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Research Brief

Land Allocation Schemes for the Displaced in Afghanistan

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1. Executive Summary

The return of the Taliban to power in August 2021, along with previous protracted cycles of violence, recurrent disaster-driven displacement, and historically prevalent patterns of return, have shaped recent mobility in Afghanistan. Over 6 million internally displaced persons (IDPs) are living in protracted displacement, representing the second largest IDP population group worldwide.¹ In addition, over half a million Afghan refugees returned to Afghanistan from Pakistan in the fall of 2023, with additional returns looming in 2024. The displaced and returnees live often in informal settlements (ISETs) with no right to their land or housing, and at risk of forced evictions. Access to land or shelter has been for decades, and remains today, a fundamental challenge underscoring the need to examine responses to landlessness for the displaced. The Ministry of Refugees and Repatriation (MoRR) has sought to partially answer this question through Land Allocation Schemes (LAS), aimed at providing one of the core elements of durable solutions to Afghan displaced.

Previously, since 2005, three Presidential Decrees had been passed to accommodate returnees and IDPs and address their land related needs. These include (1) Presidential Decree 104 of 2005, which established strict eligibility criteria surrounding documentation and categorised all land, to be allocated through a phased ownership approach, as “townships”; (2) Presidential Decree 305 of 2018, which introduced improved land selection criteria, including proximity to basic services and the absence of pre-existing hazards; and finally (3) Presidential Decree 108 of 2020, which implemented new vulnerability assessment mechanisms in a context marked by drastically increasing internal displacement.

Despite these efforts, challenges like eligibility verification, slow phased ownership, and issues surrounding the lack of connection with urban centres and rural development programmes have persisted. **Specific and consistent implementation challenges include:**

- Limited resources and access to basic services, infrastructure gaps and geographical isolation;
- Lack of sustainable livelihood opportunities undermining the self-sufficiency of LAS sites;
- Lack of resource management and water sharing agreements with neighbouring communities;
- Excessive, often prohibitive documentation and status-related eligibility requirements which limit accessibility for IDPs;
- Gendered obstacles surrounding documentation, ownership, and social norms, render access difficult for female returnees and IDPs;
- Corruption, accountability and transparency gaps in allocation processes have undermined the legitimacy of the LAS.

Moreover, **LAS alignment with international, regional, and national policy frameworks has been tenuous at best, while there is little evidence linking these approaches with broader durable solutions strategies.** Residents of these LAS sites have underlined a range of challenges shaping their lived experiences, including (1) disconnection from local and regional economies, (2) extremely limited access to basic services, such as health and education, and grids – including for water access, energy and electricity, (3) lack of clear governance frameworks and areas of responsibility not clearly delineated or connected to relevant line ministries, and (4) social isolation of communities.

Successful past initiatives and best practices in the realm of LAS have combined sustainable urban development with participatory planning. Investing in municipalities, especially near urban areas, has also proven effective. In-situ upgrading of informal settlements is also a more sustainable solution compared to establishing new ones. Future efforts should focus on inclusive urban planning, better information dissemination, and increased donor engagement. Integrating LAS with urban expansion plans and encouraging investments in urban solutions aligned with broader development goals are crucial for long-term sustainability. This research brief highlights the importance of strategic and inclusive approaches to land allocation in addressing the needs of Afghanistan’s returnees and IDPs.

2. Introduction

Significant fluctuations in mobility patterns have occurred in conjunction with the Taliban’s return to power in August 2021. In a recent report published by the International Organization for Migration (IOM), and based on two years of data collected under the Displacement Tracking Matrix (DTM), an estimated 3.6 million individuals are said to have returned to Afghanistan from Iran and Pakistan between August 2021 and August 2022; while a further 4.3 million Afghan nationals (re)entered Afghanistan from neighbouring countries throughout the following year.² Afghanistan has also witnessed consistently elevated levels of internal displacement. The Internal Displacement Monitoring Centre (IDMC) reported in December 2022 that approximately 6.6 million Afghans were living in situations of protracted internal displacement within the country, a number reviewed by the Office for the Coordination of Humanitarian Affairs (OCHA) in 2023 with an estimated 6.3 million displaced.³

¹ Afghanistan Humanitarian Needs and Response Plan 2024 (December 2023)

² IOM (2023), Afghanistan Cross-Border Mobility Report - Two Years of Mixed Migration in Review: 15 August 2021 - 15 August 2023

³ IDMC Afghanistan Country Portal - available: <https://www.internal-displacement.org/countries/afghanistan/>; OCHA Afghanistan Humanitarian Needs and Response Plan 2024 (December 2023)

There are frequent overlaps between internal and cross-border displacement, as “many returnees from abroad go back to a life of internal displacement. Whether because their homes have been damaged or destroyed or their areas of origin are unsafe, they seek shelter in precarious urban settings alongside the country’s internally displaced people (IDPs).”⁴

Many of the dynamics of return and reintegration are not new but are cyclical as “repatriation is not the end of migration but another step in the migration process.”⁵ Moreover, access to land or shelter has been identified by returnees as the main challenge faced upon arrival, confirmed in other needs assessments among returnees, and underlining the key question of what, exactly, refugees are *returning to*.⁶

The importance and far-reaching implications of this question have been recognised by a range of actors operating in the durable solutions sector in Afghanistan over the past two decades. Notably, in response to massive repatriation in the early to mid 2000s, the Ministry of Refugees and Repatriation (MoRR) was formed as a coordinating ministry in charge of the overall response to returnees’ needs in Afghanistan. Among the key initiatives implemented by the MoRR are the Land Allocation Schemes (LAS) for returnees and IDPs as a cornerstone of the response to durable solutions.

The present Research Brief takes stock of these past initiatives in order to better plan ahead. It provides an overview of these schemes, including in terms of their capacity to accommodate returnees, their shortcomings and successes, appropriateness and accessibility, notably as communicated by residents themselves. This is followed by a presentation of best practices, engagement opportunities and recommendations for meaningful engagement with the land-related needs of returnees and IDPs.

