



HUMAN  
RIGHTS  
WATCH

# UNWELCOME GUESTS

Iran's Violation of Afghan Refugee and Migrant Rights



# **Unwelcome Guests**

**Iran's Violation of Afghan Refugee and Migrant Rights**

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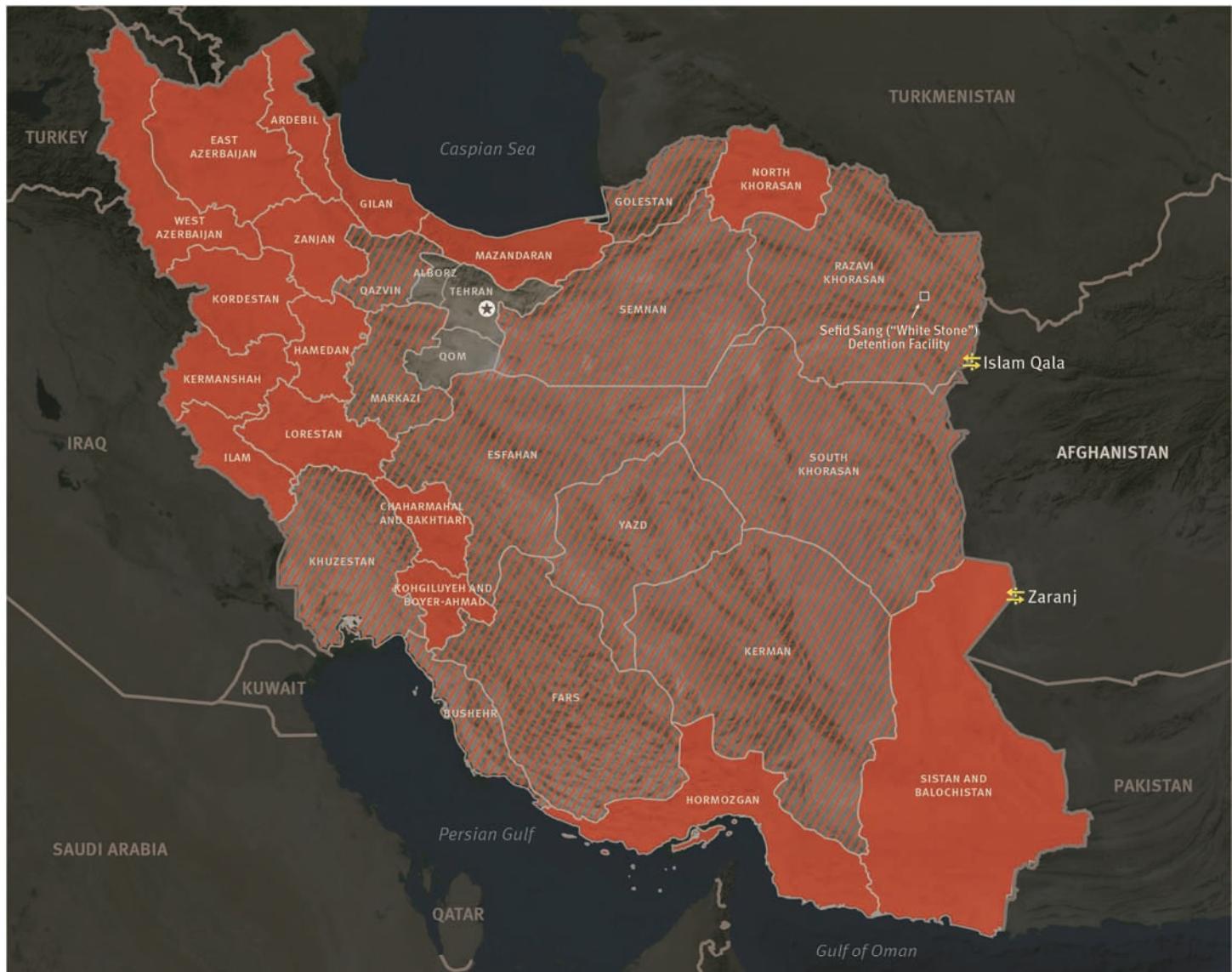
# Unwelcome Guests

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# Map



■ Provinces that have total bans on Afghans living in Iran

■ Provinces that have partial bans on Afghans living in Iran

↔ Official border crossing

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Source: GADM, NASA, USGS, ESRI

## Glossary/Abbreviations

<b>Amayesh</b>	Iran's refugee registration system
<b>BAFIA</b>	Iranian government Bureau for Aliens and Foreign Immigrants' Affairs
<b>CRC</b>	Convention on the Rights of the Child
<b>CRP</b>	Comprehensive Regularization Plan
<b>ICCPR</b>	International Covenant on Civil and Political Rights
<b>IDP</b>	Internally Displaced Person
<b>IOM</b>	International Organization of Migration
<b>Islam Qala</b>	Border crossing between Iran and Afghanistan through which Iran deports most Afghan nationals
<b>Smuggling</b>	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a country of which the person is not a national or a permanent resident
<b>Solar calendar</b>	Calendar used in Iran and Afghanistan
<b>Trafficking</b>	An act of recruiting, transporting, transferring, harboring, or receiving a person through use of force, coercion, or other means, for the purpose of exploiting them
<b>UDHR</b>	Universal Declaration of Human Rights
<b>UNHCR</b>	United Nations High Commissioner for Refugees

## Summary

*We decided to leave when the children were expelled from school [for being foreigners]. But it was too late. We weren't documented anymore so we couldn't go anywhere. We had green cards [residency cards], UN documents. But the Iranian government collected these documents and issued new documents extended every six to nine months. The last document was not very valuable [and then] they took this finally.*

– Najib T., age 55, and his wife, age 45, who lost their refugee status when the Iranian government declared the city where they had lived for 18 years a “no go” zone for foreigners and they were found still living there after all foreigners had been ordered to leave.

More refugees originate from Afghanistan than any other country in the world. Repeated bouts of armed conflict—most recently the increasingly violent battle between the Taliban and the Afghan government and its international backers—have driven millions of Afghans to become refugees since the 1980s.

As of 2012, the vast majority of Afghan refugees, according to UN data, lived in Pakistan and Iran, with roughly 1.7 million registered in Pakistan and around one million registered in Iran. As of 2013, at least half a million or so had been given other forms of temporary status in Iran.

Millions of other Afghans have also fled violence and insecurity, as well as loss of livelihood, but for various reasons have not registered as refugees or have sought other protective status, or lost their status at some point. These undocumented migrants have also settled overwhelmingly in Pakistan and Iran, or have spent extended periods of time in these countries as part of a regional and cyclical economic migration.

According to government population figures, as of October 2011, Iran was hosting 882,659 registered refugees, of which 840,158 were Afghans and the rest Iraqi nationals. According

to 2012 estimates by Iran's official Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA), some 1.4 to 2 million Afghans not registered as refugees live and work in Iran. Together with the registered refugee population, that makes for a total of between 2.4 and 3 million Afghans in Iran.

Afghans in Iran constitute one of the largest urban refugee populations in the world, with only 3 percent of Afghan refugees living in camps located in rural areas.

There have been significant benefits for the millions of documented and undocumented Afghans who live in Iran.

Many have been able to earn wages which, although at subsistence level or below, provide for a higher quality of life than they would have been able to attain in war-torn Afghanistan. Registered refugees have been allowed to access educational opportunities often of a higher standard than that available in Afghanistan. While authorities have made some efforts to provide primary education to undocumented Afghans living and working in Iran, many are still deprived of this right due to fees and other restrictions imposed by the Iranian government. Some Afghans simply would not have had access to education at all in Afghanistan.

*I left Afghanistan about one month ago. I went because we didn't have anything to eat. We didn't have any money. In a way, we were destroyed. My family paid the smuggler, but it was my decision to go. We went through Pakistan. In the Pakistan mountains we were walking and thieves came with five AK-47s and took everything from us... Between Zahedan and Tehran, we were robbed again. I had money in my shoe that the first thieves didn't find, but the second thieves found it. One day later, while walking, before making it to Tehran, the police found us and we were arrested. In the detention facilities there was too little food. I paid 30,000 Iranian tomans [about US \$25] in the first detention facility and 10,000 rials [about US \$8] at White Stone [Deportation Camp]. Our families sent money. The police said you have to pay or you will have to stay here.*

– Salim, age 14, who travelled with a smuggler by himself from Dai

Kundi province in central Afghanistan to Iran to try to join his two older brothers who were already in Iran.

Although some Iranian laws discriminate against women, particularly with regard to their dress and legal status in matters related to marriage, divorce, inheritance, and child custody, Afghan women and girls in Iran enjoy a number of freedoms denied to them at home. In particular, they have greater freedom of movement, access to quality education, and ability to seek divorce than do women and girls in Afghanistan. As one Afghan government official told Human Rights Watch, “People hear about honor killings [of women and girls] et cetera [in Afghanistan], and then they don’t want to come back.”

Although the Iranian government has been shouldering a heavy burden in dealing with the influx, and in some respects has responded well, since at least 2007 Iran has failed to allow newly arriving Afghans to register as asylum seekers. This failure exposes would-be asylum seekers to the possibility of being returned to persecution or to situations of generalized violence if they are deported to Afghanistan for unlawful presence in Iran. United Nations High Commissioner for Refugees’ (UNHCR) August 2013 “Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan” (“2013 Eligibility Guidelines”) call into question any strategy that does not adequately take into account the continuing need of many Afghans for asylum.

In recent years conditions have worsened and pressures increased for nearly all Afghans in Iran. They face higher barriers to humanitarian aid and social services, arbitrary arrest and detention, and have little recourse when abused by government or private actors.

This report—based on interviews with 90 Afghans with recent experience in Iran and dozens of Afghan officials and refugee and migrant policy experts—documents those deteriorating conditions. It concludes that Iran is falling short of its obligations to Afghan refugees and migrants under both Iranian and international law. Iran is failing to provide newly arriving asylum seekers access to protection because a functioning asylum system does not exist, and it is subjecting many Afghans to a range of rights abuses including arbitrary arrests and detention.

\* \* \*

*They beat us in the head and shoulders. I was hit five times in the back of the head with an AK47. I was kicked in the chin after sitting up. They kicked me in the chin and said go get in line.*

– Rafiq, age 18, who was a member of a group of Afghans who were travelling into Iran with a smuggler. Several of them were beaten after they were captured by police and failed to respond to police questioning about who the smuggler was.

Over the last 35 years, as Afghanistan has suffered repeated cycles of conflict, Iran's policies for Afghan asylum seekers in Iran have changed dramatically. From 1979 to 1992, the Iranian government automatically gave most Afghans entering Iran the right to remain indefinitely. From 1992 on, however, Iran began encouraging and pressuring Afghans to return to Afghanistan through various measures including the implementation of onerous procedures for renewing refugee papers, refusal to register newly arriving Afghans as refugees, and, increasingly, denial of public services to recognized refugees.

In the years immediately after the fall of the Taliban in 2001, a huge number of Afghans returned to Afghanistan from Iran and other countries, with an estimated 2.3 million people returning in 2002 alone. While some Afghans enthusiastically returned to their homeland, many others felt pressured to return by increasing hostility and abuse in both Iran and Pakistan. UNHCR reports that it has assisted almost 886,000 Afghan refugees in repatriating from Iran since 2002.

In 2001, the Iranian government announced that it had sealed its border with Afghanistan and that it was “practically impossible [for Iran] to accept new refugees.” In 2002, Human Rights Watch documented the Iranian government’s refusal to register newly arriving Afghan asylum seekers, an approach that with a handful of exceptions – 16 in 2012 for example – continues to this day. Meanwhile, UNHCR documented a steady decline in the number of Afghans returning to Afghanistan beginning in 2008, a date that correlates with a significant decline in security in Afghanistan.

*We woke up and were surrounded by Iranian soldiers. They said don't move or we'll shoot. People who had rings, they [police] took [them]. They broke my phone. We were taken in containers in big trucks. We were close to dying because of lack of oxygen. They locked the door. We begged them to keep the door open or we will die. They said you should die. There was a fat guy near dying. He was unconscious. A relative of his tore the cloth cover so he could breath.*

– Naeem, age 30, who travelled into Iran in a group of about 500 Afghans being brought in by smugglers. They were resting soon after crossing the border when they were caught by police.

In 2003, Iran introduced a new system known as “Amayesh” (Persian for “logistics” or “preparation”) to re-register all Afghan nationals then in Iran who had been granted residency rights in Iran based simply on their Afghan nationality in the 1980s and 1990s. The vast majority of Afghans arriving in Iran since the registration exercise in 2003 have not been allowed to register for an Amayesh card.

Since 2003, UNHCR has considered Amayesh card holders to be registered refugees. Although some Iranian officials have said Amayesh card holders cannot be considered refugees under Iranian law, others have specifically referred to card holders as refugees. The Bureau of Alien and Foreign Immigrants’ Affairs treats Amayesh card holders as de facto refugees.

UNHCR’s official recognition of Amayesh cardholders as refugees is important for various reasons, including that it provides them with protection from termination of their refugee status by the Iranian government without good cause.

In practice, Amayesh card-holders face an increasingly complex and bureaucratic process with the Iranian authorities to retain their status, in which the smallest mistake can result in the permanent loss of refugee status. Amayesh card holders are regularly required to renew their cards. Since the original registration of several hundred thousand Afghans in 2003, there have been nine re-registration exercises with a different color card provided each time. The cards, which refugees must pay for, are generally valid for

one year. When cards expire, the card holder is considered to be unlawfully present in Iran and may be deported. If a card holder fails to register for a new card as soon as the old card has expired, he or she becomes undocumented and is subject to deportation.

Hurdles making it difficult to retain refugee status include frequent re-registration requirements, a lack of assistance to help understand procedures which particularly affect people with limited literacy, and onerous fees which many poor refugees cannot afford. Human Rights Watch has documented instances in which registered Afghan refugees have lost their refugee status because the Iranian authorities imposed difficult and unclear bureaucratic hurdles relating to retention of their status or because the authorities encouraged them to forfeit that status in exchange for other types of status that ultimately gave them fewer rights or led to their deportation.

While we found no evidence of a systematic policy or effort on the part of Iranian authorities specifically aimed at deporting registered refugees back to Afghanistan, increasingly burdensome Iranian restrictions on Afghan refugees increase the risk that Afghans with genuine fears of persecution or other serious harm in Afghanistan risk being unlawfully deported back to their country.

If Iranian authorities detect Afghans without Amayesh cards, those authorities can swiftly deport them without allowing them either a right to appeal or a means to claim asylum.

*The men, women, and children we interviewed on the Afghan side of “zero point”—the boundary between Iran and Afghanistan at the Islam Qala border crossing—were mostly newly deported from Iran. Some interviewees, often men who had been living alone in Iran and working without legal authorization after being smuggled into Iran, had an air of resignation, as if this was simply part of the arrangement. They had been through this process before and anticipated going through it again. Many complained of being subjected to a host of abuses by authorities, especially during their arrest and deportation.*

*Other interviewees were in complete crisis. Human Rights Watch interviewed parents separated from their children during the deportation process—with no idea how they would find their children again; young men and women born in Iran and effectively prevented from ever gaining Iranian citizenship being deported to a country they had never visited in their lives; and boys who had gone to Iran alone to earn money for their families and who had no idea how to get home—or even whether they could go home without bringing the money their families desperately needed.*

*Many interviewees expressed the sentiments of Masoud G. who said, “Iran is a Muslim country like Afghanistan. I can’t understand how Muslims can treat other Muslims in this terrible way.”*

— Masoud G., Islam Qala, April 19, 2012.

In 2011, Iranian authorities deported nearly 150,000 Afghans through the Islam Qala border post alone. In 2012, Iran deported 700 Afghans a day, an approximate 30 percent increase over 2011. It is important to note, however, that the vast majority of these deportations involved undocumented boys or single men who went to Iran to work.

Following the introduction of the Amayesh system, the proportion of newly arriving Afghans lodging refugee claims dropped drastically. Afghans arriving in Iran today have virtually no opportunity to lodge refugee claims. Afghan asylum seekers should be able to

lodge claims with Iran's BAFIA which operates under the Ministry of Interior and is charged under Iranian law with processing refugee claims. However, our research—in the absence of relevant, publically available official statistics—indicates it is a practical impossibility for the vast majority of newly arriving Afghans to lodge refugee claims.

One official source told Human Rights Watch that no new registrations have been permitted since 2007. Another official source told us that a “handful” of newly arrived Afghans are still able to register under the Amayesh system each year, but was unable to elaborate or provide any documentation for the claim.

Another problem is that Afghans being deported from Iran are given no opportunity to challenge their deportation, such as by explaining that they previously had refugee status but lost it through no fault of their own, or that they were prevented from requesting asylum or protection.

The Iranian government has also encouraged Amayesh card holders to give up their cards in return for a residency and work permit valid for one year, with a possibility to renew for at least another year. While it is within the Iranian government's prerogative to deport people who have relinquished their refugee status, it is not clear that refugees who have signed up to do this have been fully aware of the ramifications and have given their informed consent prior to agreeing to give up their refugee status. Given that Iranian authorities may decide not to renew the residency permits and deport the permit holders, this has grave implications for Afghans who continue to fear persecution in Afghanistan.

Iranian authorities have also sought to tighten their control of undocumented Afghans in Iran through a process in which Afghans are encouraged to register with the government. After they register, they must acquire a passport (if they do not already have one), an Iranian residency visa, and a work visa if they wish to work. Although Iran is well within its right to register and track undocumented nationals, it is important to note that the process of acquiring the proper documents is both expensive and logically difficult for many Afghans. More importantly, however, this regularization scheme, called the Comprehensive Regularization Plan (CRP), is no substitute for a system that would allow newly arriving Afghans to lodge refugee claims or to register directly for protection based on their nationality, as happened in 2003 with the one-off registration option under the Amayesh system.

*We were traveling in a mini-bus in Sarhak. A police officer came in and asked for our ID. The police officer took the ID and said 'I will give it back tomorrow, come at 8 am.' I went and they put us all in a car and took us to a [deportation] detention facility. [Then they deported us, leaving our children, ages 8, 10, and 12 behind in Iran....] I don't know what I will do. I don't have money to get a passport and visa. We have no one in Mashad to help. We are going to Mazar-e-Sharif. We have no house there but we will try to rent a house and bring the children back from Iran. I don't know how God will guide me.*

– Arif, who was deported with his wife and infant, with their three older children, ages 12, 10, and 8, left behind in Iran at home alone. The family had lived in Iran for 10 years, and had valid Comprehensive Regularization Plan (CRP) cards at the time of their deportation.

Iranian government efforts to convince Afghan refugees to leave Iran, including through the UN-administered Voluntary Repatriation Program, have met with some success. UNHCR noted an increase again in the number of Afghan refugees returning from Iran in 2011, which a United Nations spokesperson explained by saying: “The reason for the increase in voluntary assisted returns from Iran appears to be due to economic pressures and the discontinuation of subsidies on basic goods and services by the Iranian Government.” Despite these pressures, however, many Afghans have chosen to stay in Iran.

In addition to barriers to claiming asylum, Afghan refugees, asylum seekers, and others lawfully present in Iran face severe restrictions on freedom of movement, as well as arbitrary limits on access to education, employment, Iranian citizenship, and marriage rights. All Afghans and other foreign nationals are subject to travel restrictions in many areas of the country, and documented Afghans are restricted to working in specific professions, all of which are menial and many of which are dangerous. Afghan refugees are required to give up their refugee status prior to entering university and are barred from a variety of degree programs. Afghans without legal status face many difficulties in obtaining education for their children, with many children going uneducated or attending

underground schools as a result. The Iranian government has made it difficult for many mixed Iranian/Afghan couples to marry, denies citizenship to Afghan husbands of Iranian women, and creates barriers to citizenship for the children of such couples.

Finally, both documented and undocumented Afghans experience a range of abuses, and many who are deported also face police abuse, including violence, theft, unreasonable deportation fees, forced labor during detention prior to deportation, and poor conditions in detention facilities. A particular concern is the lack of protection for unaccompanied migrant children in the deportation process. This report includes findings from our interviews with 41 such children.

*Around 6 a.m., about 20-25 officers in military uniforms attacked the houses and arrested us. Some of us were beaten. They loaded us onto trucks and drove for a while. Then we got out in the middle of a barren desert at some point. They brought us some food. Then they took us to a local police station. There were some 12 and 13 year olds with us too. At the local police station there were about 450 undocumented Afghans. We needed to come up with 5,000 tomans each [US \$4] to pay for our transportation to the detention facility in Kerman. I was forced to stay one night because I didn't have any money and they [the police] beat me with a baton in the head that night several times. They asked me to pay 2,000 tomans [US \$1.63] but I didn't have it so they put me in a car and transferred me to Kerman Detention Facility anyway. There I needed 5,000 tomans but I didn't have it so I cried and begged until people helped me. Kerman Detention Facility was horrible. [The detention facility guards] beat and harassed us and fed us very little.*

– Daoud, age 16, had previously been deported from Iran and was returning in a group of 48 people being smuggled in an effort to try to rejoin his brother who had remained in Iran. The group was sleeping in guesthouses when they were apprehended by police.

The huge number of Afghan refugees and asylum seekers has placed a significant economic and social burden on Pakistan and Iran. The governments of Pakistan and Iran have argued that other countries, including those intimately involved in the situation in Afghanistan, such as the United States and member states of the European Union, have done too little to share the burden. Tensions between Iran and the US have contributed to Iran in particular receiving little or no aid from donor countries and thus being left virtually alone in assisting the large number of Afghan refugees in the country. Additionally, consequences of financial and economic sanctions against Iran for its alleged nuclear weapons program, which have led to a shortage in foreign currency reserves, a steep devaluation of the Iranian rial, and rising inflation and unemployment, have arguably had an adverse impact on the Iranian government's ability to deal with its documented Afghan population in addition to making life more difficult for this already vulnerable population.

*I don't know what we will do. We don't have money here; we don't have money to go back. My wife does not work – she is uneducated.*

– Father of Hasina and Zohrah, after he and his teenage daughters were deported, leaving his wife and three young children behind in Iran. Officials deported the father and daughters after the teenagers were arrested because Hasina was wearing bright pink sneakers in the holy city of Qom. After they called family members for help, their father and Zohrah's fiancé came to the police station. Realizing that they were Afghans, the police deported all four of them.

The situation of Afghans in Iran is also influenced by the broader context of Iran's relationship with Afghanistan, Iran's relationship with the United States and key players in the international community, and the drawdown of international forces in Afghanistan toward the end of the 2014 deadline for the withdrawal of US combat forces. These factors create an environment in which broader international tensions impact vulnerable Afghan citizens. A lasting solution to the problem will require not only improved Iranian respect for refugee and migrant rights, but also that Afghanistan, its neighbors, and Afghanistan's

foreign allies and donors cooperate to help protect the refugees while working to create a long term solution for the millions of Afghans who reside in Iran and surrounding countries.

Based on the findings of this report and the deteriorating security situation in Afghanistan as reflected in the UNHCR “2013 Eligibility Guidelines,” Iran should set up a clear and transparent asylum system to allow Afghans who wish to claim asylum the opportunity to do so. This asylum system should include newly arriving Afghans who want to claim asylum, Afghans earmarked for deportation who say they want to claim but never got the chance, and Afghans who are switching from Amayesh to residency status but whose residency status might one day get stripped—despite government promises that this will not happen in the near future.

*I have two sons, five daughters. One of my daughters died of a stroke in Afghanistan. So now I have four daughters left. One of my sons got deported, so there's only one more left. I had grown used to living with my one son. Then the merciless people even took him away from me. He was a naughty boy, he was always running around. I had locked all doors so he couldn't get out. And [my] older son also told me to lock our doors before he went to work. But it's not possible...how can you keep a young boy indoors? After a while, he started pleading with me to open the door. He said, open the door. I will go get some eggs to cook for myself. They caught him immediately after he got out of home. He's 12. He was deported six months ago.*

– Jamila, age approximately 40. She went to Iran from Afghanistan after her husband died to join family members who were there, including her sister. She and the two sons she was living with in Iran were undocumented.

\*\*\*

## Key Recommendations

Human Rights Watch calls on the Iranian government, as well as the Afghan government and its international partners, to act decisively to end the abuses described in this report. A full set of recommendations is set forth at the end of this report, but the most urgent steps are as follows:

### **The Iranian government should:**

- Allow newly-arriving Afghans and Afghans arrested for unlawful presence to lodge refugee claims if they wish, review such claims fairly and efficiently, and guarantee rejected applicants a right of appeal.
- Do not forcibly return registered Afghan refugees and asylum seekers to Afghanistan and do not block Afghans at the border who may wish to claim asylum in Iran.
- Ensure that every Afghan facing deportation has the opportunity to have his or her case reviewed by a judge and has access to legal assistance and the right of appeal.
- Ensure that all law enforcement and other government officials treat Afghan refugees, asylum seekers, and migrants with dignity and respect for their human rights in compliance with their domestic and international legal obligations, without exceptions.

### **The Afghan government should:**

- Press the Iranian government to ensure that Afghan migrants receive the protection and due legal process accorded to them under international law.

### **UNHCR should:**

- Work with the Iranian government to ensure Afghans seeking asylum in Iran can enter Iran, lodge refugee claims, and have those claims fairly and efficiently reviewed; also work with Iran to ensure no registered refugees are forced to return to Afghanistan.
- Discontinue the emphasis on return as the most durable solution in a context of increasing insecurity and uncertainty at a time of transition in Afghanistan.

**The United Nations and international partners of Afghanistan and Iran should:**

- Press Iran to end abuses committed against Afghan refugees, asylum seekers, and migrant workers.
- Consider providing additional support to the Iranian government to assist with costs associated with the Afghan refugee population in Iran, including to improve their access to education and healthcare.
- Assess the impact that sanctions against Iran are having on Afghan refugees and migrants, as well as Iranians, and take steps to ensure that sanctions are not harming people already vulnerable and living in poverty.

## Methodology

This report is based primarily on interviews conducted with Afghans deported from Iran into Afghanistan at the Islam Qala border crossing in April 2012 and April 2013. Human Rights Watch conducted interviews for this report close to what is called “zero point” at the Islam Qala border crossing – the boundary between Iranian and Afghan territory. Human Rights Watch researchers conducted a total of 90 interviews with family groups and individuals. The majority of those interviewed by Human Rights Watch were undocumented migrant workers.

Forty-one of these interviews were with unaccompanied children ranging in age from 12 to 17 years old; the remaining interviews were with adult men or families. All of the individuals travelling alone interviewed by Human Rights Watch were boys or men. Human Rights Watch did not encounter any women or girls travelling alone, although staff of organizations working at the border reported that they rarely but occasionally encounter such women or girls. Some interviews were conducted with more than one individual present, particularly when the interviewees were families travelling together.

Interviewees were primarily deportees, although we also interviewed a small number of people returning voluntarily to Afghanistan. The interviews were conducted in Dari, either by a Dari/Persian speaking researcher or through a translator. Before each interview, Human Rights Watch informed interviewees of its purpose, the kinds of issues that would be covered, and asked if they wanted to participate. We informed them that they could discontinue the interview at any time or decline to answer any specific question. No incentives were offered or provided to persons interviewed.

This report also incorporates a small amount of material gathered from interviews conducted in November 2011 as part of the research for a previous report, *“I Had to Run Away”: The Imprisonment of Women and Girls for ‘Moral Crimes’ in Afghanistan*.

Additional information was obtained by interviewing members of the Afghan government, Afghan parliamentarians, representatives of civil society organizations, and representatives of international organizations.

The names of all refugees and migrants referred to in this report have been disguised to protect their identity and to prevent possible retribution should they seek to return to Iran. Some people are referred to by a first name and last initial, others by a single name. This reflects the fact that some Afghans use several names while others only a first name, and the particular style chosen for a given interviewee (single name versus name and initial) bears no relation to whether they actually use several names or only one.

Human Rights Watch has also withheld the names of the Afghan government officials and parliamentarians we interviewed. Almost everyone Human Rights Watch approached on this topic was eager to talk, as Iran's treatment of documented and undocumented Afghans frustrates many Afghans, including those in the government. Almost without exception, however, they also asked to have their identity concealed out of fear of retribution by the Iranian government against their family members who live in Iran, or because they have an ongoing working relationship with the Iranian government that they feared jeopardizing.

This report uses the term “migrant” when referring to Afghans in Iran who have not been registered as refugees or asylum seekers. Although international law defines migrant workers, it does not define migrants *per se*. In the context of this report, migrant is simply the broadest, most inclusive term to describe the Afghans entering, residing in, and leaving Iran, and does not exclude the possibility that some migrants might be refugees or have grounds for asylum. This report identifies refugees as people who meet the international definition of refugee in the 1951 Convention relating to the Status of the Refugee. An asylum seeker is a person who claims to be a refugee and has asked to be recognized as such or has been registered as an asylum seeker.

Afghans frequently are uncertain of their exact age, due to the fact that few births are registered, there is no system of formal birth certification in Afghanistan, and school attendance is too inconsistent and episodic to provide a reliable indicator of age. Ages specified in this report are self-reported, and when people were uncertain of their age, that uncertainty is reported.

Another issue that frequently arises in discussions about the treatment of Afghans in Iran is deaths caused by Iranian security forces guarding the border between Iran and Afghanistan. This issue is not discussed in this report, not because it is not of great

importance, but because detailed fact-finding on it was beyond the scope of the research for this report.

The official exchange rate at the time that the majority of interviews were conducted was 1,224 Iranian tomans to one US dollar, and this exchange rate has been used in the conversions included in this report. It is important to note, however, that there has been a severe devaluation of Iranian currency over the last year and as of December 2012, resulting in part from the punishing economic and financial sanctions against Iran for its alleged nuclear weapons program, the unofficial exchange rate was approximately 3,000 Iranian tomans,<sup>1</sup> and prices have adjusted to this rate, causing drastic inflation.<sup>2</sup> For this reason, figures stated in this report are likely to have a real current value of about two thirds less than the amount stated.

The official exchange rate of Afghans to dollars at the time that the majority of interviews were conducted was 50 Afghans to one US dollar, and this exchange rate has been used in the conversions included in this report.

Human Rights Watch was not able to carry out any research inside Iran for this report, although several interviews were conducted over the phone and via email with individuals inside the country. Prior to publishing this report, Human Rights Watch contacted Iranian authorities, shared its findings and recommendations, and requested in-person meetings to further discuss the details of the report. Human Rights Watch also asked government authorities, including the Ministry of Interior and the Bureau for Alien and Foreign Immigrants' Affairs, to provide answers to questions it had regarding its findings (see Appendix I) and assured the government that any response it provided would be incorporated in the report. No responses were received prior to the publishing of this report.

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<sup>1</sup> Yeganeh Torbati, “Iran's stock market rally defies economic slump, raises risk of a bubble,” Reuters, December 12, 2012, <http://www.reuters.com/article/2012/12/12/iran-economy-idUSL5E8NAoFN20121212> (accessed December 30, 2012).

<sup>2</sup> Joby Warrick and James Ball, “Food prices, inflation rise sharply in Iran,” *Washington Post*, October 04, 2012, [http://articles.washingtonpost.com/2012-10-04/world/35498613\\_1\\_cliff-kupchan-iranian-behavior-price-hikes](http://articles.washingtonpost.com/2012-10-04/world/35498613_1_cliff-kupchan-iranian-behavior-price-hikes) (accessed December 30, 2012).

## I. Background: Afghans in Iran

Since the 1980s, repeated bouts of armed conflict – most recently the increasingly violent confrontation between the Taliban and the Afghan government and its international backers—have driven several million Afghans to become refugees.<sup>3</sup> Almost 97 percent of these refugees fled to Iran and Pakistan, with 34 percent of all Afghan refugees in 2011 living in Iran, according to the United Nations High Commissioner for Refugees (UNHCR).

The vast majority of Afghan refugees, according to UN data, have sought refuge in Pakistan and Iran, with roughly 1.7 million in Pakistan and one million more in Iran. According to government population figures from October 2011, Iran registered 882,659 refugees in the country, of which 840,158 are Afghans and the rest Iraqi nationals. According to estimates by Iran’s official Bureau for Aliens and Foreign Immigrants’ Affairs (BAFIA), there are 1.4 to 2 million undocumented Afghan migrants living and working in Iran today. Together with the registered refugee population, that makes for a total of between 2.4 and 3 million Afghans in Iran.

Afghans in Iran constitute one of the largest urban refugee populations in the world. Only three percent of Afghan refugees live in camps. Based on Iranian government statistics, 57 percent of Afghans (documented and undocumented) live in the provinces of Tehran, Khorsan-e Razavi, and Esfahan, 22 percent live in the provinces of Kerman, Fars and Qom, 13 percent live in Alborz, Semnan and Markazi, and 8 percent live in Qazvin, South Khorasan, Khuzestan (the refugee camp of Baninajar located in rural Khuzestan), Gilan, and Mazandaran. Many provinces, including Mazandaran along the Caspian coast, have been declared partial or wholesale “no go areas” for foreign nationals which means documented and undocumented Afghans found there may be deported. Based on registration data, almost half of the registered Afghan refugees are below the age of 18.<sup>4</sup>

In May 2011, Mohammad Tahavori, the head of BAFIA, said that there were about 1.5 million foreign nationals unlawfully present in the country, and that 96 percent of them

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<sup>3</sup> UNHCR, Afghan Refugee Statistics, <http://www.unhcr.org/421316072.pdf> (accessed October 10, 2013).

<sup>4</sup> UNHCR, International Conference on the Solutions Strategy for Afghan Refugees, to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries, May 2-3, 2012, <http://www.unhcr.org/afghanistan/solutions-strategy.pdf> (accessed July 8, 2013).

were Afghans. Iranian officials claim that there are 480,000 to 680,000 undocumented Afghan nationals living in Tehran province alone. Later, in December 2012, Tahavori said there were 3 million Afghans in total in Iran.<sup>5</sup> According to UNHCR data, as of August 2012, approximately one million of these Afghans are registered refugees.<sup>6</sup> Estimates suggest that there are at least another 1.4 million undocumented Afghan migrants living and working in Iran today.<sup>7</sup> While these Afghans are not registered refugees, many have fled violence and insecurity or the effects of conflict, such as destruction of livelihoods and infrastructure. Neighboring Pakistan is also home to a large Afghan migrant population.<sup>8</sup>

The large influx of Afghan refugees and migrants to Iran in the 1980s and 1990s was both the result of raging civil war and insecurity in Afghanistan and the Iranian government's relaxed policy of accepting and settling Afghans. Until 1992, the Iranian government allowed many Afghans to register as "involuntary migrants" (*mohajerin*), gain automatic residency in Iran, and enjoy benefits such as basic healthcare and work permits.<sup>9</sup> Iranian officials effectively treated these registered Afghans as refugees, though that designation was not officially used by the Iranian government.

