



Migration Governance

Helen Seese
and
Wali Mohammad Kandiwal

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15 YEARS
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About the Afghanistan Research and Evaluation Unit

The Afghanistan Research and Evaluation Unit (AREU) is an independent research institute based in Kabul. AREU's mission is to inform and influence policy and practice by conducting high-quality, policy-relevant research and actively disseminating the results, and by promoting a culture of research and learning. To achieve its mission AREU engages with policymakers, civil society, researchers and students to promote their use of AREU's research and its library, to strengthen their research capacity, and to create opportunities for analysis, reflection, and debate.

AREU was established in 2002 by the assistance community in Afghanistan and has a Board of Directors comprised of representatives from donor organisations, the United Nations and other multilateral agencies, and non-governmental organisations.

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Abbreviations

AAN	<i>Afghan Analysts Network</i>
ANDP	<i>Afghanistan National Development Strategy</i>
ANPDF	<i>Afghanistan National Peace and Development Framework</i>
ARAZI	<i>Afghanistan Independent Land Authority</i>
AREU	<i>Afghanistan Research and Evaluation Unit</i>
CEO	<i>Chief Executive Officer</i>
DiREC	<i>Displacement and Returnees Executive Committee</i>
IDP	<i>Internally Displaced Persons</i>
HCM	<i>High Commission for Migration</i>
IOM	<i>International Organisation for Migration</i>
MoI	<i>Ministry of Interior</i>
MoLSAMD	<i>Ministry of Labour, Social Affairs, Martyrs' and Disabled</i>
MoRR	<i>Ministry of Refugees and Repatriation</i>
MRRD	<i>Ministry of Rural Development and Rehabilitation</i>
NPP	<i>National Priority Programme</i>
UNDP	<i>United Nations Development Program</i>
UNHABITAT	<i>United Nations Human Settlements Programme</i>
UNHCR	<i>United Nations High Commissioner for Refugees</i>
OCHA	<i>Office for the Coordination of Humanitarian Affairs</i>
SSAR	<i>Solutions Strategy for Afghan Returnees</i>
WB	<i>World Bank</i>

EXECUTIVE SUMMARY

Introduction

As contribution to the ‘Governance Forum Afghanistan’, a joint initiative of AREU and GIZ, this study looks at governance structures in Afghanistan to formulate recommendations for the enhancement of policy and institutional development. The specific focus of the paper is on migration governance, which became a priority for the Afghan government after displacement drastically increased in both scope and complexity from 2015 onwards. With the influx of hundreds of thousands of returnees from Pakistan as well as internal displacement of more than one million Afghans threatening to overwhelm the country’s management capacity and service delivery systems, a comprehensive response to migration crisis is urgently needed to mitigate its effects during a volatile phase of state-building in Afghanistan. To what degree the current policy and institutional framework in place for migration governance can deliver this, and which gaps persist, is the research question guiding the study. In working with displacement on a subject that stretches across policy fields and public service sectors, the study however also reflects on the general governance dynamics that shape the formation of the state in Afghanistan.

Methodology

As the study represents policy research, data collection was focused on engagement with key informants involved in decision-making and policy development. This involved key informant interviews and dialogue events with stakeholders from governmental agencies, as well as representatives of international organisations and non-governmental organisations. To ensure that all levels of governance are captured by the analysis, the methodology was expanded by a fieldwork component in Nangarhar Province, where provincial authorities and external stakeholders as well as a limited number of displaced persons were interviewed.

When concerning a policy field that is undergoing rapid change, research findings can be time-sensitive and quickly outdated. As policy research, furthermore, the ability of the study to collect primary data was limited, and analysis inevitably focused on aspects of internal governance dynamics rather than contextual developments.

Policy and Institutional Framework for Migration Governance

Migration as a policy field has been strongly segmented in the past, as strict distinctions were made between migration and forced displacement by international law and the organisations working in the field. Based on the understanding of migration governance as “an artefact of policy concerns” the study thus undertook to first examine the policy and institutional framework in place in Afghanistan to identify patterns and the factors that shape them.

Migration itself does not represent a new challenge, but a continuum that characterised Afghan society over time. Driven by conflict and economic hardship, Afghanistan has gone through multiple waves of emigration and return movements over the past decades. The recent confluence of rapid increase in illegal emigration towards Europe, return movements from Pakistan, and internal displacement however represents a new quality of migration that presents the Afghan government with a range of challenges. Furthermore, while migration has been a constant in Afghan history, elements of its patterns have been transformed, with urbanisation and increased overlap between displaced population groups being key emerging characteristics.

As displacement patterns itself, migration governance in Afghanistan underwent significant change over time. While government systems for displacement remained limited during the early stages of state-building in the 2000s, focus from 2009 on was placed on building capacity in the areas of internal displacement and voluntary repatriation. This is reflected in the Policy on Internally Displaced Persons from 2013, which formed the key component of migration governance at that time. The introduction of the Policy Framework for Returnees and IDPs in December 2016, created in response to the current migration crisis, represents the latest development in the sector, shifting focus to an expanded view of internal displacement. As such, it reaffirms the passive character of policy-making in the migration sector where external developments have so far driven the evolution of migration governance in Afghanistan.