3. Land allocation schemes in Afghanistan since 2005

The following section provides a brief overview of key developments, programmes and policy initiatives shaping LAS since 2005. This is combined with a short analysis touching on the appropriateness of these initiatives, implemented in the evolving Afghan context of the past two decades; as well as potential obstacles observable on the basis of contents, which shall then be substantiated under a third section dealing with implementation and lived experiences thereof.

If the research surrounding LAS in Afghanistan post-2005 is relatively scarce, there is virtually no data available before this date. It is from 2005 onwards that the focus turned to land allocation as an integral element of durable solutions in Afghanistan.

Table 1 - Timeline of LAS in Afghanistan since 2005

Time frame	LAS initiatives in Afghanistan	Key developments, characteristics and motivations
2005 - 2018	Presidential Decree (PD) 104 of 2005	<ul style="list-style-type: none"> • Formation of the Ministry of Refugees and Repatriation (MoRR), and endorsement of PD 104 covering both returning refugees and IDPs • Strict documentary evidence required to prove eligibility • Phased land ownership framework from local authorities to participants over five years • Categorisation of LAS sites as “township”.
2018 - 2020	PD 305 of 2018	<ul style="list-style-type: none"> • Follows the failed implementation of the 2013 National Policy on IDPs • OCHA-led humanitarian actors establish SOPs for supporting IDPs • Establishment of a National Unity Government in 2014 • Land selection criteria introduced – core and recommended requirements built on access to basic services; appropriateness of land for shelter purposes; connection to urban areas; and the absence of physical risks or pre-existing extreme hazards.
2020 - 2021	PD 108 of 2020	<ul style="list-style-type: none"> • Exponential increase in IDP numbers, driven by conflict and disasters • Introduction of a new vulnerability assessment mechanism and land vulnerability scores.
2021 - 2024	New Afghan authorities’ Policy and Response for Afghan Returnees	<ul style="list-style-type: none"> • Following the mass returns of Afghan nationals from Pakistan. • Afghan authorities Policy and Response for Afghan Returnees.

⁴ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

⁵ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan. *Revue des mondes musulmans et de la méditerranée*, no.133: pp. 207-225

⁶ Ibid.

3.1 Presidential Decree 104 of 2005 – The first land allocation initiative

The first official LAS initiative came in the form of Presidential Decree 104, in December 2005. This decree, responding to the return of six million Afghans from Iran and Pakistan in the early to mid-2000s, made certain categories of IDPs and returnees eligible to apply for land and shelter support, to be provided by the government.⁷

Requirements. Per a 2008 UNHCR Situation Report, this policy framework allowed for the allocation of “intact and uncultivated government land to landless returnees and IDPs”, whereby a “landless returnee who does not own land or a house under his or her name, the name of a spouse or minor child in Afghanistan is eligible to apply for land under the LAS”.⁸ Beyond this, participants under this LAS were required to be in possession of a *Tazkira* (national ID card), in addition to a “Voluntary Repatriation Form (VRF) or other valid documents that confirm his/her return to the country or from internal displacement to the area of origin and permanent residence” for returnees; or “documents confirming his/her internal displacement” for IDPs.⁹ Moreover, it is unclear from past research and legal texts if LAS was implemented for settlement or integration in new areas, or exclusively available for individuals returning to their areas of origin. Not only is it unclear whether VRF issuance required return to the area of origin for returnees; nor if and how in practice the “area of origin” was equated to the area of “permanent residence”; nor is it explicit what information would have been included in the “documents confirming internal displacement” for IDPs. In practice, however, it appears highly unlikely that entitlement to LAS participation would have been contingent upon return to the specific area of origin, but rather to a broader area or province. Moreover, as will be discussed below, the implementation of LAS in practice proved to be starkly dissonant from official provisions appearing under successive legal frameworks regulating these schemes.

Modalities of land allocation. Article 13 of the decree foresaw a phased ownership process, whereby “beneficiaries receiving land [...] will, in the first phase, be issued temporary ownership deeds by the respective Commissions. Permanent ownership deeds will be issued by the respective municipalities after five years.”¹⁰ Along these lines, while the original attribution of land plots constituted a prerogative of the national government, Decree 104 placed responsibility on local authorities for the actual transfer of property to eligible participants. This said, oversight of the different dimensions of LAS activities was, in principle, to be jointly undertaken by an Oversight Committee (OC) dealing primarily with questions related to partnerships and effective collaboration; alongside a Programme Implementation Unit (PIU), the main responsibilities of which revolved around coordination, thus ensuring smooth progress and operational clarity.¹¹ Finally, key to understanding the eventual obstacles faced by Decree 104 is the categorisation of LAS areas as “townships”. Notably, per a 2013 piece on the lived experiences of individuals residing in the Aliceghan LAS settlement, this categorisation precluded such settlements from being included in the National Solidarity Programme (NSP), one of the most successful national level development programmes providing community-based assistance. This was due to the fact that LAS settlements were seen as peri-urban areas catering exclusively to the needs of IDPs and returnees and were not considered as falling within rural areas targeted by the NSP.¹²

Pilot testing. Preceding the comprehensive roll-out of Presidential Decree 104, the LAS system was tested through five pilot projects in 2006. These targeted 5,000 returnee families in five provinces showing high return rates, namely Nangarhar, Baghlan, Logar, Herat and Ghazni. Among the basic requirements for these pilots was the provision of minimum basic infrastructures and services, including roads, shelter, water, and the potential for sustainable livelihood opportunities, which were to benefit at least 1,000 returnee households in each of the five sites.¹³ Per UNHCR, successful completion of the piloting phase was contingent upon (1) access to, and improvement of basic service access, notably in the realms of education and healthcare; (2) support for alternative livelihoods and income generating activities through cash for work activities, vocational training and, importantly, effective connection to nearby urban centres. The latter objective was to be achieved through “low priced transportation to and from the main provincial city.”¹⁴