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<sup>5</sup> "Issuing new insurance cards to legal Afghan nationals Iran," BAFIA, Dec. 8, 2012, <http://bafia.moi.ir/Portal/Home>ShowPage.aspx?Object=News&CategoryID=a25b3683-80cc-48ec-810c-29ca2ea14479&WebPartID=2025af47-c2e4-43bc-82d5-c075ae63294b&ID=c54b15ba-025e-417e-afe9-ccd93aa273dc>, (accessed December 27, 2012).

<sup>6</sup> Approximately 1.7 million registered Afghan refugees currently live in neighboring Pakistan. "50,000 Afghan refugees voluntarily return to Afghanistan this year," UNHCR press release, August 28, 2012, <http://unama.unmissions.org/Default.aspx?tabid=12254&ctl=Details&mid=15756&ItemID=35662&language=en-US> (accessed September 25, 2012).

<sup>7</sup> "Afghanistan-Iran: Mehdi, 'My hands were hurting because the handcuffs were too tight,'" IRIN, In Depth: From Pillar to Post – the Plight of Afghans Abroad, February 27, 2012, <http://www.irinnews.org/InDepthMain.aspx?Indepthid=95&reportid=94958> (accessed September 6, 2012) and International Organization for Migration, IOM Development Fund Newsletter, Autumn 2012, <http://www.iom.int/developmentfund/files/infosheets/Autumn-Newsletter-2012.pdf> (accessed January 3, 2013), p.12. In May 2011, Mohammad Tahavori, the head of BAFIA, said that there were about 1.5 million unlawful foreign nationals residing in the country, and that 96 percent of them were Afghans. "The New Round of Registration for Afghan Nationals Under the 'Amayesh' System," Asr-e Iran, May 30, 2011, <http://www.asriran.com/fa/news/167504> (accessed on September 6, 2012). Iranian officials claim that there are 480,000 to 680,000 thousand undocumented Afghan nationals living in Tehran province alone. "Passage of a Comprehensive Registration Process for Foreign Nationals by the Supreme National Security Council," Fars News Agency, July 5, 2010, <http://www.farsnews.com/newstext.php?nn=8904140764> (accessed September 6, 2012).

<sup>8</sup> Afghan migrants and refugees in Pakistan also face many difficulties and abuses, as previously detailed by Human Rights Watch in the report, "Afghanistan, Iran and Pakistan, Closed Door Policy: Afghan Refugees in Pakistan and Iran," Human Rights Watch, Vol. 14, No. 2(G), February 2002, <http://www.hrw.org/reports/2002/pakistan/pakistano202.pdf> (accessed November 12, 2012). This report focuses specifically on abuse of Afghan migrants and refugees in Iran, rather than looking at both Pakistan and Iran, as the previous report did. This choice of focus, however, should not be interpreted as meaning that there are not problems with how Afghan migrants and refugees are currently treated in Pakistan; such issues are simply beyond the scope of this report.

<sup>9</sup> See generally Bruce Koepke, "The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan," February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique.

After 1992, however, residence rights were not automatically granted to new arrivals and because Iran does not have asylum procedures allowing newly arriving Afghans to lodge refugee claims, the majority of newly arriving Afghans remained undocumented and were thus subject to deportation.<sup>10</sup>

In 1997, the Iranian government effectively stopped granting newly arriving Afghans automatic residency status, launched a major program to register undocumented Afghans already in the country, and stepped up efforts to deport Afghans.<sup>11</sup>

In 2011 alone, Iran deported 211,023 Afghans via the border crossings between the two countries, according to the United States Department of State.<sup>12</sup> Nearly 150,000 of these Afghans were deported through the Islam Qala border post alone, one of several border crossings between Iran and Afghanistan.<sup>13</sup> As of end-October 2012, Iran had deported 700 Afghans a day in the first 10 months of that year, an approximate 30 percent increase over 2011.<sup>14</sup>

In November 2012, a new regulation was issued by the Iranian cabinet of ministers stating that 1.6 million foreigners “illegally residing in Iran” were to be expelled by the end of

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<sup>10</sup> Alessandro Monsutti, “Afghan Transitional Networks: Looking Beyond Repatriation,” Afghanistan Research and Evaluation Unit, August 2006, p. 13. See also Agata Bialcyk, “‘Voluntary Repatriation’ and the Case of Afghanistan: A Critical Examination,” University of Oxford, Refugee Studies Centre Working Paper Series, Working Paper no. 46, January 2008, p. 21.

<sup>11</sup> Kristian Berg Harpviken, “Social Networks and Migration in Wartime Afghanistan,” Centre for the Study of Civil War (CSCW), International Peace Research Institute, Oslo (PRIO), Norway, 2009, p. 79; Agata Bialcyk, “‘Voluntary Repatriation’ and the Case of Afghanistan: A Critical Examination,” University of Oxford, Refugee Studies Centre Working Paper Series, Working Paper no. 46, January 2008, p. 21.

<sup>12</sup> United States Department of State, “Country Reports on Human Rights Practices for 2011: Afghanistan,” [http://www.state.gov/j/drl/rls/rrpt/humanrightsreport/index.htm?dynamic\\_load\\_id=186457#\(wrapper](http://www.state.gov/j/drl/rls/rrpt/humanrightsreport/index.htm?dynamic_load_id=186457#(wrapper) (accessed May 29, 2012). The deportation of Afghans from Iran is often related to broader political dynamics between the two countries, with deportations or threatened deportations sometimes used by Iran as leverage over Afghanistan. For example, see Amie Ferris-Rotman, “Insight: Iran’s “great game” in Afghanistan,” Reuters, May 24, 2012, <http://www.reuters.com/article/2012/05/24/us-afghanistan-iran-media-idUSBRE84NoCB20120524> (accessed June 2, 2012); and Nathan Hodge and Habib Khan Totakhil, “Iran seeks to scuttle US pact with Kabul,” Wall Street Journal, May 8, 2012, <http://online.wsj.com/article/SB10001424052702303630404577391913416976058.html> (accessed June 2, 2012).

The numbers of Afghans deported from Iran through the two land border crossings has been rising fairly steadily since 2002, aside from a spike in 2007 that was followed by a return to slightly lower levels. UNHCR figures for the number of Afghans deported from Iran via these two border crossings in the years 2002-2008 is as follows: 2002-42,360; 2003-53,897; 2004-79,410; 2005-95,845; 2007-146,387; 2008-363,369; and 2009-230,332. “ILO-UNHCR Cooperation Towards Comprehensive Solutions for Afghan Displacement: Research study on Afghan deportees from Iran,” August 2008, Altai Consulting (on file with Human Rights Watch), p. 3.

<sup>13</sup> Human Rights Watch interview with official working at Islam Qala (name withheld), Islam Qala, April 19, 2012.

<sup>14</sup> Luke Mogelson, “The Scariest Little Corner of the World,” *New York Times* magazine, October 18, 2012, <http://www.nytimes.com/2012/10/21/magazine/the-corner-where-afghanistan-iran-and-pakistan-meet.html?pagewanted=all> (accessed December 27, 2012). Human Rights Watch does not have statistics indicating what percentage of these deportees, if any, were registered refugees.

2015. The regulation, approved at the vice presidential level, instructed the Ministry of Interior to not only expel these 1.6 million undocumented foreign nationals, but to also facilitate voluntary repatriation of an additional 200,000 documented individuals (classified as refugees) and terminate the refugee status of 700,000 individuals.<sup>15</sup>

One representative of an international organization told Human Rights Watch at the time that this new plan by the Iranian government to expel foreigners was of “primary concern to all humanitarian actors in Iran.”<sup>16</sup>

During the five days that Human Rights Watch spent at the border in 2012, approximately 30 buses arrived each day containing about 50 deportees each – a total of about 1,500 deportees a day, a figure that does not include voluntarily returning refugees, undocumented people, or people travelling back to Afghanistan pursuant to valid travel documents.<sup>17</sup> The flow of deportees was so heavy that the border police staffing a center tasked with collecting biometric data from all men and boys passing into the country just shrugged and let some groups of deportees go by, telling Human Rights Watch that there were too many people to handle.<sup>18</sup>

## The Political Context

The huge number of Afghans seeking refuge outside of Afghanistan has placed significant political, economic, and social burdens on Iran and Pakistan. Both governments have argued that other countries, including those intimately involved in Afghanistan, have done little to share the burden.

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<sup>15</sup> “Government legislation to expel 1.6 million foreign nationals,” Information Portal, Bureau for Citizens and Foreign Refugee’s Affairs, Ministry of Interior, November 14, 2012, [http://atbatehran.ostan-th.ir/index.php?option=com\\_content&view=article&id=1317:2012-11-14-11-02-12&catid=68:2010-09-15-09-02-08](http://atbatehran.ostan-th.ir/index.php?option=com_content&view=article&id=1317:2012-11-14-11-02-12&catid=68:2010-09-15-09-02-08), (accessed December 27, 2012).

<sup>16</sup> Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

<sup>17</sup> It was possible to distinguish between deportees, voluntarily returning refugees, and other types of travelers because there are three separate drop-off points, one of which is solely for deportees.

<sup>18</sup> While this center is run by the Afghan Border Police, it was established with US support, and, Human Rights Watch was told, continues to be funded by the US. In theory, cooperation with biometric data collection is compulsory for all people entering Afghanistan, although in practice collection at this location at least seems somewhat haphazard and limited to men. For more information on the program, see Rod Nordland, “Afghanistan has big plans for biometric data,” *New York Times*, November 19, 2011, <http://www.nytimes.com/2011/11/20/world/asia/in-afghanistan-big-plans-to-gather-biometric-data.html?pagewanted=all> (accessed September 10, 2011).

Iran's recent financial and economic crisis has also, arguably, had an impact on both the situation of Afghans in Iran and the Iranian government's tolerance for their presence. In the past year, Iran has suffered a dramatic devaluation of its currency which has lowered its unofficial value to about one third of the official rate.<sup>19</sup> This has been accompanied by rates of inflation estimated to be as high as 69.6 percent per month, a figure the Iranian government disputes, citing instead a figure of 29 percent inflation annually.<sup>20</sup> Some Afghans interviewed by Human Rights Watch said they returned to Afghanistan voluntarily because the devaluation of Iranian currency and the rate of inflation meant they could no longer earn sufficient money to assist their families back in Afghanistan.<sup>21</sup>

One representative of an international organization interviewed by Human Rights Watch emphasized the impact of Iran's economic problems on Afghans, suggesting that nearly half of all Afghans in Iran live below the absolute poverty line, in part due to the financial turmoil. “[The increasing cost of living is] unsustainable for low income families, the great majority of which are Afghan refugees and undocumented Afghan nationals.”<sup>22</sup> This official also raised concerns about the lack of international assistance to Iran as it struggles to meet the needs of Afghans in a financially difficult period.<sup>23</sup>

The situation of Afghan nationals in Iran is also inextricably linked to the transition taking place in Afghanistan as troop-contributing nations bring their soldiers home and reduce their political and financial commitments there. More specifically, the involvement of Afghanistan's neighboring states, especially Iran and Pakistan, in internal Afghan issues has prompted increasing concern about further political instability in Afghanistan.

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<sup>19</sup> Yeganeh Torbati, “Iran's stock market rally defies economic slump, raises risk of a bubble,” Reuters, December 12, 2012, <http://www.reuters.com/article/2012/12/12/iran-economy-idUSL5E8NAoFN20121212> (accessed December 30, 2012).

<sup>20</sup> Joby Warrick and James Ball, “Food prices, inflation rise sharply in Iran,” *Washington Post*, October 04, 2012, [http://articles.washingtonpost.com/2012-10-04/world/35498613\\_1\\_cliff-kupchan-iranian-behavior-price-hikes](http://articles.washingtonpost.com/2012-10-04/world/35498613_1_cliff-kupchan-iranian-behavior-price-hikes) (accessed December 30, 2012).

<sup>21</sup> Human Rights Watch interviews with returning laborers, Islam Qala, April 17, 2012.

<sup>22</sup> Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

<sup>23</sup> Ibid. The staff member told Human Rights Watch:

The Iranian government should, with the assistance of UNHCR, re-open registration for new asylum seekers with valid claims. We wonder though what could happen if Iran re-opened its borders. Considering the current conditions in Pakistan, Afghanistan and Iraq, we wonder what would be the outcome. Probably a massive and uncontrollable flow of people (IDPs in Iraq, IDPs and the wider population in Afghanistan including returnees who have not been able to reintegrate, Afghan refugees in Pakistan and also Pakistani IDPs) likely to become protractedly displaced in Iran. The economy in Iran has taken a sharp fall because of the sanctions, international assistance is decreasing and, a massive influx could not be absorbed. International aid funding options for assistance to refugees in Iran are not the greatest, especially now with the displacement caused by the war in Syria.

The planned withdrawal of international combat troops by the end of 2014 has prompted many questions about the role of Afghanistan's neighbors in determining the country's future trajectory. There is a strong perception by Afghans that their neighbors, particularly Iran and Pakistan, are maneuvering for influence and control and that this struggle may be detrimental to Afghanistan.<sup>24</sup> In the context of ongoing tensions between Iran and other nations, particularly the US, over issues including Iran's nuclear capability, Iran has used Afghan refugees and migrants as a political football – a way to punish the Afghan government and demonstrate to the US its enduring capacity to exert its influence over Afghanistan despite the huge US engagement there, according to some Afghan officials who spoke to Human Rights Watch.<sup>25</sup>

From the Afghan government's side, the reality is that the relationship with Iran is an unequal one. The Afghan government is struggling desperately, and often failing, to manage the humanitarian, economic, security, and governance challenges it already faces. The addition of a new flood of returning Afghans, many of them without financial means or a home in Afghanistan to return to, would add another burden that the Afghan government is fully unprepared to manage at present or for the foreseeable future. Afghan government officials and parliamentarians describe a situation where the Afghan government bargains from a position of constant weakness because officials live in fear of angering Iran, as angering Iran frequently brings the threat of more deportations. As one senior Afghan official told Human Rights Watch, “One year ago I raised the issue [of treatment of unaccompanied children] with Iran. My colleague said, ‘No, don’t be tough. They will deport more.’ We can’t be hard with them – we have to be very gentle and polite.”<sup>26</sup>

Afghan migrants, asylum seekers and refugees in Iran have been victimized by these broader political tensions, as Iran seeks to, in the words of one Afghan government official, use them to “blackmail” the Afghan government.<sup>27</sup> As one Afghan parliamentarian observed, “Every time there is a big problem between the US and Iran, Iran deports a bunch of Afghans, to show that they can put pressure on Afghanistan whenever they

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<sup>24</sup> “Afghanistan’s National Directorate of Security Expresses Concern about Iranian and Pakistani ‘Influence’ in Certain Media Outlets,” Afghanistan Journalists Center, March 28, 2012, <http://afjc.af/index.php/newsmedia/centeral/kabul/470-1391-01-22-18-16-19.html> (accessed May 28, 2013).

<sup>25</sup> Human Rights Watch interview with a senior Afghan government official (name and location withheld), April 2012.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

want.”<sup>28</sup> As another commentator wrote, “Over the past decade, Iran’s leaders, particularly those with abiding revolutionary fervor, have found it irresistible to poke the United States in the eye in Afghanistan as they did in Iraq, to validate their strategic interest in the withdrawal of all US forces from the region.”<sup>29</sup>

The fear of retaliation by Iran is so strong that three of the four Afghan parliamentarians interviewed by Human Rights Watch for this report asked that their names not be used. “I have family living in Iran,” one said. “The Iranian government will deport them if I speak out.”<sup>30</sup> This fear of talking extends to law enforcement officials; a senior commander of the Afghan Border Police, when asked by Human Rights Watch what he believed was the greatest problem for Afghans in Iran, answered, “If I say, I[will] get in trouble,” and ended the interview.<sup>31</sup>

The Afghanistan-US strategic partnership agreement will continue to be a sticking point in Iranian and Afghan relations, particularly as it is dependent on US funding and political will. The international intervention in Afghanistan since 2001 has led to aspects of the tensions between the US and Iran being played out on Afghan soil, with serious implications for the Afghan people, none more so than for Afghans in Iran.

Despite these barriers, however, Afghans are still going to Iran in large numbers. Their motivations vary. Many are still fleeing the country because of danger and insecurity. Some undoubtedly are refugees, as defined by international law. But because Afghan asylum seekers are unable to lodge refugee claims, they remain undocumented and—if they have valid refugee claims—risk being returned to persecution.

Others leave Afghanistan to earn enough money to feed their families and to live in a society where there is greater economic development and opportunity, including opportunities for women and girls.<sup>32</sup> Many of the Afghan boys interviewed by Human Rights

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<sup>28</sup> Human Rights Watch interview with Afghan parliamentarian (name withheld), Kabul, April 10, 2012.

<sup>29</sup> Ellen Laipson, “Engaging Iran on Afghanistan,” Stimson, [http://www.stimson.org/images/uploads/research-pdfs/Engaging\\_Iran\\_on\\_Afghanistan.pdf](http://www.stimson.org/images/uploads/research-pdfs/Engaging_Iran_on_Afghanistan.pdf) (accessed November 14, 2012).

<sup>30</sup> Human Rights Watch interview with Afghan parliamentarian (name withheld), Kabul, April 10, 2012.

<sup>31</sup> Human Rights Watch interview with senior commander of the Afghan Border Police (name and location withheld), April 16, 2012.

<sup>32</sup> While for many families it may not be a primary motivating factor for flight to Iran, an effect of the diaspora is the greater freedom and opportunity that Afghan women and girls sometimes find in Iran (and Pakistan). Elaheh Rostami-Povey, “Afghan Refugees in Iran, Pakistan, the U.K., and the U.S. and Life after Return: A Comparative Gender Analysis,” *Iranian Studies*, 40:2,241 – 261, 2007, pp. 248-9. Particularly profound change has come from the greater access girls had to education in

Watch, for example, had travelled to Iran alone in order to help feed their families and pay off debts. Others had mixed motives—some combination of political, personal, and economic reasons—for leaving their homeland.<sup>33</sup> Education and health care opportunities in Iran may also be important attractions.

The existence of an economic or family motivation for leaving one's homeland does not disqualify a person from being a refugee if he or she has a well-founded fear of being persecuted there.

## Conditions in Afghanistan Today

As a state party to the 1951 Refugee Convention and under customary international law, Iran may not commit refoulement, the return a person to a place where they face a real risk of persecution or of torture or inhuman and degrading treatment or punishment. Iran may therefore not return any Afghan national claiming to fear such harm to Afghanistan unless it has first considered whether such a risk exists. Yet Iran does not allow Afghans to lodge refugee claims.<sup>34</sup>

The human rights and security situation in Afghanistan is grave and getting worse. In 2012, Human Rights Watch documented “rising civilian casualties particularly from insurgent attacks, increased use of “night raids,” abuses by armed groups, and persistent human rights violations.”<sup>35</sup> A December 2012 US Pentagon report documented an increase in Taliban attacks during the 2012 fighting season over the previous year, an increase in

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Iran, prior to new limits placed on access to education for Afghans in Iran. Fariba Adelkhah & Zuzanna Olszewska, “The Iranian Afghans,” *Iranian Studies*, 40:2 (2007), pp. 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 145. Another important difference is that it is much easier for women to seek divorce in Iran than in Afghanistan, which can be life-changing for Afghan women. Human Rights Watch interview with Soraya W., November 29, 2011. More liberal attitudes toward women’s rights in Iran, and the expectations Afghan women have developed through exposure to Iranian society are sometimes cited as a cause of “social problems” in Afghanistan such as women running away from home. See, e.g., Human Rights Watch interview with Gul Bahar, November 30, 2011; Fariba Nawa, “How Iran Controls Afghanistan,” Fox News, January 25, 2012, <http://www.foxnews.com/opinion/2012/01/25/how-iran-controls-afghanistan/> (accessed April 25, 2012).

<sup>33</sup> IOM has also documented cases of Afghans entering Iran as a result of trafficking. Such cases typically involved Afghan men entrapped through false promises of high-paid jobs and then treated as slaves. “Trafficking in Persons in Afghanistan: Field Survey Report,” IOM International Organization for Migration, 2008, p. 36.

<sup>34</sup> UN High Commissioner for Refugees, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, August 6, 2013, <http://www.refworld.org/docid/51ffdca34.html> (accessed August 23, 2013).

<sup>35</sup> Human Rights Watch, “World Report, Afghanistan: 2012,” January 2012, <http://www.hrw.org/world-report-2012/world-report-2012-afghanistan>.

casualties among Afghan security forces, and continued dependence by Afghans troops on NATO support.<sup>36</sup> The report described the Taliban as “resilient and determined.”<sup>37</sup>

In October 2012, Amnesty International expressed particular concern about the worsening plight of internally displaced persons (IDP) in Afghanistan, noting: “With conflict and insecurity rising in Afghanistan, the country’s displaced population has reached a record half a million according to the UNHCR, though the actual number is likely to be much higher.”<sup>38</sup> It pointed out that Afghanistan’s Ministry for Refugees and Repatriation’s 2011 budget of US\$6 million was not enough to address even the most basic assistance and protection needs for IDPs, while the international humanitarian appeal for Afghanistan had only been 34 per cent funded, and the Emergency Response Fund was depleted.<sup>39</sup> “The uncertainty among many Afghan people over the drawdown of international forces and the political, security, social and economic impact of transition is likely to trigger further internal displacement, particularly if security conditions do not improve in the short-term,” Amnesty International wrote.<sup>40</sup>

The outlook for the future is also extremely worrying. As the International Crisis Group in October 2012 wrote,

Plagued by factionalism and corruption, Afghanistan is far from ready to assume responsibility for security when U.S. and NATO forces withdraw in 2014. Afghan leaders must recognize that the best guarantee of the state’s stability is its ability to guarantee the rule of law during the political and military transition in 2013-2014. If they fail at this, that crucial period will at best result in deep divisions and conflicts within the ruling elite that the Afghan insurgency will exploit. At worst, it could trigger extensive unrest, fragmentation of the security services and perhaps even a much wider civil war.

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<sup>36</sup> David Alexander, “Pentagon reports Taliban attacks up during Afghan fighting season,” Reuters, December 10, 2012, <http://www.reuters.com/article/2012/12/10/us-usa-afghanistan-idUSBRE8B919P20121210> (accessed December 12, 2012).

<sup>37</sup> Kristina Wong, “Report: Taliban plan to move in as U.S. withdraws,” *Washington Times*, December 10, 2012, <http://www.washingtontimes.com/news/2012/dec/10/pentagon-insider-attacks-enemy-assaults-hamper-afg/> (accessed December 12, 2012).

<sup>38</sup> “Afghanistan: Urgent assistance needed to avoid deaths among displaced during cold,” Amnesty International, October 19, 2012, <http://www.amnesty.org/en/news/afghanistan-urgent-assistance-needed-avoid-deaths-among-displaced-during-cold-2012-10-19> (accessed December 12, 2012).

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

The UNHCR's "Solutions Strategy for Afghan Refugees"<sup>41</sup> also cites many reasons for the relatively slow return of Afghan refugees to Afghanistan, including the fact that Afghanistan ranks second from the bottom on the Human Development Index and has a per capita GDP of US\$589 – as well as the increased insecurity caused by the ongoing withdrawal of the majority of NATO troops.<sup>42</sup> The plan states that the average standard of living in Afghanistan is 9 percent of that in Iran.<sup>43</sup>

Afghanistan has also proved unable to effectively assist returning refugees and migrants to re-integrate. Returnees have faced great difficulties in obtaining access to land, shelter, and basic services and in finding or renewing livelihoods.<sup>44</sup> Many returnees do not return to their previous communities, for reasons including safety related to Taliban presence and unexploded ordinance, as well as lack of services and facilities, which in effect means they cease to be refugees and start becoming IDPs.<sup>45</sup> The Afghan Independent Human Rights Commission has found that two-thirds of returnees experience "secondary displacement" upon their return to Afghanistan.<sup>46</sup>

These returnees typically settle in cities instead of their previous, sometimes rural, places of origin. A majority go to Kabul, where conditions are also very difficult for those without resources.<sup>47</sup> An estimated 70 percent of Kabul's land area consists of informal settlements, many populated by returnees and IDPs.<sup>48</sup> So dire are the conditions in some of the makeshift camps populated by displaced people that *The New York Times* documented the deaths of at least 22 children from the cold in two of the largest of Kabul's camps during the winter of 2011-2012.<sup>49</sup> The paper stated that more than 100 children in total died in

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<sup>41</sup> The next chapter includes a more in-depth discussion of these issues.

<sup>42</sup> UNHCR, "Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries," presented at a conference in Geneva, Switzerland, March 2-3, 2012, <http://unhcr.org/afghanistan/solutions-strategy.pdf> (accessed May 28, 2012), p. 20.

<sup>43</sup> Ibid., p. 20.

<sup>44</sup> Nassim Majidi, "Urban Returnees and Internally Displaced Persons in Afghanistan," Middle East Institute, January 25, 2011, p. 2.

<sup>45</sup> "Fleeing war, finding misery: the plight of the internally displaced in Afghanistan," Amnesty International, February 2012, pp. 27-28.

<sup>46</sup> Ibid., p. 27.

<sup>47</sup> Nassim Majidi, "Urban Returnees and Internally Displaced Persons in Afghanistan," Middle East Institute, January 25, 2011, p. 2.

<sup>48</sup> Ibid.

<sup>49</sup> Rod Nordland, "Winter at an Afghan Refugee Camp: 'Is It Sugar From God?,'" *New York Times*, February 5, 2012, <http://atwar.blogs.nytimes.com/2012/02/05/winter-in-afghanistan-is-it-sugar-from-god/> (accessed July 18, 2012).

Kabul's 44 camps that winter.<sup>50</sup> The camps, which now number around 52, house an estimated 33,696 inhabitants (5,616 families).<sup>51</sup> Efforts to ensure better preparation for the winter of 2012-13 have failed to dispel fears of similar deaths.<sup>52</sup>

The rights and security challenges are also highlighted by UNHCR's recent "2013 Eligibility Guidelines." The guidelines paint a grim portrait of the country Afghans would return to, foreseeing an intensification of the conflict between pro-government forces and armed groups "in the wake of the international troops' withdrawal."<sup>53</sup> They claim that Afghanistan faces "endemic corruption, difficulties in establishing and maintaining governmental authority, continuing concerns about weaknesses in the rule of law and an underperforming judicial system, widespread human rights violations, and a general climate of impunity."<sup>54</sup>

According to the UN Assistance Mission in Afghanistan (UNAMA), civilian casualties in the last half of 2012 increased by 13 percent compared to the same period in 2011, and the trend continued in 2013 with UNAMA reporting a further 29 per cent increase in civilian casualties as a result of such attacks in the first six months of the year. With the number of attacks initiated by armed groups on the rise, Afghan watchers predicted that 2013 was set to "become the second-most violent year after 2011."<sup>55</sup> The guidelines also state that the ongoing conflict between pro-government forces and armed groups is "exacting an

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<sup>50</sup> Rod Nordland, "Winter's Deadly Bite Returns to Refugee Camps of Kabul," *New York Times*, December 29, 2012, [http://www.nytimes.com/2012/12/30/world/asia/deadly-bite-of-winter-returns-to-ill-prepared-refugee-camps-of-kabul.html?pagewanted=1&\\_r=1&ref=world](http://www.nytimes.com/2012/12/30/world/asia/deadly-bite-of-winter-returns-to-ill-prepared-refugee-camps-of-kabul.html?pagewanted=1&_r=1&ref=world) (accessed Dec. 30, 2012).

<sup>51</sup> Kabul Informal Settlements (KIS) Updates, <http://afg.humanitarianresponse.info/kis> (accessed August 24, 2013).

<sup>52</sup> David Zucchino, "Afghanistan's displaced dread the coming winter," *Los Angeles Times*, December 1, 2012, <http://www.latimes.com/news/nationworld/world/la-fg-afghanistan-refugees-winter-20121202,0,3142251.story> (accessed December 12, 2012).

<sup>53</sup> UN High Commissioner for Refugees, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, August 6, 2013, pg. 12, <http://www.refworld.org/docid/51ffdca34.html> (accessed August 23, 2013). The guidelines read: "The proliferation of local militias and armed groups, both pro- and anti-government, particularly in the north, northeast and central highland regions, had a further negative impact on the security situation for civilians. The presence or re-emergence of armed groups was reported frequently to result in reduced protection for civilians and increased human rights abuses. In the north and northeast regions in particular, the "blurring of lines" between government and non-government affiliation of armed groups, resulting from the widespread recruitment of armed group members into the ranks of the Afghan Local Police (ALP), was reported to contribute to unchecked proliferation of abusive practices and reduced protection for civilians. Civilians were also reported to be increasingly caught in the line of fire between pro-government armed groups and AGEs." *Ibid.*, p. 13-14.

<sup>54</sup> *Ibid.*, p.13

<sup>55</sup> *Ibid.*, pp 16-18.

increasingly heavy toll on the humanitarian situation in the country...with the UN having direct access to less than half the country.”<sup>56</sup>

The increasing violence in Afghanistan has led to a large number of IDPs, with about 486,000 Afghan IDPs at the end of 2012. By the end of June 2013, the figure for the total number of conflict-related IDPs had risen to 574,327, a figure widely considered to underrepresent the scale of the displacement problem in Afghanistan.<sup>57</sup>

According to the “2013 Eligibility Guidelines,” since 2002 more than 5.8 million Afghan refugees have returned to Afghanistan, yet at least 40 percent of these returnees were unable to “reintegrate into their home communities, resulting in significant secondary displacement, mostly to urban areas,” with a total of up to 60 percent of returnees “experiencing difficulties in rebuilding their lives in Afghanistan.” Obstacles to returning for both IDPs and returning refugees are said to include ongoing insecurity in their home areas, loss of livelihoods, lack of access to health care and education, and challenges in reclaiming land and property.<sup>58</sup>

Based in part on these guidelines, the Agency for Technical Cooperation and Development, an agency within the Pakistani government, concluded that “Afghan refugees residing in Pakistan should see their legal permission to stay in Pakistan extended until 31st December 2015.”<sup>59</sup> A Pakistani government official confirmed to Human Rights Watch that Pakistan had decided to extend the stay of Afghan refugees for another two years.<sup>60</sup>

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<sup>56</sup> Ibid., p. 25.

<sup>57</sup> Ibid., p. 27.

<sup>58</sup> Ibid., pp 27-28.

<sup>59</sup> ACTED, “Pakistan – Afghan refugees’ stay extended until 2015,” <http://www.acted.org/en/pakistan-afghan-refugees-stay-extended-until-2015> (accessed August 23, 2013).

<sup>60</sup> Human Rights Watch telephone interview with Pakistani official, Kabul, October 3, 2012.

## **II. Barriers to Obtaining and Retaining Refugee Status in Iran**

It has become increasingly difficult for registered Afghan refugees in Iran to retain their refugee status and virtually impossible for newly arriving Afghans in Iran to lodge refugee claims or be recognized as refugees once they have lodged a claim. This is because the Iranian government generally does not allow newly arriving asylum seekers to lodge new claims and does not have a system in place for fairly reviewing asylum requests.

Iran is entitled to remove undocumented foreign nationals from Iran. But international law prohibits Iran from deporting Afghans or other foreign nationals seeking asylum simply because they did not enter Iran through an official border crossing or with identity documents. Iran is also required to fairly adjudicate asylum seekers' claims before concluding that they do not have a fear of persecution and deporting them.

This chapter first details how registered refugees are finding it increasingly difficult to maintain their status in Iran. The main reason is onerous Amayesh registration requirements designed to keep track of Afghans who were effectively recognized as refugees on a *prima facie* basis—that is on the basis of their Afghan nationality during the 1980s and early 1990s. But the situation is compounded by other government policies and programs, including a recent initiative to induce refugees to voluntarily relinquish their status and ongoing efforts to have refugees voluntarily return to Afghanistan.

This chapter next examines the barriers facing Afghan asylum seekers, including the absence of a system to allow newly arriving Afghans to lodge refugee claims.

In theory, newly arriving Afghan asylum seekers should be able to lodge refugee claims with Iran's BAFA, the agency charged under Iranian law with processing refugee and asylum requests. However, since at least 2007, it has been virtually impossible for newly arriving Afghans to lodge claims. Information obtained by Human Rights Watch indicates that since at least that year the Iranian government has not had in place a fair and efficient asylum system that allows newly arriving Afghans to lodge claims. This means that any Afghan arriving after 2003—when Afghans were allowed to register under the Amayesh

system—wishing to request asylum has effectively been unable to do so. Deporting such people without allowing them to appeal against their deportation on the grounds that they were unable to request asylum or some other form of protection breaches Iran’s non-refoulement obligations.

For undocumented Afghan migrants, the government launched the Comprehensive Regularization Plan in 2010. In July 2012, the Bureau for Aliens and Foreign Immigrants’ Affairs (BAFIA) announced that 560,000 Afghans had regularized their status under the Comprehensive Regularization Plan (CRP) program; it was not clear, however, whether all 560,000 had received Iranian visas.<sup>61</sup> This figure, moreover, is far short of the estimated 1.4 to 2 million undocumented Afghans living in Iran.

While the CRP does not allow those registered to stay in Iran indefinitely as refugees and access related benefits, or allow Afghans to lodge refugee claims, it gave some Afghans in Iran an opportunity to regularize their status (until June 2012) and allows those registering to live and work in Iran legally. In reality, however, legal and logistical barriers involving the inability of the Afghan government to issue individuals registered under the CRP valid legal documents including a passport, have largely prevented registrants from ultimately gaining legal status in the country.

