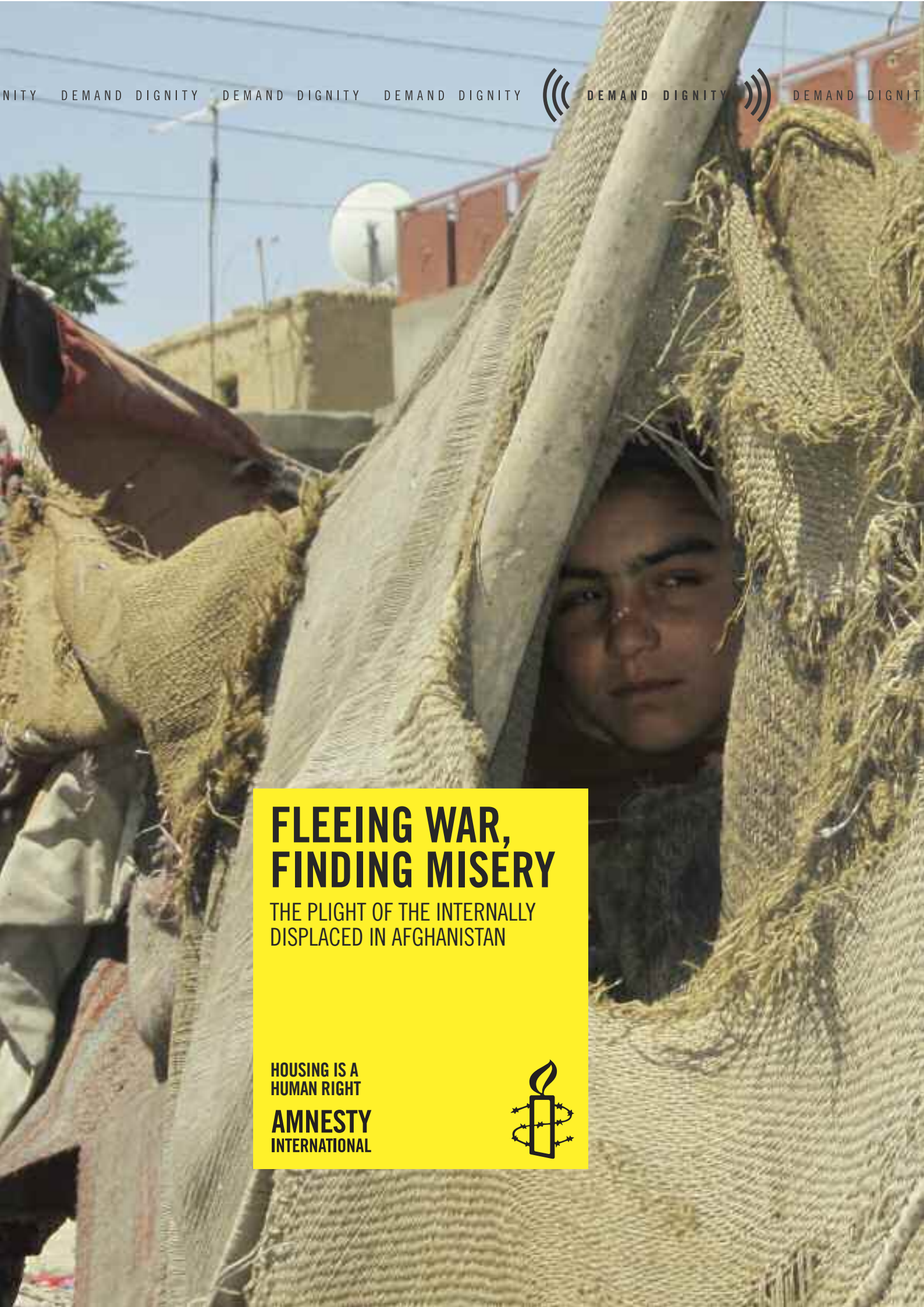


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FLEEING WAR, FINDING MISERY

THE PLIGHT OF THE INTERNALLY
DISPLACED IN AFGHANISTAN

HOUSING IS A
HUMAN RIGHT

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First published in 2012 by
Amnesty International Ltd
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom

© Amnesty International 2012

Index: ASA 11/001/2012 English
Original language: English
Printed by Amnesty International,
International Secretariat, United Kingdom

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Cover photo: Roqia, aged 13, in her home in the Kart-e-Parwan slum, located in one of Kabul's wealthiest neighbourhoods, June 2011. © Amnesty International

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GLOSSARY

AIHRC	Afghan Independent Human Rights Commission
ALP	Afghan Local Police
ANA	Afghan National Army
ANSF	Afghan National Security Forces
DoRR	Departments of Refugees and Repatriation, provincial-level agencies handling refugee matters
ERW	Explosive remnants of war
IDP	Internally displaced person, a person who has been forced to flee his or her place of residence, particularly in response to armed conflict, generalised violence, human rights violations, or disaster, and who has not crossed an international border
IED	Improvised explosive device
IOM	International Organization for Migration
ISAF	International Security Assistance Force
MoRR	Ministry of Refugees and Repatriation, the national agency with responsibility over refugee matters as well as conflict-induced displacement
OCHA	UN Office for the Coordination of Humanitarian Affairs
PRT	Provincial Reconstruction Teams
Refugee	The Refugee Convention defines “refugee” as a person who, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group or political opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country.” In addition, those who are outside their country of origin because of a serious threat to their life, liberty or security as a result of generalised violence or events that seriously disturb public order may also be recognised as refugees.

Returning refugee	A person who has been forcibly displaced from his or her country of residence and has since returned. In Afghanistan, most returning refugees arrive from Iran and Pakistan.
Slum	Informal settlements not in the city master plan and other neighbourhoods that combine to some extent 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
UNAMA	UN Assistance Mission in Afghanistan
UNICEF	UN Children's Fund
UNHCR	The UN Refugee Agency

1. SUMMARY

Amnesty International interviewed Fatima (not her real name), a woman in her late 20s, in Kabul's Chaman-e-Babarak slum area. She showed us the place she and her family lived, a crude shelter made from torn plastic sheeting stretched over poles that were set into mud walls about one metre in height. The mud and plastic barely kept out the elements; during the rainy winter months, the dirt floor becomes very soggy, and she and her family huddle in blankets to protect themselves from the cold and damp.

"Before the Taleban we had a good life. We were living in a home [in Kabul], and we were quite happy. During the fighting at the time of the Taleban, we had to take refuge in Pakistan," she told Amnesty International.

"In Pakistan, the land at the camp was okay because UNHCR [the UN Refugee Agency] provided shelters. We had ration cards, and UNHCR was providing rations on a monthly basis.

"In 2002 when Karzai was elected president and the Taleban removed, we were told that we should return because Afghanistan was peaceful. So we became part of the voluntary repatriation, and we came to Kabul.

"We didn't receive much assistance, and we couldn't afford to pay high rents. My husband is mentally ill, so I'm the main breadwinner. I do laundry for people and clean houses.

"Before we left for Pakistan, we were in Kabul, but in a rented house. It was okay. But after we arrived [back in Kabul], we couldn't afford to be paying high rental prices."

She and her husband initially lived nearby in a disused shop. They were there for four years; they moved to their current location after the property's owner asked them to leave because he planned to remodel the shop.

Fatima gestured at the walls of the mud hut we were sitting in. "I had to build all these walls. . . . I gathered the mud and brought it here to build these walls. When it's raining, then all the rain comes down with the rainwater." She regularly repairs the mud walls to prevent them from disintegrating. The construction of her home and the regular maintenance that mud walls take are things she learned because she had to do them after she moved to her current dwelling. "I'm not a professional builder, so I don't know what materials I can use to make it more sustainable. I didn't learn how to build to prevent the water from entering the house."

Asked what she would say to the Afghan government if she had the chance, she replied, "I don't know which problem I should talk about—school, employment, not having proper housing, food, health—when my children are getting sick and I have to pay for the doctor and medications. It's everything. It's not even that I can prioritise what is most important for me.

"This child here has a chest infection. We bought some medication at a shop, but the medication is not effective. We just have to let whatever happens happen to her."

With almost no income, the family cannot afford to pay even small amounts for the additional health care the child needs. "It costs between 400 and 500 afghanis [US\$8.35 to \$10.40] when a child is sick. We have to pay at least 150 [\$3.15] for the doctor's fee, higher if the child needs extra lab tests." There are some private clinics nearby, but the members of this community do not go to them because the fees would be over 1,000 afghanis (\$21), Fatima said. Instead, they walk several kilometres to another clinic that is less expensive.

"Of course, there are government clinics, but the problem is that they are overcrowded and people are lining up to wait for care. You can spend days lining up. Sometimes when we take the children for vaccinations, we spend the whole day waiting for our turn at the end of the day to receive the vaccinations."

Asked how families in this community get water, she replied, "There is a tanker that brings us water. We have to pay 10 afghanis [\$0.20] per gallon to buy it. Now it is four to five gallons per day that we are using because of the children. Cleaning, washing, everything needs water. Of course it's not enough. We always have to make our use of water very limited and be careful with water usage. We are very careful. We don't normally take baths.

"The first thing I would ask [the government] would be to give us a piece of land. Even if I build something like this, I will be in my own home. . . . If I live in my own home, my dignity is preserved. No one can call me names or link me to a particular group of people."¹

Conflict affects more Afghans now than at any point in the last decade. The conflict has intensified in many areas, and fighting has spread to parts of the country previously deemed relatively peaceful. The surge in hostilities has many obvious consequences, among them that families and even entire communities flee their homes in search of greater security.

Four hundred people a day are displaced in Afghanistan, on average, bringing the total displaced population to 500,000 by January 2012.

Such internal displacement is on the rise. Conflict-induced internal displacement increased rapidly in the first half of 2011—the UN Refugee Agency (UNHCR) estimates that nearly 100,000 people were internally displaced between January and June of that year. The number of displaced persons has increased every year since at least 2008.

Tens of thousands of these displaced individuals have sought shelter in and around Kabul and other Afghan cities. Precise numbers are difficult to determine, but as many as 35,000 displaced persons are now living in slum areas in Kabul alone.

They make do as best they can, finding abandoned lots and constructing makeshift dwellings from mud, poles, plywood, plastic sheeting, and cardboard that offer them little protection from the elements. Nearly two dozen displaced children under the age of five froze to death in January 2012.

Access to water is a serious concern—many families can get no more than ten litres per person each day to cook, wash, and drink, below the minimum amount recommended even in the immediate aftermath of humanitarian emergencies. Work is hard to find, and without reliable sources of income, many families do not get enough to eat and cannot afford life-saving health care.

These families live under constant threat of forced eviction. In the typical scenario, a group of men arrives, claiming to own the land and telling families that they must leave. Some communities have been able to meet with government officials and obtain promises that they can remain where they are. In other cases, however, families must rush to move their belongings before bulldozers level their shelters; they then have to scavenge what they can from the rubble to rebuild elsewhere.

Life in close quarters in unhygienic conditions means that illness spreads easily, particularly among young children.

Some of these slum areas have no health clinics at all; others are served by health workers once or twice a week. Such mobile clinics often lack the expertise to address gynaecological concerns. Many women do not receive antenatal and postnatal care, and most give birth at home without skilled attendants, dramatically increasing the risk of maternal and infant death in a country that already has one of the world's worst maternal and infant mortality rates.

The constant concerns about getting enough to eat, the threat of eviction, and the trauma of displacement take their toll. Some of the women interviewed by Amnesty International suggested that violence against women in particular occurred more frequently than before they had been displaced.

Education, which many families see as critical to a better future for their children, is often unavailable for displaced children. They may be refused enrolment or threatened with expulsion if they cannot produce a national identification card, a document that most Afghans do not have and which in practice they can obtain only in their home province. Some are turned away for wearing dirty clothes, an unavoidable circumstance given their families' limited access to water. Informal schools are frequently the only option for displaced children, but such schools do not always offer a full curriculum and may employ staff who lack basic qualifications to teach.

Many government officials deny that internal displacement is a problem or describe displaced persons as "economic migrants," claiming that displaced persons are no worse off than other Afghans living in poverty. It is true that Afghans who have not been displaced also face hardships in many aspects of their day-to-day lives. Afghanistan's human development indicators—in categories such as health, education, and income—are below the regional average and place it among the world's worst-off countries.

But the experience of internally displaced persons is qualitatively different from that of people who have not been displaced. Characterising displaced persons as

“economic migrants” ignores the reality that those who are displaced have not moved out of choice. Most have fled after their homes or villages were razed, after they or family members were killed or injured in fighting, after their children were unable to attend school safely or were singled out for recruitment into armed groups, after they received threats or were compelled to hand over money or property to armed groups, or for other reasons related to, or aggravated by, the conflict.

Displaced families are usually worse off by any measure—quality of housing; access to water, sanitation, education, health services, or employment—than poor families who have not been displaced. Those who are displaced must deal with the daunting challenges of finding new homes and providing for themselves and their families at the same time that they are struggling to cope with trauma induced by the events that led them to flee. Among the many adjustments they must make, a very practical one is the need to buy the food and other basic necessities that they had been able to grow, raise, or collect in their home communities.

It is also true that the Afghan government faces considerable resource constraints after years of conflict and instability. To address the immediate and long-term needs of its substantial displaced population, and more generally to rebuild the country, the state will need international cooperation and assistance for the foreseeable future.

But the Afghan government should be working now with the resources it does have and the international assistance now available to address the needs of internally displaced people. To the extent that it has responded, its initiatives have been inconsistent, insufficient, and ineffective, suggesting that it essentially has no plan to address internal displacement. For example, under a land allocation initiative announced in 2005, some families have been offered houses and small plots of land that are impractically far from jobs, health clinics, and schools, and even, in some cases, without sources of water. In addition, many displaced persons and at least some government officials believe that only returning refugees, not internally displaced households, are eligible for land allocation under the 2005 programme.

Some officials go so far as to suggest that there are no internally displaced persons in their city's slum areas. Indeed, such “make-believe” is apparently the policy of the Herat provincial government, which sent letters to UN agencies and nongovernmental organisations in mid-2011 instructing them not to direct any assistance specifically to internally displaced persons.

Nevertheless, in the absence of coherent and responsive government strategies for addressing the needs of internally displaced persons, Afghan authorities expect international agencies to fill the role of the state—with the further restriction, effectively, that assistance must not reflect the reality that displacement has become a feature of the Afghan conflict and that many displaced persons will remain so for months and even years. As a result, local officials often prefer, for example, that aid agencies truck water to settlements rather than build more cost-effective water pumps and are reluctant to establish schools, health centres, and other services for communities that they prefer to regard as transient.

To address the human rights violations that internally displaced persons experience once they have sought safety, Amnesty International calls on the government of Afghanistan to:

- As a matter of priority, provide for the immediate needs—including shelter, food, water, and health care—for those who are internally displaced, seeking international assistance and support if necessary.
- Adopt measures to ensure the effective protection of internally displaced persons, in line with the UN Guiding Principles on Internal Displacement, until such time as they are able either to return to their homes voluntarily and in safety and dignity or resettle.
- Enact and enforce a clear prohibition on forced evictions, and adopt guidelines for evictions based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement.
- Implement procedures to allow identity cards to be issued throughout the country. Displaced persons and returning refugees should not be required to travel to their place of birth or former residence in order to have identification cards issued.
- Immediately ensure that all children, including displaced children, have access to free primary education without charge, in accord with international law and the Afghan constitution. In particular, no child should be refused enrolment or expelled for failure to produce an identity document.

Amnesty International calls on the Taliban and other armed groups to:

- Take all necessary measures to protect the civilian population and objects from the dangers arising from military operations, whether in defence or in attack, and publicly condemn all attacks against civilians and all indiscriminate and disproportionate attacks.
- Ensure humanitarian access in the areas they control.

A complete list of recommendations appears at the end of this report.

ABOUT THIS REPORT

This report is based on research gathered during five fact-finding missions between November 2008 and June 2011, each three to five weeks in length, as well as additional information obtained by Amnesty International researchers in follow-up communications from London between July 2011 and January 2012. During its field research, Amnesty International conducted private interviews with more than 100 internally displaced persons and returning refugees in 12 slum communities in and around Herat, Kabul, and Mazar-e-Sharif. Our researchers met with government officials from the Ministry of Refugees and Repatriation and the Ministry of Urban Development; staff with the UN Refugee Agency (UNHCR), the International Organization for Migration (IOM), the UN Assistance Mission in Afghanistan (UNAMA), and the UN Office for the Coordination of Humanitarian Affairs (OCHA); national and international aid agencies working in Afghanistan; representatives of the

Afghan Independent Human Rights Commission (AIHRC) and other human rights organisations; and diplomatic missions. The information in this report is current as of 4 February 2012.

In Kabul, we visited communities in Bagh-e-Dawood, in the Paghman District in the west of the city, housing 140 to 150 families and located on parcels of land variously owned by private individuals and the Ministry of Defence; Chaman-e-Babarak, in the north of the city, with 1,300 families and located on private land; Charahi Qamber, in the west of the city, with 750 families, located on land owned by the Ministry of Defence; Ferqa Shanza, in the Paghman District, with approximately 25 families and located on land owned by the Ministry of Defence; and Kart-e-Parwan, where several hundred families live on privately owned land. In Herat, we visited three camps for persons who had been displaced in the 1990s during the internal conflict and civil war in Afghanistan: Minarets camp, with 350 families living on land owned by the Ministry of the Interior; Maslakh camp, where approximately 3,000 families are living on state land; and Shaidayee camp, with 1,555 families on land owned by the Ministry of Defence. In Mazar-e-Sharif, we visited four communities, one each in Balkh, Hairatan, and Sholgar districts and a fourth in Shirkat-e-Tasadi Kamaz. (Household sizes vary considerably. For the population of Afghanistan as a whole, the average household size is between seven and eight individuals, and one-fifth of all households in the country have 10 or more people.² The households Amnesty International visited for this report were usually larger than the national average, often with 10 to 15 extended family members and sometimes as many as 30.)

Interviews with internally displaced persons and returning refugees were voluntary and followed a semi-structured format. They were conducted in Dari, English, or Pashto, with translation where necessary. The names of all of these individuals have been changed to protect their identity.

This report uses the term “internally displaced persons” to mean “persons or groups of persons who have been forced or obliged to flee or 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 “Returning refugees” are those who fled Afghanistan, often to Iran or Pakistan, and have since returned.⁴ This report focuses on conflict-induced displacement. Although this report does not address displacement due to natural disasters, it is worth noting that conflict aggravates the impact of natural disasters, and many of the recommendations identified in this report are applicable in addressing displacement that results from natural disasters.

The term “slums” is used in this report to refer to 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.⁵

This report is part of Amnesty International's Demand Dignity campaign, which focuses on human rights violations that drive and deepen poverty. As part of the campaign, Amnesty International is focusing on human rights violations against people living in informal settlements, or slums. Amnesty International is also calling on governments to end forced evictions, ensure equal access to public services, and promote the active participation of people living in informal settlements and slums in the decisions and processes that affect them.

2. INTERNAL DISPLACEMENT IN AFGHANISTAN

Zarin, a 70-year-old woman, spoke to Amnesty International in February 2010 about her family's flight from Marjah, in Helmand province. "It is about two days that we arrived in Kabul; we escaped from Marjah," she said. "We had to walk all the way from Marjah to Lashkar Gah [the capital of Helmand province] in dark of night. I came with my entire family of nine members; my husband, sons, daughters and grandchildren all came.

"The Americans and the government told us to leave the area before they wanted to attack Marjah, so people started leaving the area before the offensive started. But soon this move was stopped by the Taliban and they did not allow the civilians to leave the area. The Taliban also told people that the foreign forces will come and rape our women and girls.

"As the fighting started, people wanted to leave but the Taliban planted too many land mines everywhere and many people were killed and injured by the landmines. Then we had to leave the area in the dark of night with the fear of the Taliban seeing us disobeying them. We were too tired and exhausted, we were hungry and thirsty and we had no shoes. We stayed only two nights in Helmand and then we heard that Taliban are identifying people who left the area, so we had to leave again and come all the way to Kabul.

"Since we came there is no assistance or anything; the family has not eaten anything for the past two days, and only some families in the makeshift are sharing their food with us as we try to feed the children first.

"We are displaced and we have lost all our livelihoods and no one is fulfilling their promises to assist us in this situation."

Over 100,000 people in Afghanistan were forced to leave their homes and seek safety elsewhere in the country in 2010.⁶ The number was nearly twice as high in 2011: Conflict and insecurity displaced nearly 186,000 Afghans during the year.⁷ Including all those who had been displaced in previous years and had not been able to return to their home communities, an estimated total of 500,000 people were internally displaced at the beginning of January 2012.⁸

Unlike refugees, internally displaced persons have not crossed an international border.⁹ But internally displaced persons and refugees alike face considerable challenges in meeting their everyday needs. They have typically been made homeless, have frequently lost their sources of livelihood, and often lack access to schools and health services in the places where they have relocated. They have suffered the trauma of violence and of having their lives uprooted. Their new living circumstances may be insecure—lacking both safety and legal protection from eviction—meaning

that many find that they must relocate several times. As a result of these upheavals, domestic violence can be higher among those who have been displaced than in the population as a whole.

Afghanistan has had a high rate of internal displacement for years. On average, 400 people were internally displaced each day between 2006 and 2010, according to data collected by the UN and the International Committee of the Red Cross.¹⁰ About one-third of those internally displaced are children under the age of 18.¹¹

“The trend clearly indicates that displacement is on the rise,” as a 2010 report by the Brookings-Bern Project on Internal Displacement observed.¹² Over 57,000 people were displaced from their homes because of the conflict in the first three months of 2011, an increase of 41 percent over the last quarter of 2010.¹³ Looking at the first six months of each year, the increase in displacement was even greater—the total of 91,000 people displaced between January and June 2011 was 46 percent more than the 42,000 displaced in the first half of 2010.¹⁴



Internally displaced families living in slum areas such as Charahi Qamber, pictured, construct makeshift dwellings on abandoned lots from mud, poles, plastic sheeting, and whatever other materials they can find. © Amnesty International

Many of those who are displaced are unable to return to their homes for considerable periods of time—in fact, displacement often lasts years and in some cases decades.

It is difficult to determine the total number of displaced persons with any certainty. In many conflict-affected districts, government authority extends only to district centres.¹⁵ Poor roads and harsh winters make other areas inaccessible for part of the

year.¹⁶ Many displaced Afghans prefer to stay with family or friends, making it difficult to capture the full picture of displacement. And some displacement is of relatively short duration.

In addition, the various provincial Departments of Refugees and Repatriation do not have uniform practices for collecting and analysing data on displacement; and the numerous government ministries, local authorities, UN agencies, and nongovernmental organisations involved in the protection of internally displaced persons also employ different methods in collecting data. A National IDP Task Force working group has developed recommendations for improving data collection on displacement, but their recommendations have not been implemented.¹⁷

As a result of these factors, the true numbers may be much higher than UNHCR's estimate of half a million displaced persons, particularly in light of the upward trend—in June 2009, the Brookings-Bern Project concluded that there were as many as 200,000 persons in Kandahar province alone who had suffered internal displacement due to conflict, and it found similar numbers for Helmand and Uruzgan provinces.¹⁸ It is clear, however, that the number of displaced persons in the country is substantial. In addition, some 2.8 million refugees remain outside the country.¹⁹

THE SPREAD OF CONFLICT

These numbers, and in particular the recent trend of more internal displacement, are a reflection of renewed intensification and spread of conflict in Afghanistan. Taliban and other anti-government armed groups have mounted an increasing number of attacks as international forces have begun to hand over security responsibility to Afghans in parts of Kabul province, Herat, Mazar-e-Sharif, Lashkar Gah, and other parts of the country. Afghan and international forces have stepped up airstrikes and other operations in response.

Violence spread in 2011 to areas that had been relatively peaceful in recent years, including Jowzjan and Kunduz provinces and Mazar-e-Sharif, all in the north; Herat, in the west; Uruzgan province, in the south; and Paktia province, in the east.²⁰ The intensity of the conflict, the high incidence of war crimes, and their impact on the civilian population, which has no meaningful recourse, has led Amnesty International to call on the International Criminal Court to investigate the situation in Afghanistan.²¹

Several prominent Afghans were assassinated in the second half of the year. A half-brother of President Hamid Karzai, a senior adviser to President Karzai, and the mayor of Kandahar were killed in separate attacks in July 2011.²² Burhannudin Rabbani, the leader of Afghanistan's High Peace Council and a former Afghan president, died at the hands of a suicide bomber in late September 2011.²³ A member of Parliament and former military commander, Abdul Mutaleb Baik, was killed along with other government officials when a suicide bomber attacked a funeral in northern Afghanistan in December 2011.²⁴

The end of Ramadan, in August 2011, saw a wave of suicide bombings and other attacks across the country—in Helmand, Herat, Kandahar, and Uruzgan provinces as

well as in Kabul.²⁵ In one of these attacks, a group of suicide bombers invaded the governor's compound in Parwan province, killing 22 people.²⁶

A particularly serious attack in September 2011 on a NATO outpost in Wardak province, south of Kabul on the road to Kandahar, wounded at least 77 international troops.²⁷

Among other attacks during the year, several major attacks against civilians took place during the Eid al-Adha holiday in November 2011.²⁸ At least 63 Shi'a worshippers were killed in a series of apparently coordinated bombings in Kabul, Kandahar, and Mazar-e-Sharif as they marched in processions on Ashura, a day of mourning that is one of the most important events in the Shi'a calendar.²⁹ Southern Afghanistan suffered further attacks in January 2012, including four attacks over a two-day period in which more than two dozen people died.³⁰

Though it is protected by thousands of Afghan and international troops, Kabul suffered several audacious attacks in mid- and late 2011 that targeted international forces directly or were directed at buildings associated with international actors. In June, nine gunmen entered the Intercontinental Hotel and began killing guests; a total of 21 people, including the nine, were killed in a six-hour gunfight.³¹ In August, gunmen in burqas and suicide vests set off two powerful car bomb explosions and then entered the grounds of the British Council, a cultural centre; at least eight people were killed and 22 wounded in the attack.³² In September, heavily armed men wearing suicide vests fired rocket-propelled grenades at the U.S. embassy and NATO's headquarters. At least six people were killed and 19 wounded in the attack and the response by Afghan and NATO troops.³³ And in late October, a suicide car bomber swerved into an armoured NATO shuttlebus travelling in front of the American University, killing more than 20 people.³⁴ "Outmanned and outgunned by the thousands of foreign and Afghan security forces in and around Kabul, Taliban attacks inside the capital are not aimed at controlling it physically but to capture it psychologically," the International Crisis Group wrote in a June 2011 report.³⁵

Airstrikes, night raids, and other operations by Afghan and international forces, in turn, resulted in civilian casualties—albeit in significantly lower numbers than civilian deaths attributed to anti-government armed groups—and contributed to displacement, as many Afghans, particularly those who remember devastating Soviet-era counterinsurgency tactics, will flee an area as the result of operations by the International Security Assistance Forces. These operations have also generated considerable resentment among Afghans.