Official implementation of Presidential Decree 104 (2005) began in 2007. At this point, the five pilot sites were complemented by seven newly selected locations, namely Parwan, Kabul, Kapisa, Paktia, Farah, Takhar and Balkh.¹⁵ A 2014 MoRR report states that over 32,500 families received land under the LAS.¹⁶ These 2014 numbers, however, are similar to those circulated as early as 2008, at which point the UNHCR Situation Report referenced above found that “so far 32,586 families have received temporary land ownership deeds of which 4,018 have moved to the settlements.”¹⁷ This may point to the absence of progress in assigning land to IDPs over the span of six years, between 2008 and 2014, or the absence of adequate data management and monitoring. These numbers are also at odds with official figures reportedly shared by the MoRR in 2013, according to which, in addition to 590 000 plots demarcated or ready for distribution, a mere 13 754 had been distributed to participants.¹⁸ Without dwelling on their ultimate accuracy, the discrepancies between these numbers suggest chronic data collection and monitoring issues surrounding LAS implementation.

⁷ Barratt et. al (2024), Afghanistan’s Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED

⁸ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

⁹ Government of Afghanistan (2005), Decree - President of the Islamic Republic of Afghanistan on Land Distribution for Housing to Eligible IDPs and Returnees: Art. 2

¹⁰ Government of Afghanistan (2005), Decree - President of the Islamic Republic of Afghanistan on Land Distribution for Housing to Eligible IDPs and Returnees: Art. 13

¹¹ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

¹² Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

¹³ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

¹⁴ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

¹⁵ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

¹⁶ Barratt et. al (2024), Afghanistan’s Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED.

¹⁷ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

¹⁸ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

3.2 Presidential Decree 305 of 2018

The next key development in terms of land allocation took the form of Presidential Decree 305.

PD 305 came in the wake of several years of failed implementation efforts surrounding the 2013 National Policy on Internally Displaced Persons. Key obstacles to the latter's materialisation included (1) the creation of a fragmented registration system, whereby IDPs were forced to physically appear in provincial offices of the Directorates of Refugees and Repatriation (DoRR) in order to sign up for participation; and (2) the exclusion of IDPs displaced several times in a row.¹⁹ This led humanitarian actors – under OCHA guidance – to establish their own Standard Operating Procedures (SOPs) for registration and support, partially undermining national ownership of solutions to internal displacement. Finally, following the establishment of the National Unity Government in 2014, IDPs ceased being a national priority, soon replaced in high level discussions by the rising numbers of returnees from Pakistan in particular. Among other issues, this attention shift underscores a lack of recognition of the overlap between IDPs and returnees, the latter often coming to be counted among the former following return.²⁰ This was reflected in the eligibility factors of returnees and IDPs under Decree 305. Indeed, the burden of proof placed unrealistic expectations upon IDPs, who were required to provide evidence of “5 years continuous displacement beginning before August 29th, 2013 (i.e. 5 years prior to the promulgation of the law).”²¹ Overall, Presidential Decrees were misaligned with other policies relevant to displaced populations including IDPs.

Modalities of land allocation. The aftermath of these developments saw the Displacement and Returnees Executive Committee (DiREC) take positive steps towards the adoption and implementation of Decree 305. Similarly to its predecessor, this policy framework enabled eligible returnees and IDPs to apply for land allocation and housing support from the national government; while LAS once again took the form of ‘townships’, comprising for the most part vacant plots in peri-urban settings.²² Specifically, a guidance note prepared in 2020 by the Housing, Land and Property Task Force for Afghanistan (made up of UN Habitat, the Norwegian Refugee Council and UNHCR) outlined two sets of interrelated selection criteria for LAS sites, namely:

1. **Core requirements** included the “absence of mines or explosive remnants of war; close proximity to planned or existing livelihood or employment opportunities; not prohibited from allocation to displaced persons by Afghan law; adequate planned or existing water supplies; no foreseeable risk of extreme hazards; and less than a 15 percent slope.”;²³ whereas
2. **Recommended requirements** included “close proximity to planned or existing health clinics, schools, and an access road; no contamination; sufficient soil quality for constructing housing units; not of cultural, religious, or archaeological significance; and close proximity to locally available building materials for housing construction.”²⁴
3. Should any of the recommended criteria be absent from a given site, Decree 305 required relevant authorities to ensure these be met within a period of three years.²⁵

These requirements foreshadowed a number of issues which eventually became synonymous with LAS sites available to eligible returnees and IDPs in Afghanistan. Three key points emerge, namely that (1) basic service access, as well as connection to transportation grids, were framed as recommended only; (2) while soil should be sufficient to construct housing units, no mention was made of agriculture, which undermined the core requirement relating to livelihood opportunities; and (3) areas should not bear religious or cultural (and, to a lesser extent, archaeological) significance. This is problematic as these three elements go hand in hand with the presence of human activity, community centres and social hubs; their absence elevates the risks of isolation.

Implementation of Presidential Decree 305: This decree was originally piloted through the SHURA project, implemented by the government of Afghanistan with technical assistance from UN Habitat. Pilot sites were selected in Kabul and Herat.²⁶ Overall, the implementation of this Decree faced a range of challenges similar to those experienced by its predecessor – i.e. isolation from urban areas, lack of livelihood opportunities, limited access to basic services, lack of transparency in plot allocation processes, and bureaucratic hurdles faced by eligible households. Overall, areas were isolated, and the government did not have the resources to invest in infrastructure, or due to lack of planning, and of environmental and social impact assessments.