On September 6, 2013, the validity of visas issued to hundreds of thousands of Afghans registered under the CRP came to an end with the Iranian government announcing earlier that there would be no renewal of the visas and that anyone without a valid visa would be deported. The September 6 deadline passed, however, without any Iranian government statement about whether and how it might carry out the deportations. Afghan government sources told Human Rights Watch that prior to September 6, the Afghan government asked the Iranian government to extend the deadline, sending a delegation to Tehran for this purpose.<sup>62</sup> As of September 9, 2013, the Iranian government had not responded to this request, and had not made any large-scale attempt to deport those whose temporary CRP

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<sup>61</sup> “Refugee Matters in Iran, vol. 1, issue 2,” Norwegian Refugee Council, August 2012, [http://www.nrc.no/arch/\\_img/9661274.pdf](http://www.nrc.no/arch/_img/9661274.pdf) (accessed Dec. 30, 2012. UNHCR figures suggest that around 135,000 families (600,000 to 800,000 individuals) have been issued with family passports by the Afghan Embassy and its consulates in Iran, and have been issued with a renewable three-month visa. UNHCR, Update on the Solutions Strategy for Afghan Refugees, September 2012, (accessed July 8, 2013). According to BAFIA 480,000 individuals, most of whom were from families, have obtained 3 month renewable visas to date.

<sup>62</sup> Human Rights Watch interview with a senior Afghan government official (name and location withheld), September 3 and 6, 2013.

visas had expired. The Afghan government estimated that 300,000 Afghan visa holders would be required to leave Iran by September 6 if no extension is granted. Hundreds of thousands more Afghans could ultimately be affected.<sup>63</sup>

## Onerous Amayesh Registration Requirements for Refugees and Asylum Seekers

It has become increasingly difficult for registered Afghan refugees in Iran to retain their refugee status. This has been particularly true since the introduction of periodic registration exercises in 2000 and the establishment of the Amayesh registration system in 2003.

As noted above, until 1992 the Iranian government policy was to automatically grant Afghans arriving in the country residency rights, or “blue cards,” which acknowledged that they were “involuntary migrants” or *mohajerin*.<sup>64</sup> While these Afghans were not officially recognized as “refugees,” they were effectively treated as refugees with access to basic health care and education and were permitted to work.<sup>65</sup> They were also able to take advantage of subsidies on gasoline (petrol), natural gas, electricity, and food items which were at that time provided by the Iranian government.<sup>66</sup>

From 1992 on, however, Iran stopped automatically granting all Afghan arrivals residency rights and instead provided temporary residency permits to some Afghans and not others based on seemingly arbitrary criteria. Those who did not obtain residency rights were

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<sup>63</sup> “Iran: Honor Afghans’ Right to Seek Asylum,” Human Rights Watch news release, September 9, 2013, <https://www.hrw.org/news/2013/09/09/iran-honor-afghans-right-seek-asylum>.

<sup>64</sup> Afghans arriving during this period were labeled “mohajerin” by the Iranian government, a term that implies that there is a religious aspect to their flight. Bialcyk suggests that this status is not exactly the same as regular refugee status and while it permitted Afghans to remain in Iran legally, it also represented an effort by the Iranian government to limit the rights of Afghans. Agata Bialcyk, “Voluntary Repatriation and the Case of Afghanistan: A Critical Examination,” University of Oxford, Refugee Studies Centre Working Paper Series, Working Paper no. 46, January 2008, p. 21. AREU suggests that the term “mohajerin” was a positive term and says that after the fall of the Soviet-backed government in Afghanistan, Iran began instead calling Afghan migrants “panahandegan,” (asylum seeker) a term seen by some as having pejorative nuances. Alessandro Monsutti, “Afghan Transitional Networks: Looking Beyond Repatriation,” Afghanistan Research and Evaluation Unit, August 2006, p. 13.

<sup>65</sup> Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Strategique, p.2.

<sup>66</sup> Ibid. In 1995 the Iranian government began cutting some of these benefits, including food subsidies. Mohammad Jalal Abbasi-Shavazi, Diana Glazebrook, Gholamreza Jamshidiha, Hossein Mahmoudian and Rasoul Sadeghi, “Return to Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran,” University of Tehran, October 2005, <http://www.unhcr.org/434f69e92.pdf> (accessed November 2, 2013).

treated as undocumented migrants.<sup>67</sup> In 1992 Iran also launched its first serious effort at repatriating Afghans in the country.<sup>68</sup>

From the mid-1990s on, the majority of newly arriving Afghans remained undocumented as a result of the Iranian government's decision to stop registering any of them as asylum seekers or under other registration systems with the aim of stemming the flow of Afghans.<sup>69</sup>

In 1997, the Iranian government effectively stopped granting newly arriving Afghans residency rights altogether and increased efforts to register and repatriate those already in the country.<sup>70</sup>

The year 2000 marked a legal turning point for Afghan refugees when Iran passed a law known as "Article 48" as part of the government's five-year development plan. The law established the parameters for the repatriation of Afghans through a process administered by BAFIA. All Afghans without work permits were required to leave unless they could demonstrate that they would face physical threats on return.<sup>71</sup> Repatriation of Afghans, which had already begun in the early 90s, became the overarching policy of the Iranian government, with rights groups<sup>72</sup> expressing increasing concern regarding discrimination, forced return of Afghan refugees or Afghans who may have legitimate refugee claims, and push-back at the border of Afghans seeking to enter Iran.<sup>73</sup>

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<sup>67</sup> Agata Bialcyk, "'Voluntary Repatriation' and the Case of Afghanistan: A Critical Examination," University of Oxford, Refugee Studies Centre Working Paper Series, Working Paper no. 46, January 2008, p. 21.

<sup>68</sup> Mohammad Jalal Abbasi-Shavazi, Diana Glazebrook, Gholamreza Jamshidiha, Hossein Mahmoudian and Rasoul Sadeghi, "Return to Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," University of Tehran, October 2005, <http://www.unhcr.org/434f69e92.pdf> (accessed November 2, 2013). In 1993, about 600,000 Afghans returned to Afghanistan – over 300,000 of them under the repatriation program.

<sup>69</sup> Alessandro Monsutti, "Afghan Transitional Networks: Looking Beyond Repatriation," Afghanistan Research and Evaluation Unit, August 2006, p. 13.

<sup>70</sup> Mohammad Jalal Abbasi-Shavazi, Diana Glazebrook, Gholamreza Jamshidiha, Hossein Mahmoudian and Rasoul Sadeghi, "Return to Afghanistan? A Study of Afghans Living in Mashhad, Islamic Republic of Iran," University of Tehran, October 2005, <http://www.unhcr.org/434f69e92.pdf> (accessed November 2, 2013). In 1993, about 600,000 Afghans returned to Afghanistan – over 300,000 of them under the repatriation program.

<sup>71</sup> "Afghanistan, Iran and Pakistan, Closed Door Policy: Afghan Refugees in Pakistan and Iran," Human Rights Watch, Vol. 14, No. 2(G), February 2002, <http://www.hrw.org/reports/2002/pakistan/pakistano202.pdf>, p. 15.

<sup>72</sup> "Afghanistan, Iran and Pakistan, Closed Door Policy: Afghan Refugees in Pakistan and Iran," Human Rights Watch, Vol. 14, No. 2(G), February 2002, <http://www.hrw.org/reports/2002/pakistan/pakistano202.pdf>, p. 15.

<sup>73</sup> Ibid., p. 16.

In 2002 Human Rights Watch released a report which accused both Iran and Pakistan of being “inconsistent, even negligent, in their recognition of the legal status of Afghan refugees.”<sup>74</sup> The report maintained that both governments had engaged in practices that violated refugee rights by keeping their borders closed and interfering with the right to seek asylum. The abuses included “pushing newly arriving refugees back into Afghanistan, or summarily returning them without legal process or judicial review”—a practice that violated Iran and Pakistan’s non refoulement obligations. Human Rights Watch called on the Iranian government to, in part, “immediately re-open [its] borders to refugees and provide them with adequate protection,” “[r]egister all Afghans in Iran and ensure that they have access to proper status determination procedures,” and cease the “push-backs and forcible return of Afghan refugees.”<sup>75</sup>

Beginning in 2003, regular re-registration exercises for already documented Afghans came to be known as the Amayesh system, with a series of numbered Amayesh registration processes held. The Amayesh system replaced the registration process adopted earlier and is Iran’s sole system for renewing registered Afghan and other refugees’ statuses.

Although almost none of the now more than 800,000 Amayesh card holders underwent individualized refugee status determinations (RSD) by the Iranian government and some officials continue to insist that they are not officially acknowledged refugees under Iranian law, they are treated by the BAFIA as de facto refugees and acknowledged by UNHCR as refugees under the definition of the 1951 Refugee Convention.<sup>76</sup> The designation of refugee status for Amayesh cardholders is important for various reasons, including its provision of protection from termination of their refugee status by the Iranian government without cause.

There have so far been nine Amayesh registration exercises, with the latest exercise in June and July 2013. There is a different color refugee card provided each time; these cards have

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<sup>74</sup> Human Rights Watch, *Closed Door Policy: Afghan Refugees in Pakistan and Iran* (New York: Human Rights Watch, 2002), <https://www.hrw.org/reports/2002/02/27/closed-door-policy>, p. 14.

<sup>75</sup> Ibid.

<sup>76</sup> See, e.g., Secretary-General of BAFIA (Ministry of Interior): Amayesh System Will be Renewed, May 20, 2013, <http://www.moi.ir/Portal/Home>ShowPage.aspx?Object=News&CategoryID=cc1955c9-7610-428d-b15c-fafca47cc884&WebPartID=47942904-35b9-4ecc-bfc4-4d6d3bee26d8&ID=26699a41-78d5-44d1-b779-51cc4d6309a4> (accessed June 15, 2013) which refers to Amayesh card holders as “refugees.”

had varying periods of validity, some as short as three months.<sup>77</sup> The latest Amayesh cards are valid for one year.

Only Afghans holding a valid Amayesh card can register for a new one and are considered legally present as refugees, while those with expired cards are subject to deportation. The Amayesh card is, legally speaking, a temporary residence card that effectively serves as a refugee identification document that allows the cardholder to stay in the country and access certain benefits.<sup>78</sup>

If a refugee whose Amayesh card has expired fails to renew the card in time, he or she is not permitted to register for a new Amayesh card, becomes undocumented, and is subject to deportation.<sup>79</sup>

In 2007, in response to the Iranian government's deportation of nearly 100,000 undocumented Afghans and registered Afghan refugees, Human Rights Watch called on the Iranian government to allow all Afghans an opportunity to request asylum or some other form of protection. Human Rights Watch documented the case of Mehdi, an 18-year-old Afghan, and his family, who were registered and legally residing in Iran. In late April, Mehdi and his family were voluntarily returning to Afghanistan when the Iranian authorities apprehended them.

"The police stopped our bus outside of Tehran; they were looking for illegal Afghans," Mehdi told Human Rights Watch. "When they came to me, they took me from my family and arrested me. I showed them my registration paper but they told me they did not care. They said they were going to take me to Sang-e Safid [detention facility] and punish me to make sure that I would never come back to Iran. I was born there; Tehran was my home."<sup>80</sup>

At the time Human Rights Watch expressed particular concern that Afghans in need of international protection be given the opportunity to seek it in Iran. This included both long-

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<sup>77</sup> Fariba Adelkhah & Zuzanna Olszewska (2007): The Iranian Afghans , *Iranian Studies*, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 142.

<sup>78</sup> "ILO-UNHCR Cooperation Towards Comprehensive Solutions for Afghan Displacement: Research study on Afghan deportees from Iran," August 2008, Altai Consulting (on file with Human Rights Watch), p. 13.

<sup>79</sup> Ibid., p. 81. Human Rights Watch is aware that in some very exceptional cases, the Iranian government has granted Afghans a one-time exemption allowing them to renew their expired Amayesh cards.

<sup>80</sup> "Iran: Halt Mass Deportation of Afghans," Human Rights Watch news release, June 20, 2007, <http://www.hrw.org/news/2007/06/17/iran-halt-mass-deportation-afghans>.

term Afghan residents registered under the Amayesh system as well as newer arrivals who may have had valid refugee claims but did not have the opportunity to register as a refugee because they arrived after the initiation of the Amayesh registration system or because there is no process in Iran by which newly arrived foreigners can lodge refugee claims. Human Rights Watch called on the Iranian government to “strictly abide by its obligations as a party to the 1951 Refugee Convention not to return any person whose life or freedom would be threatened in Afghanistan.”<sup>81</sup>

Iran requires refugees to pay for each card. In 2003, a card cost about US\$2. By June 2011, cards issued for a year cost about US\$120.<sup>82</sup> The new Amayesh 9 cards have gone back down to about US\$3.<sup>83</sup>

The Iranian government also allows refugees between the ages of 18 and 60 who obtain Amayesh cards to purchase temporary work permits valid for one year, with the current fee for the work permit equivalent to US\$140 plus US\$17 for printing.<sup>84</sup> Registered refugees are also liable for payment of municipal taxes which vary from province to province.<sup>85</sup> Such fees are prohibitive for many refugees, especially as refugees in Iran are permitted by the Iranian government only to engage in a limited number of occupations, which are generally very poorly paid. Human Rights Watch interviewed Afghans who had had refugee cards but had been unable to renew them because they could not afford the fees.<sup>86</sup>

Amayesh 7 cards, which were issued during the re-registration process in 2011, extended the period of validity to one year for the first time. According to UNHCR, more than 775,000 refugees had renewed their Amayesh cards as of January 31,

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<sup>81</sup> “Iran: Halt Mass Deportation of Afghans,” Human Rights Watch news release, June 20, 2007, <http://www.hrw.org/news/2007/06/17/iran-halt-mass-deportation-afghans>.

<sup>82</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

<sup>83</sup> It must be noted that price comparisons between different years may vary widely not only because of policy changes by the Iranian government, but also because of the wide fluctuations in the exchange rate and the steep devaluation of the Iranian rial.

<sup>84</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

<sup>85</sup> Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique.

<sup>86</sup> Human Rights Watch interview with Hashim M., Islam Qala, April 18, 2012. Human Rights Watch has received information suggesting that certain categories of refugees are exempted from paying the Amayesh 9 fees, including families with more than eight members, elderly and disabled persons, single women who have children under the age of 15, orphans, children of Iranian widows, and single women and girls above the age of 18.

2012.<sup>87</sup> Authorities issued Amayesh 8 cards, which were also valid for a year, to register refugees in May 2012.<sup>88</sup>

The increasingly complex and costly patchwork of regulatory measures and legal requirements associated with the refugee registration process, including for acquisition of temporary work permits, causes some Afghan refugees to lose their refugee status, rendering them unlawfully present and subject to deportation. Some Afghan refugees find it hard to renew their refugee cards because they struggle to understand renewal procedures, because fees are high, or because registration centers are located far from where they live, making the journey expensive and time consuming.

Some Afghans interviewed by Human Rights Watch also expressed distrust of the Iranian government and fear that registering or renewing their status via the Amayesh system would increase their chances of being deported. “[In the past] 930,000 Afghans in Iran were categorized as refugees,” an Afghan official told Human Rights Watch. “But many lost their status because of fear of registering for the Amayesh.”<sup>89</sup>

Anyone unable to produce for police upon demand a non-expired document proving they have a right to be in Iran is treated as subject to immediate deportation, and may not be provided with an opportunity to prove his status prior to removal.

As one official employed by an international organization told Human Rights Watch:

At present an estimated 46 percent of the Afghan refugee population [are] living below the absolute poverty line. Forty-six per cent are also at risk of not being able to afford the refugee card renewal fees of the next registration round and will therefore be subject [to] deportation. The government could ease the burden and lower the fees, or discontinue them altogether. At the moment, most vulnerable households get a discount and some are exempt, but it’s not sufficient. We worry that a significant number

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<sup>87</sup> “Recent operational activities and highlights,” UNHCR Iran Fact Sheet, February 2012, <http://www.unhcr.org/50002081d.pdf> (accessed September 4, 2012).

<sup>88</sup> Iranian Students’ News Agency (ISNA), undated, <http://isna.ir/fa/news/91030603915/%D8%A2%D9%85%D8%A7%D9%8A%D8%B4-8%D9%83%D9%84%D9%8A%D8%AF-%D8%AE%D9%88%D8%B1%D8%AF>, (accessed November 1, 2013).

<sup>89</sup> Human Rights Watch interview senior Afghan government official (name and location withheld), April 2012.

of refugees card holders might have skipped this year's Amayesh VIII. The figures have not been released yet by the Government to anyone [including the United Nations].<sup>90</sup>

## Forfeiture of Refugee Status

A number of other government policies since 2001 seem intended to induce Afghans to relinquish refugee status. In addition to the onerous Amayesh system requirements, the Iranian government launched an initiative in 2012 in which Afghan refugees are offered a residency permit valid for one year in return for giving up their refugee status.<sup>91</sup> According to UNHCR, "Pursuant to an initiative proposed by BAFIA, some Afghan refugees have begun exchanging their refugee cards for Afghan passports and residence permits. UNHCR says it is working closely with the authorities to ensure that protection safeguards are upheld during the process."<sup>92</sup>

It is important to note, however, that under international law any change in the legal status of refugees in the host country, whether voluntarily agreed to by the refugee or not, is considered a "cessation" of their rights and privileges under the Refugee Convention and carries with it procedural obligations to ensure that the change in status does not violate international law. More specifically, the Iranian government would have to justify the reason for ending an Amayesh card holder's legal refugee status and provide the individual with the opportunity to request they be allowed to retain that status because of persecution fears they say they can prove.<sup>93</sup>

A regular or non-Amayesh residence permit brings with it some privileges the Iranian government denies to—or restricts—for Amayesh cardholders (such as a drivers' license and the right to run a business) but comes with no guaranteed permit renewal and no way to restore refugee status. "It's a kind of cheating," one official with an international organization told Human Rights Watch. "It's a trick to get Afghans to give up international protection in return for a few small privileges, with no right to extend, no protection."<sup>94</sup>

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<sup>90</sup> Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

<sup>91</sup> Human Rights Watch interview with member of international organization (name and location withheld), April 2012.

<sup>92</sup> "2013 UNHCR country operations profile—Islamic Republic of Iran," <http://www.unhcr.org/pages/49e486f96.html> (accessed June 10, 2013).

<sup>93</sup> 1951 Refugee Convention, arts. 32-33.

<sup>94</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

It is far from clear that this program provides enough information to enable Afghans to make an informed choice about whether or not to opt for a residency permit. It appears that Afghans who change their status from registered refugee to residency permit holder will have the right to renew the residency permit upon expiration of its original term, but there are no guarantees that the visa will be automatically renewed.<sup>95</sup> If these Afghans are not permitted to renew their residency, under current circumstances they will have no protection from deportation and no opportunity to seek to re-establish refugee status or claim asylum during the deportation process.

In addition to presenting Afghans with incentives to opt out of protected refugee status, the Iranian government has instituted numerous laws and regulations in recent years that have made life more expensive for refugees. In 2004, for example, officials promulgated regulations that introduced mandatory education fees for all Afghan children, increased healthcare premiums, and added new registration costs with BAFIA.<sup>96</sup> In 2005, authorities announced that Afghan refugees would be subject to a nominal tax.<sup>97</sup>

On top of these new expenses, Iranian authorities have also introduced new regulations restricting the rights of Afghan nationals in the country, including registered refugees. These regulations include increasing restrictions on the right to work, as well as provisions that deprive or limit the ability of Afghan refugees and undocumented migrants, many of whom were born in Iran or have spent decades living there, to access a host of rights and privileges, including the ability to acquire a driver's license, buy or sell land, open a bank account, or register a cell phone.<sup>98</sup>

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<sup>95</sup> See, for example, "Iran: Honor Afghans' Right to Seek Asylum," Human Rights Watch news release, September 9, 2013, <https://www.hrw.org/news/2013/09/09/iran-honor-afghans-right-seek-asylum>.

<sup>96</sup> "Second-generation Afghans in Iran: Integration, Identity and Return," Afghanistan Research and Evaluation Unit, April 2008, <http://www.unhcr.org/refworld/pdfid/4846b2062.pdf> (accessed September 4, 2012).

<sup>97</sup> "Afghan refugees: current status and future prospects," CRS Report for Congress, Congressional Research Service, January 26, 2007, <http://www.fas.org/sgp/crs/row/RL33851.pdf> (accessed September 6, 2012).

<sup>98</sup> It is important to note, however, that under Iranian law registered Afghan refugees (i.e., Amayesh card holders) do have a host of rights, including health care coverage. In accordance with an agreement signed between UNHCR, the Iranian government, and a local insurance company, for example, the 1 million or so registered Afghan and Iraqi refugees can benefit from health coverage that includes free primary health care provided by the Ministry of Health and coverage for treatment costs for secondary and tertiary health care of refugees. Under this scheme the Iranian government provides partial assistance to all refugees for health insurance premiums, while UNHCR covers insurance costs for those identified as the most vulnerable. UNHCR also provides assistance for chronic and special diseases such as kidney failure, hemophilia, thalassemia, and certain types of cancer.

While many of these regulatory restrictions and changes in policy are not, in and of themselves, violations of Iran's international obligations, they increase the chances that refugees or others who should be protected will feel compelled to leave the country. Taken as a whole, Iran's laws and regulations vis-à-vis its Afghan migrant population suggest an implicit goal of coercing Afghans, including those recognized as refugees by UNHCR, to leave the country. This understanding of recent developments in Iran is given additional credence by comments from several Iranian officials to the effect that country conditions in Afghanistan have changed since 2001 and so all Afghan refugees should return to Afghanistan.<sup>99</sup>

Nonetheless, it is clear that although the security condition has changed dramatically since the fall of the Taliban in Afghanistan, some in various parts of the country continue to face serious violence and discrimination that may qualify them for refugee status.<sup>100</sup>

## **Voluntary Return**

Since the fall of the Taliban in 2001, the Iranian government has been actively encouraging its Afghan refugee and migrant populations to repatriate. With regard to registered refugees, the Iranian government has primarily relied on the "voluntary return" model, which UNHCR has largely endorsed.<sup>101</sup> In 2002, Iran signed a tripartite agreement with UNHCR and the government of Afghanistan to pave the way for the voluntary return of millions of Afghans. In January 2002, UNHCR had reached an agreement with Afghanistan's Ministry of Refugees and Repatriation to aid the voluntary return of millions of Afghans in Iran and Pakistan.<sup>102</sup> In the years immediately after the fall of the Taliban in 2001, as noted above, a huge number of Afghans returned to Afghanistan from Iran and other countries, with an

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<sup>99</sup> For example, the head of BAFIA at the time, Ahmad Hosseini, announced that Iran planned to close the chapter on Afghans in Iran and repatriate all of them, regardless of status, by March 2007. <http://www.hamshahrionline.ir/news-12350.aspx>. See also BAFIA website for speech of Tahavori (4/27/91). (Note: this is a solar year date; the date converts to July 2012 in the western calendar).

<sup>100</sup> See generally UN High Commissioner for Refugees, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, August 6, 2013.

<sup>101</sup> In a recent conference on Afghan refugees in Geneva in May 2012 attended by Iran, Pakistan, Afghanistan, and other stakeholders, Antonio Guterres, the UN High Commissioner, reiterated that UNHCR and member states are prioritizing funding for programs which create favorable conditions for the voluntary repatriation of Afghan refugees in Iran and Pakistan. Guterres provided some glowing remarks about the treatment of Afghans in Iran, and cited 230,000 Afghan children in school, 7,000 in university, and said all legal refugees have "residence insurance." He said this year Iran gave a lot of them work permits and also said one cannot say Iran and Pakistan are forcing Afghans out. See BBC Persian video story: [http://www.bbc.co.uk/persian/afghanistan/2012/05/120503\\_l72\\_afghan\\_un\\_vid.shtml](http://www.bbc.co.uk/persian/afghanistan/2012/05/120503_l72_afghan_un_vid.shtml), May 3, 2012.

<sup>102</sup> UNHCR and Afghanistan's Repatriation Minister Reach Accord on Return of Refugees, UNHCR, January 24, 2002, <http://www.unhcr.org/3c503bod2.html>.

estimated 2.3 million people returning in 2002 alone.<sup>103</sup> While some Afghans were excited to return to their homeland, some also felt pressured to return by increasing hostility and abuse in both Iran and Pakistan, as Human Rights Watch documented in its 2002 report.<sup>104</sup> UNHCR reports that it has assisted almost 886,000 Afghan refugees in Iran to return to Afghanistan since 2002.<sup>105</sup> UNHCR documented a steady decline, however, in the number of Afghans returning to Afghanistan beginning in 2008, a date that correlates with a significant decline in security in Afghanistan.<sup>106</sup>

In response to fewer Afghans returning home, the Iranian government instigated more aggressive policies aimed to promote the return of Afghans. As one commentator wrote, “[S]ince 2009 and reflecting its recognition of the low rate of repatriation and the likelihood that some Afghans living in Iran may not be willing to return, the Iranian government has explored new approaches to address issues related to refugees and undocumented Afghans.”<sup>107</sup>

Although authorities maintain that their official policy vis-à-vis Afghan refugees remains voluntary repatriation, the Iranian government’s refusal to introduce an asylum system allowing newly arriving Afghans to lodge refugee claims, combined with the increasing difficulties Afghan refugees in Iran face in re-registering as refugees, raises questions regarding the motivation behind some of its policies.

Some Iranian officials have said as much, arguing that changed conditions in Afghanistan, including the presence of a legitimate government since 2002, necessitate an end to refugee status for all Afghans.<sup>108</sup> Though it is clear that the security condition has changed dramatically since the fall of the Taliban in Afghanistan, Afghans in various parts of the

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<sup>103</sup> Kristian Berg Harpviken, “Social Networks and Migration in Wartime Afghanistan,” Centre for the Study of Civil War, International Peace Research Institute, Oslo, Norway, 2009, p. 7.

<sup>104</sup> “Afghanistan, Iran and Pakistan, Closed Door Policy: Afghan Refugees in Pakistan and Iran,” Human Rights Watch, Vol. 14, No. 2(G), February 2002, <http://www.hrw.org/reports/2002/pakistan/pakistano202.pdf>.

<sup>105</sup> UNHCR, 2012 country operations profile: Islamic Republic of Iran, 2012, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96> (accessed September 10, 2012).

<sup>106</sup> Ibid.

<sup>107</sup> Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years after the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique., p. 8.

<sup>108</sup> For example, the head of BAFIA at the time, Ahmad Hosseini, announced that Iran planned to close the chapter on Afghans in Iran and repatriate all of them, regardless of status, by March 2007. <http://www.hamshahrionline.ir/news-12350.aspx>. See also BAFIA website for speech of Tahavori (4/27/91). (Note: this is a solar year date; the date converts to July 2012 in the western calendar).

country continue to face serious violence and discrimination that may qualify them for refugee status.<sup>109</sup> If Iran continues to deport undocumented Afghans it should, at the very least, allow them to challenge their deportation and, if they wish, claim asylum, given their inability to lodge claims when they first came to Iran.

The Iranian government's efforts to convince Afghan refugees to leave Iran have met with some success. UNHCR noted an increase again in the number of Afghan refugees returning from Iran in 2011,<sup>110</sup> which a United Nations spokesperson explained by saying, "The reason for the increase in voluntary assisted returns from Iran appears to be due to economic pressures and the discontinuation of subsidies on basic goods and services by the Iranian Government."<sup>111</sup> Nonetheless, the Iranian government maintains that to-date not a single Afghan refugee has been forcibly returned or given up their refugee status due to lack of informed consent.

On April 24, 2012, Afghanistan's Refugees and Repatriation Deputy Minister, Samad Hami, announced that Iran, Pakistan, and Afghanistan were due to sign an agreement on issues related to Afghan refugees that would delay the voluntary repatriation of refugees until 2017.<sup>112</sup> Human Rights Watch is not aware of any such agreement being signed since Minister Hami's announcement and neither the Iranian, Pakistani, nor Afghan governments have confirmed the deal.

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<sup>109</sup> See generally UN High Commissioner for Refugees, UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan, August 6, 2013.

<sup>110</sup> 2012 country operations profile: Islamic Republic of Iran, UNHCR, 2012, <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e486f96> (accessed September 10, 2012).

<sup>111</sup> "Number of UN-assisted returns to Afghanistan drops in 2011," UN News Centre, October 28, 2011, <http://www.un.org/apps/news/story.asp?NewsID=40238#.UGGiHKCgmSo> (accessed September 25, 2012). The suggestion by the UN spokesman that returns from Iran were prompted primarily by difficulties facing Afghan refugees in Iran was corroborated by the fact that while the number of Afghan refugees returning from Iran increased in 2011, the number returning from Pakistan actually fell by 59 percent compared to 2010. "Number of UN-assisted returns to Afghanistan drops in 2011," UN News Centre, October 28, 2011, <http://www.un.org/apps/news/story.asp?NewsID=40238#.UGGiHKCgmSo> (accessed September 25, 2012.). Overall in 2011, 67,943 Afghans voluntarily repatriated, primarily from Pakistan and Iran, a 40 percent drop from 2010. United States Department of State, "Country Reports on Human Rights Practices for 2011: Afghanistan," [http://www.state.gov/j/drl/rls/rrpt/humanrightsreport/index.htm?dynamic\\_load\\_id=186457#Wrapper](http://www.state.gov/j/drl/rls/rrpt/humanrightsreport/index.htm?dynamic_load_id=186457#Wrapper) (accessed May 29, 2012). In the first eight months of 2012, 50,000 Afghans with refugee status returned, with the number returning from Pakistan increased by 24 percent compared to that period in 2011, while the number returning from Iran remained roughly stable. "50,000 Afghan refugees voluntarily return to Afghanistan this year," UNHCR press release, August 28, 2012, <http://unama.unmissions.org/Default.aspx?tabid=12254&ctl=Details&mid=15756&ItemID=35662&language=en-US> (accessed September 25, 2012).

<sup>112</sup> "Iran, Afghanistan, Pakistan to Ink Agreement on Refugees," Fars News Agency, April 24, 2012, <http://english.farsnews.com/newstext.php?nn=8101300911> (accessed September 6, 2012).

## Barriers to New Refugee Registration

Afghan asylum seekers should be able to lodge refugee claims with Iran's BAFIA, the agency charged with processing refugee claims. As noted above, however, since at least 2007 it has been virtually impossible for newly arriving Afghans in Iran to lodge refugee claims or request asylum or protection from deportation.

Most close observers of Iranian refugee policy and practice believe that registration of asylum seekers all but came to a halt in 2007.

Indeed, UNHCR has, as recently as 2010, stated that although Iran has signed and ratified the 1951 Refugee Convention, “no information is available on the number of asylum-seekers undergoing RSD in the country, nor is there any data on newly recognized refugees, asylum-seekers, unaccompanied or separated minors and victims of trafficking who seek international protection.”<sup>113</sup>

According to information received by Human Rights Watch, the BAFIA has so approved around a dozen or so Afghans requests for asylum or protection this Iranian calendar year (which began in March 2013) after conducting refugee status determinations. The number of Afghans who actually applied for asylum with BAFIA during this calendar year is not known.

The inability for newly arriving Afghans to lodge refugee claims in Iran is particularly troubling in light of UNHCR’s “2013 Eligibility Guidelines.”

These guidelines highlight two broad categories of Afghans who face harm if forcibly returned to Afghanistan: 1) those with a well-founded fear of persecution under the 1951 Refugee Convention, and 2) those who may fall under UNHCR’s broader protection mandate, which include individuals who face serious threats to life, physical integrity, or freedom resulting from generalized violence or events seriously disturbing public order.

According to the guidelines, Afghans continue to face “widespread human rights abuses” and “may be at risk of persecution for reasons that are related to the ongoing armed conflict ... or on the basis of serious human rights violations that are not directly related to

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<sup>113</sup> UNHCR, 2010 country operations profile: Islamic Republic of Iran, <http://www.unhcr.org/4b03cdc39.pdf> (accessed June 2, 2013).

the conflict, or a combination of the two.”<sup>114</sup> The guidelines also outline a range of human rights violations leading to serious harm to civilians:

(i) the control over civilian populations by anti-government elements (AGEs), including through the imposition of parallel justice structures and the meting out of illegal punishments, as well as by means of threats and intimidation of civilians, restrictions on freedom of movement, and the use of extortion and illegal taxation; (ii) forced recruitment; (iii) the impact of violence and insecurity on the humanitarian situation as manifested by food insecurity, poverty and the destruction of livelihoods; (iv) increasing levels of organized crime and the ability of warlords and corrupt government officials to operate with impunity in government controlled areas; (v) systematic constraints on access to education or basic health care; and (vi) systematic constraints on participation in public life, including in particular for women.<sup>115</sup>

The guidelines include a long list of categories of people whose refugee claims should receive “particularly careful examination,” including, but not limited to

women, children, men and boys of fighting age, individuals associated with, or perceived as supportive of, the Government and the international community, including the international military forces (IMF), civilians suspected of supporting anti-government elements (AGEs), members of minority religious groups, and persons perceived as contravening Sharia law; individuals perceived as contravening the Taliban’s interpretation of Islamic principles, norms and values, and members of (minority) ethnic groups.<sup>116</sup>

The guidelines give examples of situations in which Afghan asylum seekers may suffer violence or other forms of serious harm in Afghanistan because of their race, religion, nationality, membership of a particular social group, or political opinion, the five grounds for asylum listed in the 1951 Refugee Convention. The guidelines highlight

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<sup>114</sup> UN High Commissioner for Refugees, “UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan,” August 6, 2013, pg. 4, <http://www.refworld.org/docid/51ffdca34.html> (accessed August 23, 2013).

<sup>115</sup> Ibid., p. 5.

<sup>116</sup> Ibid., p. 4.

situations where violence is targeted at areas where civilians of specific ethnic, political or religious profiles predominantly reside, or at locations where civilians of such profiles predominantly gather (including markets, mosques, schools, or large social gatherings such as weddings).... Entire communities may have a well-founded fear of persecution for one or more of the 1951 Convention grounds.<sup>117</sup>

The guidelines also provide guidance regarding Afghans who, if returned to Afghanistan, may face serious threats to life, physical integrity, or freedom resulting from generalized violence or events seriously disturbing public order. Factors helping states and UNHCR assess whether a person from Afghanistan faces these threats include:

(i) the number of civilian casualties as a result of indiscriminate acts of violence, including bombings, air strikes, suicide attacks, IED explosions and landmines ... ; (ii) the number of conflict-related security incidents ... ; and (iii) the number of people who have been forcibly displaced due to conflict .... Such considerations are not, however, limited to the direct impact of the violence. They also encompass the longer-term, more indirect consequences of conflict-related violence that, either alone or on a cumulative basis, gives rise to threats to life, physical integrity or freedom.<sup>118</sup>

In relation to whether a person faces such harm as a result of events seriously disturbing public order, the guidelines state that

in certain parts of the country the Government has lost effective control to AGEs and is unable to provide protection to civilians. Available information indicates that the exercise of control over key aspects of people's lives in these areas is repressive, coercive and undermines *an ordre public* based on respect for the rule of law and human dignity. Such situations are characterized by the systematic use of intimidation and

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<sup>117</sup> Ibid., p. 5.