Cross-border operations are another contributing factor to insecurity and displacement. For instance, the Kunar provincial council reported ten attacks in a two-week period in June 2011, which the council attributed to Pakistani forces. The deputy head of the provincial council reported that 680 families living near the border had sought safety elsewhere.³⁶

THE TOLL ON CIVILIANS

Civilians are affected in increasing numbers by the escalation of the conflict. “Civilians were subjected to conflicting and competing demands of the warring parties that often included intimidation and violence regardless of their choice to support one side or the other—and often they do not have a choice,” UNAMA notes.³⁷

Just over 3,000 Afghan civilians died as the result of the conflict in 2011, according to the UN Assistance Mission in Afghanistan (UNAMA). Civilian deaths in 2011 were 8 percent higher than in 2010 and 25 percent higher than in 2009.³⁸ May 2011 was the deadliest month for civilians in Afghanistan since 2007, UNAMA reported in a statement issued in advance of its midyear report on protection of civilians.³⁹

In fact, civilian deaths and other casualties have increased every year since 2007. From 2009 to 2010, the Afghanistan Independent Human Rights Commission and UNAMA recorded a 15 percent increase in civilian deaths. Child casualties rose 21 percent during the same period.⁴⁰

Both armed groups and national security forces are reported to recruit and use children under the age of 18. For example, in the southern region—the provinces of Helmand, Kandahar, Nimroz, Uruzgan, and Zabul—“[t]he recruitment and use of children by armed groups and national security forces was observed . . . especially within the Afghan National Police (ANP),” the Afghanistan Protection Cluster reported for 2010.⁴¹ UNAMA reported a total of 212 incidents of child recruitment in 2011, including by the Afghan National Police and Afghan Local Police as well as by anti-government armed groups.⁴² The Committee on the Rights of the Child noted in February 2011 that, “although the minimum age for recruitment in the police and in the army has been set at 18 years by presidential decree, under-18 recruitment persists in the State party, including in the ranks of the Afghan police.”⁴³

Insecurity prevents whole communities from reaching medical treatment⁴⁴ and leads humanitarian and development agencies to restrict the distribution of relief supplies to district centres.⁴⁵ Insecurity also interferes with supply routes, restricting access to food:

Ongoing conflict also severely affects food security as it impedes food routes and access to markets. For example, reports indicate that owing to escalation of PGF [pro-government forces] military operations in Malajath area (located around 4 km from Kandahar), an important vegetable supply area for Kandahar city, vegetable supplies are becoming rare in local markets and prices are increasing, further impacting on the poorest and most vulnerable families.⁴⁶

As the conflict spreads, greater numbers of civilians face death, injury, and hardship. “The number of IDPs is likely to grow as a consequence of intensified military operations in the southern, western and south-eastern regions of the country,” UNHCR observed in its 2011 country operations profile.⁴⁷

The number of civilians directly hurt by the conflict has received relatively high attention and has been the source of serious resentment inside Afghanistan as well as

political tension among other troop-contributing countries. There is a clear correlation between escalating casualty figures and surges in displacement. Moreover, Amnesty International's research has demonstrated that even when actual civilian casualty figures are relatively low, many Afghans will flee their homes, mindful of the brutal impact of Soviet counterinsurgency tactics as well as internecine conflict before and during the Taliban era. This indirect impact of the escalating conflict has not been adequately considered by the Afghan governments or by international military forces.

The Afghanistan Protection Cluster's 2010 overview for the northern and northeastern regions noted:

The trend of spread of hostilities to the [northern and northeastern regions] has a direct impact on protection of civilians and their diminishing access to humanitarian support. . . . Where previously the upsurge of fighting was focused in the South and South East, insurgent activity and international military operations are now affecting large and [formerly] peaceful areas in the [northern and northeastern regions].

Ordinary Afghan civilians are paying a heavy price for the conflict across the North with increase in civilian deaths and injuries and compounded by a resultant lack of access to assistance. Aid workers and NGOs continue to be targeted and access to and by affected populations is becoming increasingly difficult as humanitarian space continues to shrink. The conflict spread and intensity has impacted civilian populations in several ways including forced displacement; damage and destruction to property; loss of livelihoods; lack of access to essential services of health care, education and food etc. Displaced populations remain extremely vulnerable, and with large and urgent protection needs which risk being unmet due to ongoing insecurity and violence restricting the humanitarian community from reaching those affected.⁴⁸

In the western region, "Ghor, Bagdhis, and Farah are among the worst provinces," a UN official told us. "These provinces often have incidents of conflict between the Afghan National Army and anti-government elements, leading to frequent displacement of people."⁴⁹

Not surprisingly, many Afghans have real grounds to feel less secure now than at any point in the last ten years.

ARMED GROUPS

Taliban forces and other anti-government armed groups are thought to be responsible for the bulk of attacks on civilians—over 75 percent, according to UNAMA's 2011 annual report. Attacks on civilians by anti-government armed groups increased by 10 percent in 2011, compared to 2010.⁵⁰ Armed groups used indiscriminate weapons, such as pressure-plate improvised explosive devices, "in large and increasing numbers"⁵¹ in the first half of 2011; carried out suicide attacks in populated areas, often without any specific military target; and deliberately targeted civilians, including through targeted assassination of those thought to support the Afghan government or

international forces.⁵² There are some reports that children with some connection to Afghan security forces or international troops have been killed.⁵³ As Amnesty International's research over the years has shown, insurgent groups often target civilians with the aim of terrorising the local population, in violation of international law.⁵⁴ One predictable result of the insurgents' strategy is that thousands of Afghan families are pushed to flee their homes.

Armed groups continue to attack teachers and schools. In 2011, "[i]ncidents included burning or attempted burning of school buildings and equipment, intimidation, injury and killing of teachers and students, armed attacks and two incidents of (attempted) suicide attacks in educational school premises," UNAMA reported.⁵⁵ As the Afghan Protection Cluster reported for the southern region in 2010:

The Monitoring and Reporting Mechanism on Children Affected by Armed Conflict (MRM CAAC) recorded an increase in the number of explosives in schools and their vicinity, armed attacks against schools, collateral damage, schools affected by military operations, and those used for political/military purposes. Large scale closure of schools was noted as of March 2010 in the provinces of Helmand (more than 70%) and Zabul (more than 80%). Schools, students, and individuals working for educational institutions have been attacked. 52 cases of attacks on schools, students and educational staff were recorded in all five Southern provinces and children's education was heavily affected in Kandahar and Helmand, where 39 of the incidents occurred.⁵⁶

In the northern and northeastern regions, the Afghanistan Protection Cluster has documented that "[a] number of schools have been seriously damaged or destroyed, notably in Ghormach and Qaisar, as a consequence of targeting by AGEs [anti-government elements], and in some cases, as a result of air strikes."⁵⁷

Armed groups have also attacked hospitals and other health facilities. For instance, a June 2011 suicide bombing killed over a dozen children who were lined up to receive vaccinations.⁵⁸ The Afghanistan Protection Cluster reports that "10 attacks were recorded on health facilities and staff in 2010 in Helmand and Kandahar provinces and most of these occurred during the first five months of the year. The incidents include search operations, IED [improvised explosive devices], burning and closure of hospitals."⁵⁹

Children were used as suicide bombers in increasing numbers in 2011.⁶⁰ Taliban forces used an ambulance in a suicide attack on a police training centre in Kandahar in April 2011.⁶¹ In addition, UNAMA found evidence of the use of human shielding by armed groups, as during the Marjah "clearance operation" in 2010.⁶²

Forced taxation (known as *osh*); the confiscation of vehicles, weapons, and food; and forced recruitment of men aged 18 to 40 by anti-government forces were also reported in 2010. Displaced persons in Balkh, Jawzjan, and Sar-e-Pul provinces reported that these tactics were the main factors in their decisions to flee their homes.⁶³

Threats and other acts of intimidation are also common tactics, such as the use of “night letters,”⁶⁴ which “warn entire communities not to send daughters to school, not let sons join the ANSF and to stop civilians from working with the Government.”⁶⁵ Additionally, UNAMA documented the use of illegal roadblocks and disruption of mobile telephone networks by anti-government armed groups in 2011.⁶⁶

GOVERNMENT AND INTERNATIONAL FORCES

Afghan government forces and international military forces were responsible for about 20 percent of the civilian casualties recorded and assessed in the last several years by UNAMA. Civilian deaths and injuries attributed to pro-government forces dropped by 11 percent during the first six months of 2011, as compared with the same period in 2010.⁶⁷

Even so, deaths from airstrikes increased by 9 percent overall and, for the first half of the year, by 14 percent.⁶⁸ At least 11 of those killed were children who were doing farm work, UNAMA found. In one such instance:

[A]n Apache helicopter killed two children in the Chawki district. The children were farming at night so the water from irrigating their fields would not evaporate during the hot Afghan days, a common practice in Afghanistan. The Apache crew apparently believed the children were planting IEDs [improvised explosive devices].⁶⁹

“The use of air strikes is alarming as so far it has caused much fear and disruption in Faryab in particular leading to displacement of civilians,” the Afghanistan Protection Cluster observed in its 2010 assessment of the northern and northeastern regions.⁷⁰ For instance, an estimated 1,350 families (8,000 individuals) fled their homes in Ghormach and Qaisar districts during a January 2011 military offensive by International Security Assistance Forces and Afghan forces in Faryab province.⁷¹

Night raids by government and international forces were a source of particular resentment among the communities where they occurred. “Violent demonstrations sometimes followed night raids and led to deaths and injuries of civilians, as when police opened fire on protestors in Nangrhar province, Kandahar city and Taloqan city after night raids caused civilian casualties,” UNAMA noted in July 2011. “Although civilian casualties from night raids decreased, they remain one of the most despised tactics in the eyes of the Afghan population.”⁷² The wider impact of night raids on civilians is illustrated by the concerns presented by elders to UNAMA about a November 2010 night raid in Kunduz city:

Their concerns included a lack of information regarding the location of eight civilians detained, lack of access to medical treatment for a seriously ill child and destruction of property. These comments reflect a greater perception by the wider Afghan community that the presence of international forces is responsible for higher levels of insecurity, is the cause for greater numbers of civilian casualties regardless of the perpetrator, and that international forces act with impunity.⁷³

Other aspects of government and international operations disrupt civilian life. In Kandahar, for example, government and international forces have destroyed homes and other property as part of their military operations:

There are numerous reports from elders and others that many houses were destroyed to dispose of IEDs [improvised explosive devices] and to improve the defenses of ISAF and ANSF bases; that military vehicles drove off roads to avoid IEDs but destroyed walls, gardens, and irrigation systems in the process; that buildings used for drying grapes were destroyed to prevent their use as fortifications; and that buildings, homes, land, trees, and crops were destroyed, purportedly to allow ISAF forces to establish check posts and build additional roads where ISAF was unwilling to use existing roads for security reasons.⁷⁴

The Afghanistan Protection Cluster has documented displacement as the result of such operations.⁷⁵

Particularly because of the anticipated international withdrawal, both the Afghan government and international forces have increased their longstanding collaboration with irregular armed groups and small militias. Such militias and other armed groups have proliferated in Afghanistan in the last decade, with many implicated in unlawful killings, rape, enforced disappearances, arbitrary detention, theft of land and other property, and other abuses against civilians. “Militias of all varieties have participated in murderous tribal vendettas, targeted killings, smuggling, and extortion. Rapes of women, girls, and boys have been frequent,” a September 2011 Human Rights Watch report found.⁷⁶ (An investigation by the United States Forces-Afghanistan released in December 2011 in response to the Human Rights Watch report confirmed some instances of assault, illegal taxation, and other abuses by U.S.-trained members of local police and irregular militias but concluded on balance that the local police training programme was “effective.”⁷⁷)

Those detained by Afghanistan’s National Directorate of Security and the Afghan National Police on suspicion of offences related to the armed conflict are systematically subjected to acts of torture and other cruel, inhuman or degrading treatment, an October 2011 UNAMA study concluded.⁷⁸

Profound resentment against the combination of such tactics has created what the Open Society Foundations describe as a “trust deficit,” a phenomenon that itself helps fuel a sense of insecurity.⁷⁹

Compounding these problems, international and government forces have tended to interact with humanitarian actors on an ad-hoc and personality-driven basis rather than systematically sharing information on displacement and humanitarian needs in their areas of operation, Refugees International found in June 2011.⁸⁰ And despite efforts by both the US and International Security Assistance Forces to amend their operational guidelines to reduce civilian casualties, ongoing civilian deaths and injuries—and the predictable fear that such casualties create—continue to fuel displacement.

THE MARJAH “CLEARANCE OPERATION,” FEBRUARY AND MARCH 2010

International forces led a major offensive against Taleban fighters in and around Marjah town, Helmand province, in early 2010.

The operation drove most Taleban fighters out of the area. It also had a significant impact on civilians, and not just in terms of civilian casualties: The Afghan Red Crescent Society found that 35 civilians were killed, 37 were injured, and 55 houses were destroyed during the offensive. Four thousand families were displaced from Nad Ali district, which includes Marjah.⁸¹ Most displaced families returned to their homes within three weeks, but continued fighting and uncertainty around security meant that some families remained displaced months later.

In February 2010, Amnesty International spoke with Ajmal Khan, age 35 and the father of five children, who described the impact of the fighting in his village in Helmand’s Sangeen district:

“Taleban were coming to our village, retreating from an area where they had been shooting on international forces. Aircraft started bombarding the people in the area. I don’t know what we have done wrong, because the Taleban are killing us, and the government and international forces are killing us too. It’s been about four months since we moved to Kabul. I had sheep and cows. I don’t know where they are and what happened to them. I was able to escape and only take my family with me.”

Wali Shah, also from Sangeen district in Helmand province, told Amnesty International in February 2010:

“The Taleban and government were fighting, but they were killing the innocent people. It is about two months that we are displaced from Helmand to Kabul. My shop, my home, and my animals, all were lost in the fighting.

“When we were in Helmand, we were in a bad situation because when the Taleban were taking control of our area, they were forcing us to fight with them against the government, and when the government was taking control, forcing us to fight Taleban. This is why we finally decided to leave Helmand and end this problem forever. What should we do? If I go back, Taleban will force us to fight, just as they are doing to many people there. If I stay, I will have to witness the death of my children from the cold and hunger. I don’t know what to do.”

PROTRACTED DISPLACEMENT

Long-term displacement—for years and even for decades—is another feature of the conflict in Afghanistan. For example, according to UNHCR figures for March 2011, one-quarter of the then-total of 433,000 displaced people in the country were displaced prior to 31 December 2002. UNHCR considered 40,600 of these protracted internally displaced persons to be displaced due to natural disasters and 76,400 to be “persecution and conflict-induced displacement.”⁸²

PROTRACTED DISPLACEMENT IN MASLAKH CAMP, HERAT

Approximately 4,000 families live in Maslakh. Most arrived in 1992 and 1993, mainly from the north, after they fled fighting and insecurity in their home communities.

Others have come more recently; some of the families we spoke with had left their homes in Badghis province in the last four years. Amir, a man in his late 30s, told Amnesty International in June 2011 that he came to Herat with his wife in 2008. "I came . . . because of fighting between the Taleban and the government," he told us.

"We came here by truck and found this place," said Abdullah, an elderly man who had arrived in 2007 with 25 family members. "It was suitable, but it was a deserted place. We built all this. We weren't able to hire workers from the city, so we are helping each other to build all this."

In the first year after they arrived, they received rice, flour, blankets, and cooking oil. "After the first year, we have received no aid up until now. This year, one aid agency came and interviewed us. It promised money to go to a clinic, but we have received no money until now," he said.

"We have no clinic. The closest one is in the city. We have to pay money to go there and receive treatment."

Qadir, a man in his early 40s, interrupted the task he was working on with a neighbour, a new wall to shelter his family's home from the wind, and invited us into his home. Houses in this community are relatively well-constructed, with walls made of mud mixed with straw that extend all the way to the rafters. The roof is made of green branches laid over wooden poles or, in some rooms, cardboard covered with mud and placed between sheets of plastic sheeting; in one room the roof was constructed from burlap sacks and cardboard, with soil on top. Cracks and holes have developed in the roof of every room.

He showed us the well he and his neighbours had dug by hand. The water was muddy; they explained that they could not make it deep enough without special equipment. There are pumps elsewhere in the camp—we saw at least three—but he explained that they were too far away.

"Fifty families want to take water at the same time from those pumps, and there is a lot of fighting," said Noor Mohammed, a man in his early 50s. He has asked the government to install more pumps, but he has not seen any results yet. "They agreed, and came to do a survey. UNHCR accepted to repair pumps or build new ones. But so far there has been no action."

There is a school for the community. With 1,400 children in grades 1 through 9, its facilities and teaching staff are woefully inadequate. Although it operates a divided school day, with boys attending in the morning and girls in the afternoon, some classes have 120 students. Insufficient classroom space means that many classes are held outdoors. "In the morning the sun is directly over the students, so we keep them to the walls to protect them from the sun," said Munir, one of the teachers. "In the long run, we need to extend the school by building new rooms. In the short run, we at least need a tent to provide some shelter." There is a well inside the school grounds, but the official said that another one was needed. "With 1,400 students and only one well, we need another well to have enough water."

RETURNING REFUGEES

Over three decades of fighting created perhaps the world's largest post-World War II refugee population, with a peak of 6 million in the 1980s.⁸³ Refugees started to return to Afghanistan in 1989—over one million from Pakistan in a six-month period in 1992—and by 1997, some 3.9 million had returned.⁸⁴ Another rise in displacement, both internal and international, began in 2001 and peaked in 2002.⁸⁵ Refugees again began to return to Afghanistan in large numbers from 2002 to 2004 and have continued on a much smaller scale in subsequent years.⁸⁶

Nevertheless, the number of returning refugees dropped substantially in 2011, with 60,000 UNHCR-assisted refugee returns in the first 10 months of 2011 as compared with over 100,000 during the same period in 2010. The most frequently cited reasons for not returning are lack of livelihood opportunities, lack of shelter, and insecurity, UNHCR reported in October 2011.⁸⁷ Speaking at a distribution centre for returning refugees in December 2011, Peter Nicolaus, UNHCR's representative in Afghanistan, said that the failure to address the issue of livelihoods and consequent problems of reintegration "was the biggest mistake that UNHCR ever made" and that the agency was now concentrating on sustainable integration. "It's the income that counts, the livelihood. In very simple terms we need to find jobs for the people coming back," he remarked. "You can build five roads to a village and the farmers will benefit because they can go to the next town to sell their vegetables. But the returnee doesn't benefit at all. He has nothing to sell at the market."⁸⁸

In the last decade, UNHCR has assisted the return of over 4.6 million refugees to Afghanistan.⁸⁹ Including those who returned without UNHCR assistance, between 5.5 million and 6 million refugees are estimated to have returned to Afghanistan between 2002 and 2011. As a recent Security Council report notes, "The Afghanistan return operation remains the single largest such operation for UNHCR."⁹⁰ Some 1.7 million refugees remain in Pakistan, and 1 million remain in Iran.⁹¹

INABILITY TO RETURN TO SAFETY

Returning refugees frequently find that they are unable to return safely to the areas they originally fled. In this respect, they find themselves in the same position as families who have been internally displaced. The Afghanistan Protection Cluster noted, for example:

The NR and NER [northern and northeastern regions] have also witnessed the facilitated return of 954,239 individuals (368,121 individuals in the NR and 586,118 in the NER as of 31st December 2010) which constitute around 21% of total registered refugees returned from Iran and Pakistan from 2002 to 2010. Many of these have returned to a situation of internal displacement due to their inability to return to their villages of origin, while many others have chosen to remain in urban centres due to their inability to resume life in their demolished and isolated villages of origin.⁹²

In 2007, the Afghan Human Rights Commission found that two-thirds of returnees experienced such secondary displacement.



A family displaced from Badghis province has sought refuge in Herat's Maslakh camp. © Amnesty International

Those who are displaced internally face periods of displacement that are likely to be longer than they have been in the past and a likely increase in secondary displacement to urban areas. As the Afghanistan Protection Cluster observed for the southern area:

Reports of rampant land mines/UXOs [unexploded ordinance] and destruction of crops/fields/homes/properties is bound to have a direct impact on the ability of the displaced populations to consider voluntarily returning to their places of origin and to resume livelihoods even on rapid cessation of the conflict. Given the trends of 2010, it is apparent that the period spent in displacement will be longer for those affected by the conflict in the [southern region] as opposed to past trends.

Deterioration of the protection situation of IDPs in places of displacement can be expected in the medium term, especially given the harsh climate of the [southern region] and the absence of critical services/facilities available in places of displacement. The likelihood of secondary displacement to semi-urban/urban areas within and outside the [southern region] is high for this reason. Heightened risk of already vulnerable groups (women/children/elderly/disabled etc) amongst the IDPs is imminent in the absence of an expedited return to normalcy leading to voluntary return of IDPs in safety and dignity to their places of origin.⁹³

The Internal Displacement Monitoring Centre reported in January 2011 that thousands who had fled NATO-initiated military operations in Marjah in Helmand Province in February 2010 were still unable to return to their homes because of

Taliban threats and the presence of improvised explosive devices in their home areas.⁹⁴

SEEKING SHELTER IN SLUMS

Unable to return to their areas of origin, many displaced families and returning refugees make their way to Afghanistan's urban centres, where they construct crude shelters on unoccupied parcels of land.

"We arrived from Marjah to Kabul yesterday," Agha Jan, a 20-year-old man, told Amnesty International in February 2010. "We escaped the fighting as there was aerial bombing and heavy fighting between the Taliban and foreign troops and Afghan government forces." The man told Amnesty International that he and his family were dependent on others in the community for their basic needs. "We haven't received any help so far, and even when we arrived in Lashkar Gah no one asked us where we are coming from and where we want to go. So now we are here in Kabul. My family is staying in another family's tent, and I am trying to find a place to put my family." Knowing that he could not afford to rent a house, he was planning to set up a tent in the community as soon as he could borrow one. "This is my first time ever in Kabul, and I don't even know the language and I don't know my way around," he said.

Some 35,000 people are living in more than 30 slum areas in Kabul.⁹⁵ The population of these settlements includes people who have been internally displaced, both because of the conflict and as the result of natural disasters. These settlements also house returning refugees, some of whom settled directly in Kabul upon their return from Iran or Pakistan and others who relocated to Kabul after they were unable to settle in their place of origin. In addition, some of the residents of these communities have never been forcibly displaced. Some of these settlements are on government land, some on private land, but residents of all settlements are in danger of forced eviction.

In Herat, three large camps are still being used by persons who were displaced between 14 and 17 years ago due to the conflict elsewhere in Afghanistan. One of these, Minarets camp, is located in the centre of the city and houses about 365 families who came to Herat from northern Afghanistan in 1993.

Such areas in both Herat and Balkh were recognised by UNHCR as internally displaced camps until 2003 but now have no recognition and are not receiving assistance from national and international organisations, residents told us.

A common misconception in Afghanistan and elsewhere is that most of those who choose to leave and not return to their places of origin do so primarily for economic reasons. In some cases, that may be true. But as the Brookings-Bern Project notes,

Internally displaced persons make the same rational decisions about their destination as many economic migrants. These pull factors (e.g., economic/livelihood options, relative security, and the existence of IDP enclaves/kinship networks and shared cultural characteristics with host

communities), however, mainly influence where IDPs go — not whether they feel forced to leave their places of origin.⁹⁶

Another misconception is that displaced families living in urban slums are no worse off than poor urban families who have not been displaced. As a May 2011 study by the World Bank and UNHCR found, internally displaced persons “live in much more hazardous housing conditions than the urban poor” and “have a much higher level of deprivation than the urban poor.” Sixty percent of displaced families live in tents, temporary shelters, or shacks, and have done so for five years or more. Eighty-five percent of the households of displaced persons do not have lease agreement or other form of deed for their homes, while 75 percent of urban poor households do have such deeds. Over 70 percent of displaced households lack access to electricity; in comparison, 18 percent of the urban poor do not have access to electricity.⁹⁷

As discussed earlier in this chapter, the conflict is a far more immediate and pressing reason for families to uproot themselves, particularly as the fighting spreads and intensifies. And as the rest of this report demonstrates, life in these urban slums is one of unrelenting misery, where even the basic requirements of life are barely met, belying the assumption that people stay there out of choice.



Some shelters are little more than scraps of canvas draped over wooden poles, as with this dwelling in Kart-e-Parwan, Kabul, photographed in June 2011. © Amnesty International

3. LIVING CONDITIONS

“You can see how bad the living conditions are here, and we don’t even have any shelter or bedding to sleep, but it is 1,000 times better than living under the fighting. We experienced a lot of bad things while in Sangeen and I don’t want to go back there.” —Sabera, 18-year-old mother of two

“Like you, hundreds of people come here, seeing how we live, taking notes, going back, but we get no help, nothing. The government does not pay any attention. We have gone to the ministry for refugees many times. They don’t let us inside; they say, ‘Just leave the office.’ They don’t pay any attention.” —Sediqu, a woman in her late 40s

Tens of thousands of families, returning refugees and internally displaced, live in dire conditions in makeshift settlements, slum areas in and around Afghanistan’s cities.

With roofs over their heads that are often made of little more than plastic sheeting or cardboard and straw, displaced families in these slum areas have little protection from the elements—rain, the heat of the summer, and the bitter cold in the winter months. In January 2012 alone, at least 22 displaced children under the age of five froze to death in Kabul’s Charahi Qamber and Nasaji Bagrami slum areas. “There are 35,000 people in those camps in the middle of Kabul, with no heat or electricity in the middle of winter; that’s a humanitarian crisis,” Michael Keating, the UN humanitarian coordinator in Afghanistan, told *The New York Times* in February 2012.⁹⁸

Water in these settlements is scarce, and families routinely report that they must make do with fewer than 10 litres per person each day. Nor do they get enough to eat—some people told us that they could only provide their children with one meal each day. “This child is crying because he wants bread. But I don’t even have five afghanis [\$0.10] to buy him some bread to give him. So what should I do?” asked Shajan, a woman in her late 20s.