¹⁹ Nassim Majidi and Dan Tyler (2020), Domesticating the Guiding Principles in Afghanistan, Forced Migration Review

²⁰ Nassim Majidi and Dan Tyler (2020), Domesticating the Guiding Principles in Afghanistan, Forced Migration Review

²¹ Housing, Land and Property Task Force - Afghanistan (2020), A Brief Guide on Accessing Land through Presidential Decree 305 and other Government Allocation Mechanisms

²² Housing, Land and Property Task Force - Afghanistan (2020), A Brief Guide on Accessing Land through Presidential Decree 305 and other Government Allocation Mechanisms

²³ Housing, Land and Property Task Force - Afghanistan (2020), A Brief Guide on Accessing Land through Presidential Decree 305 and other Government Allocation Mechanisms

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

3.3 Presidential Decree 108 of 2020

This final Decree, PD 108, was enacted in 2020 in a context of increased conflict-driven internal displacement. Indeed, the number of IDPs leaped from 2.6 million to 3.5 million between 2018 and 2020. A significant rise in disaster-driven mobility was also observed in 2018, with 435,000 displacements recorded by IDMC.²⁷ Among the key changes enacted under Decree 108 was a shift in responsibilities surrounding coordination, allocation and implementation, placed under the office of the vice president.²⁸

Modalities of land allocation. In terms of participants selection criteria, this most recent Decree echoed its predecessors in terms of displacement timelines. A 2021 UNHCR evaluation indicated that “IDPs and returnees displaced in the last five years would be eligible to apply for land allocations and housing support from the government.”²⁹ However, a new vulnerability assessment mechanism was introduced under Decree 108,³⁰ including characteristics such as household dependency ratios (i.e. the number of dependent members versus productive members), as well as specific vulnerability proxies such as coping strategies, “endogenous capacity”, current livelihood(s) and shelter situation. These factored into vulnerability scores, which were in turn ranked, and used as a basis to determine priority order in the allocation of available land plots.³¹ Furthermore, UNHCR indicated that “land allocations will be made in new settlements (“townships”) on vacant land in peripheral urban areas meeting the PD 108 criteria for sustainable settlements.”³² This said, very little information is publicly available regarding the specific criteria under Decree 108, which are thus assumed here to have reflected those appearing in previous Presidential Decrees.

Implementation of Presidential Decree 108 (2018): Decree 108 picked up on the pilot project originally conceived under PD 305. Vulnerability assessments were conducted with over 20,000 potentially eligible households in Kabul and Herat with UN Habitat support; while in excess of 6,400km² of land was added to the national government’s assets. Per an IDMC report published in 2021, months before the return of the Taliban to power, “if the scheme manages to avoid previous pitfalls, it has the potential to open pathways to durable solutions for many vulnerable households. It is not, however, set up to provide land to all displaced people. All returnees are eligible, but IDPs who had not been displaced continuously for at least five years before presidential decree 108 are not.”³³ The implementation of this project – and the broader socio-economic landscape of Afghanistan – was undermined and ultimately cut short by the events culminating on August 15th, 2021. This, however, is not to say that land allocation schemes entirely disappeared under the new regime.

3.4 Land Allocation discussions 2021-2023

In light of the contextual dynamics and regional circumstances around returns from Pakistan and Iran, from late 2023 it has become crucial for the authorities in Afghanistan to determine how to respond to the needs of returnees and IDPs in Afghanistan; whose impending arrival is bound to expand, highlight or exacerbate multiple challenges already apparent in the LAS frameworks outlined above. While the specific strategic directions and programmatic tendencies in terms of land allocation warrant further investigation, the *Policy and Response for Afghan Returnees* promulgated by the Afghan authorities in early 2024 is a good starting point in this regard. The policy’s preamble refers to the return policy devised and implemented by the Government of Pakistan, as well as the range of contextual factors in Afghanistan – including international sanctions placed on the authorities, the country’s fragile and crumbling economy, rapid unplanned urbanisation, weak infrastructures, and periodic natural disasters – representing “severe obstacles for returnees in the reintegration processes.”³⁴

Specifically, the Afghan authorities’ policy for returnees aims to facilitate dignified return including settlement in the country, accompanied by access to appropriate livelihood options and opportunities to actively participate in the development of Afghanistan.³⁵ In terms of accessibility, potential participants are notably required to provide official documentation confirming their prior status as a refugee, in addition to proof of residence abroad.³⁶ These participation criteria foreshadow access obstacles similar to those underlined above for Presidential Decrees implemented between 2005 and 2021. Along these lines, the requirement concerning proof of having lived abroad is particularly problematic for returnees from Pakistan, where the overwhelming majority of those ordered to return since the fall of 2023 are labelled as “illegal”, and therefore undocumented, Afghans.

In terms of the specific options, services and support available to returnees, the Afghan authorities’ policy states that participant households will have to choose between (a) temporarily settling in the “waiting areas” to which they are assigned immediately upon arrival in Afghanistan; or (b) voluntary return to the place of origin. This also appears problematic in cases of return from Iran and Pakistan, where Afghan migrants and their families have often been living for decades or generations. Along these

²⁷ Ibid

²⁸ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

²⁹ UNHCR (2021), Evaluation of the Community-based Protection and Solutions Programme Response in Priority Areas of Return and Reintegration in Afghanistan

³⁰ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

³¹ OICRF (2018), Improving Access to State Land for Returnees and IDPs in Afghanistan

³² UNHCR (2021), Evaluation of the Community-based Protection and Solutions Programme Response in Priority Areas of Return and Reintegration in Afghanistan

³³ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

³⁴ Afghan authorities (2024), Policy and Response for Afghan Returnees - unofficial translation by Samuel Hall staff

³⁵ Ibid

³⁶ Ibid

lines, for an individual of Afghan origin born in Pakistan to parents who themselves were also born in Pakistan, it may not always be easy to identify – let alone return and reintegrate into – the “area of origin” alluded to in this document. This constitutes an infringement of the choice refugees and/or IDPs should in principle be making in selecting one of three approaches to durable solutions, **This new policy approach appears to address certain flaws having hampered the implementation, appropriateness and habitability of previous LAS.** In order to increase access to sustainable livelihoods, the Afghan authorities’ policy states that specific land plots should be allocated in the “industrial parks” currently under construction in various parts of the country.

