UNHCR POSITION ON RETURNS TO AFGHANISTAN
August 2021

Introduction

1. In the wake of the withdrawal of international troops from Afghanistan, there has been a rapid deterioration in the security and human rights situation in large parts of the country.¹ The Taliban has taken control of a rapidly increasing number of districts, with their advance accelerating in August 2021, to capture 26 out of 34 of Afghanistan's provincial capitals in the space of ten days, ultimately taking control of the presidential palace in Kabul.² The upsurge of violence has a serious impact on civilians, including women and children.³ UNHCR is concerned about the risk of human rights violations against civilians, including against women and girls and against Afghans who are perceived by the Taliban to have a current or past association with the Afghan government or with the international military forces in Afghanistan or with international organizations in the country.⁴

2. It is estimated that since the beginning of 2021 over 550,000 Afghans have been externally displaced by conflict within the country, including 126,000 new IDPs between 7 July 2021 and 9 August 2021. While there are as yet no precise figures about the number of Afghans who have fled the country due to the hostilities and human rights violations, sources indicate that tens of thousands of Afghans have crossed international borders in recent weeks.

**Access to the Territory and International Protection**

3. As the situation in Afghanistan remains fluid and uncertain, UNHCR calls on all countries to allow civilians fleeing Afghanistan access to their territories and to ensure respect for the principle of non-refoulement at all times. UNHCR notes the imperative to ensure that the right to seek asylum is not compromised, that borders are kept open and that people in need of international protection are not consigned to areas inside their country of origin that could potentially be dangerous. In this context, it is important to bear in mind that states have obligations, including under customary international law, to preserve cross-border access for civilians fleeing conflict and not to return forcibly refugees. The principle of non-refoulement includes non-rejection at the frontier.

4. All claims of nationals and former habitual residents of Afghanistan seeking international protection should be processed in fair and efficient procedures in accordance with international and regional refugee law. UNHCR is concerned that recent developments in Afghanistan are giving rise to an increase in international protection needs for people fleeing Afghanistan, whether as refugees under the 1951 Convention or regional refugee instruments, or as beneficiaries of other forms of international protection. The same applies to those who were already in countries of asylum before the recent escalation of violence in Afghanistan. In light of the volatile situation in Afghanistan, UNHCR welcomes steps taken by some countries of asylum to suspend decision-making on international protection needs of nationals and former habitual residents of Afghanistan, until such time as the situation in the country has stabilized and reliable information about the security and human rights situation is available to those in need of protection.

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assess the international protection needs of individual applicants. In view of the volatility of the situation in Afghanistan, UNHCR does not consider it appropriate to deny international protection to Afghans and former habitual residents of Afghanistan on the basis of an internal flight or relocation alternative.

5. For individuals whose claim had been rejected prior to recent events, the current situation in Afghanistan may give rise to changed circumstances, which need to be considered if a new asylum claim is submitted.

6. There may be individuals who have been associated with acts that bring them within the scope of the exclusion clauses contained in Article 1F of the 1951 Convention. In such cases, it will be necessary to examine carefully any issues of individual responsibility for crimes which may give rise to exclusion from international refugee protection. In addition, to preserve the civilian character of asylum, States would need to assess the situation of arrivals carefully so as to identify armed elements and separate them from the civilian refugee population.

Non-Return Advisory

7. As the situation in Afghanistan is volatile and may remain uncertain for some time to come, coupled with an unfolding humanitarian emergency in the country, UNHCR calls on States to suspend the forcible return of nationals and former habitual residents of Afghanistan, including those who have had their asylum claims rejected. A moratorium on forced returns to Afghanistan would need to stay in place until the situation in the country has stabilized, pending an assessment of when the changed situation in the country would permit return in safety and dignity. The bar on forcible return serves as a minimum standard and needs to remain in place until such time as the security, rule of law, and human rights situation in Afghanistan has significantly improved to permit a safe and dignified return of those determined not to be in need of international protection.

8. In line with the commitment by UN Member States under the Global Refugee Forum to the equitable sharing of responsibility for international refugee protection, UNHCR also considers that it would not be appropriate to forcibly return nationals or former habitual residents of Afghanistan to countries in the region, in view of the fact that countries such as Iran and Pakistan have for decades generously hosted the vast majority of the total global number of Afghan refugees.

9. UNHCR will continue to monitor the situation in Afghanistan with a view to assessing the international protection needs arising out of the current situation.

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