Life in these communities is so challenging that the residents we spoke with found it difficult to narrow down the difficulties they face to one or two. It was apparent, however, that the basic necessity of adequate housing is by and large not met.

Despite some improvements, many residents of communities in each of the three cities told us in June 2011 that they were worse off compared to 2010. “Nothing has changed for the better. Day by day, it has gotten worse,” said Jalil, a 35-year-old man in Kabul’s Chaman-e-Babrak community. Pumps had begun to draw brackish water;

temporary employment programmes had ended; aid in many communities was limited to a few months of food and other assistance in preparation for the often-harsh winters.

There are no state health clinics near some of the communities we visited. The residents of these communities must instead go to private clinics, at significant cost; pay for transport to reach a state clinic; or, as many do, forego care entirely. Mobile clinics provide care to some communities, but their staff often lack the expertise to provide gynaecological care. Specialised care, including care during and after pregnancy, is not readily available near most communities, increasing the likelihood that decisions to seek such care will be delayed, sometimes with deadly consequences.

And even where state clinics are available, they do not provide medication other than vaccinations and contraception, meaning that most medication must be purchased from private pharmacies. Many families told us that they could not even pay for medications, or that they covered these costs at the expense of food or other necessities.

Income is always a concern for displaced families. Even informal employment is difficult to find. Most men and teenage boys try to earn income as porters in nearby markets, where they might earn 600 to 750 afghanis [\$13 to \$16] per week. In the rare instances where more skilled employment is available to members of these communities, they may be precluded from taking it if they cannot produce a *tazkera*, the national identity card—a document that many Afghans do not have, whether they have been displaced or not.

“We are miserable here,” a woman in Kart-e-Parwan told Amnesty International.

“The men are working in the market, and the money they get for their labour is not sufficient to feed the family. We are not living here; we are surviving here. As you can see, we don’t have decent shelter, we don’t have water, we don’t have enough food.”

If they need medical care, they must go to a private clinic. “We don’t have any money, and we can’t pay for the medicines and the doctor’s fee. For this reason we cope with sickness until it gets really serious. If we can’t cope with it, then we have to go to the doctor. Sometimes we simply don’t go and stay sick longer.”

Returning refugees frequently pointed out the contrast between their living conditions in Pakistan or Iran and their life now that they have returned to Afghanistan. In Pakistan, “We had houses and electricity, but now that we are in Afghanistan we don’t have anything,” reported Shirjan, a 55-year-old man. Another man, Yahya, said of his experience in Pakistan, “We were living on a piece of land. UNCHR came there. It helped with shelters and ration cards. The Pakistani government was okay with us living on that land and having shelters there. It was much, much better than living in our own country. Here, no one is helping us. Many people are living in bad conditions.”

Aid to these communities is almost entirely left to humanitarian organisations. For many communities, the government's failure to lead on the provision and coordination of assistance means that nongovernmental organisations are left to coordinate their efforts as best they can. Assistance for many settlements is sporadic—it may be limited to assistance over the winter period, for example, or a short job training programme.

We frequently heard from humanitarian groups that the government prevented them from undertaking projects that would suggest or encourage permanence. This policy means that local authorities often deny permission to humanitarian organisations to drill wells; those groups that wish to assist with the provision of clean water must instead pay for tanker deliveries.

INADEQUATE HOUSING

Most dwellings lack adequate sanitation and do not meet other conditions of basic habitability. Many families sleep without bedding, often under torn plastic sheeting that offers only minimal protection from the elements. Without money to buy firewood, they use what they can find for fuel. “Even for making the fire to boil the water, my children have to go collect rubbish. We burn plastic and paper,” one woman, Nuriyan, told us.



The Chaman-e-Babrak settlement in Kabul. During the winter rains, residents trudge through mud and pools of standing water. © Amnesty International

Rain water readily enters the makeshift tents used by the families; the earth floor inside these shelters was soggy beneath our feet. When we visited during the rainy season, the mud was so thick that the paths between the tents were nearly impassable, even on foot.

Nurijan took us through the shelter she shared with her family, pointing out holes in the plastic sheeting that covered it. "When it's raining outside, it's raining inside," she said. "The biggest problem is lack of shelter. There are so many other problems that I can't really prioritise. Health, food, everything."

She went on, "Today is a cold day, so we're lucky. The days the temperature gets hot, we can't really stay here. My child is crying from the heat. Small insects are biting my children. What should we do? We just have to suffer and bear with that."

In the Balkh district, located in the province of the same name, families were living in the remains of partially destroyed government buildings, with no regular access to drinking water or adequate sanitation.

Conditions in Herat are somewhat better. Families have lived in three communities in and around that city since they were displaced from their homes in the early 1990s. Their dwellings are in better repair, with walls made of mud mixed with straw rather than simply consisting of plastic sheeting and canvas stretched over wooden poles. But they must work constantly to repair their homes from damage from the elements. Every home we entered had numerous holes in the roofs, which are usually constructed of cardboard or green branches covered with mud and plastic sheeting.

Amnesty International saw some improvements in several of the communities between our initial visits in 2008 and 2009 and subsequent visits in 2010 and 2011. For instance, Cordaid, a Netherlands-based non-governmental organisation, established a health clinic in one community in the west of Kabul, and UNICEF had begun to assist a school for the community. Several hand pumps for water had been installed, and another non-governmental organisation had begun providing lunch to children in the community.

And several of the communities we visited in Herat, where some displaced families have been living for nearly two decades, are much more established than those we saw in Kabul and Mazar-e-Sharif. Minarets Camp, for example, looks much more like a neighbourhood, albeit a poor one, than a camp. Unlike other poor neighbourhoods, however, this camp has no electricity. The community reached an agreement with city authorities to provide power to the camp several years ago, but that agreement has not been honoured. "We are living in the centre of the province," Asadullah, a 55-year-old man in Minarets, told Amnesty International in June 2011. "All around us, the building are lighted by electricity, but we don't have any."

In fact, most of the slums where displaced families live are not connected to the electrical grid. Where they are, their uncertain status means that residents are vulnerable to profiteering. In Mazar-e-Sharif, for example, the community has a written agreement to pay 12 afghanis (\$0.25) per kilowatt for its electricity. That

amount is much higher than the ordinary rate; in Mazar, the regular rate is 4 afghanis (\$0.08) per kilowatt. “We pay 8 afghanis [\$0.17] more per kilowatt because of electricity losses,” one resident said. (This community is on the edge of the city, but it is not particularly far from the city centre, and it appears to be within the ordinary electrical grid.) In addition, he said that the person who collects the money routinely asks for even more than the agreed amount. In practice, the residents end up paying double the 12-afghani rate.

There is no metre and no bill, as far as the residents are aware. In fact, it is not clear who the collector is or what he is actually doing with the money. Nuragha, a man in his late 40s, told Amnesty International, “Last year the electricity was disconnected. The rule is that if you don’t pay the bills, the electricity is cut. The person who collects the money should pay the government for the electricity, but he didn’t do that.” When the residents confronted him, the man who had collected the money acknowledged that he had not paid the bill. “‘I spent your money,’ he told us.”



Three girls collect water while other children wait to use the pump in Minarets camp, Herat. Many families in Afghanistan’s informal settlements spend three hours a day or more gathering water; even then, the amount they are able to collect is barely sufficient for survival. © Amnesty International

WATER, SANITATION, AND HYGIENE

Everywhere we went, residents told us that access to water was a serious concern. In slum areas served by private water delivery trucks, we heard from some residents that they simply could not afford to buy enough water to meet their daily needs. In many communities, children haul water with wheelbarrows and buckets, sometimes from several kilometres away. Even in those communities that do have water pumps, the number is insufficient to meet demand.

When we returned to Chaman-e-Babrak in June 2011, Jalil told us, “The situation with water is worse than last year.” He reported that there was only one water tank in the community and that it cost too much to fill. “It has been empty since last winter because we don’t have money,” he said. The children in the community haul water in buckets from a water pump near the school, about 15 minutes away.

In Bareekaab, which has no source of water for its 150 families, a water tanker delivers 8,000 litres each day—between six and eight litres per person per day for drinking, washing, and cooking. Children haul the remainder of the water that is necessary for their daily needs from a well three kilometres away.

Some families have no option except to beg water from the residents of nearby apartment blocks. “We are asking the neighbours please to let us have some water. If they let us, we can take it. If not, we don’t have any water,” Alhsan, a 40-year-old man in Kart-e-Parwan, told Amnesty International.

Slum residents face other challenges with sanitation and hygiene. The land on which many of these slums sit often serves as a dumping ground for refuse from neighbouring buildings. There are too few latrines for the number of residents, and it is difficult for residents to keep these latrines clean. The residents of Kart-e-Parwan also told us that the latrine waste from the nearby mosque would seep into the ground around their shelters.

Under these conditions, it is not surprising that residents and health workers told us that skin infections and diarrhoea are common, especially among children. “Since I came here, my children have suffered diarrhoea every summer. Over the past three years, at least a dozen children have died of diarrhoea. They didn’t get any medical attention,” reported Zarmina, a 30-year-old woman in Kart-e-Parwan.

Estimates of minimum water needs vary. At the very low end, the Sphere Project’s Humanitarian Charter and Minimum Standards in Humanitarian Response estimate that a person needs between 7.5 and 15 litres of water a day for drinking, basic hygiene, and basic cooking.⁹⁹ That estimate is close to the bare minimum required for survival. Indicators developed by UN-Habitat call for a minimum of 20 litres of water per person per day; much more may be required, depending on individual circumstances.¹⁰⁰



A young boy, about six or seven years old and living in the Chaman-e-Babrak settlement of Kabul, returns home with water on one of half a dozen trips he makes each day. © Amnesty International

In addition, as UN-Habitat indicators note, access to safe water requires that households should not have to spend an undue proportion of income or time to acquire it.¹⁰¹ The World Health Organization has estimated that when water access is basic, requiring a walk of up to one kilometre or within 30 minutes roundtrip, families are unlikely to be able to collect more than 20 litres per person daily, resulting in high public health risk from poor hygiene. When water collection requires a walk of more than one kilometre or more than 30 minutes roundtrip, families are unlikely to be collect more than five litres per person each day, hygiene practice is compromised, and basic consumption needs are not met; the World Health Organization classifies such conditions as “no access” to water.¹⁰² With regard to cost, the UN Committee on Economic, Social and Cultural Rights has noted that “water, and water facilities and services, must be affordable for all. The direct and indirect costs and charges associated with securing water must be affordable and must not compromise or threaten the realization of other Covenant rights.”¹⁰³



The residents of Kart-e-Parwan, in Kabul, have occupied an abandoned lot that doubles as a garbage dump.
© Amnesty International

ACCESS TO HEALTH CARE

“If a pregnant woman has difficulties during the night, we hope that she survives until the morning. If she’s still alive, we take her to the hospital in Bagram.” —a woman in Bareekaab, 10km from Bagram

Some settlements have no health clinics at all; others are served by health workers once or twice a week. Residents must often go to private clinics, if they can afford the fees, the cost of medication, and the expense of transport. If they cannot, they forego care.

In particular, women reported that mobile clinics often lack the expertise to address gynaecological concerns. Most do not receive antenatal care, and it is common to give birth at home without skilled attendants. The risks of unattended childbirth are particularly high in communities such as Bareekaab, land located some 10 kilometres

outside of Bagram and allocated to returning refugees and internally displaced persons. Such obstacles to health care substantially increase the risk of maternal death, in a country that already has the highest rate of maternal mortality in the world.¹⁰⁴

Many of the families we interviewed expressed concerns about their children's health. As noted in the section on water, sanitation, and hygiene, above, diarrhoea is a particularly common illness among younger children, and several parents told us that their young children suffered from it persistently. "The child is frequently getting sick. This child is frequently suffering from diarrhoea," said Shaperiy, a 25-year-old mother in Chaman-e-Babrak, showing us her child. The baby was sleeping in a hammock over a small pool of moisture on the earth floor. She and her husband took the baby to the doctor and received some medication. "Things were okay for one to three days but after that, he's going back to the same way, so I really don't know what to do," she said. "He's one year old now. He's suffered from this problem since he was 20 days old."

Demand at Afghanistan's state-run clinics, which do not charge fees to see health care staff, often outstrips capacity. "You can spend days lining up," commented Fatima, another woman in Chaman-e-Babrak, commented. "Sometimes when we take the children for vaccinations, we spend the whole day waiting for our turn at the end of the day to receive the vaccinations."

State clinics do not provide medication, other than vaccinations and contraceptives; other medication must be purchased from private pharmacies. "It costs between 400 and 500 afghanis [\$8.35 to \$10.40] when a child is sick," Fatima estimated. There are private clinics nearby, but the members of the community do not go to them because the fees would be over 1,000 afghanis (\$21), she said. Instead, they walk several kilometres to another clinic.

Many families reported that they had could not pay even the charges for medication, or that they covered these costs only at the expense of other necessities, usually food. In some cases, the inability to pay may have fatal consequences. For example, Marzia, a 40-year-old woman living in Minarets camp in Herat, told Amnesty International that four of her children had died after she was unable to get the medication they needed.

And there are no state clinics near some of the communities we visited, meaning that going to private clinics, hiring transport to reach a state clinic, or foregoing care altogether are their only options.

Pregnancy and childbirth require specialised care, particularly when complications arise. Because such care is not readily available near most communities, getting to appropriate facilities can be costly. For that reason, the decision to seek care is often delayed. And the decision to seek care is frequently made by a husband or male relative rather than by the woman herself, increasing the potential for delay.¹⁰⁵

Zarmina, in Kart-e-Parwan, told Amnesty International:

When women are giving birth, we do it here inside the tent. I had my second child born under this tent, with no medical attention or professional midwife attendance. Our men don't like us going to the hospital for childbirth until it gets complicated and difficult. They don't like it because this is not part of our traditions and second because it costs money. We don't have to pay for the childbirth itself, but we have to pay for the medicines, drips, and other post-labour care, and we can't afford it.

We also have women who had problems during their pregnancy, including miscarriages, but still couldn't go to see a doctor because our men can't afford to pay for the medical care and medicines, which are very costly.

We heard much the same from women in other camps. "When I give birth to my children, I do it at home," said Parwin, a 35-year-old woman living in Minarets camp. "We don't have a professional midwife here; we normally call on an old woman to come and help. Once I was near to dying, but still I wasn't able to go to a clinic." We confirmed that there are no charges for the delivery in government-run maternity hospitals but that families must purchase all medications—none of the medication needed during the delivery or after is provided for mother or child.

Several of the women we spoke with had had miscarriages; none had seen a doctor. Marjan, a 25-year-old woman in Herat's Maslakh camp, told us that she had just had a miscarriage: "Four days ago I had a miscarriage but haven't seen a doctor yet because it is difficult for my husband to pay for medical expenses."

Shagul, a 35-year-old woman in Kart-e-Parwan, in Kabul, told us she had had several miscarriages during her time in the camp:

Since I came here, I have had three miscarriages and have never had medical treatment or been seen by a doctor for the miscarriages. There is a mobile clinic that comes once a week, but they are mainly looking into other health issues, not gynaecological health.

Guljan, an elderly woman in Kart-e-Parwan, summed up the situation of maternal health care in these settlements, saying:

If women here are pregnant, they will deliver the child at home because we don't have money. If God is willing, both the child and mother will survive. If God doesn't want this, then they will die. This is what we believe, that God will protect them.



Two children in Charahi Qamber, in the west of Kabul, share a bowl of food provided by a local aid organisation. Many displaced families routinely go hungry. © Amnesty International

FOOD

Many families told Amnesty International that they routinely did not get enough to eat. Many had only one meal a day, and parents regularly skipped meals so that their children could have slightly more.

One woman, Nurjahan, told us that with the little money the family gets from her husband's work at the market, "we can only pay for flour to make bread, and also for water," she said. Fifty kilograms of flour, enough for bread for one month, costs the family 950 afghanis (\$20).

Children frequently scavenge or beg to supplement what their families are able to buy. "Our oldest son goes to the market," Nurjahan told us. "He collects bad vegetables and brings them home. Then my mother is trying to manage by dividing them and find at least some that we can cook and use. She selects the ones that are less bad."

Jamshid, a man in his mid-50s, commented that life had been better under Soviet occupation, a view that we heard expressed by others of his generation. "At that time we had coupons. We weren't worried about food," he said. "There are 38 countries here now. We have no coupons. No water. No work. No food. . . . We ask the international community, if you really want to help, help the poor people like us. . . ."

We hear that the U.S. government is giving \$10 million for refugees. We haven't received even one afghani." (In fact, there are 48 countries that are part of the International Security Assistance Force.¹⁰⁶)

EMPLOYMENT

Work is hard to find for residents in all of the slums visited by Amnesty International. With the exception of some short-term projects funded by some nongovernmental organisations, the few jobs that do exist are informal. Many of the men and boys work as porters, carrying produce and goods as needed.

Indeed, families regularly cited the lack of employment as their biggest concern. This is not surprising; without regular and sufficient income, they often do not get enough food to eat, and they may not have enough money to get the treatment they need for serious health conditions. The feelings of insecurity and doubts about self-worth that come from not being able to provide for oneself and one's family may also contribute to intra-family violence, as discussed more fully below.

In Chaman-e-Babrak, men and older boys sometimes find work as porters in the nearby market, where they make 20 or 30 afghanis (\$0.40 to \$0.65) per load. Jalil estimated in June 2011 that they earn about 100 afghanis (\$2.10) per day doing this work. Another man, Naeem, interviewed in August 2010, gave that amount as the most he would earn in a day. "We all work in the market, most of the men in the community. We are making between 50 and 100 afghanis [\$1.05 to \$2.10] every day. This is how we are providing for our families," he said.

Wahid, a teenage boy in Chaman-e-Babrak, told Amnesty International that he stopped attending school to help contribute to his family's income. "In the morning, I leave at 5am. I come home for lunch. Then I come back home at 7 or 7.30pm," he said. "There is only the market for work," another boy, Najib, told us. "If the market is not here, we will die, because there would be no work."

In Mazar-e-Sharif, Timore, a 25-year-old man, reported, "We can only find work three days a week. The other four days we are jobless. We can make 500 to 600 afghanis [\$10.40 to \$12.50] total during the week." Azam, age 22, added, "We might make 750 afghanis [\$15.65] in a week, but we spend 200 of that [\$4.15] on transport." He emphasized that work is not reliable.

The residents of some other settlements are even worse off. In Kart-e-Parwan, "the situation with work is worse, not better, than last year," Mirwas, age 23, told us in June 2011. He explained that the street leading to the market had recently been paved, meaning that trucks could now deliver produce directly to the market without needing to be transferred by porters. "Now we are making at most 100 afghanis [\$2.10] per day. It is much worse than last year."



A 12-year-old boy sells tea in the market. He buys whatever food he can afford with the wages he earns each day.
© Amnesty International

And employment prospects for the men living in Minarets camp in Herat are even bleaker. Firoza, a 27-year-old woman who fled Faryab province in 2010 with her family because of fighting in their district, told us that her husband gets some income carrying goods in a wheelbarrow. “The money he earns is not enough to feed us three times a day,” she said, meaning that that they can only eat a small amount once or twice a day.

Fortunately, the women in Minarets camp are able to find regular work cleaning wool. “My husband doesn't work, only my children are working and providing for our living. I myself clean wool, for which I get paid 50 to 70 afghanis [\$1.05 to \$1.45] for seven kilos of wool cleaning,” Parwin told us.

The wool cleaning typically earns each woman 30 afghanis (\$0.65) per *man* of wool cleaned, a unit of weight that is approximately four kilograms.¹⁰⁷ Mahjan, a 26-year old woman, explained, “The price for cleaning wool is different. If the wool is not that dirty then you get a lower price, and if the wool is dirty, then you get a higher price. Women here normally take the bad and dirtier wool to clean because for each seven kilos we are paid 80 afghanis [\$1.65].” She added, “The place that we are bringing the wool from is very far from here, a few kilometres away. Sometimes a few women

come together and hire a minivan to bring the wool for us. But if we hire a van it means that we have to pay part of our earnings to the driver, so for this reason we prefer to walk for hours with the wool on our heads rather than hiring a van. We can't afford it."

Wool-cleaning is hard work, and some of the women we spoke with told us that they could no longer do it. "I was working . . . cleaning wool, but then my hands started to ache," Firoza said. "So now I can't clean wool anymore, and my husband is the only provider for my family."

There have been some periodic construction projects that have provided temporary employment for the men in Minarets camp. For example, a nongovernmental organisation recently funded a project that employed about 60 men to dig ditches to lay pipes, but that work only lasted a few days, Jawid, a 38-year-old man, told Amnesty International. Each of the men earned 300 afghanis (\$6.25) for a full day's work on that project.

We heard of short-term employment training projects in Kabul as well. "Last year there was some work for us," reported Jalil, in Chaman-e-Babrak. "This year work is much harder to find. Last year the work was good. An organisation came two times to provide training in carpentry and construction. This year there is no employment for us. Last year was good, but no organisation has come to help us this year."

"What I would really ask is for the government to provide us with job opportunities. I want to work, but the government should give me opportunities. I don't want to beg," said Norah Ahmed, another man in Chaman-e-Babrak.

SEXUAL VIOLENCE AND HARASSMENT

Life in close and unhygienic quarters, constant concerns about earning enough to be able to eat, threats of eviction, and the trauma of displacement all take their toll. Some react to their sense of humiliation and doubts about the future by lashing out at family members or neighbours. While most residents were circumspect about this aspect of their new lives, several of those we interviewed suggested that violence against women in particular occurred more frequently than before they had been displaced.

Some of the women we spoke with were more forthright about the pressures on them to agree to marriage, their own or their daughters'. Guljan, a woman in her late 50s in Chaman-e-Babrak, told us, "I am being harassed by one member of the community because he was trying to force me to marry my daughter to him. I didn't want this. My daughter is too young—she is 14 years old. She's going to school. She's educated; she has a bright future. I don't want to force her into marriage. Why should I force her to marry someone who lives in a tent? She wants a bright future. Now they are stealing my things, trying to put me in a difficult situation."

She told us about another case of a woman who was harassed, a widow with two children who eventually left the community because she was harassed by some of the

younger men to marry one of them. The men called her a prostitute when she refused. “She had to go through all of these accusations,” Guljan said.

LIMITATIONS ON HUMANITARIAN ASSISTANCE

At both the national and local levels, the Afghan government has largely failed to engage with or respond to the needs, immediate and long-term, of its internally displaced population. State authorities at all levels instead rely on nongovernmental humanitarian organisations, both local and international, to provide these functions. The result is that in some areas, displaced communities are not served because there are no organisations in their area to provide assistance, while in others, several organisations must coordinate their efforts in order to avoid duplication. In addition, humanitarian organisations are constrained by the de facto policy of local and national authorities to discourage assistance that suggests a degree of permanence for the settlements—meaning that permission is often denied for the construction of latrines and water pumps.

Moreover, the response of some government officials has been to deny the extent, and in some cases the fact, of internal displacement. In Herat, to take one extreme example, the governor has directed all humanitarian organisations to stop using the term “displaced” to describe those who are internally displaced. More commonly, authorities describe displacement as a short-term phenomenon or suggest that some members of the settlements we visited have relocated for other motives, particularly for economic reasons.¹⁰⁸

The government’s desire to avoid any suggestion of permanence for these settlements has meant that some communities’ water needs are met by trucking in water, at great expense to the NGOs now providing the bulk of the assistance, rather than by drilling additional wells.

Even in communities in and around Kabul, residents described aid as coming intermittently and in a form that did not effectively address their needs. In one typical comment, Jamshid, living in Chaman-e-Babrak, criticised the aid the community had received as insufficient and having no impact on their situation in the long run. “Some cooking oil and a few bags of flour—these things won’t solve our problems.” He urged the government and humanitarian agencies instead to focus on training programmes that would allow people to be in a better position to get jobs. He cited two examples of short-term programmes in 2010, which have since ended, to provide training in carpentry and steel work. “We’re asking the government to plan these things again. We ask, train our children; help them to learn a profession. . . . One can of oil, one bag of flour only helps us for three or four days.”

Yahya, also in Chaman-e-Babrak, was more succinct and more acerbic in his assessment: “My first question is where is all the money going? We haven’t seen that. We don’t know where all that international aid is going to. We don’t know why the government isn’t able to provide us with basic shelter.”

AFGHANISTAN'S INTERNATIONAL OBLIGATIONS

THE PROTECTION OF INTERNALLY DISPLACED PERSONS

Afghanistan has specific obligations under human rights and international humanitarian law to protect internally displaced persons and safeguard their rights. These obligations are elaborated in the UN Guiding Principles on Internal Displacement,¹⁰⁹ which call on states to ensure the liberty and personal security of displaced persons, provide them with necessary humanitarian assistance, guarantee them treatment equal to that given to those who are not displaced, and ensure free primary education for displaced children, among other safeguards. The state should promote the return of displaced persons to their home communities only when such returns are voluntary and can be accomplished in safety and with dignity.

National authorities have the primary responsibility to provide humanitarian assistance, including through international cooperation and assistance. Humanitarian assistance must provide minimum essential levels of housing, food, water, and health. International humanitarian organisations and others have the right to offer support for internally displaced persons.¹¹⁰

Those who are internally displaced have the right to liberty of movement and freedom to choose his or her residence, including the right to seek safety in another part of the country.¹¹¹

Internal displacement is a prohibited ground of discrimination.¹¹² In addition, distinctions based on economic status or on current or former place of residence—for example, “whether an individual lives or is registered in an urban or a rural area, in a formal or informal settlement, is internally displaced or leads a nomadic lifestyle”¹¹³—are not legitimate bases for differential treatment in the absence of a reasonable and objective justification.¹¹⁴

Finally, states have the 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.”¹¹⁵ The state should not encourage returns to home communities when they are not voluntary and in conditions of safety and dignity.