Moreover, parks chosen should have “space for living, electricity and gas”, underscoring the key importance of ensuring such sites are connected to broader service grids. This said, it remains concerning that water – especially in a context of drought and limited access – is left out. Conversely, if industrial parks serve as basic markers guiding site selection, existing and planned settlements fulfil a similar role when it comes to new parks and other commercial developments (i.e. they serve to attract new industrial park development projects).

Finally, and presumably in response to rampant corruption plaguing the implementation of past LAS initiatives, this programme calls for transparency in the land allocation process; while also reiterating the instruction per which land should be provided exclusively to participants “who do not own land to use for living”.³⁷ The size of plots and housing facilities therein, moreover, is to be determined by the size of each household, whereby “medium houses” are allocated to families with 10 members or less; and “large houses” to those with over 10 members.³⁸ Whether these new measures will prove successful remains to be seen. In order to benefit returnees, implementation of this policy should build on the mistakes of, and lessons learned from past LAS initiatives in Afghanistan. Key challenges and lessons learned are therefore presented below.

3.5 (Mis)alignment with International, Regional and National Policy Frameworks

The Presidential Decrees and associated LAS approaches align to varying degrees with a number of relevant policy frameworks at several levels. This subsection briefly situates LAS practices in Afghanistan within national, regional and international policy and practice.

At the international level, Afghanistan is a signatory to both the 1951 Refugee Convention and its 1967 Protocol. In order to (loosely) domesticate the provisions and protection obligations stemming from these international legal instruments, various frameworks have been drafted and implemented in Afghanistan over the past two decades, the majority of which came into effect prior to August 2021.³⁹ Key national frameworks in this regard include (1) the aforementioned 2013 National Policy on Internally Displaced Persons, (2) a Comprehensive Voluntary Repatriation and Reintegration Policy (CVRRP) passed in 2015, and (3) the 2017 National Policy Framework for Returnee and IDPs. This last framework essentially provided guidelines for the practical joint operationalisation of its 2013 and 2015 predecessors.⁴⁰

From the outset, the policy-development timeline implied by these different frameworks and the Presidential Decrees underscored the absence of a clearly defined, long-term strategy for responding to the needs of IDPs and returnees in Afghanistan. This is, for example, evident from the fact that basic aspects of the 2013 IDP policy contradict basic selection criteria appearing under PD 104 of 2005. Indeed, while the former affirms that “failure to issue IDPs with lost or destroyed documents shall not in any way impair the exercise or enjoyment of their human rights”,⁴¹ it does not modify the mandatory need for *Tazkira* as the only valid evidence of proof for eligibility under PD 104; nor do subsequent Presidential Directives regulating LAS explicitly remove this obligation in order to align with the context of the IDP policy.⁴²

More broadly, the fact that various LAS sites were isolated from urban areas, service access, and socio-economic networks – thus potentially exacerbating certain vulnerabilities faced by IDPs and returnees – did not fully align with the protection imperatives of the Refugee Convention; as well as those articulated through the Solutions Strategy for Afghan Refugees (SSAR), a regional policy framework involving Afghanistan, Pakistan and Iran ultimately seeking to provide durable solutions for Afghan refugees and returnees in these three countries.⁴³

The only responsive aspect of these Presidential Decrees and LAS approaches can potentially be found in the post-2001 shift towards the inclusion of IDPs alongside refugees under policy frameworks,⁴⁴ which can loosely be framed as aligning with broader shifts in international humanitarian frameworks and instruments embodied by the 1998 Guiding Principles on Internal Displacement.

In conclusion, **LAS alignment with international, regional and national policy frameworks has been tenuous at best, while little available evidence links these LAS approaches with broader Durable Solutions strategies and programmes** implemented by UN Agencies and key stakeholders in the Afghan context.

³⁷ Ibid

³⁸ Ibid

³⁹ World Bank & UNHCR (2017), Afghanistan’s Forced Displacement Legal and Policy Framework Assessment.

⁴⁰ Ibid

⁴¹ GoIRA (2013), National Policy on Internally Displaced Persons at § 6.3.1(d)

⁴² In fact, as covered above, Presidential Decrees 305 and 108 appear to have introduced more stringent and restrictive eligibility requirements

⁴³ UNHCR (2015), Solutions Strategy for Afghan Refugees to Support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries

⁴⁴ Ibid

4. Implementation of LAS policy and lived experiences of participants: challenges and lessons learned

Individuals and households lacking access to secure land tenure in Afghanistan experience numerous related challenges, notably in accessing basic services including education and healthcare; as well as credit, since loans are usually contingent upon the value of collateral put up by beneficiaries, which most often takes the form of land.⁴⁵ Challenges surrounding access to land are, for returnees and IDPs, added to challenges in accessing LAS initiatives to which they may be entitled.

The following section provides an overview of five lessons learned, including dynamics, obstacles and shortcomings of Presidential Decrees related to land allocation schemes in Afghanistan; before outlining more concrete examples of residents' lived experiences, drawn from two studies, conducted in 2013 and 2021-2022, focused on the Barikab LAS settlement.