Challenges and Past Limitations of Migration Governance

To understand the impact the Policy Framework for Returnees and IDPs can make in guiding the response to the migration crisis, an evaluation of past policies and interventions is required. Thereby, the study found several factors that hampered effective migration governance in the past. The failure of the MoRR to build the capacity required for fulfilling its role as coordination and nodal agency is the most prominent cause identified by governmental as well as external stakeholders. Gaps in institutional capacity of the ministry and the prevalence of corruption in interventions managed by the MoRR are well documented, and triggered a crisis of trust with stakeholders that increasingly marginalised the ministry.

However, the analysis additionally revealed a set of structural challenges that not only took effect independently of the MoRR, but may have been underlying factors that fueled capacity gaps and increased the ministry's vulnerability to corruption. These included contradictions in the legal framework, as the approach on return and re-settlement adopted in the IDP policy - which was strongly influenced by international law - conflicted with Afghan law postulating preference for return to the area of origin in the eyes of decision-makers. More importantly, a variety of challenges emerged during implementation that were not accounted for in policy. Gaps in the planning capacity of line ministries that the policy relied on for its implementation were one such factor. Another proved to be the weak composition of subnational governance, as provincial administrations do not possess advanced planning and budgeting capabilities, and integration of national and subnational governance levels remains rudimentary. Designed to drive planning for displacement response from the bottom up, the IDP policy thus lacked the mechanisms to enforce and support the formulation of provincial action plans that were intended to be stepping stones for all following interventions. Adverse political economies at the provincial level, through which formal government is undermined by informal networks as well as technical challenges, in particular with regard to data collection, were found to be additional factors hampering policy implementation.

The Policy Framework for Returnees and IDPs - Potential and Limitations

In lieu of these lessons learnt, the potential of the new Policy Framework for Returnees and IDPs has to be seen as limited.

Although offering possibly a more concise take on migration governance, conceptually the framework does not represent a fundamental shift in the approach to reintegration as a key component of migration governance compared to the earlier IDP policy. Most of the challenges and priorities for reintegration have already been formulated in the previous policy, with land allocation and streamlining of public service delivery adopting key strategies to reintegration in both policy documents. Instead, the main revision made by the framework comes with the re-allocation of functions between stakeholders. By introducing the Displacement and Returnees Executive Committee (DiREC), the policy framework circumvents the organisational limitations of the MoRR that hampered migration governance in the past. Though nominally remaining a key actor in the policy framework, structure and terms of reference of the DiREC as well as the national action plan which accompanies the policy framework display a strongly reduced role for the MoRR in the areas of coordination and policy. Land allocation and the lead in durable solutions, previously located at the MoRR, are assigned to other line ministries and governmental agencies.

In essence, the Policy Framework for Returnees and IDPs attempts to enhance migration governance primarily through re-structuring its coordination mechanisms. This resulted in some initial success predominantly at the policy level, as policy discussions on migration governance fed into progress on the introduction of *e-taskera*, a more reliable population registration mechanism. However, it remains to be seen to what degree re-allocation of functions at the policy level can solve the substantial structural and external constraints for policy implementation at the subnational level, which was found to have restricted migration governance in the past

Prospects for Institutional Development of the MoRR

Although decision-makers debate the interpretation of the MoRR being in part replaced by DiREC, the implications of the policy framework for the ministry are no doubt considerable. Being limited in its coordination and policy role, and relieved of management functions for several of its core sectoral responsibilities, the MoRR struggles to re-define its institutional role.

To inform any re-positioning of the ministry, though, first a better understanding of the dynamics that led to the marginalisation is needed. Based upon this understanding, any future restrictions that the MoRR is likely to encounter can therefore be extrapolated. The study thus identified multiple dynamics that need to be taken into consideration. Clustering of decision-making authority at political centers within the administration is one element that can be seen as standing behind the re-organisation of migration governance and the introduction of DiREC. Mirroring trends in other policy areas, migration governance functions are diverted from line ministries and accumulated in selected bodies as a result of the struggle over control between the political parties participating in the National Unity Government. A shift in approach of the international community from institution-building to short-term response aligns with these political dynamics, re-enforcing the trend of centralising authority within the administration. Finally, the institutional evolution of the MoRR can be seen as the product of a system that reinforces capacity building of institutions perceived as successful, while disadvantaging governmental bodies in secondary policy fields.

All of these dynamics are unlikely to change in the near future, leaving the MoRR with limited options for its institutional development. Prioritisation of resources thus will be key for a successful re-structuring of the MoRR. Strategies for doing so involve selecting a subject-specific focus. This could either be in alignment with the Policy Framework for Returnees and IDPs, in an effort to position the MoRR to take back its policy and coordination functions after DiREC is eventually disbanded. Alternatively, the MoRR could shift to addressing issues so far neglected in the policy framework, such as Afghans living abroad, or the prevention of illegal emigration and internal displacements instead of solely responding to them. The adoption of an implementation function for a limited programming scope, for instance in the area of repatriation, might also be considered in order to exploit avenues that could help in re-building the credibility of the ministry.

Conclusions

The paper concludes that recent developments in migration governance address some key gaps in coordination and policy-making. However, in focusing on the policy level, the discussions distract from the importance that matters of policy implementation played in hampering migration governance in the past. Given lessons learnt from the IDP policy, it is thus unlikely that the new policy and coordination mechanism will have an immediate effect on the ability of the Afghan Government to respond to the migration crisis. The centralisation of decision-making furthermore contradicts the reliance on institutional planning capacity and integrated subnational governance systems migration brings as a cross-cutting issue.