THE RIGHT TO ADEQUATE HOUSING

The right to housing is guaranteed by the International Covenant on Economic, Social and Cultural Rights and other treaties ratified by Afghanistan.¹¹⁶ As the Committee on Economic, Social and Cultural Rights has emphasised:

The right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head, or which views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity.¹¹⁷

The committee has identified seven elements that must be taken into account in determining the adequacy of housing: legal security of tenure; availability of services,

materials, facilities, and infrastructure; location; habitability; affordability; accessibility; and cultural adequacy.¹¹⁸

With regard to security of tenure, as discussed more fully in “The Threat of Forced Eviction” chapter, below, the right to adequate housing requires states to “take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”¹¹⁹

THE RIGHT TO HEALTH

Everyone has “the right . . . to the enjoyment of the highest attainable standard of physical and mental health,” including “access to medical service and medical attention in the event of sickness.”¹²⁰ As the Committee on Economic, Social and Cultural Rights has stated, the right to health should be understood as extending not only to timely and appropriate health care but also to the underlying determinants of health. These include access to safe and drinkable water and adequate sanitation, and adequate supply of safe food and nutrition, safe and healthy working conditions, and a healthy environment. The right to health also includes the right to have access to information and education about health matters, including on sexual and reproductive health, and the right to participate in health-related decision making.¹²¹

Fulfilling the right to health requires that health care facilities, goods, and services must be available, accessible, acceptable, and of good quality. This means that:

- A sufficient quantity of health facilities, trained professionals, and essential medicines must be available.
- Health facilities, goods, services, and information on health must be physically and economically accessible (that is, within easy reach and affordable) to everyone without discrimination.
- Health facilities, goods, services, and information must be acceptable: They must respect medical ethics, be culturally appropriate, and be sensitive to gender requirements.
- Health facilities, goods, services, and information must also be scientifically and medically appropriate and of good quality. This requires, among other things, skilled medical personnel, scientifically approved and unexpired drugs and hospital equipment, and adequate sanitation.

The full realisation of the rights recognised in the International Covenant on Economic, Social, and Cultural Rights, including the right to health, should be achieved progressively by all appropriate means, through the adoption of measures—individually or through international assistance and cooperation—to the maximum of each state party’s resources. However, essential levels of each right under the covenant must be met without delay.¹²² With regard to the right to health, these core obligations include ensuring the equitable distribution of all health facilities, goods, and services; providing essential drugs, as defined in the World Health Organization

Action Programme on Essential Drugs; and adopting and implementing a national strategy and plan of action to address the health concerns of the whole population. The Committee on Economic, Social and Cultural Rights has stated that the obligation to ensure reproductive maternal (prenatal as well as postnatal) health care is of comparable priority to a core obligation. This obligation also requires appropriate training for health personnel, including education on health and human rights.

As the Committee has stated:

A State which is unwilling to use the maximum of its available resources for the realization of the right to health is in violation of its obligations. . . . If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, the obligations outlined above.¹²³

The Committee has further emphasised that even in times of severe resource constraints, the most vulnerable members of society can and must be protected by the adoption of relatively low-cost programmes.¹²⁴

THE RIGHTS TO WATER AND SANITATION

The right to water is derived from the right to an adequate standard of living, guaranteed in the International Covenant on Economic, Social and Cultural Rights and other human rights treaties to which Afghanistan is a party.¹²⁵ The human right to water entitles everyone to sufficient, safe, acceptable, physically acceptable, and affordable water for personal and domestic use.¹²⁶ In particular, the Committee on Economic, Social and Cultural Rights has identified the following elements of the right to water:

- The water supply for each person must be *sufficient* and *regularly available* for personal and domestic use.
- The water required for each individual's personal and domestic use must be *safe*, meaning that it is free from microorganisms, chemical substances, and radiological hazards.
- Water and water facilities and services must be *accessible to all without discrimination*, meaning that they are within safe physical reach to everybody, are affordable to all, and are accessible in law and practice to everybody, including the most vulnerable or marginalised sections of the population.
- "Individuals and groups should be given full and equal *access to information* concerning water, water services and the environment, held by public authorities or third parties."¹²⁷
- "The right of individuals and groups to participate in decision-making processes that may affect their exercise of the right to water must be an integral part of any policy, programme or strategy concerning water."¹²⁸

The Committee on Economic, Social and Cultural Rights has also emphasised that states should give special attention to those individuals and groups who have traditionally faced difficulties in exercising the right to water. States have a special obligation to provide necessary water and water facilities to those who do not have sufficient means or are otherwise unable for reasons beyond their control to realise the right to water themselves.¹²⁹

Sanitation is an integral part of various human rights, including the right to an adequate standard of living, the right to adequate housing, the right to health, and the right to water.¹³⁰ Further, as Catarina de Albuquerque, the UN independent expert on the issue of human rights obligations relating to access to safe drinking water and sanitation, has observed:

Sanitation is not just about health, housing, education, work, gender equality, and the ability to survive. Sanitation, more than many other human rights issues, evokes the concept of human dignity; consider the vulnerability and shame that so many people experience every day when, again, they are forced to defecate in the open, in a bucket or a plastic bag. . . . It is such infringements on the very core of human dignity that are not wholly captured by considering sanitation only as it relates to other human rights.¹³¹

Indeed, the Committee on Economic, Social and Cultural Rights has concluded that “the right to sanitation is an essential component of the right to an adequate standard of living.”¹³²

Among the human rights obligations related to sanitation identified by the UN independent expert, a sufficient number of sanitation facilities must be available within or in the immediate vicinity of each household, health or educational institution, workplace, and the like, enough to ensure that waiting times are not unreasonably long; sanitation facilities must be hygienically safe to use; such facilities must be physically accessible to everyone. Access must be reliable, including at all times of day and night, and the location of sanitation facilities must ensure minimal risks to the physical security of users; access to sanitation facilities and services (including construction, maintenance, and emptying) must be affordable for all people; and sanitation facilities and services must be culturally acceptable.¹³³

4. ACCESS TO EDUCATION

Parents and children throughout Afghanistan express a strong value for education, which they see as a path to a better life for the next generation. Displaced families are no different. Asked what he would ask for, Majeed, age 14, said, “Just a school. Nothing else, just a school. We want to have a profession.” His friend, Yosef, agreed. “The same thing,” he said. “Nothing else, just a school.”

Getting an education is a challenge for children throughout Afghanistan. Nearly half of all children of primary-school age do not attend school.¹³⁴ As the Committee on the Rights of the Child observed in February 2011, “extreme gender disparity in school enrolment and high school drop out persist at all levels.”¹³⁵

School infrastructure is inadequate in much of the country, and some of the slum areas where displaced families live are located far from schools. For instance, one community in Mazar-e-Sharif was 10 kilometres from the nearest school, with no transport available for children. Students from another community in Mazar-e-Sharif walked some four kilometres to school across a busy highway; in June 2011, we heard that two children had recently been killed while crossing the road.

Distance from schools is a particular factor for girls’ attendance. One study of primary schools in Ghor found, for example, that girls’ attendance fell 19 percent for every mile (1.6 km) they had to travel to school.¹³⁶

The national identity card, known as a *tazkera*, is required for any child to attend a state-run school in any grade. In practice, many children are allowed to attend classes even though they cannot produce their *tazkera*, but parents from every community we visited report that their children are routinely threatened with expulsion if they do not obtain a *tazkera*.

Those who do attend state schools may be harassed by other students, sometimes to such an extent that their parents withdraw them from classes.

Informal schools, albeit widely recognized as providing inadequate education, are the only option for many Afghan children even when they are not displaced; displaced children are lucky if they can attend even informal schools. Such schools are not available in every community where displaced families seek shelter. In Kart-e-Parwan, there was an informal school serving a neighbouring community but not the one we visited. Mirwas said, “There is no school available near here. In the second camp, they just teach first grade. There is a school there, but it is not near here. The school there is run by an NGO; it is not a government school.”

As in the case of Kart-e-Parwan, informal schools often do not offer a full curriculum, and we heard other concerns about the quality of education students receive.

Afghanistan's Ministry of Education reports that primary education enrolment has increased substantially in the last ten years, with some 7 million children enrolled in 2008 as compared with 1 million in 2001. The ministry's National Education Interim Plan for 2011-2013 reflects consistent increases in the amounts the state contributes to the education budget—currently about 65 percent of operating expenditures, with international assistance covering the remaining 35 percent.¹³⁷

Despite these positive developments, the ministry cautions that “it will take many years (perhaps 10 to 15) before the government will be in a position to fully finance the sector through its own resources.”¹³⁸ Moreover, enrolment numbers appear to have reached a plateau. Dropout and absenteeism rates remain very high, particularly for girls; nearly 15 percent of all children do not attend school even though they have enrolled.¹³⁹

And the Ministry of Education's plan does little to address the needs of displaced children—indeed, the plan mentions displaced children only once, in a lengthy list of “vulnerable and excluded groups,” without identifying any particular measures to ensure their right to education.¹⁴⁰ The data collected and published by the ministry are disaggregated by gender, urban and rural students, and school-year climate, but not by any indicators that would identify the approximate number of students who have been internally displaced.¹⁴¹

The Afghan Constitution affirms the right to education and provides, as does Afghanistan's Education Law, that education in all state institutions shall be free of charge.¹⁴² Nevertheless, informal user fees are common in Afghanistan, Oxfam has found.¹⁴³ As the Committee on the Rights of the Child has observed, such fees are a consequence of insufficient state funding.¹⁴⁴ For children from displaced and other impoverished families, school fees may pose an insurmountable barrier to getting an education. Moreover, the Afghanistan Protection Cluster's 2010 overview for the northern and northeastern regions includes “lack of income to pay the school fees” as one of several cumulative factors that create difficulties for displaced children to attend school in the places to which they have been displaced.¹⁴⁵

And given the dire situation of many displaced families, who lack sufficient resources to obtain food and water in sufficient quantity to meet their basic daily needs, it is not surprising that many older children choose or are sent to find work to contribute to their families' meagre incomes. “Our children go to the bazaar. We are sending them to go find work,” one woman, Nadeera, told us.

HARASSMENT OF STUDENTS FROM DISPLACED FAMILIES

In every community we visited, those displaced children who attended school experienced harassment from other students, which they and their parents attributed to the fact that they are displaced. Harassment usually takes the form of verbal abuse and sometimes escalates to physical violence. It is serious enough that some parents have stopped sending their children to school.

In one example, Nurjahan, a woman living in Chaman-e-Babrak, spoke about her 10-year-old son's experience. “There is a school a bit far from here, but when he went,

he was harassed and beaten,” she told Amnesty International. In another case, Jamila, a 35-year-old woman who had spent six years in an informal settlement in Bagh-e-Dawood, reported that other children harassed her two children as they walked to and from the school in a nearby neighbourhood.



Children crowd into a classroom in Maslakh camp, on the outskirts of Herat. © Amnesty International

FORMAL DOCUMENTATION REQUIREMENTS AS BARRIERS TO EDUCATION

A government-issued identity card, or *tazkera*, is in principle required of every child in order to enrol in school. In practice, we heard of many children who attended state schools even though they did not have a *tazkera*, but we also heard of instances in which other children living in the same areas were turned away by the same state schools. Those who have managed to enrol are often told that they may not be able to continue to attend if they do not produce a *tazkera* in the near future, although it is not clear that these threats are actually carried out. But it is clear that many families go to considerable expense and potential danger to obtain identification cards for their children, if they manage to save up the funds to do so. Many other families do not attempt to send their children to school because they believe they will be turned away.

We heard from one government official with the Department of Refugees and Repatriation that there is no requirement for students to produce a *tazkera* to attend school. “The schools are open. Anyone can go anywhere in Herat,” he said. He attributed nonattendance to parental decisions. “With these people that come from

the provinces, they don't like their children to attend school. They want their children to work."¹⁴⁶

In an account typical of those we heard, Nasim, a Minarets resident, told us, "My children are going to school. We have two schools, one state and one religious. They are asking for the *tazkera* at the state school. The children are in trouble for this. They are going to school, but the school is always asking for the *tazkera*. We have too many problems with this *tazkera*. It is always a problem—the school is asking the children to produce identification cards. If we don't have it, for three or four children we will have to spend 20,000 afghanis [\$415]. From where will we find this money? So it's difficult for us. The school is always saying that if you don't bring the *tazkera*, they will dismiss the student."

In Mazar-e-Sharif, "schools will ask for the *tazkera*," a representative of the Afghan Independent Human Rights Commission in that city confirmed. "If the *tazkera* is not available, the school will give permission for that month to study. But then the student will need to bring the *tazkera* in."¹⁴⁷

"Most of us don't have the *tazkera*," said Nadir, another man in Minarets camp, referring to the fact that many adults in Afghanistan, whether displaced or not, do not have identification cards. "We can get it if we go to our province, but we would need 15,000 to 20,000 afghanis [\$315 to \$415]."

REFUSAL TO ADMIT DISPLACED CHILDREN TO STATE SCHOOLS

Some children from the communities we visited were able to attend state schools, but we heard frequent reports that administrators turned children away or made disparaging remarks about them.

We heard, for example, that some children were turned away from the state school near Chaman-e-Babrak. Ahmad Shah told Amnesty International, "The rule here is that if you're six years old, you go to school." Pointing to his daughters, he said, "These girls are above seven." He reported that he has tried to enrol them in the local school, but his efforts have been unsuccessful. "They don't hear our words," he said. "They don't accept us when we go to their office." A second man, Nasir, agreed. "I have a daughter, 10 years old. The principal says no, she can't attend the school," he said.

The teachers also view students from Chaman-e-Babrak negatively. "The principal is making protests about our children going to that school," a third man, Majid, told us. "They are telling us that our children are not clean, that we live in shelters here." Nasir explained, "They are saying we are living in shelters. They are saying things so that our children leave the school." We asked if the lack of documents was a problem. "They don't even let us enter the school to show them the documents we have," he replied.

As a result, some families believed that the state schools were not open to their children. Majeed, a 14-year-old boy who was attending an informal school near

Chaman-e-Babrak, told us, “There is a state school, but it’s for those blocks only,” pointing to several apartment buildings adjacent to the community.

CONCERNS ABOUT THE QUALITY OF EDUCATION IN INFORMAL SCHOOLS

There are no state schools in many of the areas where displaced families live. “Many children are still without educational facilities. Access is the problem,” a UN official in Herat told Amnesty International.¹⁴⁸ Lack of access is a particularly acute problem for displaced families, because lack of infrastructure and insecurity are compounded by discrimination against the displaced.

In the absence of state schools, and because those state schools that are nearby are often closed to displaced children because of formal and practical barriers, many families send their children to the informal schools that have been established in many communities. “These are community-supported classes that operate out of rented rooms. Some are in mosques,” the UN official said.¹⁴⁹ “One of my children is going to the school for families here. It’s a community school; it’s not really regulated. It’s not a proper school,” one woman, Basira, said.

Nearly all of the families we spoke with were conscious that their children were not getting the same education they would receive in a state school. We heard numerous complaints about the quality and commitment of teaching staff at informal schools. “An organisation has turned one of these shelters into a school,” said Rahmat, in Chaman-e-Babrak. “That organisation hired a teacher, but within one week, that teacher was only coming one or two days a week.” The teacher had last come two days before, he told us. Another man, Nasir, commented as he showed us a classroom, “That’s not a standard school. The students in the community schools are just wasting time—they have students who are doing the teaching. You have students from the eighth and ninth years teaching the first- through third-year students.”

THE RIGHT TO EDUCATION

“Education is both a human right in itself and an indispensable means of realizing other human rights,” as the Committee on Economic, Social and Cultural Rights has observed.¹⁵⁰ The right to education is proclaimed in the Universal Declaration of Human Rights and guaranteed in the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.¹⁵¹

Primary education must be “compulsory and available free to all.” Secondary education, including vocational education, must be “made generally available and accessible to all,” with free secondary education introduced progressively.¹⁵² Educational institutions must be available in sufficient quantity, within the safe physical reach of students, and otherwise accessible to them.¹⁵³ The education provided must be relevant, culturally appropriate, and of good quality, and it must meet the needs of changing societies and communities as well as those of students.¹⁵⁴

The right to education may be implemented over time, subject to limits on available resources. But states have an immediate obligation to guarantee the right to education without discrimination of any kind,¹⁵⁵ an obligation that requires that states

refrain from engaging in acts of discrimination and ensure that discrimination is eliminated.

States also have an immediate duty to provide primary education,¹⁵⁶ with the proviso that those states that have not been able to secure compulsory, free primary education have two years to develop and adopt a detailed plan of action for progressive implementation within a specified number of years of compulsory primary education free of charge for all.¹⁵⁷

More generally, states must move immediately to take “deliberate, concrete and targeted” steps toward the full realisation of the right to education,¹⁵⁸ including through the adoption of national strategies to provide secondary, higher, and fundamental education.¹⁵⁹

The Guiding Principles on Internal Displacement contain explicit guidance on guaranteeing the right to education for internally displaced persons. Noting that “[e]very human being has the right to education,” the principles state:

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.¹⁶⁰

5. THE THREAT OF FORCED EVICTION

“We cannot do anything. We are poor. At any moment there is a possibility that someone will drive us away.” —Jalil, a man in Chaman-e-Babrak

The threat of eviction hangs over all of these communities. In Kabul’s Chaman-e-Babrak slum, for example, a dozen families were forcibly evicted in August 2010, in the middle of Ramadan, about two weeks after Amnesty International visited. Construction began on the site the morning that the families were evicted and then stopped before building was completed. When we returned in June 2011, the concrete shell of a building occupied the land where the families’ houses had stood.

If residents resist eviction, they may be seriously injured or even killed. A protest in 2008 in Herat’s Shaidayee camp against an attempted eviction led to three deaths and about a dozen injured after they clashed with police and Afghan National Army soldiers, members of the community told Amnesty International in February 2010. (When we spoke with provincial officials about this protest, they told us that members of the community who took part were armed, a claim that camp residents denied.)

Even when families are not actually evicted, they face considerable pressure to move. Such pressure is often made by private individuals who claim that they have purchased the land on which the settlements sit. For example, we heard from residents of Charahi Qamber in August 2010 that they were being told to move by people who claimed ownership. “Some people come here and say, ‘This is my land. Why are you here? Why haven’t you left?’” Zargul, a 55-year-old man, told Amnesty International. “The last time was ten days ago. I don’t know exactly who they were. Maybe they were businessmen. Five people came here in Land Cruisers. They were wearing civilian clothes, ordinary clothes, shalwar kameez. Not suits. They didn’t wear turbans on their heads. They showed us a paper, and they said they would build here. They said they owned the place.”

It is far from clear that such claims of ownership are valid. It is often difficult to resolve questions of legal title in Afghanistan, but the residents of Chahari Qamber and several other communities have been told by government officials that those parcels of land belong to the state and that the residents can stay where they are. In the west of Kabul, the communities we visited are on land that belongs to the Ministry of Defence. Similarly, Minarets camp in central Herat, which houses 365 families, is located on land that belongs to the Ministry of the Interior.

Nevertheless, police may intervene on behalf of the individuals claiming ownership and themselves place pressure on families to move. Residents of Kart-e-Parwan, for

example, told us that police from the local station regularly tell them to leave. In that case, the police did not say that they were carrying out a lawful eviction order or indeed that any process had been followed to seek the families' eviction; it appeared that the police were instead attempting to effect an eviction on an informal basis.

The state has no real alternative for those who are evicted. It has encouraged some residents to relocate to new plots located outside of Kabul and Herat. Not all members of the community qualify for land reallocation—and it is not clear why some qualify and others do not.

Those who do qualify find that the land they are offered is too distant from employment opportunities, health services, schooling, and even sources of water to be practical alternatives.

As a consequence, those who are evicted are made homeless.

International law requires that evictions comply with appropriate procedural safeguards and afford due process to all affected persons. Evictions must not result in people being rendered homeless or made vulnerable to other human rights violations.



Residents of many informal settlements are at risk of forced eviction so that the land can be developed.

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FORCED EVICTIONS IN CHAMAN-E-BABRAK

“We were told we had one week to leave, otherwise they would bring bulldozers and destroy our houses,” Shajan, a woman in Chaman-e-Babarak, told Amnesty International. Her family was one of three that did not move before the end of the week.

“We stood against them. We told them no, we weren’t going anywhere. Then we saw the bulldozers come. They warned us that the bulldozers would start work in one hour.” She and her family took everything they could carry across to the other edge of the community, where they later built the shelter in which we interviewed her. “We feared the bulldozers would come right over us,” she recalled. “I was in a panic. Most of the things we moved were damaged on the way because we were in such a hurry.” Everything they couldn’t carry was destroyed later that day.

A government official ordered them to move, she said. “He wasn’t alone. There were 20 policemen with him.” The police didn’t use violence, she said. “But with 20 police standing there, now you tell me what would have happened to us” if they had not abandoned their homes. “What could we do? We had no possibility to stay.”

Their current situation is tenuous. “When we came here, the owner of the building [adjacent to their shelter] stood against us. He told us he did not want our shelters behind his property. This is not his property, but maybe he thinks that it will not look good to have our shelters next to his buildings.

“When we were refugees in Pakistan, we had everything we needed. We heard that things were better in Afghanistan, and we thought maybe if we returned, life here could be good.”

In August 2010, in the middle of Ramadan, a dozen families in the settlement of Chaman-e-Babarak learned that a building was planned for the site on which their homes stood. “Some influential persons came and told us that they would be building on that site, and they told the families there to leave. This was last year. A man came and told us that within one week we must leave that place,” Jalil told Amnesty International in June 2011.

“Most of the families moved during the week. Just three families were standing against the move. Men came and moved them away. All their houses were demolished, everything they had built, and all their things were destroyed. The families received no money to help them move,” he added.

Without other options, the evicted families built new shelters in other parts of the settlement.

Construction stopped before the building was completed; an empty concrete shell now sits on the land formerly occupied by the families’ homes.

The community has experienced forced evictions before. In August 2010, a young couple spoke to us in their new shelter, which was still being built. They had been evicted from their former dwelling a few weeks earlier. “We were living just in the

other part. The landlord came and gave us fifteen days to move,” said Ismael, the husband. His wife, Shaperiy, added, “We were shocked and unhappy. . . . There were a few other people who resisted. The bodyguards went out and started tearing down [the shelters].” They were told that the owner would be building on the land, but construction had not yet begun at the time of our interview. “There isn’t any sign of building, so they just wanted to get rid of us,” Ismael suggested.

AT IMMINENT RISK OF EVICTION IN KART-E-PARWAN

Residents of the Kart-e-Parwan slum, in the northwest of Kabul, told Amnesty International in June 2011 that they feared that they could be evicted at any moment. Somebody claiming to be the owner of the land has tried to get them to leave, one resident, Mirwas, told us. In addition, he said, “The police are also coming here, suggesting that we leave. They say this even though the police know that there is still fighting” in residents’ home communities. The last time they were told to leave was 15 days before. “Always these police are coming, trying to force us to go back.”

Several of the residents, including Mirwas, went to the local police station to get more information. Mirwas said, “They want to destroy 40 houses to build here. That’s to start with; we know that once they enter, they will start pushing the rest of us to leave.” The police told Mirwas and other residents that the man who claimed to be the owner of the land had said that he had documents showing that he has purchased it.

Local authorities have not suggested any alternative housing sites. When we asked residents whether they would consider alternative sites, the community leader said that alternative land should be near to work and should have a school and clinic available. There is land they know of near their current site that is vacant and which they think would be suitable.

UNDER THREAT OF FORCED EVICTION IN MAZAR-E-SHARIF

Most of the members of Shirkat-e-Tasadi Kamaz arrived in 1992 and 1993. One man told us, for example, that he came to this settlement from Kabul during a time of conflict in the early 1990s.

The community is being told by police to leave this area. “We don’t know where to go, where to apply to solve our problems. Please take this to the media to solve our problem. We are from Afghanistan, so why are they trying to get us to evacuate this place?” Karim told Amnesty International.

“Since the police came to evict us, neither I nor my children can eat, and we are wondering where to go and how to manage to live,” a woman, Nabila, said.

Adila, another woman, told us, “If we are kicked out of this place, I don’t have anywhere to go, and if the government wants to evict me from here, I would ask the government to run the bulldozer over me and my family. I can’t live on the streets with my kids.” We heard the same sense of despair from other women. “I would like to die under the bulldozer here rather than live on the streets,” said Shafiq.

“My husband is disabled and he works as a labourer in the market. I can't afford to rent a house. I don't know, if we are evicted here, where to go. Even thinking about this is very difficult for me,” another woman, Laila, said.

One of men, Ashraf, described the community's interactions with the police. “Two weeks ago some police came from the 7th Police Department warning us to evacuate this place within two weeks. Otherwise they said they would evict us by force. They said they would bring bulldozers to evict us,” he said.

“Again yesterday the police came. They asked us, ‘Why haven't you left? We want to turn this land over to its owner. If you don't leave, we will have to evict you by force,’” Ashraf added. The more recent warning was made by two policemen in uniform; the men in the community recognised them as members of the local police station.

After the residents heard that the land was privately owned and not government property, each family began paying 100 afghanis (\$2.10) a month. But the residents have heard conflicting accounts. Ahmad Syer told us that he and other members of the community had travelled to Kabul two days before, where they spoke with the minister of transport. “When we went to Kabul and talked to the central government, the Ministry of Transport said that we have the right to stay here. ‘Don't worry,’ he told us. ‘It is not the job of the 7th Police Department to tell you to leave,’” he reported. He and other residents suspect that the person who is claiming to be the owner has paid the police to tell the residents to leave.

Another man, Jalal, told Amnesty International, “The government has force behind it. They can make us evacuate. We are 300 to 350 families here. We say, ‘Please give us another place for us to live.’”

As a fourth man, Mir Ahmad, said, “If the government forces us to leave [this area], we don't have a place to go to. We will have to camp across the road. It would be impossible for us to rent houses. We can't afford the \$300 per month to rent a house. It is impossible.

“If the police come again, we can't do anything. We have no place to go.”

THE LACK OF ADEQUATE ALTERNATIVES

“[Land is] what we are requesting for years. Please raise our voice to the Afghan government. Deal with this problem. Give us a piece of land. We are dignified people.”

—Woman in Chaman-e-Babrak, Kabul, August 2010

The approach of Afghan authorities, both national and local, is often callous in the extreme. One official in Herat told Amnesty International that displaced persons should either “integrate” into local society—meaning that they should get jobs and

find homes in the city—or return to their home communities. Needless to say, neither approach was a viable option for the families we interviewed.

“The former refugee minister had told us to leave and go back to Helmand, just go,” reported Zargul from Charahi Qamber.

“[T]here are many people in this country who can’t afford to pay for rent,” said Yahya, a man in Chaman-e-Babrak, in August 2010. “I would be happy to return to my [old] home, but I can’t really do that . . . because I can’t afford to pay those high rates. There is no support for the government to us.” “My suggestion for the government is that the government should give us a plot that nobody can ask us to leave, somewhere where we can work as farmers. We cannot go back to Helmand,” said Razzaq, another man in Charahi Qamber.

