



CAPACITY BUILDING FOR LAW AND POLICY-MAKING ON INTERNAL DISPLACEMENT

SESSION 9: IMPLEMENTATION

AFGHANISTAN AND KENYA CASE STUDIES

STRATEGIES AND ACTIONS PLANS TO IMPLEMENT AFGHANISTAN'S NATIONAL POLICY ON IDPS

The following case study is broadly based on a 2015 policy brief on Afghanistan's national policy on IDPs published by Samuel Hall Consulting. Available at: <http://goo.gl/Lx2TQxk>

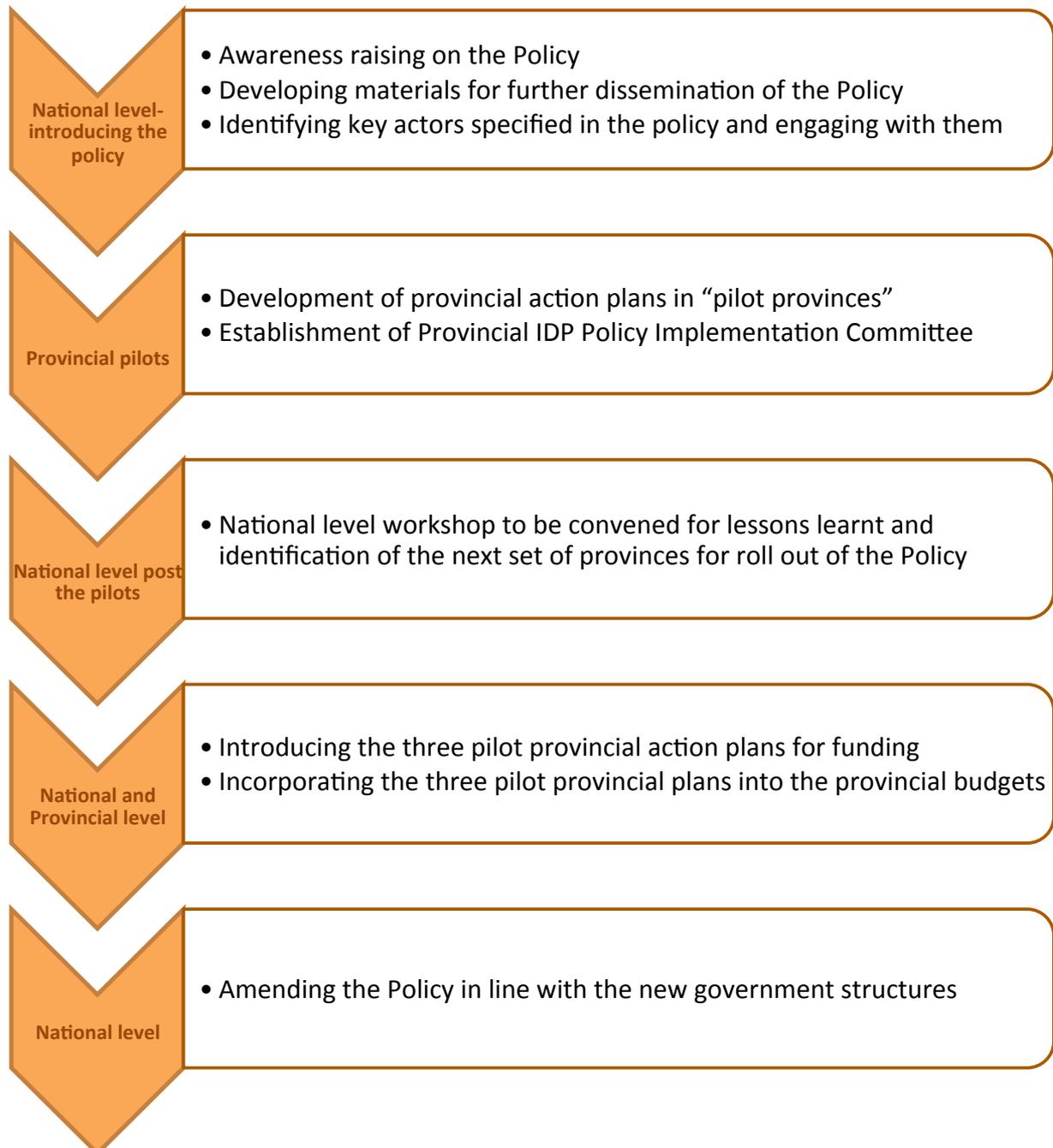
The policy provides a roadmap for action that integrates provincial action plans and a national implementation plan.

