

# Access to Tazkera and other civil documentation in Afghanistan



NORWEGIAN  
REFUGEE COUNCIL



SAMUEL HALL.

Researched and written by: Samuel Hall and the Norwegian Refugee Council

Photographs: Jim Huylebroek and Farzana Wahidy

Legal Editor: Sarah Adamczyk

Design and layout: Chris Herwig

This document has been produced with the financial assistance of the European Union (EU), United Nations High Commissioner for Refugees (UNHCR), Danish International Development Agency (Danida) and of the Swedish International Development Cooperation Agency (SIDA). The contents of this document are solely the responsibility of the Norwegian Refugee Council and can under no circumstances be regarded as reflecting the position of the European Union, UNHCR, Danida or the Swedish government.

The Norwegian Refugee Council (NRC) is an independent, international, humanitarian non-governmental organisation which provides assistance, protection and contributes to durable solutions for refugees and internally displaced people worldwide. [www.nrc.no](http://www.nrc.no)

Samuel Hall is an independent think tank providing research and strategic services, expert analysis, tailored counsel and access to local knowledge for a diverse array of actors operating in the world's most challenging environments. [samuelhall.org](http://samuelhall.org)

#### Acknowledgements:

Thanks are due to everyone who participated in the researching and drafting of this report, in particular the staff from Samuel Hall and from NRC's Information, Counselling and Legal Assistance (ICLA) programme in Afghanistan. Particular thanks go to Dominika Kronsteiner, Mohammad Abdoh, Ezzatullah Raji, Christopher Nyamandi, Dan Tyler, Kirstie Farmer, Monica Sanchez Bermudez and Dimitri Zviadadze. Samuel Hall would like to thank Marion Guillaume, Nassim Majidi, Ibrahim Ramazani and Abdul Basir Mohmand.

NRC also wishes to thank the individuals who participated in the focus group discussions and interviews, and who shared their personal experiences for this research.



# TABLE OF CONTENTS

<b>RECOMMENDATIONS .....</b>	<b>6</b>
<b>Introduction and Methodology .....</b>	<b>9</b>
<b>1. Legal Framework.....</b>	<b>12</b>
1.1 International Law .....	12
1.2 National Law.....	12
<b>2. Procedures to Obtain Identification and Civil Documentation.....</b>	<b>16</b>
2.1 Personal Identification Documents .....	16
2.2 Civil Registration and Documentation .....	19
2.3 Gaps and Challenges within the Current Legal Framework.....	21
<b>3. Possession of Civil Documentation .....</b>	<b>23</b>
3.1 Overall rates of possession .....	23
3.2 The impact of displacement on document possession.....	24
3.3 Tazkera .....	25
3.4 Passports .....	26
3.5 Birth certificates .....	26
3.6 Marriage certificates.....	26
<b>4. Understanding the documentation challenges facing IDPs .....</b>	<b>28</b>
4.1 Living outside place of origin.....	28
4.2 Security .....	29
4.3 Finances .....	29
4.4 Verification of Identity.....	29
4.5 Women and girl's lack of documentation .....	29
4.6 Ethnic Minorities.....	31
4.7 Children and Youth .....	32
4.8 Rural-Urban Divide .....	33
4.9 Corruption in state institutions.....	34
4.10 Civil registry technical challenges .....	34
<b>5. The Impact of Lack of Documents .....</b>	<b>35</b>
5.1 Women's inheritance and marital property rights.....	35
5.2 Access to livelihoods .....	36
5.3 Access to humanitarian aid .....	36
5.4 Access to health services .....	36
5.5 Access to education .....	37
5.6 Access to other documentation .....	37
5.7 Freedom of movement .....	37

5.8 Political representation .....	38
5.9 Harassment from the authorities .....	38
5.10 Access to justice .....	38
5.11 Access to credit.....	38
5.12 Achieving durable solutions .....	38
5.13 Cycle of poverty from of lack of documentation.....	39
5.14 Summary of the impact of lack of identity and civil documentation.....	40
<b>6. Key stakeholders in civil documentation .....</b>	<b>42</b>
6.1 Stakeholder mapping .....	42
6.2 Government of Afghanistan .....	42
6.3 International organisations .....	43
6.4 Local NGOs and CSOs .....	43
6.5 Key programmes and financial support addressing civil documentation .....	44
<b>7. Key processes .....</b>	<b>45</b>
7.1 Issuing machine-rolled passports .....	45
7.2 Moving towards the e-tazkera.....	45
7.3 Digital records.....	46
<b>Conclusions and Key Recommendations.....</b>	<b>47</b>
<b>Bibliography.....</b>	<b>51</b>
<b>Annexes .....</b>	<b>52</b>

## ACRONYMS

AIBA	Afghanistan Independent Bar Association
AIHRC	Afghanistan Independent Human Rights Commission
BORDA	Bremen Overseas Research and Development Association
DRC	Danish Refugee Council
EVAW	Elimination/End of Violence Against Women
GIRoA	Government of the Islamic Republic of Afghanistan
HLP	Housing, Land and Property
IASC	Inter-Agency Standing Committee
ICLA	Information, Counselling and Legal Assistance
IDP	Internally displaced person
IOM	International Organization for Migration
KIS	Kabul informal settlement
Mol	Ministry of Interior Affairs
MoJ	Ministry of Justice
MoLSAMD	Ministry of Labour, Social Affairs, Martyrs and the Disabled
MoWA	Ministry of Women's Affairs
NGO	Non-governmental organisation
NRC	Norwegian Refugee Council
PRD	Population Registration Department
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund

## RECOMMENDATIONS

### Access to Tazkera for Displaced Persons Outside Their Place of Origin

Displaced persons should have the option to submit their applications for a tazkera without returning to their place of origin. The following actions should be taken:

1. The Government should establish a system of communication between offices to verify the identity of an applicant to enable the application of a tazkera outside of their place of origin or Kabul. This would facilitate applications by displaced persons in their nearest registration office, without having to return to their place of origin or Kabul.
2. The Government should establish more offices where displaced persons can apply for a tazkera.

### Equality in Access to Tazkera for Women

In 2010 there was a positive change in the law, eliminating the requirement for women to bring male witnesses to renew their tazkera. However, in some regions women are still asked to bring male witnesses. In order to ensure implementation of the law, the following actions should be taken:

3. Humanitarian and development organisations working on civil documentation should include this information in awareness-raising initiatives. The Government should endeavour to ensure compliance with the procedures in all regions of the country.

### Access to Tazkera for IDP Women

Only 21 percent of IDP women hold a tazkera compared with 44 percent of host community women and 54 percent of returnee women. Therefore, IDP women should be prioritised for support in the following ways:

4. Organisations working with IDPs should incorporate support for women to access tazkera within their programmes; including awareness-raising, counselling and representation.
5. Humanitarian and development organisations should consider initiating programmes to offer direct support to IDP women to access tazkera. They should also undertake awareness-raising activities.

### Access to Tazkera for Children to Complete Education

6. Organisations working with IDP and returnee children should support their access to tazkera as an integral aspect of programmes.
7. The Ministry of Education and Directorates of Education in provinces should not require tazkera for enrolment in education. Primary education should be accessible for all.

### Access to Tazkera for the Most Vulnerable Individuals

The study found that households with one or more vulnerabilities were significantly less likely to have a tazkera. In order to support these households the following actions should be taken:

8. The Government should institute a waiver scheme for tazkera applications and renewal fees for the most vulnerable households, as set out in the IDP Policy (Section 6.3.2 (h) and (i)).

9. Humanitarian and development organisations should consider offering transportation grants to vulnerable families to alleviate travel costs for tazkera applications and renewals.

### Access to Tazkera for Afghan Refugees Abroad

The application procedure for those applying for tazkera outside of Afghanistan is complex and often very lengthy. In order to promote access to tazkera for Afghans outside Afghanistan the following actions should be taken:

10. Afghan embassies should establish a coordination mechanism with the MoRR and Ministry of Foreign Affairs to streamline the process for tazkera applications from abroad.
11. International organisations should explore ways to support tazkera applications by Afghans abroad.

### Access to Birth Certificates for Afghan Refugee Children Abroad

12. The Government should establish a regional coordination mechanism to facilitate access to birth registration for the growing numbers of Afghan children born in exile.
13. International organisations working with Afghans abroad should raise awareness of the requirement to report the birth of their children to the Afghan embassy/consulate within three months, as stated in the Law of Population Registration of Afghanistan.

### Addressing the Protection Gap in Civil Documentation

The study found that the lack of support for civil documentation procedures constitutes a programme gap in humanitarian response among organisations working with protection, given the severity of the impact of a lack of documentation on displaced Afghans. In order to address this, the Afghanistan Protection Cluster should take the following actions:

### The Afghanistan Protection Cluster should therefore:

14. Coordinate initiatives on civil documentation to promote a more efficient use of funding and resources responding to the needs identified in this report. This could be done by convening bi-annual meetings with the government bodies concerned, to monitor progress on the recommendations of this report, as well as the relevant provisions of the IDP Policy.
15. Coordinate awareness-raising initiatives on access to tazkera, specifically targeting IDP women, children, vulnerable households and displaced persons in rural areas.
16. Encourage those working on awareness-raising initiatives to include publicity on which steps to take and the cost of the procedures so as to reduce corruption and bribery.
17. Liaise with other clusters/sectors to identify programme initiatives to address specific civil documentation issues arising in Shelter, Food Security etc. At a minimum, potential beneficiaries who lack civil documentation should be assisted to obtain the necessary documents in order to prevent their exclusion from humanitarian assistance.
18. Raise funds specifically for direct programming to access civil documentation, such as the provision of legal assistance and other measures to overcome specific barriers for women and the most vulnerable displaced/returnees.

## Building the Capacity of Government

The study found that the lack of capacity on the “supply” side of civil documentation – understaffed or undertrained government departments – means that a significant increase in demand following awareness-raising would result in difficulties in actually obtaining the required documentation. This therefore requires capacity-building and support for the government bodies responsible. The following actions should be taken:

19. Humanitarian and development actors should provide training to government agencies, improving their understanding of the law and increasing their ability to carry out the necessary procedures for civil documentation.
20. As part of the efforts to support Afghanistan’s achievement of the Sustainable Development Goals, UNDP and other actors should provide direct sustained support to the relevant government institutions to meet **SDG 16.9: By 2030** provide legal identity for all, including birth registration.

## Implementing the National IDP Policy

The National IDP Policy, developed in 2014, identifies documentation challenges faced by vulnerable groups such as displaced persons and provides a roadmap to address these consistent with the issues outlined in this report. Currently, the modified procedures detailed in the National IDP Policy for civil documentation have not been enshrined in legislature.

21. The Government of Afghanistan should implement the National IDP policy. In particular, the relevant authorities should take steps to implement the provisions relevant to civil documentation as set out in section 1.2.

# INTRODUCTION AND METHODOLOGY

Between 1 January and 31 March 2016, over 90,000 individuals in Afghanistan fled their homes due to conflict.<sup>1</sup> These newly-displaced joined the existing 948,000 conflict-displaced persons<sup>2</sup> and the 13,000 displaced from homes due to natural disasters.<sup>3</sup> Since 2002, more than 5.7 million Afghans have returned from abroad, representing the largest displaced group seeking durable solutions.<sup>4</sup> In 2015 alone, IOM reports that over 88,400 undocumented Afghans<sup>5</sup> have either “spontaneously returned” (79,105) or been deported (9,295) from Pakistan due to threats, harassment and insecurity.<sup>6</sup>

Many of these families are in destitute situations: food, shelter, and other immediate needs are their primary concerns. Beyond the initial shock of displacement and return there are the longer term needs to reintegrate into a society that many have left decades ago. Affirming their belonging and their identity becomes key to exercising their rights and accessing services and entitlements.

## Objectives

The purpose of this research is to inform future work in supporting displacement-affected persons to access civil documentation as well as accessing other rights and services connected to it. This will in turn contribute to enabling persons affected by displacement to achieve durable solutions – whether local integration, return or settlement in another part of the country. In order to do so, this research had three primary objectives:

1. Assess the scope and consequences of the nexus between legal identity and civil documentation and displacement in Afghanistan;
2. Identify the key actors, programming and legal frameworks concerning legal identity and civil documentation for displaced persons in Afghanistan; and
3. Inform NRC’s Information, Counselling and Legal Assistance (ICLA) programme’s legal identity and civil documentation response.

## Methodology

A full methodology including key definitions and research questions is available in Annex I. A mixed-methods approach, combining primary quantitative and qualitative data was developed for this research. Research teams conducted training and research in August and September 2015 in the provinces of Balkh, Herat and Kabul. In each province, fieldwork centred around the provincial capitals – Mazar-e-Sharif, Herat, and Kabul – spreading outwards to urban, peri-urban and rural areas. A minimum of three Primary Sampling Units (PSUs) were visited in each location that included returnees and IDPs.

Researchers interviewed both host community members and displaced persons. In cases where a community consisted solely of displaced persons, host community members were selected from the nearest non-displaced community.

Fieldwork in Kabul included an additional group of interviews with Jogis to collect indicative information on the specific challenges they may face. Previous research suggests that Jogi have much lower rates of civil documentation possession than other groups, due to their non-recognition by the authorities as Afghan nationals.

Each team consisted of five male and five female enumerators. This ensured that women, highlighted in secondary research as being at a much higher risk of lack of documentation, were included in sufficient numbers to draw statistically significant conclusions.

## Quantitative survey: 1,240 completed in 3 provinces

This research uses a test-control methodology to conduct analysis, with a 3:2 ratio between the test (displaced persons) and control (host community) groups. This made possible both intra-group comparison and a more granular analysis of the displaced persons group. The initial target for this portion of the research was of 1,200 surveys. A total of 1,208 were completed

## Fieldwork Locations



towards the targets specified. Additional surveys conducted by the research team include a sample of 32 Jogi households specifically targeted in Kabul to allow for a high-level overview of the particular situation they face.

### **Qualitative survey: 45 KIIs, 12 Community leaders, 9 FGDs and 12 case studies**

Qualitative data was similarly been collected in all three provinces, along with key informant interviews in Balkh, Herat, Kabul, elsewhere in Afghanistan and abroad.<sup>7</sup> The qualitative data consists of the following:

#### **FGDs: 9 completed**

Three FGDs were conducted in each province, one with male host community members, one with displaced men, and one with a mix of displaced and host community women.

#### **Case studies: 12 completed**

To date, four case studies were conducted in each province, one each with a displaced man and woman, one with a host community member, and one with a beneficiary of NRC's legal assistance programme.

### **Community leader interviews: 12 completed**

Four community leader interviews were conducted in each province, with a minimum of one each with a displaced community leader and host community leader.

### **Key informant interviews (KIIs): 45 completed**

Key informant interviews included interviews with government staff at key ministries, staff from international organisations (such as UN organisations) and international NGOs, and staff at Afghan NGOs, amongst others.

### **Identification and definition of displaced persons and host community members:**

In a country where 76 percent of Afghans have experienced some form of displacement in their lives, an initial research question involved defining displaced persons and host community members.

<b>INTERNALLY DISPLACED PERSONS (IDPS)</b>	Under the Guiding Principles on Internal Displacement (1998), internally displaced persons are defined as “persons or group 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”. <sup>8</sup>
<b>RETURNEES</b>	Under the IOM Glossary on Migration, return is broadly defined as “the act or process of going back. This could be within the territorial boundaries of a country, as in the case of returning IDPs and demobilized combatants; or from a host country (either transit or destination) to the country of origin, as in the case of refugees, asylum seekers, and qualified nationals. There are subcategories of return which can describe the way the return is implemented, e.g. voluntary, forced, assisted and spontaneous return; as well as subcategories which describe who is participating in the return, e.g. repatriation (for refugees).” Throughout this report, the term returnee will be used only to refer to those who have lived abroad and returned to Afghanistan.
<b>HOST COMMUNITIES</b>	UNHCR defines host communities as “communities that host large populations of refugees or internally displaced persons, typically in camps or integrated into households directly.” <sup>9</sup>

Host communities are often defined in opposition to other groups – they are those who have not been displaced. However, in Afghanistan, the situation is more complex. The vast majority of Afghans have, at some point, been displaced. Therefore, stating that host community members must be persons who have never left the location of research would have drastically limited “host community” members and excluded those who might have briefly lived abroad, for example, thirty years ago. It would not be contextually relevant.

In practice, NRC staff in the field reported using a modified definition – using time since return as the most relevant cut off to differentiate between “formerly” displaced persons and “currently” displaced persons. It was agreed at the onset of the research that this cut off generally corresponded to twenty years.

As a result, and for added quality control and robustness of analysis, in all cases where the time since displacement ranged from 16-23 years, further indicators were used to identify those in forced displacement situations. Classification as returnee/IDP/host community was done using additional variables, namely, whether or not this is their province of origin and the identification of the type of community by trained researchers who were asked to categorise the community as “host,” “IDP,” “returnee” or “mixed”, based on observations, interviews and feedback from communities.

# 1. LEGAL FRAMEWORK

The legal system in Afghanistan<sup>10</sup> consists of four primary legal frameworks: statutory law, local customary law, shari'ah law and international law, which all may at times compete. Civil registration, documentation and identification procedures in Afghanistan are governed by statutory and international law.

Current procedures for issuing civil documentation are not adapted to situations of mass displacement.<sup>11</sup> Decades of civil war have damaged government institutions, disrupted regular functions and caused destruction and loss of civil registry records. The frequent change in government and political leadership has also resulted in changes to applicable legislation, creating a range of different civil documents that coexist to this day.

The problems facing Afghans around civil documentation from a legal perspective are twofold. Firstly, administrative practices are discriminatory against displaced persons and women. Secondly, a number of problems exist around the interpretation and application of the laws, including lack of awareness and limited civil service institutions, as well as capacity gaps at the issuer level.

## 1.1 International Law

The **right to be recognised as a person before the law** is one of the most basic rights and represents a *sine qua non* and precondition to the enjoyment of all other individual legal rights.<sup>12</sup> This right is set out in Article 16 of the International Covenant on Civil and Political Rights (ICCPR) and Article 6 of the Universal Declaration of Human Rights (UDHR) and is non-derogable.<sup>13</sup> It has been described as the "right to have rights" and enables each person to be a holder of rights under law.<sup>14</sup>

The **right to a nationality** has been recognised under Article 15 of the UDHR as well as Article 24(3) of the ICCPR. Article 9 of the Convention on the Elimination of Discrimination Against

Women (CEDAW) additionally requires State Parties to "grant women equal rights with men to acquire, change or retain their nationality." This was further enshrined in Afghan Law in Article 4 of the 2004 Afghan Constitution: "No individual of the nation of Afghanistan shall be deprived of citizenship."

In addition, international human rights law clearly establishes the **right to birth registration** for all children, as per Article 24.2 of the International Covenant on Civil and Political Rights (ICCPR) and reiterated in Article 7(1) of the Convention on the Rights of the Child (CRC).

Furthermore, the **right to marriage registration** is included in the 1966 Convention on the Consent to Marriage, Minimum Age for Marriage and Marriage Registration and in Article 16(2) of CEDAW, which calls on States to make marriage registration in an official registry compulsory.

For internally displaced persons, Principle 20(2) of the Guiding Principles on Internal Displacement provides that:

*[T]he authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.*

## 1.2 National Law

The Afghan Civil Code (1977) mandates the registration of personal details of an individual and the recording of vital life events and issuance of personal identification documents by the government (Art. 47) and the 2014 Registration

of Population Records Act articulates the obligation of citizens to register civil status changes (such as marriage). In practice, these documents are necessary for the exercise of civil, political and economic rights.