Land allocation initiatives, in particular one established in 2005, are a potential way to address the needs of people who have been displaced from their communities and are unable to return for the foreseeable future. But eligibility for land under the 2005 allocation programme is not well-understood. Some government officials told Amnesty International that land under the programme is limited to returning refugees. Others said that internally displaced persons were eligible for land, but only if they returned to their home communities.¹⁶¹

BAREEKAAB: FAR FROM WORK, HEALTH CLINICS, SCHOOLS

The government has set aside land in Bareekaab, outside of Bagram, for some displaced families now living in Kabul. We heard from residents of Chaman-e-Babrak and Charahi Qamber that they had been offered plots here.

We visited the site in June 2011, driving an hour and a half from the centre of Kabul and some 10 kilometres past the US military base at Bagram. Of the 1,100 houses built, only 150 were occupied. The site has no electricity, the residents told us. Children haul water in buckets from more than three kilometres away. A temporary health clinic for the site is open one day a week for a few hours.

“The government gave us a piece of land in Bareekaab, one of the areas outside Kabul. That land is so removed. I can’t afford to live there,” commented Yahya, a man living in Chaman-e-Babrak. “If we go by car, it will be one and a half hours’ drive because the area is so remote. I would have to come for work to Kabul. The transport costs for every day will be at least 200 afghanis [\$4.15]. How can I afford to pay all these costs?”

Bashir, another man who had returned with his family from Pakistan and was living with them in Chaman-e-Babrak, told us, “The government gave us a piece of land in Bareekaab. . . . I wanted to live there, but it’s too difficult. The little child, four-and-a-half, is sick, and we couldn’t take her to the doctor because it’s very remote. We couldn’t get food. So we decided to return because at least it’s easier to take the child to the clinic and find food here.”

Even if the eligibility criteria were clarified, a more fundamental shortcoming of the programme is that the parcels offered often do not meet minimum conditions of

habitability. As discussed more fully in the next chapter and illustrated by the example of Bareekaab in the box above, they are located far from the cities where work is available and frequently lack basic services such as health clinics and schools. Some do not have access to water.

FORCED EVICTIONS AND INTERNATIONAL LAW

“[A]ll citizens of all States, poor as they may be, have a right to expect their Governments to be concerned about their shelter needs, and to accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them.” —The Global Strategy for Shelter to the Year 2000¹⁶²

Evictions conducted without appropriate legal or other protection are “forced evictions,”¹⁶³ prohibited under international law. As the UN Commission on Human Rights declared in 1993, the “practice of forced eviction constitutes a gross violation of human rights, in particular the right to adequate housing.”¹⁶⁴

States must not only refrain from carrying out forced evictions but must also take steps to prevent forced evictions at the hands of private individuals and punish those who engage in these abusive acts.¹⁶⁵

Lack of security of tenure is a principal cause of forced evictions. States should minimise the risk of forced evictions by ensuring that “all persons . . . possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups.”¹⁶⁶

In addition, to safeguard against forced evictions, states must put in place appropriate procedural protections, including the following:

- Opportunities for genuine consultation with those affected.
- “[A]dequate and reasonable notice for all affected persons prior to the scheduled date of eviction” as well as “information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, to be made available in reasonable time to all those affected.”¹⁶⁷
- The right to seek review of eviction orders before they are carried out.
- Legislation enacted and enforced that strictly controls the circumstances under which evictions may be carried out. In particular, evictions should not take place

during particularly bad weather or at night. Those who carry out evictions should be authorised to do so and should be properly identified. Government officials or representatives should be present during evictions of groups of people.¹⁶⁸

- Safeguards to ensure that evictions do not render people homeless or vulnerable to other human rights violations.¹⁶⁹ Adequate alternative housing and compensation for all losses must be made available to those affected, regardless of whether they rent, own, occupy, or lease the land or housing in question.¹⁷⁰

6. THE RESPONSE OF THE AFGHAN GOVERNMENT

National authorities have periodically acknowledged the state's responsibility to protect its displaced population, usually coupled with calls on international actors to support government efforts.¹⁷¹ The current Afghanistan National Development Strategy, which covers the period 2008 to 2013, includes a "Refugees, Returnees, and Internally Displaced Persons" sector of focus, although the sector's objectives are on the whole directed toward reintegration of returning refugees rather than the needs of internally displaced persons. Where the strategy does address displacement, it focuses on the eventual return of displaced persons to their home communities, to the exclusion of other durable solutions such as local integration or resettlement elsewhere.

At the local level, the response to internal displacement is to claim that it does not exist, to try to relocate displaced people elsewhere, and to rely on international aid agencies to provide for the immediate and ongoing needs of displaced people. Official hostility toward displaced persons also partially explains restrictions on aid delivery, incomplete and unsustainable land allocation initiatives, and, as noted earlier in this report, the failure to address forced evictions.

GAPS IN THE OFFICIAL STRATEGY

Afghanistan's current National Development Strategy includes a focus on refugees, returning refugees, and internally displaced persons. The strategy generally calls for a "transition out of a purely refugee and humanitarian framework for managing population movements to a more comprehensive set of policy arrangements that will advance durable solutions."¹⁷²

However, the strategy focuses on return to home communities to the exclusion of other durable solutions, such as integration into the urban areas to which many displaced people have fled or settlement elsewhere. The document's summary describes the overall strategic approach in this way: "The ANDS strategic objective with respect to refugees, returnees and IDPs is *to efficiently manage the voluntary return* of refugees and IDPs and their reintegration into productive participation in society."¹⁷³

Most of the strategy's specific objectives relate to the large numbers of refugees who remain outside the country. Those that address internal displacement call for the government to "prepare plans to improve the response to internal displacement crisis" and "give greater attention to the protection of the vulnerable groups among refugees and IDPs, including children and women," "strengthen the Government's capacity to plan, manage, and assist the reintegration of returning Afghans and IDPs," "improve the capacity of the Government to plan for and respond to internal displacement,"

and “improve access to land for the refugee and the IDP population,” as well as to “ensure refugees and IDPs have greater access to microfinance loans.”¹⁷⁴

Under the strategy, the government will also “promote a national framework and policy guideline for the protection of IDPs as well as the IDP mapping exercise,” “identify and implement programs and interventions to support voluntary refugee and IDP return,” “incorporate IDPs and returnees into development and national programs and to provide for a national framework for their protection,” and “enhanc[e] emergency preparedness for IDPs to ensure the timely and necessary support is provided to minimize hardship and suffering.”¹⁷⁵

A DE FACTO POLICY OF DENIAL

Despite the approach outlined in the National Development Strategy, officials in Balkh and Herat provinces instruct humanitarian agencies not to use the term “internally displaced,” presumably to avoid the protection obligations that the term implies. “We cannot call them IDPs,” a worker with a nongovernmental organisation in Mazar-e-Sharif told Amnesty International. “We’re told they are ordinary citizens.”¹⁷⁶

We heard something similar from the deputy governor of Herat. “We prefer that people do not say that they are IDPs. They should go among the ordinary community and not be in a mass group,” he told us in June 2011. When we noted that under international standards, the people we were talking about were internally displaced persons, he replied, “I insist on those last two sentences. If they want to live in Herat, they should work and settle like other citizens. They should live like citizens of Herat. They should work, or they should go back to their original provinces with the help of the UN. We don’t have enough of a budget for them.” Returning to this theme later in our meeting, he added, “My suggestion is this: They should come to live like ordinary citizens of Herat, not stay in those mass areas where suicide bombers can hide themselves. They should work.”¹⁷⁷

Officials repeatedly questioned the motivation of those who report that they have fled conflict in their home communities, most often describing such persons as economic migrants. “There’s a big caseload of protracted, mainly urban IDPs, a big chunk, in Kabul, Kunduz, Mazar, Herat, Jalalabad, on the outskirts of the cities. The government is very keen to turn them into economic migrants, not IDPs, so they’re treated as part of the urban poor and don’t fall under protection entitlements. MoRR [the Ministry of Refugees and Repatriation] doesn’t like to use the term ‘IDP’ for urban displaced,” an aid worker observed. “It means that we all get bogged down in whether displacement is poverty-induced or conflict-induced. This is Afghanistan—such a pervasive emergency. There’s chronic insecurity, long-term conflict, poverty. It [the debate] is extremely unhelpful.”¹⁷⁸

For example, the deputy governor of Herat told us that many of the recent arrivals to that city were not legitimately displaced, saying that they “leave their land because of drought and famine. They prefer to call themselves IDPs because it’s a chance for them.”¹⁷⁹ Natural disasters are in fact a recognised cause of internal

displacement,¹⁸⁰ but the deputy governor's view also dismisses the increasing numbers of internally displaced persons who come to Herat after fleeing the conflict.

CALLOUS INDIFFERENCE

It was also clear from our interviews that local officials viewed arrivals of displaced families as disruptive to city life, particularly when they arrive in large numbers. "The problem is that it's not one family that's coming, they're coming as a group, and they prefer to live in a group. . . . If they live among the ordinary people, it would be easy for them to integrate, to become part of society. . . . They prefer to give this name of IDP to themselves. When they live together, they want the government to provide specific help for them. This is difficult for the government. If they want to work, they can go away elsewhere in the country and find work," the deputy governor of Herat said. "The government does not have any specific budget for these specific cases."¹⁸¹

In addition, many of the officials we met with expressed the view that long-term displaced populations no longer need protection. In Mazar-e-Sharif, an official with the Department of Refugees and Repatriation took the position that those who had been in the city for two years were no longer displaced. "They are settled. They have reintegrated. They are settled here; they can find work," he told Amnesty International.¹⁸² In Herat, an official with Department of Refugees and Repatriation told us, "Many have spent more than ten years in Herat. Some of their problems have been solved in their places of origin. They stay in Herat because it's a better city."¹⁸³ The deputy governor of Herat expressed a similar view. "There are many who came from their places of origin many years ago. . . . They prefer to stay because of the facilities that Herat has."¹⁸⁴

Speaking of families who arrived in Herat fifteen or twenty years ago after they were displaced, a UN official told Amnesty International, "In the view of the government, they are not looked at as IDPs because they [government officials] don't want to have to provide humanitarian assistance. The government tries to discourage them from staying here."¹⁸⁵

OUTSOURCING GOVERNMENT SERVICES TO AID AGENCIES, WITH STRINGS ATTACHED

UN agencies and nongovernmental organisations provide the bulk of humanitarian assistance for displaced persons in Herat, Kabul, and Mazar-e-Sharif. "We don't have a specific budget or fund in this province for IDPs. If people are displaced due to conflict, we have contact with UNHCR. They will work with these people and help them," an official with the Department of Refugees and Repatriation in Mazar-e-Sharif told us. "They will convene an emergency meeting and will ask the aid agencies and the government to come and see what we can do."¹⁸⁶

The Ministry of Refugees and Repatriation's total budget for 2011-2012 is just under \$6 million, \$1.8 million less than in 2010-2011, and clearly inadequate to meet the needs of Afghanistan's internal displaced and returnee population. Of the 2011-2012 total, \$3.65 million is allocated to operating costs and \$2.34 million for development projects. The largest of the ministry's development project is

“[e]nsuring of technical and basic social services for established towns for returnees,” with an allocation of \$2.1 million. It is not apparent from the budget documents whether any monies are specifically allocated for development projects directed toward internally displaced persons.¹⁸⁷

The Afghan government’s reliance on international funding is not limited to assistance for the internally displaced. International assistance is an important part of the state’s budget—44.3 percent of the operating budget and over 74 percent of the budget allocated to development projects are funded by donor grants.¹⁸⁸ Using the health sector as one example, an aid worker in Herat told Amnesty International, “If donors pull out, the health system will collapse, because most of the health services are provided by NGOs.”¹⁸⁹

But nongovernmental organisations and UN aid agencies operate with some significant limitations. Sanitation programmes, water collection points, health clinics and the like are “implemented through government departments,” one UN official told us. “They decide where these things go.”¹⁹⁰ We heard that approval is frequently withheld from projects that would suggest a measure of permanence for the areas where displaced people find shelter. The same is true for programming that explicitly includes internally displaced persons among the target groups.

As noted above in the “Living Conditions” chapter, Kabul city officials typically refuse permission to install new water pumps on abandoned lots occupied by displaced families. Instead, aid agencies must use trucks to provide water to these communities, an approach that is considerably more expensive.

In another example, a UN official told us that most of Herat’s health centres are in the southern part of the city. “The government expects people to go from the north and utilise services in the south. But a large chunk of the population is in the north. We could establish new centres in the north, but the government is not willing to do so. They prefer to think in terms of temporary arrangements; they don’t want to institutionalise anything. But the people are there. That is the place where they live now.”¹⁹¹

Similarly, speaking of the three camps in Herat, a staff member at an international aid agency observed, “Government authorities are not that positive about extending services. Education, for example. They prefer more stable communities for educational services. This has created a little problem. We feel that these children who are internally displaced or returnees are more vulnerable than the general population.”¹⁹² The UN official explained, “It’s clear that the government doesn’t want” state schools in communities where displaced families live. “They don’t openly oppose them, but they tend to delay, not accept proposals.”¹⁹³

We heard other examples of restrictions on programming for displaced persons. “We had an issue when we were dealing with street children” in a programme in one province, the representative of an international nongovernmental organisation told Amnesty International. “The Department of Labour and Social Affairs and DoRR [the

Department of Refugees and Repatriation] didn't want us to include IDP children in our programme for street children."¹⁹⁴

And the Herat provincial government has sent out letters to UN agencies and nongovernmental organisations instructing them that IDP camps should not receive humanitarian assistance. "The government is not only demanding that humanitarian agencies not respond to the needs of these people, it is also not providing public services like power and water. They don't extend these services there to discourage people from staying. Officials are telling us that in cases of new arrivals, we should not create camps; we should provide assistance in their places of origin," one aid worker said.¹⁹⁵ Another told Amnesty International, "We received a letter saying that NGOs are not allowed to help IDPs. We've been clearly instructed by the governor of Herat not to do so."¹⁹⁶

BARRIERS IN OBTAINING IDENTITY DOCUMENTS

Many displaced families do not have identification cards, or *tazkeras*, and it is normally not possible to get this document outside of one's original community.¹⁹⁷ Several officials told us that a ministerial decision approved by the president provided that identification cards may only be obtained in an individual's place of origin or in Kabul, where the archive is maintained, although we never saw a copy of this decision in writing.

Nevertheless, we heard from the deputy governor of Herat that Afghans can get identification cards anywhere in the country. "Any person can get this card in any place," he said. "There is a procedure to contact the regional offices. The people should have been able to get the documents that way in the cases that you mention. But we have people coming here from many countries. Maybe people came from outside Afghanistan and are now trying to get identification here." In addition, he said that the numbers involved has extended the process. "If it's five or 10 or 50, it's easy to do the job fast, but now there are too many, and the procedures are complicated. There are more concerns about giving identification cards to somebody not from here. It's a long process. So we have this suggestion, where there is no fighting or drought in the place of origin, we prefer that people should go back to their original province with the help of the UN."¹⁹⁸

Others confirmed that it should be possible to obtain identification cards without travelling to one's place of origin. "There is a new system for obtaining the *tazkera*, maybe one month old," a humanitarian worker in Herat told Amnesty International in June 2011. "The statistics department can send back all the information. If the registration is known, they can issue the *tazkera* here."¹⁹⁹ Similarly, a November 2011 report by the Brookings-LSE Project states that individuals who are no longer in their place of normal residence may apply to the registration department in their new locale for an identification card.²⁰⁰ (The Brookings-Bern Project became the Brookings-LSE Project in November 2010.²⁰¹)

In Mazar-e-Sharif, we heard a different explanation of the procedure for issuing *tazkeras*. "If they are from another province, according to government policy, everyone should apply in their place of origin," an official with the Department of

Refugees and Repatriation in that city told us. He said, however, that it was possible to issue displaced people temporary *tazkeras*, which they could use if they want to work in Mazar-e-Sharif.²⁰²

But even if it is possible in principle to obtain an identification card elsewhere in the country, in practice a return trip to one's home province is required. "If you are originally not from Mazar, you have to go to your place of origin to get the *tazkera*," Payenda, one of the residents of Balkh district, told Amnesty International. Another Balkh district resident, Mir Ahmad, said, "For this reason, I went to Kabul, and they issued me the *tazkera* there. It took one week, and I paid 9,000 afghanis [\$190] to get the *tazkeras* issued. The real fee should have been 6,000 afghanis [\$125], but I paid 3,000 [\$65] extra to finish it in the week."

Displaced families in Herat had similar experiences. "When I asked the government of Herat to issue the *tazkeras*, they told me to go to my own province," Spingul, a man living in Minarets, told us. "I have two daughters. They are always crying that the school says they will not teach them unless they bring the *tazkera*. So I went to my province. I spent 25,000 afghanis [\$520] to get two *tazkeras* for my daughters." He told us that it took 15 days in all to travel to and from Cheghcheran, the capital of Ghor province.

Jawid, another man in Minarets, described his efforts to obtain identification cards for his children so that they could attend school in Herat. "I went to Maimana [the capital of Faryab province]; I spent 12,000 afghanis [\$250] to get identification for my two sons," he said. There is no alternative to travelling to the home province, Jawid said, because of the government's concern with fraud.

Nasim, also living in Minarets, noted an additional practical barrier that prevented people from travelling to their home province to obtain identification cards. "If we leave and come back, everything here will be lost," he said, meaning that their few possessions would be stolen during the week or two that they were away from their homes.

"We have complained to the government: why are they not issuing the *tazkera* here? We are from Afghanistan. Why is the government doing such a thing?" asked Asadullah, another resident of Minarets.

THE MURKY NATURE OF LAND TENURE IN AFGHANISTAN

Determining who owns particular parcels of land is not straightforward in Afghanistan. Several systems of law are potentially applicable, including customary forms of land ownership.²⁰³ In addition, as one analyst has observed:

Over the last 25 years, for example, a piece of private land could have been compulsorily purchased, expropriated or re-designated as belonging to the Government, granted to another individual, through statutory decree, privately transacted between different individuals using official or customary documents, abandoned by its owner, illegally occupied by another party, or sold, leased, exchanged, gifted, inherited, or otherwise transferred on to others.²⁰⁴

The 2000 land law created a commission to clarify land ownership.²⁰⁵ The commission was one of several efforts in the last fifty years to resolve questions of land tenure:

Determining the ownership of land has been seen as a key task for successive governments of Afghanistan and attempts to develop a national land registry have been pursued over several decades, despite the interruptions of revolution, war and foreign invasion. The most ambitious attempt to establish a register of land ownership was carried out by the Land Survey and Statistics Law of 1965, which created a Department for Cadastral Survey to conduct a nationwide land survey.²⁰⁶

The survey mandated by the 1965 law was abandoned because of the cost involved. At the time it was suspended, only “about a third of all landholdings and a fifth of the total arable land in the country were surveyed and no title deeds were ever issued.”²⁰⁷

The current government has included land registry as one of the goals of its national development plans. The 2002 National Development Framework noted:

There is a need for a programme to produce a nationwide land registry and to settle disputes between individuals and groups over land. Such a registry would allow for the use of land as collateral for entrepreneurial activities Uncertainty over land ownership will hinder investment from the private sector as well as the ability of individuals to use land as collateral. . . . A credible system to resolve land disputes and provide certainty is urgent.²⁰⁸

Indeed, some observers suggest that resolution of Afghanistan’s many conflicting land claims is essential to ensure that efforts to rebuild the country are sustainable.²⁰⁹

Recent efforts to address housing and land needs for returning refugees and internally displaced persons, and more generally to resolve land disputes, include the following:

- A 2001 decree intended to protect the land rights of returning refugees provided that all moveable and immoveable property would be restored to its rightful owner.²¹⁰ The decree did not apply to those who have been internally displaced.
- Decree 99, April 2002, froze distributions of public lands nationwide. This decree provided that government ministries and institutions “shall not distribute any State-owned land for building houses or for any other purposes.”²¹¹ Other decrees have specified that that property that is occupied by people as a result of their power or influence should be confiscated.
- A 2003 initiative set up a Special Property Disputes Resolution Court.²¹²
- As discussed more fully in the next section, a land reallocation scheme announced in 2005 was intended to provide plots of land to returning refugees as well as internally displaced persons.²¹³

Most of these efforts have quickly faltered. For instance, the Special Property Disputes Resolution Court initiative “soon collapsed due to lack of support, inadequate enforcement capacity, inaccessibility and corruption.”²¹⁴

UNSUSTAINABLE LAND ALLOCATION INITIATIVES

Land allocation initiatives have been undermined by questions about who qualifies for land and the suitability of the land offered for resettlement.

The most recent land allocation plan, announced in 2005, would provide both vulnerable landless returnees and internally displaced persons with plots of land. However, many displaced communities believe that they are not covered by this programme, which was established by Presidential Decree 104. For instance, Azizullah, a man living in Bagh-e-Dawood, told Amnesty International that the presidential decree states that “only the Afghans who returned from other countries are eligible for land allocation.”

Presidential Decree 104 does in fact cover displaced persons, but the the Brookings-LSE Project found that, as implemented, “[i]t requires IDPs seeking access to land to provide a national identity card and documentation proving internal displacement status—a requirement that excludes most IDPs because they do not have the necessary documentation.”²¹⁵

We heard cases even among those who had returned from abroad of families that had been told they were not eligible for resettlement. They didn’t give us land,” reported a man who was living in Chaman-e-Babrak in August 2010. “We were in Iran. When we returned, there wasn’t any land for us.” He said that he and his family came later than others did from Iran and didn’t register with UNHCR. Guljan, a woman in her mid-50s living in Chaman-e-Babrak, had a similar account. “When we came from Pakistan, we didn’t know that we should go to UNHCR. This is why we didn’t get any land,” she told Amnesty International.

Other returning refugees may have been denied land if they were not originally from the province where they settled upon return. “Under Presidential Decree 104, if you don’t have an ID card from the province, you can’t be allocated land in that province,” an official with the Department of Refugees and Repatriation in Herat told Amnesty International. Later in our interview, he repeated this understanding of the law, saying, “Under Decree 104, it is a condition that people should have identification from this province” to be allocated land in Herat.²¹⁶

Those who had been offered housing under the land allocation schemes told us that the parcels were not suitable for them. As with Bareekaab, profiled in the previous chapter, these parcels of land are often located far from employment opportunities, schools, and health clinics. Shaperiy, a woman in her early 20s interviewed in her shelter along with her husband, pointed out that if they were allocated land, they would need to be in a place where they were able to work; she also said that they would need to receive assistance until they were able to support themselves.

Even water is a problem on some of the land available under these allocation programmes. Describing Saripol, a “model village” outside of Kabul, one humanitarian worker said, “There are 1,100 houses there, and it’s deserted. It’s like some others, where there is no permanent water source. The kids spend half the bloody morning going down to get water, a two-hour journey. It’s the same complaint everywhere you go—the communities need water. Why, why, why is the government designating return areas in places where there is no water?”²¹⁷

We heard similar concerns with land designated for allocation elsewhere. An area allocated under a land scheme in Herat is located 50 km out of the city, toward the border with Iran. “People are reluctant to stay there because of the lack of public services there,” an aid worker told Amnesty International.²¹⁸ Another aid worker described similar challenges with land allocation in Balkh province.²¹⁹ A third aid worker summed up the Herat land allocation programme in these terms: “How could people live there? There are no livelihood options. It’s far from the city, in the middle of the desert. From a livelihood point of view, that’s the main issue with the programme. It will be a success if people are still living there after six months or one year. But I think that after a few months, we will find all these people in Herat or around the city. This is the problem with all land allocation schemes.”²²⁰

In Mazar-e-Sharif, an official with the Department of Refugees and Repatriation acknowledged, “The land allocated is quite far from the city. People don’t want to move there.”²²¹ When we met with an official with the Afghan Independent Human Rights Commission in Mazar-e-Sharif, he noted that, in addition to the distance, “the water is very salty, so returnees prefer not to go there.” Another area chosen for allocation in Balkh province is in near-desert conditions, the Afghan Independent Human Rights Commission told Amnesty International.

“Before the government distributes land for repatriated individuals, they should think about clinics, schools. They should build up that land before distributing parcels.” Without such services, the representative of the Afghan Independent Human Rights Commission said, many people choose not to live in the areas that are allocated.²²²

Summing up the experience with the land allocation programme established under Presidential Decree 104, the representative of one nongovernmental organisation concluded, “It’s a complete disaster.”²²³

7. CONCLUSION AND RECOMMENDATIONS

The Afghan government, and its international allies, must respond to the country's growing displacement crisis before it begins undoing the country's modest gains in economic development and access to education and health care. "We're talking now about transition" from international forces to Afghan authority, a humanitarian aid worker told Amnesty International. "There's a serious humanitarian crisis out there. Protection concerns are completely unmet."²²⁴

These protection concerns must be addressed as a matter of the highest priority and urgency.

In the long term, the Afghan government will have to ensure that those who are internally displaced are able to choose either to return home voluntarily and in safety and dignity or to resettle voluntarily in another part of the country. The government should involve displaced persons themselves in plans for return or resettlement and facilitate the assistance of independent humanitarian organisations and UN agencies to implement these plans. In addition, the Afghan government should work with national and international aid agencies to take steps to provide livelihood opportunities to the displaced and returnees to encourage sustainable reintegration.

In the immediate term, the government of Afghanistan should take specific steps to provide humanitarian assistance, prevent forced evictions, guarantee adequate housing, and ensure access to water, sanitation, health services, and education.

The United States, the European Union, Germany, Japan, India, Saudi Arabia, and other donor countries should reflect these priorities in the direct assistance they provide to Afghanistan. They should also consider increasing their financial contributions to UNHCR, which coordinates joint humanitarian activities in the country. Afghanistan's neighbours, in particular Iran and Pakistan, which still house millions of Afghan refugees, must also be part of a regional solution that creates a sustainable environment for Afghans inside Afghanistan.

For its part, the International Security Assistance Force can do more to reduce civilian casualties and to conduct transparent investigations when civilian casualties do occur. While ISAF has done a commendable job in reducing direct civilian casualties as part of its military operations, it needs to do more to understand, and address, the impact of conflict (or impending conflict) in displacing families, even when casualty rates are low and international humanitarian legal standards for targeting have been met.