1. PROVINCIAL ACTION PLANS - PROVINCIAL GOVERNORS

The policy recognises the unique features of each province and the scope, profile and trends of displacement. Priority will be given to provinces that host substantial numbers of IDPs with an action plan focused on covering all phases of displacement, including durable solutions. This is the responsibility of the provincial authorities under the leadership of the provincial governor, and with the support of the provincial policy implementation committee, a coordinating body also headed by the governor and with the participation of local authorities, representatives of line ministries, local governance institutions, the international community and representatives of IDPs and host communities.

The proposed roadmap in each province includes workshops that serve as a platform to disseminate information on the policy and initiate the formation of the provincial implementation committee. The committee will have defined terms of reference in line with the policy and will be in charge of developing and implementing provincial action plans.

Figure 1. Roadmap for implementation of the policy





Humanitarian Aid
and Civil Protection

2. FUNDING, MONITORING AND REPORTING

To allow for an effective implementation of the policy, the following requirements are to be ensured:

- **FUNDING REQUIREMENTS:** The Ministry of Finance (MoF) will allocate budget and funding to line ministries to meet the needs of IDPs and host communities, in line with the proposed provincial action plans and taking into consideration the specific situation of the provinces. MoF will also build the budgeting capacity of Ministry of Refugees and Repatriation (MoRR), and it may allocate or design a trust fund or national budget item for IDPs.
- **LEGAL REQUIREMENTS:** The Ministry of Justice will review legislation to ensure that existing provisions are amended or new legislation drafted, including to guarantee non-discrimination for IDPs.
- **MONITORING AND REPORTING REQUIREMENTS:** Implementation of the policy is monitored by an open oversight mechanism established by MoRR, together with the Afghan independent human rights commission (AIHRC) and the monitoring and evaluation unit of the president's administrative office. The monitoring process will consider and consolidate lessons learnt from the implementation process. At the community level, civil society and displaced communities will play a key role through community-based monitoring activities.

KENYA'S 2012 ACT ON IDPS YET TO BE IMPLEMENTED

The following case study is broadly based on IDMC's review of the normative framework in Kenya relating to the protection of IDPs in the context of the Kampala Convention and other supranational frameworks, published in August 2015. Available at: <http://goo.gl/xbNrfr>

After the large-scale displacement caused by post-election violence in 2007 and 2008, the Kenyan authorities developed a draft policy on IDPs with the assistance of the protection working group on internal displacement (PWGID), and adopted the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act at the end of 2012.

As such, Kenya is equipped with a solid instrument that has the potential to provide a comprehensive response to displacement. Three years after the act's adoption, however, the national institutional and legal set up still faces several challenges that threaten to jeopardise the achievements far.

The policy is still to be adopted, and implementation of the act is still at an early stage. Potentially competing and uncoordinated normative frameworks, particularly in the areas of disaster and land management, risk undermining some of the guarantees envisaged under the act. The absence of a policy to articulate aspects of the government's action and substantiate IDPs' rights is also likely to continue to hamper the response system.

The harmonisation of the different pieces of legislation, both those in place and those pending adoption, and ensuring coherence between the act and other sectoral frameworks are integral parts of the implementation effort required of the Kenyan authorities. The adoption of the policy does not only represent the conclusion of a process that started in the aftermath of the most serious displacement crisis Kenya has experienced in recent years. It is also a vital component of the creation of a credible and functioning response framework.



After a thorough analysis of national legislation, policies and other instruments in 15 thematic areas, IDMC made recommendations to the Kenyan government, the international community and civil society that relate both to normative action and the implementation of the existing framework:

In terms of implementation, the recommendations state that the national consultative coordination committee (NCCC), the body in charge of the process, should:

1. Create coordination channels with other governmental and non-governmental bodies and strengthen participation and information sharing with displaced and host communities.
2. Allocate adequate resources to address IDPs' issues through a yearly allocation of the national budget to the national humanitarian fund, and clarify the definition and use of the term.
3. Clarify how it will relate to public benefit organisations and UN agencies operating in the country, and those delegated to represent "non-state actors".
4. Establish channels and procedures to engage with government departments and intergovernmental committees and bodies, such as the national disaster executive committee (NDEC).
5. Set up and maintain regular and systematic lines of communication with IDPs, humanitarian agencies, civil society organisations and other stakeholders working closely with IDPs with a view to facilitating information flow and ensuring their effective participation in decision-making processes.
6. Take measures to ensure comprehensive data collection and verification. This should be done through reliable exercises coordinated by NCCC and carried out with the direct engagement of the National Bureau of Statistics.
7. Better specify the role of county authorities in addressing displacement, and ensure cooperation and the coordination between national and county governments in the planning and delivery of services that address displacement issues, and in facilitating conflict resolution arrangements targeting both IDPs and others affected by displacement.
8. De-emphasise the notion that durable solutions for IDPs can only be achieved through land acquisition and allocation, and ensure that alternative options are explored in meaningful consultations with IDPs and other affected communities.