The key laws and policies governing the issuance of civil documentation in Afghanistan and their application to displaced persons are detailed below.<sup>15</sup>

### The Legal and Policy Framework on Civil Registration, Documentation and Identification in Afghanistan

Legal and Policy Documents	Key Provisions
<i>International Laws and Principles</i>	
1948 Universal Declaration of Human Rights (non-binding)	Article 6 – Recognises the right to be recognised before the law Article 15 – Recognises the right to a nationality
International Covenant on Civil and Political Rights (acceded by Afghanistan, 24 January 1983)	Article 16 – Recognises the right to be recognised before the law Article 24(3) – Recognises the right to a nationality for all children Article 24(2) – Requires authorities to register all births
1989 Convention on the Rights of the Child (ratified by Afghanistan, 28 March 1994)	Article 7(1) – Requires registration of children Article 7(1) – Recognises the right to a nationality of children and requires states party to this convention (including Afghanistan) to ensure the implementation of these rights
Convention on the Elimination of All Forms of Discrimination Against Women (ratified by Afghanistan, 5 March 2003)	Article 9 – Equal rights of women to acquire nationality Article 16(2) – Requires all marriages to be registered in an official registry
Guiding Principles on Internal Displacement (1998)	Principle 20(1) – Recognises the right to be recognised before the law Principle 20(2) – Requires authorities to ensure IDPs are issued identity documents and civil documentation Principle 20(3) – Women and men enjoy equal rights in accessing all identification documents
<i>Afghan Laws and Policies</i>	
2002 Agreement between Iran, Afghanistan and UNHCR Governing the Repatriation of Afghan Citizens living in Iran	Tripartite agreement, extended yearly since 2002

2007 Agreement between Pakistan, Afghanistan and UNHCR Governing the Repatriation of Afghan Citizens living in Pakistan	Tripartite agreement, extended several times, which has led to recognition of the legal status of returnees and recognition of Voluntary Repatriation Forms (VRF) as valid identity and travel documents by the Government of Afghanistan
Afghan Civil Code 1977	Governs registration and documentation of birth, marriage, dissolution of marriage and death
Citizenship Act 2000	Provisions that affect the legal status of Afghans abroad, protecting them from losing their nationality and noting that their children, as children to Afghan parents, also have the right to Afghan nationality
Passport Act 2000	Establishes tazkera, amongst other requirements, as necessary for obtaining passports (Art. 8)
Registration of Population Records Act 2000	Governs the issuance of paper tazkera, which also applies to IDPs and returnees
Afghan Constitution 2004	Constitutional responsibility to ensure no Afghan is deprived of her or his nationality
Afghan Election Law 2013	Special provision for Kuchis and refugees abroad (Art. 5) Mandates the use of tazkera for voting cards to get ballot (Art. 6)
National Internally Displaced Persons (IDP) Policy 2013	<p>Recognises the primary responsibility of the government to provide emergency assistance, long-term support and effective protection to IDPs in Afghanistan and acknowledges their vulnerability caused among other factors by the loss of personal documents (Section 2.2)</p> <p>Establishes that Mol and line departments are to prioritise issuance of an electronic tazkera to IDPs without a tazkera (Section 6.3.2 (a))</p> <p>Creates provision for Mol to build awareness among women on procedures for obtaining electronic tazkera among IDP communities (Section 6.3.2 (c) and (d))</p> <p>Notes that Mol will also consider alternative forms of proof (e.g., sworn testimony from an elder, a religious leader, a medical doctor) regarding the applicant's identity. Fee for issuance of tazkera must be waived in cases of vulnerable IDP groups (Section 6.3.2 (h) and (i))</p> <p>With regard to the loss of other documents, MoRR and Ministry of Justice undertake to review relevant laws, rules and regulations, recommend measures including amending legislations and regulations to remove obstacles to the replacement of lost documents and to ensure that IDPs are issued with documents necessary for the enjoyment and exercise of their rights (Section 6.3.3)</p>

Registration of Population Records Act 2014	<p>Does not directly mention IDPs and returnees, but the general procedure for the registration of birth and issuance of tazkera to children applies to children of IDPs and returnees as well</p> <p>Article 9(1) can be used by IDPs/returnees where they do not have any documents to prove their identity</p>
Passport Law 2015	<p>Approved by Presidential Decree in October 2015, which means it is currently applicable and its provisions must be followed</p>
Draft Strategy Plan of Ministry of Refugees and Repatriations (MoRR)	<p>Commits the MoRR to protect the rights of IDPs and ensure their access to social services. To this end MoRR undertakes to establish effective mechanisms including legal awareness programmes to provide legal aid to IDPs, returnees and refugees (Strategy 4: Social and Legal Services)</p>
Citizen's charter (forthcoming)	<p>Will detail the services, and the standard of services, that will be delivered by the Government to its people</p> <p>Will become a national priority program</p>

## 2. PROCEDURES TO OBTAIN IDENTIFICATION AND CIVIL DOCUMENTATION

### 2.1 Personal Identification Documents

#### Tazkera

The tazkera is the primary Afghan personal identification document and is “necessary to receive a variety of government services (e.g. education), employment in the government and large parts of the private sector. They are also necessary to obtain other identity documents such as passports and drivers’ licenses.”<sup>16</sup>

Under Article 3(3) of the 2014 Afghanistan Law on Registration of Population Records, the tazkera is “an official document that is printed on (polycarbonate) cards and distributed as a proof of national identity to citizens of the country pursuant to provisions of this law.” The tazkera serves as the primary identification document for Afghans and there are currently plans to develop an electronic version of the tazkera (e-tazkera) which would additionally include biometric information.

Tazkera vary in format and have changed under the successive administrations in Afghanistan. Tazkera from each of these different administrations remain in circulation. Among other information, most tazkera today contain the following:

- Photograph
- National identification number
- Full name
- Father and grandfather’s names
- Physical description
- Place of origin
- Place and date of birth
- Sex
- Marital status
- Mother tongue
- Profession
- Registration number (for PRD’s reference books)
- Date of issue<sup>17</sup>

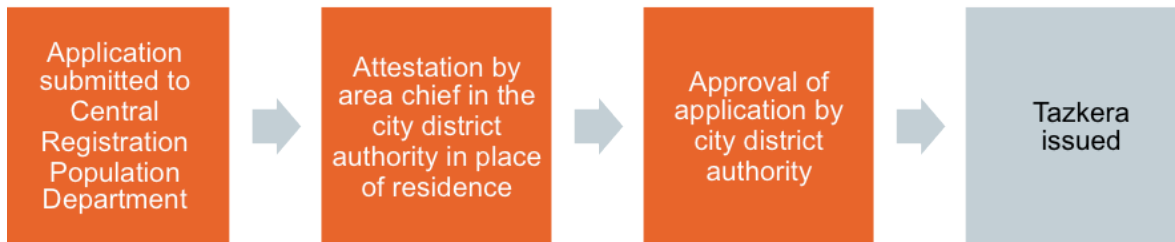
#### Tazkera Issuance Procedure in the Districts



### Tazkera Issuance Procedure in Kabul



### Tazkera Issuance Procedure in other Provincial Capital Cities (not Kabul)



The procedure for obtaining a tazkera varies depending on, inter alia, where the application is submitted. As outlined below, the process differs if the application is completed in the districts or in provincial capital cities.

The procedure for obtaining a paper tazkera requires a filled application form, six passport sized photographs for a new tazkera (four for a duplicate) and the copy of the tazkera of a male relative. Slightly modified procedures exist for Kuchis, IDPs and persons whose identity cannot be proven.

#### **Procedure for Kuchis**

“Kuchi” is the Persian word for nomad. In the Afghan context, it is used to refer to pastoral nomads (as distinguished from other nomadic persons such as the Jogi and Chori Frosh).<sup>18</sup> Kuchis who do not have a fixed place of residence can obtain tazkera in their seasonal place of residence after the applicant's identity is verified by a close relation and attested by a kuchi malik. (Art. 14 of the Registration of Population Records Act, 2014).<sup>19</sup>

#### **Procedure for IDPs**

When IDPs wish to apply for a tazkera from their current place of residence, they must bring an official letter (“Ariza”) from the Population Registration Office in Kabul – making this an alternative to the “normal” procedure, which is only useful for those IDPs living in Kabul.<sup>20</sup> Applicants must submit a request letter explaining why they cannot obtain their tazkera in their original home. IDPs cannot have their tazkera applications validated by authorities in their current place of residence.

#### **Procedure for individuals with “unknown identity”<sup>21</sup>**

When a person's identity cannot be verified in a standard manner, they can receive a tazkera only after two Afghan citizens possessing tazkera as well as the local police department attest that they are an Afghan national.<sup>22</sup> In situations where they cannot complete this process, a commission consisting of authorised representatives of the Supreme Court, the Ministries of Foreign Affairs and Migration and Immigration, the Office of the Attorney General, the National Directorate of Security (NDS) and the Office of Registration of Population Records and Foreigners' Identity Assessment shall assess the application and decide.<sup>23</sup>

#### **Procedure for Afghans living abroad**

Afghans living abroad also must complete a complex and time-consuming procedure to obtain a tazkera. The consular sections of embassies contain information for processing passport applications (both for the first time and renewals, as discussed below) but not tazkera. This is in line with the requirement, as described above, for all Afghans to return to their family's place of residence, or to Kabul, to apply for tazkera.

### Lost or damaged tazkera

Article 11 of the 2014 Population Registration Law states that applicants wishing to replace a lost or destroyed tazkera must first obtain confirmation of the destruction or loss before their re-application. To do so, the following procedures must be followed:

1. If the tazkera is lost, the applicant must advertise its loss in the media and attach the receipt for this to his/her application letter (if there is no media in the area, the testimony of two Afghan neighbours will suffice).
2. If the tazkera is damaged, the damaged tazkera must be returned with the application.
3. If the tazkera is burned, the applicant must get the confirmation of two Afghan neighbours.

### Passports

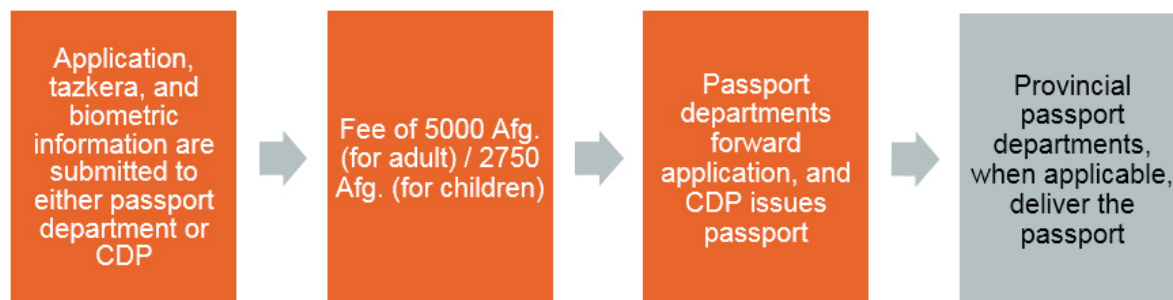
**The procedure for obtaining passports is contingent on first having obtained a tazkera.** Under the Passport Law of 2000, a

passport is issued on the provision of an original copy of the tazkera, which has been attested by the Registration of Population Record Office, in addition to the required form, four photos and a fee payment receipt (Art. 8). Biometric information of the applicant is registered during the application process.<sup>24</sup> The passport provides prima facie evidence of Afghan nationality and enables travel abroad.

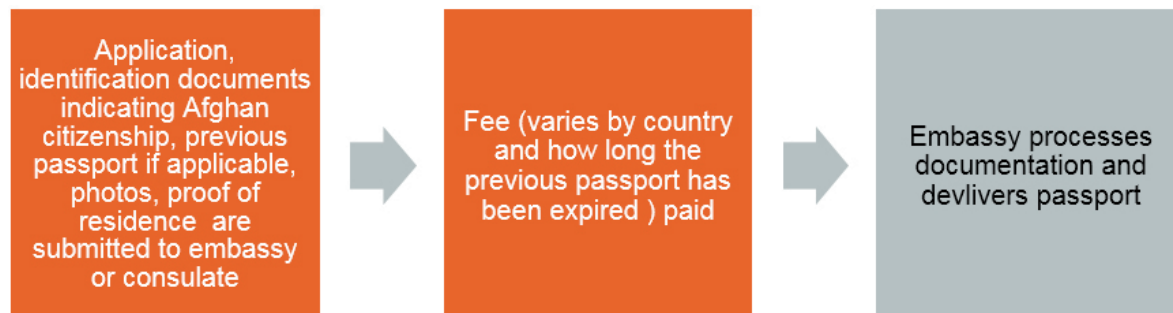
Required identification documents for those applying for passports abroad include the tazkera and previous passport (if renewal). Those born in the United States and those under 17 are not required to have a tazkera to apply for a passport – a birth certificate and proof of their parents' Afghan nationality (tazkera or passport) is sufficient.<sup>25</sup>

According to a provision of the new Passport Law (2015), Afghans whose passports have been lost or have expired while living abroad, as well as Afghans who have never had one, can apply for these at the nearest Afghan consulate or embassy. Applicants must bring their former passport with them if in possession of it – failing this, they should bring a police report describing the loss or theft.

#### Passport Application Process (for Afghans residing in Afghanistan)



#### Passport Application Process (for Afghans abroad)



## 2.2 Civil Registration and Documentation

There is a distinction between registration of vital events – i.e. the obligation of the government to record events such as birth, marriage and death – and the accompanying certificates that are issued by the government attesting to this registration. According to the United Nations, civil registration is a process described as:

*“the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population (...) in accordance with the legal requirements of a country.”<sup>26</sup>*

Although there is no internationally agreed definition of civil documentation, NRC defines it as “any official document issued by civil registrars or any other authorised state body (i.e. courts) that provides proof of an individual's civil status as a result of a personal event. Civil documentation can include birth, marriage, and death, as well as annulment of marriage, legal separation of marriage, divorce, adoption, recognition of parenthood, legitimation, and foetal death or still birth where relevant.”<sup>27</sup> Reporting vital life events such as birth, marriage and death to the Department of Registration of Population Records (DRPR) is a legal duty under Afghan law and the state has an obligation to officially record those events.

### Birth certificates

The Registration of Population Records Act 2014 obliges registration of birth by public health institutions and reporting of birth by parent(s), guardian or authority at the health centre. All births should be registered within three months. There are currently two procedures for the registration of births and subsequent issuance of birth certificates in Afghanistan, depending on whether the birth took place at home or in a medical facility.

The births of Afghan children born abroad are to be registered at the nearest Afghan Embassy or Consulate within three months.

### Marriage certificates

According to the Afghan Civil Code of 1977, every marriage has to be registered and a marriage certificate issued.<sup>28</sup> In reality, this process is rarely followed. Due to the complicated nature of the process detailed below, the marriage contract (*nekahkhat*, which contains information on the brideswealth) is generally considered sufficient and is easier to obtain.

### Birth Registration Procedures in Afghanistan

#### Home births

- Volunteer village heads and religious leaders can be authorised to perform birth registrar duties at the village level. In addition to registering the children, they can issue birth certificates for children born at home.

#### Births in medical facilities

- The Ministry of Public Health is responsible for registering the births of children born in medical facilities at the Population Registration Department. In addition to doing so, the hospitals will issue a birth certificate for the child.

## Procedure for Obtaining Marriage Certificates



As a result of the length and costs associated with this procedure, many married couples refrain from registering their marriage and therefore lack official marriage certificates, which can cause problems for travelling abroad, as described below.

## Death certificates

According to Article 20 of the Registration of Population Law 2014, the family, relatives and executor of the deceased shall notify the Population Registration Department within 30 days of the deceased's death and the department shall register this event. If the person

dies while abroad, her/his family and relatives are to notify the nearest embassy or consulate office of Afghanistan of this fact, and the embassy or consulate office registers and reports it to the Registration of Population Department in Afghanistan. Additionally, as detailed in Article 22 of the 2014 Registration of Population Records Law, the Ministry of Public Health are to establish a mechanism to register deaths in hospitals, clinics and private clinics and report these to the Registration of Population Department. Therefore whenever a death is noted by any of these health care providers, there is no need for additional witnesses to confirm the death for the purposes of registration.

## Procedure for Obtaining Death Certificates



For inheritance, however, the required document is not the death certificate but rather the *asl-ul-werasa*, which is obtained through the courts through the attestation of the mullah/wakil of the area concerned and that of three other witnesses to the death.

### Appeals procedures

While there should be no reason for relevant departments to reject applications for civil documentation when all appropriate procedures have been properly followed, in practice, when such cases happen, applicants can reach out to a superior authority within the department, or, if at the district level, to the District Governor. While Art.51 of the Constitution of Afghanistan guarantees that any citizen whose rights are violated by the administration deserves compensation, currently there is no administrative court in Afghanistan to deal with such cases.

## 2.3 Gaps and Challenges Within the Current Legal Framework

In practice, there are several key challenges for the implementation of laws on civil registration, documentation and identification in Afghanistan.

### Legal framework not adapted to circumstances of IDPs and returnees

IDPs and returnees are not mentioned in the laws governing civil registration, documentation and identification in Afghanistan. The current laws require applications for tazkera to be filed in one province of origin or central authorities in Kabul. For those living in neither place, this can be difficult, if not impossible, from a security and financial perspective.

The National IDP policy addresses some of these challenges and could be useful, if implemented. However, according to the IDMC, as of July 2015,

*“the policy had yet to deliver any positive tangible impact for IDPs themselves in terms of addressing outstanding gaps in the prevention of displacement, the delivery of protection and assistance during displacement, and facilitating durable solutions for the large numbers trapped*

*in protracted displacement.”*<sup>29</sup>

### Lack of government strategy on civil documentation

Although laws have been legislated enacted and policies adopted, the current worsening security situation and limited government capacity have hampered their implementation. The MoRR Strategy Plan does not include a work plan for implementing the National IDP Policy nor any strategy in regards to civil registration, documentation and issuance of personal identification documents for IDPs and returnees.

### Limited understanding of laws by judicial officers and others issuing documentation

Several key informants noted that staff issuing and approving documentation do not always have proper training and knowledge of the laws. Thus in many cases both the applicants and responsible officials lack knowledge of the procedures.<sup>30</sup> This can lead to procedures that are not in accordance with the law. Key informants cited cases of clerks requiring bribes to issue documentation, particularly in cases where the applicant is in a less clear-cut administrative situation.<sup>31</sup>

### Lack of a modern civil registry system

The civil registries are currently undergoing digitalisation.<sup>32</sup> However, to date it has been paper-based, with one copy in the districts and one in Kabul. These records have in some cases been damaged by age and conflict, making accessing recorded data very difficult. This also requires travel when persons are not in their place of origin or Kabul. The centralisation and paper nature of the existing registries make application of the laws around accessing civil documentation more challenging.

### Requirement of tazkera to access other documentation

Access to passports and marriage certificates requires possession of a valid tazkera. Challenges in accessing tazkera due to displacement limit

the ability of displaced persons and returnees to access other forms of documentation, including passports, birth certificates, marriage certificates and death certificates.

### **Land Titles**

A lack of tazkera or other forms of documentation may negatively impact the exercise of housing, land and property (HLP) rights for returnees or IDPs. Further, in previous research, access to HLP rights has been found to be a key area of vulnerability, especially for women.<sup>33</sup>

Access to property title deeds to prove ownership requires a tazkera. In the event of loss of property title deeds, an individual can obtain an attested copy of the title only after proving identity and presenting a tazkera.<sup>34</sup> A lack of tazkera, then, is a key obstacle to land tenure – and consequently to accessing durable solutions.

Customary property deeds are easier to obtain. They are normally drafted in the presence of all parties to the deed, three witnesses, and a local community leader, and bear the signature of all parties.<sup>35</sup> An unregistered property document is valid on the condition that the seller of the property possesses the property and the adjacent owners and residents confirm the sale.<sup>36</sup>

### 3. POSSESSION OF CIVIL DOCUMENTATION

*"The personal documents of people who flee their homes and areas of habitual residence are frequently lost or destroyed, and IDPs are often unable to obtain or replace such documents while they are in displacement. This includes national identity (ID) cards (tazkera), birth certificates, passports, and marriage certificates."<sup>37</sup>*

#### National IDP Policy of Afghanistan

Most IDP households surveyed in 2012 for the report *The Challenges of IDP Protection* possessed at least one tazkera, with 83.4 percent of males reporting having a tazkera.<sup>38</sup> From this recent research, 91 percent of Afghan men reported having at least one form of documentation, generally a tazkera.

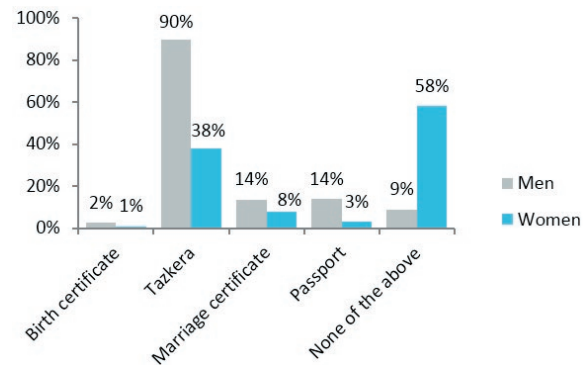
**Although displacement does not play a significant role in rates of possession, gender was revealed as the key divider. Women, especially IDP women, are significantly less likely to hold a tazkera, as well as other forms of documentation – 58 percent of women hold no documentation at all.** This is because accessing documentation is more difficult for women and the perceived need for documentation is lower. Both obstacles require solutions as they limit women's autonomy and their role as potential economic agents.