Based on the findings, a number of recommendations have been formulated for the Afghan Government, international community and the MoRR.

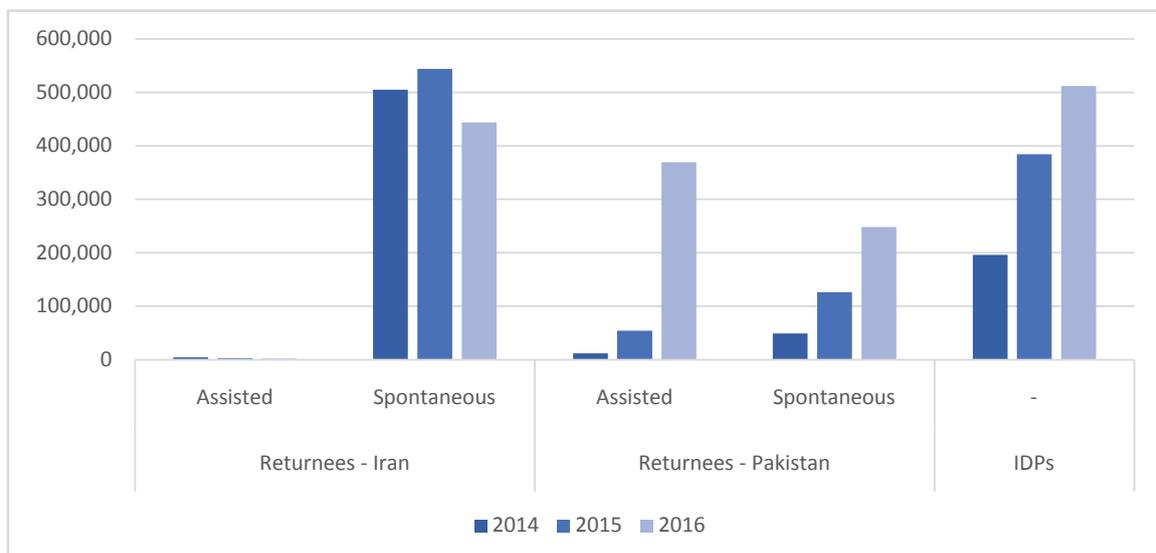
1. Introduction

This AREU Discussion Paper was prepared as a contribution to the Governance Forum Afghanistan (Govern4Afg). Govern4Afg was launched by German and Afghan partners to establish a platform for policy dialogue on governance topics identified as being highly relevant for Afghanistan. Accordingly, this two-year initiative brings together representatives of research, science, governance practitioners and decision-makers to discuss and further develop governance mechanisms that guide state building in Afghanistan. In light of a rapid increase in forced displacement since 2015, migration governance was jointly selected by Afghan and German partners as one of six key topics to promote research and dialogue. In this context AREU as a consortium partner implementing Govern4Afg has published an entire series of related research and issues papers on governance in Afghanistan.

1.1 Background

Migration has been an integral element of Afghanistan's development over the past few decades. Multiple emigration waves and varying, yet consistent flows of internal displacement caused by conflict and economic deprivation mark Afghanistan's past. In recent years, however, migration intensified to a degree that it developed into a key factor determining the country's development and stability. In 2015, an estimated 250,000 Afghans left the country, contributing significantly to the migration crisis in Europe. Two years later, thousands of Afghans who were denied asylum in Europe await deportation. In parallel to out-migration, the numbers of returnees especially from Pakistan accelerated drastically until it reached emergency levels, with 600,000 returnees recorded for 2016. Returns in 2017 are estimated to reach similar levels to those of 2016. Furthermore, in the year of 2016 alone, 500,000 Afghans were newly displaced, while 1.2 million Afghans are believed to remain in protracted internal displacement from previous years.

Figure 1. Displacement Movements 2014 - 2016: Overview¹



With this multi-dimensional migration crisis falling into a period of rising political instability, implications of the recent increase in displacement extend beyond that of migration policy. As support of the international community to state-building in Afghanistan that had been a driving feature since the intervention against the Taliban regime in 2001 declined over recent years, Afghanistan stands at a crossroads in determining its future trajectory towards an independent and self-governed country. The National Unity Government (NUG) that emerged from the presidential elections in 2015 and was meant to mark the country's successful transition however

¹ For Data on Voluntary Return - See ; For data on spontaneous return - See ; For data on internal displacement - See UNHCR, "Afghanistan - Conflict-Induced Displacement 2015: The Year in Review" (Kabul, April 2016) (IDP numbers until 2015); and OCHA, "Afghanistan - Conflict-Induced Displacement (as of 11 Dec 2016) - Actual Displacement between 1 January 2016 and 29 November 2016" (IDP numbers in 2016).

has been with fraught with internal tensions, and thus far exhibits a limited track record in actual institutional reform. In this context, the new wave of displacement - and the social and economic implications it carries - represents both a priority for governance itself, as well as a factor that can be expected to significantly impact the ability of the Afghan government to navigate the challenges of state-building in the coming years.

Having received comparably little attention in previous years, the migration and reintegration concepts, policies, and institutional mechanisms in place are rarely sufficient to accommodate these new challenges. This lack of coherent migration governance though is merely indicative of the global gap in formulating integrated concepts and policies. In fact, as the government of Afghanistan initiated a rapid transformation of migration governance in 2016, in which functions are re-allocated and coordination mechanisms over-hauled, it could be argued that Afghanistan finds itself at the forefront of formulating institutional solutions to managing population flows, making it a valuable case study for how migration governance emerges.