<sup>118</sup> Ibid., p. 6.

violence directed against the civilian population, in a climate of widespread human rights abuses.<sup>119</sup>

Because of these ongoing conditions in Afghanistan, Iran should have in place a fair and efficient asylum system that allows all newly arriving Afghans to make refugee claims. However, it does not do this. In researching this report, we spoke to several Afghans who had fled conflict in their home areas in Afghanistan or otherwise had a credible claim to asylum that should have been heard before they were deported, but they had nowhere to turn.

One young Afghan man told Human Rights Watch that an official at the UNHCR office in Shiraz summarily sent him away when he went there to present his refugee claim. As he recounted it, the official told him: “A hundred people like you are coming every day. Why should I give you a document?”

## The CRP Process: Path to Becoming “Legal”?

Over the last two decades, the Iranian government, under the auspices of the BAFIA, has made attempts to register all undocumented foreign nationals, of which Afghan migrants constitute the vast majority. The most recent of such efforts came in 2010, when Iran’s Supreme National Security Council, an advisory body charged with safeguarding the national interest, sovereignty, and territorial integrity, passed a law called the Plan for Registering Afghan Nationals – also referred to as the Comprehensive Regularization Plan (CRP).<sup>120</sup>

The CRP provided a path, until June 2012, through which undocumented Afghans without Amayesh cards could, at least in theory, obtain temporary legal status and the right to work in Iran. The CRP allowed Afghans with a valid passport or travel document to receive a renewable three-month residence visa, which also allowed the holder to apply for a work permit. The law also aimed to ensure lawful entry and exit of Afghan nationals in Iran and sets forth criminal punishments for those who enter or remain in the country unlawfully and for those who assist them in doing so.

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<sup>119</sup> Ibid.

<sup>120</sup> The name of this program has been translated several different ways. For the purposes of this report we have chosen the translation used by UNHCR. See, e.g., <http://www.unhcr.org/4cd96d099.pdf> (accessed December 12, 2012).

The CRP system aimed to help the authorities identify and register undocumented Afghans in Iran. It was not intended to recognize them as refugees. The incentive offered to migrant workers who are in the country illegally is that if they register with the CRP, the Iranian government would provide them with a path to become “legal” – to allow them to acquire passports and other documentation to temporarily live and work in the country.

The centerpiece of the CRP was the ambitious registration of all undocumented Afghans. Under the CRP all Afghan nationals unlawfully present in Iran were required to register at their local BAFIA offices by June 2012.<sup>121</sup> The scheme originally required all Afghans to register with the Iranian government and then return to Afghanistan to apply for visas to reenter Iran. After intervention by the Afghan government, Iran agreed to permit families to go through the process in Iran.<sup>122</sup>

Afghans seeking visas through the CRP program were required to first register with the Iranian government, which issued them a slip of paper that permitted them to remain in Iran for a period ranging from a few months to almost a year and with the requirement that in the last 30 days of the allotted time period, they were obliged to normalize their status. To do so, they were required to obtain an Afghan passport. In order to obtain a passport, they needed an Afghan national ID card. If they didn’t already have such an ID card, they would have had to travel to their place of birth to obtain one. For the many that had fled to Iran to escape dangerous security conditions, this required a return to the dangerous area they fled. For those born in Iran, obtaining an Afghan national ID card required returning to the place of their parents’ birth – a location many of them had never been to before.<sup>123</sup> Even the tiniest deviation from the process could lead to deportation. For example, Freshta K. and her husband went to request passports under the CRP scheme, but they were late in doing so because Freshta’s husband had fallen from a ladder in his job as a painter and

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<sup>121</sup> According to BAFIA the CRP process was implemented during several phases which included a census or headcount, registering over the Internet, and the issuing of an exit permit to exit Iran and enter legally once the proper documentation has been acquired. <http://moi.ir/Portal/Home/ShowPage.aspx?Object=News&ID=a5965468-2e4d-4fa6-893c-5d3426d414e5&LayoutID=47942904-35b9-4ecc-bfc4-4d6d3bee26d8&CategoryID=cc1955c9-7610-428d-b15c-fafcc947cc884> (accessed November 9, 2013).

<sup>122</sup> Children under 16 years of age were not required to obtain their own passport but could be included on the passport of the head of their family. Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

<sup>123</sup> An additional problem is that many Afghans change their names to a more Iranian name when they go to Iran in order to try to blend in, but this later makes it impossible for them to obtain a visa through the CRP scheme because the name on their CRP documentation from Iran does not match the name of their ID and passport from Afghanistan. Human Rights Watch interview with Afghan government official (name withheld), April 20, 2012.

needed time to recover. The couple was not simply denied passports – they were arrested on the spot. “We were imprisoned for one night,” Freshta said. “We were not allowed to get our children. My children were at home. You don’t know how I suffered. My husband and I were dying and coming alive over our children.” The next day the police went and brought the couple’s five children, ages 12, 11, 9, 8, and 7, to their parents, while the parents remained in police custody. The whole family was then deported.<sup>124</sup>

Once Afghans had an Afghan national ID card, they faced another set of obstacles in obtaining an Afghan passport. The CRP scheme was created unilaterally by the Iranian government without consultation with the Afghan government.<sup>125</sup> The Afghan government had limited ability to produce and issue passports and indicated that it was impossible for them to provide the number of passports the CRP process required. Afghanistan officials interviewed by Human Rights Watch explained that the majority of Afghans in Iran seeking Afghan passports most likely could not get them in time; it simply was not possible for Afghan authorities to issue passports quickly enough to comply with the time limits set by the CRP process.<sup>126</sup>

Aside from the limits in capacity, there was also the problem of corruption. As one Afghan government official told Human Rights Watch, people going through this process “have to pay [bribes] everywhere [in dealings with Afghan officials].”<sup>127</sup> The same official said that a US\$300-\$600 bribe in addition to the regular fees, was a typical cost to obtain an Afghan passport.<sup>128</sup>

Once applicants had an Afghanistan passport, they were required to apply to the Iranian government, a consulate, or an embassy for a visa. For families permitted to apply in Iran, this sometimes involved risking deportation by travelling to a government office outside the zone they have been restricted to by their CRP document, despite the fact that BAFIA has offices located in various provinces that are qualified to issue necessary documents to

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<sup>124</sup> Human Rights Watch interview with Freshta K., Islam Qala, April 16, 2012.

<sup>125</sup> But the Afghan government has agreed to cooperate with the CRP scheme by issuing passports for undocumented Afghans both inside Afghanistan and at the Afghan embassy in Iran. Due to lack of capacity, however, it has not been able to satisfy the huge demand for requests.

<sup>126</sup> It is not clear whether unaccompanied children have access to the CRP scheme, or to the Amayesh registration system.

<sup>127</sup> Human Rights Watch interview with senior Afghan government official (name and location withheld), April 2012.

<sup>128</sup> Ibid.

Afghan nationals and may also issue temporary permits allowing Afghans through unwarranted areas in order to take care of their paperwork.

All single men who registered under the CRP were required to return to Afghanistan to obtain a visa. This required a costly stay in one of the few large cities where the Iranian embassy or consulates are located. Sources told Human Rights Watch that they were required to pay additional fees for the visa, plus an approximately US\$380 guarantee to ensure their return, though the Iranian embassy in Kabul has denied the existence of such guarantees.<sup>129</sup> If single men succeeded in completing all of these steps, they were permitted to return to Iran but were required to purchase their return ticket on an Iranian airline – at a cost much higher than travelling by land.<sup>130</sup> According to BAFIA, 180,000 out of 220,000 undocumented single Afghan men who returned to Afghanistan returned to Iran with their 3-month visas.<sup>131</sup>

Experts interviewed by Human Rights Watch estimated the total cost of obtaining a visa through the CRP process to be at least US\$1200 including the costs of travel, obtaining the passport, visa fees, and bribes—a cost well beyond the means of families living on the edge of survival. Even among Afghans who obtained passports, some did not obtain visas, for reasons including “the heavy costs involved.”<sup>132</sup>

“I had a work permit last time,” Naeem, age 30, said. “But it costs 50,000 Afghanis (US\$1000) to get a passport and visa, so I decided to go with a smuggler instead because it’s cheaper.”<sup>133</sup>

In October 2011, Mohammed Tahavori of BAFIA said that under the CRP program, more than 700,000 exit permits had been issued to undocumented Afghan residents.<sup>134</sup> In April 2012,

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<sup>129</sup> Ibid.

<sup>130</sup> A roundtrip ticket from Afghanistan is estimated to be around US\$350.

<sup>131</sup> “Foreign Nationals Without Permits in Alborz Province Have Until the End of Khordad (Month)”, May 14, 2012, <http://p-sepidar.ir/siasi/7026-%D8%A7%D8%AA%D8%A8%D8%A7%D8%B9-%D8%AE%D8%A7%D8%B1%D8%AC%DB%8C-%D9%81%D8%A7%D9%82%D8%AF-%D9%85%D8%AC%D9%88%D8%B2-%D8%AF%D8%B1-%D8%A7%D8%B3%D8%AA%D8%A7%D9%86-%D8%A7%D9%84%D8%A8%D8%B1%D8%B2-%D8%AA%D8%A7-%D9%BE%D8%A7%DB%8C%D8%A7%D9%86-%D8%AE%D8%B1%D8%AF%D8%A7%D8%AF%D9%85%D8%A7%D9%87-%D9%81%D8%B1%D8%B5%D8%AA-%D8%AF%D8%A7%D8%B1%D9%86%D8%AF.html> (accessed June 25, 2013).

<sup>132</sup> “Refugee matters in Iran: July 2012 short news reports,” Norwegian Refugee Council, vol. 1, issue 1, July 2012, [http://www.nrc.no/arch/\\_img/9659994.pdf](http://www.nrc.no/arch/_img/9659994.pdf) (accessed Sept. 26, 2012). The first time cost of applying for a visa is a little more than US\$100, and the cost of renewing is about US\$25.

<sup>133</sup> Human Rights Watch interview with Naeem, Islam Qala, April 16, 2012.

an Afghan government official told Human Rights Watch that of 160,000 people who had returned to Afghanistan as part of the scheme, only 20,000 had been able to obtain visas to return to Iran – and these were visas for durations as short as three months with no guarantee of renewal. BAFIA officials later announced that Iranian embassies and consulates had begun extending the visas to one year.<sup>135</sup>

In July 2012, BAFIA announced that 560,000 Afghans had regularized their status under the CRP program; it was not clear, however, whether all 560,000 had received Iranian visas.<sup>136</sup> This figure, moreover, is far short of the estimated 1.4 to 2 million undocumented Afghans living in Iran. In the words of one official working for an international organization, “The great majority of people eligible for this process have remained there [in Iran]. They hear that [this process] doesn’t work.”<sup>137</sup>

Some openly question the intentions of the CRP scheme. One official with an international organization, speaking of Afghans who returned to Afghanistan under the scheme, told Human Rights Watch, “UNHCR was expecting a high number of returnees [because of CRP], but most will not get a passport and visa. The goal [of CRP] is to reduce the number of Afghans in Iran. They want jobs for Iranians. Most won’t get visas, but those who have families there will try very hard. If not they will go back [to Iran] illegally.”<sup>138</sup>

As another international official told Human Rights Watch, “In theory they are working to legalize undocumented Afghans. But it’s as if you say, ‘Do you want to buy this [water] glass? It costs [US]\$20,000.’ You want to benefit, but it’s not practical.”<sup>139</sup>

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<sup>134</sup> Iranian Ministry of Interior website, “Exit Permits have been Issued for more than 700,000 People,” October 2, 2011, <http://moi.ir/Portal/Home>ShowPage.aspx?Object=News&ID=a5965468-2e4d-4fa6-893c-5d3426d414e5&LayoutID=47942904-35b9-4ecc-bfc4-4d6d3bee26d8&CategoryID=cc1955c9-7610-428d-b15c-fafca947cc884> (accessed September 6, 2012).

<sup>135</sup> Human Rights Watch interview with senior Afghan government official (name and location withheld), April 2012.

<sup>136</sup> “Refugee Matters in Iran, vol. 1, issue 2,” Norwegian Refugee Council, August 2012, [http://www.nrc.no/arch/\\_img/9661274.pdf](http://www.nrc.no/arch/_img/9661274.pdf) (accessed Dec. 30, 2012). UNHCR figures suggest that around 135,000 families (600,000 to 800,000 individuals) have been issued with family passports by the Afghan Embassy and its consulates in Iran, and have been issued with a renewable three-month visa. UNHCR, Update on the Solutions Strategy for Afghan Refugees, September 2012, <http://www.unhcr.org/522722e99.html> (accessed July 8, 2013), p. 3. According to BAFIA 480,000 individuals, most of whom were from families, have obtained 3 month renewable visas to date.

<sup>137</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

<sup>138</sup> Ibid.

<sup>139</sup> Ibid.

Iranian officials announced that after June 2012 only Afghan nationals who carry passports and valid visas, and those who are registered as refugees and “in status,” can remain in the country. Iranian authorities present the CRP as a fair and humane way of allowing Afghans who are out-of-status and illegally residing in Iran to become “legal” and work in the country.

On September 6, 2013, the validity of visas issued to hundreds of thousands of Afghans registered under the CRP came to an end, with the Iranian government announcing earlier that there would be no renewal of the visas and that anyone without a valid visa would be deported. According to Iranian press sources, the September 6 deadline applied to all Afghans who registered under the CRP and whose visas were set to expire on or before that date. Iranian government officials had previously announced that any undocumented Afghan found to have remained in Iran beyond the September 6 deadline could face imprisonment and be required to pay a 30,000 toman fine (US\$12) for each day that they overstay.<sup>140</sup>

The September 6 deadline passed, however, without any Iranian government statement about whether and how it may carry out the deportations. Afghan government sources told Human Rights Watch that prior to September 6, the Afghan government asked the Iranian government to extend the deadline, sending a delegation to Tehran for this purpose. As of September 9, 2013, the Afghan government was still awaiting a response to this request. The Afghan government had estimated that at least 300,000 Afghan visa holders would be required to leave Iran by September 6 if no extension were granted. Hundreds of thousands more Afghans could ultimately be affected.<sup>141</sup>

## The “Solutions Strategy”

The most recent efforts to encourage Afghans to return to Afghanistan are part of a new “Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries.”<sup>142</sup> The need for the new approach was explained by UNHCR’s then country representative in Afghanistan, Peter Nicolaus, who criticized UNHCR’s previous approach to reintegrating Afghan refugees implemented since 2002, saying:

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<sup>140</sup> “Iran: Honor Afghans Right to Seek Asylum,” Human Rights Watch news release, September 9, 2013, <https://www.hrw.org/news/2013/09/09/iran-honor-afghans-right-seek-asylum>.

<sup>141</sup> Ibid.

<sup>142</sup> UNHCR, “Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries,” <http://unhcr.org/afghanistan/solutions-strategy.pdf> (accessed May 28, 2012).

We made a big mistake, the biggest mistake UNHCR ever made. We thought if we gave humanitarian assistance then macro development would kick in... It's the income that counts, the livelihood. In very simple terms we need to find jobs for the people coming back. You can build five roads to a village and the farmers will benefit because they can go to the next town to sell their vegetables. But the returnee doesn't benefit at all. He has nothing to sell at the market.<sup>143</sup>

The “Solutions Strategy,” developed by UNHCR in collaboration with the governments of Afghanistan, Iran, and Pakistan, was first formally presented at a conference in Geneva, Switzerland, March 2-3, 2012. The “Solutions Strategy” lays out an ambitious plan for both reintegrating returning Afghan refugees into Afghanistan and providing additional support to the governments of Iran and Pakistan to help them shoulder the burden of assisting Afghan refugees who remain in their countries. The plan comes with a high price tag; UNHCR seeks to mobilize a total of US\$1.9 billion to support activities in all three countries.<sup>144</sup>

The “Solutions Strategy” faces serious challenges. First among these is the implication that Afghanistan is a post-conflict situation that warrants transitioning from an asylum model to durable solutions that emphasize repatriation and integrating refugees as migrant workers or persons with a non-refugee status. UNHCR’s own “2013 Eligibility Guidelines” call into question any strategy that underestimates the continuing need of many Afghans for asylum.

Even assuming the “Solutions Strategy” approach is the right one, another major challenge is funding. After eleven years of intense international involvement in Afghanistan, most partner countries are now scaling back aid to Afghanistan and closing existing projects, not seeking new areas in which to provide funding.<sup>145</sup> The resulting lack of funds may be an insurmountable obstacle for the “Solutions Strategy.” Second is the fact that the strategy might be missing the target; while returnees may have specific needs, they are only one

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<sup>143</sup> “UN says Afghan refugee strategy a ‘big mistake,’” AFP, December 27, 2011, <http://reliefweb.int/report/afghanistan/un-says-afghan-refugee-strategy-big-mistake> (accessed December 12, 2012).

<sup>144</sup> UNHCR, “Solutions Strategy for Afghan Refugees to support Voluntary Repatriation, Sustainable Reintegration and Assistance to Host Countries,” <http://unhcr.org/afghanistan/solutions-strategy.pdf> (accessed May 28, 2012), p. 55.

<sup>145</sup> For example, see Nick Hopkins, “Afghan schools and clinics built by British military forced to close,” *Guardian*, September 27, 2012 and Karen DeYoung, “U.S. reducing plans for large civilian force in post-2014 Afghanistan,” *Washington Post*, December 5, 2012.

category and not necessarily the most vulnerable when compared to others, such as IDPs, in Afghanistan. In a context of transition, decrease in funding, and low refugee return intentions, there are growing risks that designing development programs that target specific geographical sites and subgroups of the Afghan population other than the ‘poor’ and the ‘neediest’ will lead to tensions within and between communities.

Advocates have also raised other concerns about the feasibility of the plans contained in the “Solutions Strategy,” including questions over the capacity and mandate of UNHCR to bridge the gap between humanitarian and development programs for returnees and the effectiveness of focusing efforts on specific pilot sites, rather than assisting refugees where they have chosen to locate themselves. Others have questioned the real willingness on the part of Iran and Pakistan to accept that some refugees will not return to Afghanistan. “Host countries don’t like the word ‘integrated,’” IRIN quoted one aid worker as saying, in reference to the feasibility of the aspects of the “Solutions Strategy” focused on assisting Afghans in Iran and Pakistan.<sup>146</sup>

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<sup>146</sup> “In-depth: From pillar to post—the plight of Afghans abroad,” IRIN Humanitarian News and Analysis, February 27, 2012, <http://www.irinnews.org/InDepthMain.aspx?indepthid=95&reportid=94960> (accessed December 11, 2012).

### III. Abuses Against Afghans Living in Iran

Afghans are subjected to a host of abuses by both state and private actors. Over the past few decades, the Iranian government has increasingly restricted freedom of movement to all foreign nationals living in the country by declaring the vast majority of provinces in the country to be “no go areas” for all foreign nationals. Afghans, by far the largest expatriate population in Iran, are disproportionately affected by such measures. Other abuses against Afghans in Iran include restrictions on access to education and employment, high rates of child labor, denial of citizenship and marriage rights, and impunity for attacks and violence perpetrated against them by private actors. Moreover, thousands of Afghan nationals who are in Iran’s prisons for crimes ranging from theft to murder and drug trafficking, are regularly denied the right to access lawyers.<sup>147</sup> Hundreds are believed to have been executed in recent years without any notification to Afghan consular officials, in contravention of Iran’s international legal obligations.

#### “No Go Areas”

Since 2002, Iran has gradually imposed more and more “no go areas,” restrictions on areas, cities, and provinces in which all foreigners, including Afghan and Iraqi refugees, can reside legally.<sup>148</sup> This has led to the deportation of Afghan nationals, including some registered Afghan refugees. Iranian authorities justify restrictions on the freedom of movement of refugees and asylum seekers in the country on the basis of “national security.”<sup>149</sup>

In September 2007, the government of Iran adopted a by-law on the “Determination of Areas Restricted for the Movement and Stay of Foreign Nationals in Border Areas of the

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<sup>147</sup> “Over Three Thousand Afghans are on Death Row,” BBC Persian, [http://www.bbc.co.uk/persian/afghanistan/2010/03/100313\\_k02-afghan-iran-presinors.shtml](http://www.bbc.co.uk/persian/afghanistan/2010/03/100313_k02-afghan-iran-presinors.shtml) (accessed November 2, 2013).

<sup>148</sup> New Passing Regarding Addition of New Zones, July 25, 2002, <http://rc.majlis.ir/fa/law/show/121961> (accessed November 6, 2013).

<sup>149</sup> “Banned Areas and Fields of Study for Foreign Nationals Sitting for the 1392 National Entrance Exam,” Iranian Students’ News Agency, August 11, 2013, <http://isna.ir/fa/news/92052010842/%D9%85%D9%86%D8%A7%D8%B7%D9%82-%D9%88-%D8%B1%D8%B4%D8%AA%D9%87-%D9%87%D8%A7%D8%DB%8C-%D9%85%D9%85%D9%86%D9%88%D8%B9%D9%87-%D8%A8%D8%B1%D8%A7%D8%DB%8C-%D8%AA%D8%AD%D8%B5%DB%8C%D9%84-%D8%A7%D8%AA%D8%A8%D8%A7%D8%B9> (accessed November 1, 2013). See also “Iran Issues List of Banned Cities, Banned University Courses for Afghans,” Radio Free Europe/Radio Liberty, June 3, 2012, <http://www.rferl.org/content/iran-list-of-university-courses-banned-for-afghans/24602340.html> (accessed June 4, 2012). The Iranian government has made reservations to articles 17 (wage-earning employment), 23 (public relief), 24 (labor legislation and social security), and 26 (freedom of movement) of the 1951 Refugee Convention.

Country,” marking the legal implementation of the “No Go Area Policy.” On security grounds, districts bordering Afghanistan and Pakistan were classified as restricted zones for all foreign residents. The by-law was amended in 2002, 2004, and 2007, to include new locations: Khuzestan province, bordering Iraq; and cities in Golestan, East Azerbaijan, and most recently the province of Sistan-Baluchistan, which alone puts at risk as many as 80,000 legal Afghan refugees who have been residing in the district for over 20 years.

Initially “no go areas” were primarily located in border provinces, but they now exist in the majority of the country’s 31 provinces. That leaves three provinces – Tehran, Alborz, and Qom – as the only provinces in the country that have no residential restrictions on Afghans.<sup>150</sup> Approximately two-thirds of Iran’s territory is now designated as a “no go” area for foreigners, according to a staff member of an international organization.<sup>151</sup> In 2007, the total number of potentially affected refugees living in those areas was estimated at 120,000.<sup>152</sup>

The latest province to become a “no go area” in its entirety is Mazandaran, which was declared off limits to foreign nationals in April 2012.<sup>153</sup> Hadi Ebrahimi, an official with Mazandaran province, declared in May 2012 that prior to this decision large swaths of the province had already been declared “no go areas.” He said authorities had arrested and deported 3,040 foreign nationals, including Afghans, from the province.<sup>154</sup> A month earlier, Seyed Naghi Shafii, BAFIA’s director in Mazandaran province, justified the government’s

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<sup>150</sup> “Banned Areas and Fields of Study for Foreign Nationals Sitting for the 1392 National Entrance Exam,” Iranian Students’ News Agency, August 11, 2013, <http://isna.ir/fa/news/92052010842/%D9%85%D9%86%D8%A7%D8%B7%D9%82%D9%88%D8%B1%D8%B4%D8%AA%D9%87%D9%87%D8%A7%DB%8C%D9%85%D9%85%D9%86%D9%88%D8%B9%D9%87%D8%A8%D8%B1%D8%A7%DB%8C%D8%AA%D8%AD%D8%B5%DB%8C%D9%84%D8%A7%D8%AA%D8%A8%D8%A7%D8%B9> (accessed November 1, 2013). According to this year’s announcement regarding “no go areas,” there are 16 provinces that have total bans on Afghans living there and 12 provinces that have bans on particular areas and cities. See also “Forbidden Majors for Non-Iranians Sitting for the Masters and Doctorate Entrance Exams Announced,” Mehr News Agency, May 19, 2012, <http://www.mehrnews.com/FA/newsdetail.aspx?NewsID=1617300> (accessed September 6, 2012). The Khojeir neighborhood of Tehran, however, has been designated a “no go” zone for Afghan nationals.

<sup>151</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), September 2012.

<sup>152</sup> Iran: World Refugee Survey (2009), US Committee for Refugees and Immigrants, <http://www.refugees.org/resources/refugee-warehousing/archived-world-refugee-surveys/2009-wrs-country-updates/iran.html> (accessed June 5, 2013).

<sup>153</sup> “Afghan Refugees Must Leave Mazandaran by July,” BBC Persian, April 23, 2012, [http://www.bbc.co.uk/persian/afghanistan/2012/04/120423\\_l25\\_afghan\\_refugees.shtml](http://www.bbc.co.uk/persian/afghanistan/2012/04/120423_l25_afghan_refugees.shtml) (accessed November 2, 2013).

<sup>154</sup> Provincial Government of Mazandaran (website), “June 30 of this Year, Last Opportunity for Afghans to Leave Mazandaran,” April 22, 2012, [http://www.ostan-mz.ir/index.php?option=com\\_content&view=article&id=5331:1391-02-03-13-11-02&catid=280:ostandari&Itemid=408](http://www.ostan-mz.ir/index.php?option=com_content&view=article&id=5331:1391-02-03-13-11-02&catid=280:ostandari&Itemid=408) (accessed September 6, 2012).

decision to declare the province a “no go area” because Afghans presented a “threat” to the province and its tourism and should therefore be “cleansed” from the area.<sup>155</sup>

All Afghans, including registered refugees, who refuse to relocate to permitted areas within the required time period risk losing their protected status and face deportation. Iranian authorities have presented Afghans affected by “no go areas” with three options: voluntary repatriation relocation to permitted areas and relocation to refugee camps.<sup>156</sup>

There is no exception for people who have spent many years living in newly designated “no go” areas and have put down deep roots in those communities.

Human Rights Watch interviewed several Afghan migrants and their families who had been picked up by security forces and deported because they continued to live in parts of the country declared “no go areas” or were traveling through such areas. Security forces deported some of these families back to Afghanistan, despite the fact that some were registered refugees.

### *Case of Hakim S. and Family*

“We were living in Minab,” said Hakim S., 33 years old. “But they made it a no go area. They said you can live in a [refugee] camp in another place, but we decided not to go.” When we spoke with him, Hakim was crossing the border back into Afghanistan with his wife, age 30, and their children, ages 11, 20, 5, and 3, as well as 10 other members of his

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<sup>155</sup> “Mazandaran is the Only Province in the Country Banning the Presence of Afghans,” BAFIA, April 12, 2012, <http://bafia.moi.ir/Portal/Home>ShowPage.aspx?Object=News&CategoryID=a25b3683-80cc-48ec-810c-29ca2ea14479&WebPartID=2cf28dbc-3f15-4428-9e4a-31c5d129acf6&ID=8boe4d94-bb24-4coc-af83-2fd8be7bff3c> (accessed November 6, 2013).

<sup>156</sup> In 2010 BAFIA, with the assistance of UNHCR, began implementing a program to relocate Afghan refugees, especially those who were no longer allowed to reside in provinces or areas declared unlawful for Afghans, to refugee camps. UNHCR encouraged the move, with Carlos Zaccagnini, the UNHCR representative to Iran at the time, saying that Afghan refugees in Iran now had the option of voluntarily going back to Afghanistan or relocating to areas designated as suitable by the Iranian government. An example of relocation to a refugee camp was the decision to transfer approximately 6,000 Afghan refugees forced to leave Khuzestan province in early 2011. Some of them opted to settle in Bani Najjar, a refugee camp that formerly housed Iraqi refugees. Many prefer not to relocate to refugee camps because living conditions there are tough, despite the fact that the Iranian government provides free housing, education to Afghan children, and other services. Relocation to camps is often a deeply undesirable option to people who have spent years or decades living in an apartment or a house in a regular town. Authorities maintain that no more than 3 percent of Afghan refugees currently reside in refugee camps throughout the country. Justice for Iran, Iran: An Afghan Free Zone? June 2012, <http://justiceforiran.org/wp-content/uploads/2012/06/Iran-anAfghanFreeZone-layout-Final.pdf> (accessed November 6, 2013).

wife's family. The family had lived in Iran for 12 years and say that they had valid refugee status until two years ago when they were unable to renew their status.

"We stayed in Minab because we didn't have enough money," Hakim's wife added. "I don't know [if we could have moved elsewhere in Iran]. Some said yes, some said no. We are coming back [to Afghanistan] because of school for our children. They were not allowing our children to go to school or my husband to work." Hakim worked selling things in the street, but had stopped working due to fear of being picked up by the police. "Before that there were problems too," his wife said. "But it got very serious from the beginning of 1390 [2011].<sup>157</sup> If he had gone to the bazaar he would have been arrested."

When Human Rights Watch interviewed the family, they were on their way back to their original home province of Kapisa. "We have family there, but no house or shelter," Hakim S. said.

#### *Case of Najib T. and Family*

Najib T. is 55 years old. He and his 45-year-old wife and their eight children have lived in Iran for 18 years, spending all of those years in Minab. "We had green cards, UN [refugee] documents," he said. "But the Iranian government collected these documents and issued new documents extended every six to nine months. The last document was not very valuable [and then] they took this finally."

Minab is located in Hormozgan province bordering the Persian Gulf, which was recently made a "no go area." "About two years ago the UN people came and said you have to leave to Tehran or some other places," Najib said. "They gave us this exit card [to leave the province]. I asked for asylum... but they refused and said go somewhere else [in Iran] and then apply."

Najib and his family ignored the instructions and stayed in Minab because their children were in school. They believed they would be allowed to stay. "We said we would go, but later they [the Iranian government] changed and said we could keep our children in school here. 'The other places we told you to go have too many Afghans now, so you can't go there,' an official told us."

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<sup>157</sup> According to the solar calendar used in Iran and Afghanistan, in which March 21 is the first day of the new year, the year 1390 began on March 21, 2011.

According to Najib and his wife, the Iranian schools in Minab expelled Afghan students in early 2011. “We decided to leave when the children were expelled from school [for being foreigners],” his wife said. But it was too late. “We weren’t documented anymore so we couldn’t go anywhere.” The family had kept their refugee status up to date until two or three years ago when the authorities classified Hormozgan province a “no go area.” They chose not to leave, which eventually rendered them out of status. Najib said that later when they went to update their documents, the UN told them that they were “out of status because [they] didn’t leave [Bandar Abbas],” and there was nothing that could be done for them now.

When interviewed by Human Rights Watch, the family was planning to travel to the province they are originally from, in central Afghanistan, although they have no home there.

The Iranian government has several reservations to the 1951 Refugee Convention, including one to article 26 concerning freedom of movement. Under Article 26 of the UN Refugee Convention and article 12 of the International Covenant on Civil and Political rights, Iran is required to guarantee refugees the basic right to choose their own residence and to move freely throughout Iran.<sup>158</sup> Iran may only limit the movement of people in Iran—nationals or non-nationals alike<sup>159</sup>—if it is “provided by law … and necessary to protect national security, public order, public health or morals, or the rights and freedoms of others.”<sup>160</sup> In addition, these restrictions must be non-discriminatory, in accordance with national law, and be “necessary” to achieve one or more legitimate aims. Any such restrictions on a person’s free movement must be proportionate in relation to the aim sought to be achieved by the restriction, that is, it must be carefully balanced against the specific reason for the restriction being put in place.<sup>161</sup>

Any restriction on freedom of movement must not have a discriminatory effect,<sup>162</sup> which has been described by the UN Human Rights Committee, the international treaty body

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<sup>158</sup> Article 26 of the 1951 Refugee Convention provides that “each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.” Article 12(1) of the ICCPR provides that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

<sup>159</sup> UN Human Rights Committee, General Comment 15, The position of aliens under the Covenant, (Twenty-seventh session, 1986), April 11, 1986, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/bc561aa81bc5d86ec12563ed004aaa1b?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/bc561aa81bc5d86ec12563ed004aaa1b?OpenDocument) (accessed April 23, 2010), paragraphs 2, 7, and 8.

<sup>160</sup> Article 12(3), ICCPR.

<sup>161</sup> Manfred Nowak, *UN Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rein: N.P. Engel, 1993), pp. 386-387.

<sup>162</sup> Articles 3 and 26, 1951 Refugee Convention; Articles 2 and 26, ICCPR.

charged with interpreting the International Covenant on Civil and Political Rights (the main human rights treaty to which Iran is a party), as:

Any distinction, exclusion, restriction or preference which is based on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.<sup>163</sup>

Any differential treatment between non-citizens and citizens on the grounds of their citizenship must be strictly justified and is normally limited to political rights (such as the right to vote).<sup>164</sup>

Restrictions on freedom of movement must also be clearly and precisely set out in domestic law.<sup>165</sup> The principle reasons for this requirement are to prevent officials from taking arbitrary and abusive discretionary decisions<sup>166</sup> and to ensure that people whose right to free movement is restricted understand their rights. The restrictions must also be justified by one or more of the following legitimate aims under the ICCPR: national security, public order, public health or morals, or the rights and freedoms of others. A state invoking one of these aims as a justification for limiting free movement rights must be specific about how, for example, national security is threatened if the people who are prohibited from moving were allowed to move. The measures taken must be proportionate to the legitimate aim pursued.<sup>167</sup>

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<sup>163</sup> UN Human Rights Committee, General Comment 18, Non-discrimination, (Thirty-seventh session, 1989), November 19, 1989, <http://www.unhchr.ch/tbs/doc.nsf/0/3888b0541f8501c9c12563ed004b8doe?OpenDocument> (accessed May 18, 2010), para 6.

<sup>164</sup> "The Rights of Non-Citizens" United Nations Office of the High Commissioner for Human Rights, 2006 <http://www.ohchr.org/Documents/Publications/noncitizens.pdf>. (accessed June 1, 2010). The ICCPR, Article 12 may permit specific restrictions on non-citizens who are not 'lawfully in the country'. See also Convention to End Racial Discrimination, UN General Assembly, International Convention on the Elimination of All Forms of Racial Discrimination, General Comment, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195: <http://www.unhcr.org/refworld/docid/3ae6b3940.html> (accessed January 24, 2013).