This chapter examines key trends and challenges to accessing civil documentation and identity documents in more detail.

#### 3.1 Overall rates of possession

Rates of possession of civil and identification documents differ drastically by type of document. Tazkera are by far the most common document possessed.

#### Documents Possessed, by Gender<sup>39</sup>



The tazkera has importance beyond all other documents. **Ninety percent of men possessed a tazkera compared to 38 percent of women.**

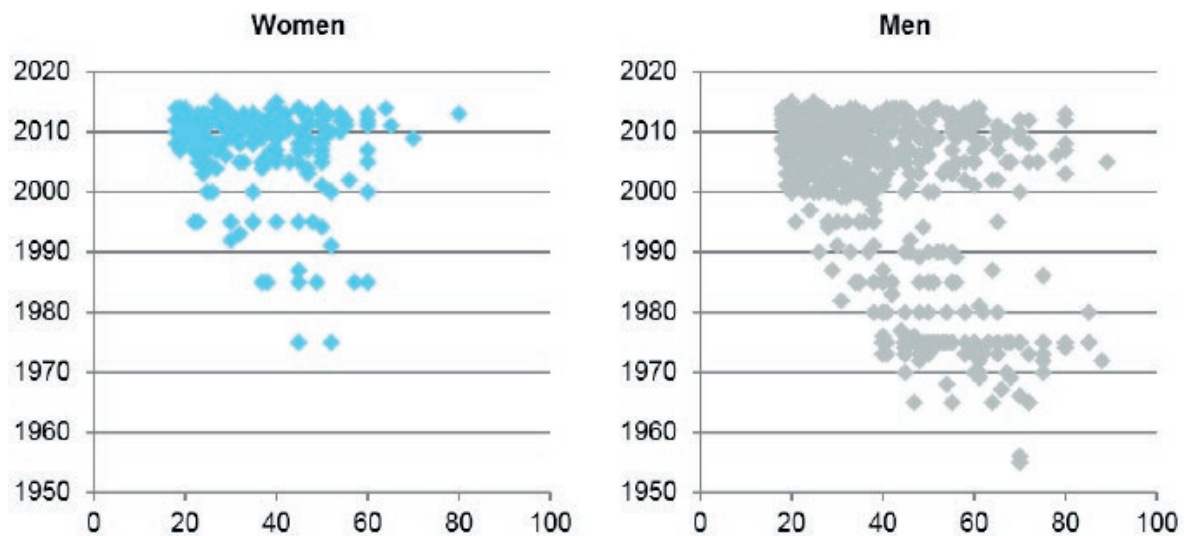
In households reporting no specific vulnerabilities<sup>40</sup> respondents were more likely to report possession of tazkera (63 percent) than in those reporting unaccompanied elders (48 percent), unaccompanied minors (36 percent), child-headed households (25 percent) and single heads of household (40 percent of the 20 in the sample). **Households run by single female heads of households are more disadvantaged in accessing documentation, as accessing tazkera requires the support of male relatives.**

"Birth certificates and marriage certificates don't really come up. They are second or third priorities for these communities."  
Key informant interview, GIZ, Balkh Province

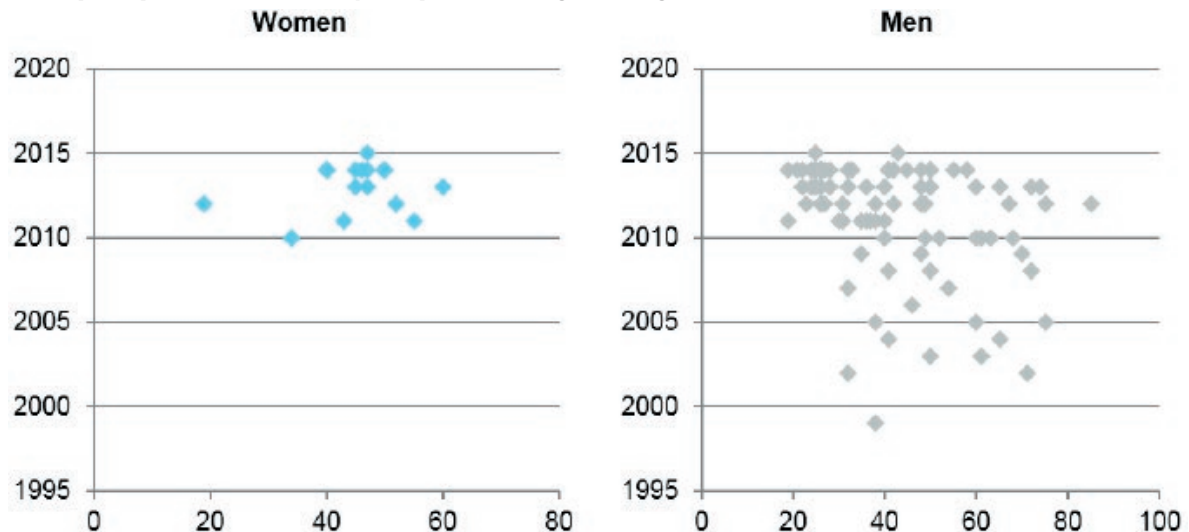
"I don't have a marriage certificate, birth certificate or passport because I don't need them," FGD, Kabul Province

"I have a tazkera but don't have the other documents like a passport and birth certificate [...] to get these documents one needs money." FGD, Kabul Province

### Year tazkera obtained, by respondent age and gender



### Year passport obtained, by respondent age and gender



While rates of possession of identification documents such as tazkera are on the increase, there is still a perception that civil documents such as birth and marriage certificates are not a necessity. NRC's experience, however, shows that when a displaced person is confronted with an event or difficulty requiring a specific document, the value of these documents is understood.

Civil and identity documents have become more common in the past ten years. Key informants

cited urbanisation (as one is more likely to need documentation in urban areas) and increased awareness of the importance of civil and identity documents as prompting this.<sup>41</sup> A brief look at when respondents possessing tazkera and passport acquired these documents confirms this trend. Most respondents, regardless of age, reported obtaining their tazkera since 2000, with significant numbers having obtained the documents in the past five years.

### 3.2 The impact of displacement on document possession

As noted in Chapter 2, current procedures under Afghan law make it more difficult for those outside their province of origin to obtain documentation, especially tazkera. This has led to the perception that returnees and IDPs are less likely to possess documentation. Returnees, for example, are at risk due to:

*“The young generation is born abroad and they have some difficulties getting reintegrated in the civil registry. The only people who have civil documents in this category are the elders and I think they do not represent more than 10 percent of the population of this category.”<sup>42</sup>*

However, despite this perception, the reality is much more nuanced, as is shown in the table below.<sup>43</sup> Displacement varies as a predictor of document possession, both by type of displacement and by type of document. In some cases, displacement actually supports possession of documents.

Generally, while IDPs prove less likely to report having each type of document, returnees may actually be more likely than host community members to possess documents.

### 3.3 Tazkera

**Only 21 percent of IDP women hold a tazkera compared with 44 percent of host community women and 54 percent of returnee women.**

This confirms findings of an earlier 2012 Samuel Hall/NRC study, which highlighted low rates of tazkera possession amongst displaced women and found only 18 percent of female IDPs interviewed holding a tazkera.<sup>44</sup>

The impact of displacement on tazkera possession is less visible for men: 87 percent of male IDPs reported having a tazkera, as compared to 88 percent of male returnees and 94 percent of host community members.

The fact that returnee women were more likely to possess a tazkera than non-returnee women,

#### Rates of identification and civil documentation possession, by displacement status

		Host community	Refugee Returnee	IDP	IDP Returnee
MEN	Tazkera	94 percent	88 percent	87 percent	86 percent
	Passport	15 percent	16 percent	11 percent	9 percent
	Birth certificate	3 percent	3 percent	2 percent	0 percent
	Marriage certificate	16 percent	19 percent	6 percent	9 percent
	None of the above	6 percent	9 percent	12 percent	14 percent
WOMEN	Tazkera	44 percent	54 percent	21 percent	43 percent
	Passport	6 percent	2 percent	1 percent	2 percent
	Birth certificate	0 percent	2 percent	0 percent	2 percent
	Marriage certificate	9 percent	14 percent	3 percent	7 percent
	None of the above	52 percent	43 percent	75 percent	52 percent

and generally were most likely to have some form of identification, suggests that living abroad underlines the importance of documentation. As tazkera are necessary to access both marriage certificates and passports, which are both required in order for married women to legally travel abroad, a slightly higher rate of possession amongst those who have been abroad is to be expected.

### 3.4 Passports

**Low rates of passport possession can be seen across the board. Only 16 percent of returnee men and 2 percent of returnee women reported having them.** Once again, IDPs are slightly less likely to report possessing them than both host community members and returnees.

### 3.5 Birth certificates

Possession of birth certificates is rare amongst both displaced and host community members. Returnees – in particular women – appear slightly more likely to possess birth certificates

than any other group, perhaps resulting from differing procedures for their issuance abroad.

### 3.6 Marriage certificates

Again, a distinction must be made between types of displacement when considering impact: while IDPs are less likely than either host community members or returnees to have official marriage certificates (*Nekahnama*) (only 6 percent of men and 3 percent of women interviewed), returnees are actually more likely to have them (19 percent of men and 14 percent of women). This can be at least partially explained by the fact that official marriage certificates are primarily reported as being necessary for travelling abroad. This is noted as the key motivation for those taking the time to follow through the complicated procedure of obtaining them:

*“[Obtaining a] marriage certificate is complicated, and before you can get it you need a paper to prove that you are single [...] people go to the court to register their marriage most of the time because they want to travel outside the country.”<sup>45</sup>*

Returnees' experiences abroad may contribute to

## RATES OF CIVIL DOCUMENTATION POSSESSION, BY COUNTRY AND STATUS IN EXILE

		Iran, with legal stay	Iran, without legal stay	Pakistan, with legal stay	Pakistan, without legal stay
MEN	Tazkera	90 percent	71 percent	89 percent	88 percent
	Passport	21 percent	29 percent	3 percent	13 percent
	Birth certificate	3 percent	0 percent	0 percent	5 percent
	Marriage certificate	14 percent	36 percent	6 percent	25 percent
	None	10 percent	11 percent	11 percent	10 percent
WOMEN	Tazkera	54 percent	49 percent	70 percent	35 percent
	Passport	8 percent	3 percent	2 percent	2 percent
	Birth certificate	0 percent	3 percent	4 percent	0 percent
	Marriage certificate	24 percent	9 percent	7 percent	9 percent
	None	41 percent	46 percent	28 percent	63 percent

their higher rates of possession of documentation for women. While abroad, they may have faced higher requirements to prove their own identity to access services and as a result, may have more knowledge around the importance of documentation for registration procedures and to access services.<sup>46</sup>

**This suggests that displacement in and of itself is not the main factor affecting possession of documentation: the type of displacement clearly impacts document possession.**

*“Displacement itself is not necessarily the main factor in not having a tazkera. There are different displacement scenarios – economic migrants, natural disaster, conflict-induced, etc. [Economic migrants can] bring everything with them because they have sufficient time to collect all the documentation. If they never had these documents, the only concern to my view would be the conflict-induced IDPs who do not do so [...] In the last two three years, with IDPs, the majority have provided us with these required documents.”<sup>47</sup>*

Those who have lived abroad, including both returnees and IDPs, overall have a higher rate of document possession. Data seems to indicate a link between the lack of legal stay in the country of exile and a lower level of tazkera ownership. No other clear trend appears to strongly differentiate documented refugees from those without legal stay.

## 4. UNDERSTANDING THE DOCUMENTATION CHALLENGES FACING IDPS

### 4.1 Living outside place of origin

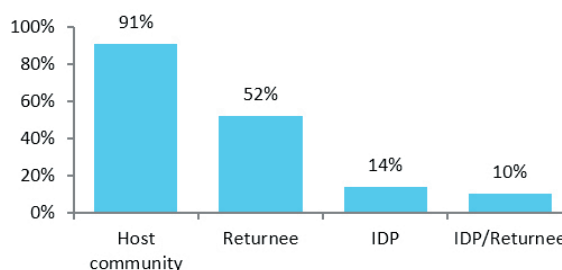
Several factors contribute to the low rates of document possession amongst IDP populations. The clearest gap is in the possession of tazkera. While progress has been made to allow IDPs to obtain their tazkera in Kabul, in many cases the procedure still requires travel to one's province of origin or to Kabul – travel which can be dangerous, expensive and time-consuming. In some cases, travel is impossible if the reasons for the initial flight still exist. In other cases the process is further complicated if records have been lost or if they have not been transferred to Kabul.

*"I have my tazkera from a long time ago. I got my tazkera in 1354 [1975/1976 in the Gregorian calendar]. My six children [as well as] my wife don't have tazkera. We have lived in Daresof but now we can't go there. One of NRC's employees went with us to the directory of tazkera but they rejected to give us tazkera, and they said we have to go to Daresof district in order to get the tazkera, so the NRC's employee couldn't get the tazkera for us." (Case Study, Male NRC ICLA beneficiary, Balkh province)*

*"Just my child has a birth certificate that the Wakil gave, but the other members of my family don't have any civil documentation. The fare to go to our place of origin and come back would be 5000 Afghanis so I can't go to get the documents." (Case Study, Male IDP, Herat province)*

Of all those interviewed, IDPs were least likely to report living in their province of origin and so are the most likely to face travel challenges to get the tazkera.<sup>48</sup> Some key informant interviews suggested that having lived abroad and being a returnee also made it more challenging to get documentation:

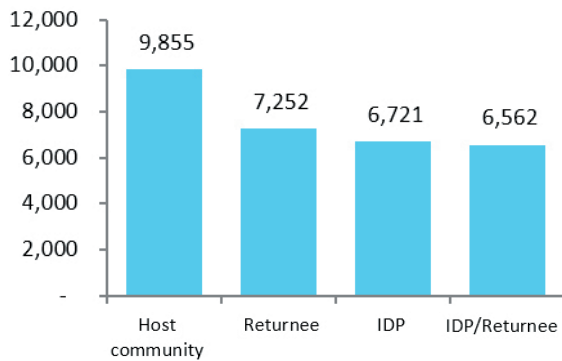
Percentage of respondents in place of origin



*"The people that are the most vulnerable are returnees. Especially the children that were born abroad and were not reported in this country. These people are not included in the civil registry and it is very complicated to reintegrate them. [...] The people who went from rural areas and emigrated abroad don't have anything proving their link to Afghanistan and they had a hard time getting a document from the administration or being recognized as citizens of this country."<sup>49</sup>*

**With the exception of children, it is not the fact of having lived abroad which is most problematic, but rather the simple fact of not being currently in one's place of origin – regardless of whether one is an IDP, host community member or returnee – especially for women, for whom it is more difficult to travel.** A total of 48 percent of women who are living in their place of origin have tazkera, compared with 30 percent of those who are not.

### Average HH income, by displacement background (in Afg/per month)



There are a number of other reasons why IDPs are less likely to have tazkera than other groups living outside their province of origin, including the following:

## 4.2 Security

For a displaced person to travel to their home province for documentation not only costs money, but also, given the current situation in Afghanistan, poses clear security concerns, especially for women.

*"It is not easy to go to the district of origin because of insecurity there. [Also] the security on the way is not good and also we don't have [money to cover associated] expenses.*

*Those who don't have tazkera, should be helped to get tazkera from Balkh province because our province of origin is insecure and we can't go. The government should move our ancestor's data to Balkh province or help the people financially."*

FGD, IDPs, Balkh province

*"We cannot go to our province of origin to get tazkera because Taliban threaten us there."* FGD, IDPs, Kabul

Seventy-nine percent of IDPs interviewed were displaced due to security concerns. Regardless of whether the displaced person is a refugee returnee or an IDP, the key question with regards to documentation is the current state of security in the place of origin, which will determine

whether or not they can return there to obtain documentation.

## 4.3 Finances

IDPs are generally worse off financially<sup>50</sup> which makes travel less feasible and limits access to tazkera and other documents, due to affordability. For example, a five-year Afghan passport costs 5,500 Afghani. As one community leader in Mazar noted

*"it is hard for people to get tazkera because every household contains more than six or seven people and the province of origin is insecure. If they go to the province of origin, they have to stay at the hotel and the procedure will take more than one week so most people are not able to pay for this."* (FGD, displaced men, Kabul)

## 4.4 Verification of identity

Tazkera access is based on recognition by family members or community elders. Focus-group discussion respondents noted that

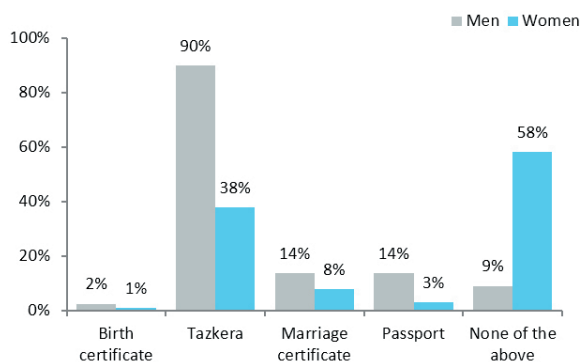
*"in some of the families their elders [have] passed away. If they didn't get tazkera before, it is hard for them to get tazkera because no one can easily confirm their identity."* (FGD, displaced men, Kabul)

Given the current context of increased displacement within Afghanistan – the events in Kunduz in late 2015 have added an estimated 17,000 displaced households to the existing caseload<sup>51</sup> – the additional challenges IDPs face are of particular concern.

## 4.5 Women and girls' lack of documentation

**Gender is the key factor in terms of predicting possession of documentation, in particular tazkera.** When it comes to tazkera, women are significantly less likely than men to possess them, across all provinces, displacement histories, age and income groups.

## Document possession by gender



The consequences of this can be severe:

*"We all know that when a girl leaves the home to marry someone and then [is referred to] us, the family never helps - they decline to cooperate - so the girl cannot obtain her tazkera. Currently we have 41 women with no fate, they cannot remarry and cannot divorce and we cannot find them jobs [due to] lack of civil documentation."*<sup>52</sup>

However, it is important to distinguish between types of civil documentation. Both women and men, for example, are unlikely to have birth certificates.

## Conservative social norms

*"We can't get documents without support and permission of the family."*

FGD respondent, displaced women, Balkh Province

**Previous research noted that "[q]ualitative interviews suggest that conservative social norms stand as the key obstacle to women's tazkera ownership, possibly influenced by a lack of access to education or other government services."**<sup>53</sup>

To obtain a tazkera, women must go to the relevant office with a male relative, who then declares them to be part of their family. Consequently, women without a close male relative – or whose male relatives do not wish them to get documentation – cannot receive a tazkera, which is crucial to receiving other documents such as passports.

*"It is not the [displacement] category of people that determines the ease of access to civil documentation; there are still important governance gaps in the system, although*

*there have been significant improvements. For example, women, whether they are part of the host communities, IDPs or returnees will always need the support of their family [to get documentation]."*<sup>54</sup>

Of all the women with tazkera interviewed, not a single one reported that their family did not support their getting a tazkera – confirming the necessity of this support.

Research has shown that displaced women are limited in their movement in displacement which makes it difficult to travel to apply for documentation, in addition to the requirement to be accompanied by a male relative. There is also a cultural perception that women do not need identity documents or civil documentation.

*"There are many women whose husbands did not allow them to get these documents, like a tazkera. They say the women are to sit in the house and there is no need for them to have these documents. For example our neighbours are not allowed to get tazkera."*  
Female Returnee Case Study Respondent, Balkh Province

Focus group respondents further raised the perspective that accessing documentation would require "inappropriate" behaviour.

*"It is not possible for a girl (single woman) to get these documents because she can't go to the governmental organizations alone. A woman cannot get these documents without the support of her family."*  
Female Returnee FGD respondents, Herat Province

*"I wanted to get tazkera for my wife. The governor said 'bring your wife in my office so I can verify her age, so I gave up because he wanted to see my wife.'"*  
Male Returnee Case Study Respondent, Balkh Province

**Case study: Soraya\*, married 25-year-old woman, returnee, Balkh Province**

I am from the Sholgara district originally and was living in Pakistan before coming here. We went to Pakistan because of the conflict and insecurity and when the security situation got better here we came back to this area, because it is very good to live in your own country.