1.2 Objective of the Research

Migration can be expected to continue to represent a major factor impacting on Afghanistan's development trajectory in the coming years. Thus, integrating migration policies into the overall development strategies - both regarding mitigating negative effects of displacement as well as utilizing the potential benefits of migration - will be key to ensuring the success of state-building and development in Afghanistan.

Successful revision of the migration sector requires considering lessons learnt from past experiences in policy-making and programming, as well as the structural constraints inherent to existing systems. The ongoing reform efforts provide for an excellent opportunity to conduct a study that can deliver such insights and thus influence policy and institutional development. In conducting a functional review for migration governance, the paper aims at contributing to the ongoing discussions on how to reform the sector. In addition to providing new insights, the paper shall increase transparency of the sector for external stakeholders by outlining the reform efforts that have taken place recently.

Accordingly, particular focus of the study shall be placed on the Ministry of Refugees and Repatriation (MoRR). As the nodal agency of migration governance in Afghanistan the ministry stands at the center of policy and programming on displacement, and represents the key stakeholder for the recommendations that flow from this study.

Apart from illuminating the mechanisms and gaps of migration governance, the paper shall also contribute to the general understanding of governance systems in Afghanistan. The MoRR as an institution marked by low capacity and ineffectiveness, for instance, represents an insightful example into what determines success - or failure - of institutional development. Furthermore, reviewing allocation of functions in the migration governance sector serves as a case study for the wider topic of how institutional roles and responsibilities develop in the political system of Afghanistan.

To explore governance dynamics and gaps in the migration sector, the study first will review the evolution of the general policy- and institutional framework in place, and the factors that drove it. This will be followed by a more in-depth analysis on the effectiveness of governance mechanisms, which aims at identifying the main roadblocks hampering migration governance in the past. These lessons learnt will then be compared with the most recent policy initiatives to assess the degree in which they have been accommodated. In a final step, findings from the analysis will be utilised to reflect on the strategic development of the Ministry of Refugees and Repatriation to identify options and formulate recommendations for future institution-building.

2. Methodology

Designed as policy research, the study reviewed the body of legal and policy documents with relevance for the subject, as well as academic literature produced on the topic. Interviews with key informants were employed to complement document review and illuminate the decision-making processes that underpin policy development.

Primary data was collected from November 2016 to February 2017 through multiple waves of key informant interviews. An initial phase involved key informant interviews in Kabul with representatives of line ministries and government agencies, international organisations and NGOs. A second phase of interviews was completed in Nangarhar Province, which comprised key informant interviews with international and governmental stakeholders, as well as focus groups with returnees and internally displaced persons. In addition, the study draws on two consultation meetings with stakeholders that took place in January and March 2017.

Table 1. Key Informant Interviews - Overview

No.	Level	Sector	Organisation	No. of Interviewees
1	National Level	Government	Office of the President	2
2			Office of the CEO	2
3		Ministries	MoRR	8
4			MRRD	1
5			MoLSAMD	2
6			ARAZI	1
7		Non-Governmental/ International Organisations	World Bank	1
8			IOM	1
9			EU	1
10			GIZ	2
11			NRC	1
12			ACTED	1
13	Subnational Level	Government	Province Governor's Office	2
14			Directorate of Sector Services	1
15			Directorate of Economy	1
16			DoRR	1
17			Provincial Council	1
18		Non-Governmental/ International Organisations	IOM	2
19			UNHCR	1
20			ACTED/REACH	2
21		Community	Returnees	8
22			IDPs	9

A number of limitations have to be kept in mind when utilising the findings from this study -

1. With the scope being limited, the study has to focus on the governance mechanisms as the key research question identified. Migration and displacement patterns themselves can only be mapped to the degree they are essential for understanding the governance challenge they encompass. A broad discussion of migration and the factors that drive it whereas cannot be delivered in this paper.
2. In addressing a policy field that is undergoing rapid change at the time of the research the study can only reflect the current state of the discourse, and findings have to be updated and revised regularly. .
3. As the study is primarily informed by policy research, furthermore, it relies on the quality of secondary data provided. Where data gaps exist, and these in fact can be substantial for migration governance in Afghanistan, the study is limited to pointing out the lack of information.
4. Finally, policy research in Afghanistan often suffers from lack of clarity on the latest versions of legal and policy documents. The research strived to verify all documents collected for the purpose of the study, yet not in all cases could that be achieved. Hence, date and sources of the documents reviewed will be provided in footnotes to provide the reader with full transparency.

3. Evolution of Migration Governance in Afghanistan

In analysing the evolution of migration governance and its institutional structures, with particular focus on the role of the MoRR, key challenges, priorities and constraints for institutional reform shall be identified. To do so, though, first requires conceptualising migration governance in the Afghan context.