Armed groups are directly bound by the rules of international humanitarian law, including the prohibition on attacks against civilians or civilian objects; the prohibition on violence aimed at spreading terror among the civilian population; the prohibition of indiscriminate or disproportionate attacks; and the obligation to take

measures to protect the civilian population and civilian objects (including schools) from the effects of armed attack. Armed groups should also refrain from committing human rights abuses, and they are bound by Afghanistan's domestic laws which, like the laws of most nations, criminalise a range of acts that constitute human rights abuses, including unlawful killing and abduction. Amnesty International calls on the Taliban and other insurgent groups to strictly abide by the provisions of international humanitarian law and ensure that civilians are not exposed to violence.

Finally, the Afghan government must develop a clearer legal framework and a comprehensive national action plan to address the situation of the displaced and returning refugees. It should fully implement the Guiding Principles on Internal Displacement, including by providing training for all ministries and institutions charged with addressing displacement.

Recommendations to the Afghan Government

Immediate Humanitarian Assistance

- The Ministry of Refugees and Repatriation and the provincial-level Departments of Refugees and Repatriation should ensure that internally displaced persons and returning refugees receive emergency humanitarian aid without delay to provide for their immediate needs, including housing, food, water, and health care.
- Humanitarian assistance should not be subject to conditions such as return to home communities.
- The Ministry of Foreign Affairs should seek international assistance and support if necessary to comply with Afghanistan's obligation to provide displaced persons and returning refugees with immediate humanitarian assistance.

Preventing Forced Evictions

- Municipal authorities should immediately cease all forced evictions and ensure that all persons are protected against forced evictions, including those carried out by private actors.
- The government of Afghanistan should enact and enforce a clear prohibition on forced evictions.
- The Ministry of Urban Development should work with lawmakers to develop legislation that sets out safeguards that must be complied with before carrying out evictions. Legislation should be based on the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement. It should include the following elements, among other safeguards:
 - A requirement for genuine consultation with all affected communities to identify all feasible alternatives to evictions.
 - A requirement of adequate and reasonable notice in advance of scheduled evictions to all affected. Such notice should provide full information on the proposed evictions, including any alternative purpose for which the land or

housing is to be used, and should clearly indicate what steps those who are affected can take to appeal an eviction order or request additional time before it is carried out. Notice should be given in a form that those affected can understand. It should be given with sufficient time to allow affected persons a meaningful opportunity to appeal or to prepare for the eviction.

- A guarantee of the right to seek review of eviction orders before they are carried out, with legal aid where necessary.
- Controls over the circumstances under which evictions may be carried out. The regulations should specify who is authorised to carry out evictions, should require that all persons carrying out evictions be properly identified, and should mandate the presence of government officials during evictions of groups of people. Evictions should not take place at night or during particularly bad weather.
- A requirement that authorities provide adequate alternative housing prior to carrying out any eviction order in any case where the eviction would make people homeless.
- Compensation for all losses.
- Effective remedies, if authorities carry out or fail to protect people from forced evictions.
- Municipal governments should implement these protections and ensure that local authorities, including police, are aware of and act in compliance with them.

Adequate Housing

- The Ministry of Urban Development and municipal authorities should provide a minimum degree of security of tenure that guarantees legal protection against forced eviction, harassment, and other threats to displaced persons living in slums in and around Kabul, Herat, Mazar-e-Sharif, and other urban centres.
- The Ministry of Urban Development and municipal authorities should take concrete steps, in genuine consultation with the affected communities, to address the inadequate conditions of housing in the slums in which many displaced households now live. These steps should include the following:
 - Assist households living in inadequate shelter by providing them with durable construction materials at low or no cost
 - Ensure that safe, affordable water is available in sufficient quantity to meet their needs and can be obtained without excessive physical effort and time. Minimum essential levels of water for personal and domestic use must be provided to all persons, irrespective of their inability to pay.

- Basic sanitation services, which are hygienic and safe, should be available in sufficient quantity, with sufficient capacity so that they do not become clogged, and accessible to all internally displaced persons.
- The Ministry of Refugees and Repatriation and other appropriate agencies should issue guidance to clarify the eligibility of internally displaced persons for land allocation under Decree 104. Eligibility should not be contingent on return to the communities from which they fled.
- The Ministry of Refugees and Repatriation should work with the Ministry of Urban Development and other relevant government agencies to ensure that all alternative housing and land provided to displaced persons meets international standards on adequacy of housing, including habitability. In addition, any alternative housing must be accessible by public transport and be within reach of health facilities, schools, and potential sources of employment.
- The Ministry of Refugees and Repatriation, the Ministry of Urban Development, and other relevant government agencies should ensure genuine consultations with, and the participation of displaced people in, the development and implementation of plans for durable housing solutions.

Health Needs

- The Ministry of Public Health and local authorities should ensure that internally displaced persons and returning refugees have access to health care facilities, goods and services of good quality.
- The Ministry of Public Health should ensure that essential medicines are affordable and available to displaced persons and returning refugees.
- The Ministry of Public Health should work with local authorities to provide information on health care services to all internally displaced persons and returning refugees and to support them in securing access to such services.

Education

- The Ministry of Education and local officials should immediately ensure that all children, including displaced and returning children, have access to free primary education without discrimination. In particular, these agencies should clarify that no child may be refused enrollment or expelled for failure to produce an identity document.

Identification Documents

- The Ministry of the Interior should issue internally displaced persons and returning refugees with national identity cards and other documents necessary for the exercise of their legal rights and facilitate the prompt issuance of new documents or replacement documents for those lost in the course of displacement without imposing unreasonable conditions. In particular, the Ministry of the Interior should develop and publicise streamlined procedures for obtaining documents, and it should ensure that all provincial departments of the ministry follow those procedures to allow

identification cards to be issued throughout the country. Displaced persons and returning refugees should not be required to travel to their place of birth or former residence in order to have identification cards issued.

Identification of All Durable Solutions

- National and provincial authorities should acknowledge that protracted displacement is a feature of the conflict in Afghanistan. They should ensure that the needs of internally displaced persons and returning refugees are adequately reflected in all government strategies and planning processes.
- National and provincial authorities should consider the full range of durable solutions—local integration or resettlement elsewhere as well as return to home communities.
- The government of Afghanistan should amend Presidential Decree 104 to clarify that internally displaced persons qualify for land allocation in the areas to which they have fled. Similarly, returning refugees should not be required to return to their original communities in order to be allocated land under the decree.
- Any returns must be voluntary and in conditions of safety and dignity.

Recommendations to the Taliban and Other Armed Groups

- Cease attacks targeting civilians and civilian objects, attacks that do not attempt to distinguish between military objectives and civilians or civilian objects, and all disproportionate attacks.
- Cease attacks on teachers, students, education officials, and school buildings.
- End all harassment and threats of death or abuse against civilians.
- Take all other necessary measures to protect the civilian population and civilian objects from the dangers arising from military operations, whether in defence or in attack.
- Publicly condemn all attacks against civilians and all indiscriminate and disproportionate attacks, unlawful killings, torture and other ill-treatment. Issue instructions to members to strictly prohibit such acts in all circumstances.
- Publicly denounce gender-based violence and discrimination, whenever and wherever it occurs, in particular confining women to the home, denying equal access to health care and education, work, freedom of expression and association, and denial of legal status documents and access to social supports.
- Give immediate and clear instructions from the highest levels of leadership that all of their combatants are bound by all provisions of applicable international humanitarian law.

- Remove any members suspected of abuses from positions and situations where they might continue to perpetrate abuses.

Recommendations to the International Security Assistance Force (ISAF)

- ISAF should supplement existing tactical directives, operating procedures, and guidance to troops on humanitarian response with explicit guidance on prevention or mitigation of forced displacement.
- ISAF should share timely, relevant information on humanitarian needs and displacement in their areas of operation with humanitarian actors, and should encourage Afghan National Security Forces to do the same.
- ISAF should review its Afghan Local Police (ALP) initiative and ensure that recruits are appropriately vetted and that appropriate command structures for and oversight over ALP units are in place.
- ISAF should review its practices to ensure compliance with current tactical directives and other operational guidance, particularly on airstrikes and night raids. It should examine whether this guidance can be refined to reduce civilian casualties from its operations. It should promptly and transparently conduct thorough investigations into the circumstances of civilian casualties that do occur.
- ISAF should monitor and assess the extent to which military engagements contribute to displacement.

Recommendations to International Donors

- International donors should ensure that their humanitarian assistance to Afghanistan includes a focus on internally displaced persons and returning refugees and should support initiatives that address the priority needs of these populations.
- International donors should also consider increasing their financial contributions to UNHCR to support its work on internal displacement in Afghanistan.

Recommendation to UNAMA

- UNAMA should monitor and publicly report on internal displacement caused by military engagements, including in its periodic reports on the protection of civilians in armed conflict.

ENDNOTES

¹ Amounts are given as they were reported to Amnesty International, with their equivalent in US dollars based on the prevailing exchange rate as this report was being finalised. In January 2012, one U.S. dollar was equal to 48 afghanis. US dollar equivalents are rounded to the nearest five cents for amounts under \$10, to the nearest dollar for amounts between \$10 and \$100, and to the nearest five dollars for higher amounts.

² See *National Risk and Vulnerability Assessment 2007/8: A Profile of Afghanistan, Main Report* (Kabul: European Union and ICON-INSTITUTE, n.d.), pp. 12-13.

³ Guiding Principles on Internal Displacement, introd., ¶ 2, U.N. Doc. E/CN.4/1998/53/Add.2 (1998).

⁴ Under international law, a refugee is a person who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence . . . is unable to or, owing to such fear, is unwilling to return to it.” Convention relating to the Status of Refugees, art. 1(A)(2), opened for signature 28 July 1954, 189 U.N.T.S. 150 (entry into force 22 April 1954; accession by Afghanistan 30 August 2005); Protocol relating to the Status of Refugees, art. 1, opened for signature 31 January 1967, 606 U.N.T.S. 267 (entry into force 4 October 1967; accession by Afghanistan 30 August 2005).

Broader international protection criteria apply to those who are outside of their country of origin because of a serious threat to their life, liberty or security as a result of generalised violence or events that seriously disturb public order. Such persons may also be recognised as refugees even though they are not covered by the Refugee Convention; they are sometimes referred to as “mandate refugees” to distinguish them from “Convention refugees.” See, for example, UNHCR, “UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,” U.N. Doc. HCR/EG/AFG/10/04 (17 December 2010), pp. 33-34 & n. 240, <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=4d0b55c92&page=search> (viewed 11 April 2011).

“Returning refugees” is used in Afghanistan to refer both to mandate refugees and Convention refugees who have returned to Afghanistan.

⁵ These indicators were initially identified by an expert group convened by the UN Human Settlements Programme (UN-Habitat) in 2002 and have been more fully developed in further expert consultation. See UN-Habitat, Urban Secretariat and Shelter Branch, *Expert Group Meeting on Urban Indicators: Secure Tenure, Slums and Global Sample of Cities*, 28-30 October 2002, pp. 8-9, 22-23, <http://www.citiesalliance.org/ca/sites/citiesalliance.org/files/expert-group-meeting-urban-indicators%5B1%5D.pdf> (viewed 26 October 2011); Richard Sliuzas, Gora Mboup, and Alex de Sherbinin, comps., *Report: Expert Group Meeting on Slum Identification and Mapping* (Center

for International Earth Science Information Network, Columbia University; UN-Habitat; and International Institute for Geo-Information Science and Earth Observation), 18 September 2008, pp. 2, 22-27, http://www.ciesin.columbia.edu/confluence/download/attachments/39780353/EGM_slum_mapping_report_final.pdf?version=1&modificationDate=1227107457000 (viewed 26 October 2011). See also UN-Habitat, "What Are Slums and Why Do They Exist?," 21st sess. Governing Council, 16-20 April 2007, p. 2, http://www.unhabitat.org/downloads/docs/4625_51419_GC%2021%20What%20are%20slums.pdf (viewed 12 April 2011); UN-Habitat, "Slums: Some Definitions," *State of the World's Cities 2006/2007*, http://www.unhabitat.org/documents/media_centre/sowcr2006/SOWCR%205.pdf (viewed 12 April 2011) (defining a slum household as a group of individuals living under the same roof in an urban area who lack one or more of the following: (1) durable housing of a permanent nature that protects against extreme climate conditions; (2) sufficient living space which means not more than three people sharing the same room; (3) easy access to safe water in sufficient amounts at an affordable price; (4) access to adequate sanitation in the form of a private or public toilet shared by a reasonable number of people; and (5) security of tenure that prevents forced evictions); UN-Habitat, *Enabling Shelter Strategies: Review of Experience from Two Decades of Implementation* (UN-Habitat, 2006) (informal settlements include "residential areas where a group of housing units has been constructed on land to which the occupants have no legal claim, or which they occupy illegally" and "unplanned settlements and areas where housing is not in compliance with current planning and building regulations").

⁶ Internal Displacement Monitoring Centre, IDP News Alert, "Afghanistan: 100,000 Civilians Fled War in Past Year; Displacements Continue in Kandahar," 21 October 2010, <http://www.internal-displacement.org/8025708F004CE90B/%28httpCountries%29/DFADB5842F9262BF802570A7004BA6F0?OpenDocument> (viewed 18 March 2011).

⁷ See UNAMA and UN Office of the High Commissioner for Human Rights, *Afghanistan: Annual Report 2011: Protection of Civilians in Armed Conflict* (Kabul: UNAMA and OHCHR, February 2012), p. 7 (citing UNHCR Afghanistan, Statistical Summary on Conflict-Induced Internal Displacement for 2011). See also UNHCR, "2012 UNHCR Country Operations Profile—Afghanistan," <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6&submit=GO> (viewed 20 January 2012); Refugees International, *Afghanistan: Responsible U.S. Transition Must Address Displacement Crisis*, Field Report, 28 June 2011, p. 1 (noting that between January and June 2011, 91,000 fled their homes and communities for reasons related to the conflict).

⁸ See UNHCR, "2012 UNHCR Country Operations Profile—Afghanistan," <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486eb6&submit=GO> (viewed 20 January 2012).

⁹ See Guiding Principles on Internal Displacement, introd., ¶ 2.

¹⁰ See Internal Displacement Monitoring Centre and Norwegian Refugee Council, "Afghanistan: Need to Minimise New Displacement and Increase Protection for Recently Displaced in Remote Areas," 11 April 2011, [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/8C20C57891906F4FC125786F003978FE/\\$file/Afghanistan_Overview_April2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/8C20C57891906F4FC125786F003978FE/$file/Afghanistan_Overview_April2011.pdf) (viewed 11 October 2011). See also Jacob Rothing, *Protracted Displacement in Afghanistan Can Be Mitigated by a Change in Policy* (Middle East Institute and Fondation pour la recherche stratégique, April 2011), p. 1.

¹¹ Internal Displacement Monitoring Centre, "Afghanistan: Armed Conflict Forces Increasing Numbers of Afghans to Flee Their Homes," 15 April 2011, p. 4 <http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/CCF9CB64DB61DDEFC1257706003FA>

E31/\$file/Afghanistan_Overview_Apr10.pdf (viewed 18 March 2011).

¹² Suzanne Schmeidl, Alexander D. Mundt, and Nick Miszak, *Beyond the Blanket: Towards More Effective Protection for Internally Displaced Persons in Southern Afghanistan* (Washington: The Brookings Institution, 2010), p. 16.

¹³ See Sumbul Rizvi, *Internal Displacement in Afghanistan* (Middle East Institute and Fondation pour la recherche stratégique, 25 June 2011), p. 2. These estimates do not include locations where UNHCR and the Departments of Refugees and Returnee Affairs do not have access. They also may not include all displaced persons living in urban and semi-urban areas.

¹⁴ See Refugees International, *Afghanistan: Responsible U.S. Transition Must Address Displacement Crisis*, Field Report, 28 June 2011, p. 1.

¹⁵ Nine of the 55 districts in Afghanistan's northern region were completely closed to UN agencies in 2010; a further 11 districts were partially closed to them. See Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," 11 May 2011, p. 11 (on file with Amnesty International). The five northern provinces are Balkh, Faryab, Jawzjan, Samangan, and Sar-e-Pul. The four northeastern provinces are Badakhshan, Baghlan, Kunduz, and Takhar. The Afghanistan Protection Cluster is chaired by UNHCR and is composed of humanitarian protection agencies that include UN organisations, international nongovernmental organisations, national nongovernmental organisations, and the Afghan Independent Human Rights Commission. See Afghanistan Protection Cluster, Terms of Reference, July 2010, <http://ochaonline.un.org/afghanistan/Clusters/Protection/tabid/5586/language/en-US/Default.aspx> (viewed 5 October 2011).

¹⁶ As the Afghanistan Protection Cluster notes, "[h]umanitarian access is further compounded by poor road network and particular harsh winter: 50% of Badakhshan's 28 districts are accessible only two-three months during the year and more than one fourth of Baghlan's 15 districts have limited access in winter." Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 11.

¹⁷ See Andrew Solomon and Chareen Stark, "Internal Displacement in Afghanistan: Complex Challenges to Government Response," in Elizabeth Ferris, Erin Mooney, and Chareen Stark, *From Responsibility to Response: Assessing National Approaches to Internal Displacement* (Washington, D.C.: The Brookings Institution – London School of Economics Project on Internal Displacement, November 2011), pp. 264-65.

¹⁸ Brookings Institution, "The Failure to Protect: Battle-Affected IDPs in Southern Afghanistan," 22 June 2009.

¹⁹ Brookings-Bern Project on Internal Displacement and The Liaison Office, "Towards More Effective Protection for IDPs in Southern Afghanistan," May 2010, http://www.brookings.edu/reports/2010/05_idp_protection_afghanistan.aspx (viewed 2 November 2010).

²⁰ Separate attacks in Jowzjan province in mid-September 2011 killed four and five people, respectively. A suicide bomber on a bicycle in late July killed four and wounded 12 in Mazar-e-Sharif, which had been considered generally peaceful until April, when protesters stormed the UN compound there, killing at least a dozen people. In Herat, car bombs and attacks by suicide bombers targeted a NATO base and a shopping area, killing at least four people and injuring 38 in May. In Uruzgun province, at least seven suicide bombers attacked the governor's compound and other government buildings in the capital, Tirin

Kot, in July, leading to the deaths of at least 21 civilians, half of them children. Also in July, in Paktia province, five Afghan soldiers and two NATO soldiers on patrol were killed in a bomb attack; six soldiers (three Afghan, three U.S.) died in another attack earlier in the month. In October, suicide bombers attacked a U.S. military outpost in Panjshir province, leading to the deaths of several Afghan civilians along with the attackers themselves. See Alissa J. Rubin, "Afghanistan: Province Hit by 2 Attacks," *New York Times*, 19 September 2011, <http://www.nytimes.com/2011/09/20/world/asia/afghanistan-province-hit-by-2-attacks.html?ref=world> (viewed 20 September 2011); Alissa J. Rubin and Jack Healy, "Ahead of Security Transfer, Bombing Shakes Afghan City," 20 July 2011, <http://www.nytimes.com/2011/07/21/world/asia/21afghanistan.html?ref=afghanistan> (viewed 14 September 2011); Enayat Najafizada and Ron Nordland, "Afghans Avenge Florida Koran Burning, Killing 12," *The New York Times*, 1 April 2011, <http://www.nytimes.com/2011/04/02/world/asia/02afghanistan.html?pagewanted=all> (viewed 14 September 2011); Alissa J. Rubin and Taimoor Shah, "Suicide Bombers Attack Afghan Provincial Capital," *The New York Times*, 28 July 2011, <http://www.nytimes.com/2011/07/29/world/asia/29afghan.html?ref=afghanistan> (viewed 14 September 2011); Sharifullah Sahak, "Attack on a Patrol in Afghanistan Kills Seven," *The New York Times*, 30 July 2011, <http://www.nytimes.com/2011/07/31/world/asia/31afghanistan.html?ref=afghanistan> (viewed 14 September 2011); Jack Healy, "Failed Attack on U.S. Base Rattles an Afghan Valley," *The New York Times*, 17 October 2011, <http://www.nytimes.com/2011/10/18/world/asia/failed-attack-on-us-base-rattles-panjshir-valley-in-afghanistan.html?ref=afghanistan> (viewed 29 October 2011).

²¹ See Amnesty International, "Afghanistan: Authorities Must Look to the International Criminal Court to Prosecute Taliban Attacks," Press Release, AI Index: PRE01/325/2011, 29 June 2011, <http://www.amnesty.org/en/for-media/press-releases/afghanistan-authorities-must-look-international-criminal-court-prosecute-ta> (viewed 28 January 2012).

²² See Taimoor Shah and Alissa J. Rubin, "Suicide Bomber Sent by Taliban Assassinate Kandahar's Mayor," *The New York Times*, 27 July 2011, <http://www.nytimes.com/2011/07/28/world/asia/28afghanistan.html?ref=afghanistan> (viewed 28 July 2011).

²³ See Alissa J. Rubin, "Assassination Deals Blow to Peace Process in Afghanistan," *The New York Times*, 20 September 2011, <http://www.nytimes.com/2011/09/21/world/asia/Burhanuddin-Rabbani-afghan-peace-council-leader-assassinated.html?hp> (viewed 21 September 2011); Quil Lawrence, "Killing Deals Another Blow to Afghan Peace Talks," National Public Radio, 26 September 2011, <http://www.npr.org/2011/09/26/140813996/killing-deals-another-blow-to-afghan-peace-talks> (viewed 30 September 2011).

²⁴ See Matthew Rosenberg and Jawad Sukhanyar, "Suicide Bomber Strikes Funeral in Afghanistan," *The New York Times*, 25 December 2011, <http://www.nytimes.com/2011/12/26/world/asia/suicide-bomber-strikes-funeral-in-northern-afghanistan.html?ref=afghanistan> (viewed 26 December 2011).

²⁵ See Ray Rivera, "Suicide Bombers Escalate Assaults on Afghanistan," *The New York Times*, 27 August 2011, <http://www.nytimes.com/2011/08/28/world/asia/28afghanistan.html?ref=afghanistan> (viewed 27 August 2011) (suicide bomb attacks in Helmand and Kandahar provinces killed at least seven civilians and wounded dozens more); Ron Nordland, "Insurgent Attacks Taking Toll on Afghan Civilians," *The New York Times*, 18 August 2011, <http://www.nytimes.com/2011/08/19/world/asia/19afghanistan.html?ref=afghanistan> (viewed 22 August 2011) (up to 24 civilians killed by two mines on a road in western Herat province; at least five killed in

detonation of motorcycle packed with explosives and left in market in Oruzgan province; four killed in suicide bomb attack in a residential area of Kabul; two farmers killed by roadside bomb in Helmand province).

²⁶ See Abdul Waheed Wafa and Ron Nordland, "Attack Is Latest to Jolt a Usually Quiet Afghan Area," *The New York Times*, 14 August 2011, <http://www.nytimes.com/2011/08/15/world/asia/15afghan.html?ref=afghanistan> (viewed 22 August 2011).

²⁷ "The injury toll was one of the worst for foreign forces in a single episode in the decade-long war, and the attack came in the same district of Wardak Province where in August insurgents shot down an American Chinook helicopter, killing all 30 Americans and 8 Afghans on board." Ray Rivera and Sangar Rahimi, "Blast Hits NATO Outpost in Afghanistan," *The New York Times*, 11 September 2011, <http://www.nytimes.com/2011/09/12/world/asia/12afghan.html?ref=afghanistan> (viewed 11 September 2011).

²⁸ A suicide bomber killed eight people outside a mosque in Baghlan province, in the north of the country, on 6 November. The next day, a roadside bomb in Badghis province, in western Afghanistan, killed 11 people, two of whom were police officers; the rest were family members, including six children between the ages of two months and 12 years. See Ron Nordland and Sharifullah Sahak, "8 Killed in Afghan Bombing Days After Mullah's Rebuke," *The New York Times*, 6 November 2011, http://www.nytimes.com/2011/11/07/world/asia/suicide-bomber-kills-8-in-afghanistan.html?_r=1 (viewed 6 November 2011); Ron Nordland, "Roadside Bomb Kills 11 in Western Afghanistan," *The New York Times*, 8 November 2011, http://www.nytimes.com/2011/11/09/world/asia/roadside-bomb-kills-11-in-western-afghanistan.html?_r=1&ref=world (viewed 9 November 2011). See also Amnesty International, "Taliban's Orders to Reduce Civilian Casualties 'Hypocritical,'" News, 8 November 2011, <http://www.amnesty.org/en/news/taliban-leader%E2%80%99s-orders-reduce-civilian-casualties-%E2%80%9Chypocritical%E2%80%9D-2011-11-08> (viewed 10 November 2011).

²⁹ See Ron Nordland, "Rare Attacks on Shiites Kill Scores of Afghans," *The New York Times*, 7 December 2011, http://www.nytimes.com/2011/12/08/world/asia/rare-attacks-on-shiites-kill-scores-in-afghanistan.html?_r=1&ref=afghanistan (viewed 8 December 2011).

³⁰ See Taimoor Shah and Ron Nordland, "Insurgents Kill Dozens in Southern Afghanistan," *The New York Times*, 19 January 2012, <http://www.nytimes.com/2012/01/20/world/asia/bombings-kill-17-in-southern-afghanistan.html?ref=afghanistan> (viewed 20 January 2012).

³¹ See Alissa J. Rubin, "Attack at Kabul Hotel Deflates Security Hopes in Afghanistan," *The New York Times*, 29 June 2011, <http://www.nytimes.com/2011/06/30/world/asia/30afghanistan.html> (viewed 29 June 2011).

³² See Ray Rivera and Sharifullah Sahak, "2 Car Bombs Lead Off Taliban Siege of a British Office," *The New York Times*, 19 August 2011, <http://www.nytimes.com/2011/08/20/world/asia/20afghanistan.html?ref=world> (viewed 22 August 2011).

³³ See Alissa J. Rubin, Ray Rivera, and Jack Healy, "Militants Attack U.S. Embassy in Kabul," *The New York Times*, 13 September 2011, http://www.nytimes.com/2011/09/14/world/asia/14afghanistan.html?pagewanted=1&_r=1&hp (viewed 13 September 2011).

³⁴ See Ron Nordland and Sharifullah Sahak, "13 Americans Said to Be Among Killed in Kabul Attacks,"

The New York Times, 29 October 2011, http://www.nytimes.com/2011/10/30/world/asia/deadly-attack-strikes-nato-bus-in-kabul.html?_r=1&hp (viewed 29 October 2011).