Tazkera is important for everyone. When I returned from Pakistan, they asked me for my tazkera because they were distributing land for returnees and I went to get it. Not having identity documents negatively impacts a person's life and the person will be deprived of many of their rights. Without tazkera, you can't rent or buy house. It is also needed to find work. Tazkera is necessary if you want to move somewhere else in Afghanistan because you have to make it known that you are Afghan.

When the government said that the people who don't have tazkera can't get land, I went to get my tazkera. I went to Sholgara district with my husband, and applied for the tazkera in the office of the district. After passing some procedures we could get it in two days. We stayed one night there in Sholgara, we paid 300 Afghanis, which they said is the price of the paper. [NB: the price of the paper is 10 Afghani] Overall, we spent 2,000 Afghanis getting the tazkera. We did not face any specific challenges, but the general challenges are the remoteness of the district of origin and financial expenses. We didn't give a bribe to anyone because it is our right to have tazkera.

We want to obtain our passports and marriage certificate. The reason that we didn't take these documents until now is that the household authority is in the hands of the men and it is not important for them to have a passport or marriage certificate.

The reason that all the men have documents is that they are educated, they work, they travel, they own land and properties but women are in the house. There are many women whose husbands do not allow them to get these documents, like a tazkera. They say the women are to sit in the house, so there is no need for them to have these documents. For example, our neighbours are not allowed to get tazkera. Now that I have tazkera I know how important identity documents are. Women have the right to have these documents. They have the right to buy and rent property, travel and work. The children don't have tazkera in my household and if I would have the ability I would get it for them. Because I don't want them to face the challenges I faced. My children don't have birth certificates because they were born at home as the hospital is very far.

\* Name changed

## 4.6 Ethnic minorities

Section 6.3.2 of the National IDP Policy states that

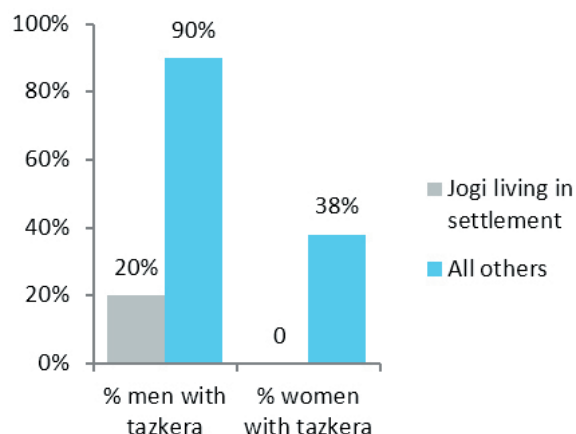
*"MoI will cooperate with MOWA, MoLSAMD and MoBTA to see that assistance is given to separated, unaccompanied or orphaned IDP children to obtain tazkera, and to members of certain groups, notably the Kuchi, Jogi and Chori Frosh, who generally do not have tazkera and who face special difficulties in acquiring them."*

This represents a key policy change from the government perspective, especially with regards to the Jogi population. Until 2011, the Jogi, a nomadic people in Afghanistan, had generally been unable to access Afghan nationality. They lacked documentation and were at risk of being stateless.<sup>56</sup> However, as long as the prescriptions of the National IDP policy have not been fully applied, the situation remains unclear.

In the past, the Afghanistan Independent Human Rights Commission had sent then-President Karzai a letter on the situation of the Jogi, and he had responded positively, sending the IDP taskforce a letter noting that the Jogi should be able to get tazkera. In practice, however, a clear difference is observed between Kabul,

where officials seem more favourable to the idea and where the Population Registration Department indicated that there was no problem for Jogi to get tazkera, and the provinces, where government officials are reportedly less open to the idea of giving Jogi tazkera.<sup>57</sup>

### Tazkera possession, Jogi vs. non-Jogi



Forthcoming research from People in Need found that 83 per cent of those Jogi who report having a tazkera actually have a Kuchi or nomadic tazkera. The primary difference with these is the addition of a winter/summer place of residence.<sup>58</sup>

Prejudice and the perception of Jogi as non-Afghan further obstruct their rights to documentation. Demonstrating this discrimination, one respondent stated:

*"I think Jogi should not be allowed to get tazkera because they don't have a particular place and identification. It is not obvious where they come from. Who are they? Why they come to Afghanistan?"*

The Kuchi, while not specifically targeted in this research, have an easier path towards documentation as they do not face the same challenges in being recognised as Afghan, and an alternative procedure to the general one has been devised for their access to tazkera. It differs from that for sedentary populations in the following ways:

Firstly, they have the option of completing most of the tazkera process within the Independent Directorate of Kuchi Affairs, although they can also choose to go through the Population Registration Department directly, as long as they

are able to contact a Kuchi *malik* for identity verification.

Secondly, Kuchis may obtain tazkera at either their summer or winter locations, and their tazkera thus list two different places of origin in accordance with the Law on Population Registration.<sup>59</sup>

Thirdly, they must contact Kuchi *maliks* to verify identity. Even well-connected Kuchi leaders described identity verification by government officials or *wakil-e guzars* as not being an option.<sup>60</sup>

### 4.7 Children and youth

Key informants brought up age as a key variable in possession of civil identification and documentation on two fronts:

- The greater need of young people for documentation is so that they can attend school. One key informant noted that "youths are most likely to [be lacking] documentation and now they want to get them because they want to get education."<sup>61</sup>
- The procedural challenges posed by displacement put displaced youth at a higher risk of lacking civil documentation.

Children form a disproportionate portion of Afghan refugees. In 2012, an estimated 64 percent of the Afghan population in Pakistan was between 5 and 14 years of age. Returnee children are at particular risk of lacking certain forms of documentation, as those who were born abroad may not have been registered at an embassy and are therefore not included in the civil registry. On average, host community members reported that 40 percent of boys under 15 and 33 per cent of girls under 16 had tazkera. These numbers dropped significantly for both returnee and IDP households: Only 29 percent of boys in returnee households, and 27 percent of boys in IDP and returnee/IDP households had tazkera. For girls holding tazkera the numbers were even lower: 22 percent in returnee households, 18 percent in IDP households and 14 percent in returnee/IDP households.

## AFGHANISTAN'S YOUTH: A LEFT-OUT GENERATION

Afghanistan's displaced youth are a left-out category in terms of the assistance received. The main question is how they can be supported to contribute positively to future development. Previous research highlights the potential social explosion that will result from a lack of support.<sup>63</sup>

One key mode of support would be to ensure that youth have access to civil identification and documentation. Youth face clear limitations on their future when this is not the case: possession of documentation has a clear impact on, among other things, access to education and livelihoods.

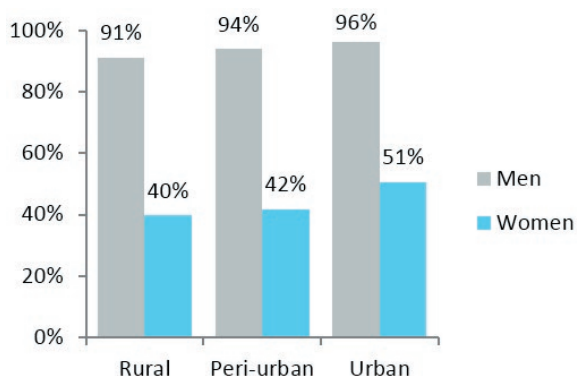
Displaced youth may thus find themselves in a situation in which they are unable to go abroad but do not have the documentation necessary to build a future in Afghanistan. This is particularly the case for young women, many of whom lack tazkera.

Interventions on civil documentation should therefore have a particular focus on youth.

### 4.8 Rural-urban divide

Historically, rural areas have had lower rates of tazkera possession – of particular relevance to IDPs, who primarily come from rural areas.<sup>64</sup>

#### Percentage of host community members with tazkera, by type of location



Although no clear difference appears for displaced persons, rural returnees are actually slightly more likely to have tazkera than returnees in urban areas. This is not the case for host community members. Both male and female host community members are less likely to have tazkera when living in rural rather than urban areas.<sup>65</sup> This is of concern because should those host community members become displaced, they are likely to end up in cities as “the nature of displacement is mostly rural to urban.”<sup>66</sup>

Qualitative interviews confirmed that those in urban areas are more likely to need documentation. They are also more likely to be aware of the impact that lacking documentation has.<sup>67</sup> Documentation can also be easier to obtain in urban areas, especially birth certificates and passports due to the nature of the procedures to obtain them. This suggests a clear need to support persons in rural areas in accessing civil documentation.

*“There is a growing awareness on the importance of civil documentation in the urban areas and among educated people. For example in the cities the parents are more inclined to get a birth certificate for their children, this is also because medical facilities are closer. However in the rural areas the situation is still the same.”*

Key informant interview, UNOCHA, Kabul

*“Private hospitals and hospitals in urban areas have started issuing birth certificates. But in the rural areas, most women still give birth at home and birth certificates are still not very common.”*

Key informant interview, UNHCR, Mazar-e-Sharif

## 4.9 Corruption in state institutions

Respondents mentioned personal connections and bribes as helping with – and in some cases even necessary to – the documentation process:

*“If you do not have any relations in the Population Registration Department (PRD) you will face many challenges, for example, for a single signature they will say to come back the next day.”*

FGD, mixed displacement backgrounds, Balkh province

*“If you give money to the tazkera officers, they will do it very quickly, and if you do not pay it will take some days.”*

FGD, returnees, Balkh province

*“We were obliged to pay money, because they asked for a bribe, so I sold my earring and gave them money.”*

FGD, mixed displacement background, Kabul province

The passport office was noted as being the “cleanest” office, while the tazkera, with its requirement for a large number of signatures, poses significant potential for bribery requests.<sup>68</sup>

## 4.10 Civil registry technical challenges

The handwritten system for the civil registry lacks flexibility. For example, key informants reported challenges for returnees who had changed their names in Iran and Pakistan (frequently those with typically Sunni names) and then faced difficulties in proving their identity upon return because of the multiplicity of names and spellings on their documentation.<sup>69</sup>

## 5. THE IMPACT OF LACK OF DOCUMENTS

Taking a protection approach to documentation entails moving beyond identifying the obstacles in obtaining documentation to understanding its effects and designing programmes accordingly. To date, the inclusion of civil documentation in protection planning in Afghanistan's humanitarian response has been limited. For example, in the draft rapid assessment tools that the Protection Cluster will be using for IDPs, only tazkera are taken into account in the group level Population Movement Tracking form, and there is no mention of civil documentation in the first phase checklist.<sup>70</sup>

However, the UNHCR Handbook on Protection of Internally Displaced Persons identifies the lack or loss of documentation as a key protection issue closely related to other displacement issues, such as:

- Housing, land and property (HLP) rights
- Livelihoods
- Safety and security
- Access to food and safe water
- Access to public services
- Community and social structures
- Discrimination, marginalisation or hostility

While some of the potential consequences of the lack of documentation are well-known, and can be avoided, the motivation to obtain documentation is not always present and other potential impacts are not understood until it is too late. As a result, it is important to ensure that people understand the value of holding documents before they face obstacles.

### 5.1 Women's inheritance and marital property rights

For women, marriage certificates and tazkera are the two key documents necessary to secure HLP rights, which are primarily accessed through inheritance and marital property.<sup>73</sup> Women are at particular risk of inheritance problems when they do not have the proper documentation. Approximately 40 percent of all respondents highlighted marriage certificates as crucial documents for women to possess in order to avoid being excluded from inheritance and mahr.

*"The official registration of marriages in this country is still very rare, it is largely based on customary laws. In the case of divorce or death, the rights of women for inheritance or for the custody of the children are always threatened."*<sup>72</sup>

#### Protection concerns relating to a lack of documentation

	Birth certificate	Marriage certificate	Death certificate	Passport	Tazkera
HLP rights		✓	✓		✓
Livelihoods					✓
Lack of access to public services	✓				✓
Loss of documentation	✓	✓		✓	✓
Possibility of discrimination, marginalisation or hostility					✓

NRC's report *Strengthening Displaced Women's Housing, Land and Property Rights in Afghanistan*<sup>75</sup> identifies tazkera and marriage certificates as the two documents necessary to initiate a procedure before the statutory justice system and allow women to successfully claim rights to land or any other property.

*"The marriage certificate [nekahnama] is quite difficult [to obtain] as well and that's why many people only have the marriage contract [nekahkhat] which is not formally recognised by the state institutions. That situation makes women very vulnerable and they have trouble in case of divorce and if they want to claim their Mahr or inherit from their husbands."<sup>76</sup>*

## 5.2 Access to livelihoods

Thirty-five percent of respondents with documents and 19 percent of those without documents identified a lack of tazkera as posing employment problems. However, in practice, the difference in employment rates between those with tazkera and those without was limited. For male respondents, 43 percent are employed, regardless of whether or not they have tazkera, while for female respondents, 15 percent of those with tazkera and 12 percent of those without are employed.

The impact lies not in access to a job, but rather in the types of job for which respondents are eligible. According to the 2014 Registration of Population Records Law, having a tazkera is a mandatory pre-condition for government and NGO jobs. Key informants confirmed this, and respondents noted having had to support some employees to obtain a tazkera in order to facilitate their employment.<sup>75</sup> Other employers may be more flexible:

*"The place where I was working asked for tazkera and I didn't have a tazkera. I told them that it is hard for me to get tazkera because of the distance, I cannot go there, and then they accepted my apology and didn't fire me from my job."* Case study, displaced man, Herat province

Additionally, a lack of tazkera prevents setting up

official businesses.

*"The lack of identification documents will cause [one] to not be able to work in an office [...] The lack of documents will cause you to not be able to launch a business, because you will need the authorisation licence."* Key Informant Interview, MOI

## 5.3 Access to humanitarian aid

Overall, aid organisations reported that while they officially require tazkera for their programming to identify beneficiaries, in practice, they do not limit their programming to those with tazkera. The unofficial nature of this however sometimes complicates access to aid.

*"We make it compulsory for beneficiaries to have a tazkera, to check the veracity of information they give us. It is really a big headache for the humanitarian community: [...] some people are claiming they are displaced from another province: but we can't distinguish if they are from here or elsewhere. People can claim whatever they want if they don't have documents."*

Key informant interview, DACAAR

*"Generally, the requirement is there that when you are enrolling a beneficiary on the programme, it is based on a kind of ID or tazkera. That is the only thing that shows their identity. But that is the theory, and then there is what we have on the ground. [...] The requirement is that in an ideal situation people would have IDs – but reality is different – you are going to locations where the target community 100 percent need the programme – [...] so you have to decide if you want to drop a whole group of people because of lack of tazkera."*

Key informant interview, NRC

## 5.4 Access to health services

Lack of documentation presents challenges for access to health care in two ways. Some health facilities, especially government services, in practice require identification to treat people, which many do not realise.<sup>76</sup> However, no laws

could be found which stipulate this. In addition, more complicated medical cases may require travel to Pakistan or India, which is impossible without a passport.

## 5.5 Access to education

*"My children were asked for tazkera when they were registering themselves at school" (FGD Returnees Herat).*

Tazkera and birth certificates are viewed as important for education. Approximately one-third of all respondents stated that a lack of birth certificate prevented access to education for themselves, their children or their relatives, while nearly three-quarters said the same for tazkera.

*"It is very difficult to integrate into the education system without documentation. The tazkera is a very important document for this purpose. The school asks for the children's tazkera or their parent's."*<sup>77</sup>

Qualitative data confirmed that respondents were generally asked for tazkera when registering children for school.

Respondents from an FGD with displaced persons in Kabul

*"My children were asked for tazkera when registering at school. [...] Children can't go to school if they don't have tazkera."*

*"I have been asked for tazkera during the registration of my children at school, during distribution of voting cards and during distribution of assistance"*

Respondents from an FGD with displaced persons in Kabul

While a tazkera is not necessary to attend school in all cases – a number of children reported attending school without possessing a tazkera – there is a clear correlation between possession of tazkera and school attendance.

It was also noted that the tazkera requirement for education was easier to overcome for host community children, as their families are known in the area.

The impact of tazkera possession and school attendance is strongest amongst IDP boys and

returnee girls, underlining the need for these groups to be supported in accessing tazkera.

*"There has been some progress with IDPs and returnees. Most of them had the opportunity to study in schools in Iran and Pakistan but they have some difficulties to integrate their children at schools in Afghanistan because they have no tazkera. [...] However, The Ministry of Education is trying to be more flexible and has given directives to the provinces to be less strict with the [displaced persons]".<sup>78</sup>*

## 5.6 Access to other documentation

A "domino effect" can result from not having a tazkera. Without the tazkera to prove their identity, Afghan citizens cannot, for example, get passports. Since a tazkera is a prerequisite for most other documentation as well as certain services, there is a clear cumulative effect to lacking a tazkera.

Both respondents with documentation and those without perceive the lack of tazkera (34 percent / 28 percent, respectively) and birth certificates (13 percent / 17 percent, respectively) as potentially preventing access to other documents.

## 5.7 Freedom of movement

The absence of a passport prevents legal movement abroad. This is especially important in the current displacement context. The head of the passport office stated that

*"the political uncertainty, unemployment and increasing violence are big reasons to push people to abandon their country in search of a good life abroad. I haven't witnessed anything like it in the past decade."*<sup>79</sup>

Two years ago, the passport office received 150 applications per day.<sup>80</sup> Last year, this increased to about 600 applications on average. This year, numbers have reached 4,000 applications per day.<sup>81</sup> In Kabul it usually takes 10 days from date of application to receipt of a passport. However in the provinces it can take up to four months, which can also be due to corruption.<sup>82</sup>

For the displaced, this is of particular concern: when they do not have a tazkera, they cannot access passports. Even when they do have a tazkera, they cannot necessarily afford the costs of passports. They are thus made even more vulnerable to insecurity and conflict if they cannot leave the country, one of their main coping strategies. Forced into illegal methods of migration, they are left to the mercy of smugglers and unscrupulous offers to get them abroad.

## 5.8 Political representation

According to Article 6 of the 2013 Election Law, possession of tazkera is not mandatory to receive electoral cards, and indeed in previous elections many have voted without ID:

*"Most of the people who don't have a tazkera have voting cards, because the powerful people distributed voting cards without considering the tazkera because of their own targets."*

Case Study, Displaced man, Herat province

*"If you want to access the justice system you need identity documents, although maybe you can complain to the police without a tazkera and then they check with the elders and the wakils."*

Key informant interview, DACAAR

*"If someone complains about another person, the first document which needs to be presented by the plaintiff is the tazkera, and then we can proceed to solve the problem. In case if he/she has no tazkera we will ask for her/his father's tazkera or someone else from their family."*

Key informant interview, Ministry of Interior

Without identity and civil documents, people are more likely to use the customary justice system. As this has been shown to "often contravene applicable statutory and human rights law to the point of being extremely detrimental to women," the protection concerns are clear.<sup>83</sup>

Key informant interviews specifically noted the potentially negative consequences faced by women. Without civil documentation, women are particularly at risk when it comes to the judicial system and inheritance or familial disputes.

## 5.9 Harassment from the authorities

Forty-one percent of those with documentation and 14 percent of those without stated that a lack of tazkera could lead to increased harassment from the authorities. The gap between these two would suggest that perception may be stronger than the reality.

## 5.10 Access to justice

Accessing the statutory justice system requires identification documents. There is a specific place in the *faisale mahkama* (decision document resulting from trial) for the tazkera numbers of both parties to the dispute.

## 5.11 Access to credit

Lack of documentation limits access to credit – without identification, you cannot get loans from banks.<sup>84</sup> Unofficial loans – quite frequent in the Afghan context – remain an option but may have less favourable terms.

## 5.12 Achieving durable solutions

The IASC Framework on Durable Solutions for Internally Displaced Persons defines durable solutions as having been achieved when the persons concerned

*"no longer have any specific assistance and protection needs that are linked to their displacement and can enjoy their human rights without discrimination on account of their displacement."*<sup>85</sup>

A number of criteria contribute to the attainment of durable solutions:

- Safety and security
- Adequate standard of living (including access to vital services)
- Access to livelihoods
- Restoration of housing, land and property
- Access to documentation
- Family reunification
- Participation in public affairs and
- Access to effective remedies and justice.

A lack of identity documents and civil documentation poses challenges to different aspects of durable solutions, as presented below.