3.1 Understanding Migration and Migration Governance - Definitions and Concepts

In contrast to other policy fields, migration governance only recently gained high-profile status, and still lacks in conceptualisation.² IOM's Migration Governance Framework and the Migration Crisis Operational Framework, which propose a comprehensive approach to migration and displacement, for instance were only introduced in 2015.³

Lack of clarity on migration governance as a policy field starts with the absence of commonly used definitions. Some attempts have been made to capture migration governance, yet these definitions are mostly specific to individual studies or documents, and often tend to focus on migration as a global phenomenon.⁴ One more general proposition has been made by IOM as part of the aforementioned governance framework in which migration governance is defined as "...the traditions and institutions by which authority on migration, mobility and nationality in a country is exercised, including the capacity of the government to effectively formulate and implement sound policies in these areas."⁵ This definition, however, has yet to be adopted by a wider audience.

At the heart of the difficulty in defining migration governance stands the subject of migration itself, and the dichotomy of *migration of choice* and *forced migration* that characterises the international discourse on it. Several concepts are in place to describe population movements, including migration and forced migration, displacement, and refugee movements. A fixed definition however exists only for the term of "refugee," who, as enshrined in in the Geneva Convention, which refers to any person who "owing to a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."⁶ Migration or internal displacement, on the other hand, lack such legal clarification, and therefore must rely on international conventions, guidelines from international organisations, or national policy for clarification. As a result, positions on how to relate migration and displacement are divided in the international system. UNHCR - mandated to address all matters of refugee affairs - argues for a strict separation between conflict-induced displacement, and migration.⁷ IOM in contrast pursues a broader concept that encompasses forced migration as a sub-category of migration.⁸

In practice, moreover, distinguishing between migration and displacement is challenging, up to the degree that it raises questions about the validity of the categories. Especially in conflict zones where economic, political and social factors are deeply interrelated with the dynamics

2 Key informant interview (KII), international expert on migration, Feb 2017.

3 International Organisation for Migration (IOM), "Migration Governance Framework: The essential elements for facilitating orderly, safe, regular and responsive migration and mobility of people through planned and well-managed migration policies" (Nov. 2015).

4 See for instance Alexander Betts, "Global Migration Governance - the Emergency of a New Debate" (Oxford: Global Economic Governance Programme, Briefing Paper, 2010).

5 International Organisation for Migration (IOM), 'Migration Governance Framework: The essential elements for facilitating orderly, safe, regular and responsive migration and mobility of people through planned and well-managed migration policies' (Nov. 2015), <https://governingbodies.iom.int/system/files/en/council/106/C-106-40-Migration-Governance-Framework.pdf>, p. 3.

6 Convention relating to the Status of Refugees, Art. 1A(2), 1951 as modified by the 1967 Protocol

7 "UNHCR View Point: Migrant or Refugee - Which is right?" (UNHCR, July 2016), <http://www.unhcr.org/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>

8 IOM, definition of "migrant," <https://www.iom.int/who-is-a-migrant>.

of armed violence the line between voluntary and forced movement is often blurred. That population movements are separated into categories nonetheless is seen by analysts as the result of specifying experiences and needs policy has to respond, or as Turton put it, the “artefact of policy concerns rather than empirical observation and scientific enquiry.”⁹ Hence, concepts on migration and displacement, and the policy framework in which they are embedded have to be understood and analysed in the context of the broader political discourse in a given country.

Based on this understanding, the definitions on migration and displacement in place, and the conceptual focus on migration and displacement adopted by Afghanistan, become a key starting point for understanding the structure and evolution of migration governance. Further elements of relevance for the analysis flow from the IOM definition with the policy-framework put in place to guide respective actors in dealing with population movements, and the institutional structures developed to facilitate implementation.

3.2 Policy- and Legal Framework of Migration Governance -

Mirroring the international discourse, key stakeholders in Afghanistan often struggle to clarify what responsibilities migration governance comprises and identify the system it relies on. In fact, when migration issues are discussed, it is regularly from the perspective of one of its individual components, such as internal displacement, labor migration, or the challenge of reintegration.¹⁰ This fragmentation can in part be understood as the result of the historic context in which migration governance evolved in Afghanistan.

3.2.1 Shifting Patterns in Population Movements and its Reflection in Policy

As widely noted in literature, Afghanistan looks back on a long history of migration. Accounts on the number of displacement cycles vary though, with IOM referring to three major waves in population movements - the emigration waves caused by the soviet invasion and the Taliban regime, and the return movements from the early 2000s - ¹¹ while academics count up to six phases in Afghan migration.¹² What the models of past population movements in Afghanistan have in common though is emigration as dominant pattern of population movements. When an estimated quarter million Afghans joined the flow of migrants and refugees to Europe in 2015, thus, this represented a not unfamiliar issue for the Afghan government.¹³ Return movements, in contrast, only played a considerable role for a limited period in the early 2000s, when the international intervention instilled hope for stability and rapid growth, encouraging 4.5 million Afghans to return to the country (assisted returns only).

These return movements however slowed down towards the end of the 2000s, as violence expanded, driven by the resurgence of the Taliban’s insurgency.¹⁴ Although the return of millions of Afghans from Iran and Pakistan was a challenge that had loomed over the Afghan government for years, the country was eventually unprepared when Pakistan started exerting pressure on the Afghan refugee population on its territory to return from mid-2016. Around 600,000 registered refugees and undocumented Afghans are believed to have returned from Pakistan in 2016.¹⁵ Internal displacement finally proved a constant in the recent history of the country, though its scale varied over the years. Since 2010, internal displacement experienced a constant increase, which culminated in more than 500,000 Afghans being driven out of their home communities by conflict in 2016 alone, amounting to a total of 1.2 million Afghans being

9 David Turton, “Conceptualising Forced Migration” (2003), Refugees Studies Center, p. 12.

10 Key informant interview (KII), various (Nov 2016 - Feb 2017) .

11 International Organization for Migration, ‘Afghanistan Migration Profile’ (2014), p. 30-34.

12 Susanne Schmeidl, “Protracted Displacement in Afghanistan: Will History be repeated?” (Middle East Institute - Fondation pour la Recherche Strategique, August 2011), , p. 4.