<sup>165</sup> UN Human Rights Committee, General Comment 27, Freedom of Movement (Article 12), UN Doc. CCPR/C/21/Rev.1/Add.9, November 2, 1999, [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/6c76e1b8ee1710e380256824005a10a9?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/6c76e1b8ee1710e380256824005a10a9?OpenDocument) (accessed April 23, 2010), para 12.

<sup>166</sup> UN Human Rights Committee, General Comment 27, para 13.

<sup>167</sup> Political Rights of Refugees, United Nations High Commissioner for Refugees, PPLA/2003/04, November 2003 <http://www.unhcr.org/refworld/pid/3fe820794.pdf> (accessed May 4, 2010).

Restrictions on freedom of movement must be necessary to achieve the aim. The UN Human Rights Committee has said that “to be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes and must be consistent with all other rights recognized in the Covenant.”<sup>168</sup> In accordance with the Siracusa Principles,<sup>169</sup> a set of authoritative principles prepared by international experts to guide interpretation of those permissible limits, restrictions qualify as “necessary” only if they: (a) are based on one of the grounds justifying limitations recognized by the relevant article of the Covenant; (b) respond to a pressing public or social need; (c) pursue a legitimate aim; and (d) are proportionate to that aim.

In addition, any assessment as to the necessity of a limitation must be made on the basis of objective considerations.

Lastly, any restriction on freedom of movement must be the least restrictive measure possible to achieve the legitimate aim. In deciding how to identify the least restrictive measure possible, the State must balance three factors: (i) the extent of the restriction; (ii) the impact on peoples’ exercise of the right affected, and any other negative impact on their lives; and (iii) why the restriction is necessary to bring about the desired aim.

A state must balance these factors according to the principles outlined above. For example, forcing a group to remain within a camp will be a violation of their freedom of movement unless the authorities can show that the restriction is based on clear and precise law, furthers a legitimate aim, is the least restrictive means to achieve that aim (taking into account the numbers affected, the extent and duration of the restriction, and the impact on peoples’ lives) and that, when the negative impacts are weighed against the legitimate aim, the restriction is shown to be proportionate and non-discriminatory.

Iran’s “no go areas” policy fails to meet any of the criteria described above. It blatantly and arbitrarily restricts freedom of movement and discriminates between Iranian citizens and non-citizens, denying freedom of movement only to the latter. Moreover, Afghan nationals face greater restrictions on their freedom of movement than do other nationalities, including Iraqi refugees. Iranian authorities have said the policy is necessary to protect

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<sup>168</sup> UN Human Rights Committee, General Comment 27, para 11.

<sup>169</sup> The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights E/CN.4/1985/4, September 28, 1984.

national security, but this broad rationale cannot justify the extensive, blanket exclusion of foreigners from large sections of the country.

## Denial of Education and Failure to Prevent Child Labor

Access to education has frequently been described as one of the great benefits many Afghan boys and girls have acquired through living in Iran.<sup>170</sup> The director general of BAFIA recently announced that there are 280,000 Afghan primary and secondary school pupils and another 11,000 university students currently studying in Iranian educational institutions.<sup>171</sup> Yet a sizeable portion of unregistered Afghan migrants in Iran are deprived of education as a result of Iranian policies.

At present, the Iranian government does not guarantee that Afghan children not in possession of valid refugee documents (Amayesh cards) can attend school.<sup>172</sup> The Iranian government also requires registered Afghan children to pay school fees, which authorities consider nominal but which some Afghans say are onerous. According to UNHCR in 2012 tuition fees for primary, junior high and high school were raised as a consequence of the removal of subsidies, affecting both Iranian nationals and refugees. Tuition fees have increased between 42 to 50 percent for the 2012-13 school year as compared to the previous academic year.<sup>173</sup>

Many children without documentation are effectively barred from education and at risk of taking on exploitative or hazardous forms of labor. Some children interviewed by Human Rights Watch, many of them unaccompanied minors who had come to Iran to work, described working in construction (including tiling and welding), agriculture, and carpet weaving from as young as nine years old. Afghans who make it to university face heavy

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<sup>170</sup> For example, Fariba Adelkhah & Zuzanna Olszewska (2007): The Iranian Afghans , Iranian Studies, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 145.

<sup>171</sup> "Issuing new insurance cards to legal Afghan nationals Iran," BAFIA, December 8, 2012, <http://bafia.moi.ir/Portal/Home>ShowPage.aspx?Object=News&CategoryID=a25b3683-80cc-48ec-810c-29ca2ea14479&WebPartID=2025af47-c2e4-43bc-82d5-c075ae63294b&ID=c54b15ba-025e-417e-afe9-ccd93aa273dc>, (accessed December 27, 2012).

<sup>172</sup> "Issuing new insurance cards to legal Afghan nationals Iran," BAFIA, December 8, 2012, <http://bafia.moi.ir/Portal/Home>ShowPage.aspx?Object=News&CategoryID=a25b3683-80cc-48ec-810c-29ca2ea14479&WebPartID=1ccb27ea-dce7-45b5-b951-d5108afc82bc&ID=facd5618-f923-492b-ad16-73772f6e3896> (accessed November 6, 2013).

<sup>173</sup> UNHCR, Update on the Solutions Strategy for Afghan Refugees, September 2012, <http://refworld.org/docid/511e470e2.html> (accessed July 8, 2012).

restrictions on fields of study, and those who have refugee status are effectively forced to give up that status in order to enroll in universities.

Iran's obligations to ensure access to education for all children regardless of residency status and to provide primary education free of charge stem from the International Covenant on Economic Social, and Cultural Rights (ICESCR) and the Convention on the Rights of the Child (CRC), both of which Iran has ratified. The ICESCR and the CRC spell out the right to education in articles 13 and 28, respectively. Article 2.2 of the ICESCR and Article 2 of the CRC prohibit discrimination on the basis of national or social origin, birth, or other status.

### *Curtailed Access to Education*

In the 1980s, most Afghans in Iran were able to obtain residence and work permits that effectively entitled them to the same entitlements, including free education, health care, and food subsidies, as Iranian citizens.<sup>174</sup> By the mid-nineties, Iranian policies aimed at stemming the flow of Afghan refugees and asylum seekers and encouraging repatriation had made many Afghan migrants undocumented, which in practice cut off their access to education, health care, and government subsidies.<sup>175</sup> By 1998, UN figures indicated that only a third of Afghan children in Iran were enrolled in Iranian public schools,<sup>176</sup> despite the fact that Iran, having ratified the Convention on the Rights of the Child and the International Covenant on Economic, Social, and Cultural Rights, is obliged to provide universal, free primary education to all children in its territory, regardless of migration status.<sup>177</sup> This is in contrast to the high rate of school participation generally in Iran, where, according to UNICEF, 99 percent of the population aged 15-to-24 years of age is literate and 94 percent complete primary school.<sup>178</sup>

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<sup>174</sup> Elaheh Rostami-Povey, "Afghan Refugees in Iran, Pakistan, the U.K., and the U.S. and Life after Return: A Comparative Gender Analysis," *Iranian Studies*, 40:2, 241-261, 2007, p. 242.

<sup>175</sup> Agata Bialcyk, "'Voluntary Repatriation' and the Case of Afghanistan: A Critical Examination," University of Oxford, Refugee Studies Centre Working Paper Series, Working Paper no. 46, January 2008, p. 21.

<sup>176</sup> Fariba Adelkhah & Zuzanna Olszewska (2007): The Iranian Afghans , *Iranian Studies*, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 145.

<sup>177</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 2; CRC, art. 2. Iran is also a party to the UNESCO Convention Against Discrimination in Education, under which states agree "[t]o give foreign nationals resident within their territory the same access to education as that given to their own nationals." Convention Against Discrimination in Education, adopted December 14, 1960, UNESCO General Conference, 11th Session, Paris, entered into force May 22, 1962, art. 3 [accepted by Iran July 17, 1968].

<sup>178</sup> UNICEF, Islamic Republic of Iran statistics, updated February 26, 2003, [http://www.unicef.org/infobycountry/iran\\_statistics.html](http://www.unicef.org/infobycountry/iran_statistics.html) (accessed December 13, 2012).

Today the children of Afghans not registered as refugees are effectively barred from Iranian public schools. The plight of such children, as well as refugee children who are eligible but whose families cannot afford school fees, led to the creation by Afghans of a large number of “Afghan schools” in Iran. These schools, which are not licensed or regulated by the Iranian government,<sup>179</sup> are uneven in terms of quality, in part because they are starved for resources.<sup>180</sup> Fees for these schools are lower than for Iranian schools, and some waive fees for poor families, using donations to cover the costs.<sup>181</sup> Iranian authorities have periodically shut down these schools while at other times tolerating them.<sup>182</sup> The unofficial schools generally follow the Iranian curriculum and their diplomas can be certified by the Afghan embassy so that they will be recognized as valid in Afghanistan.<sup>183</sup> In 1998-99, the UN estimated that 14,000 children attended these unofficial schools in Tehran and Mashad alone, and this number may have increased with subsequent Iranian government-imposed restrictions on Afghans in Iranian schools.

In 2004, the Iranian government began charging Afghan refugee children the equivalent of US\$150 per child per year to attend Iranian schools in what appears to have been an effort to encourage Afghans to leave Iran and return to Afghanistan.<sup>184</sup> UNHCR opposed these new fees and, in protest, terminated an education subsidy UNHCR had been paying to the Iranian government to support education for Afghan refugee children.<sup>185</sup> The US\$150 fee has since been reduced. Currently, Afghan children with valid Amayesh cards can attend primary school but must pay an official fee of 50,000 tomans (US\$40).<sup>186</sup> According to UNHCR and Iranian officials, there are currently 230,000 Afghan children in Iran’s primary

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<sup>179</sup> Fariba Adelkhah & Zuzanna Olszewska (2007): *The Iranian Afghans*, *Iranian Studies*, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 145-146.

<sup>180</sup> US Committee for Refugees and Immigrants, “The Struggle of Afghan Schools in Iran,” June 29, 1999, <http://reliefweb.int/report/afghanistan/struggle-afghan-schools-iran> (accessed January 24, 2013).

<sup>181</sup> Fariba Adelkhah & Zuzanna Olszewska (2007): *The Iranian Afghans*, *Iranian Studies*, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 145-146.

<sup>182</sup> Ibid., and Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique, p. 4.

<sup>183</sup> Fariba Adelkhah & Zuzanna Olszewska (2007): *The Iranian Afghans*, *Iranian Studies*, 40:2, 137-165, <http://dx.doi.org/10.1080/00210860701269519> (accessed July 18, 2012), p. 146.

<sup>184</sup> Frances Harrison, “Iran’s Afghan refugees feel pressure to leave,” BBC, November 1, 2004, [http://news.bbc.co.uk/2/hi/middle\\_east/3971711.stm](http://news.bbc.co.uk/2/hi/middle_east/3971711.stm) (accessed May 30, 2012).

<sup>185</sup> Ibid.

<sup>186</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012. One interviewee told Human Rights Watch that he had been charged three times that amount. Human Rights Watch interview with Ali N., Islam Qala, April 19, 2012.

schools.<sup>187</sup> Information received by Human Rights Watch indicates that primary and secondary education school fees for documented Afghan children range from US\$15 (50,000 tomans) to US\$70 (250,000 tomans) depending on the specific circumstances of each family.

In 2006, the Iranian government cracked down on access to education for Afghans, closing many Afghan schools, which forced some refugee children to pay to enroll in Iranian schools and left undocumented children without access to education.<sup>188</sup> On August 26, 2009, President Ahmadinejad reportedly issued a decree permitting all Afghan children, documented or not, to attend Iranian primary and secondary schools once they had registered with BAFIA and paid school fees.<sup>189</sup> According to the Iranian government, following this decree, 60,000 new Afghan children took the opportunity to attend school.<sup>190</sup> By late 2010, however, the Afghan embassy in Tehran reported that all undocumented Afghans were again barred from Iranian schools.<sup>191</sup> In late 2011, a spokesman for the Iranian embassy in Kabul maintained that the Iranian government was fully assisting Afghan children in the field of education,<sup>192</sup> but Human Rights Watch research indicates that many children still lack access to primary and secondary educational facilities.

In interviews with deported and returning Afghans, Human Rights Watch was consistently told that undocumented families are not permitted to register their children in Iranian schools, including for primary education. Habiba, age 30, was deported in 2012 along with her husband, their five children aged 10, 7, 6, 5 and 2, as well as her brother and his wife and family. “We couldn’t register the kids for school because we were undocumented.”<sup>193</sup>

Some families interviewed by Human Rights Watch had managed to register their children in the separate “Afghan schools” but then had to withdraw them because they could not

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<sup>187</sup> “Iran Exploring Ways to Repatriate Afghans” Iran Daily, September 16, 2012, [http://www.iran-daily.com/1391/6/26/MainPaper/4330/Page/2/MainPaper\\_4330\\_2.pdf](http://www.iran-daily.com/1391/6/26/MainPaper/4330/Page/2/MainPaper_4330_2.pdf) (accessed September 26, 2012).

<sup>188</sup> Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique, p. 4.

<sup>189</sup> Ibid. Human Rights Watch has been unable to obtain a copy of this decree, in spite of extensive efforts to do so.

<sup>190</sup> Ibid. Human Rights Watch has been unable to verify this number through other sources.

<sup>191</sup> Ibid.

<sup>192</sup> Muhammad Jawad Sharifzada, “Afghan children in Iran deprived of education,” Pajhwok Afghan News, October 27, 2011, <http://www.pajhwok.com/en/2011/10/27/afghan-children-iran-deprived-education> (accessed December 27, 2012).

<sup>193</sup> Human Rights Watch interview with Habiba, Islam Qala, April 19, 2012.

afford even the lower fees charged by such schools.<sup>194</sup> Saisafa H., 42 years old, decided to return to Afghanistan after two years in Iran even though his family has documents that made their status legal, in part because he could not pay for his three children to go to school. “Living in Iran is very hard if you have more than one child,” he said. “My children are malnourished. They are not going to school. I need money. I can’t even pay for food.”

Nargis, age 35 and a mother, went to Iran 13 years ago with her family via a smuggler, but the family then obtained refugee status. “We got [Amayesh refugee] cards for all the family nine years ago and regularly renewed them,” she said. “But in 2006 my husband was forced to go back to Afghanistan with his sister’s family because she died of cancer... At the border Iranian agents ... cut his card [into pieces].”<sup>195</sup>

Nargis’ husband returned to Iran after six months with a valid passport and for two years the family did not have any problems. But then authorities at Nargis’s daughters’ middle school said they could no longer attend. All members of the family lost their status once Nargis’s husband’s card had been cancelled, even though the rest of the family had remained in Iran continuously. The family remained in Iran, unable to send their children to school, for the next six years.<sup>196</sup>

Some children, unable to attend school, work in hazardous forms of labor instead. Jamal J., age 12, worked in Iran as a carpet weaver. He could not go to school. “He was not allowed because we were undocumented,” his paternal uncle told Human Rights Watch.<sup>197</sup>

Nader R. is 14 years old and is originally from Bamiyan province in Afghanistan. He went to Iran with his mother and father and siblings when he was 8 years old and began working at

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<sup>194</sup> One interviewee told Human Rights Watch he had had to pay US\$8 per month in fees for his son to attend an “Afghan school.” Human Rights Watch interview with Ali N., Islam Qala, April 19, 2012.

<sup>195</sup> The practice of cutting a refugee’s card because he returns to the country for a family emergency is a misreading of the concept of cessation of refugee status in international refugee law. Refugee status ceases when someone “re-establishes” himself in his country of origin. Briefly returning because of a death in the family does not reestablish the connection to the country of origin.

<sup>196</sup> Human Rights Watch interview with Nargis, Islam Qala, April 19, 2012.

<sup>197</sup> Human Rights Watch interview with Jamal J. and his uncle, Islam Qala, April 17, 2012. The flip side of the obstacles to education for Afghan children in Iran is frequent child labor. Many of parents and children interviewed by Human Rights Watch reported that undocumented children, unable to attend school, had worked instead, often at very young ages. This problem has also been noted by experts including Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique, p. 12. Iran has a responsibility under the Convention on the Rights of the Child to set restrictions on child labor and enforce those restrictions. CRC art. 32.

age 9. Although Nader was attending school in Afghanistan before his family fled to Iran, “I couldn’t go to school in Iran,” he said. “I wasn’t allowed and it costs too much. People with documents can go but it’s very expensive. People without documents can’t go.” Instead Nader worked in construction. He is the second oldest of four brothers and three sisters; his brothers are also working.<sup>198</sup>

Amanullah, age 15, was born in Iran, but he and his family have travelled back and forth to Afghanistan occasionally. Amanullah studied only as far as age 7 and began working as a welder from age 9 or 10.<sup>199</sup>

A number of national and international NGOs provide free literacy classes for Afghan children and adults, sometimes with funding from UNHCR, which are often the only form of education available to them.<sup>200</sup> Nabila S., age 25, went to Iran with her family when she was 10 years old. “I didn’t go to school,” she said, because her family was undocumented. “I went to literacy classes, though.” Her 18 year old sister, Wahida, said the classes were three hours a day, five days a week.<sup>201</sup>

Iran has an obligation to ensure that children have access to education regardless of their residency or legal status, that this access extends to all levels of education, and that all children receive primary education free of charge. Iran also has an obligation to proactively remedy situations in which children have been unable to access education.<sup>202</sup> Iran’s neglect and/or deliberate tactics in this area violate its international obligations.

### *University Trade-offs*

According to the cultural attaché at the Iranian embassy in Kabul, about 11,000 Afghan students graduated from Iranian universities between 2010 and 2011, and about 3,507 Afghans, including 2,000 girls, passed the university entrance exam and became eligible

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<sup>198</sup> Human Rights Watch interview with Nader R., Islam Qala, April 16, 2012.

<sup>199</sup> Human Rights Watch interview with Amanullah, Islam Qala, April 17, 2012.

<sup>200</sup> The Iranian government, through its Literacy Movement Organization, also provides some literacy classes to children and adults, but only those with valid documentation of refugee status may participate. Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

<sup>201</sup> Human Rights Watch interview with Nabila and Wahida S., Islam Qala, April 18, 2012.

<sup>202</sup> (Article 13, ICESCR). The Committee interpreting the ICESCR in its General Comment No. 13 (1999) on the right to education “confirm[ed] that the principle of non-discrimination extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status.

to enroll.<sup>203</sup> The Iranian government is, however, increasingly curtailing the ability of Afghans to participate in higher education in Iran.

In 2012 the Iranian government introduced a regulation that required that Afghan refugees wishing to attend university in Iran first renounce their refugee status and obtain an Afghan passport and student visa.<sup>204</sup> In general, Afghans are required to have valid Afghan passports and visas to attend universities in Iran. An exemption currently exists for Afghan girls and women who are sponsored by their families, and the Iranian government has announced plans to prioritize and facilitate the return and reintegration of Afghans who have graduated from Iranian universities by providing them with work and residency permits. Unlike Iranians, Afghans and other foreign nationals are required to pay fees to attend public university.<sup>205</sup>

Additionally, there are restrictions on the fields of study that Afghans can pursue in universities. In June 2012, foreigners including Afghans were banned from studying 30 subjects at Iranian universities, including atomic physics, nuclear engineering, aerospace engineering, and chemical engineering.<sup>206</sup> It was unclear whether foreign students already enrolled in programs in those areas would be permitted to complete their studies. The Iranian government's declaration of "no go areas" for in-country Afghan migrants and refugees also prevents them from attending universities in those areas.<sup>207</sup>

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<sup>203</sup> Muhammad Jawad Sharifzada, "Afghan children in Iran deprived of education," Pajhwok Afghan News, October 27, 2011, <http://www.pajhwok.com/en/2011/10/27/afghan-children-iran-deprived-education> (accessed December 27, 2012) The information is more clearly laid out in the Dari version of this article, which can be found at <http://www.pajhwok.com/dr/2011/10/25/%D8%A7%D8%B7%D9%81%D8%A7%D9%84-%D8%A8%D8%B1%D8%AE%D9%89-%D9%85%D9%87%D8%A7%D8%AC%D8%B1%D9%8A%D9%86-%D8%AF%D8%B1-%D8%A7%D9%8A%D8%B1%D8%A7%D9%86-%D9%87%D9%86%D9%88%D8%B2-%D9%87%D9%85-%D8%A7%D8%B2-%D8%AA%D8%B9%D9%84%D9%8A%D9%85-%D9%85%D8%AD%D8%B1%D9%88%D9%85-%D8%A7%D9%86%D8%AF> (accessed December 27, 2012).

<sup>204</sup> Human Rights Watch interview with staff member of international organization (name withheld). See also Norwegian Refugee Council, "Refugee matters in Iran, July 2012," [http://www.nrc.no/arch/\\_img/9659994.pdf](http://www.nrc.no/arch/_img/9659994.pdf) (accessed September 14, 2012).

<sup>205</sup> In 2011 Afghan students were required to pay between US\$80-120 per semester to attend public universities. Human Rights Watch interview with staff member from an international organization (April 19, 2012).

<sup>206</sup> "Iran Issues List Of Banned Cities, Banned University Courses For Afghans," Radio Free Europe/Radio Liberty, June 3, 2012, <http://www.rferl.org/content/iran-list-of-university-courses-banned-for-afghans/24602340.html> (accessed June 4, 2012) and "List of graduate faculty subjects banned for non-Iranian citizens announced at Kankor," Mehr Agency, June 1, 2012, <http://www.mehrnews.com/FA/newsdetail.aspx?NewsID=1617300> (accessed June 4, 2012). See also: <http://www.mehrnews.com/FA/newsdetail.aspx?NewsID=1617300> (accessed November 6, 2013).

<sup>207</sup> "Banned Areas and Fields of Study for Foreign Nationals Sitting for the 1392 National Entrance Exam," Iranian Students' News Agency, August 11, 2013, <http://isna.ir/fa/news/92052010842/%D9%85%D9%86%D8%A7%D8%B7%D9%82-%D9%88%D8%B1%D8%B4%D8%AA%D9%87-%D9%87%D8%A7%DB%8C-%D9%85%D9%85%D9%86%D9%88%D8%B9%D9%87-%D8%A8%D8%B1%D8%A7%DB%8C-%D8%AA%D8%AD%D8%B5%DB%8C%D9%84-%D8%A7%D8%AA%D8%A8%D8%A7%D8%B9> (accessed November 1,

## Denial of Citizenship and Marriage Rights

Iran's restrictive and discriminatory marriage laws allow Afghan women who marry Iranian men to gain citizenship but deny citizenship to Afghan husbands of Iranian women. Iranian law also denies citizenship to children born in Iran to Afghan parents and to Afghans who have spent decades in the country. With a few exceptions, citizenship is not an option for Afghans in Iran.

Under Iranian law, citizenship is a so-called “blood right” that passes through the father. This means that the tens of thousands of Afghan men who have married Iranian women during the past thirty years are not eligible to naturalize based on marriage to an Iranian citizen, and their children do not enjoy birthright citizenship.<sup>208</sup> According to reports, there are approximately 30,000 registered marriages between Iranian women and Afghan men.<sup>209</sup> In 2010, the Iranian government reported that there were about 32,000 unofficial marriages between Iranian women and Afghan men, but there are suggestions that the real number is higher.<sup>210</sup>

A 2006 law, however, permits children of Iranian mothers who are over the age of 18 to apply for Iranian citizenship if the parents' marriage is approved by the state but only confers citizenship if the applicant is not deemed to have a security risk or criminal background and renounces his or her father's citizenship.<sup>211</sup>

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<sup>208</sup> 2013); “Iran Issues List of Banned Cities, Banned University Courses For Afghans,” Radio Free Europe/Radio Liberty, June 3, 2012, <http://www.rferl.org/content/iran-list-of-university-courses-banned-for-afghans/24602340.html> (accessed June 4, 2012).

<sup>209</sup> For example, see “The Story of the Marriage between an Iranian Woman and an Afghan Man,” BBC Persian, May 30, 2011, [http://www.bbc.co.uk/persian/iran/2011/05/110525\\_l21\\_married\\_iranian\\_women\\_afghan\\_men.shtml](http://www.bbc.co.uk/persian/iran/2011/05/110525_l21_married_iranian_women_afghan_men.shtml) (accessed September 6, 2012).

<sup>210</sup> Ibid. According to BAFIA, there are around 32,000 children whose mothers are Iranian and their fathers Afghan. “The marriage story of Afghan man with Iranian woman,” Ibid.

<sup>211</sup> Abi Mehregan, “Hard Lives for Afghans in Iran,” PBS Frontline, November 21, 2010, <http://www.pbs.org/wgbh/pages/frontline/tehranbureau/2010/11/hard-lives-for-afghans-in-iran.html#ixzz2GFVekq4B> (accessed December 27, 2012).

<sup>212</sup> Iranian Civil Code, art. 1060. According to the article “children who are the result of marriage between foreign men and Iranian women, who have been born in Iran, or are born in Iran within one year from the date of the ratification of this law, will be able to apply for Iranian citizenship when they reach the full age of 18.” Also, persons who after the date of the ratification of the 2006 amendment “are born in Iran, are the result of marriage between a foreign man and an Iranian woman, and the marriage of their parents has been [properly registered...]will be accepted as Iranian citizens within one year after reaching the full age of 18 and without meeting the [five-year] residence requirement.” For example, see the following text on the website of the Iranian embassy in the Netherlands: “Marriage of an Iranian Woman to a foreign man...Please note: In such a marriage, the foreign man will not be considered an Iranian national, and his children will also be only entitled to their father's nationality, and hence will all require visa applications for travelling to Iran. Nevertheless, upon submission of a written request by the woman, these individuals will have the privilege of a minimum visa wait times.” <http://iranianembassy.nl/en/consular.php?content=2712> (accessed September 26, 2012).

Until recently, children born to Iranian mothers and foreign fathers were not issued national identification papers and were therefore deprived access to primary education and health benefits in Iran. A new law passed by Iran's parliament in May 2012, however, provides these children with permanent residency rights and allows them to access the same social, health, and educational benefits that other Iranians enjoy.<sup>212</sup> But the law still refuses to allow foreign nationals who were either born in Iran or who have resided there for decades the opportunity to acquire Iranian citizenship.<sup>213</sup>

Since 2006, moreover, Iranian authorities have implemented harsh regulations that make it more difficult for Iranian women to marry Afghan men. These regulations make it necessary for Iranian women to gain permission from the proper authorities (including BAFIA and the Foreign Ministry) before they can marry Afghan men, and they refuse to recognize thousands of traditional or religious marriages that have taken place between Iranians and Afghans in recent years.<sup>214</sup> A circular published by the provincial government in Mazandaran province in 2010, for example, declared all marriages in the province between Iranian women and foreign nationals illegal, and indicated that individuals who fail to observe this regulation would be subject to punishment. Afghans, along with Iraqis, Pakistanis, and Bangladeshis are specifically mentioned in the circular as foreign nationals that are "forbidden" from marrying Iranian women.<sup>215</sup>

The restrictions on an Iranian woman's ability to pass on her nationality to her children or seek naturalization of her spouse, restrictions that do not apply to Iranian men, violate Iran's obligations under international law including article 26 of the International Covenant on Civil and Political Rights and the Convention on the Elimination of Discrimination against Women and the Convention on the Rights of the Child.<sup>216</sup>

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<sup>212</sup> Children of Afghan refugees who are properly registered through the Amayesh system generally have access to primary education and other benefits. This is not true for Afghans who are either out of status or migrants who have entered the country unlawfully.

<sup>213</sup> "Changes to the Nationality Law and the Elimination of Article 23 of the Family Protection Bill," Deutsche Welle, May 8, 2012, <http://www.dw.de/dw/article/0,,15936758,00.html> (accessed September 6, 2012).

<sup>214</sup> "The Story of the Marriage between an Iranian Woman and an Afghan Man," BBC Persian, May 30, 2011, [http://www.bbc.co.uk/persian/iran/2011/05/110525\\_l21\\_married\\_iranian\\_women\\_afghan\\_men.shtml](http://www.bbc.co.uk/persian/iran/2011/05/110525_l21_married_iranian_women_afghan_men.shtml) (accessed September 6, 2012).

<sup>215</sup> "How Foreign Men Can Marry Iranian Women," [http://www.ostan-mz.ir/index.php?option=com\\_content&view=article&id=2143:l-r&catid=179:Line-2-6&Itemid=423](http://www.ostan-mz.ir/index.php?option=com_content&view=article&id=2143:l-r&catid=179:Line-2-6&Itemid=423) (accessed September 6, 2012) (this is a circular issued by the provincial government of Mazandaran province in 2010 and is available on the provincial government's website).

<sup>216</sup> International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 24 (3), art. 26;

## Limitations on the Right to Work

In the 1980s most Afghans in Iran were able to obtain permission to live and work in cities, towns, and villages throughout Iran without too much interference from the government.<sup>217</sup> In recent years, however, the Iranian government has steadily introduced additional restrictions on where Afghans may legally live and work.

Registered Afghan refugees are entitled to apply for temporary work permits. But acquiring work permits is difficult for many because it is expensive and the Iranian government has not consistently and freely issued them in recent years. In 2008 the price of a temporary work permit for a registered Afghan refugee was the equivalent of US\$70.<sup>218</sup> A year later, the price jumped to around US\$500 (and US\$330 for renewal) – a seven fold increase.<sup>219</sup> Today the price of obtaining a temporary work permit is US\$118.<sup>220</sup> The work permits are good for 12 months and require regular renewal, which costs US\$82.<sup>221</sup>

The Iranian government also allows refugees between the ages of 18 and 60 who obtain Amayesh cards to purchase temporary work permits valid for one year, with the current fee for the work permit equivalent to US\$140 plus US\$17 for printing.<sup>222</sup> Registered refugees are also liable for payment of municipal taxes which vary from province to province.<sup>223</sup> Such fees are prohibitive for many refugees, especially as refugees in Iran are permitted by the Iranian government only to engage in a limited number of occupations, which are generally very poorly paid. Human Rights Watch interviewed Afghans who had refugee cards but had been unable to renew them because they could not afford the fees.<sup>224</sup>

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Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), G.A. res. 34/180, entered into force, September 3, 1981, art. 9.; Convention on the Rights of the Child, adopted November 20, 1989, 1577 U.N.T.S.3 (entered into force September 2, 1990), art. 7.

<sup>217</sup> Rupert Colville, “Afghanistan, the Unending Crisis – The Biggest Caseload in the World,” *Refugee Magazine*, June 1, 1997, <http://www.unhcr.org/3b680fbfc.html> (accessed January 24, 2013).

<sup>218</sup> “The Cost of Obtaining and Renewing a Work Permit for Foreigners Has Increased,” Mehr News Agency, March 4, 2010, <http://www.mehrnews.com/fa/NewsDetail.aspx?NewsID=1042202> (accessed September 6, 2012).

<sup>219</sup> Ibid.; see also Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique.

<sup>220</sup> Email communication with international official [name withheld] to Human Rights Watch, November 2012.

<sup>221</sup> Ibid.

<sup>222</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

<sup>223</sup> Bruce Koepke, “The Situation of Afghans in the Islamic Republic of Iran Nine Years After the Overthrow of the Taliban Regime in Afghanistan,” February 4, 2011, Middle East Institute Fondation pour la Recherche Stratégique.

<sup>224</sup> Human Rights Watch interview with Hashim M., Islam Qala, April 18, 2012.

A temporary work permit issued to an Afghan refugee, moreover, qualifies that individual to work only in narrowly defined occupational fields.<sup>225</sup> The vast majority of these jobs are heavy manual labor positions that have been selected based on labor market demands and to ensure that Afghans do not take jobs away from Iranian citizens. Examples include: plaster manufacture, making acid for batteries, digging, brick-making, laying asphalt and concrete, herding sheep, slaughtering animals, burning garbage, loading and unloading trucks, stone cutting, road building, mining, and farming. These occupations are often not only poorly paid, but dangerous.

Afghans found working in unauthorized occupations are considered to have violated the terms of their refugee status under the Amayesh system and are subject to deportation back to Afghanistan. The ability of Afghans to choose their employment is also severely restricted by the restrictions on place of residence and freedom of movement described above.

The Refugee Convention requires signatories to “accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage earning employment.”<sup>226</sup> Iran justifies the above-described limitations on employment on “national security” grounds, citing the reservations it made to articles 17 and 24 of the 1951 Refugee Convention.<sup>227</sup> Additionally, in 2013 the UN Committee on Economic, Social and Cultural Rights expressed concern that “Afghan workers are often paid less than the minimum wage, or are faced with non-payment of wages.”<sup>228</sup>

## Vigilante “Justice”

As noted above, pressure on undocumented Afghans increased in 2012 as the June deadline for CRP registration came and went. On May 28, 2012, Mohammad Tahavori, the head of BAFIA, announced that single Afghan migrant men living in the provinces of

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<sup>225</sup> In 2012 there were four fields and around 56 jobs that Afghan refugees may pursue. The majority of these jobs are in service industries such as construction and agriculture. See MOIR Regulations. See also BAFIA announcement, December 24, 2012.

<sup>226</sup> UN Refugee Convention, art. 17.

<sup>227</sup> The Iranian government has made reservations to articles 17 (wage-earning employment), 23 (public relief), 24 (labor legislation and social security), and 26 (freedom of movement) of the 1951 Refugee Convention. Authorities justify restrictions on the freedom of movement, including the establishment of “no go areas,” on the basis of “national security.”

<sup>228</sup> UN Committee on Economic, Cultural and Social Rights, “Concluding observations on the second periodic report of the Islamic Republic of Iran, adopted by the Committee at its fiftieth session” 17/05/2013 E/C.12/IRN/CO/2, para 14. The Committee recommended that Iran “take steps to ensure that Afghan workers are not paid a wage below the level of the minimum wage.”