## Return

In order to be able to claim housing, land and property upon return, returning refugees and IDPs must have documentation to prove their identities. This documentation is also necessary to access services, such as education, if the concerned persons have been displaced long enough that they are no longer recognised as “locals.”<sup>87</sup>

## Local integration

Local integration<sup>88</sup> is particularly contentious in Afghanistan:

*“Local authorities generally fear either encouraging more of this type of migration, or fostering permanency for those that are already illegally occupying land, and thus prohibit upgrading dwellings or, except in rare cases, offering resettlement options. There is nevertheless a growing acceptance, in the wake of the IDP policy, that solutions to displacement will need to encompass local integration, as well as return and [relocation]/resettlement elsewhere, yet the means by which this is to be achieved are still a matter for debate.”<sup>89</sup>*

The issue of land manifests differently with regards to local integration, as the problem is not so much

about recovering HLP assets as the allocation of property or housing. The general reliance of organisations on identification documents has led to the exclusion of displaced vulnerable persons in need of help. UN Habitat’s LIVE-UP programme begins to address this but it is only a start.

Having identification and civil documentation is also crucial from a social integration perspective. IDPs and returnees coming from different parts of the country or abroad may face more challenges in becoming part of the community than returnees to their village of origin. Civil documentation, in allowing them access to services and rights, will help to support this.

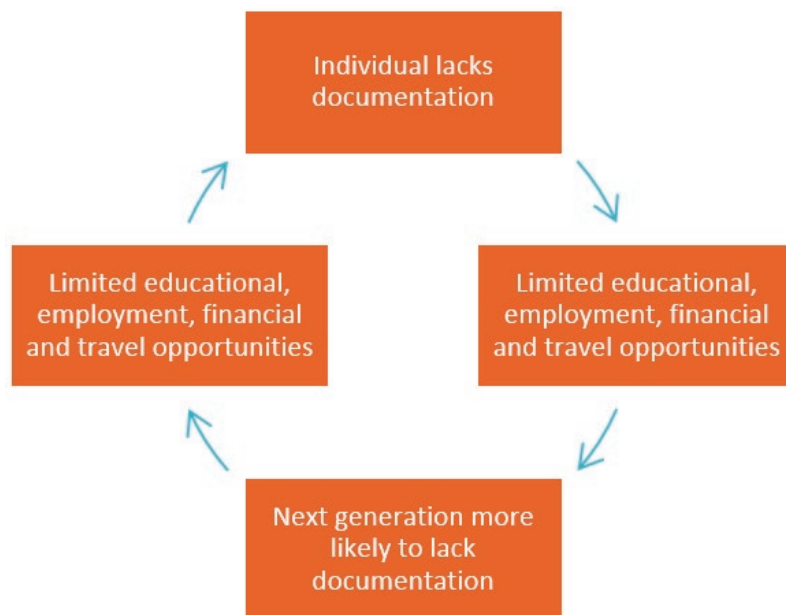
## Relocation

With regards to relocation<sup>90</sup>, the restrictions on movement are the primary concern. Successful relocation requires the ability to travel to the locale of relocation and reside there. Challenges in accessing tazkera and/or passports may make this difficult.

## 5.13 Cycle of poverty from lack of documentation

As access to documentation is heavily dependent on tazkera, and access to tazkera is heavily dependent on relatives having tazkera, children of those without tazkera will likely find themselves facing difficulties in accessing documentation. As noted above, the lack of civil documentation limits educational, employment and financial opportunities. Finally, the lack of educational, employment and financial opportunities makes it more probable that those without documentation are likely to find themselves trapped in a cycle of poverty, from one generation to the next.

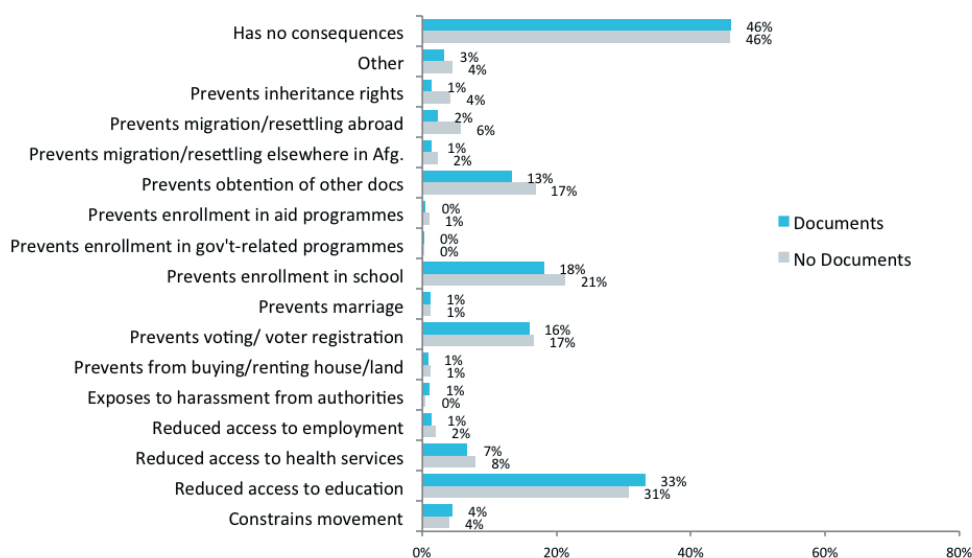
## GENERATIONAL CYCLE OF POVERTY



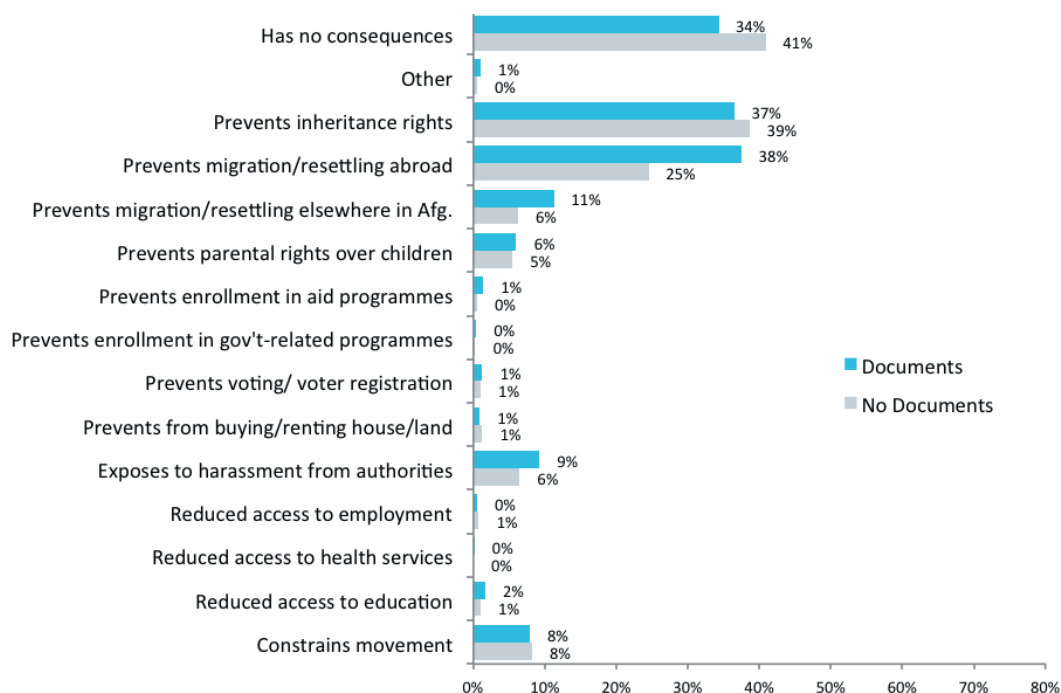
Therefore, while at an individual level, the direct impact of lack of documentation may not always be readily apparent, the negative effects may become more obvious in the longer term.

### 5.14 Summary of the impact of lack of identity and civil documentation

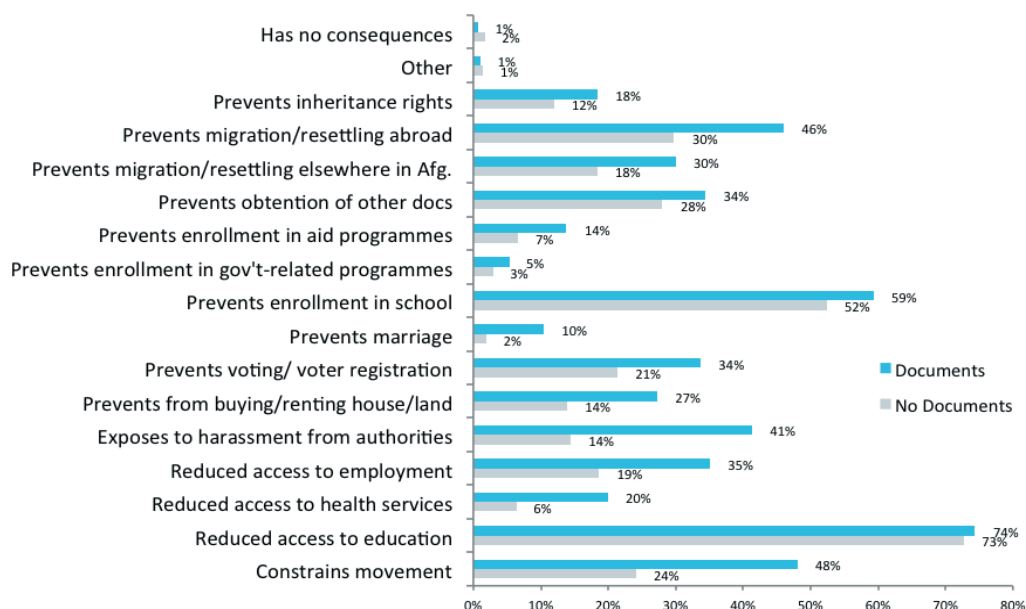
#### IMPACT DUE TO LACK OF BIRTH CERTIFICATES, AS REPORTED BY RESPONDENTS WITH AND WITHOUT DOCUMENTATION



## IMPACT DUE TO LACK OF MARRIAGE CERTIFICATES, AS REPORTED BY RESPONDENTS WITH AND WITHOUT DOCUMENTATION



## IMPACT DUE TO LACK OF TAZKERA, AS REPORTED BY RESPONDENTS WITH AND WITHOUT DOCUMENTATION



## 6. KEY STAKEHOLDERS IN CIVIL DOCUMENTATION

The Government of Afghanistan (GoIRA) is the primary duty-bearer in issuing civil documentation. Other stakeholders intervene to provide technical and financial support and operational support and coordination across Afghanistan. Although the degree to which the lack of civil documentation has a negative impact varies greatly by type of document and individual profile, clear protection concerns and marginalisation of IDPs, women, children and youth require a higher level of commitment and response.

To date, few stakeholders provide this commitment and response. NRC's ICLA programme is one of the international efforts to directly assist persons in obtaining civil documentation. Several other actors, such as UNHCR and IOM, have contributed significantly to improving the quality of documentation and raising awareness around the challenges of obtaining it. Local NGOs have also conducted work on civil documentation, primarily to raise awareness on the importance of its function.

A secondary group of stakeholders can be identified who, while they do not directly engage with civil documentation issues, do address it in the course of their programming and have in some cases developed innovative adaptive measures to avoid problems posed by a lack of documentation.

### 6.1 Stakeholder mapping

#### LEVELS OF STAKEHOLDER INVOLVEMENT IN CIVIL DOCUMENTATION

Civil documentation issuers	• The GoIRA is the primary duty bearer
Providing technical and financial support for issuance of documentation	• e.g. European Union, USAID, IOM
Implementing or financially assisting programming directly supporting access to civil documentation	• e.g. NRC, IOM, UNHCR
Implementing awareness-raising initiatives	• e.g. People in Need, Medica, Women for Afghan Women
Addressing civil documentation concerns indirectly	• e.g. UNHabitat

### 6.2 Government of Afghanistan

Responsibility for civil registration, documentation and identification rests with the Government, but is spread across several ministries:

The **Deputy Ministry of Administration** is responsible for the issuance of the tazkera, digitally and manually-produced passports, motor vehicle registrations, serial comma, and drivers' licenses.

The **Ministry of Interior** has the following responsibilities specific to displaced or migrant communities and civil identification:

- Prioritising IDPs who do not have tazkera for receiving the e-tazkera and authorising all central and provincial departments of the DPR to prioritize IDPs for issuance of the e-tazkera.
- Ensuring that information on how to obtain an e-tazkera is widely disseminated in IDP communities and that such information targets IDP women.
- Modernising the record-keeping of its DPR and centralising data in Kabul to minimise the need for IDPs to travel and allowing for the issuance of tazkera for IDPs in all provincial capitals.
- Keeping tazkera fees low and allowing them to be waived in the case of vulnerable IDPs.

The mandate of the **Ministry of Refugees and Repatriation (MoRR)** is to provide legal support to the repatriated in their process of reintegration by taking measures to ensure legal protection for refugees, returnees and IDPs in related administrations. Examples of interventions include assistance for access to land as well as civil documentation. The legal protection directorates located in every province are specifically dedicated to considering any types of legal claims made by refugees, returnees and IDPs.

In cases of document loss, **the MoRR together with the Ministry of Justice (MoJ):**

- Reviews laws, rules and regulations to analyse what obstacles exist to their replacement, and
- Recommends necessary measures, including amending legislation and regulations, to ensure that IDPs are issued with documents necessary for the enjoyment and exercise of their rights.

Given the reported governmental stakeholder capacity and information issues, these ministries are a key focus of future programming on civil documentation. Ensuring that staff at the document-issuing levels of the administration have a clear understanding of the procedures will already prove a strong step forward. This could also prove a useful entry point for implementing the National IDP Policy, which although approved has not yet progressed much further in the implementation.

### 6.3 International organisations

While there are a number of international organisations and NGOs present in Afghanistan, few deal directly with civil documentation.

**NRC's ICLA programme** is a key player on this front, addressing civil documentation while delivering assistance to internally displaced persons (IDPs), refugee-returnees and other displacement-affected populations to overcome legal and protection obstacles towards durable solutions. NRC has several activities specifically dedicated to civil documentation.

**IOM** supports the MoRR in developing a comprehensive database to record information

on returnees and internally displaced persons (IDPs) and related issues, such as land allocation. Information tracked in the database will include the return of documented and undocumented Afghans from Iran, Pakistan and other countries; the location and status of IDPs; and information on the allocation or construction of permanent shelters for returnees, as well as livelihood opportunities. Additionally, IOM supports the GoIRA in issuing modernised documentation: machine readable passports and visas through APIS/AVIS and tazkera through the e-tazkera project (for which the EU and USAID are the key donors).

**UNHCR** has funded projects supporting civil documentation, such as an NRC ICLA project, to support IDPs and returnees with transportation to their place of origin to obtain required civil documentation.

The **Danish Refugee Council (DRC)** has several training, advocacy, information-sharing and legal counselling programmes. Although the legal counselling programmes do not focus on civil documentation specifically, DRC has conducted awareness campaigns specifically on the importance of civil documentation.

### 6.4 Local NGOs and CSOs

Several Afghan NGOs have organised awareness campaigns and training on civil documentation:

**Women for Afghan Women (WFAW)** organises public awareness campaigns about the importance of civil documentation, especially marriage certificates.

**Medica Afghanistan** trains lawyers, judges and police on civil documentation.

**Da Qanoon Ghushtonky (DQG)** provides free legal representation in both criminal and legal cases and mobile legal clinics, but does not have a specific focus on civil documentation.

**HELP** organises awareness campaigns about the importance of civil documentation.

## 6.5 Key programmes and financial support addressing civil documentation<sup>91</sup>

	PROGRAMMES/SUPPORT
BPRM	Organises awareness campaigns on the importance of civil documentation.  Developed a curriculum to provide information on the procedures of access to civil documents and distributed brochures and leaflets.
Da Qanoon Ghushtonky	Runs mobile legal clinics in a number of provinces in order to increase awareness of legal issues, which can include provision of information on civil documentation.
DRC	Offers legal counselling and legal assistance focused especially on cases of inheritance, divorce and civil documentation.
EU	Supports and funds the e-tazkera project.
HELP	Organised awareness campaigns about the importance of civil documentation.
IOM	Supports MoRR in launching a database to record vital information on displaced persons and related issues.
	Works with GoIRA on APIS/AVIS project (Afghanistan Passport Issuing System and Afghanistan Visa Issuing System) to introduce machine readable passports and visas.
	Provides technical, operational and targeted capacity support to the MoI for the implementation of the e-tazkera.
Medica	Provides advisory programmes on marriage registration to police, mullahs and lawyers.
MoWA	Undertakes awareness-raising activities about the importance of the tazkera for women and children and on the procedure for obtaining the document.
NRC	Through the ICLA programme supports individuals in accessing civil documentation and land titles, and provides legal counselling.
UNHABITAT	Has instituted shelter programming which allows for distribution of shelters without documentation, as this does not focus on getting permanent land titles.
UNHCR	Has provided financial and technical support for five encashment centres offering various services to returnees, including distribution of cash grants, basic health care, legal advice and counselling, and financial support to the NRC ICLA projects supporting beneficiaries in returning to their place of origin to obtain civil documentation.
USAID	Supports and funds the e-tazkera project
Women for Afghan Women	Conducted public awareness campaigns about the importance of civil documentation especially the marriage certificate.

## 7. KEY PROCESSES

Several updates to civil documentation procedures are being or have recently been implemented.

### 7.1 Issuing machine-rolled passports

To combat fraud and facilitate travel abroad, in 2012-2013 the Government of Afghanistan began to issue digital visas and computerised (i.e. digital and scanable) passports.<sup>92</sup> Prior to this, all passports were filled out manually. In 2014, the head of the passport department noted that this posed fraud and corruption challenges.<sup>93</sup> In fact, the UAE have implemented a new visa policy for Afghans due to the many problems with fraudulent passports.<sup>94</sup>

IOM has assisted the government in implementing machine-rolled passports and visas. However, there are many diverse challenges including broken printers and the fact that the UAE, at one point, stopped accepting Afghan passports because of the possibility of double printing. The goal is to shift to electronic passports with biometric information.<sup>95</sup>

### 7.2 Moving towards the e-tazkera

The provision of an electronic form of identification – the e-tazkera<sup>96</sup> – is something that has been underway since 2009, initially through a private company (via the Ministry of Communication and Information Technology) and now through the international community. The European Union and USAID are both scheduled donors to this project, while IOM has taken the lead on project implementation. Originally due to have completed the pilot phase in 2014, the project is currently frozen, awaiting its start.<sup>97</sup>

The e-tazkera project was begun in order to develop a more streamlined, accurate and corruption-proof version of identification, with prevention of electoral fraud as the underlying motivation. It follows the recognition that existing tazkera are easy to falsify. The biometric information on the card will be more difficult to

counterfeit than the many existing forms of paper tazkera. However, a number of issues have yet to be resolved and are holding up implementation of the project, as set out below:

#### Terminology

While the population law governing the e-tazkera was adopted with provisions for the inclusion of nationality on the card, stakeholders have yet to agree on the nomenclature to be used. The debate primarily concerns the use of nationality: “Afghan” to some correlates with specific ethnicities. This issue has become extremely sensitive and there are fears that using the designation of nationality (“Afghan”) could result in de facto identification of ethnicity: If “Afghan” is taken to mean “Pashtun”, some have argued that other groups in Afghanistan should not have “Afghan” written on their card, but rather their own ethnicity. This in turn could facilitate discrimination. Donors have been categorically opposed to any reference to ethnicity on cards, in line with most national identity cards across the world.

#### Creation of an effective identity verification process

Work is ongoing to establish a process to verify identity in the absence of paper tazkera. The EU has suggested flexibility for those who don’t possess paper tazkera, including IDPs.

#### Delimitations of boundaries

As the tazkera pilot will be implemented in specific areas of Kabul and linked to the creation of a voter registry, the exact boundaries of districts are contentious.

#### An abundance of stakeholders

Originally under the MICT, then the MoI, the lack of a supra-ministerial entity to coordinate the work has led to friction.

## Technical challenges

The enrolment centres will require strong internet connectivity and the ability to link up to the electronic registry.

## Project timeline

The project is currently on hold while the above issues are being resolved. A pilot programme, although not yet finalised, has been planned. This would provide coverage to a number of people in Kabul, beginning with community mobilisation to collect information on those to be registered, which would then be validated and followed by visits to the enrolment centres to collect biometric information. This three-month pilot will provide basic information on timings and challenges which would then have to be tested in different cities and non-urban contexts.