13 See footnote 1 on emigration figures for 2015.

14 IOM, “Afghanistan Migration Profile,” 118.

15 UNAMA, “Population Movements Bulletin,” Issue 8 (26 Jan 2017), p. 2.

recorded as displaced in 2016.¹⁶

As migration and displacement patterns shifted over time, so did the focus of policy. Initially migration governance evolved as part of the general development efforts and was driven by the attempt to return Afghan refugees from Iran and Pakistan. This is for instance reflected in the *Afghanistan National Development Strategy (ANDS)*, in effect from 2008 to 2014. While migration had been identified as an important subject by the *ANDS*, and represented in it with a separate pillar - “Social Protection and Refugees,” - the document’s overall fragmentation makes it difficult to discern a strategic approach to migration.¹⁷

The revision of the country’s development approach, aiming at a more strategic concept - embodied by the *Afghanistan National Peace and Development Framework (ANPDF)*, that was introduced in 2016 to succeed the *ANDS* - also led to a more coherent view on migration governance as a cross-cutting issue to be pursued through streamlining into the country’s *National Priority Programs (NPPs)*.¹⁸ The inclusion of migration as an opportunity into the text was considerably aided by the returnee crisis in 2016, as early versions of the *ANPDF* migration were limited to being considered a fiscal risk, and migration as opportunity for Afghanistan’s development only appeared later in the process of drafting the *ANPDF*.

Supporting legal and policy documents also reflect the prioritisation of migration issues over time. Apart from some international agreements, embodied primarily by the tripartite agreements between Afghanistan, UNHCR and Iran or Pakistan respectively, and the *Solutions Strategy for Afghan Refugees (SSAR)* that resulted from it, few relevant documents on migration are available from the 2000 to 2010 period. *Presidential Degree 104*, which governs land distribution to displaced populations, is one example for the legislative and policy body that was prepared during this time period.

A first substantial step to actual migration governance was made with the adoption of the IDP policy, formally known as the National Policy on Internally Displacement Persons, in 2013, when Afghanistan became the first country in Asia to put in place a comprehensive policy on internal displacement.¹⁹ This fell into a period of increasing internal displacement in response to expansion of violence across the country.

When the influx of returnees from Pakistan confronted the Afghan government with new challenges, the introduction of the “Policy Framework for Returnees and IDPs” in December 2016 emerged as the most recent development in the policy framework for migration governance. The policy framework declares building on the IDP policy, and discusses priorities for the Afghan government’s response to displacement, as well as the general approach to be adopted.²⁰ This includes the commitment to upholding the individual rights of returnees as well as a “whole of community approach” that ensures the role of host communities is considered in interventions under the policy framework. Overall, the policy identifies seven core focal areas ranging from winterisation to durable solutions. In an action plan that accompanies the policy framework, specific activities and milestones flowing from the policy are defined, and tasks assigned to individual actors.²¹

16 OCHA, “Afghanistan - Conflict-Induced Displacement (as of 11 Dec 2016) - Actual Displacement between 1 January 2016 and 29 November 2016.”

17 Afghanistan National Development Strategy (ANDS), 2008 - 2013, Volume 4, pp. 451 - 491.

18 Afghanistan National Peace and Development Framework (ANPDF), 2017-2021, p. 7.

19 UNAMA, “Asia’s first IDP Policy - From Theory to Practise” (Oct. 2014).

20 Policy Framework for Returnees and IDPs (December 2016), Ministry of Refugees and Repatriation.

21 Policy Framework for Returnees and IDPs - Final Action Plan Matrix (Feb 2017).

Table 2. Legal, Policy and Strategy-Framework - Overview

Sector	Document	Specification
1. Legal Framework	Constitution of the Islamic Republic of Afghanistan	Defines Citizen's Rights which apply to all Afghans including displaced populations, and their right to access to services
	Presidential Decrees No. 104, 297	Land Allocation/Resettlement
	Law against Trafficking in Persons	Human Trafficking/Irregular emigration
2. Strategy	Afghan National Peace and Development Framework (succeeding the Afghan National Development Strategy)	Integration of migration governance in overall development strategy
	Solutions Strategy for Afghan Refugees	Voluntary Repatriation of Afghan Refugees from Iran and Pakistan
3. Policy	Policy on Internally Displaced Persons	Approach to reintegration of displaced populations
	Policy Framework for Returnees and IDPs	Revised approach to reintegration of displaced populations

Reviewing these policy documents allows for some initial observations on the concept of migration and displacement that guides decision-making in Afghanistan. First, return and internal displacement dominate the political discourse. Other subjects - such as out-migration, its root causes, and effects on local communities - hitherto has not been a strong feature of policies on migration governance. Though being identified as an opportunity for development, actual concepts on managing and utilising out-migration are rare, and confined to annexes of policy,²² or internal strategies of the MoRR.²³ Policies such as the IDP policy and the Policy Framework for Returnees and IDPs widely exclude the subject of out-migration, and in effect shift attention to the internal dimensions of migration and displacement. Second, despite policy documents in place, definitions on migration and displacement remain vague. The only document that attempts a clarification is the National Policy on IDPs which utilises a broad definition of internal displacement, combining conflict-induced and development-related displacement.