Tehran, Esfahan, and Khorasan-e Razavi had to leave the country by June 20, 2012.<sup>229</sup> He said the period for single Afghan men residing in Iran to clarify their legal status had come to an end, and only those who had valid refugee cards or passports and resided in areas that were not off limits to them could legally remain in the country after June 20. In his statement, Tahavori emphasized that individuals who help undocumented Afghans find work, housing, or other services would also be subject to punishment. Iranian authorities had previously announced that all undocumented Afghans must leave Iran by the end of March 2011, but extended the deadline to June 2012 at the request of Afghan authorities.<sup>230</sup>

On June 2, 2012, Iran's Islamic Republic News Agency (IRNA) quoted Gholam-Reza Gholami, a BAFIA official in Fars province, as saying that the "provision of services and foodstuffs to illegal foreign nationals is unlawful." IRNA reported that Gholami cited the outbreak of infectious diseases as the reason for his pronouncement, maintaining that foreign nationals who enter the country unlawfully are not properly inspected for such diseases. *Asr-e Mardom*, a local newspaper in Shiraz, the capital of Fars province, reported that Gholami had cited bakeries, supermarkets, transportation services, and other public services as falling under the regulation, and said they would be shut down by the authorities if they did not comply. The newspaper also reported that Gholami called on private citizens to ensure compliance with the law by taking it upon themselves to ensure that all foreign nationals have the proper identification and residential permits to remain in Iran.<sup>231</sup>

After the implementation of the CRP program in 2010, authorities had repeatedly warned that Iranians who hire or provide housing to unlawful Afghans or other foreign nationals would face fines and criminal prosecution.<sup>232</sup> The reports out of Fars province, however, were some of the first reports suggesting that authorities had broadened the effort and were encouraging private citizens to monitor Afghan residents.

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<sup>229</sup> "The Deportation of Single Afghan Men from Iran," Deutsche Welle, May 29, 2012, <http://news.gooya.com/politics/archives/2012/05/141257.php> (accessed September 6, 2012).

<sup>230</sup> "More than 200,000 Afghans Have Left Iran," BBC Persian, May 28, 2012, [http://www.bbc.co.uk/persian/mobile/afghanistan/2012/05/120528\\_k01\\_afg\\_iran\\_refugees.shtml](http://www.bbc.co.uk/persian/mobile/afghanistan/2012/05/120528_k01_afg_iran_refugees.shtml) (accessed September 6, 2012).

<sup>231</sup> "Prohibition on the Sale of Food Products and Services to Unlawful Foreign Citizens in Fars Province," July 20, 2012, [http://www.bbc.co.uk/persian/afghanistan/2012/07/120702\\_log\\_fars\\_afghan\\_refugees.shtml](http://www.bbc.co.uk/persian/afghanistan/2012/07/120702_log_fars_afghan_refugees.shtml) (accessed September 6, 2012).

<sup>232</sup> See, BAFIA announcement June 28, 2012, which says employers who hire undocumented Afghans may be subject to fines and 91 to 180 days' imprisonment.

In this climate, it is perhaps not surprising that reports of violent crime by an Afghan led to attacks on Afghan migrant homes by Iranians. According to reports and witness statements gathered by Human Rights Watch, Iranian mobs, angered by accusations that two Afghan men had raped and murdered an 18-year-old Iranian woman in Yazd on June 21, 2012, went on a rampage, burning and looting several Afghan homes.<sup>233</sup>

On its website, BAFIA identified the lead suspect as “Rahman Rahimi” and said that he had confessed to having illicit relations with the victim and then suffocating her and dumping her body outside of Yazd city. According to Hadi Nasab, who currently heads BAFIA’s Yazd operations, Rahimi was an undocumented Afghan who was unlawfully living in Yazd province.<sup>234</sup> According to Nasab, however, there were no incidents following the murder of the young woman and her alleged attacker’s arrest, and reports of mob attacks against Afghan nationals in Yazd were solely the work of lies spread by foreign outlets in an effort to damage the relationship between Iran and its neighbors.<sup>235</sup>

Evidence gathered by Human Rights Watch, however, contradicts the Iranian authorities’ claim. A relative and close friend of several Afghan nationals whose houses were burned by Iranian mobs told Human Rights Watch that he, his wife, and his employer watched several houses being looted and burned in late June 2012. “If security forces had wanted to stop the attack, they could have stopped it. I do not know what these people want to take from us,” he said.<sup>236</sup> The witness said that many of the attackers are known to both the victims and authorities, but authorities have not taken any measures to bring them to justice. “Around 40 or 50 houses were burned. They were filling cans with fuel and then lighting it and throwing it into the Afghan houses. This number included the work places of Afghans which were also burned.” He said that the incident started at around 10 or 11 a.m. on June 30 and

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<sup>233</sup> “Violence Against Afghans in Iran’s Yazd City After Teenager’s Death,” Tolo News, June 27, 2012, <http://tolonews.com/en/afghanistan/6686-violence-against-afghans-in-irans-yazd-city-after-teenagers-death> (accessed September 26, 2012).

<sup>234</sup> BAFIA website, June 30, 2012. During a press conference held on June 28, 2012, Nasab told reporters that there were 52,000 undocumented Afghan migrants in Yazd province who had been identified during the CRP process that began in 2010. He said that Afghan and Iranian authorities had issued passports and three-month visas for 16,200 undocumented Afghans in Yazd under the CRP program.

<sup>235</sup> BAFIA announcement, June 14, 2012. In several announcements since, BAFIA has repeatedly warned that “foreign outlet’s bent on damaging Iran’s reputation lied about what really happened in Yazd, and reiterated the Iranian government’s commitment to respecting Afghan refugees who reside in the country. See, e.g., BAFIA announcement, July 3, 2012; July 17, 2012.

<sup>236</sup> Human Rights Watch interview with Afghan resident of Yazd (resident 1), conducted by phone, July 8, 2012.

continued up to 4 a.m. the next day. In addition to the arson, Afghan houses were looted, their sheep were taken, and some motorcycles belonging to Afghans were burned.

According to an eyewitness, police officers were present at the scene but failed to attempt to prevent the mob from burning and looting Afghan homes and business. The witness said that several of the attackers had employed loudspeakers and makeshift billboards threatening the Afghan residents and warning Iranians in the area not to provide them with refuge.

The same witness told Human Rights Watch that in the morning following the first day of attacks, security forces arrested around 25 to 30 Afghan youths and imprisoned them for a week, claiming that they had been involved in the disturbances. He said that security forces made no attempt to arrest any of the looters, who continued attacking other homes in and around Yazd with impunity. The witness said the attacks on the second day began around 9 a.m. and lasted until around 3 p.m.<sup>237</sup>

Another witness told Human Rights Watch that when the attacks began, he and his family left the area because they feared for their safety. They managed to escape despite the fact that attackers had set up roadblocks to prevent Afghans from leaving the area. He attempted to return during the attacks but said security forces prevented him from entering the area. The witness said that the situation has, for the most part, returned to normal. He told Human Rights Watch that although he did not personally witness the attacks on the second day, several people told him mobs continued to burn and loot Afghan homes that next evening until anti-riot police forces put an end to the episode.<sup>238</sup>

The witness said that at least 15 Afghans sustained injuries after being beaten by the mobs or by security forces and anti-riot police operating in the area. Some of the attackers were also injured during skirmishes with Afghans who were defending their homes and property. He said eyewitnesses told him that several hospitals in the area refused to treat Afghans who had sustained injuries during the evening attacks; others asked them to pay huge sums to receive treatment.<sup>239</sup>

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<sup>237</sup> Human Rights Watch interview with Afghan resident of Yazd (resident 1), conducted by phone, July 8, 2012. The other witness described the violence on the second day as continuing for only about one hour. Human Rights Watch interview with Afghan resident of Yazd (resident 2), July 8, 2012.

<sup>238</sup> Human Rights Watch interview with Afghan resident of Yazd (resident 2), July 8, 2012.

<sup>239</sup> Human Rights Watch interview with Afghan resident of Yazd (resident 2), July 8, 2012.

In addition to this, the witness told Human Rights Watch that some of the landlords in the area renting homes to Afghans are now requiring their tenants to pay for damages sustained to the homes. Most cannot afford to pay for these repairs. He also says that while Iranian courts have accepted complaints about this incident from several Afghans, they have informed complainants that it is their responsibility to identify the perpetrators.<sup>240</sup>

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<sup>240</sup> Ibid. With respect to the legal system and Afghans, it is important to note that Afghans, often because of their immigration or residency status, are particularly vulnerable to unjust prosecution and punishment by Iran's judiciary. One example of this is the use of the death penalty in Iran. Iran has the highest number of drug-related executions in the world, and Afghans are especially vulnerable to unfair prosecution and execution. The number and percentage of individuals executed by Iranian authorities for drug-related offenses has risen sharply over the last few years. In 2011, Iran executed at least 600 people, second only to China. Eighty-one percent of these executions were for drug-related crimes, including for personal drug use. According to Amnesty International, of the 389 executions recorded in 2009, 166 – or almost 43 percent – were drug-related. In 2010, about 68 percent of all executions recorded by the organization (or 172 of the 253 known executions) were for drug-related offenses. Exact numbers are not available, but in 2010 Iranian officials acknowledged that at least 4,000 Afghans were in Iranian prisons, and that the vast majority were there on drug charges. In April and May 2010 hundreds of angry Afghans joined anti-Iran demonstrations in Afghanistan, including in front of the Iranian embassy in Kabul, after reports surfaced that Iranian prison officials executed dozens of Afghans. According to reports Iran repatriated the bodies of at least 40 executed Afghans back to Afghanistan, but many others are believed to have been executed and buried inside Iran.

## IV. Abuses During the Deportation Process

Afghans in Iran are at great risk of enduring a host of abuses when being deported to Afghanistan. The abuses include physical mistreatment and theft of property during arrest and initial detention, refoulement (deportation without prior assessment of whether the individual is a registered refugee or asylum seeker), and ill-treatment and abuse in detention facilities prior to deportation.

Our research shows that deportees, whether or not they are registered refugees, often pass through several detention facilities<sup>241</sup> on their way from their place of arrest to the border, are charged fees, endure harsh conditions, and sometimes are physically abused along the way. All of these practices violate Iran's obligations under international law, primarily the International Covenant on Civil and Political Rights and the UN Refugee Convention, to which Iran is a state party. Some, such as physical abuse and theft of property, also violate Iranian domestic laws.

### Physical Abuse, Theft, and Destruction of Property

The majority of deportees interviewed by Human Rights Watch alleged that Iranian authorities had assaulted them or had confiscated their personal property during the deportation process.<sup>242</sup> As a senior commander with the Afghan Border Police told Human Rights Watch, "Everything is taken from them, then they are brought to the border and handed to us."<sup>243</sup>

Lotfullah A., age 38, was arrested on his way to work. "My wife came to the police station but they didn't allow her in. They told us we will send your family with you but then by beating four armed [police] put me in a car." Lotfullah says he was punched and hit with

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<sup>241</sup> These detention facilities are referred to in Persian as "ordugah." This term is sometimes translated as "camp" but can also mean detention facility. In order to avoid confusion with Iran's system of 18 refugee camps, we have used the term "detention facility."

<sup>242</sup> See for example Human Rights Watch interview with Mahmoud A., April 16, 2012. On February 17, 2012, video was uploaded on YouTube purporting to show Iranian authorities humiliating and abusing unlawful Afghan migrant workers who had been arrested and detained. [http://www.youtube.com/watch?v=HGb\\_oMo1B2s](http://www.youtube.com/watch?v=HGb_oMo1B2s). The video was cited by rights groups as proof of an increasing trend of mistreatment, abuse, and discrimination against Afghan nationals by Iranian authorities. Human Rights Watch has not, however, been able to verify the authenticity of the video.

<sup>243</sup> Human Rights Watch interview with senior member of Afghan Border Police (name withheld), April 16, 2012.

the butt of an AK47 by the police. His wife was able to get a car to the detention facility where he was held and join him there for the rest of the deportation process, bringing their five-month-old baby. “I had no money [to pay the detention facility], so they took my phone instead,” she said.<sup>244</sup>

“I was born in Qom [Iran],” Asad, age 28, said. “I was in Qom and on my way home when police caught up with me. When I showed my [identification] card, he tore it up. I asked him why he did that and said, ‘Because I can!’ Then he beat me with a baton and said, ‘You Afghans come here and use drugs – you’re ruining our country.’ I spent half a day at Qom detention facility. They took my mobile phone and other belongings.”<sup>245</sup>

During her deportation, Shakiba, 21 years old, spent one night at Sefid Sang, or “White Stone” Detention Facility, a large deportation camp on the Iranian side of the border near Islam Qala.<sup>246</sup> Virtually every deportee interviewed by Human Rights Watch had made a last stop at White Stone Detention Facility prior to being deported back to Afghanistan via Islam Qala. “Police were beating us when we were in line at White Stone,” he said. “I was punched and hit by the police with their hands. I was slapped in the face. They were saying abusive words about my father and mother.”<sup>247</sup>

“They are beating [up people] very badly,” said Hamid H., age 18, who said he was punched and kicked by guards in both Qom and White Stone detention facilities. “Even [until] people fall down. Everyone is beaten.”<sup>248</sup>

Naeem, age 30, said he was travelling into Iran with a group of nearly 500 Afghans escorted by smugglers when they were caught while resting soon after crossing the border. “We woke up and were surrounded by Iranian soldiers. They said don’t move or we’ll shoot.” Naeem says that the group was then made to walk for four hours with one police car in front of them and one behind and police shooting in the air. He said the police

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<sup>244</sup> Human Rights Watch interview with Lotfullah A. and his wife, Islam Qala, April 18, 2012.

<sup>245</sup> Human Rights Watch interview with Asad, Islam Qala, April 16, 2012.

<sup>246</sup> Sefid Sang, or “White Stone” Detention Facility, is located outside a village of the same name in Khorasan-e Razavi province in northeastern Iran. The detention facility is approximately 85 kilometers southeast of Mashad, the capital of Khorasan-e Razavi province, and approximately 150 kilometers northeast of the Islam Qala border crossing with Afghanistan. For exact coordinates, refer to the following link: [http://www.geonames.org/maps/google\\_35.659\\_60.095.html](http://www.geonames.org/maps/google_35.659_60.095.html) (accessed November 4, 2013). White Stone is also referred to as Sang-e Sefid by many deportees.

<sup>247</sup> Human Rights Watch interview with Shakiba, Islam Qala, April 16, 2012.

<sup>248</sup> Human Rights Watch interview with Hamid H., Islam Qala, April 16, 2012.

slapped and kicked them and verbally abused them. “People who had rings, they [police] took [them]. They broke my phone,” he said.

The group was held for two days at Panjgur near the border, and then was taken to Saravan police station located approximately 50 kilometers from the Iran-Pakistan border. “We were taken in containers in big trucks,” Naeem said. “We were close to dying because of lack of oxygen. They locked the door. We begged them to keep the door open or we will die. They said you should die.” Naeem said they were in the trucks for four to four-and-a-half hours. “There was a fat guy near dying. He was unconscious. A relative of his tore the cloth cover so he could breath.”

Naeem said the man’s family was charged 4 million rials<sup>249</sup> (US\$327) as punishment for damaging the cover of the truck. Naeem described an eight- or nine-year-old boy whose father was smuggling him to Iran to get eye treatment passing out and said he passed out himself until someone put water on him.<sup>250</sup>

Bahir S., age 18, owed 250-300,000 Afghanis (US\$5000-6000) to the people in his village in Afghanistan after he borrowed from them to pay for his recent wedding. He planned to go to Iran to work to earn the money to pay back these debts. Rafiq, also age 18, was in the same group of 10 Afghans being smuggled to Iran. They were passing on foot behind a police station in Siahtappeh when they were caught by the police. The police lined them up and demanded to know who had smuggled them. When no one answered, the police pulled Bahir and Rafiq from the group for no apparent reason.

“The police told us to lie down and then they were beating us,” Bahir said. “I was hit three times in the back of the head with the back of an AK47.”<sup>251</sup> “They beat us in the head and shoulders,” Rafiq said. “I was hit five times in the back of the head with an AK47.” Rafiq’s shin was also injured. “I was kicked in the chin after sitting up. They kicked me in the chin and said go get in line.”<sup>252</sup>

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<sup>249</sup> One toman is 10 rials. References to Iranian currency may be in tomans or rials, though tomans are more commonly referred to.

<sup>250</sup> Human Rights Watch interview with Naeem, Islam Qala, April 16, 2012.

<sup>251</sup> Human Rights Watch interview with Bahir S., Islam Qala, April 19, 2012.

<sup>252</sup> Human Rights Watch interview with Rafiq, Islam Qala, April 19, 2012.

Faisal A., age 20, was deported along with his extended family, including his mother, father, two brothers, sister, pregnant sister-in-law, and his brother's three-year-old child. The family had been in Iran for 25 years and Faisal said they long had refugee status but lost it when the Amayesh program began because they could not afford the Amayesh cards. The family had decided to leave Iran voluntarily because of the problems they faced without documentation including the fact that they couldn't afford the fees to send their children to private Afghan schools. As they were travelling to the border, however, they were stopped by police who, seeing that they did not have valid documents, took them to Yazd Detention Facility, located in central Iran.

"There were two people fighting in the detention facility at Yazd," Faisal said, describing an incident he said took place about a week before we spoke with him. "I tried to separate them. The police slapped me and hurt my nose. It was bleeding. I was hit very hard. I fell down and was almost unconscious."<sup>253</sup>

The Universal Declaration of Human Rights stipulates that "No one should be subjected to torture or to cruel, inhuman or degrading treatment,"<sup>254</sup> while the International Covenant on Civil and Political Rights (ICCPR) prohibits "torture or...cruel, inhuman or degrading treatment or punishment."<sup>255</sup> The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment protects detainees from "violence, threats or methods of interrogation which impair his capacity of decision or his judgment."<sup>256</sup> The United Nations' Standard Minimum Rules for the Treatment of Prisoners prohibits "corporal punishment...and all cruel inhuman or degrading punishments."<sup>257</sup> The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment likewise requires all UN member states to "take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under

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<sup>253</sup> Human Rights Watch interview with Faisal A. and Rahima N., Islam Qala, April 19, 2012.

<sup>254</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(II), U.N. Doc. A/810 at 78 (1948), art.5.

<sup>255</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) art.7, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976. Iran ratified the ICCPR on June 24, 1975.

<sup>256</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) principle 21(2), U.N. Doc. A/43/49 (1988) <http://www1.umn.edu/humanrts/instrct/g3bpppdi.htm> (accessed August 19, 2009).

<sup>257</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, rule 31.

its jurisdiction.”<sup>258</sup> The Convention against Torture also prohibits states from inflicting “cruel, inhuman or degrading treatment.”<sup>259</sup> These standards apply to all prisoners, including children, and additional standards prohibit the use of force against children in detention except in exceptional circumstances to prevent self-injury, injury to others, and destruction of property.<sup>260</sup>

Abuse and ill-treatment of Afghan detainees also violates Iran’s own domestic laws. Iran’s constitution forbids officials from “degrading” a detainee during arrest, detention, imprisonment, or banishment.<sup>261</sup> Moreover, Iran’s Citizens Rights Law which was promulgated by the judiciary in 2004 provides that, “[d]uring arrest and interrogation or asking for information or research, harassing the individuals like blindfolding, tying other body parts, belittling or denigrating them must be avoided.”<sup>262</sup> Article 169 of Iran’s State Prisons Organizations law also says that “[i]mprecations, utterance of indecent words, and ill temper toward the accused or prisoner violate the law.” The article also says that “[a]ll physical, violent, agonizing and insulting punishments are entirely forbidden in penal institutions and prisons.”<sup>263</sup>

Torture is also prohibited under Article 38 of the Constitution.<sup>264</sup> Under Article 578 of the Islamic Penal Code, an official who inflicts corporal harm and torment on an individual in custody is subject to penalties including a prison term ranging from six months to three years.<sup>265</sup> Article 578 assigns responsibility for a harm inflicted by low-level prison or detention facility employees to superior officers who ordered it.<sup>266</sup>

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<sup>258</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted December 10, 1984, G.A. Res. 39/46 [annex 39, U.N. GAOR Supp. (No. 51) at 197, U.N. Doc A/39/51 (1984) entered into force June 26, 1987, art 2 (1).

<sup>259</sup> Convention Against Torture, art. 1 (1).

<sup>260</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Rules for the Protection of Juveniles), adopted December 14, 1990, G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990), art. 63.

<sup>261</sup> Iranian Const., art. 39. The article reads: “[a]ll affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment.”

<sup>262</sup> Citizens Rights Law, art. 6, ratified by parliament on April 19, 2004, amended and ratified by Parliament April 21, 2004. See also arts. 1 and 9 prohibiting other forms of mistreatment of detainees.

<sup>263</sup> Executive Procedure for the State Prisons and Security and Corrective Measures Organization] 1384 [adopted 1985, amended 2005], art.169.

<sup>264</sup> Iranian Const., art. 38. The article provides that “[a]ll forms of torture for the purpose of extracting confession[s] or acquiring information” are prohibited.

<sup>265</sup> Islamic Penal Code, art. 578.

<sup>266</sup> Ibid.

## Deportation without Due Process

The overarching problem linking many of the abuses detailed in this report is that deportation of Afghans is typically swift and entirely lacking in procedural protections. Interviews conducted by Human Rights Watch with dozens of deportees paint a picture of a system where any Afghan – including refugees and others legally present in Iran as well as undocumented Afghans – may be at risk of immediate deportation at all times.

People interviewed by Human Rights Watch described being deported so quickly that they were forced to leave behind their savings, their uncollected wages, their belongings, and, as described in a later section, sometimes their families.<sup>267</sup> Many interviewees talked about their fear of leaving the house and described a life where they had little contact with neighbors because every trip outside risked arrest and deportation. Iranian law enforcement authorities appear to have the authority to arrest and deport Afghans arbitrarily, with few if any protections. This is the case even if the Afghans are in the country legally, including with refugee status.

No protections exist in the deportation process to permit Afghans threatened with deportation to appeal their removal. Afghans told us they had no opportunity to present proof that they were legally present, describe aspects of their situation that could entitle them to asylum, or seek leave to remain in Iran on other legal or humanitarian grounds.

Ali N., age 30, had been in Iran for 13 years. He had renewed his Amayesh card until 2010 but then he lost the card. He reported it lost but says, “They wouldn’t give me a new one because they said it wasn’t my picture.” He was picked up for not having papers once and was able to convince the police to let him go by proving that he had reported the card lost. The second time he was picked up he had a copy of his old card with him, but he says,

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<sup>267</sup> Afghans with valid documentation proving refugee status, unlike Afghans who do not have documentation and are being deported, can seek assistance in collecting wages and outstanding debts through Dispute Settlement Committees (DSCs). DSCs were established in 9 Iranian provinces pursuant to an agreement between Iran, Afghanistan, and UNHCR. In each DSC, a judge appointed by the Ministry of Justice hears claims together with a BAFIA-appointed legal expert appointed by BAFIA and an Afghan refugee selected by the refugee community. Those appearing before the DSC are represented by a lawyer paid and supervised by UNHCR. The purpose of the DSCs is to settle disputes among Afghan refugees and between Afghan refugees and Iranian nationals. The goal in establishing the DSCs was to help Afghans settle their affairs, including recovering outstanding wages or debts prior to their repatriation. Human Rights Watch interview with staff member of an international organization (name withheld), December 2012.

“They arrested us and took the document and said it’s not yours.” He was deported with his wife and their three children aged 8, 6, and 4 months old.<sup>268</sup>

“I have been in Iran for a total of 13 years. Last time I was there was about four or five years ago,” said Jahid T., age 43. “My father was injured and couldn’t work so I went to Birjand [in eastern Iran] and worked there for five years. I have a seven-day-old daughter. I was kicked out even though I had a UNHCR card. I showed them [the police] a photocopy of the card and they just tore it up.” Jahid T. was deported without his family.<sup>269</sup>

Not only is there no opportunity for Afghans to obtain legal assistance to help them fight deportation, there is no forum in which legal assistance could help. Iranian police act as judge, prosecutor, and jury and make life-changing—and at times life-destroying—decisions in an instant with no accountability and few, if any, opportunities for the Afghans involved to seek recourse. Many deportees with whom Human Rights Watch spoke indicated that the process of deportation was often so speedy and streamlined that there was no opportunity for them to contact friends and family to inform them of their whereabouts, let alone challenge the grounds for their deportation.

The (ICCPR), to which Iran is a state party, provides: “No one shall be subjected to arbitrary arrest or detention.”<sup>270</sup> The UN Human Rights Committee, which oversees implementation of the Covenant, has emphasized that the concept of arbitrariness should not be equated with “against the law” but must also include such elements as “inappropriateness and injustice.” It states that to avoid being arbitrary, detention should not continue beyond the period for which a state can provide appropriate justification. It also points out that detention could be considered arbitrary if “it is not necessary in all the circumstances,” for example to prevent flight, and that “the element of proportionality becomes relevant in this context.”<sup>271</sup>

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<sup>268</sup> Human Rights Watch interview with Ali N., Islam Qala, April 19, 2012.

<sup>269</sup> Human Rights Watch interview with Jahid T., Islam Qala, April 16, 2012.

<sup>270</sup> International Covenant on Civil and Political Rights (ICCPR), G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) art.9 (1), U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.

<sup>271</sup> Decisions of the Human Rights Committee, A v Australia No 560/1993, U.N. Doc. CCPR/C/59/D/560/1993 (1997); C v Australia No 900/1999, op.cit.; Baban v. Australia No 1014/2001, U.N. Doc. CCPR/C/78/D/1014/2001 (2003), Bakhtiyari v. Australia, U.N. Doc CCPR/C/79/D/1069/2002 (2003).

At least with respect to refugees, the manner in which these deportations take place violate article 16 of the Refugee Convention which requires that Iran provide refugees with “free access to the courts of law,”<sup>272</sup> and that the Afghan migrant refugee receive “the same treatment as a national in matters pertaining to access to the Courts.”<sup>273</sup> In addition, under the Refugee Convention, the expulsion or deportation of a refugee can only take place “in accordance with due process of law.”<sup>274</sup> Except in cases where “compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.”<sup>275</sup> And expulsion to a place where the refugee’s life or freedom would be threatened is prohibited.<sup>276</sup>

Article 31 of the Refugee Convention states that governments “shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened... enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.”<sup>277</sup>

UNHCR’s Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers clarify these provisions with regard to those who are seeking asylum by reaffirming the basic human right to seek and enjoy asylum, and by stating as an explicit guideline that “[a]s a general rule, asylum seekers should not be detained.”<sup>278</sup> The Guidelines also note that detention should not be used as a punitive or disciplinary measure, or as a means of discouraging refugees from applying for asylum.

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<sup>272</sup> Convention relating to the Status of Refugees, 189 U.N.T.S. 150, entered into force April 22, 1954. (Refugee Convention).

<sup>273</sup> Ibid., art. 16.

<sup>274</sup> Ibid., art.32(2).

<sup>275</sup> Ibid.

<sup>276</sup> Ibid., art. 33(1).

<sup>277</sup> Ibid., art 31 (1).

<sup>278</sup> UNHCR, “UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers,” February 1999, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G05/438/05/PDF/G0543805.pdf?OpenElement> (accessed June 11, 2012).

### *Case of Nabil M. and Family*

Nabil M., now 31 years old, and his wife, now 29, paid a smuggler to take them to Iran nine years ago. “There was war and there was no work. We are eight brothers and have no land at home,” explained Nabil, who is from Kunduz in Northern Afghanistan.<sup>279</sup> Their children, ages 8, 6, 4, and 2 years old, were all born in Iran. Nabil worked as a laborer, doing construction. His wife worked in the home as a tailor.

The family struggled and could not afford the fees to send their children to the special Afghan schools. Nabil said it would have cost 200,000 tomans (US\$163) per year plus transportation costs to send each child to school, an amount out of the family’s reach. The children were not vaccinated. “We didn’t have any documents. You can’t go to the hospital if you don’t have any documents,” Nabil explained. “If we went to the hospital we would have been refused or charged a huge amount of money.”

In spite of these obstacles, the family made great sacrifices to try to legalize their status in Iran. Nabil said they obtained CRP cards and then were able to extend the cards from the initial two months for another six months – at a cost of 185,000 tomans (US\$151).

None of this effort and expense prevented the family from being deported. “I was at work and the police arrested me,” Nabil said. “I showed the police the CRP documents, but they said no, you have to go back to Afghanistan and get a passport. But I can’t pay for a passport. I called my family and said I am being deported – come so we go together.”

Back in Afghanistan, Nabil is owed about 300,000 tomans (US\$245) in wages from Iran, which he said he hoped a relative would be able to collect and send to him. The family’s belongings were all left behind in Iran in the haste of their departure. “We have a few blankets and that’s it. We left everything else,” Nabil said.

The family plans to return to the province they left nine years ago. “We are going back, but we don’t even have any shelter there,” Nabil said. “If we are alive and there is a chance for work, we will do it.”

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<sup>279</sup> Human Rights Watch interview with Nabil M., Islam Qala, April 17, 2012.

### *Case of Hashim M. and Family*

Hashim M. was seven years old when he fled with his family from Kabul to Iran in 1992 amidst the collapse of the communist government in Afghanistan. Hashim stayed in Iran for the 19 years that followed, except for one trip back to Afghanistan for about a year. “I opened a shop in Kabul,” Hashim said. “But it didn’t work. It was a food store, a supermarket.”<sup>280</sup>

Back in Iran, Hashim says he was able to obtain refugee status about eight or nine years ago. He trained as a cobbler and worked in a factory making leather shoes, earning about 70-80,000 tomans a week (US\$57-65). He married and he and his wife have two sons, aged 2 and 3 years old.

Hashim was able to maintain his refugee documentation through Amayesh 4, which was a blue card issued in July 2009 and valid through April 2010,<sup>281</sup> but failed to replace it when it expired. “It was supposed to be changed, but the cost was more than 1 million rial (US\$82) and I couldn’t afford it. It costs 150,000 tomans (US\$122) to get work permission, but you can’t do that without [a current valid Amayesh card]. I had to renew [refugee status] every year and it cost a lot of money. The last time I couldn’t afford it.”

Hashim was arrested when police raided the shoe factory where he worked. His brother, who has valid papers, brought Hashim’s expired blue Amayesh card to the police station to show the police that Hashim formerly had refugee status. “They didn’t accept it,” he said.

Hashim, his wife, and their two boys were deported to Afghanistan. Their belongings were all left behind.

### **Poor Conditions in Detention Facilities**

In 2007, Human Rights Watch gathered accounts of Afghans caught up in the mass deportation of nearly 100,000 registered and unregistered Afghans from Iran. A large number of these Afghans passed through three main detention facilities operated by BAFIA and located near the Iran-Afghan border: Askarabad, Sefid Sang (“White Stone” Detention Facility), and Taleyeh Siah (“Black Dungeon”). Some of the Afghans interviewed by Human

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<sup>280</sup> Human Rights Watch interview with Hashim M., Islam Qala, April 18, 2012.

<sup>281</sup> Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

Rights Watch complained of poor conditions in the camps, where they sometimes spent weeks before they were finally deported to Afghanistan.<sup>282</sup>

Little seems to have changed since 2007. Based on interviews conducted by Human Rights Watch in 2012 and 2013, many of the detention facilities Afghan migrants continue to be confined in while awaiting deportation are one or two room structures, with people sleeping on the floors.<sup>283</sup> They vary significantly in size and the number of deportees held, from small provincial facilities with few deportees to large and busy centralized facilities such as White Stone Detention Facility. They are often overcrowded, and the BAFIA authorities managing them often wait and let deportees accumulate until they have a full load of people before they transport them to the border.

Deportees typically stay for a few days or less, but in some cases people without money to pay transport fees for their deportation, or who are repeat offenders, are held longer and forced to work in the detention facility. Many interviewees described having to sleep outside in the yard, including in cold weather and in the rain, because the detention facility was too overcrowded to accommodate everyone.<sup>284</sup> Deportees described the White Stone Detention Facility as consisting of two large halls, and several estimated the number of deportees there at one time at up to 4,000 people or even more.<sup>285</sup>

Conditions in local police stations, where deportees are usually taken immediately after arrest, are also often poor. Farid H., age 13, Jawed M. age 14, and Abdul K., age 18, are not related but were travelling together with a smuggler into Iran when they were arrested along with the smuggler. They were taken to a local police station in the southeastern city of Kerman. “It was extremely dirty and had one room. Even a donkey wouldn’t agree to stay there,” Abdul K. said. “While we were there they harassed us. One of the police officers shot in the air to scare us and tell us to shut up.”<sup>286</sup>

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<sup>282</sup> “Iran: Halt Mass Deportation of Afghans,” Human Rights Watch news release, June 20, 2007, <http://www.hrw.org/news/2007/06/17/iran-halt-mass-deportation-afghans>.

<sup>283</sup> The majority of Afghan deportees Human Rights Watch interviewed for this report were detained in White Stone, which is not surprising as that facility is close to Islam Qala.

<sup>284</sup> Human Rights watch interviews at Islam Qala with Sharif, 19 years old, April 16, 2012; Saeed A., 18 years old, April 16, 2012; Farukh, 25 years old, April 16, 2012; Hafiz, 15 years old, April 17, 2012; and Shahib M., 17 years old, April 18, 2012.

<sup>285</sup> Human Rights Watch interviews in Islam Qala with Walid J., April 16, 2012; Qader M., April 17, 2012; Shahib M., April 18, 2012.

<sup>286</sup> Human Rights Watch interview with Farid H., Jawed M., and Abdul K., Islam Qala, April 18, 2012.

Deportees also consistently complained about the food in the detention facilities.

“The food is not good. The water is not properly boiled. People become sick and there is no medical care. Some people are at White Stone for two or three months,” Wais R., age 24, told Human Rights Watch.<sup>287</sup>

“I was arrested four or five days ago,” said Hamid H., age 18, who passed through Qom and White Stone detention facilities before being deported. “There was no food and no blankets to sleep in both detention facilities. Some got food, some not. There was very little.”<sup>288</sup>

Qader M., who despite being 15 was held with adults, said, “The food they were giving was one potato and one piece of bread for three people.” He said that there was food for sale in the detention facilities, but it was marked to prices about six times higher than what it would cost outside.<sup>289</sup>

“There was food for one for three or four people,” said Khabir Mohammed and Tamim, two cousins returning voluntarily from Iran.<sup>290</sup>

“People were badly sick [at White Stone Detention Facility] and they didn’t care,” Abdul Rahim G., age 48, said. “The food is bad. It makes you sick. It causes diarrhea.”<sup>291</sup>

“They were giving one potato and half a piece of bread for each person three times a day,” Shahib M. age 17, told Human Rights Watch. “There were a lot of children who remained at White Stone because they had no money. One 13-year-old boy got very skinny because he had no money. He was there for 30 days. He was still there when I left. There were many more like him. If they made any mistakes they made them stand holding their ears with one leg up for 20 minutes or do 180 knee bends. They made me get up and down 180 times. I was so tired I couldn’t so they slapped me.”<sup>292</sup>

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<sup>287</sup> Human Rights Watch interview with Wais R., Islam Qala, April 16, 2012.