4.1 Lessons learned from implementation: shortcomings and (limited) successes

1. **Limited resources and access to basic services, infrastructure gaps and geographical isolation:** A 2008 UNHCR Situation Report found that "most sites are still at the level of demarcation of plots, building of shelters, latrines and compound walls. Some water points, health units, schools, mosques and roads are also being built at some of the sites. However, all settlements are planned to have infrastructure like schools, clinics, roads, mosques, potable water and sanitation."⁴⁶ Beyond the poor infrastructural basis to LAS, key obstacles faced by authorities in securing viable LAS plots – and by IDP and returnee residents in accessing any potential benefits – stem from a range of factors, including land conflicts surrounding selected sites, and lack of basic or adequate support services from (local) authorities.⁴⁷ Moreover, these sites are often located at a considerable distance from adjacent urban or peri-urban centres; and excluded from urban and rural development or rehabilitation planning, thus constituting an administrative no-man's land so to speak.⁴⁸
2. **Lack of sustainable livelihood opportunities undermining self-sufficiency:** Cut off from hubs of human activity from a social, economic, service provision and administrative standpoint, LAS sites created under Decree 108 (and its successors) tend to be devoid of sustainable livelihood or employment opportunities.⁴⁹ This is also the result of a fundamental flaw in the planning process leading up to site selection, whereby "the idea that families should be able to find a subsistence mechanism, livelihood restoration and income generation was not part of any study of the selected sites."⁵⁰ This underscores the foundational concept of LAS in Afghanistan as a half-measure seeking to minimise the visibility of IDPs by reducing their presence in urban areas, notwithstanding the fact that multiple studies and surveys found that members of this group overwhelmingly prefer to settle and remain in urban centres.⁵¹
3. **Excessive and often prohibitive documentation and status-related eligibility requirements limit accessibility for IDPs:** The requirement related to possession of a *Tazkira* (national identity card) poses a major challenge to potentially eligible IDPs and returnees. Indeed, past research has shown that accessing such documents is difficult – and at times impossible – for returnees due to the absence of relevant registration authorities in the area of origin, as well as damage or loss to originals in the context of forced migration or displacement. These difficulties are also experienced by IDPs and exacerbated among women and girls, as female applicants are subjected to additional requirements including the provision of proof of identity for male relatives;⁵² as well as internally displaced households. A 2020 study found that less than 2% of participants were IDPs, due to the often prohibitive burden of proof attached to eligibility, whereby potential participants were asked to provide documentation proving at least 5 years of continuous displacement from 2013.⁵³
4. **Gendered obstacles and social norms render access difficult for female returnees and IDPs:** Overcoming obstacles to access documentation required under LAS policy frameworks is more challenging for female IDPs / returnees than for their male counterparts. Indeed, past research has found that "displaced women are far more likely to lack identification documentation that will allow them to engage in formal processes of land ownership, for instance, 81.8 percent of women IDPs do not have a *Tazkira* as compared to 16.6 percent of IDPs"; while only 2% of Afghan women owned land in 2021.⁵⁴ More broadly, displaced women are disadvantaged to a greater extent than any other group in terms of land ownership or security of tenure. Along these lines, it is clear that LAS policies past and present have largely turned a blind eye to the gendered dynamics of land tenure in Afghanistan.
5. **Corruption, accountability and transparency gaps in allocation processes undermined the legitimacy of the LAS:** Only a fraction of sites allocated since 2008 were used for their intended purpose. Various transparency issues – often bordering on, occluding or facilitating corrupt practices – were identified in the land allocation process. For instance, a 2021 IDMC report found that, out of 57,700 plots distributed by late 2014, a significant (undefined) proportion went to governmental officials.⁵⁵ The Afghan Analysts network further reported in 2013 that, out of all plots allocated by the municipal land commission of Herat, 14,000 had gone to government officials, compared to 850 parcels distributed to IDPs and returnees.⁵⁶ A 2013 report underlined the lack of transparency in allocation processes, which opened the door to misuse, land grabbing, investment and speculation by powerful actors often residing in nearby urban areas.⁵⁷

⁴⁵ Samuel Hall (2021), Gender-focused analysis of the Occupancy Certificate Programme: Synthesis Report, May 2021

⁴⁶ UNHCR (2008), Situation Report - Afghanistan: Land Allocation Scheme

⁴⁷ Barratt et. al (2024), Afghanistan's Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED

⁴⁸ Ibid

⁴⁹ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

⁵⁰ Ibid

⁵¹ Samuel Hall, NRC, IDMC (2018) Challenges to IDPs' Protection in Afghanistan; OICRF (2018), Improving Access to State Land for Returnees and IDPs in Afghanistan

⁵² NRC & Samuel Hall (2016) Access to Tazkira and other Civil Documentation in Afghanistan

⁵³ Housing, Land and Property Task Force - Afghanistan (2020), A Brief Guide on Accessing Land through Presidential Decree 305 and other Government Allocation Mechanisms

⁵⁴ Samuel Hall (2021), Gender-focused analysis of the Occupancy Certificate Programme: Synthesis Report, May 2021

⁵⁵ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

⁵⁶ OICRF (2018), Improving Access to State Land for Returnees and IDPs in Afghanistan

⁵⁷ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

4.2 Lived experiences of participants and residents – Case study of Barikab Township

In economic terms, residents of Barikab were disconnected from surrounding local and regional economies. This was notably the result of limited access to a sufficient water supply, which prevented residents from irrigating land, thus undermining the possibility of sustainable livelihoods.⁵⁸ Fundamental challenges to the creation of a sustainable socio-economic landscape grew further under Taliban rule, as research conducted between 2021 and 2022 – before and after the regime change – found increasing financial instability in Barikab, with virtually no residents reporting a continuously stable income. This instability was reflected by limited access to lending or microfinance mechanisms; as well as increasingly precarious employment situations, whereby the overall percentage of respondents with work contracts fell from 21% in 2021, to 7% in 2022.⁵⁹

Access to basic services has also been severely limited in Barikab for over a decade. In 2013 already, an assessment of the LAS settlement concluded that “without a viable water system, electricity, livelihoods, a proper school or a clinic, this township remains nothing but a ‘site’”.⁶⁰ Notably, healthcare services were at an excessive distance from the settlement, meaning that they often could not be reached in time during health emergencies, which in certain cases proved fatal to residents; and while a school had been built by 2013, it was devoid of latrines as these were “not included in the schools” contract.⁶¹ And while a local basic health clinic (BHC) was eventually built, data collected in 2021/2022 revealed that facilities were understaffed and under-resourced, thus forcing residents to either forgo treatment, or travel to Kabul to receive medical care, at the risk of incurring significant travel and service costs.⁶² Residents also reported being disconnected from water and electricity grids.⁶³

Water access remains a key challenge for residents, notably in the midst of the water crisis unfolding in Afghanistan. Indeed, a 2022 UNICEF report revealed that approximately 80% of Afghans drink unsafe water, while the vast overwhelming majority of children (93% or around 15 million individuals) reside in areas presenting high – or extremely high – levels of water vulnerability.⁶⁴ This situation notably threatens healthcare systems and access thereto in Afghanistan, as over a third of facilities are disconnected from even basic drinking water supplies.⁶⁵ Considering the general disconnection of LAS sites from basic service infrastructure, including electricity and water grids, this proportion is likely to be significantly higher in land allocation areas than in other population centres throughout the country.