3.3 Supporting Migration Policy - The Institutional Framework

Reflecting the cross-cutting character of migration governance, a number of agencies and organisations are involved in the implementation of laws and policies on population movements. In functioning as a nodal agency, the Ministry of Refugees and Repatriation is assigned a key role in policy- and programme coordination. . Other line ministries - as for instance Ministry of Rural Rehabilitation and Development, the Afghanistan National Disaster Management Agency, or the Ministry of Interior - are tasked with individual aspects of migration governance.²⁴ Political guidance for this system was meant to be assured through the High Commission of Migration - a cabinet-level platform formed in 2015, which is convened every six months - and the sub-committee to the Council of Ministers that meets every three months.

Government agencies, however, are not the only actors involved in migration governance. In the context of the state-building efforts of the international community after the intervention in 2001, the international community became an intrinsic element of decision-making and service delivery across all policy fields in Afghanistan. The migration and displacement sector thereby

²² Although not being touched on in the Policy Framework for Returnees and IDPs, the accompanying action plan does dedicate one section to out-migration, focusing on action points regarding labor migration.

²³ In its five-year strategic plan released in 2015, the MoRR identifies out-migration as one of its core tasks aside from facilitating return and reintegration. Included as one of eight strategic objectives, the strategic plan foresees the development of mechanisms that allow for regulated labor migration and prevent illegal emigration through improved border control. (see p. 17).

²⁴ National IDP Policy (Kabul: MORR, 2013), Annex 2 - "Roles and Responsibilities of Line Ministries and other Government Agencies," p. 66.

was no exception. Various UN agencies, such as UNHCR, UN OCHA and IOM, but also a number of NGOs, contributed to decision-making, and often served as implementing agencies for substantial components of the migrations interventions that took place.

Early examples of the integration between national mechanisms and international actors are the Solutions Strategy, which was to be jointly implemented through the MoRR and UNHCR, or the national and provincial IDP task forces, in which the MoRR coordinates with NGOs on identification of and support to IDPs. The deep integration of the international actors in decision-making with the National Policy on Internally Displaced Persons became a visible example of this process. The IDP Policy Working Group, set up to support the process of drafting and implementing the policy, was attended by IOM, UN OCHA and NRC, while UNHCR served as co-chair next to the MoRR. Additional contributions such as the seconding of an external expert through UNHCR to assist with the drafting of the policy suggest that the role of international actors in the policy process was indeed substantial.²⁵

Despite the strong involvement of international actors, the IDP policy itself did not yet mention their role in executing the policy beyond the provision of data on displacement. Consequently, the formal institutional framework laid out in the policy diverged heavily from the actual set-up in which international organisations engaged in diverse programming directed towards displaced populations, ranging from emergency support and protection issues, to vocational training, livelihoods, housing, and public service delivery.

This changed with the adoption of the Policy Framework for Returnees and IDPs, which essentially formalises the inclusion of international actors into the national migration governance framework. Aiming at complementing existing coordination structures, the document introduces the Displacement and Returnees Executive Committee (DiREC), a coordinating body housed at the Office of the Chief Executive Officer (CEO). Both DiREC overall, as well as the sub-groups formed to assist the DiREC - the Policy Support Group, the Technical Support Group, and the Financial Support Group - are attended by representatives of specified line ministries and government bodies, as well as a number of international organisations.²⁶

International organisations also adopt lead roles, with UNAMA co-chairing DiREC, while UNHCR together with the National Security Council leads the Policy Support Group, and the World Bank serves as counterpart to the Ministry of Finance as Chair of the Financial Support Group. Roles of international organisations in delivering policy are also ascribed, with the action plan that accompanies the Policy Framework for Returnees and IDPs listing international organisations aside from line ministries as contributors across all sectors of interventions.²⁷

25 National IDP Policy, p. 4.

26 Displacement and Return Executive Committee, Terms of Reference, Islamic Republic of Afghanistan (Dec. 2016).

27 Policy Framework for Returnees and IDPs, p. 6, for structure of the sub-groups; Action Plan for allocation of roles to individual actors.

Table 3. Institutional Framework - Overview²⁸

Sector	Organizations/ Institutions	Areas of Interventions
Governmental Agencies	MoRR	Coordination/Policy Lead
	MoISAMD	Labor Migration, Employment
	IDLG	Citizen's Charter (Urban) - Displacement and Urban Development
		Municipalities - Displacement and Urban Development
	MRRD	Citizen's Charter (Rural) - Displacement and Rural Development
		Social Protection
	ANDMA	Disaster Management - Emergency Coordination
	Mol	Population Registration
Trafficking in Persons/Smuggling		
Ministry of Urban Development	Displacement and Urban Development	
Coordination Bodies	High Commission of Migration	Policy/coordination
	Sub-Committee to the Council of Ministers	Policy/Coordination
	Displacement and Returnees Executive Committee	Policy/Coordination
UN Agencies/ International Organisations	UNHCR	Voluntary Return of Afghan Refugees, Afghan Refugees abroad, Reintegration, Shelter, Social Protection, Policy
	IOM	Return of Unregistered Afghans, Displacement Tracking, Counter-Trafficking, Border Control, Policy/Capacity building
	OCHA	Internally Displaced Persons - Tracking/Coordination
	UNHABITAT	Urban Development Programming, including informal settlements of displaced populations
	UNDP	Livelihoods/Economic Development, Housing
	WFP	Food distribution to vulnerable population groups, tracking of returnees
UNICEF	UNICEF	Unaccompanied minors/Child migrants
	NRC, DRC, ACTED, IPSO, German Agro Action (WHH-East), GIZ, DACAAR	IDPs (rural/urban) - Shelter, Livelihoods, Water and Sanitation, and Protection, Research, Socio-Psychological Support,