<sup>288</sup> Human Rights Watch interview with Hamid H., Islam Qala, April 16, 2012.

<sup>289</sup> Human Rights Watch interview with Qader M., Islam Qala, April 17, 2012.

<sup>290</sup> Human Rights Watch interview with Khabir M. and Tamim, Islam Qala, April 17, 2012. Single men are obliged to be processed through the detention facilities even when they leave Iran voluntarily. Human Rights Watch interview with staff member of international organization (name and location withheld), April 2012.

<sup>291</sup> Human Rights Watch interview with Abdul Rahim G., Islam Qala, April 19, 2012.

<sup>292</sup> Human Rights Watch interview with Shahib M., Islam Qala, April 18, 2012.

Both the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>293</sup> and the United Nations Standard Minimum Rules for the Treatment of Prisoners<sup>294</sup> stipulate minimum benchmarks for detention facilities to ensure the health and wellbeing of detainees, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty provide additional protections for detained children.<sup>295</sup> The Standard Minimum Rules outline a comprehensive list of guidelines which operators of detention centers should follow, including standards for sleeping quarters,<sup>296</sup> lighting,<sup>297</sup> sanitary conditions,<sup>298</sup> food provision,<sup>299</sup> and access to medical care.<sup>300</sup> The Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment specifies the obligation of detention facilities to ensure adequate medical treatment to detainees.<sup>301</sup>

Iranian law also provides minimum guarantees for conditions of detention facilities. The State Prisons Organizations law, for example, requires authorities to provide basic minimum shelter, including a bed, mattress, pillow, and blankets, three meals a day, necessary kitchen tools, regular cleaning and disinfecting of detention centers, access to light and fresh air, and adequate hot water, restroom, and shower facilities.<sup>302</sup>

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<sup>293</sup> Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988) <http://www1.umn.edu/humanrts/instree/g3bpppdi.htm> (accessed August 19, 2009).

<sup>294</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977.

<sup>295</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Rules for the Protection of Juveniles), adopted December 14, 1990, G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990), art. 63.

<sup>296</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977, principles 9, 10.

<sup>297</sup> Ibid., principle 11.

<sup>298</sup> Ibid., principle 14.

<sup>299</sup> Ibid., principle 20.

<sup>300</sup> Ibid., principle 25.

<sup>301</sup> Body of Principles, principle 24.

<sup>302</sup> Executive Procedure for the State Prisons and Security and Corrective Measures Organization] 1384 [adopted 1985, amended 2005], arts. 71, 93, 95-96, 104, 106, 108.

## Abuse and Neglect of Unaccompanied Migrant Children

Unaccompanied migrant children are enormously vulnerable to abuse during the detention and deportation process. Our research suggests that, in many cases, Iran and the Afghan border authorities do not adequately protect these children's interests.

Unaccompanied Afghan migrant children – children traveling without a parent or other caregiver – are some of the most vulnerable Afghans and are often subject to myriad abuses in Iran and during the border crossings. Some children are parted from their families during migration, particularly when arrested; others travel from Afghanistan without their families. Children who travel to Iran alone are at risk of death and police abuse during the journeys in both directions. When they are in Iran, they do not have guardianship of any kind, or sufficient access to asylum, let alone assistance with basic necessities such as shelter, education, and food, as required by international law.

Our interviews suggest that authorities frequently detain children in transit detention facilities without due process, guardianship, or access to a lawyer. The children are often kept in rooms with unrelated adults, sometimes beaten or otherwise abused by police or transit detention facility guards, given inadequate food and no education during their stay, and often forced to pay fees in order to leave the detention facilities.

We interviewed a total of 41 migrant children returning to Afghanistan unaccompanied by a parent or a guardian. On each of the five days or so Human Rights Watch spent at the Islam Qala border crossing, we saw from 10 to 30 unaccompanied children, some as young as 12, seeking assistance from the International Organization for Migration (IOM). We met other unaccompanied children who chose not to seek assistance from IOM. The total number of unaccompanied children passing through on any given day was impossible to gauge as they mix in with large groups of adults crossing the border. The Afghanistan Independent Human Rights Commission (AIHRC) confirmed that they see thousands of children as young as 10 being deported alone and occasionally children as young as 8 years old being deported alone.<sup>303</sup> The vast majority of these children are boys, but there are also a

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<sup>303</sup> Human Rights Watch interview with Afghan official (name and location withheld), April 2012.

handful of girls deported alone each year.<sup>304</sup> In 2011, an estimated 2000 unaccompanied Afghan children were deported from Iran through Islam Qala border crossing alone.<sup>305</sup>

Most of the children interviewed by Human Rights Watch, who ranged in age from 12 to 17 years old, had travelled alone to Iran to earn money to help their families. On being arrested and deported, these children faced a difficult and dangerous journey to try to reunite with families in Afghanistan, often in some of Afghanistan's most remote and insecure areas. Most were penniless and some were afraid to return home, feeling that they had failed in their obligation to earn money and assist their families.<sup>306</sup> Some, perhaps many, attempt to return to Iran.

#### *Case of Zalmai K.<sup>307</sup>*

“I just went to Iran 20 days ago,” Zalmai K., 12 years old, told Human Rights Watch in April 2012. I was with a few other boys from my same village [in Dai Kundi province, in Afghanistan]. I went for work. My family paid the smuggler to take me.”<sup>308</sup> Zalmai described a journey he had made with about 440 other Afghan men and boys being led by smugglers. “We went via Pakistan. We went to Bam and then Kerman [towns located in southeastern Iran]. We were in a forested area when we were arrested. We had gone there to hide from the police.” Zalmai said the entire group of over 400 Afghans was arrested. Zalmai was kept by police with a smaller group of 15 people – two boys and the rest men.

Many children travel to Iran on orders from their family or to pay off debt. Mustafa A., 13 years old, was told by his family to go to Iran after a land deal went wrong for his father, landing the family in debt. “My father owes money because he bought land,” Mustafa explained. Even small amounts of debt can push poor families into feeling that sending a

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<sup>304</sup> Ibid.

<sup>305</sup> Human Rights Watch interview with border official (name and location withheld), April 2012.

<sup>306</sup> Many of the children interviewed had made perilous and terrifying journeys to Iran as members of large groups of Afghans escorted by smugglers, walking for many hours through the mountains, sometimes set upon by thieves. They or their families paid smugglers as little as US\$120 but more typically US\$500-600, though some said they were obliged to pay the smuggler only if they were successful in reaching Tehran. The main reason for making this journey was to try to make money to send home to impoverished families.

<sup>307</sup> Human Rights Watch interview with Zalmai K., Islam Qala, April 16, 2012.

<sup>308</sup> People who had travelled to Iran via smugglers reported a range of prices for the trip, ranging from as little as about US\$100 to US\$2,300 to travel all the way to Turkey. US\$600 seemed to be a typical price to travel from Afghanistan to Iran, though many interviewees told Human Rights Watch that they were only obliged to pay after arrival if they were successful in reaching their destination in Iran.

son to Iran is their only option for financial survival. Abbas, 15 years old, said, “My family owed 30,000 Afghanis (US\$600) to a shopkeeper for rice and other food.”<sup>309</sup> Ehsan A., 15 years old, told Human Rights Watch, “My family owed money to the neighbors. We owed for flour, for bread and for firewood. We owed 15-16,000 Afghanis (US\$300-320).”<sup>310</sup> Yama H., 14 years old, travelled to Iran in an effort to pay off the US\$1200 dowry his family owed for the marriage of Yama’s 15-year old brother.<sup>311</sup>

Many boys try repeatedly to get to Iran, even if they are arrested and deported back to Afghanistan and even knowing the risks of the journey. Shahib M., 17 years old, had been arrested and deported after 23 days in Iran. He said in 10 days or one month, he would try again to get to Iran. “My father has been sick for 10 years,” he said. “I have tried a lot to feed my parents in Afghanistan by working here but I didn’t succeed. My parents don’t accept [my failure], and I have to go [again].” Shahib is the only son in his family.<sup>312</sup>

Zabiullah, 12 years old, and Idris, 14 years old, were arrested one day after crossing the border. They were going to try to join their father. On a previous attempt, they had travelled with their father, and all three had been arrested and deported. Their father then made another attempt alone and once successful, arranged for his sons to try again to be smuggled in to join him. “We were going to work,” Idris said. “We have no land here.” The family is from Dai Kundi, one of Afghanistan’s poorest provinces, and the source of a large proportion of the unaccompanied children interviewed by Human Rights Watch.<sup>313</sup>

Unaccompanied children crossing borders and travelling long distances without protection or financial resources are at extreme risk of abuse. When these children arrive in Iran, they are entitled to guardianship, legal protection, and access to basic services including shelter, food, and education while their situation is resolved. Yet they are often arrested, detained, and expelled with little attention paid to these rights. All of the unaccompanied children interviewed by Human Rights Watch reported that while in the custody of the Iranian government – for periods ranging from a day or two to several weeks – they were held in overcrowded cells and detention facilities with unrelated adults.

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<sup>309</sup> Human Rights Watch interview with Abbas, Islam Qala, April 19, 2012.

<sup>310</sup> Human Rights Watch interview with Ehsan A., Islam Qala, April 19, 2012.

<sup>311</sup> Human Rights Watch interview with Yama H., Islam Qala, April 17, 2012.

<sup>312</sup> Human Rights Watch interview with Shahib M., Islam Qala, April 18, 2012.

<sup>313</sup> Human Rights Watch interview with Zabiullah and Idris, Islam Qala, April 19, 2012.

Many unaccompanied boys interviewed by Human Rights Watch arrived at the border in the company of older men who had met them in the detention facilities or otherwise during the deportation process and who were now “taking care” of them. The AIHRC, which makes an effort where possible to interview such children alone to determine who the non-relative escorting them is, told Human Rights Watch, “In the detention facilities adults are saying to children they will be their uncle or cousin and will help. The children lie and say this person is my uncle. It is clear that the children are being misused. Sometimes they are smuggling them back to Iran and sometimes they are abusing them sexually. These children are so lost and don’t know anything so they agree to go with this person.”<sup>314</sup>

IOM provides assistance on the Afghanistan side to unaccompanied children crossing the border, but it does so only if a child requests help. As each bus of deportees arrive, a representative meets the bus and advises the occupants of the bus of what assistance is available, but there is no mechanism to systematically screen all children to determine their circumstances and to determine whether a child who appears to be accompanied is in fact in the company of a stranger. In some cases, no doubt, the adult does take care of the child, but this ad hoc system highlights the extreme vulnerability of these children and the failure of the Iranian government to provide them protection as required by law.

None of the children interviewed by Human Rights Watch had been provided any special assistance by the Iranian authorities, in spite of clear international law which requires guardianship for unaccompanied migrant children. Such children are also entitled to free legal assistance in proceedings relating to their immigration status through a refugee claim or otherwise and help in all aspects of child protection including access to basic needs such as shelter, health care, food, and education.

Iran has specific duties to unaccompanied children, including those who have entered the country illegally and those who have been in the country only hours or days. State obligations under the CRC apply, without exception, within the borders or jurisdiction of a state, regardless of nationality or immigration status, and including with respect to those children who come under the state’s jurisdiction while attempting to enter the country’s territory.<sup>315</sup> Under the CRC, unaccompanied children enjoy all of the same rights as adults,

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<sup>314</sup> Human Rights Watch interview with Afghan official (name and location withheld), April 2012.

<sup>315</sup> UN Committee on the Rights of the Child, “Treatment of unaccompanied and separated children outside their country of origin,” General Comment No. 6, 09/01/2005, CRC/GC/2005/6 (2005), para 12.

including the rights to seek asylum, and to be free from abuse, discrimination, and refoulement.<sup>316</sup> Unaccompanied children also enjoy the same right to education as all other children in the country and the same right to have decisions about their legal status made based on their best interests.<sup>317</sup> In addition to these rights, the CRC requires that special assistance be provided to unaccompanied children, including immediate assessment, registration, and efforts to trace the child's family.<sup>318</sup> A guardian or advisor and legal representative must be appointed for an unaccompanied child and the child must be provided with appropriate care and accommodation and full access to education.<sup>319</sup>

On the Iranian side of the border, there appears to be no system to separate children from unrelated adults or to meet the specific needs of unaccompanied children. No effort seems to be made to provide them a guardian or determine their best interests, nor is it in fact clear which government agency should take responsibility for these children. As party to the CRC, Iran owes these children adequate shelter, food, education, and other basic needs. Yet testimonies gathered by Human Rights Watch suggest it is utterly failing to meet these standards.

#### *Case of Salim T.<sup>320</sup>*

"I left Afghanistan about one month ago," said Salim T., who is 14 years old. He is from Dai Kundi province in Afghanistan. He says six people from his village went, though he was the only person from his family. "I went because we didn't have anything to eat. We didn't have any money. In a way, we were destroyed. My family paid the smuggler, but it was my decision to go." Two of Salim's older brothers were already in Iran. Salim says he travelled with smugglers in a group of nearly 1,000 Afghans, 100-200 of whom were boys. "We went through Pakistan. In the Pakistan mountains we were walking, and thieves came with five AK-47s and took everything from us." Salim says that the thieves took their mobile phones and watches as well as money.

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<sup>316</sup> Ibid.

<sup>317</sup> Ibid.

<sup>318</sup> Ibid., para. 31.

<sup>319</sup> Ibid., paras 33, 39-43. See also UN High Commissioner for Refugees, "Guidelines on Policies and Procedures in Dealing with Unaccompanied Children Seeking Asylum," February 1997, <http://www.unhcr.org/refworld/docid/3ae6b3360.html> (accessed 29 May 2012).

<sup>320</sup> Human Rights Watch interview with Salim T., April 16, 2012, Islam Qala, Afghanistan.

An older man named Walid who had been travelling with the same group as Salim said, “The smuggler took us to the thieves. He was prepared. During the night they surrounded us and they said ‘we are here for your security.’ They stayed for the night and then in the morning they lined us up and searched everywhere, even our socks. One person was shot by the thieves because he tried to run away. He died and we left his body there.”

Salim and Walid also said that an old man in the group was very sick and became very weak while they were walking through the mountains. He was travelling with a small boy. They said that other members of the group carried him for a while but eventually gave up and left him and the small boy behind in the mountains. They believe that both the old man and the boy must have died.

After the group was robbed by unknown assailants, the smugglers disappeared. Salim says the group travelled on without the smugglers and managed to make it into Iran. On the other side of the border, in Zahedan they found another smuggler. This smuggler said he would take them to Tehran, and their families in Tehran could pay him once they arrived. Between Zahedan and Tehran, however, they were again robbed by thieves. “I had money in my shoe that the first thieves didn’t find,” Salim said. “But the second thieves found it.” Then, one day later, while walking, before making it to Tehran, police found them, and they were arrested.

They were taken first to a nearby deportation detention facility and then to the White Stone Detention Facility not too far from the Islam Qala border crossing. “In the detention facilities there was too little food,” Salim said. “I paid 30,000 Iranian tomans (US\$25) in the first detention facility and 10,000 rials (US\$8) at White Stone... The police said you have to pay or you will have to stay here.”

The Convention on the Rights of the Child limits the circumstances in which children may be detained and the duration of their detention. Such detention must be lawful, for the shortest appropriate time, and may be used only as a measure of last resort.<sup>321</sup> The Convention stipulates that the best interests of the child shall be a primary consideration in all actions taken by authorities, which includes the administration of detention.<sup>322</sup> The

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<sup>321</sup> CRC, art. 37(b).

<sup>322</sup> CRC, art. 3(1),(2).

Committee on the Rights of the Child, the body that oversees the Convention's implementation, has specified that “[unaccompanied] children should not, as a general rule, be detained,” and that “detention cannot be justified solely [...] on their migratory or residence status, or lack thereof.”<sup>323</sup>

The Convention on the Rights of the Child as well as the International Covenant on Civil and Political Rights oblige states parties to separate unrelated adults from children in detention.<sup>324</sup> Besides the obligation to separate children from unrelated adults in detention, a number of procedural safeguards apply to children who are detained. The Convention on the Rights of the Child mandates states parties to provide detained children “the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty...”<sup>325</sup> The United Nations Rules for the Protection of Juveniles Deprived of their Liberty dictates further principles for appropriate detention conditions for children.<sup>326</sup>

Human Rights Watch research suggests that Iran is failing to meet these standards, instead subjecting unaccompanied migrant children to arbitrary and abusive detention with unrelated adults.

#### *Arrest, Detention, and Abuse in Police Stations and Transit Detention Facilities*

Afghan migrant children in Iran can be arrested at virtually any time, with little or no access to legal due process or the protections guaranteed children under international law.

Children can be arrested as they move around the towns in which they live. Fourteen-year-old Nader R. was working in construction, unable to afford to go to school in Iran. On his way to work one morning, Iranian police grabbed him and handcuffed him. “They kept me at the police station for three hours,” he said. “They refused to let me call my family, and they hit me with electric cords.”<sup>327</sup>

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<sup>323</sup> UN Committee on the Rights of the Child, General Comment No.6, para 61.

<sup>324</sup> CRC, art. 37 (c), ICCPR, art. 10(b). The CRC only allows the joint detention of children and adults if it is in the child's best interests. *Ibid.*

<sup>325</sup> CRC, art. 37(d).

<sup>326</sup> United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Rules for the Protection of Juveniles), adopted December 14, 1990, G.A. Res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990).

<sup>327</sup> Human Rights Watch interview with Nader R., Islam Qala, April 16, 2012.

“I was in Iran for 12 years – I went with my family. I don’t know anyone here in Afghanistan,” said Ali Reza, age 16. “I had an ID card and lived in Qom. I always went out with my ID card but this on time I went out without it. It was a Friday and I was with friends and we were confronted with five police officers.” Ali Reza was deported alone.<sup>328</sup>

Children can also be arrested moving between towns. Nasrat B., an Afghan boy aged 15, left his family’s home in Ghazvin (in northwestern Iran) and travelled to where his uncle lived in Takistan, about 35 kilometers away. Once there, he said, “I went out to the square and the police came and took me. My passport doesn’t say [that it is only valid in] Ghazvin, but when the police typed the serial number into their computer it said it was for Ghazvin.” The police arrested Nasrat, saying his Afghan passport was valid only in Ghazvin and he had illegally left Ghazvin. “No one told me the passport was limited [to one place],” Nasrat said. “They just gave them to us.”

As noted above, authorities regularly keep both children and adults in transit detention facilities prior to their deportation, and boys are often held with unrelated adult men. They are sometimes subjected to physical abuse from the guards for reasons which include failing to perform labor tasks, being unable to pay fees, or as “punishment” for having entered the country without legal documents.

“In [the southeastern city of] Bam they arrested us – 48 of us total – while we were sleeping in guesthouses,” Daoud, age 16, said, describing how he was caught on the Iranian side of the border as he tried to rejoin his older brother in Iran following a previous deportation. He continued:

Around 6 a.m. about 20-25 officers in military uniforms attacked the houses and arrested us. Some of us were beaten. They loaded us onto trucks and drove for a while. Then we got out in the middle of a barren desert at some point. They brought us some food and then took us to a local police station. There were some 12 and 13 year olds with us too. At the local police station there were about 450 undocumented Afghans. We needed to come up with 5,000 tomans each (US\$4) to pay for our transportation to the detention facility in Kerman. I was forced to stay one night because I didn’t have any money and they [the police] beat me with a baton in the head that night several times. They asked me to pay

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<sup>328</sup> Human Rights Watch interview with Ali Reza, Islam Qala, April 16, 2012.

2,000 tomans (US\$1.63), but I didn't have it so they put me in a car and transferred me to Kerman Detention Facility. There I needed 5,000 tomans (US\$4) but I didn't have it, so I cried and begged until people helped me. Kerman Detention Facility was horrible. [The detention facility guards] beat and harassed us and fed us very little.<sup>329</sup>

Accounts of abuse from different parts of Iran were strikingly consistent. Sohail A., a 15-year-old boy, described his experiences in a detention facility in the central Iranian town of Yazd and in the southeastern town of Iranshahr close to the Iran-Pakistan border: “In Yazd Detention Facility they slapped us around here and there and they bothered and harassed us too.... [Staff] complained that they couldn't sleep at night because of us Afghans in the detention facility. They told us ‘Go back home!’”

When Sohail tried again to get to Iran, he was caught again, but this time in Iranshahr. And he was beaten again. “We were in a guesthouse sleeping when three police cars raided with 10 officers. They beat us a lot by kicking us with their boots and hitting us with their belts. At Iranshahr police station there were about 60 of us stuffed inside one room. They harassed and threatened us there.”<sup>330</sup>

Detained children described a sense of being entirely at the mercy of the Iranian security forces, who appeared free to inflict abuse with impunity. Ali Reza, age 16, described his arrest by the police:

They let the other guys go but kept me and beat me. They had problems and wanted to take it out on me for some reason. They took me and two or three other undocumented people. They insulted us the whole way [to the police station]. When we got there they took my mobile from me.<sup>331</sup>

Security forces arrested Khalid, age 17, in the southeastern city of Zahedan shortly after smugglers managed to transport him across the border and into the country. “The Baloch smuggler had gone to get food when about 14 police raided and handcuffed us,” he said. “‘Why are you here, you idiots? Go back home!’ they said.” Khalid says they were taken to

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<sup>329</sup> Human Rights Watch interview with Daoud, Islam Qala, April 18, 2012.

<sup>330</sup> Human Rights Watch interview with Sohail A., Islam Qala, April 19, 2012.

<sup>331</sup> Human Rights Watch interview with Ali Reza, Islam Qala, April 16, 2012.

a police station where the police charged them for transport and then to a detention facility in Zahedan.

“We spent two nights at the detention facility and were mistreated. They beat some of us and insulted us by saying things like, ‘Why do you come and dirty our country?’” Khalid says they were then taken to White Stone Detention Facility. “Some of us had to work there and stayed for another eight or so nights before being allowed to leave. [We paid] 26,000 tomans (US\$21) to get to the border from White Stone Detention Facility. They mistreated us at White Stone and harassed us for no reason at all; I don’t want to return to Iran.”<sup>332</sup>

Children held in detention facilities also complained of being held with adults and not having enough to eat or drink. After being arrested, Zalmai said he was held first in the police station in the southeastern city of Kerman and then taken to White Stone Detention Facility. In each place he was kept with adults, and “the situation was bad,” he said. “There was not enough food or water.”

Authorities at the detention facilities require everyone, including unaccompanied children, to pay fees for release from transit detention facilities. “We were en route to Kerman when we were arrested,” Sohrab, age 14 and Noori, age 15 told Human Rights Watch that they were en route to Kerman with a smuggler when they were arrested. Sohrab said: “All 28 of us were on foot. Six in our group escaped and the rest were arrested. We spent one night at the detention facility in Kerman and one night in White Stone. To [go to] White Stone they took 25,000 tomans (US\$20) from us and from White Stone 5,000 tomans (US\$4) plus 20,000 (US\$16) for municipal taxes. If we didn’t have the money we’d have had to stay.”

Shahib M., 17 years old, travelled alone to Iran to try to help his family financially because his father has a long-term illness. Iranian authorities charged him 4,000 tomans (US\$3) in transportation fees from a police station in Kerman to Kerman Detention Facility, 30,000 tomans (US\$25) for transport onward to White Stone Detention Facility, and 25,000 tomans (US\$20) for the trip from White Stone Detention Facility to the border. “They would have taken more of my money but I hid some in my sock,” he said. “I gave away about 20,000 tomans (US\$16) to help others.”<sup>333</sup>

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<sup>332</sup> Human Rights Watch interview with Khalid, Islam Qala, April 19, 2012.

<sup>333</sup> Human Rights Watch interview with Shahib M., Islam Qala, April 18, 2012.

Many deportees interviewed by Human Rights Watch described special punishments reserved for those who had been deported from Iran on previous occasions. They explained that while in the detention facilities, their fingerprints were collected and if the detention facility staff found a matching record indicating that they had been deported previously, they could expect extra ill-treatment.

“We were transferred to White Stone, and I did not have enough money so I had to beg for it,” Sohail A., age 15, said. The amount he had to pay was 13,000 tomans (US\$11). Sohail was caught again entering Iran and sent to White Stone Detention Facility again. “We were fingerprinted and registered. [The detention facility guards] found out I was a returnee and forced me to spend 11 nights there as a form of punishment before I could come back.”<sup>334</sup>

Children who could not pay the fees charged by Iranian authorities consistently told us they were forced to work in the transit detention facilities to pay off their “debt” for the fees. Some said they were physically abused if they refused to work or were seen as not working hard enough.

Shahib M., age 17, was arrested with 13 other Afghans as they crossed the border from Nimroz province in Afghanistan into Iran. The group was separated, and he and two others were taken to a police station at the border. “They made us work for three days straight. They had us offload trucks of potatoes, tomatoes, et cetera, to search for drugs and then load them again. They gave us a few leftovers to eat. If there was no truck, we could sleep. If someone was too tired to work, they beat them to make them get up.”<sup>335</sup>

“At White Stone, they made me work for nine days without being paid [in the facility bakery],” said Amanullah, age 15.<sup>336</sup> “In Yazd we were held at the station for three days,” said Shahib M., age 17. “They made us work for those days. I spoke once without permission, and one of the officers told me to get up and squat 80 times for punishment. ‘Son of a bitch, shut up,’ he said.” Shahib M. was later transferred to White Stone Detention Facility. “If we spoke at White Stone they would hit us over the head with their batons.”<sup>337</sup>

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<sup>334</sup> Human Rights Watch interview with Sohail A., Islam Qala, April 19, 2012.

<sup>335</sup> Human Rights Watch interview with Shahib M., Islam Qala, April 18, 2012.

<sup>336</sup> Human Rights Watch interview with Amanullah, Islam Qala, April 17, 2012.

<sup>337</sup> Human Rights Watch interview with Shahib M., Islam Qala, April 18, 2012.

Abuse and ill-treatment of Afghan detainees violates Iran's domestic laws, in addition to numerous international laws. Iran's constitution forbids officials from degrading a detainee during arrest, detention, imprisonment, or banishment.<sup>338</sup> Moreover, Iran's Citizens Rights Law, promulgated by the judiciary in 2004 provides that, "[d]uring arrest, interrogation or the conduct of investigations, harassment of individuals including blindfolding, tying body parts, belittling or denigrating them must be avoided."<sup>339</sup> Article 169 of Iran's State Prisons Organizations law also says that "[i]mprecations, utterance of indecent words, and ill temper toward the accused or prisoner violate the law." The article also says that "[a]ll physical, violent, agonizing and insulting punishments are entirely forbidden in penal institutions and prisons."<sup>340</sup>

Torture is also prohibited under article 38 of Iran's Constitution.<sup>341</sup> Under article 578 of the Islamic Penal Code, an official who inflicts "corporal harm and torment" on an individual in custody is subject to punishment, which could include retribution in kind or the payment of blood money, and a prison term ranging from six months to three years.<sup>342</sup> Article 578 assigns responsibility for harms inflicted by low-level prison or detention facility employees to superior officers if they ordered the abuse.<sup>343</sup>

## Family Separation

While many children travel to Iran alone, as described above, others travel with their families and are separated during the deportation process. Such children most often have no clear way to reunite with their families.<sup>344</sup>

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<sup>338</sup> Iranian Const., art. 39. The article reads: "[a]ll affronts to the dignity and repute of persons arrested, detained, imprisoned, or banished in accordance with the law, whatever form they may take, are forbidden and liable to punishment."

<sup>339</sup> Citizens Rights Law, art. 6, ratified by parliament on April 19, 2004, amended and ratified by Parliament April 21, 2004. See also arts. 1 and 9 prohibiting other forms of mistreatment of detainees.

<sup>340</sup> Executive Procedure for the State Prisons and Security and Corrective Measures Organization] 1384 [adopted 1985, amended 2005], art.169.

<sup>341</sup> Iranian Const., art. 38. The article provides that "[a]ll forms of torture for the purpose of extracting confession[s] or acquiring information" are prohibited.

<sup>342</sup> Islamic Penal Code, art. 578 (1996).

<sup>343</sup> Ibid.

<sup>344</sup> This is a more general problem. In a 2008 study of Afghan families deported from Iran, 6.5 percent of people interviewed said they were separated from family members during the arrest and deportation process. "ILO-UNHCR Cooperation Towards Comprehensive Solutions for Afghan Displacement: Research study on Afghan deportees from Iran," August 2008, Altai Consulting (on file with Human Rights Watch) p. 84.

In many cases, families are split apart in an instant by deportation, with no opportunity to communicate, challenge the deportation, or, if only certain family members are being sent back, to make the tough decisions about whether to endure separation or be deported together. International law provides for the right to family life, which is violated when families are arbitrarily separated.

#### *Case of Hasina and Zohrah and Family*

Hasina, 15, and Zohrah, 17, are Afghan girls from a family that has lived in Iran for 15-16 years. Their father was working as a day laborer, supporting himself, his wife, Hasina, Zohrah, and their three younger siblings (a 12-year-old sister, an 8-year-old brother, and a brother age 3 or 4). According to the girls, their family had valid refugee status. Zohrah was recently engaged to Mohammad J., a 21-year-old Afghan man, who had lived in Iran for two years. Mohammad J. had a valid CRP card.

On April 15, 2012, Hasina and Zohrah travelled on pilgrimage to the holy city of Qom about 35 kilometers away from their home. In Qom, the two girls told us, they were stopped by police because of their conspicuous shoes; Hasina was wearing bright pink sneakers, and Zohrah was wearing high heeled platform shoes. According to the girls, the police stopped them and said, “You cannot wear bright shoes like this – this is a holy city.” When Hasina and Zohrah argued with the police, they were arrested and accused of wearing makeup and having improper hijab.

After their arrest, Zohrah’s fiancé and Mohammad J. went to the police station where the girls were being held. When the men arrived, rather than giving them a chance to seek release of the two girls, the police arrested them as well, and all four were transferred immediately to a deportation detention facility and deported together several days later. The girls’ mother and three younger siblings remain in Iran. Their aunt and grandparents are also there. “I don’t know what we will do,” their father said. “We don’t have money here; we don’t have money to go back. My wife does not work – she is uneducated.”<sup>345</sup>

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<sup>345</sup> Human Rights Watch interview with Hasina, Zohrah, their father and Zohrah’s fiancé, Islam Qala, April 19, 2012.

### *Case of Arif and Family*

Arif and his wife were in Iran for 10 years. They have four children, the youngest of whom was born in Iran. Until about a year before we met them, they had been undocumented, but in 2011 they were able to obtain legal permission to stay under the CRP process. They were issued with cards that permitted them to remain pending an application for an Afghan passport and an Iranian visa. For the first time, the children were able to attend school – before they received the cards, the older children had gone to work with their father, who did day labor in farming and construction.

Seven days before being interviewed by Human Rights Watch, Arif and his wife left their home in Mashad for a religious pilgrimage to the holy city of Qom. They took their one-year-old infant with them, but left their three older children, aged 12, 10, and 8, at home alone.

“We were traveling in a mini-bus in Sarhak,” Arif said. “A police officer came in and asked for our ID. The police officer took the ID and said ‘I will give it back tomorrow, come at 8 a.m.’ I went and they put us all in a car and took us to a [deportation] detention facility.” Arif says the police told them that their CRP cards were valid only in Mashad. He says that he had gone to the Iranian government citizenship office and specifically requested a letter to permit them to go to Qom for four days, but had been told that a letter was not required.

“I begged so much for them [the Iranian authorities] to just deport my husband and to let me go back [for the children],” Arif’s wife said. “They refused.”

Arif and his wife spent seven days in the deportation process and were not able to call their children until they reached Afghanistan – the Iranian authorities not only refused to let them claim their children, they also confiscated their phones and denied them other ways of contacting their children. At the time of the interview, the children were still home alone. “I don’t know what I will do,” said Arif. “I don’t have money to get a passport and visa. We have no one in Mashad to help. We are going to Mazar-e-Sharif. We have no house there but we will try to rent a house and bring the children back from Iran. I don’t know how God will guide me.”<sup>346</sup>

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<sup>346</sup> Human Rights Watch interview with Arif, Islam Qala, April 16, 2012.

### *Case of Nasrat B.*

Fifteen-year-old Nasrat B. was deported alone even though his family had legal status in Iran.

“I am the oldest son in my family, I am 15 years old,” Nasrat B. told Human Rights Watch. Nasrat said he went to Iran with his parents when they fled there when he was one month old. He has three younger brothers and three younger sisters, all of whom were born in Iran. While Nasrat says his family was undocumented for many years, they had recently been able to make their status legal, first by obtaining CRP cards and then by using the CRP process to obtain Afghanistan passports and Iranian visas. The family had to pay fees to obtain documentation. Nasrat’s father was working as an agricultural day laborer and Nasrat was also working on farms when he was not at school, but the family was very poor. “All the money we earned we spent,” Nasrat said. “We didn’t have any savings. I was going to see my uncle because we needed money. All our money was spent on the passports.”

“Our uncle is a construction supervisor and he owed us some money.”

When traveling to visit his uncle, Nasrat was arrested. He was able to contact his family one day later and, according to Nasrat, his family went to the person who had issued them the passports and tried to get him to help. The man “said no, he has to be deported,” Nasrat told us.

When Human Rights Watch interviewed Nasrat, he had just arrived alone in Afghanistan, his first time in the country since he was one month old. He planned to go to an Afghan province near the Iranian border where he has some relatives. “I will talk with my family and decide what to do,” he said.

### *Case of Nader R.*

Nader R., like Nasrat, was separated from his family while in Iran and does not know how to reunite with them. He is 14 years old and is originally from Bamiyan province in Afghanistan. He went to Iran with his mother and father and siblings when he was 8 years old.