Overall, the shortcomings and challenges encountered in Barikab underscore a lack of clarity regarding the distribution of roles and responsibilities surrounding the LAS site. This led to basic services being provided through ad hoc, and often insufficient support interventions by a range of donors, UN agencies and humanitarian actors. This is reflected in exchanges between the government of Afghanistan and IOM as early as 2011, whereby the construction of a basic health clinic was delayed due to disagreements regarding funding of the project.⁶⁶ Similarly, when local municipal leaders refused to provide water access for irrigation, UNDP ultimately stepped in to supply water in tankers, a costly and unsustainable approach to supplying such a vital resource. Finally, due to complete disconnection from nearby electricity grids, UNHCR provided solar panels and lighting to Barikab residents.⁶⁷ This generally points to the perception of LAS sites – as well as their IDP and returnee residents – as issues falling beyond the full consideration of relevant actors, thus fostering a situation of protracted, spatialised exclusion.

This exclusion, in addition to being economic, political and service-related, is also distinctly social. Past studies have found that residents suffer from a limited sense of community and disconnection from social networks;⁶⁸ as well as from larger urban centres such as Kabul, notably due to prohibitive public transport costs,⁶⁹ negatively affecting the psychosocial wellbeing of residents. Indeed, this multifaceted isolation undermines a sense of fulfilment among residents, a situation amplified since August 2021 and the current financial crisis. Notably, in 2022, 45% respondents in a study conducted in Barikab reported “rarely or never feeling they use their time constructively”.⁷⁰ The social poverty of such a site, built entirely around a blank spatial setting devoid of the necessary attributes required to support community and sustainable human development, were recognised by residents of Barikab over a decade ago: “They refer to this place as a *shahrake mohajereen*, or returnee township, verbally illustrating the fact that this remains a planned community, and not a natural community.”⁷¹

This failure of the LAS system is ultimately conditioned by a basic misconception of what, exactly, returnees and IDPs are referring to when expressing a need for land. Indeed, “Rather than simply representing a physical possession, their desire for land ownership was a translation of their expectations and hopes for their future lives.”⁷² Keeping this in mind, the following sections outline key standards and best practices in land allocation, before outlining engagement opportunities and ways forward tailored to context, as well as recommendations for sustainable and appropriate approaches to LAS in Afghanistan.

⁵⁸ Ibid

⁵⁹ Barratt et. al (2024), Afghanistan’s Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED

⁶⁰ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

⁶¹ Ibid

⁶² Barratt et. al (2024), Afghanistan’s Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED

⁶³ Ibid

⁶⁴ UNICEF (2022), Afghanistan: WASH on the Brink

⁶⁵ Ibid

⁶⁶ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Barratt et. al (2024), Afghanistan’s Unfolding Crisis: Wellbeing and livelihoods of displaced people before and after the regime change - IIED

⁷⁰ Ibid

⁷¹ Nassim Majidi (2013), Home sweet home! Repatriation, reintegration and land allocation in Afghanistan

⁷² Ibid

5. Best practices and ways forward

5.1 Best practices in Afghanistan

Taking a step back, there is an argument to be made for foregoing certain of the LAS approaches in Afghanistan, in favour of more targeted investments and interventions directed towards the urban and peri-urban areas in which displaced and/or returnee populations tend to reside. From a long-term perspective, settlements such as Barikab, situated slightly beyond the peripheral outskirts of cities, will eventually link up with these cities, to which they are connected already through complex and diverse social, political and economic ties. Along these lines, LAS strategies could be implemented through patterns of planned, outward-facing urban expansion; rather than through approaches leading to eventual (and essentially unplanned) physical, service grid and governance connections between cities and land allocation sites currently situated at a distance from urban centres. It is also key to develop a better understanding of the manner in which the record of available lands is currently tended to by the authorities.

This forward-facing approach to LAS could also serve as an argument to donors in favour of investing in inclusive urban solutions in Afghanistan,⁷³ by demonstrating investments in areas which will be subsumed by the urban. Taking cities as starting points for LAS, rather than far-off, yet steadily expanding geographical ‘others’, could increase the long-term value of investments, while also directing funds towards urban planners / developers, including municipalities. These funds could be allocated to specific projects through participatory planning mechanisms involving IDPs and returnees, increasing the likelihood of solutions meaningfully addressing both these groups’ needs.