## 7.3 Digital records

IOM supports the GoIRA, with a component of EU funding, closely linked to the rest of its documentation initiatives. A small team, within the e-tazkera team, is helping the PRD to digitalise tazkera records, working from the set of records currently located in Kabul. This will alleviate reliance on paper archives, especially useful given the current situation of instability, to avoid losing further records and to enable faster identity verification processes.<sup>98</sup>

## CONCLUSIONS AND KEY RECOMMENDATIONS

Mapping existing initiatives supporting civil documentation needs in Afghanistan raises several points:

- Except for NRC, most programmes on civil documentation focus on awareness-raising.
- Funding for direct programming on civil documentation is limited by the perception of civil documentation as a secondary concern.
- The Government is the primary actor for ensuring positive changes in civil documentation.
- More attention should be paid to addressing lack of civil documentation in programmes generally, in addition to those specifically focused on it.

### Programming gaps

Lack of support for civil documentation procedures is a clear programming gap in organisations working with protection, given the impact of the lack of documentation. NRC remains the only international organisation with a specific focus on it. Women in particular are particularly vulnerable to being excluded from accessing documentation and would benefit from additional support to address cultural challenges in civil documentation procedures.

Awareness-raising is not enough and can cause logistical issues. The lack of capacity on the “supply” side of the civil documentation issuer – understaffed or undertrained government departments – means that a significant increase in demand following awareness-raising would result in difficulties in actually obtaining the documentation. This, therefore, requires concurrent training and support at the governmental level.

It is necessary to address problematic civil documentation requirements in programmes, for example through UN-HABITAT’s LIVE-UP

programme. This avoids the exclusion of especially vulnerable groups. It also prevents on-the-ground realities from going against programme regulations.

To date programming has focused on more urban areas yet, host community members of rural areas are most likely to lack documentation. Expanding awareness-raising and capacity building activities to more rural areas is necessary to target those lacking documentation and those with less understanding of how these procedures work.

Coordination is lacking between different ministries issuing documentation. Digitalising and sharing registries would minimise identification challenges and facilitate civil documentation procedures.

At a time of increasing insecurity, forced displacement and humanitarian and access challenges, civil documentation is a priority as it can affect many areas of displaced people’s lives. This includes freedom of movement, work, education, livelihoods and businesses, as well as access to much-needed assistance.

Civil documentation also holds the key to addressing vulnerabilities specific to age and gender groups and, hence, ultimately building a foundation for a stronger future for younger generations. The right to recognition before the law, the right to nationality and the right to birth registration are nationally and internationally recognised fundamental human rights. In order for these rights to be implemented, access to civil registration, documentation and identification processes is fundamental. To make possible other economic, political and social rights, the entire population, in particular vulnerable and marginalised groups, must have access to civil documentation.

### This research underlines that:

A lack of documentation has a clear, pernicious impact on the lives of those concerned, whether displaced or not, helping to keep many in cyclical poverty and posing clear protection challenges that will span generations. The long-term potential of those without civil documentation is permanently constrained, as their educational, employment and other choices are limited. Durable solutions for displaced persons are made difficult, if not impossible, as land access and political rights are also diminished.

So far insufficient attention has been paid to strengthening access to documentation for displaced populations. Whether return, local integration or relocation to another part of the country, durable solutions to displacement require strengthened documentation as a gateway to a range of rights and as a gateway to a more secure future for women, children and youth.

The Afghan government has taken several steps towards improving civil registration, documentation and identification. The National IDP Policy, developed in 2014, identifies documentation challenges faced by vulnerable groups such as displaced persons and provides a roadmap. The new National Priority Programmes include a Citizen Charter, as proposed in the London conference paper *Realising Self-Reliance*. This Charter represents a formal agreement between the government and its citizens about “the services, and the standard of service, that will be delivered by the Government to its people.”<sup>101</sup>

These encouraging signs of political will, however, must be followed up with concrete action and the implementation of these policy documents. To date, these documents have remained in the realm of policy. There should be a common understanding, as well as commitment by all, political decision makers, to tackle the challenges. This should be followed by close coordination between relevant legislative institutions combined with the mobilisation of the necessary human and financial resources.

At the moment, citizens seeking to obtain civil documentation, as well as organisations willing to support them, face informational, practical, programmatic and operational challenges.

Amongst these are unclear processes for documentation, capacity gaps at the local and national level, a worsening security situation, increasing displacement, and administrative practices which can result in discrimination against women and vulnerable groups.

The GoIRA, along with national, international and local organisations, can prompt change in both attitudes towards civil registration and procedures to obtain documentation, as detailed in the following recommendations.

## RECOMMENDATIONS

### Access to Tazkera for displaced persons outside their place of origin

Displaced persons should have the option to submit their applications for a tazkera without returning to their place of origin. The following actions should be taken:

1. The Government should establish a system of communication between offices to verify the identity of an applicant to enable the application of a tazkera outside of their place of origin or Kabul. This would facilitate applications by displaced persons in their nearest registration office, without having to return to their place of origin or Kabul.
2. The Government should establish more offices where displaced persons can apply for tazkera.

### Equality in Access to Tazkera for Women

In 2010 there was a positive change in the law, eliminating the requirement for women to bring male witnesses to renew their tazkera. However, in some regions women are still asked to bring male witnesses. In order to ensure implementation of the law, the following actions should be taken:

3. Humanitarian and development organisations working on civil documentation should include this information in awareness-raising initiatives. The Government should endeavour to ensure compliance with the procedures in all regions of the country.

### Access to tazkera for IDP women

Only 21 percent of IDP women hold a tazkera compared with 44 percent of host community women and 54 percent of returnee women. Therefore, IDP women should be prioritised for support in the following ways:

4. Organisations working with IDPs should incorporate support for women to access tazkera within their programmes; including awareness-raising, counselling and representation.
5. Humanitarian and development organisations should consider initiating programmes to offer direct support to IDP women to access tazkera. They should also undertake awareness-raising activities.

### Access to tazkera for children to complete education

6. Organisations working with IDP and returnee children should support their access to tazkera as an integral aspect of programmes.
7. The Ministry of Education and Directorates of Education in provinces should not require tazkera for enrolment in education. Primary education should be accessible for all.

### Access to tazkera for the most vulnerable individuals

The study found that households with one or more vulnerabilities were significantly less likely to have tazkera. In order to support these households the following actions should be taken:

8. The Government should institute a waiver scheme for tazkera applications and renewal fees for the most vulnerable households, as set out in the IDP Policy (Section 6.3.2 (h) and (i)).
9. Humanitarian and development organisations should consider offering transportation grants to vulnerable families to alleviate travel

costs for tazkera applications and renewals

### Access to tazkera for Afghan refugees abroad

The application procedure for those applying for tazkera outside Afghanistan is complex and often very lengthy. In order to promote access to tazkera for Afghans outside Afghanistan the following actions should be taken:

10. Afghan embassies should establish a coordination mechanism with the MoRR and Ministry of Foreign Affairs to streamline the process for tazkera applications from abroad.
11. International organisations should explore ways to support tazkera applications by Afghans abroad.

### Access to birth certificates for Afghan refugee children abroad

12. The Government should establish a regional coordination mechanism to facilitate access to birth registration for the growing numbers of Afghan children born in exile.
13. International organisations working with Afghans abroad should raise awareness of the requirement to report the birth of their children to the Afghan embassy/consulate within three months, as stated in the Law of Population Registration of Afghanistan.

### Addressing the protection gap in civil documentation

The study found that the lack of support for civil documentation procedures constitutes a programme gap in humanitarian response among organisations working with protection, given the severity of the impact of a lack of documentation on displaced Afghans.

### **The Afghanistan Protection Cluster should therefore:**

14. Coordinate initiatives on civil documentation to promote a more efficient use of funding and resources responding to the needs identified in this report. This could be done by convening bi-annual meetings with the government bodies concerned, to monitor progress on the recommendations of this report, as well as the relevant provisions of the IDP Policy.
15. Coordinate awareness-raising initiatives on access to tazkera, specifically targeting IDP women, children, vulnerable households and displaced persons in rural areas.
16. Encourage those working on awareness-raising initiatives to include publicity on which steps to take and the cost of the procedures so as to reduce corruption and bribery.
17. Liaise with other clusters/sectors to identify programme initiatives to address specific civil documentation issues arising in Shelter, Food Security, etc. At a minimum, potential beneficiaries who lack civil documentation should be assisted to obtain the necessary documents in order to prevent their exclusion from humanitarian assistance.
18. Raise funds specifically for direct programming to access civil documentation, such as the provision of legal assistance and other measures to overcome specific barriers for women and the most vulnerable displaced/returnees.

### **Building the capacity of government**

The study found that the lack of capacity on the “supply” side of civil documentation – understaffed or undertrained government departments – means that a significant increase in demand following awareness-raising would result in difficulties in actually obtaining the required documentation. This therefore requires capacity-building and support for the government bodies responsible. The following actions should be taken:

19. Humanitarian and development actors should provide training to government agencies, improving their understanding of the law and increasing their ability to carry out the necessary procedures for civil documentation.
20. As part of the efforts to support Afghanistan's achievement of the Sustainable Development Goals, UNDP and other actors should provide direct sustained support to the relevant government institutions to meet SDG 16.9: By 2030 provide legal identity for all, including birth registration.

### **Implementing the National IDP Policy**

The National IDP Policy, developed in 2014, identifies documentation challenges faced by vulnerable groups such as displaced persons and provides a roadmap to address these consistent with the issues outlined in this report. Currently, the modified procedures detailed in the National IDP Policy for civil documentation have not been enshrined in legislature.

21. The Government of Afghanistan should implement the National IDP policy. In particular, the relevant authorities should take steps to implement the provisions relevant to civil documentation as set out in section 1.2.

## BIBLIOGRAPHY

IDMC/NRC (2014), Still at Risk: Security of Tenure and the Forced Eviction of IDPs and Refugee Returnees in Urban Afghanistan

IDMC/NRC (2015), Afghanistan: New and Long Term IDPs Risk Becoming Marginalised as Conflict Intensifies

NRC, NRC Programme Policy

NRC (2014), Information, Counselling and Legal Assistance (ICLA) Programme Evaluation

NRC (2014), Strengthening Displaced Women's Housing, Land and Property Rights in Afghanistan

Samuel, Hall (2012), Challenges of IDP Protection in Afghanistan, commissioned by NRC/IDMC/JIPS

Samuel, Hall (2012), Jogi and Chori Frosh Communities: A story of Marginalisation, commissioned by UNICEF

Samuel, Hall (2012), Sustaining the Momentum: An Assessment of the Current Situation of Women in Afghanistan, commissioned by the World Bank

Samuel, Hall (2013), Multi-sector Assessment in High Returnee and IDP Locations in Eastern Afghanistan, commissioned by ChildFund Afghanistan

Samuel, Hall (2014), Gender and Justice Study: Obstacles to Justice, commissioned by the World Bank

Samuel, Hall (2015), Agency and Choice Among the Displaced: Returnees' and IDPs' choice of destination in Afghanistan, commissioned by DACAAR

Brookings-Bern Project on Internal Displacement (2010), Realizing National Responsibility for the Protection of Internally Displaced Persons in Afghanistan: A Review of Relevant Laws, Policies and Practices

Central Statistics Organization (CSO) and UNICEF (2012), Afghanistan Multiple Indicator Cluster Survey 2010-2011: Final Report, Kabul, Afghanistan

Gossman, Patricia (2013), Documentation and Transitional Justice in Afghanistan, for the United States Institute of Peace (USIP)

Ministry of Refugees and Repatriation, Government of the Islamic Republic of Afghanistan (2013), National Policy on Internally Displaced Persons

Refugee Documentation Centre, Ireland, Legal Aid Board (2012), Information on Afghan IDs Tazkera

Schmeding, Annika (2015), Opportunities at the Margin, commissioned by People in Need (PIN)

The Liaison Office (TLO) (2013), An Exploratory Study of Afghan Tazkera Ownership

UNHCR (2006), Refugees: Master Glossary of Terms, Rev. 1, Geneva, Switzerland

UNICEF (2010), Children on the Move: a Report on Children of Afghan Origin Moving to Western Countries

# ANNEXES

## I. Methodological framework

The tools used in this research were designed to answer the following three key research questions:

What is the access to and prevalence of different types of civil documentation (tazkera, birth certificates, marriage certificates) amongst displaced people and other vulnerable groups?

What, if any, impacts does lack of civil documentation have on the people concerned? How do these differ by type of person and type of civil documentation?

What are current approaches to addressing lack of documentation and how can these be improved?

### **Target groups**

In order to identify the prevalence of the lack of documentation and the causes to which it can be attributed, this research followed a comparative assessment at two levels, gathering reliable statistical data from the field:

### **Displacement-affected populations**

This group will include NRC's target groups of internally displaced persons, refugee returnees and other displacement-affected populations. This research will aim at measuring the variations in access to documentation and the impact this has on target persons by key factors (including, but not limited to, age, gender, ethnicity, type of displacement and type of current location).

Between displacement-affected populations and host community members. This assessment will serve to provide a community-based analysis of documentation issues and to confirm the impact of displacement in accessing civil documentation.

Sampling for the fieldwork and post-fieldwork analysis underscored the importance of one key question for NRC and other organisations: when does displacement end?

UNHCR defines host communities as “communities that host large populations of refugees or internally displaced persons, typically in camps or integrated into households directly.”<sup>100</sup> Indeed, host communities are often defined in opposition to other groups – they are those who have not been displaced.

However, the vast majority of Afghans have, at some point in the past, been displaced. Therefore, stating that host community members must be people who have never left the location of research would have a) drastically limited “host community” members and b) excluded those who might have briefly lived abroad, for example, thirty years ago. It would not be contextually relevant.

In practice, NRC staff in the field reported using a modified different definition – using time since return as the most relevant cut off to differentiate between “formerly” displaced persons and “currently” displaced persons. Based on this conversation, it was agreed that this cut off generally corresponded to twenty years.

A second look was taken at all cases where the time since displacement ranges from 16-23 years. In these cases, classification as returnee/IDP/host community will be done using additional variables, namely, whether or not this is their province of origin, and what type of community it is – researchers identified each community as “host,” “IDP,” “returnee” or “mixed.”

The lack of clarity around how to define host communities versus displaced persons poses clear programmatic challenges: when programme objectives and outcomes are built around host community and displaced person targets, lack of consistent methods of identification will lead to results which vary from team leader to team leader. It also, importantly, makes it difficult to come to conclusions about the needs of each community, given the fuzzy boundary between them, and identify durable solutions.

## Fieldwork overview

The final methodology used was the one proposed and approved in the Inception Report: a mixed-methods approach combining quantitative and qualitative information to triangulate results from a multitude of sources. The research team has successfully completed all the quantitative fieldwork and is finalizing qualitative fieldwork.

Samuel Hall teams conducted training and research from 22 August 2015 to 2 September 2015 in the provinces of Balkh, Herat and Kabul. In each province, fieldwork was centred around the provincial capitals – Mazar-e-Sharif, Herat, and Kabul – spreading outwards to include urban, peri-urban and rural areas. A minimum of three Primary Sampling Units (PSUs) were visited per type of location. PSUs were selected to include both returnees and IDPs amongst the displaced people.

Researchers interviewed both host community members and displaced persons. In cases when a community was solely made up of displaced persons, host community members were selected from the nearest non-displaced community.

Enumerators were trained in Kabul with the help of an international consultant and team leaders. Fieldwork in Kabul was completed in three days and included an additional group of interviews with Jogi to collect indicative information on the specific challenges they may face.<sup>101</sup> The 20-enumerator team then split into two, with half of the interviewers going to Balkh province and the others to Herat province. Each team consisted of five male and five female enumerators. In each province, five days of fieldwork were completed. The team leaders were assisted by one female enumerator in conducting case studies and focus group discussions.

Key informant interviews were conducted both in person and on the phone by two international consultants and a legal researcher.

## Quantitative survey: 1,240 completed

The initial target for this portion of the research was of 1,200 surveys. 1,208 were completed towards the targets specified. The additional surveys conducted by the Samuel Hall team include a sample of 32 Jogi households specifically targeted in Kabul to allow for a high-level overview of the particular situation they face.

The sample was further divided in each province between urban, peri-urban and rural locations to enable sufficient sample to compare these types of location. Due to time constraints (researchers were limited in the number of PSUs which could be visited each day), the research team prioritised host community/displacement targets over location type targets.

### QUANTITATIVE FIELDWORK COMPLETED

Province	Displacement-affected persons**			Host community members**			Total
	Urban	Peri-urban	Rural	Urban	Peri-urban	Rural	
Kabul - target	80	80	80	53	54	53	400
Kabul - completed	81	77	83	50	58	51	400
Balkh - target	80	80	80	53	54	53	400
Balkh - completed	84	78	82	52	56	53	405
Herat – target	80	80	80	53	54	53	400
Herat - completed	81	82	86	52	54	48	403
Total - target	240	240	240	159	162	159	1200
Total completed	246	237	251	154	168	152	1208

\*\* An additional 32 interviews were conducted amongst Jogi households living in an urban community in Kabul. The displaced persons interviewed included returnees, IDPs and households displaced both abroad and internally.

## Focus group discussions: 9 completed

Three focus group discussions were conducted in each province, one with male host community members, one with displaced men and one with a mix of displaced and host community women. The focus group discussions inquired about respondents' understanding of civil documentation and its importance, the processes used to obtain civil documents and the impact of lacking these. Finally, they also inquired about the way to support people in acquiring civil documentation

## Case studies: 12 completed

To date, four case studies have been conducted in each province, one each with a displaced man and woman, one with a host community members and one with a beneficiary of NRC assistance around civil documentation. These went into more depth than the FGDs in terms of the processes around getting civil documentation, and who should be eligible for it. As initially Samuel Hall only received contacts of legal counselling beneficiaries, case studies with legal assistance beneficiaries are being conducted over the phone.

### Community leader interviews: 12 completed

Four community leader interviews were conducted in each province, with a minimum of one each with a displaced community leader and host community leader. In addition to inquiring about access to civil documentation and its impact, these considered community leader understanding of the legal frameworks governing civil documentation.

### Key informant interviews (KIIs): 45 completed

A full list of KIIs can be found in Annex 0. These targeted a range of government, NGO, UN and legal stakeholders. Three separate questionnaires were developed, one for government stakeholders, one for UN/NGOs, and one for legal stakeholders (such as judges and lawyers).

### QUALITATIVE FIELDWORK COMPLETED

Province	Kabul	Balkh	Herat	Total
FGDs - target	3	3	3	9
FGDs - completed	3	3	3	9
Case studies - target	4	4	4	12
Case studies – completed	4	4	4	12
Community leader interviews - target	3	3	3	9
Community leader interviews - completed	4	4	4	12
Key informant interviews – target	45			
Key informant interviews – completed	45			

### KEY INFORMANT INTERVIEWS

ORGANIZATION	POSITION	LOCATION
AIBA	Regional manager	Balkh
GIZ	Team Leader IDP Project	
MoJ	Head of Justice	
UNHCR	Associate Protection Officer	
AIBA	Member	Herat
CRP	Manager of Commandment Recording Populations	
HELP	Program Director	
Herat University	President of the law faculty	
MOJ, Court of Appeal	Judge, Director of personal status	
MOJ, Family Court	Judge/Head of Family Court of Herat Province	
MoJ, Family Court	Judge	
NRC	Community Liaison Officer	
AIHRC	Commissioner	Kabul

BORDA	Country head	Kabul
Chiki law organization	Consultant to educational programs	
DACAAR	Head of programs	
DQG	Head of Mission	
DQG	Deputy Director	
DRC	Protection and Advocacy Manager	
INLC	Lecturer	
IOM	Project Support Officer	
JFAO	Judge/Lawyer	
MOI	Head of Human Rights Department	
MRDD	Senior National Programme Officer	
NRC	AUP Program manager	
NRC	ICLA Deputy	
NRC	Community Liaison Officer	
NRC	Deputy Education	
PIN	Head of programs	
President	Misbah Legal Service Consultancy	
RLS-1	Justice Associate	
The World Bank	Social Protection Specialist	
TLO	Head of Research	
UNHABITAT	Program Manager: LIVE-UP	
UNOCHA	Humanitarian Affairs Officer	
UNOCHA	Humanitarian Affairs Officer	
US Embassy	Refugee Coordinator	
US Embassy	Refugee Specialist	
WFAW	Kabul Office Manager	
OHW	South Program Coordinator	Kandahar
AIBA	Defense Lawyer	Nangarhar
MOJ, Civil Court	Head of civil court	Nangarhar
MOJ, Criminal Court	Judge	Nangarhar
NRC (former)	Senior Legal Counselor	Nangarhar
PIN associated	Researcher	USA

## II. Stakeholder mapping

The table below provides further details on the stakeholders involved with civil documentation.