It was only after he crossed the border into Afghanistan that Nader was able to call his family. When Human Rights Watch interviewed Nader, he was alone on the Afghan side of the border. The International Organization for Migration provides services at the border crossing for what they call “extremely vulnerable individuals,” including unaccompanied

children such as Nader. These services include assisting such children in reuniting with their families, but it was far from clear how such a reunion could be made possible for Nader. “I don’t know what I’ll do now,” he said. “I don’t know anyone in this area. I have no family in Herat. I have to go back to Iran – mother has called me to come back.”<sup>347</sup>

### *Case of Mariam G.*

Mariam G. was born in Iran. She had completed six years of school when, at age 14, she went alone to register for secondary school. The school, seeing that she was Afghan, called the police. She was arrested and deported. “I wanted to go to school and they took me and they said I had to be deported because I was alone. I said ‘no, I have my family.’ They said because I was Afghan I had to be deported.” After Mariam was deported, the Afghan border police took her to a women’s shelter in a nearby Afghan city. Mariam remained in the shelter for two years. Her family never came to get her. She was only able to speak with them once. After two years, when Mariam was 16, the staff of the shelter found a husband for her, and she married him and left the shelter.

After encountering abuse from her new husband and mother-in-law, Mariam sought sanctuary at the shelter several times, but the shelter sent her back to her husband. Finally Mariam decided she had no choice but to go back to Iran. She made arrangements with another woman she had met at the shelter for the two of them to pay a smuggler to take them to Iran, where Mariam hoped to reunite with her family. The other woman needed to return to see her sick father. They were arrested while waiting to cross the border; Human Rights Watch interviewed Mariam in prison in Afghanistan. The two women said they had been waiting to cross the border in a house to which they had been sent by the smuggler. Two men were also waiting, and all four were prosecuted for *zina* (sex outside of marriage) because they had been alone in the house together. Mariam’s husband divorced her after she was arrested, and he and his mother do not want her back. She has been sentenced to three years in prison and plans to return to the shelter after she is released.<sup>348</sup>

In some cases, people arrested and facing deportation are permitted to call their families and have their families come and join them at the police station or in the detention facility so that they could be deported together. In one case, a man told Human Rights Watch that

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<sup>347</sup> Human Rights Watch interview with Nader R., Islam Qala, April 16, 2012.

<sup>348</sup> Human Rights Watch interview with Mariam G., Herat, Afghanistan, November 29, 2011.

the police themselves went to collect and bring his wife and children to join him for deportation. In other situations, however, such as the ones described above, families are split apart with no opportunity to even communicate.

The human right to family life is set forth numerous international human rights treaties. The Universal Declaration of Human Rights states that “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the State.”<sup>349</sup> The International Covenant on Civil and Political Rights states in article 17(1) that no one shall be “subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence.” Article 23 states that “[t]he family is the natural and fundamental group unit of society and is entitled to protection by society and the state,” and that all men and women have the right “to marry and to found a family.” The right to found a family includes the right “to live together.”<sup>350</sup> This right was recognized by the drafters of the 1951 Convention relating to the Status of Refugees who declared, at the conference that adopted the convention, that, “the unity of the family... is an essential right of the refugee.”<sup>351</sup>

The Human Rights Committee, the international treaty body that issues authoritative interpretations of the International Covenant on Civil and Political Rights (ICCPR), has explicitly stated that family unity imposes limits on states’ power to deport noncitizens.<sup>352</sup>

International treaties also protect the right of children to be raised by their parents, a right that is implicated when they are separated from their families during deportation. Article 24 of the ICCPR, to which Iran is a party, entitles children “to such measures of protection as are required by [their] status as a minor, on the part of the family, society and the state.” Article 9 of the Convention on the Rights of the Child (CRC), to which Iran is a party,<sup>353</sup> requires that “States Parties shall ensure that a child shall not be separated from

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<sup>349</sup> Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 78 (1948), art. 16(3). The Declaration also states, “Motherhood and childhood are entitled to special care and assistance.” UDHR, art. 25(2).

<sup>350</sup> UN Human Rights Committee, “General Comment 19: Protection of the Family, the right to marriage and equality of the spouses,” art. 23, July 27, 1990.

<sup>351</sup> Final Act of the 1951 U. N. Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, Recommendation B, July 25, 1951, <http://www.unhcr.org/40a8a7394.html> (accessed November 2, 2013).

<sup>352</sup> UN Human Rights Committee, “General Comment 15: The Position of aliens under the Covenant,” November 4, 1986.

<sup>353</sup> Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, ratified by Iran on July 13, 1994.

his or her parents against their will, except when ... such separation is necessary for the best interests of the child.”<sup>354</sup>

## Deportation-Related Fees and Forced Labor

Afghans being deported from Iran are charged fees along the way – fees for transportation, fees for the accommodation at the detention facilities, and municipal fees. Those who have no money to pay are either forced to work to pay off their “debt” or are reduced to begging from other deportees, remaining at the detention facility until they collect enough money.

While some other countries have enforced systems requiring deportees to pay for their own detention and administrative costs, such policies have come under harsh criticism from human rights organizations and bodies as inconsistent with human rights standards. While no international treaty specifically addresses the question of whether any detainee should be forced to bear the costs of their incarceration, article 45(3) of the United Nations’ Standard Minimum Rules for the Treatment of Prisoners specifies that “the transport of prisoners shall be carried out at the expense of the administration.”<sup>355</sup>

Because such fees are applied solely to foreigners being deported, they implicate non-discrimination standards. The committee which oversees the Convention for the Elimination of All Forms of Racial Discrimination, a treaty to which Iran is a party, notes that “any differential treatment based on citizenship or immigration status will constitute discrimination if the criteria for such differentiation, judged in the light of the objectives and purposes of the Convention, are not applied pursuant to a legitimate aim, and are not proportional to the achievement of this aim.”<sup>356</sup>

Whatever justification, legal or otherwise, the authorities give for taking money from detainees to pay for their own detention, the practice is in the minds of the detainees, indistinguishable from the corrupt money shakedowns they experience every step of their journey.

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<sup>354</sup> CRC, art. 9(1).

<sup>355</sup> Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977.

<sup>356</sup> General Recommendation No. 30: Discrimination against Non-Citizens, from January 10, 2004. International Convention on the Elimination of All Forms of Racial Discrimination, General Assembly resolution 2106 (XX), December 21, 1965, entry into force January 4, 1969, ratified by the Iran on Aug. 29, 1968.

“There were about 38 of us who were being smuggled. We were spending the night in a place close to Yazd when the police raided and caught us,” said Jamil M., age 21. “They transferred us to Yazd Detention Facility where we spent about one-and-a-half days, then to White Stone, which cost 30,000 tomans (US\$24.50). We spent one day at White Stone but I didn’t have any money for transportation to the border so my friends gave me about 20,000 tomans (US\$16) so I could pay and leave.”<sup>357</sup>

“We were transferred to the Arak Detention Facility [in northwestern Iran], and spent four or five days there,” Farhad, age 24, told Human Rights Watch. “The cost of transportation was 12,000 tomans (US\$10). Then they transferred us to White Stone for 41,000 tomans (US\$33). We spent one night there and were transferred to the border for 27,000 tomans (US\$22).”<sup>358</sup>

There is no exemption from these fees, even for unaccompanied children.

Abdul K., an 18-year-old boy travelling with two other boys, ages 13 and 14, who were not related to him, told Human Rights Watch that they were charged 25,000 tomans (US\$20) each for transfer from a local police station to a detention facility in Kerman. “We didn’t have money so friends helped us pay,” Abdul K. said. “Then we were transferred to White Stone Detention Facility. We spent two days and two nights there. They wanted 62,000 tomans (US\$51) for all of us but we didn’t have money. We collected money from others [imprisoned in the detention facility] and got out.”<sup>359</sup>

Deportees are required to pay not only transportation charges and fees for staying in the detention facilities, but also fees to the municipalities they pass through as they are deported.

Freshta K. was deported with her husband and their five children. “[For transport] from Arak Detention Facility to White Stone we paid 300,000 tomans (US\$245),” she said. “The officials wanted 20,000 tomans (US\$16) each, but we had no money. I screamed and quarreled a lot and we paid 30,000 total (US\$25).”<sup>360</sup>

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<sup>357</sup> Human Rights Watch interview with Jamil M., Islam Qala, April 17, 2012.

<sup>358</sup> Human Rights Watch interview with Farhad, Islam Qala, April 18, 2012.

<sup>359</sup> Human Rights Watch interview with Farid H., Jawed M., and Abdul K., Islam Qala, April 18, 2012.

<sup>360</sup> Human Rights Watch interview with Freshta K., Islam Qala, April 16, 2012.

“They are now asking for 20,000 tomans (US\$16) in municipal tax,” said Abdul Rahim G., 48. “People who said they didn’t have money were taken out and searched for money [by detention facility guards]. They said the municipality is collecting your garbage. They are getting 500,000 (US\$408) tomans per bus. Is this not the anger of god?”<sup>361</sup>

“On the way they searched for all of our money to give to others who don’t have money so they can pay to be deported,” explained Said Gul H., age 18. He said that when he was arrested he had 100,000 tomans (US\$82) with him, but the police searched his bag and took all of it.<sup>362</sup>

Habiba, age 30, who was deported with her husband, her five children, her brother, her sister-in-law, and her sister-in-law’s family, said, “They took all our money at the police station in Shahbaz. We had to borrow money from others because we had none to get to the border.”<sup>363</sup>

Deportees told us that people who were unable to pay the detention facility fees were often forced to stay at the detention facility and work as a form of substitute payment. Others were forced to work as punishment for being repeat offenders (as when the government database showed they had been previously deported).

Hussein, age 70, had been in Iran for two years working in construction when he was arrested on his way home. He has two daughters and four sons. He says he was taken first to a detention facility in the Persian Gulf port city of Bandar Abbas and then to another at Zahedan close to the Iran-Pakistan border. “At Zahedan when they registered me they found out that I had been deported before, so at White Stone Detention Facility they made me stay for 10 days and work as a form of punishment. We got very little food at White Stone, and they made me work even though I am old and had a foot problem.”<sup>364</sup>

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<sup>361</sup> Human Rights Watch interview with Abdul Rahim G., Islam Qala, April 19, 2012.

<sup>362</sup> Human Rights Watch interview with Hamid H., Islam Qala, April 16, 2012.

<sup>363</sup> Human Rights Watch interview with Habiba, Islam Qala, April 19, 2012.

<sup>364</sup> Human Rights Watch interview with Hussein, Islam Qala, April 17, 2012.

## V. Recommendations

### To the Islamic Republic of Iran

#### *Access to and Protection of Refugees and Asylum Seekers*

- Allow newly-arriving Afghans and Afghans arrested for unlawful presence to lodge refugee claims or otherwise seek a protected status, review such claims fairly and efficiently, and guarantee rejected applicants a right of appeal.
- Do not forcibly return registered Afghan refugees and asylum seekers to Afghanistan, and do not block Afghans at the border who may wish to claim asylum in Iran.
- Continue to allow Amayesh cardholders to renew their refugee status for the foreseeable future; if the Amayesh system is discontinued, allow all Amayesh cardholders who fear persecution in Afghanistan to request asylum or protection, and fairly review such claims.
- Ensure that every Afghan facing deportation has the opportunity to have his or her case reviewed by a judge and has access to legal assistance and the right of appeal.
- Allow all foreign nationals in Iran freedom of movement without discrimination, and abolish the current unlawful “no go area” system which limits or prohibits non-citizens from living or traveling in roughly 28 percent of the country’s 31 provinces.
- Ensure that determinations in immigration proceedings involving children are decided based on “the best interests of the child” as set forth in the Convention on the Rights of the Child and related international jurisprudence.
- Ensure that unaccompanied migrant children are given guardianship, free legal assistance with immigration proceedings and challenges to detention, and access to adequate shelter, food, health care, and education.
- Ensure that voluntary repatriation of refugees is indeed voluntary and free from coercion and that all refugee returns are conducted in safety and dignity with full respect for the refugee’s human rights.
- Ensure that the voluntary repatriation program includes updated and objective information about conditions inside Afghanistan, and allow refugees who believe it

is safe to do so to undertake brief visits to home areas before deciding whether to return so that they can make informed choices about whether to stay or return.

- Ensure that the voluntary repatriation program fully respects the principle of family unity.
- Cease public statements about Afghan refugees that encourage discrimination and unlawful acts by private actors (including private enforcement of the country's immigration laws). Prosecute perpetrators of racially and nationality-based violence and discrimination against refugee, asylum-seeker, and migrant communities.
- Reform detention facilities in which deportees are held with particular attention to Chapters 7-9 of UNHCR's Guidelines on the Protection and Care of Refugee Children, and Chapters III-V of UNHCR's Guidelines on the Protection of Refugee Women.
- Allow non-governmental organizations to conduct research on the conditions and status of refugees and asylum seekers in Iran. The government currently forbids non-governmental agencies from conducting such research.

#### *Access to Education, Employment, and Other Services for Refugees and Asylum Seekers*

- Allow all refugees and asylum seekers, including Afghans, to apply for exemptions from residency fees.
- Permit all Afghan children, regardless of immigration status, to enroll in primary education free of charge immediately. Speedily abolish all fees for primary education.
- Remove discriminatory barriers to education for Afghans, including the requirement that Afghans give up refugee status in order to attend university, and progressively introduce free education in secondary and higher education as required by international law.
- Provide all refugees and asylum seekers, including Afghans, access to health services and medication on at least the same basis as other non-citizens in the country.
- Allow all refugees and asylum seekers, including Afghans, to secure work permits, and grant fee and documentation waivers to applicants when necessary.
- Lift the restriction limiting Afghan refugees to specific categories of employment, and permit them to undertake all employment except in cases where there is a

clear public rationale in relation to specific positions for limiting eligibility to Iranian citizens. Do not discriminate between nationalities in restrictions.

### *Fair Options for Migrant Workers and their Families*

- Reform the CRP process to simplify it and to give people who are successful in obtaining a visa through this process a longer visa and a right to renew their visa.
- Ensure that all Afghans choosing whether or not to voluntarily forfeit refugee status are fully informed of the consequences of doing so.
- Ensure that Afghans who have voluntarily renounced their refugee status in exchange for other forms of residency status can lodge refugee claims if that status is later revoked and they fear persecution in Afghanistan

### *Legal and Humane Deportation Procedures*

- Ensure that all law enforcement and other government officials treat Afghan refugees, asylum seekers, and migrants with dignity and respect for their human rights in compliance with their domestic and international legal obligations, without exceptions.
- Instruct law enforcement agencies that people with valid refugee or migrant worker documentation may never be summarily deported, and establish mechanisms to detect and punish officers who violate this rule.
- Ensure that all individuals facing deportation have the opportunity to contact family members and have the opportunity to choose to have family members not facing deportation join them, if those family members so desire.
- Give all people facing deportation the opportunity to collect wages and other money they are owed from employers, landlords, and others, as well as their personal possessions.
- End the practice of charging deportees fees and taxes as part of the deportation process.
- Keep children separated from unrelated adults at all times while in custody, and provide social services, legal assistance, safe housing, and other targeted assistance to all unaccompanied children entering or present in Iran.

- Issue strict rules prohibiting physical and verbal abuse as well as robbery and extortion by police and guards in police stations and detention facilities and during the deportation process; develop or strengthen mechanisms to enforce these prohibitions.
- Maintain conditions in police stations and detention facilities that are consistent with Iran's obligations under international law.
- Allow international and national human rights organizations, including the International Committee of the Red Crescent, access to all detention facilities and permit them to provide assistance to detainees, especially unaccompanied children.

## To the Islamic Republic of Afghanistan

- Press the Iranian government to ensure that Afghan migrants receive the protection and due legal process accorded to them under international law
- Establish reception centers for unaccompanied children, and improve family tracing to ensure that unaccompanied children are able to reunite with their families.
- Provide greater assistance to deported Afghans at all border crossings with Iran, and improve the collection of data from deportees to better track trends and human rights abuse.
- Expand and improve government assistance – both financial and provisional of employment opportunities – to assist impoverished Afghans who have been deported or who have left on their own accord from Iran and other countries.
- Take immediate steps to combat abuses by people smugglers and traffickers operating in Afghanistan.
- Urge the Iranian government to end abuses of Afghan refugees and migrants through the recommendations to Iran listed above.
- Continue to document and publicize abuses of Afghans in Iran through the Afghan Independent Human Rights Commission.

## To UNHCR

- Work with the Iranian government to ensure Afghans seeking asylum in Iran can enter Iran, lodge refugee claims, and have those claims fairly and efficiently reviewed; also work with Iran to ensure no registered refugees are forced to return to Afghanistan.
- Ensure that all foreign nationals, including refugees, receive adequate information about relocation programs necessitated by “no go areas,” and ensure that the terms of all relocation and other agreements with the government of Iran are strictly adhered to by those governments and by UNHCR.
- Press Iran to ensure that any refugee exchanging his Amayesh card for other forms of residency status can subsequently lodge a refugee claim if his new residency status is rescinded and he or she fears persecution if returned to Afghanistan.
- Work with the government of Iran to provide appropriate training to security personnel in detention facilities in order to ensure that minimum international standards for detention facilities are observed and to minimize the possibility of abusive detention facilities.
- Urge the government of Iran to reduce Amayesh fees on ground that such fees can dissuade refugees from re-registering for Amayesh cards which results in them becoming undocumented and subject to deportation; urge Iranian authorities to stop harassment, extortion, imprisonment, and forced returns of Afghan refugees who have been illegitimately de-registered.
- Be vigilant in monitoring Iran’s adherence to international standards on assisted voluntary repatriation.
- Discontinue the emphasis on return as the most durable solution in a context of increasing insecurity and uncertainty at a time of transition in Afghanistan.
- From a programming perspective,
  - For those wishing to return voluntarily to Afghanistan,
    - Create and implement youth-sensitive programming that addresses the needs –skills, vocational training, education – of second generation Afghan refugees born and raised in exile;

- Create and implement programming that recognizes the willingness of most Afghan refugees from Iran to settle in urban centers after return.
- For those considering return to Afghanistan,
  - Provide up-to-date information on the economic, political, and social context in Afghanistan, by region and province;
  - Increase cross-border research initiatives to inform programming;
  - Increase cooperation and information sharing with international NGOs based in Iran and in Afghanistan to provide additional support to those working in Iran to help Afghan refugees.

## To the United Nations and International Partners of Afghanistan and Iran

- Press Iran to end abuses committed against Afghan refugees, asylum seekers, and migrant workers.
- Consider providing additional support to the Iranian government to assist with costs associated with the Afghan refugee population in Iran, including improving their access to education and healthcare.
- Assess the impact that sanctions against Iran are having on Afghan refugees and migrants, as well as Iranians, and take steps to ensure that sanctions are not harming people already vulnerable and living in poverty.
- In meetings with Iranian officials, stress that Iran has an obligation to protect Afghan refugees and asylum seekers, including by ensuring that they are not prematurely returned to Afghanistan, and to ensure that Afghans who genuinely wish to return voluntarily may do so in safety and dignity and with full respect for their human rights.
- Ensure adequate funding for voluntary repatriation programs to ensure they meet all international standards, particularly those stipulated in UNHCR's 1996 Handbook, *Voluntary Repatriation: International Protection* and in ExCom Conclusions. Such a voluntary repatriation program should be coordinated and linked by the Afghan government and donors with other reconstruction efforts inside Afghanistan such as human rights monitoring, rural development programs, and demining and demobilization schemes.

## VI. Acknowledgments

This report was written by Heather Barr, senior researcher on Afghanistan at Human Rights Watch, and Faraz Sanei, Iran researcher. The report was based on research conducted by Sanei and Barr, as well as by Zaman Sultani and Ahmad Shuja, research associates. It was edited by Phelim Kine, deputy Asia director; Clive Baldwin, senior legal advisor; and Joseph Saunders, deputy program director. Bill Frelick, Refugee Policy director; Gerry Simpson, senior researcher and advocate in the refugee program; Alice Farmer, Children's Rights Division researcher; Joe Stork, deputy Middle East and North Africa director; and Brad Adams, Asia director, reviewed the report and provided input.

Production assistance was provided by Julia Bleckner and Storm Tiv, Asia division associates; Carolyn Kenney and Elizabeth Wilke, Asia division interns; Grace Choi, publications director; Kathy Mills, publications specialist; and Fitzroy Hepkins, administrative manager.

Human Rights Watch gratefully acknowledges the assistance of the many experts who shared information or analysis with us, but who remain unnamed due to the sensitivity of this issue. We are most grateful to the Afghans at “zero point” at the Islam Qala crossing who kindly took the time to share their stories with us during a very difficult moment for them.

## **Appendix I – HRW Letter to Minister Abdolreza Rahmani Fazli and Director-General Aziz Kazemi**

October 23, 2013

Abdolreza Rahmani Fazli  
Minister of Interior  
Islamic Republic of Iran

Dr. Aziz Kazemi  
Director-General of Bureau of Alien and Foreign Immigrant Affairs  
Islamic Republic of Iran

Your Excellencies:

Human Rights Watch is an independent international organization that monitors human rights in more than 90 countries around the world. We are currently preparing a report about the situation of Afghan nationals, including refugees, in Iran. It documents a range of rights violations by Iranian authorities against Afghan nationals. Between April 2012 and August 2013 we conducted more than 80 interviews with Afghans who were deported from Iran to Afghanistan, representatives of the United Nations, non-governmental organizations, and the Afghan government.

We write this letter to request permission for a Human Rights Watch delegation to visit Iran to meet with you to discuss the main findings of our research on the human rights situation of Afghan refugees and migrants in Iran. The intention of the visit is to complement our research with interviews with government officials and non-governmental organizations working to improve the situation of Afghan migrants and refugees in Iran, in order to ensure that government views are fully incorporated into our report.

Iran has shouldered a heavy burden absorbing a large influx of Afghans since the 1980s, and the country has implemented many favorable policies vis-à-vis Afghan refugees and migrants with minimal support from the international community. We recognize that Iran is

well within its sovereign rights to deport and refuse admission to nationals of other countries who do not have permission to enter or to stay who are not in need of international protection. We also recognize that in 2003, Iran registered over 800,000 Afghans as refugees, under its *Amayesh* registration system.

However, our research findings suggest that in recent years the government's treatment of its Afghan population has failed to meet standards spelled out in international conventions, including states' obligations under the 1951 Refugee Convention and its 1967 Protocol, which the Iranian government has signed and ratified. These failures include the lack of a domestic refugee law and asylum procedures to implement Iran's obligations under the Refugee Convention; the lack of access for newly arriving Afghan asylum seekers to register as asylum seekers or other protected status; unreasonable barriers obstructing Afghans' access to humanitarian aid and social services; arbitrary arrest and detention of Afghans; and impunity for government and non-state actors' abuses against Afghans.

The major findings of our research into the treatment of Afghan refugees and migrants in Iran are as follows:

- ***Lack of Fair and Transparent Asylum Procedures and No Right to Challenge Deportation to Afghanistan:*** Afghans arriving in Iran today have virtually no opportunity to lodge asylum claims or register for other forms of protection based on country conditions in Afghanistan. Afghan asylum seekers should be able to lodge asylum claims with Iran's Bureau of Aliens and Foreign Immigrant Affairs ("BAFIA"), the agency charged with processing refugee claims, but it is virtually impossible for newly-arriving Afghans to lodge claims because there are no fair and transparent asylum procedures in place for Afghans. Other Afghans who have been in Iran for years or even decades are also unable to lodge claims. Afghans being deported from Iran, including people who may face persecution or serious harm upon return, are given no opportunity to challenge their deportation.
- ***Difficulties Retaining Refugee Status:*** Afghans registered as refugees under the *Amayesh* system face an increasingly complex process to retain that status, including frequent re-registration with relevant government agencies, a lack of official assistance for those with limited literacy who struggle to understand bureaucratic procedures, and onerous fees, which many poor refugees cannot

afford. Afghans have told Human Rights Watch that the smallest technical errors, including mistakes during the registration process, can result in the permanent loss of refugee status.

- ***Concerns Regarding “Voluntariness” of Changing Refugee Status:*** Our research indicates that Iranian authorities have used numerous government initiatives in recent years, including the Comprehensive Regularization Plan (CRP) aimed primarily at providing temporary residency and work visas to undocumented foreign nationals, to convince Afghans to give up their protected refugee status. These programs may have resulted in the forced repatriation or return to Afghanistan of these refugees without their informed consent.
- ***Discrimination and Restrictions on Afghan Nationals:*** Afghan nationals in Iran face severe restrictions on freedom of movement, as well as arbitrary limits on access to education, employment, Iranian citizenship, and marriage rights. All foreign nationals are subject to travel restrictions in many areas of the country, but such restrictions are particularly burdensome for Afghans as compared to others. In some cases, Human Rights Watch documented refoulement of refugees who were alleged to have violated such travel restrictions. Iranian rules restrict Afghans with legal immigration status, regardless of their educational or professional qualifications, to categories of employment that are menial and/or dangerous.
- ***Abuses During the Deportation Process:*** Afghans with or without legal status who are deported are routinely at risk of police abuses, including violence, theft, demand for unreasonable fees related to their deportation, forced labor during detention prior to their deportation, and poor conditions in detention facilities. A particular concern is the lack of protection for unaccompanied migrant children during the deportation process.

We plan to officially release our findings in the coming months in the form of a report. We hope you will grant Human Rights Watch permission to visit Iran to conduct meetings and any additional research that may be necessary prior to the release of the report, and would very much welcome efforts by your government to allow us to release the report in Tehran. Even if you do not authorize our visit, we would appreciate your responses to the questions raised below, as well as any additional information you wish to provide us.

Human Rights Watch strives to reflect all perspectives in our research and looks forward to your response. In light of our publishing schedule, we would be grateful to receive your response by November 3 or your earliest convenience. Please send your response to Joe Stork, acting director of the Middle East and North Africa division, by email at [stork@hrw.org](mailto:stork@hrw.org) or by fax at +1-212-736-1300.

Sincerely,



Joe Stork  
Acting Director, Middle East and North Africa Division  
Human Rights Watch

**Questions:**

1. Can you provide information regarding a) the total number of refugee or asylum requests submitted by Afghan nationals since 2003 and b) the total number of Afghan nationals issued *Amayesh* cards or some other form of asylum protection who entered the country in 2003 or thereafter. What efforts has your government made to ensure that Afghans entering the country or facing deportation who fear persecution or other forms of harm in Afghanistan can apply for asylum or other protected status, such as *Amayesh* status?
2. Has your government agreed to extend the temporary visas of the several hundreds of thousands of Afghans registered under the Comprehensive Regularization Process (CRP), which was due to expire on September 6, 2013, or suspend their deportation, or provide them with an opportunity to lodge asylum claims if they wish to do so? If the answer is no, could you provide us with relevant details regarding how your government plans to protect them from unlawful return to persecution or other forms of harms they may face if they are deported to Afghanistan?

3. Absent a guarantee that *Amayesh* cardholders who agree to give up their refugee status and instead register under the CRP will have their CRP status renewed for the next few years, what guarantee has Iran given such people that they will be allowed to re-register for *Amayesh* cards or lodge asylum claims if their CRP status is not renewed?
4. What efforts has your government made to ensure that Afghan refugees registered under the *Amayesh* system are not *refouled*, and that repatriation of Afghan refugees who were formerly registered under the *Amayesh* system but who gave up their status is, in fact, voluntary, fully informed, and free of coercion?
5. What efforts has your government made to ensure that Afghans, especially children, are not subject to physical and verbal abuse, ill-treatment, or harassment by police and guards in police stations and detention facilities and during the deportation process?
6. What efforts has your government made to ensure that Afghans are not subject to abuse, including unlawful discrimination and violence, by non-state actors?

## Appendix II – HRW Letter to President Hamid Karzai

October 21, 2013

His Excellency President Hamid Karzai  
Office of the President of the Islamic Republic of Afghanistan  
Islamic Republic of Afghanistan  
Kabul, Afghanistan

Your Excellency:

Human Rights Watch is an independent international organization that monitors human rights in more than 90 countries around the world. We are currently preparing a report about the situation of Afghan nationals, including refugees, in Iran that documents a range of abuses and rights violations by Iranian authorities against Afghan nationals.

We write to inform you about our research on the human rights situation of Afghan refugees and migrants in Iran and to request meetings with relevant officials in your government to discuss our findings. We would be very grateful for the opportunity to hear the views of Afghan officials on the results of our research.

Between April 2012 and August 2013 Human Rights Watch conducted more than 80 interviews with Afghans who had been victims of abuses related to the Iranian government's failure to respect international laws and standards which regulate claims for asylum and refugee status. Human Rights Watch also interviewed representatives of the United Nations, non-governmental organizations, and Afghan government officials familiar with these issues.

Below are some of our main findings:

- *Lack of Fair and Transparent Asylum Procedures and No Right to Challenge Deportation to Afghanistan:*  
Afghans arriving in Iran today have virtually no opportunity to lodge asylum claims or register for other forms of protection based on country conditions in

Afghanistan. Afghan asylum seekers should be able to lodge asylum claims with Iran’s Bureau of Aliens and Foreign Immigrant Affairs (“BAFIA”), the agency charged with processing refugee claims, but it is virtually impossible for newly-arriving Afghans to lodge claims due to the absence of no fair and transparent asylum procedures for Afghans. Other Afghans who have been in Iran for years or even decades are also unable to lodge claims. Afghans being deported from Iran, including people who may face persecution or serious harm upon return, are given no opportunity to challenge their deportation.

- ***Difficulties Retaining Refugee Status***

Afghans registered as refugees under the *Amayesh* system face an increasingly complex process to retain that status, including frequent re-registration with relevant government agencies, a lack of official assistance for those with limited literacy who struggle to understand bureaucratic procedures, and onerous fees, which many poor refugees cannot afford. Afghans have told Human Rights Watch that the smallest technical errors, including mistakes during the registration process, can result in the permanent loss of refugee status.

- ***Concerns Regarding “Voluntariness” of Changing Refugee Status***

Our research indicates that Iranian authorities have used numerous government initiatives in recent years, including the Comprehensive Regularization Plan (CRP), which provides temporary residency and work visas to undocumented foreign nationals, to convince Afghans to give up their protected refugee status. These programs may have resulted in the forced repatriation or return to Afghanistan of these refugees without their informed consent.

- ***Discrimination and Restrictions on Afghan Nationals***

Afghan nationals in Iran face severe restrictions on freedom of movement, as well as arbitrary limits on access to education, employment, Iranian citizenship, and marriage rights. All foreign nationals are subject to travel restrictions in many areas of the country, but such restrictions are particularly burdensome for Afghans as compared to others. In some cases Human Rights Watch documented refoulement of refugees who were alleged to have violated such travel restrictions. Iranian rules restrict Afghans with legal immigration status, regardless of their educational or

professional qualifications, to categories of employment that are menial and/or dangerous.

- ***Abuses During the Deportation Process***

Afghans with or without legal status who are deported are routinely at risk of police abuses, including violence, theft, demand for unreasonable fees related to their deportation, forced labor during detention prior to their deportation, and poor conditions in detention facilities. A particular concern is the lack of protection for unaccompanied migrant children during the deportation process.

The report, which is still in draft form, contains many recommendations to the Iranian government for steps to remedy these abuses. It also contains a smaller set of recommendations to the Afghan government, the United Nations, and Afghanistan's other international partners. The following are the recommendations currently contained in the report for the Afghan government:

***To the Islamic Republic of Afghanistan:***

- Make the status of Afghan migrants, including refugees, a priority in all talks with the Iranian government.
- Establish reception centers for unaccompanied children and improve family tracing to ensure that unaccompanied children are able to reunite with their families.
- Provide greater assistance to deported Afghans at all border crossings with Iran and expand the quantity and improve the quality of data collection from deportees to better track trends and possible human rights abuses.
- Increase financial and other assistance for poor Afghans who have returned from Iran and other countries.
- Take immediate steps to combat abuses by people smugglers and traffickers operating in Afghanistan.
- Urge the Iranian government to end abuses of Afghan refugees and migrants
- Continue to document and publicize abuses of Afghans in Iran through the Afghan Independent Human Rights Commission.

We would be very grateful to have the opportunity to discuss the report with relevant officials from your government and to hear their views on these issues as well as any steps they have taken or plan to take to address them. We would appreciate your responses to the questions below as well as any additional information you wish to provide us.

Human Rights Watch strives to reflect all perspectives in our research and looks forward to your response. In light of our publishing schedule, we would be very grateful if we received your response by November 3. Please send your response to Brad Adams, director of Asia division, by email at [adamsb@hrw.org](mailto:adamsb@hrw.org) or by fax at +1-212-736-1300.

Thank you very much for your attention to this matter, and we look forward to hearing from you.

Sincerely,

*Brad Adams*

Brad Adams  
Asia Director, Human Rights Watch

**cc:** His Excellency Zalmai Rassoul, Minister of Foreign Affairs

His Excellency Dr. Jamaher Anwari, Minister of Refugees and Repatriations

1. What is the status of discussions between the Afghan government and the Iranian government on the issue of Afghans in Iran? Has the Afghan government specifically raised concerns with the Iranian government regarding the abuses detailed above? If so, and if such concerns have been raised in writing, we would be very grateful for copies of any relevant correspondence that could be shared.
2. We are aware of the Afghan government's Solutions Strategy regarding Afghan refugees formulated jointly with the governments of Iran and Pakistan. What is the current status of the Solutions Strategy in terms of funds raised and implementation?
3. What plans, aside from the Solutions Strategy, has the Afghan government made to ensure protection and assistance for Afghan refugees and migrants in the years ahead?



Iran detains and deports thousands of Afghans every year with no due process or opportunity for legal appeal. The deportations occur summarily, and don't allow Afghans the opportunity to prove they have a legal right to remain in Iran, or to lodge an asylum claim. This report, based in part on interviews with dozens of Afghan refugees and migrant workers, documents violations and abuses connected to these deportations, including the Iranian government's failure to allow newly-arriving Afghans to claim refugee status or those facing deportation the opportunity to apply for asylum, increasing pressures on registered Afghan refugees to return to Afghanistan, and abuses and mistreatment during the deportation process.

*“Unwelcome Guests”* is based on interviews conducted with 90 Afghan individuals or families with recent experience in Iran, and with dozens of Afghan officials and refugee and migrant policy experts between April 2012 and August 2013. It analyzes relevant Iranian laws and regulations as well as international standards governing the treatment of refugees and asylum seekers. The report argues that the Iranian government's policies and practices pose a serious risk to the rights and security of Iran's population of almost one million recognized Afghan refugees and hundreds of thousands of others who have fled war and insecurity in Afghanistan and makes recommendations for how the Iranian government can remedy these problems.

*(above and front cover) Afghans cross the border from Iran back into Afghanistan near Islam Qala, Afghanistan, in April 2013.*

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