³⁵ International Crisis Group, *The Insurgency in Afghanistan's Heartland*, Asia Report No. 207, 27 June 2011, p. i, <http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/207%20The%20Insurgency%20in%20Afghanistans%20Heartland.pdf> (viewed 14 September 2011). See also Joshua Partlow and Greg Jaffe, "Taliban Strike in Kabul Shows Insurgency's Growing Reliance on High-Profile Attacks in Afghan Capital," *Washington Post*, 30 October 2011, http://www.washingtonpost.com/world/national-security/taliban-strike-in-kabul-kills-17/2011/10/29/gIQAPEVoTM_story.html?hpid=z2 (viewed 30 October 2011).

³⁶ See Khan Wali Salarzai, "Shelling from Pakistan Displaces Hundreds in Kunar," RAWA News, 21 June 2011, <http://www.rawa.org/temp/runews/2011/06/21/shelling-from-pakistan-displaces-hundreds-in-kunar.html> (viewed 22 June 2011). For a discussion of human rights abuses by Pakistani Taleban and allied insurgent groups within Pakistan's Federally Administered Tribal Areas, including cross-border operations by these groups, see Amnesty International, "'As if Hell Fell on Me': The Human Rights Crisis in Northern Pakistan," AI Index: ASA 33/004/2010 (London: Amnesty International, June 2010).

³⁷ UNAMA, *Afghanistan: Midyear Report 2011: Protection of Civilians in Armed Conflict* (Kabul: UNAMA, July 2011), p. 7.

³⁸ See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 1. The increase was even greater for the first half of each of the last two years: Civilian casualties increased by 15 percent in the first six months of 2011 over the comparable period in 2010; the 2010 mid-year figures, in turn, were 31 percent higher than those for the first six months of 2009. See UNAMA, *Midyear Report 2011*, p. 1; UNAMA, *Afghanistan: Mid-Year Report 2010: Protection of Civilians in Armed Conflict* (Kabul: UNAMA, Human Rights, August 2010), p. i.

³⁹ UNAMA recorded 368 conflict-related civilian deaths and 593 civilian injuries during the month. UNAMA, Press Statement, "May Deadliest Month for Afghan Civilians," 11 June 2011.

⁴⁰ UNAMA and Afghan Independent Human Rights Commission (AIHRC), *Afghanistan: Annual Report 2010, Protection of Civilians in Armed Conflict* (Kabul: UNAMA and AIHRC, March 2011), pp. i-ii. See also United Nations General Assembly/Security Council, 65th G.A. sess., agenda item 38, The Situation in Afghanistan, 65th S.C. year, U.N. Doc. A/65/612-S/2010/630 (2010), ¶¶ 55, 57 ("Civilians continued to bear the brunt of intensified armed conflict as civilian casualties, including deaths and injuries, increased by 20 per cent in the first 10 months of 2010 compared with the same period in 2009. . . . Compared with the same period in 2009, the number of civilians assassinated or executed by anti-Government elements in 2010 surged by more than 107 per cent. More than half of all civilian assassinations were carried out in southern Afghanistan.").

⁴¹ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," February 2011, p. 3 (on file with Amnesty International).

⁴² See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 38.

⁴³ Committee on the Rights of the Child, 56th sess., *Consideration of Reports Submitted by States Parties under Article 44 of the Convention: Concluding Observations of the Committee on the Rights of the Child: Afghanistan*, U.N. Doc. CRC/C/AFG/1 (4 February 2011), ¶ 64.

⁴⁴ UNAMA and AIHRC, *Annual Report 2010, Protection of Civilians*, p. 20.

⁴⁵ See International Crisis Group, *Aid and Conflict in Afghanistan*, Asia Report No. 210, 4 August 2011, p. 23, <http://www.crisisgroup.org/~media/Files/asia/south-asia/afghanistan/210-%20Aid%20and%20Conflict%20in%20Afghanistan.pdf> (viewed 14 September 2011).

⁴⁶ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," p. 6.

⁴⁷ UNHCR, Constraints, "2011 Country Operations Profile—Afghanistan," <http://www.unhcr.org/pages/49e486eb6.html> (viewed 29 October 2011).

⁴⁸ Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 2.

⁴⁹ Amnesty International interview, Herat, 13 June 2011.

⁵⁰ See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, pp. 1, 10; UNAMA, *Midyear Report 2011*, p. 2.

⁵¹ UNAMA, *Midyear Report 2011*, p. 5.

⁵² See UNAMA, *Midyear Report 2011*, pp. 18, 19; UNAMA and AIHRC, *Annual Report 2010*, pp. 54-55.

⁵³ See, for example, Taimoor Shah and Jack Healy, "Taliban Blamed in Death of Afghan Officer's 8-Year-Old Son," *The New York Times*, 24 July 2011, <http://www.nytimes.com/2011/07/25/world/asia/25afghan.html?ref=afghanistan> (viewed 14 September 2011).

⁵⁴ See, for example, Amnesty International, *All Who Are Not Friends Are Enemies: Taliban Abuses Against Civilians*, AI Index: ASA 11/001/2007 (April 2007).

⁵⁵ See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 38.

⁵⁶ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," p. 5. See also UNAMA and AIHRC, *Annual Report 2010*, pp. 47-49.

⁵⁷ Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 14. Similarly, the Committee on the Rights observed in February 2011:

The Committee expresses its extreme concern over attacks by insurgent groups on school facilities which have killed dozens of school children and their teachers and led to the closure of hundreds of schools throughout the country since 2007, especially in the South of the country. The Committee is particularly concerned that, in the prevailing conditions of conflict, schools have been used as polling stations during elections and occupied by international and national military forces.

Committee on the Rights of the Child, *Concluding Observations: Afghanistan*, ¶ 60. See also Amnesty International, *All Who Are Not Friends Are Enemies*, pp. 17-22. See generally Zama Coursen-Neff and Bede Sheppard, "Schools as Battlegrounds: Protecting Students, Teachers, and Schools from Attack," in *World Report 2011* (New York: Human Rights Watch, 2011), pp. 36-50; Human Rights Watch, *Schools and Armed Conflict: A Global Survey of Domestic Laws and State Practice Protecting Schools from Attack and Military Use* (New York: Human Rights Watch, 2011).

⁵⁸ UNAMA, *Midyear Report 2011*, p. 4.

⁵⁹ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," p. 5.

⁶⁰ UNAMA, *Midyear Report 2011*, pp. 14-15.

⁶¹ UNAMA, *Midyear Report 2011*, p. 14.

⁶² See UNAMA and AIHRC, *Annual Report 2010*, pp. 48-49.

⁶³ Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 13.

⁶⁴ UNAMA and AIHRC, *Annual Report 2010*, p. 18. On the use of "night letters," see, for example, Human Rights Watch, *Lessons in Terror: Attacks on Education in Afghanistan* (New York: Human Rights Watch, 2006). See also Thomas H. Johnson, "The Taliban Insurgency and an Analysis of *Shabnamah* (Night Letters)," *Small Wars and Insurgencies*, vol. 18 (September 2007), pp. 317-44.

⁶⁵ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," p. 3.

⁶⁶ See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 11.

⁶⁷ See UNAMA, *Midyear Report 2011*, p. 20. The annual figures for 2011 show that civilian deaths decreased by 1 percent and civilian injuries fell by 16 percent from 2010. See UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 22.

⁶⁸ UNAMA observed, "Although civilian casualties from airstrikes dropped significantly from 2009 to 2010, that trend appears to be reversing. Airstrikes caused 119 civilian casualties including 79 deaths and 40 injuries, compared with 69 deaths and 49 injuries in 2010." UNAMA, *Midyear Report 2011*, p. 23. See also UNAMA and OHCHR, *Afghanistan: Annual Report 2011*, p. 4.

⁶⁹ UNAMA, *Midyear Report 2011*, p. 24. The International Security Assistance Force (ISAF) ordered an investigation into the airstrike, which took place in Kunar province on 14 March 2011 and killed the two children, ages 11 and 17, in Kunar Province, who local officials said were watering their family's field when a helicopter fired on them. In another incident in Kunar province on 1 March 2011, "NATO helicopter gunners mistakenly killed nine boys collecting firewood." Ray Rivera, "Afghanistan Sets Timetable for Phasing Out Most Private Security Companies," *New York Times*, 17 March 2011, p. A6.

⁷⁰ Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 5.

⁷¹ *Ibid.* p. 6. "The region had seen previous displacement of small numbers fleeing persecution and/or intimidation, however since the air attacks in January, displacements have occurred on a larger scale. As the operations were expected to intensify, prospects of return of IDPs remain thin for now." *Ibid.*

⁷² UNAMA, *Midyear Report 2011*, pp. 4, 25. See also Open Society Foundations and The Liaison Office, *The Cost of Kill-Capture: Impact of the Night Raid Surge on Afghan Civilians* (Kabul: Open Society Foundations and The Liaison Office, September 2011), p. 7 ("Night raids are viewed with such hostility that even one night raid in an area can be enough to undo other trust-building efforts.").

⁷³ UNAMA, *Midyear Report 2011*, p. 30.

⁷⁴ UNAMA and AIHRC, *Annual Report 2010*, p. 52. An elder from Zharay told UNAMA and AIHRC, "In ISAF's operation, they have destroyed our irrigation canal, our mulberry trees, our nurseries. . . . This is a major harm to the civilian population." UNAMA and AIHRC found that "Panjwayi and Zhari districts were the worst affected, but there was also significant destruction of property in Arghandab and Dand."

In addition, “[i]n January 2011, a commission appointed by President Karzai concluded that ‘800 to 900 houses were destroyed besides crops and fields and more than 100,000 fertile and non-fertile trees’ during operations in Kandahar.” Ibid. pp. 53, 52 (quoting Taimoor Shah and Rod Norland, “Afghan Panel and U.S. Dispute War’s Toll on Property, *New York Times*, 13 January 2011)).

⁷⁵ “The impact of military operations on standing crops/orchards/fields including on homes has resulted in displacement of populations including destruction of traditional livelihood measures. For instance the destruction of pomegranate orchards including the impact of land mines/ERW [explosive remnants of war] will deter resumption of this traditional livelihood activity.” Afghanistan Protection Cluster, “Protection Overview (Southern Region – 2010),” p. 6.

⁷⁶ Human Rights Watch, *“Just Don’t Call It a Militia”: Impunity, Militias, and the “Afghan Local Police,”* (New York: Human Rights Watch, 2011), p. 1. See also *ibid.*, pp. 2, 27-41.

⁷⁷ Of the cases of abuse documented by Human Rights Watch, the investigation found seven “credible,” 15 “credible in part,” and 10 “not credible.” It did not reach a finding on 14 cases. Among the report’s general findings was that “[t]he ALP [Afghanistan Local Police] formula is effective and serves as an example of how risk mitigation can be applied to the challenge of implementing local security solutions in Afghanistan.” See United States Forces-Afghanistan, Memorandum for Record: Findings and Recommendations (AR 15-6 Investigation – Credibility Assessment of Allegations of Human Rights Violations Appearing in a Human Rights Watch Report), Doc. No. USFOR-A-DJ2, 6 December 2011 (redacted and unclassified version), pp. 3-6, 8, <http://www.isaf.nato.int/images/stories/File/2011-12-06%20AR15-6%20Findings%20and%20Recommendations%20on%20ALP%20Report%20%28EXSUM%29%20%28Redacted%29.PDF> (viewed 21 December 2011).

⁷⁸ See UNAMA and UN Office of the High Commissioner for Human Rights, *Treatment of Conflict-Related Detainees in Afghan Custody*, October 2011, pp. 2-4, http://unama.unmissions.org/Portals/UNAMA/Documents/October10_%202011_UNAMA_Detention_Full-Report_ENG.pdf (viewed 10 October 2011). The same week that UNAMA released its report, news accounts reported that a man admitted to a hospital in Khost province after 12 days in detention by Afghan intelligence services arrived badly beaten, suffering from kidney failure and slipping in and out of consciousness. The National Directorate of Security denied these reports, saying that an internal investigation had determined that the allegations of mistreatment were “baseless” and that the man had fabricated the account “to escape from the law, show himself innocent and hide his crimes.” The agency’s conclusions could not be verified, and doctors told reporters that government officials and security guards took the man from the hospital in Khost shortly after they spoke out about his condition. See “Detainee Hovers Near Death After a Stint in Spy Agency Jail,” *International Herald Tribune*, 15-16 October 2011, p. 4; Jack Healy and Sharifullah Sahak, “Spy Agency in Kabul Denies Claim of Abuse,” *The New York Times*, 22 October 2011, <http://www.nytimes.com/2011/10/23/world/asia/spy-agency-says-inquiry-shows-it-did-not-abuse-preacher.html?ref=asia> (viewed 24 October 2011).

⁷⁹ An October 2010 Open Society Foundations report observed, “Incidents of civilian casualties, night raids, wrongful or abusive detentions, deteriorating security, and the perceived impunity of international forces have generated negative stereotypes of international forces as violent, abusive, and sometimes, deliberately malevolent in their conduct and nature.” Erica Gaston and Jonathan Horowitz, *The Trust Deficit: The Impact of Local Perceptions on Policy in Afghanistan* (Open Society Foundations, 7 October 2010), p. 2.

⁸⁰ See Refugees International, *Responsible U.S. Transition Must Address Displacement Crisis*, p. 2.

⁸¹ See, for example, "Afghanistan: Marjah Residents Take Stock After Offensive," IRIN, 16 March 2010, <http://www.irinnews.org/report.aspx?reportid=88439> (viewed 12 October 2011).

⁸² UNHCR, "UNHCR Afghanistan – Statistical Summary of Internal Displacement in Afghanistan (Updated as of 31 March 2011)" (on file with Amnesty International). UNHCR uses "persecution and conflict-induced" to mean "forced displacement caused by hostilities between the parties to the ongoing armed conflict, serious or systematic violations of international humanitarian or human rights law, violent ethnic or tribal clashes, or violent disputes over land or other natural resources. This can also include forced displacement caused by persecution, when serious or systematic human rights violations are targeted at a particular community or individual." Natural-disaster-induced displacement "refers to forced displacement caused by natural or human made disasters. The most common disasters in Afghanistan generating forced displacement consist of drought, floods, severe sand-storms and earthquakes." Ibid.

⁸³ See U.S. Committee for Refugees, *World Refugee Survey: 1989 in Review* (Washington, D.C.: U.S. Committee for Refugees, 1990), cited in Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, p. 1.

⁸⁴ See Rupert Colville, "The Biggest Caseload in the World," *Refugees Magazine*, 1 June 1997, <http://www.unhcr.org/3b680fbfc.html> (viewed 30 October 2011).

⁸⁵ See Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, pp. 10-12.

⁸⁶ For an overview of returns in 2002 and 2003, see Amnesty International, *Afghanistan: Out of Sight, Out of Mind: The Fate of the Afghan Returnees*, AI Index: ASA 11/014/2003, June 2003; Amnesty International, *Afghanistan: Continuing Need for Protection and Standards for Return of Afghan Refugees*, AI Index: ASA 11/014/2002, July 2002.

⁸⁷ Mohammed Nader Farhad, "Return Figures to Afghanistan Down to 60,000 in First 10 Months," News Stories, 28 October 2011, <http://www.unhcr.org/4eaa9d119.html> (viewed 29 October 2011).

⁸⁸ AFP, "Humanitarian Aid: 'The Biggest Mistake UNHCR Ever Made,'" *The Express Tribune*, 28 December 2011, <http://tribune.com.pk/story/312714/un-says-its-afghan-refugee-strategy-a-big-mistake/> (viewed 27 January 2012).

⁸⁹ Mohammed Nader Farhad, "Return Figures to Afghanistan Down to 60,000 in First 10 Months."

⁹⁰ United Nations General Assembly/Security Council, *The Situation in Afghanistan*, ¶ 41-42.

As the Brookings-Bern Project notes, "Following the fall of the Taliban in 2001, the UN Refugee Agency (UNHCR) commenced the world's largest assisted repatriation operation in almost thirty years, assisting nearly 5 million Afghan refugees to repatriate from Pakistan, Iran and other countries of asylum. At the same time, the majority of Afghanistan's 1.2 million internally displaced persons returned home and were widely assumed to have successfully reintegrated." Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, p. 12 (citing David Turton and Peter Marsden, *Taking Refugees for a Ride? The Politics of Refugee Return in Afghanistan* (Kabul: Afghanistan Research and Evaluation Unit (AREU), 2002); UNHCR, "Afghanistan: Country Operations Profile" (2009); Internal Displacement Monitoring Centre, *Afghanistan: Increasing Hardship and Limited Support for Growing Displaced Population* (Geneva: Internal Displacement Monitoring Centre, 2008)).

⁹¹ See UNHCR, "2012 UNHCR Country Operations Profile – Pakistan,"

<http://www.unhcr.org/pages/49e487016.html> (viewed 25 January 2012); UNHCR, "2012 UNHCR Country Operations Profile – Islamic Republic of Iran," <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96&submit=GO> (viewed 25 January 2012).

⁹² Afghanistan Protection Cluster, "Protection Overview (Northern and North-Eastern Region – 2010)," p. 15.

⁹³ Afghanistan Protection Cluster, "Protection Overview (Southern Region – 2010)," pp. 8-9.

⁹⁴ Internal Displacement Monitoring Centre, IDP News Alert, "Afghanistan: Thousands of IDPs Not Reached by Humanitarian Aid," 13 January 2011, <http://www.internal-displacement.org/8025708F004CE90B/%28httpCountries%29/DFADB5842F9262BF802570A7004BA6F0?OpenDocument> (viewed 18 March 2011).

⁹⁵ See Ron Nordland, "Driven Away by a War, Now Stalked by Winter's Cold," *The New York Times*, 3 February 2012 (quoting Michael Keating, UN humanitarian coordinator in Afghanistan), <http://www.nytimes.com/2012/02/04/world/asia/cold-weather-kills-children-in-afghan-refugee-camps.html?hp> (viewed 4 February 2012). See Afghanistan Protection Cluster, "2011 Consolidated Appeal – Afghanistan Protection Cluster, 4-Monthly Impact Monitoring Report for January-April," p. 1 (reporting results of an August 2010 joint assessment by UNHCR, the Afghan Independent Human Rights Commission, and the Department of Refugees and Repatriation).

⁹⁶ Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, p. xvii.

⁹⁷ See The World Bank and UNHCR, "Research Study on IDPs in Urban Settings – Afghanistan," May 2011, pp. 7-8, http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1265299949041/6766328-1265299960363/WB-UNHCR-IDP_Full-Report.pdf (viewed 30 January 2012).

⁹⁸ Ron Nordland, "Driven Away by a War, Now Stalked by Winter's Cold."

⁹⁹ See Sphere Project, Humanitarian Charter and Minimum Standards in Humanitarian Response, "Access and Water Supply," <http://www.sphereproject.org/content/view/40/84/lang,English/> (viewed 18 June 2011).

¹⁰⁰ See Sliuzas et al., comps., *Report of the Expert Group on Slum Identification and Mapping*, p. 25.

¹⁰¹ Under these indicators, water is generally not affordable if acquiring it requires more than 10 percent of the household's income. Obtaining water should normally not take more than one hour per day for the minimum sufficient quantity of 20 litres per person per day. See Sliuzas et al., comps., *Report of the Expert Group on Slum Identification and Mapping*, p. 25.

¹⁰² See World Health Organization, *Guidelines for Drinking-Water Quality*, 4th ed. (Geneva: WHO Press, 2011), p. 84, table 5.1.

¹⁰³ Committee on Economic, Social and Cultural Rights, *General Comment No. 15: The Right to Water*, U.N. Doc. E/C.12/2002/11 (2003), ¶ 12.

¹⁰⁴ Afghanistan has a maternal mortality ratio of 1,400 maternal deaths per 100,000 live births in 2008, the worst in the world, according to the World Health Organization, the UN Children's Fund, the UN Population Fund, and the World Bank. In comparison, Pakistan's rate was 260 per 100,000; India's was 230 per 100,000; and Iran's was 30 per 100,000. After Afghanistan, the worst maternal mortality ratios were those for Chad and Somalia (1,200 per 100,000 for each country), Guinea-Bissau (1,000

per 100,000), Liberia (990 per 100,000), and Sierra Leone (970 per 100,000). See *Trends in Maternal Mortality: 1990 to 2008: Estimates Developed by WHO, UNICEF, UNFPA, and The World Bank* (Geneva: World Health Organization, 2010), pp. 28-32.

¹⁰⁵ Such reports match the findings of public health studies that Afghan women often need the authorisation of their husbands or male relatives before seeking professional health care. See, for example, Kathia Van Edmond, Marleen Bosmans, Ahmad Jan Naeem, Patricia Claeys, Hans Verstraelen, and Marleen Temmerman, "Reproductive Health in Afghanistan: Results of a Knowledge, Attitudes and Practices Survey Among Afghan Women in Kabul," *Disasters*, vol. 28 (2004), pp. 269-82; Jennifer L. Williams and Brian McCarthy, "Observations from a Maternal and Infant Hospital in Kabul, Afghanistan—2003," *Journal of Midwifery and Women's Health*, vol. 50 (2005), pp. 31-35. For a discussion of costs and lack of access to transport as causes of delay in seeking health care, see Physicians for Human Rights, *Maternal Mortality in Herat Province, Afghanistan: The Need to Protect Women's Rights* (Boston and Washington, D.C.: Physicians for Human Rights, 2002).

¹⁰⁶ See Afghanistan International Security Assistance Force, "About ISAF: Troop Numbers and Contributions," <http://www.isaf.nato.int/troop-numbers-and-contributions/index.php> (viewed 25 July 2011).

¹⁰⁷ See Statistical Office of the United Nations, *World Weights and Measures. Handbook for Statisticians*, New York: United Nations, ST/STAT/SER.M/21/Rev.1 (1966). See also James Prinsep, *Useful Tables, Forming an Appendix to the Journal of the Asiatic Society, Part I: Coins, Weights, and Measures of British India*, 2d ed. with additions (Calcutta: Bishop's College Press, 1840), pp. 79-83.

¹⁰⁸ "Rather than challenging the view put forth by military actors that internal displacement is short-term or by the Afghan government that displacement is motivated by economic factors, humanitarian actors tend to go along with these perceptions, out of a perceived inability to do more (linked to lack of access and information) or to a wariness of creating pull factors and longer-term aid dependency." Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, p. xvi.

¹⁰⁹ The Guiding Principles "reflect and are consistent with international human rights and humanitarian law and analogous refugee law." "Introductory Note by the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis M Deng," June 2001, in UN Office for the Coordination of Humanitarian Affairs, *Guiding Principles on Internal Displacement*, 2d ed. (2004).

¹¹⁰ See International Covenant on Economic, Social and Cultural Rights, opened for signature 19 December 1966, 993 U.N.T.S. 3 (entry into force 3 January 1970; accession by Afghanistan 24 January 1983), arts. 11 (right to an adequate standard of living, including adequate food, clothing, and housing), 12 (right to the highest attainable standard of health), 2(1) (undertaking to take steps to ensure rights individually and through international assistance and cooperation); Committee on Economic, Social and Cultural Rights, *General Comment 12: The Right to Adequate Food*, U.N. Doc. E/C.12/1999/5 (1999), ¶¶ 6, 17 (core obligation "to take the necessary action to mitigate and alleviate hunger"); Committee on Economic, Social and Cultural Rights, *General Comment No. 14: The Right to the Highest Attainable Standard of Health*, U.N. Doc. E/C.12/2000/4 (2000), ¶¶ 11 (interpreting the right to health to include "the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health"), 43 (core obligations), 44 (obligations of comparable priority); Committee on Economic, Social and Cultural Rights, *General Comment No. 15*, ¶ 16(f) (calling on states to ensure that

internally displaced persons “have access to adequate water whether they stay in camps or in urban and rural areas”); Guiding Principles on Internal Displacement, princs. 3, 24, and 25. See also Convention on the Rights of the Child, adopted 20 November 1989, 1577 U.N.T.S. 3 (entry into force 2 September 1990; ratified by Afghanistan 28 March 1994), arts. 27 (right to adequate standard of living) and 24 (right to highest attainable standard of health, including state obligation “to combat disease and malnutrition including . . . through the provision of adequate nutritious foods and clean drinking water”).

As the Brookings-LSE Project report notes, “the Afghan Constitution, civil code and penal code guarantee several fundamental rights and freedoms that are relevant to the prevention and mitigation of displacement. For instance, in addition to affirming the principles of nondiscrimination and equality of all citizens before the law, the 2004 Constitution affirms the rights to freedom of movement, health, employment, education, family life and other fundamental rights and freedoms for all Afghans, including those who are internally displaced.” Solomon and Stark, “Internal Displacement in Afghanistan,” in Ferris, Mooney, and Stark, *From Responsibility to Response*, p. 261.

¹¹¹ See International Covenant on Civil and Political Rights, art. 12(1), opened for signature 19 December 1966, 999 U.N.T.S. 171 (entry into force 23 March 1976; accession by Afghanistan 24 January 1983); Guiding Principles on Internal Displacement, princs. 14, 15.

¹¹² Principle 1(1) of the Guiding Principles on Internal Displacement notes:

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.

¹¹³ Committee on Economic, Social and Cultural Rights, *General Comment No. 20: Non-Discrimination in Economic, Social and Cultural Rights*, U.N. Doc. E/C.12/GC/20 (2009), ¶ 34.

¹¹⁴ Such distinctions are presumptively discriminatory: “Differential treatment based on prohibited grounds will be viewed as discriminatory unless the justification for differentiation is reasonable and objective. This will include an assessment as to whether the aim and effects of the measures or omissions are legitimate, compatible with the nature of the Covenant rights and solely for the purpose of promoting the general welfare in a democratic society. In addition, there must be a clear and reasonable relationship of proportionality between the aim sought to be realized and the measures or omissions and their effects.” Committee on Economic, Social and Cultural Rights, *General Comment No. 20*, ¶ 13.

¹¹⁵ See Guiding Principles on Internal Displacement, princ. 28(1).

¹¹⁶ See International Covenant on Economic, Social and Cultural Rights, art. 11(1); Convention on the Rights of the Child, arts. 4, 27; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), art. 14(2)(h), opened for signature 1 March 1980, 1249 U.N.T.S. 13 (entry into force 3 September 1981; ratified by Afghanistan 5 March 2003).

¹¹⁷ Committee on Economic, Social and Cultural Rights, *General Comment 4: The Right to Adequate Housing* (1991), ¶ 7.

¹¹⁸ Committee on Economic, Social and Cultural Rights, *General Comment 4*, ¶ 8.

¹¹⁹ Committee on Economic, Social and Cultural Rights, *General Comment 4*, ¶ 8(a).

¹²⁰ International Covenant on Economic, Social and Cultural Rights, art. 12.