ORGANISATIONS	MANDATE	WORK ON CIVIL DOCUMENTATION
<b>GOVERNMENTAL INSTITUTIONS</b>		
The Ministry of Refugees and Repatriation MORR - Directorate of Legal protection	<p>The MORR has five top priorities:</p> <p>Support voluntary and gradual repatriation</p> <p>Provide legal support to the repatriated, for example with regards to land ownership</p> <p>Offer solutions on employment and vocational training, initial support to re-integration</p> <p>Build staff capacity</p> <p>Establish and build of basic infrastructures such as: health clinics; schools; bridges and culverts; water resources; roads; and other essential needs in residential areas of repatriates in close cooperation with government related and International organizations.</p>	<p>The legal protection directorates consider any types of legal claims made by Refugees, returnees and IDPs in the capital and within the provinces. Additionally, the directorate has the following obligations related to civil documentation:</p> <p>Support returnees and IDPs in case their lands are occupied or captured.</p> <p>Consider complains of returnees, solving their disputes over the properties thorough special courts and reclaiming of their properties based on decree No. 89 of president.</p> <p>Taking measures to ensure legal protection for refugees, returnees and IDPs in related administrations.</p> <p>Taking measures for finding legal solutions for (Refugees, Returnees, IDPs) in related administrations in negotiation with Planning and International relations.</p> <p>Taking measures to put in effect decree No. 297 of president of Islamic Republic of Afghanistan and control over the implementation of other legal documents related to (Refugees, returnees and IDPs in the capital and all over the country).</p> <p>Address to issues of asylum seekers and immigrants by negotiation with other administrations of the Islamic Republic of Afghanistan.</p> <p>With regard to the loss of civil documents, MoRR together with the MoJ</p>

		<p>Reviews laws, rules and regulations to analyse what obstacles exist to their replacement;</p> <p>Recommends necessary measures, including amending legislation and regulations, to ensure that IDPs are issued with documents necessary for the enjoyment and exercise of their rights.</p> <p>Recommends that relevant national, provincial and district offices be instructed by the Ministry charged with this matter to facilitate the issuance of new documents or the replacement of documents lost or destroyed in the course of displacement, without imposing unreasonable conditions.</p>
The Ministry of Interior (Mol)	Regulates law enforcement in Afghanistan and maintains the Afghan National Police, Afghan Special Narcotics Force, Counter Narcotics Police of Afghanistan, and the Afghan Public Protection Force. It also supervises the General Directorate of Prisons and Detention Centres (GDPDC).	<p>Among its responsibilities, the Mol is to:</p> <p>Prioritise IDPs who do not have tazkera for receiving the E-Tazkera and authorise all central and provincial departments of the DPR to do so.</p> <p>Ensure that information on how to obtain an E-Tazkera is widely disseminated in IDP communities, along with explanations about its importance, in all languages spoken by IDPs.</p> <p>Ensure that such information targets IDP women, as only a small percentage of Afghan IDP women have a tazkera.</p> <p>Modernise the record-keeping of its DPR and centralize in Kabul data that is currently only held in provincial capitals, so that it is not necessary for IDPs to travel to their home provinces to verify their identity, as this is expensive and can be both difficult and dangerous. It will also ensure that the new system allows for the issuance of tazkera in any provincial capital.</p>

		<p>Consider alternative forms of proof of identity for applicants (e.g., sworn testimony from an elder, a religious leader, a medical doctor).</p> <p>Waive tazkera fees for the very vulnerable IDPs</p>
The Ministry of Women's Affairs (MoWA)	Ensure that Afghan women's legal, economic, social, political, and civic rights, including their right to be free from all forms of violence and discrimination, are respected, promoted and fulfilled.	The MoWA is to undertake awareness-raising activities about the importance of the tazkera for women and children and on how to obtain these documents.
The Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD)	<p>Provides services for persons with disabilities and the families of Martyrs.</p> <p>MoLSAMD has three critical and interdependent areas of activity:</p> <ol style="list-style-type: none"> <li>1) Security</li> <li>2) Governance, Rule of law and Human Rights</li> <li>3) Economic and Social Development</li> </ol>	MoLSAMD is to cooperate with MoWA, Mol and MoBTA to make sure assistance is given to separated, unaccompanied or orphaned IDP children to obtain tazkera, and to members of certain vulnerable groups, notably the Kuchi, Jogi and Chori Frosh.
The Ministry of Borders and Tribal Affairs (MOBTA)	Supports and represents the needs and concern of the tribes and border communities of the country.	MoBTA to cooperate with MoWA, MoLSAMD and Mol to make sure assistance is given to separated, unaccompanied or orphaned IDP children to obtain tazkera, and to members of groups such as Kuchi, Jogi and Chori Frosh.
<b>INTERNATIONAL ORGANIZATIONS and DONORS</b>		
European Union	Plays an active role in efforts to consolidate peace, stability and rule of law.	Supports and funds the e-tazkera project
United State Agency for International Development	Generally works to end extreme global poverty and enable resilient, democratic societies to realize their potential.	Supports and funds the e-tazkera project

Danish Refugee Council	Provides direct assistance to conflict-affected populations – refugees, internally displaced people (IDPs) and host communities in the conflict areas of the world; and advocates on behalf of conflict-affected populations internationally, and in Denmark, on the basis of humanitarian principles and the Human Rights Declaration. Supports durable solutions, including voluntary repatriation, local integration or resettlement. Internationally, DRC actively participates in supporting the protection of refugees, and promoting durable solutions for conflict-affected populations.	<p>Bureau for Population, Refugees and Migration (BPRM) funded by the US Embassy organizes awareness campaigns on the importance of civil documents. They developed a curriculum to inform about the procedures of access to civil documents and distributed brochures and leaflets.</p> <p>Offers legal counselling and legal assistance programming focused especially on cases of inheritance, divorce and civil documentation.</p> <p>Runs an advocacy programme with the government in favour of IDPs.</p>
Health, Education and Literacy Program	Encourages the efforts of communities affected by catastrophes and political upheaval, while strengthening their capability to improve their living conditions and long-term perspectives.	HELP has organised awareness campaigns about the importance of civil documentation
International Organization for Migration (IOM)	<p>Promotes debate among key stakeholders on all aspects of migration and issues related to it.</p> <p>Analyses policy gaps with regards to migration and considers linkages to other global issues.</p>	<p>IOM has supported the MoRR in launching a comprehensive database that will be used to record vital information on returnees and internally displaced persons (IDPs), and related issues, such as land allocation. IOM will provide the necessary hardware and software for the implementation phase.</p> <p>IOM has developed the business process for collecting initial information from the four main border provinces of return. This will be followed by establishing the information management system in nine provinces of high return, where the focus will be on reintegration information.</p>

		<p>Information tracked in the database will include the returns of documented and undocumented Afghans from Iran, Pakistan and other countries; the location and status of IDPs; and information on the allocation or construction of permanent shelters or townships for returnees, as well as livelihood opportunities.</p> <p>Afghanistan Passport Issuing System and Afghanistan Visa Issuing System (APIS/AVIS): through the APIS/AVIS project, IOM is working with the Government of Afghanistan to introduce Machine Readable Passports and Machine Readable Visas compliant with international standards.</p> <p>Electronic National ID Card (e-tazkera): IOM is providing technical, operational and targeted capacity building support to the Ministry of Interior for the implementation of a biometric, polycarbonate Electronic National ID to replace the various paper civil registration/identity documents.</p>
The Norwegian Refugee Council (NRC)	<p>NRC promotes and protects the rights of all people who have been forced to flee their countries, or their homes within their countries, regardless of their race, religion, nationality or political convictions.</p> <p>It provides humanitarian assistance in emergency situations, and strengthens the capacity of the UN organizations to offer and coordinate international aid and protection. NRC's ultimate goal is to provide viable, durable solutions with regard to both its spokesman activities and its emergency relief efforts.</p>	<p>NRC's ICLA programme is providing two civil documentation – related services in Afghanistan:</p> <p>Counselling on civil documentation: face to face discussion, counselling providing information specifically to the procedures of civil documentation to the beneficiaries.</p> <p>Legal assistance on civil documentation: more practical work through which information and counselling is provided to the beneficiaries. NRC also accompanies the beneficiaries to the relevant government entities – or provides them with relevant government documents such as petition. This requires accompanying the beneficiaries to relevant offices.</p>

UNHCR	<p>Leads and co-ordinates international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well being of refugees. It strives to ensure durable solutions, making sure that everyone can exercise the right to seek asylum and find safe refuge in another state, with the option to return home voluntarily, integrate locally or to resettle in a third country.</p> <p>UNHCR's mandate has gradually been expanded to include protecting and providing humanitarian assistance to whom it describes as other persons "of concern."</p>	<p>In 2010, UNHCR provided five encashment centres offering various services to returnees, including distribution of cash grants, basic health care, and legal advice and counselling. UNHCR helped the local authorities to monitor the border to guarantee safe and unhindered passage for returnees and manage the encashment centres.</p>
-------	--	---

#### AFGHAN NON-GOVERNMENTAL ORGANIZATIONS

Medica Afghanistan	<p>Works to eliminate violence against women and improve the quality of women's lives by providing legal aid, psychosocial counselling, and public advocacy, while also raising awareness and building capacity in the fields of health, education, and law.</p>	<p>Medica's Legal Aid Program (LAP) responds to Afghan women's need for justice by providing legal services for women facing criminal prosecution or trying to engage in civil proceedings. These services include criminal defence, representation in civil proceedings, mediation, raising legal awareness, providing legal advice, and facilitating safe family reintegration.</p> <p>Medica has organised public awareness campaigns about the importance of civil documentation especially the marriage certificate, and trainings among key actors such as lawyers and police on this front.</p>
--------------------	--	--

Da Qanoon Ghush-tonky	<p>Ensures support and implementation of the Afghan Constitution and the other laws of the country. Also seeks to improve the judicial system, provide free legal representation and free legal advice, and finally, increase public awareness of laws and that of members of the judiciary system by publishing Posters, booklets, pamphlets, workshops, trainings and Conferences.</p> <p>Also, works to increase the number and knowledge of Defence Lawyers through trainings and supporting Defence Lawyers.</p> <p>Implements the Human Rights Declaration, International conventions during the work of Defence Lawyers as well as in Judiciary System of Country.</p> <p>Providing comments and suggestions for the revision of Laws to relevant agencies.</p>	<p>Has a system of free mobile legal clinics offering legal assistance.</p> <p>Conducts awareness campaigns and empowerment activities for the members of the Judiciary System through out the publications of Posters, booklets, pamphlets, workshops, trainings and Conferences.</p>
Women for Afghan Women	<p>Women for Afghan Women (WAW) is dedicated to securing and protecting the rights of disenfranchised Afghan women and girls in Afghanistan and New York, particularly their rights to develop their individual potential, to self-determination, and to be represented in all areas of life: political, social, cultural and economic. We advocate for women's rights and challenge the norms that underpin gender-based violence wherever opportunities arise to influence attitudes and bring about change.</p>	<p>Has conducted awareness campaigns about the importance of civil documentation especially the marriage certificate</p>

### III. Legal provisions

The tables below provides the full text of the provisions relevant to civil documentation in the laws mentioned in Section 3.1.

#### INTERNATIONAL CONVENTIONS AND POLICIES

LEGISLATION	PROVISIONS
Universal Declaration of Human Rights, 1948	Article 6: Everyone has the right to recognition everywhere as a person before the law
International Covenant on Civil and Political Rights, 1966	Article 2(1): Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; Article 4(2): No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision; Article 24: (2) Every child shall be registered immediately after birth and shall have a name; (3). Every child has the right to acquire a nationality; Article 16: Everyone has the right to recognition everywhere as a person before the law
Convention on Rights of Child, 1989	Article 8: (1) States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference; (2) Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity
Convention on the Elimination of All Forms of Violence Against Women, 1979	Article 16 (2): The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Guiding Principles on Internal Displacement 2001	Principle 20: (1). Every human being has the right to recognition everywhere as a person before the law; (2). To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents; (3). Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.
--	--

## AFGHAN LAW

LEGISLATION	PROVISIONS
Agreement between the Government of the Islamic Republic of Iran, the Government of Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees Governing the Repatriation of Afghan Citizens Living in Iran 2002 and 2006	Article 15: The Interim Authority of Afghanistan shall accord recognition to the legal status of Afghan refugees and displaced persons repatriating from Iran, including births, deaths, marriage and divorce. The Interim Authority of Afghanistan shall also seek to accord recognition, as appropriate, to the equivalency of academic and vocational skills, diplomas and certificates obtained by the refugees and displaced persons and issued by valid Iranian institutions; Article 20: (1). UNHCR will ensure the voluntary nature of the repatriation of refugees and displaced persons. In this respect, this Organization, in consultation with the other members of the Tripartite Commission, shall devise the most appropriate means for the interviewing. Subsequently, the Government of the Islamic Republic of Iran will issue exit permits for the applicants; (2). The Afghan authorities shall recognize duly completed UNHCR Voluntary Repatriation Forms (VRFs), as valid identity documents and travel documents for the purpose of return to final destinations in Afghanistan.

Agreement between the Government of the Islamic Republic of Pakistan, the Government of Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees Governing the Repatriation of Afghan Citizens Living in Pakistan 2013

Article 10: The Islamic Republic of Afghanistan accepts to recognize the legal status, including changes thereto, of Afghan citizens repatriating from Pakistan, including births, deaths, adoptions, marriage and divorce. The Islamic Republic of Afghanistan shall also seek to accord recognition, as appropriate and in accordance with the law, to the equivalency of academic and vocational skills, diplomas and certificates obtained by Afghan citizens while in Pakistan; Article 15: (1). In accordance with its mandate, and in consultation with the other parties, UNHCR shall undertake verification of the voluntary character of the decision to return of Afghan citizens in Pakistan who are PoR holders; (2). Afghan citizens repatriating to Afghanistan under the UNHCR programme will present their Proof of Registration (PoR) cards for deregistration by the National Database and Registration Authority (NADRA) in Pakistan. A VRF will be issued on deregistration to the PoR holder. Duly completed VRFs will be recognized as a valid identity and travel document to and inside Afghanistan. Iris recognition processing will be mandatory for all returning Afghans wishing to obtain travel and reintegration assistance at designated Encashment Centres inside Afghanistan.

Afghan Civil Code  
1977

Article 46: The civil status of person attaining the age of eighteen shall be recorded in the special registration books in accordance with the provisions of Articles 47, 48, 49 and 50 of this law; Article 47: (1) A person's civil status shall be entered in an identity document including the name, family name, the birth date and the birth place, occupation, nationality, place of domicile, the name of the spouse and names of the children together with their dates and places of birth. This document shall be provided to the said person on demand. (2) Any changes which take place in the above status such as death, change in the place of residence or occupation, shall be marked in the identity document; Article 48: Documents pertaining to marriage, divorce and the proof of parentage and succession, which may be prepared by the respective offices, shall be registered in the books provided under Article 46 of this law. The said offices are bound to inform in writing the departments concerned of any changes in the civil status so that they may be registered thereof; Article 49: The attorney can get information about the registration of person's identification as provided under Article 46 of this law; in case he witnesses any violation of provisions of law or any fraud he may take legal measures; Article 50: All information provided under Articles 46, 47, 48, 49, of this law registered in the special books or identity cards shall be recognized as legal evidence against any claimant. Objection to such documents is not permissible unless the objection is based on fraud or forgery of such documents; Article 61: "(1) Marriage contract shall be registered in the official marriage deed by the respective office and shall be prepared in three copies. The original shall be kept with the respective office and the two copies shall be supplied to the concluding parties. After having been registered, the marriage deed shall be brought to the notice of the identification Registration office as provide under Article 46 of this law." (Republic of Afghanistan (5 January 1977) Civil Law of the Republic of Afghanistan (Civil Code))

Registration of Population Records Act 2000	Article 10: Afghan male citizens are under a duty to record their identity in office of registration of population records in their permanent place of residence in order get tazkera; Article 11: Tazkera is issued based on verification of person's identity; Article 13: An individual whose identity for reasons cannot be verified in the area of his residence can acquire a tazkera after attestation by two Afghan citizens or a government office (authority); Article 14: The central department of registration of population records will issue to male citizens IEA original or duplicate copy of tazkera when required; Article 23(1): In case the facial features of a person resemble the photograph in database of registration of population records, a duplicate national identity card shall be issued in the following circumstances: 1- In the event that national identity card is broken or becomes illegible, without an announcement in the mass media. 2- In the event of burning of national identity card provided that two persons holding identity card of that area confirm the identity of the person 3- In the event of loss of national identity card based on the receipt of an announcement in a mass media. 4. When the facial appearance of the person does not resemble the photo in the database, after confirmation of person's identity by two persons or a government (office) authority; Article 24: In areas where there is no mass media, a duplicate of the national identity card shall be issued based on the confirmation of two persons holding national identity card of the same area.
Citizenship Act 2000	Article 5: Living abroad of a citizen of the Islamic Emarate of Afghanistan (IEA) does not result in deprivation of citizenship; Article 6(1): Afghan citizens abroad are under the protection of IEA; Article 9(2): Anyone born to Afghan parents whether within or outside the territory of Afghanistan is considered Afghan citizen; Article 12: A child found inside the territory of IEA whose parents do not possess documents proving their identity, is considered citizen of IEA.
Passport Act 2000	Article 8: Passport is issued based on the original identity document.
Afghan Constitution 2004	Article 4: No individual of the nation of Afghanistan shall be deprived of citizenship.

## National IDP Policy

Section 2.2: (f) Acknowledges the particular vulnerabilities of IDPs caused by the very nature of displacement, including loss of homes, loss of livelihoods, separation of families or loss of social and traditional networks, and loss of personal documents, and addresses the particular needs of the most disadvantaged among the displaced. This includes the emergency protection needs for children, adolescents, youth, elderly, widows, pregnant women, persons with a disability or chronic illness, and with appropriate consideration of different protection needs according to gender within any IDP group;

Section 6.3.1: General Information: This policy recognizes that (a) The personal documents of people who flee their homes and areas of habitual residence are frequently lost or destroyed, and IDPs are often unable to obtain or replace such documents while they are in displacement. This includes national identity (ID) cards (Tazkera), birth certificates, passports, and marriage certificates. Other important documentation which may be lost includes title deeds to land and houses, lease agreements, election cards, school records or diplomas, records of entitlement to pension or disability cards. (b) The Tazkera is a vital document for all Afghans as it is necessary for identification at police check-posts, property acquisition, sometimes for enrolling children in schools, getting a government job, obtaining a passport, registering marriages, accessing courts, and sometimes for receiving humanitarian assistance; and that the lack of a Tazkera can lead to discrimination, marginalization and even the denial of citizenship and statelessness. (c) The Department of Population Registration (DPR) within the Ministry of Interior (MoI), which is responsible for issuing the Tazkera, in accordance with existing Civil Registration Laws, is currently introducing, in cooperation with the Ministry of Communication and Information Technology, new E-Tazkera (Electronic National Identification Document) containing biometric information, to replace the six different paper Tazkeras currently in use. (d) The failure to issue IDPs with lost or destroyed documents shall not in any way impair the exercise or enjoyment of their human rights.

