afghanistan;
- (Four) persons who have sought asylum in the past but have developed strong links with their host communities and are economically self reliant by virtue of their protracted stay and may wish to remain.

To give precision to the policy framework, it will be necessary to confirm and further define the dimensions of these different categories of persons and identify appropriate ways to assist them. For this purpose, a range of tools and procedures will likely be required. They may include an assessment and screening process, and specific studies in fields such as migration patterns, labour market needs, livelihoods, and the economic and social impacts of the Afghan presence. The main elements of a policy framework for those persons in category (a) could include procedures for voluntary return for a limited period beyond 2005 that could be coupled with targeted reintegration programmes; for (b) an adequate protection regime and a resettlement channel for individual cases; for (c) the installation of a migration framework and systems to regularize temporary labour as well as other types of legitimate cross border movements; and for (d) a process by which individuals with well developed relations with their host communities could be considered for secure long term residence, and through which development cooperation and additional resources could be oriented towards particular sectors and locations impacted by the Afghan presence.

Planning for implementation arrangements: It is anticipated that once the components of the policy framework have been agreed, the choice of implementing arrangements and potential executing agencies will become clearer. The main responsibilities would likely include:

- building on existing reintegration, rehabilitation, reconstruction, and development processes in Afghanistan that would additionally benefit from specific reinforcement and funding to accommodate future returnees in designated areas/sectors;
- establishing an adequate asylum and protection regime and the operation of resettlement channels;
- executing a screening procedure (if and when necessary) and measures to ensure that those required to leave the host country are implemented in a phased, orderly, and humane manner, and in manageable numbers;
- regularising a migration framework that would benefit from specific technical expertise and support to assist with institutional strengthening, with drafting appropriate laws, and with border management, customs, and immigration;
- promoting acceptance of continued residence with an appropriate legal status for long staying Afghans (irrespective of whether they were formally considered refugees or not) accompanied by development assistance and community based strategies in specific areas and sectors;

- developing a communications and information strategy to ensure that the affected populations are kept well informed of their future options.

Mobilising resources: It is evident that the new arrangements outlined above will require sufficient financing. To date, support for refugees has been provided by the neighbouring host countries, or by donors through UNHCR, other UN agencies, and NGOs, and not least, through the efforts of Afghans themselves. The primary mechanisms for fund raising for Afghanistan are now the Afghanistan Development Forum and the National Development Budget. The preparatory process for the post 2005 arrangements should identify how best to mobilize funds either through existing multilateral or bilateral channels established for development co-operation, or through specific instruments (Trust Funds) that participants to the process may choose to establish. It should also be proactive in advocating the design and financing of future programmes addressing the main issues within the agreed policy framework.

- 9. Options:** UNHCR foresees the initial stage of the process outlined above as being devoted primarily to wide consultations with interested stakeholders. It will promote this initial stage itself beginning with governments in the region and with key donor countries. It will seek, *inter alia*, to establish early consensus on what mechanisms - bilateral, regional, or international - can best secure the overall and specific objectives to be pursued. Once the initiative is firmly launched, it is envisaged that a broader division of labour and responsibilities with other partners committed to the agreed goals will be established. One possible outcome of the process could be an international forum to be constituted under the *aegis* of the United Nations in October 2005. This may be an effective and visible vehicle for broadening commitment, developing new approaches, and mobilizing resources over the medium to longer term.
- 10.** UNHCR will be guided by the results of the consultative process and does not wish to prejudge the outcome. The most essential aspect of whatever formula the major stakeholders - especially the concerned governments - decide upon is that they demonstrate ownership of, and commitment to, the process. In any event, UNHCR hopes to secure consensus on the way forward in time for its annual Executive Committee meeting in October 2003.
- 11. Conclusions:** The Afghanistan situation remains one of the world's largest and most longstanding refugee and displacement problems. Events since late 2001 have permitted substantial progress towards durable solutions. UNHCR remains committed to voluntary repatriation as the key strategy for the period 2003-2005. It is of the view, however, that the protracted nature of the problem has already evolved beyond the parameters of a refugee paradigm into a more complex, multi-faceted challenge that will require additional solutions beyond 2005. It also holds the position that this type of challenge can only be addressed by innovative arrangements that go beyond UNHCR's mandate and competence as envisaged by the High Commissioner through the Convention Plus initiative.

12. UNHCR considers that a proactive dialogue and reflection will result in sound policy choices delivering substantive progress towards the resolution of the Afghan displacement problem. It is therefore committed to a dialogue on the proposals outlined above and to catalyzing a reflection process in the coming weeks and months. It looks forward to discussing these with its government counterparts, with multilateral and bilateral cooperation agencies, and with a broad range of interested participants. It is confident that the initiative will yield positive results and valuable clarity about how to plan for and address the many tasks ahead.