First steps in this direction should be situated in and around cities themselves. The City for All (CfA) programme, launched in 2016 by the Government of Afghanistan with the support of the EU, USAID and UN Habitat, provides a concrete example of how, exactly, urban-centred LAS practices can be implemented and understood. Indeed, this programme sought to provide residents of informal settlements in urban areas with land occupancy certificates, and was built around three complementary pillars, namely: “(1) effective land management, (2) strategic urban planning and (3) improved municipal finance systems.”⁷⁴ Moreover, while this programme does allocate land plots per se, it does fulfil various functions attributed to the LAS system in Afghanistan, namely providing land tenure and increasing shelter security, while also connecting residents to grids and basic service providers.⁷⁵ Indeed, CfA type approaches, by securing formal land tenure, and therefore increasing the revenue of municipal authorities, can increase the latter’s capacity to provide basic services and sustainable livelihood opportunities to residents. More broadly, solidifying the bases of land tenure increases the value of properties, and therefore opens the door for higher volumes of investment and business development opportunities; ultimately enhancing the security atmosphere in certain areas.⁷⁶

The CfA ties into a broader **Occupancy Certificate (OC) programme conducted, until August 2021, as part of the former government’s Land Administration System Project (ALASP).** This project sought to enhance the efficiency of land administration systems in the country, notably in order to ensure land tenure rights accessible to all citizens. Research conducted by Samuel Hall in 2021 suggests that this approach may mitigate certain of the gendered obstacles to accessing and owning property in Afghanistan (covered under section 3.1).⁷⁷ However, per this same research, “one of the major criticisms of the OC is that it does not adequately support sustainable urban planning by addressing the root causes of households settling in unplanned areas”.⁷⁸ While comprehensively addressing these root causes – particularly among returnees and IDPs – does not come across as a realistic objective for LAS practitioners and policy-makers, more immediate interventions aiming to complement land tenure security with other forms of support, contributing to enhance the service access and general wellbeing of residents, should indeed appear alongside OC issuance.

Actors including UN Habitat and the Aga Khan Agency for Habitat (AKAH) have been engaged in shelter upgrading efforts targeting informal settlements in urban areas under an MoU signed in 2019.⁷⁹ UN Habitat is also working towards the goal of combining durable solutions for refugees and IDPs with sustainable urban development approaches through the Sustainable Human settlements in Urban areas to support Reintegration in Afghanistan (SHURA) project. This project, which adopts a neighbourhood and area-based approach, increases access to land, services and infrastructure for IDPs / returnees in a manner which benefits the broader communities and urban areas in which they reside.⁸⁰ SHURA is therefore an example of good practice in land allocation as it combines durable solutions with sustainable development in urban areas, serving as a basis for the development of larger LAS programmes tailored to the needs – and expected volume – of returnees in the near future.

⁷³ Samuel Hall (2024), Inclusive Urban Solutions in Afghanistan – Findings from the Protracted Displacement in an Urban World Consortium. Available at: <https://www.samuelhall.org/publications/iied-synthesis-paper>

⁷⁴ Ahmad Bilal Khalil and Noorullah Farajid (2019), Fixing Afghanistan’s Security of Tenure Crisis: 85 percent of urban properties in Afghanistan’s largest cities are vulnerable, their tenants lacking security of tenure. Available at: <https://thediplomat.com/2019/09/fixing-afghanistans-security-of-tenure-crisis/>

⁷⁵ IDMC (2021), Briefing Paper: Recommendations for addressing internal displacement and cross-border movements in Afghanistan

⁷⁶ Ahmad Bilal Khalil and Noorullah Farajid (2019), Fixing Afghanistan’s Security of Tenure Crisis: 85 percent of urban properties in Afghanistan’s largest cities are vulnerable, their tenants lacking security of tenure.

⁷⁷ Samuel Hall (2021), Gender-focused analysis of the Occupancy Certificate Programme: Synthesis Report, May 2021

⁷⁸ Ibid

⁷⁹ AKDN (2019), Aga Khan Agency for Habitat and UN-Habitat in partnership on habitat planning, policy and design

⁸⁰ UN Habitat, Sustainable Human settlements in Urban areas to support Reintegration in Afghanistan (SHURA)

5.2 Ways forward and recommendations on inclusive urban solutions

Plans by the authorities, humanitarian and development actors and donors in the return and reintegration space in Afghanistan, should address returnees' needs to access land and housing through four core components:

1. **Support to municipalities** as many returnees gravitate to urban or peri-urban areas, on the outskirts of major cities. This will require greater support to actors contributing to inclusive urban solutions and a shift in the current authorities' approach to durable solutions.
2. **In-situ upgrading and in-city resettlement**, instead of providing for new or separate settlement locations. This approach is being adopted by the World Bank in Somalia, a context facing similar challenges of returns and internal displacement as Afghanistan. Identifying opportunities for upgrading existing settlements will be a key to durable solutions and to reviving previous good practices listed in this brief. It will require donor support to informal urban settlements.
3. **Participatory planning processes** to create a bottom-up approach, built on principles of co-design of interventions that can support durable solutions. This will require continued dialogues to be held in cities across Afghanistan, building on examples led to date in Jalalabad.⁸¹
4. **Information and awareness raising among displaced communities** to help them plan ahead their preferred option of local integration, return or resettlement. These soft activities will complement and support the other three components.

⁸¹ Samuel Hall (2023) Jalalabad City Note – Urban Solutions for Local Integration



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About the Asia Displacement Solutions Platform

The Asia Displacement Solutions Platform is a joint initiative of the Danish Refugee Council, International Rescue Committee, and the Norwegian Refugee Council, which aims to contribute to the development of solutions for populations affected by displacement in the region.

Drawing upon its members' operational presence throughout Asia, and its extensive advocacy networks, ADSP engages in evidence-based advocacy initiatives to support improved outcomes for displacement-affected communities. As implementing agencies, ADSP members work closely with displaced populations and the communities that host them and are therefore able to contribute a distinctive, field-led, perspective to policy and advocacy processes which can sometimes be removed from on-the-ground realities, and, the concerns of those living with and in displacement.

By coming together under the aegis of the ADSP the three member agencies – global leaders in innovative policy and programming – commit to collaboration to achieve improved outcomes for displacement affected communities in the region.

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About Samuel Hall

Samuel Hall is a social enterprise that conducts research, evaluates programmes, and designs policies in contexts of migration and displacement. Our approach is ethical, academically rigorous, and based on first-hand experience of complex and fragile settings.

Our research connects the voices of communities to changemakers for more inclusive societies. With offices in Afghanistan, Germany, Kenya, and Tunisia and a presence in Somalia, Ethiopia, and the United Arab Emirates, we are based in the regions we study.

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