¹²¹ Committee on Economic, Social and Cultural Rights, *General Comment 14*, ¶¶ 11, 14.

¹²² Committee on Economic, Social and Cultural Rights, *General Comment 14*, ¶ 43.

¹²³ Committee on Economic, Social and Cultural Rights, *General Comment 14*, ¶ 47.

¹²⁴ Committee on Economic, Social and Cultural Rights, *General Comment 3: The Nature of States Parties' Obligations* (1990), ¶ 12.

¹²⁵ See International Covenant on Economic, Social and Cultural Rights, art. 11(1); Convention on the Rights of the Child, art. 24(2)(c); CEDAW, art. 14(2)(h). The Committee on Economic, Social and Cultural Rights has concluded, "The right to water clearly falls within the category of guarantees essential for securing an adequate standard of living, particularly since it is one of the most fundamental conditions for survival." Water is also necessary to realise other human rights, as the committee has noted: "For instance, water is necessary to produce food (right to adequate food) and ensure environmental hygiene (right to health). Water is essential for securing livelihoods (right to gain a living by work) and enjoying certain cultural practices (right to take part in cultural life)." Committee on Economic, Social and Cultural Rights, *General Comment 15*, ¶¶ 3, 6.

¹²⁶ Committee on Economic, Social and Cultural Rights, *General Comment 15*, ¶ 3. See also *ibid.*, ¶ 12.

¹²⁷ Committee on Economic, Social and Cultural Rights, *General Comment 15*, ¶ 48.

¹²⁸ Committee on Economic, Social and Cultural Rights, *General Comment 15*, ¶ 48.

¹²⁹ See Committee on Economic, Social and Cultural Rights, *General Comment 15*, ¶¶ 25, 15.

¹³⁰ See UN General Assembly, Human Rights Council, 12th sess., agenda item 3, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation, Catarina de Albuquerque*, UN Doc. A/HRC/12/24 (2009), ¶¶ 13-54.

¹³¹ *Report of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation*, ¶ 55.

¹³² UN Economic and Social Council, Committee on Economic, Social and Cultural Rights, 45th sess., *Statement on the Right to Sanitation*, UN Doc. E/C.12/2010/1 (19 November 2010), ¶ 7.

¹³³ *Report of the Independent Expert on the Issue of Human Rights Obligations Related to Access to Safe Drinking Water and Sanitation*, ¶¶ 70-80.

¹³⁴ See Islamic Republic of Afghanistan, Ministry of Education, "National Education Interim Plan 2011-13," January 2011, p. 10, http://english.moe.gov.af/attachments/076_The%20Interim%20Plan%20-%20Final%20version%2001.pdf (viewed 22 December 2011).

¹³⁵ Committee on the Rights of the Child, *Concluding Observations: Afghanistan*, ¶ 59.

¹³⁶ See Dana Burde and Leigh L. Linden, "The Effect of Proximity on School Enrollment: Evidence from a Randomized Controlled Trial in Afghanistan," May 2009, p. 4, <http://sticerd.lse.ac.uk/seminarpapers/dg11052009.pdf> (viewed 22 June 2011).

¹³⁷ See Ministry of Education, "National Education Interim Plan 2011-13," pp. 5-6, 29.

¹³⁸ Ministry of Education, "National Education Interim Plan 2011-13," p. 30.

¹³⁹ See Ministry of Education, "National Education Interim Plan 2011-13," p. 2. See also Amnesty International, "Afghanistan Ten Years On: Slow Progress and Failed Promises," Index No. ASA 11/006/2011, October 2011, p. 6 (noting progress and then stagnation on access to education).

¹⁴⁰ See Ministry of Education, "National Education Interim Plan 2011-13," p. 45. Similarly, its response to the 2011 *Education for All Global Monitoring Report* mentions displaced children only once, and then in very general terms. The ministry's draft Strategic Plan, covering 2010 through 2014 in detail and also summarising objectives through 2020, includes objectives for increasing enrolment of girls, increasing literacy among rural learners, and increasing access to education for Kuchi children, working children, and those with disabilities and other special educational needs but makes no mention of displacement as a factor in access to education. See Islamic Republic of Afghanistan, Ministry of Education, "Response to *EFA Global Monitoring Report – 2011* (Afghanistan Section)," 7 May 2011, p. 7 ("In addition, with support from the partners emergency education is provided for children in insecure areas and those displaced as the result of armed conflict are mainstreamed into the regular education system."); Islamic Republic of Afghanistan, Ministry of Education, Department of Planning and Evaluation, "Draft National Education Strategic Plan for Afghanistan (1389-1393/2010-2014)," 19 Hoot 1388 [8 March 2010], pp. 4, 5, 21. But see *ibid.*, pp. 26 ("Insecurity seems to be the main reason behind the low enrollment rates" in Helmand and Kandahar provinces), 29 ("girls' education suffers the most in insecure provinces"), 30 (same), 32 (noting that insecurity has a negative impact on pupil-teacher ratios), 32-33 ("security problems" are among reasons for dropping out of school).

¹⁴¹ See, for example, Islamic Republic of Afghanistan, Ministry of Education, EMIS Department, General Directorate of Planning and Evaluation, *1387-88 (2008-2009) Education Summary Report* (Kabul: Ministry of Education, July 2009).

The lone reference to displacement in the 2008-2009 *Education Summary Report* is in a discussion of possible factors for the large number of students "permanently absent" from school: "The Ministry has to know the reasons behind these drop outs which can possibly be lack of security, illness, economic reasons, marriage, displacement, disapproval of continued education, education quality, migration to private sector institutes, bad education environment and many others of the same and other categories." *Ibid.*, p. 21.

¹⁴² "Education is the right of all citizens of Afghanistan, which shall be offered up to the B.A. level in the state educational institutes free of charge by the state." Afghan. Const., art. 43. See also Education Law, Decree No. 56, 31 Saratan 1387 [21 July 2008], *Official Gazette* No. 955, art. 4.

¹⁴³ "[T]here are often informal user fees that can deter poor parents from sending children to school. Many schools surveyed in the field research charged end-user fees, generally for the purpose of supporting extra teachers, raising funds for a new school building, and other costs related to keeping schools operational. This echoes findings from research conducted by Oxfam in Daikundi in 2006, where 85% of schools charged end-user fees, and from the Human Rights Research and Advocacy Consortium (HRRAC) in 2004, which estimated the average annual cost in Kabul of sending a child to first grade was 350 afghani (USD 8), to fifth grade 1,000 afghani (USD 22), and to ninth grade 1,700 afghani (USD 37)." Oxfam et al., Joint Briefing Paper, *High Stakes: Girls' Education in Afghanistan* (Kabul: 24 February 2011), p. 12.

¹⁴⁴ "The Committee is further concerned that budgetary allocations to the education sector remain insufficient to build and restore school infrastructure and to enforce the provision of free and compulsory education which may lead schools to ask parents for so-called 'voluntary' donations." Committee on the

Rights of the Child, *Concluding Observations: Afghanistan*, ¶ 59.

¹⁴⁵ Afghanistan Protection Cluster, “Protection Overview (Northern and North-Eastern Region – 2010),” p. 14.

¹⁴⁶ Amnesty International interview, Herat, 11 June 2011.

¹⁴⁷ Amnesty International interview, Mazar-e-Sharif, 15 June 2011.

¹⁴⁸ Amnesty International interview, Herat, 12 June 2011.

¹⁴⁹ Amnesty International interview, Herat, 12 June 2011.

¹⁵⁰ Committee on Economic, Social and Cultural Rights, *General Comment 13: The Right to Education*, U.N. Doc. E/CN.12/1999/10 (1999), ¶ 1, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G99/462/16/PDF/G9946216.pdf?OpenElement> (viewed 13 October 2011).

¹⁵¹ Universal Declaration of Human Rights, art. 26, G.A. Res. 217A(III), U.N. Doc. A/810, p. 71 (1948); International Covenant on Economic, Social and Cultural Rights, art. 13; Convention on the Rights of the Child, art. 28.

¹⁵² International Covenant on Economic, Social and Cultural Rights, art. 13(2)(a), (b). Similarly, the Convention on the Rights of the Child recognises “the right of the child to education,” with primary education “compulsory and available free to all” and secondary education “available and accessible to every child.” Convention on the Rights of the Child, art. 28(1)(a), (b). In addition, the International Covenant on Civil and Political Rights guarantees every child the right to “such measures of protection as are required by his status as a minor,” a right that the Human Rights Committee has interpreted to include education sufficient to enable children to develop their capacities and enjoy their human rights. See International Covenant on Civil and Political Rights, art. 24; Human Rights Committee, 35th sess., *General Comment 17: Rights of the Child (Art.24)* (1989), ¶ 3, <http://www.unhcr.ch/tbs/doc.nsf/%28Symbol%29/cc0f1f8c391478b7c12563ed004b35e3?Opendocument> (viewed 13 October 2011). On the requirement that education be affordable to all, see Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 6(b)(iii); see also Committee on Economic, Social and Cultural Rights, *General Comment 11: Plans of Action for Primary Education*, U.N. Doc. E/C.12/1999/4 (1999), ¶ 7 (characterising as “unequivocal” the obligation to provide primary education free of charge).

¹⁵³ See Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ (6)(a), (b)(ii).

¹⁵⁴ See Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 6(c), (d).

¹⁵⁵ See International Covenant on Economic, Social and Cultural Rights, art. 2(2); Convention on the Rights of the Child, art. 2; Convention against Discrimination in Education, art. 1, adopted 14 December 1960, 429 U.N.T.S. 93 (entered into force 22 May 1962; accepted by Afghanistan 25 January 2010). See also International Covenant on Civil and Political Rights, art. 26.

“The prohibition against discrimination enshrined in article 2 (2) of the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination.” Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 31. The Committee has further clarified that “the principle of non-discrimination extends to all persons of school age residing in the territory of a State party.” *Ibid.*, ¶ 34. See also Committee on Economic, Social and Cultural Rights,

General Comment 20, ¶ 30 (“all children within a state . . . have a right to receive education”).

¹⁵⁶ See Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 51 (“The obligation to provide primary education for all is an immediate duty of all States Parties.”), ¶ 57 (noting that the provision of primary education is part of the state’s minimum core obligation); Committee on Economic, Social and Cultural Rights, *General Comment 3*, ¶ 10 (concluding that the minimum core obligation includes the provision of “the most basic forms of education”).

¹⁵⁷ See International Covenant on Economic, Social and Cultural Rights, art. 14; Committee on Economic, Social and Cultural Rights, *General Comment 11*, ¶ 10 (noting that “article 14 specifies that the target date must be ‘within a reasonable number of years’ and moreover, that the timeframe must ‘be fixed in the plan’”).

¹⁵⁸ Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 43.

¹⁵⁹ See Committee on Economic, Social and Cultural Rights, *General Comment 13*, ¶ 52.

¹⁶⁰ Guiding Principles on Internal Displacement, princ. 23.

¹⁶¹ See also Schmeidl, Mundt, and Miszak, *Beyond the Blanket*, p. 33 n.77 (“This Decree makes land available to landless IDPs and refugees returning to their places of origin—not in other areas (although land may be given in a neighboring province if the province of origin has insufficient land).”).

¹⁶² The Global Strategy for Shelter to the Year 2000 (HABITAT, 1990), point 13.

¹⁶³ As the Committee on Economic, Social and Cultural Rights acknowledges, “The use of the term ‘forced evictions’ is, in some respects, problematic. This expression seeks to convey a sense of arbitrariness and of illegality. To many observers, however, the reference to ‘forced evictions’ is a tautology, while others have criticized the expression ‘illegal evictions’ on the ground that it assumes that the relevant law provides adequate protection of the right to housing and conforms with the Covenant, which is by no means always the case. Similarly, it has been suggested that the term ‘unfair evictions’ is even more subjective by virtue of its failure to refer to any legal framework at all. The international community, especially in the context of the Commission on Human Rights, has opted to refer to ‘forced evictions’, primarily since all suggested alternatives also suffer from many such defects. The term ‘forced evictions’ as used throughout this general comment 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.” Committee on Economic, Social and Cultural Rights, 16th sess., *General Comment No. 7, The Right to Adequate Housing (Art. 11.1 of the Covenant): Forced Evictions* (1997), ¶ 3.

¹⁶⁴ Commission on Human Rights, “Forced Evictions,” Resolution 1993/77, UN Doc. E/CN.4/RES/1993/77 (1993), ¶ 1.

¹⁶⁵ Committee on Economic, Social and Cultural Rights, *General Comment No. 7*, ¶ 8-9.

¹⁶⁶ Committee on Economic, Social and Cultural Rights, *General Comment No. 4*, ¶ 8(a). See also Commission on Human Rights, Resolution 1993/77, ¶ 3 (urging Governments “to confer legal security of tenure on all persons currently threatened with forced eviction and to adopt all necessary measures giving full protection against forced eviction, based upon effective participation, consultation and negotiation”). Similarly, the UN Secretary-General’s 1993 report on forced evictions observes:

“Governments are often not required to do more than refrain from forced evictions in order to respect the right to adequate housing, as long as a commitment to provide support to the self-help housing efforts of the poor exists—through technical, legal and financial assistance. In this situation, *one of the most far-reaching measures is the provision of security of tenure.*”

See Commission on Human Rights, 50th sess., provisional agenda item 7, Question of the Realization in All Countries of the Economic, Social and Cultural Rights Contained in the Universal Declaration of Human Rights and in the International Covenant on Economic, Social and Cultural Rights, and Study of Special Problems Which the Developing Countries Face in Their Efforts to Achieve These Human Rights, Including: Problems Related to the Right to Enjoy an Adequate Standard of Living; Foreign Debt, Economic Adjustment Policies and Their Effects on the Full Enjoyment of Human Rights and, in Particular, on the Implementation of the Declaration on the Right to Development, “Forced Evictions: Analytical Report Compiled by the Secretary-General Pursuant to Commission Resolution 1993/77,” UN Doc. E/CN.4/1994/20 (1993), ¶ 160 (emphasis added).

¹⁶⁷ Committee on Economic, Social and Cultural Rights, *General Comment No. 7*, ¶ 15.

¹⁶⁸ Committee on Economic, Social and Cultural Rights, *General Comment No. 7*, ¶ 15.

¹⁶⁹ See Committee on Economic, Social and Cultural Rights, *General Comment No. 7*, ¶ 16 (“Evictions should 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 State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”)

¹⁷⁰ The UN special rapporteur on adequate housing has developed the Basic Principles and Guidelines on Development-Based Evictions and Displacement, which include detailed guidance on steps that should be taken before, during, and after evictions in order to ensure compliance with relevant principles of human rights law. With regard to the requirements for resettlement, these principles note:

At a minimum, regardless of the circumstances and without discrimination, competent authorities shall ensure that evicted persons or groups, especially those who are unable to provide for themselves, have safe and secure access to: (a) essential food, potable water and sanitation; (b) basic shelter and housing; (c) appropriate clothing; (d) essential medical services; (e) livelihood sources; (f) fodder for livestock and access to common property resources previously depended upon; and (g) education for children and childcare facilities. States should also ensure that members of the same extended family or community are not separated as a result of evictions.

UN General Assembly, Human Rights Council, 4th sess., provisional agenda item 2, *Implementation of General Assembly Resolution 60/251 of 15 March 2006, Entitled “Human Rights Council”: Report of the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, Miloon Kothari*, UN Doc. A/HRC/4/18 (2007), annex I, ¶ 52.

¹⁷¹ See Solomon and Stark, “Internal Displacement in Afghanistan,” in Ferris, Mooney, and Stark, *From Responsibility to Response*, p. 262.

¹⁷² Islamic Republic of Afghanistan, *Afghanistan National Development Strategy, 1387-1391 (2008-2013): A Strategy for Security, Governance, Economic Growth and Poverty Reduction* (Kabul: Afghanistan National Development Strategy Secretariat, n.d.), p. 130, http://www.undp.org.af/publications/KeyDocuments/ANDS_Full_Eng.pdf (viewed 30 January 2012).

- ¹⁷³ *Afghanistan National Development Strategy*, p. 13 (emphasis added).
- ¹⁷⁴ *Afghanistan National Development Strategy*, pp. 130-33.
- ¹⁷⁵ *Afghanistan National Development Strategy*, pp. 132-33.
- ¹⁷⁶ Amnesty International interview, Mazar-e-Sharif, 15 June 2011.
- ¹⁷⁷ Amnesty International interview, Herat, 12 June 2011.
- ¹⁷⁸ Amnesty International interview, Kabul, 19 June 2011.
- ¹⁷⁹ Amnesty International interview, Herat, 12 June 2011.
- ¹⁸⁰ See Guiding Principles on Internal Displacement, *Intro.*, ¶ 2.
- ¹⁸¹ Amnesty International interview, Herat, 12 June 2011.
- ¹⁸² Amnesty International interview, Mazar-e-Sharif, 15 June 2011.
- ¹⁸³ Amnesty International interview, Herat, 11 June 2011.
- ¹⁸⁴ Amnesty International interview, Herat, 12 June 2011.
- ¹⁸⁵ Amnesty International interview, Herat, 13 June 2011.
- ¹⁸⁶ Amnesty International interview, Mazar-e-Sharif, 15 June 2011.
- ¹⁸⁷ See Islamic Republic of Afghanistan, Ministry of Finance, 1390 [2011-2012] National Budget, pp. 22, 65,
http://www.budgetmof.gov.af/NationalBudget/1390%20Budget/1390_English_BudgetDocument_25th%20May%202011.pdf (viewed 29 January 2012).
- ¹⁸⁸ See Ministry of Finance, 1390 [2011-2012] National Budget, p. 8.
- ¹⁸⁹ Amnesty International interview, Herat, 12 June 2011.
- ¹⁹⁰ Amnesty International interview, Herat, 12 June 2011.
- ¹⁹¹ Amnesty International interview, Herat, 12 June 2011.
- ¹⁹² Amnesty International interview, Herat, 12 June 2011.
- ¹⁹³ Amnesty International interview, Herat, 12 June 2011.
- ¹⁹⁴ Amnesty International interview, Kabul, 8 June 2011.
- ¹⁹⁵ Amnesty International interview, Herat, 13 June 2011.
- ¹⁹⁶ Amnesty International interview, Herat, 13 June 2011.
- ¹⁹⁷ See Finland, Directorate of Immigration/COI, "Afghanistan: Report from a Fact-Finding Mission to Afghanistan, 5-19 September 2006," p. 36,
http://www.ecoi.net/file_upload/432_1196090607_finnland-directorate-of-immigration-finnish-fact-finding-mission-report-from-a-fact-finding-mission-to-afghanistan-5-19-september-2006-01-05.pdf (viewed 8 April 2011) ("The identity of the applicant is confirmed through the local register of population. Due to Afghanistan's violent past, many registers have been destroyed. Because of this, it is common, that village elders/religious authorities, give an testimony in behalf of the applicant, stating that the

applicant [is] from the family he claims [to] be.”).

¹⁹⁸ Amnesty International interview, Herat, 12 June 2011.

¹⁹⁹ Amnesty International interview, Herat, 13 June 2011.

²⁰⁰ See Solomon and Stark, “Internal Displacement in Afghanistan,” in Ferris, Mooney, and Stark, *From Responsibility to Response*, p. 268.

²⁰¹ See Brookings, “Brookings-LSE Announcement,” n.d., <http://www.brookings.edu/projects/idp/Brookings-LSE-Announcement.aspx> (viewed 30 January 2012).

²⁰² Amnesty International interview, Mazar-e-Sharif, 15 June 2011.

²⁰³ Property law is covered by Afghan Civil Code, arts. 1554-2416, *Official Gazette* No. 353, 15 Jaddi 1355 [5 January 1977] <http://www.asianlii.org/af/legis/laws/clotroacogn353p1977010513551015a650/> (viewed 4 July 2011).

The Civil Code takes precedence over religious jurisprudence. See Civil Code, art. 1.1, 1.2 (“[I]n cases where the law has a provision, the practice of religious jurisprudence is not permitted.”). If there is no applicable provision to be found in the constitution or civil code, “the court shall issue a verdict in accordance with the fundamental principles of *Hanafi* jurisprudence of Islamic *Sharia* to secure justice in the best possible way.” *Ibid.*, art. 1.2. If *Sharia* itself is silent, then the court may rely on customary law, “provided the convention does not contradict the provisions of the law or principles of justice.” *Ibid.*, art. 2. Finally, “What is proved by time”—actual practice over time—“until no reason to the contrary exists, shall be valid.” *Ibid.* art. 3(1).

The concept of adverse possession is included in article 9 of the 2000 land law; the Civil Code, articles 2279 (no claim of ownership, other than by inheritance, against a person who has continually held real estate or other goods for a continuous 15-year-period without dispute) and 2780(1) (inheritance claims extinguished if another person has occupied real estate for 33 years without dispute or objection); and article 55 of the Land Survey and Statistics Law 1965. But adverse possession may not be asserted over state lands under the civil code. See Civil Code, art. 2280(2) (“Possession of state properties, historical remains and endowed property shall not be permissible on the basis of lapse of time.”). Questions of adverse possession over government property appear instead to be governed by article 55 of the Land Survey and Statistics Law, which sets forth conditions under which “[I]and held 20 years by the occupant, continuously, without rights of ownership, pursuant to the Regulation of Cultivating Wastelands, shall be awarded to the possessor.” Land Survey and Statistics Law, 31 *Jawza* 1344 [3 June 1965], as amended 18 *Mizan* 1346 [23 September 1967], http://www.ecolex.org/ecolex/ledge/view/RecordDetails;document_Land%20Survey%20and%20Statistics%20Law..html?DIDPFDSIjsessionid=DE012BB163446AD161274256E2887EA7?id=LEX-FAOC039935&index=documents (viewed 4 July 2011).

²⁰⁴ Conor Foley, *A Guide to Property Law in Afghanistan* (Oslo: Norwegian Refugee Council, September 2005), pp. 43-44.

²⁰⁵ See Taliban Islamic Emirate of Afghanistan, Ministry of Justice, Law on Land, Decree No. 57, *Official Gazette* No. 795 (2000) (establishing Commission for Clarification and setting forth various documents that could be used to prove land ownership).

²⁰⁶ Foley, *A Guide to Property Law in Afghanistan*, pp. 39-40 (citing Land Survey and Statistics Law 1965, arts. 13-17).

- ²⁰⁷ Foley, *A Guide to Property Law in Afghanistan*, p. 43 (citing Liz Alden Wiley, *Land Rights in Crisis: Restoring Land Tenure to Afghanistan* (Kabul: Afghan Research and Evaluation Unit, March 2003)).
- ²⁰⁸ Afghan Assistance Coordinating Authority, "The National Development Framework, Government of Afghanistan," Kabul, April 2002.
- ²⁰⁹ Liz Alden Wiley, "Land and the Constitution: Current Land Issues in Afghanistan," AREU Policy Brief, August 2003, p. 1 ("Securing peace without securing peaceful and fair land relations will not bring lasting socio-political order. Conversely, systematic resolution of land conflicts is one strong route to restoring order.").
- ²¹⁰ Article 5 of the decree provides, "The recovery of all movable and immovable properties such as land, houses, markets, shops, sarai, apartments, and etc. will be effected through relevant legal organs." Under article 7, "[t]he implementation of the provisions of this decree is the responsibility of the Ministry of Repatriation; law and order organs are obliged to assist the Ministry of Repatriation in this task." Decree of the President of the Afghan Interim Administration, Ref. No. 297, on Dignified Return of Refugees, 13/03/1380 (3 June 2001), <http://www.unhcr.org/refworld/docid/3e523bc82.html> (viewed 14 January 2011).
- ²¹¹ Decree 99 of the Head of Transitional Government, regarding the Non-distribution of intact and uncultivated state-owned land, of 4/2/1381 (24 April 2002).
- ²¹² See Decree 89 of the Head of the Transitional Islamic State of Afghanistan, Regarding the Creation of a Special Property Disputes Resolution Court, 1382/9/9 (30 November 2003). For a description of the procedures of the Special Property Disputes Resolution Court, see Conor Foley, *A Guide to Property Law in Afghanistan*, pp. 29-32.
- ²¹³ See Decree 104 of the President of the Islamic Republic of Afghanistan, On Land Distribution for Settlement to Eligible Returnees and IDPs, 15/09/1384 [6 December 2005], <http://morr.gov.af/en/documents?DID=418> (viewed 22 December 2011).
- ²¹⁴ Megan Bradley, "Obstacles to Realising Guiding Principle 29 in Afghanistan," *Forced Migration Review*, December 2008, p. 25.
- ²¹⁵ Solomon and Stark, "Internal Displacement in Afghanistan," in Ferris, Mooney, and Stark, *From Responsibility to Response*, p. 268.
- ²¹⁶ Amnesty International interview, Herat, 11 June 2011.
- ²¹⁷ Amnesty International interview, Kabul, 19 June 2011.
- ²¹⁸ Amnesty International interview, Herat, 13 June 2011.
- ²¹⁹ Amnesty International interview, Kabul, 8 June 2011.
- ²²⁰ Amnesty International interview, Kabul, 8 June 2011.
- ²²¹ Amnesty International interview, Mazar-e-Sharif, 15 June 2011.
- ²²² Amnesty International interview, Mazar-e-Sharif, 15 June 2011.
- ²²³ Amnesty International interview, Kabul, 19 June 2011.
- ²²⁴ Amnesty International interview, Kabul, 19 June 2011.



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THE PLIGHT OF THE INTERNALLY DISPLACED IN AFGHANISTAN

About 400 people are displaced every day in Afghanistan. With the conflict intensifying in recent years, entire communities have fled their homes in search of greater security – and their numbers are rising.

Tens of thousands of people have sought shelter in slums in the capital, Kabul, as well as Herat, Mazar-e-Sharif and other cities. They construct makeshift dwellings in abandoned lots, living day to day under the constant threat of eviction.

Even in the context of widespread poverty and malnourishment in Afghanistan, displaced families who seek safety in these slums are among the worst off. The abysmal conditions in which they are forced to live – with little or no access to clean water, food, health care and schools, often for months or years – fall far short of the requirements of international law.

Yet many Afghan officials deny that internal displacement is a problem, or dismiss those who have fled insecurity as “economic migrants”.

As a consequence of the conflict, many of the displaced are viewed with suspicion, even by those who are charged with ensuring their safety. But such attitudes cannot be used to deny them protection. Working with international donors, Afghanistan must take decisive action to provide displaced people with adequate housing, protect them against forced eviction, and ensure that their rights to food, water, health, and education are fulfilled.

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Index: ASA 11/001/2012
February 2012

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