



CAPACITY BUILDING FOR LAW AND POLICY-MAKING ON INTERNAL DISPLACEMENT

SESSION 8: DRAFTING

SUMMARY AND TABLE OF CONTENTS FOR AFGHANISTAN’S NATIONAL POLICY ON IDPS

SUMMARY

The following introduction and list of rights, roles and responsibilities 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 right-hand column of the table is IDMC’s analysis.

ENACTMENT: Afghanistan’s national policy on IDPs was endorsed at a meeting of the country’s council of ministers on 25 November 2013 and enacted on 11 February 2014.

LEGAL OBLIGATIONS – PROTECTING IDPS’ RIGHTS: The policy outlines the roles and responsibilities of government ministries and their humanitarian and development partners. It ensures that responses are based on the Afghan constitution and respect for the rights of IDPs as citizens of Afghanistan, and are in accordance with international human rights law and the Guiding Principles.

Right to freedom of movement and residence (article 39 of the Afghan constitution)

In accordance with guiding principle 14, to ensure that people have the right to displace themselves and seek safety in another place of their choice. “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.”

	This provision can only be limited by safety and security concerns.
Right to adequate housing, including security of tenure and in a suitable location	<p>This right is recognised in many national constitutions and in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. It is key to ensuring that IDPs will not be forcibly evicted and/or relocated in an unsuitable location. The right to adequate housing entails:</p> <ul style="list-style-type: none"> ▪ Legal security of tenure ▪ Availability of services, materials, facilities and infrastructure ▪ Affordability ▪ Habitability ▪ Accessibility ▪ Location ▪ Cultural adequacy
Right to livelihood	In accordance with guiding principle 18, the right to livelihood is essential in ensuring that IDPs are not discriminated against and have access to livelihood opportunities. It is of the utmost importance for the achievement of durable solutions
Right to water, food and clothes – adequate standard of living	<p>Guiding principle 18: “All internally displaced persons have the right to an adequate standard of living.</p> <p>2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with</p> <p>and ensure safe access to:</p> <ul style="list-style-type: none"> (a) Essential food and potable water; (b) Basic shelter and housing; (c) Appropriate clothing; and (d) Essential medical services and sanitation.”
Right to healthcare (articles 52 and 53 of the Afghan constitution)	The right to medical care without discrimination, including reproductive health for women and girls. Availability of female doctors and paramedics is essential.
Right to protection of the family (article 54 of the Afghanistan constitution)	In accordance with guiding principle 17, this protects against family separation and the right to know the whereabouts of family members.
Right to education (article 43 of the Afghan constitution)	Disruption of education is one of the most common, traumatising and impactful effects of displacement. In order not to compromise the future of displaced children, access to education - at least at primary and secondary level - should be ensured even in emergencies. Girls’

	access to school is to be promoted and facilitated.
Right to property protection and compensation	The protection of property and possessions left behind is key to the achievement of durable solutions. IDPs whose possessions have been destroyed or damaged during their displacement have the right to claim for compensation and help in reconstruction.
Right to freedom of expression and access to information	This is essential for IDPs to be able to express themselves and their needs, and to request protection and assistance. They also have the right to be informed about any decision that affects their life and to participate in the planning and implementation of protection and assistance programmes. Access to information and participation are part of the state's accountability obligations.
Participatory rights, including the right to vote (article 33 of the Afghan constitution)	Internal displacement should not prevent citizens from exercising their right to vote. This may entail changes in the electoral law to allow IDPs to vote in their place of displacement.

INSTITUTIONAL ROLES AND RESPONSIBILITIES

The government at the national, provincial and municipal level bears the primary responsibility for protecting and assisting all IDPs and communities affected by displacement, and ensuring their inclusion in national priority programmes.	National responsibility to respond to internal displacement at all levels
The Ministry of Refugees and Repatriation (MoRR) is the institutional focal point in charge of developing a national implementation plan and of coordinating implementation of the policy with ministries, the Afghan National Disaster Management Authority (ANDMA), provincial and municipal authorities, IDPs and affected communities, civil society, the UN and other international organisations.	National focal point for implementation of the policy in consultation with other stakeholders, including IDPs
Implementing bodies: line ministries with sectoral responsibilities include the Ministry of Interior, Ministry of Public Health, Ministry of Economy, Ministry of Urban Development Affairs, Ministry of Rural Rehabilitation and Development, Ministry of Women's Affairs, Ministry of Defence and other government offices such as the Independent Directorate for Local Governance (IDLG), which is responsible for ensuring that provincial governors fulfil their responsibilities and for coordinating with MoRR.	Involvement of all key ministries to ensure a comprehensive response
Coordinating bodies: the inter-ministerial coordination committee on	Coordination mechanisms

refugees, returnees and IDPs (IDMCC), ANDMA and the national high commission for disaster management (NCDM).	
<p>Provincial and other local authorities are responsible for emergency response, and for developing provincial action plans to address displacement, including a funding strategy for resource mobilisation, and for ensuring that land allocation schemes for IDPs are fair, transparent and sustainable.</p> <p>District governors, mayors and municipalities are reminded of their responsibility to integrate IDPs in their development plans, ensure that they can access services, and where informal settlements are created, to consider strategies to formalise them and improve living conditions. They should ensure that IDPs are not subject to forced evictions.</p> <p>All government stakeholders will ensure that actions are integrated in the annual budgets to address the assistance and protection needs of the displaced population and affected communities alike, and facilitate the achievement of durable solutions. The international community can contribute to the government's efforts to this effect.</p>	Implementation plan at the local level
The Afghanistan independent human rights commission (AIHRC), along with the president's administrative office and MoRR, is mandated to monitor the respect for IDPs' human rights, monitor and evaluate implementation of the policy and report on the extent to which IDPs' rights are protected and fulfilled.	Monitoring implementation of the policy

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