6.3.2 Regarding the Tazkera: In accordance with this policy: (a) The Mol will prioritize IDPs who do not have Tazkeras for receiving the E-Tazkera and will authorize all central and provincial departments of the DPR to prioritize IDPs for issuance of the E-Tazkera. (b) The Mol will ensure that information on how to obtain an E-Tazkera is widely disseminated in IDP communities, along with explanations about its importance, in all languages spoken by IDPs. (c) The Mol will ensure that such information targets IDP women, as only a small percentage of Afghan IDP women have a Tazkera. (d) The Ministry of Women's Affairs (MoWA) will undertake awareness-raising activities about the importance of the Tazkera for women and children and on the procedure for obtaining the document. (e) Where for cultural reasons some women do not wish the Tazkera to display their photograph, they will be given the option of using another form of identification such as fingerprints; or if they agree to have their Tazkera issued with a photo, their right to show the photo only to another woman will be respected. (f) Mol will cooperate with MOWA, MoLSAMD and MoBTA to see that assistance is given to separated, unaccompanied or orphaned IDP children to obtain Tazkera, and to members of certain groups, notably the Kuchi, Jogi and Chori Frosh, who generally do not have Tazkera and who face special difficulties in acquiring them. (g) Mol will modernize the record-keeping of its DPR and centralize in Kabul data that is currently only held in provincial capitals, so that it is not necessary for IDPs to travel to their home provinces to verify their identity, as this is expensive and can be both difficult and dangerous. It will also ensure that the new system allows for the issuance of Tazkera in any provincial capital. (h) Mol will also consider alternative forms of proof (e.g., sworn testimony from an elder, a religious leader, a medical doctor) regarding the applicant's identity. (i) If there is a fee charged for the Tazkera, it should be very minimal and waived in the case of vulnerable IDPs.

6.3.3 Regarding Other Lost Documentation. With regard to the loss of other documents, including those noted in paragraph 6.3.1 (a) of this section, MoRR together with the Ministry of Justice will: (a) Review laws, rules and regulations to analyse what obstacles exist to their replacement; (b) Recommend necessary measures, including amending legislation and regulations, to ensure that IDPs are issued with documents necessary for the enjoyment and exercise of their rights (c) Recommend that relevant national, provincial and district offices be instructed by the Ministry charged with this matter to facilitate the issuance of new documents or the replacement of documents lost or destroyed in the course of displacement, without imposing unreasonable conditions, such as requiring return to one's place of habitual residence in order to obtain these or other required documents, and without excessive cost.

7.1 Human Rights and Entitlements in Displacement: This policy reaffirms that, although they are in displacement, IDPs do not lose the rights or entitlements enjoyed by all Afghans. It recognizes that IDPs may, however, find it more difficult to exercise those rights and to benefit from those entitlements because of their displacement

Law on Managing  
Land Affairs 2008

Article 5 - Title deeds include:

A deed issued by a court in respect of purchase, ownership, gift, inheritance, division, land exchange, letter of quittance, letter of correction as well as document of the final decision issued on the basis of former property deeds and containing the following conditions:

- To have been registered with a judicial court.
- The superseding deed shall not exist.
- The land under legal deed, if subject to taxation, shall be recorded in the tax book.

State decree, government decree and a deed in respect of purchasing land from state's landed properties with the following conditions:

- To have been issued by a competent organization.
- The superseding deed shall not exist.
- To have been recorded in the tax book if the land is subject to tax payment.

The tax payment document having the following conditions:

- The superseding deed shall not exist.
- To have been registered in the principal books of properties (Amlak) and shall have tax payment ticket of before 15th of Asad (1354)

The water rights document having the Following conditions:

- Its superseding document shall not exist.
- To have been registered in the principal books of properties (Amlak) and tax.

A customary deed shall be legally valid under the following conditions:

- The land seller should have a valid deed.
- Where the customary deed has been prepared before the 15th of Asad, (1354), and the buyer having filled the declaration form before the year 1357 and submitted it to the relevant office after being confirmed by the farmers whose lands having joint borders at the same fragment. In locations where declaration forms were either not distributed or distributed before the year (1357) but the registration book has become extinct, and where no claim to the land existed and the land purchase and the possession thereof by the buyer has been confirmed by the landowners holding lands having joint border with the above fragment, as well as by the inhabitants of the locality where the land is situated.

A formal title deed having the following conditions:

- The legal title deed shall exist.
- To have been issued after legal settlement.
- To have been registered in the principal books of properties (Amlak) and tax.
- No claim to the land shall exist.

Landownership document (the title deed) having the following conditions:

- To have been prepared and issued by the relevant court after legal settlement of the land.
- To have been registered in the principal books of properties (Amlak) and tax.

Registration  
of Population  
Records Act 2014

Article 9: (1) National identity cards shall be distributed, as follows, to citizens of the country for recognition of their identity and registration of population records: 1- Up to completion of six years of age without the photograph and biometric information of polycarbonate card. 2- From seven up to seventeen years of age with the photograph and without biometric information of polycarbonate card. 3- Starting from eighteen years of age with photograph and biometric information of polycarbonate card; (2) Afghans citizens, inside and outside Afghanistan, shall be obligated to record their identity with offices of registration of population records and acquire national identity cards pursuant to the provisions of this law; (3) Foreign citizen and stateless person who obtain nationality of Afghanistan based on the provisions of the law shall be obligated to obtain national identity card from the offices of the registration of population records; (4) Guardian or lawful relative of a child shall be bound to, from the date of birth up to maximum three months, based on the birth certificate of a health facility or at home, obtain national identity card for the child; (5) Guardian or lawful relative of a child, set forth in paragraph 4 of this article, shall be obligated to approach relevant offices of registration of population records, to renew national identity card of the child, upon completion of six years of age of the child, and paste a photograph of the child to the national identity card; (6) Distribution of national identity card shall take place based on the form contained in annex 2 of this law.

Article 19: (1) If a person with no known identity approaches office of registration of population records to obtain national identity card, after confirmation and guarantee by two national identity card holders and approval of the person being an Afghan national by the national security department of the area, and filling out of a registration form, he/she shall be issued national identity card; (2) If a person with no known identity cannot meet the requirements for obtaining national identity card set forth in paragraph one of this article, the issue shall be referred to the commission comprised of competent representatives from Supreme Court, Ministry of Foreign Affairs, Ministry of Refugees and Repatriation, Attorney General's Office, National Directorate of Security and Office of Registration and Population Records and Evaluation of Foreigners Identity Affairs who shall decide a manner that does not contradict with enacted legislatives documents of the country.

	<p>Article 20: (1) Heirs, executor of will or lawful relative of a dead person shall be obligated to within a period of thirty days report the death, describing date and place of death of the person to the office of registration of population records; (2) If a person dies in a public place, the relevant security authority of the area shall be obligated to within a period of one week after receiving the information report the death to the nearest office of registration of population records; (3) Political and consular missions of Afghanistan out of the country shall be obligated to register death of Afghan citizens that occurs out of Afghanistan and report it within 30 days to Office of Registration of Population Records and Foreigners Identity Affairs.</p> <p>Article 22: Ministry of Public Health shall take appropriate measures in order to carry out regular registration of births and deaths that take place in government or private health facilities and shall require officials of these facilities to report such cases to the relevant offices of registration of population records.</p> <p>Article 23: Governors, district governors and mayors shall be obligated to attract the support and cooperation of village elders, neighbourhood representatives, imams and health care officials of their related areas with regards to obtaining national identity card and registration of births, deaths, marriages and dissolution of marriages.</p> <p>Article 25: If a person changes his/her place of residence temporarily exceeding more than six months, he/she shall be obligated to report the matter in written to office of registration of population records.</p>
Electoral Law 2014	<p>Article 5: (4) Eligible voters shall have equal right of vote which they use directly in elections. Imposing any kind of direct or indirect restrictions on voters and candidates on the basis of language, religion, ethnicity, sex, clan, region, residency and social or occupational status and or disability shall be prohibited; (5) Kuchis, refugees, staff of diplomatic missions based abroad, military personnel and eligible prisoners shall have the right to participate, if possible, in elections in separate polling centres established by the Commission.</p>

Passport Act 2015	<p>Article 12: Ordinary passport for traveling is issued for five or ten years upon request by applicant; Article 13 (1) Political passport, special passport and service passports are issued by the ministry of foreign affairs. (2) Ordinary passport inside the country is issued by Passport Department of Ministry of Interior and in the provinces the line departments of Passport Department process the applications which is issued by Passport Department according to provisions of this law and then distributed by the provincial line departments in the provinces. (3) Outside the country ordinary passport is issued when needed in accordance with special regulations by passport issuance department of diplomatic missions or consular section of ministry of foreign affairs; Article 14: Passport under Article 12 of this law is issued based on the national Tazekra of the applicant in accordance with the regulations that will be drafted and adopted by ministry of foreign affairs and ministry of interior; Article 19: Required documents for issuing passport are: (1) Tazkera (2) Application or official letter of relevant department. (3) Four standard photos. (4) Filling out the passport form. (5) Receipt of payment of passport fee; Article 21: Fees for ordinary passport and travel document inside and outside the country will be decided based on joint proposal of ministry of foreign affairs and ministry of interior and approval of the president.</p>
MoRR Strategic Plan 2015-2019	<p>Strategy 4: MoRR in the light of laws, national strategic plans, international refugee conventions and protocols establishes a comprehensive system and programmes to increase legal and social services provision.</p> <p>Objectives: (1) Providing access to social services (2) Increasing and strengthening legal protections.</p>

## Endnote

- 1 OCHA, Afghanistan: Conflict Induced Displacements – Snapshot (1 January – 31 March 2016).
- 2 IDMC/NRC (2015), Afghanistan: New and Long Term IDPs Risk Becoming Marginalised as Conflict Intensifies, p. 1
- 3 IDMC/NRC (2015), New and Long Term IDPs, p. 7
- 4 UNHCR, Solutions Strategy for Afghan Refugees (SSAR)
- 5 Undocumented should here be understood to mean those lacking documentation of status for their stay abroad (i.e. unregistered refugees / migrants) rather than those lacking Afghan civil documentation
- 6 IOM (5 September 2015), Return of Undocumented Afghans from Pakistan – Update as of 5 September 2015, p. 1
- 7 Including Nangarhar, Kandahar and the United States
- 8 Guiding Principles on Internal Displacement (UN)
- 9 UNHCR (2006), Master Glossary of Terms, Rev.1, p. 11
- 10 See Annex III. for text of all the relevant legal provisions.
- 11 Catherine James, 'The Kunduz legacy', <http://www.abc.net.au/news/2015-10-14/13000-families-flee-afghanistans-battle-torn-region/6854766>
- 12 See M. Nowak, U.N. Covenant on Civil and Political Rights: CCPR Commentary, 2nd revised edition, N.P. Engel Publisher, 2005, p. 369.
- 13 ICCPR, Article 4(2).
- 14 OHCHR, Working Group on Enforced or Involuntary Disappearances, General Comment on the right to recognition as a person before the law in the context of enforced disappearances.
- 15 The full provisions of each law with regards to civil documentation as they relate to displaced persons can be found in Section 0
- 16 The Liaison Office (TLO) (2013), An Exploratory Study of Afghan Tazkera Ownership, p. vii
- 17 TLO (2013), An Exploratory Study, p. 6
- 18 Schmeding, Annika (2015), Opportunities at the Margin, commissioned by PIN p. 24
- 19 Registration of Population Act (2014), Article 14
- 20 Key informant interview, Registration of Population Records, Zindajan District, Herat, 14 September 2015, and key informant interview with former NRC ICLA programme manager, Kabul, Afghanistan, 29 July 2015
- 21 The phrase 'an individual with unknown identity' is not further defined in the legislation. It may therefore be interpreted to include IDPs or returnees who have never been registered and do not possess any documents to prove their identity.
- 22 Registration of Population Act (2014), Article 9(1)
- 23 Registration of Population Act (2014), Article 2(19)
- 24 Passport application process, at <http://moi.gov.af/fa/blog/how-to-get-a-new-passport>
- 25 Website of the Afghan Embassy in Washington, DC. <http://www.embassyofafghanistan.org/page/passport>
- 26 United Nations, Department of Economic and Social Affairs, Principles and Recommendations for a Vital Statistics System, Revision 3 (2014).
- 27 NRC's ICLA Guide to Legal Identity: Civil Registration, Documentation and Identification (2015), p. 23. (Internal NRC document)
- 28 Afghan Civil Code (1977), Article 61
- 29 IDMC / NRC (2015), New and Long Term IDPs, p.3
- 30 Key informant interview, People in Need (PIN), Kabul, Afghanistan, 19 August 2015
- 31 Key informant interview, TLO, Kabul, Afghanistan, 13 August 2015
- 32 Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 33 NRC (2014), Strengthening Displaced Women's Housing, Land and Property Rights in Afghanistan
- 34 Law of the Organisation and Authority of the Courts of the Islamic Republic of Afghanistan (2013), Article 74(1)
- 35 Community Leader interview, Balkh Province
- 36 Law on Managing Land Affairs (2008), Article 5(5)
- 37 Ministry of Refugees and Repatriation, Government of the Islamic Republic of Afghanistan (2013), National Policy on Internally Displaced Persons, p. 36. NB: while the official English translation of the National IDP policy references marriage licenses at the end, the dari term used actually references marriage certificates.
- 38 Samuel Hall (2012), Challenges of IDP Protection, p. 40
- 39 The difference in reported rates of marriage certificate possession between men and women may reflect a more limited understanding by women of the type of marriage certificate under which they have been married – which in and of itself is concerning, as this could impede their ability to claim their inheritance or mahr.

- 40 The questionnaire included the 12 categories of “extremely vulnerable individuals” noted by UNHCR: Unaccompanied elderly, unaccompanied minor, single woman, physically disabled, mentally disabled, elderly-headed household, child-headed household, chronically ill, gender-based violence survivor, large family, single head of household, and drug addict
- 41 Key informant interview, RLS-I, Kabul, Afghanistan, 17 September 2015
- 42 Key informant interview, UNOCHA, Kabul, Afghanistan, 13 September 2015
- 43 The most salient finding from the Samuel Hall/ NRC 2012 study on Challenges of IDP Protection is the fact that, despite popular perception that IDPs face particular challenges in accessing tazkera, and are much less likely to have them, a majority of IDPs, especially IDP men, do have tazkera (64.4 percent of those interviewed, and 83.4 percent, respectively). Samuel Hall (2012), Challenges of IDP Protection, p. 41
- 44 Samuel Hall (2012), Challenges of IDP Protection, p. 42
- 45 Key informant interview, Bremen Overseas Research and Development Association (BORDA), Kabul, Afghanistan 8 September 2015
- 46 Key informant interview, TLO, Kabul, Afghanistan, 13 August 2015
- 47 Key informant interview, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), Mazar-e-Sharif, Afghanistan, 13 August 2015
- 48 Host community members can include people who were originally displaced, but have been in the community of concern long enough – here, more than twenty years – to be considered part of it.
- 49 Key informant interview, the World Bank, Kabul, Afghanistan, 10 September 2015
- 50 IDPs are “more than 33 percent below the average poverty line”. SH / NRC Challenges of IDP Protection, p. 25
- 51 UNOCHA (October 2015), Afghanistan North-east Situation Report No. 4 (as of 5 October 2015), p. 1
- 52 Key informant interview, Women for Afghan Women, Kabul, Afghanistan, 29 September 2015
- 53 TLO (2013), An Exploratory Study, p. 13
- 54 Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 55 Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 56 Samuel Hall (2012), Jogi and Chori Frosh Communities; A story of Marginalisation, commissioned by UNICEF, p. 34
- 57 Key informant interview, PIN-affiliated researcher, Boston, United States, 25 August 2015
- 58 Key informant interview, PIN-affiliated researcher, Boston, United States, 25 August 2015
- 59 Law on Population Registration (2014) See Art. 6(c) (stating that Kuchis’ summer and winter locations are listed)
- 60 TLO (2013), An Exploratory Study, p. 20
- 61 Key informant interview, former NRC Senior Legal Counsellor, Jalalabad, Afghanistan 18 September 2015
- 62 UNHCR Population Profiling and Verification of Afghan Refugees (PPVR), 2012.
- 63 Samuel Hall (2014), Recommendations workshop: Urban Displaced Youth in Kabul City – a Left out Category and a Lost Generation? p. 5
- 64 TLO (2013), An Exploratory Study, p. 22 and Samuel Hall (2014), Displacement Dynamics: IDP Movement Tracking, Needs and Vulnerability Analysis, Herat and Helmand, commissioned by IOM, p. 36
- 65 NB The research focused on rural areas relatively close to cities. This trend would be expected to be stronger in more isolated rural areas.
- 66 Samuel Hall (2014), Displacement Dynamics: IDP Movement Tracking, Needs and Vulnerability Analysis, Herat and Helmand, commissioned by IOM, p. 36
- 67 Key informant interview, RLS-I, Kabul, Afghanistan, 17 September 2015
- 68 Key informant interview, Women for Afghan Women, Kabul, Afghanistan, 29 September 2015
- 69 Key informant interview, BORDA, Kabul, Afghanistan 8 September 2015
- 70 Draft PMT Assessment Form and First phase of displacement checklist, protection cluster
- 71 While death certificates are issued, they are in practice not required for inheritance purposes.
- 72 Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 73 <http://womenshlp.nrc.no/countries/afghanistan/>
- 74 Key informant interview, US Embassy, Kabul, Afghanistan, 24 September 2015
- 75 Key informant interview, TLO, Kabul, Afghanistan, 13 August 2015
- 76 Key informant interview, TLO, Kabul, Afghanistan, 13 August 2015
- 77 Key informant interview, UNOCHA, Kabul, Afghanistan, 13 September 2015
- 78 Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 79 Sayed Omar Saboor, as quoted in Najafizada, E., (24 September 2015), “Afghanistan can’t print passports fast enough as exodus worsens”, The Star Phoenix,
- 80 Bokhdi news agency, 1 March 2014, accessed 10 October 2015, <http://bokhdi.news.af/english/special-report/9890-Passports-distribution-increases-to-applicants-traveling-abroad>
- 81 Danielle Moylan, ‘Desperate Afghans flock to Kabul passport office for ticket out of war-torn nation,’ ABC Australia, 18 August 2015, accessed 12 October 2015, <http://www.abc.net.au/news/2015-08-18/passport-demand-surg->

- es-in-afghanistan/6703038
- 82** Key informant interview, UNHCR, Mazar-e-Sharif, 13 September 2015
- 83** NRC (2014), Strengthening Displaced Women's HLP Rights in Afghanistan, p. 34
- 84** Key informant Interview, UNOCHA, Kabul, Afghanistan, 13 September 2015
- 85** UN General Assembly (2010), Addendum: Framework on Durable Solutions for Internally Displaced Persons, p. 1
- 86** Brookings institute, Durable Solutions to Internal Displacement, <http://www.brookings.edu/about/projects/idp/durable-solutions-to-displacement>
- 87** Several interviews noted that the difficulties caused by lacking civil documentation were somewhat mitigated in cases where people lived at their place of origin and could be recognised by others as part of the community – and therefore supposed to access rights.
- 88** Brookings institute, Durable Solutions to Internal Displacement, <http://www.brookings.edu/about/projects/idp/durable-solutions-to-displacement>
- 89** Samuel Hall/DACAAR (2015), Agency and choice among the displaced: Refugees and IDP's choice of destination in Afghanistan, p. 47
- 90** Brookings institute, Durable Solutions to Internal Displacement, <http://www.brookings.edu/about/projects/idp/durable-solutions-to-displacement>
- 91** NB: excludes government departments issuing documentation
- 92** <http://moi.gov.af/en/page/dms/administration>
- 93** As cited in Sada-e-Azadi, 9 March 2014, accessed 10 October 2015, <http://net.sada-e-azadi.net/index.php/en/afghanistan/capital/10285-countrywide-electronic-passports-soon>
- 94** Key informant interview, Danish Committee for Aid to Afghan Refugees (DACAAR), Kabul, Afghanistan, 12 October 2015
- 95** Key informant interview, International Organization for Migration (IOM), Kabul, Afghanistan, 20 August 2015
- 96** Information gathered in key informant interviews with the EU and IOM, Kabul, Afghanistan, 23 September 2015 and 20 August 2015, respectively
- 97** [http://ec.europa.eu/europeaid/documents/aap/2013/af\\_aap\\_2013\\_afg.pdf](http://ec.europa.eu/europeaid/documents/aap/2013/af_aap_2013_afg.pdf) p. 2
- 98** Key informant interviews with the EU and IOM, Kabul, Afghanistan, 23 September 2015 and 20 August 2015, respectively
- 99** Presentation by the MRRD, "Citizens Charter", 30 September 2015
- 100** UNHCR (2006), Master Glossary of Terms, Rev.1, p. 11
- 101** Previous research suggests that Jogi have much lower rates of documentation possession than

other groups, in great part due to their non-recognition by the authorities as Afghan.



June 2012. Afghan IDP children playing at sunset. Bagrami district, Kabul Province, Afghanistan.

Photo by Farzana Wahidy