²⁸ Jelena Bjelica and Thomas Ruttig, "Voluntary and Forced Return to Afghanistan in 2016/17: Trends, Statistics, and Experiences" (Kabul: Afghan Analyst Network, May 2017).

In revealing a complex network of governmental and international actors, the review of the institutional framework allows for additional conclusions on the concepts that underpin migration governance in Afghanistan. The critical role of international and non-governmental organisations, for instance, suggests that international doctrine played a larger role in the evolution of migration governance in Afghanistan, generating a set of in part contradictory norms.

3.4 Summary

Development of migration governance in Afghanistan still is in its early stages. Over years, the policy framework remained fragmented and incomplete in capturing challenges of population movements. Building institutional structures and their capacity in the migration sector was of secondary relevance for decision-makers who were captivated by demand for reform across all policy fields. Only with the stark increase in population movements from 2015, and specifically the returnee crisis, migration and displacement became a top priority. The launch of the Policy Framework for Returnees and IDPs is the product of these high-level consultations between stakeholders, and carries high expectations for its ability to streamline and accelerate the government's response to displacement. As such, the debate on migration governance mirrors the international discourse that only recently turned to explore comprehensive approaches to migration governance.

4. Challenges and Limitations for Migration Governance - Lessons Learnt from the 2001 to 2015 Period

More than seeking to advance migration governance in general, the recent introduction of the Policy Framework on Returnees and IDPs, and the transformations it brought for the institutional framework, were motivated by the widely shared view among stakeholders that existing systems for managing migration issues were insufficient in providing the Afghan government with an effective instrument to respond to the surge in displacement the country faced from 2016. To establish whether these measures were sufficient to strengthen migration governance and address gaps in the system, it is important to first examine in more detail the limitations and obstacles that hampered migration governance in the past. In comparing such lessons learnt to the new framework, it then can be gauged to what degree the Policy Framework for Returnees and IDPs will aid the Afghan government in responding to the anticipated challenges brought by the intensification in return movements and internal displacement.

4.1 Coordinating Cross-Cutting Policy Fields

4.1.1 The Role of the MoRR

Without doubt, migration governance has experienced significant challenges in the past. A case in point is the IDP policy, which faced extensive delays in implementation. Adopted in 2013, the IDP policy foresaw Provincial Action Plans to be developed in a first step, leading to the formulation of a National Action Plan on internal displacement.²⁹ Until 2016, though, implementation of the policy still had not progressed beyond the conduct of pilot projects in three provinces - Nangarhar, Balkh and Herat - of which only the latter succeeded in reaching the final draft stage.³⁰ The land allocation scheme, a major component of the policy to provide IDPs and returnees with a reintegration perspective, as well faced significant problems. "Afflicted by institutional corruption," as a Special Inspector General for Afghanistan Reconstruction (SIGAR) review concluded in 2015,³¹ land allocation proved difficult to access, a lengthy process and unreliable in its results for beneficiaries.³²

While not all observers went as far to call the IDP policy a failed effort, the delays in implementation caused stakeholders to lose confidence in the mechanisms set up by the IDP policy. This primarily affected the MoRR, which was singled out as the main factor hampering policy implementation. In its end-of-year report for 2015, for example, UNHCR hinted at the MoRR as being insufficiently capacitated when reviewing the status in the implementation of the IDP policy, in stating that "...the Policy perhaps overestimated the capacity of certain national and local authorities and institutions to effectively lead and coordinate the response to internal displacement."³³

Asides from lack of capacity, corruption also features as a recurrent theme in perceptions of the MoRR, specifically with regard to the ministry's involvement in land allocation. In the aforementioned SIGAR audit, multiple events of alleged corruption at the MoRR with regard to misappropriation of UNHCR funds for staffing and operations, and bribery related to the allocation of land were referenced.³⁴ The high prevalence of corruption in the land allocation scheme was also the subject of a report from the Independent Joint Anti-Corruption Monitoring and Evaluation Committee released in 2013 that observed strong prevalence of corruption at the ministry.³⁵

29 National Policy on Internally Displaced Persons, Ministry of Refugees and Repatriation (Nov. 2013).

30 Key informant interview (KII), government official, Feb 2017.

31 Special Inspector General for Afghanistan Reconstruction (SIGAR), "Afghan Refugees and Returnees: Corruption and Lack of Afghan Ministerial Capacity Have Prevented Implementation of a Long-term Refugee Strategy" (SIGAR 15-83 Audit Report, August 2015), p. 6-7.

32 See for instance AAN on the shortcomings of land allocation in Nangarhar province where provision of plots to returnees and IDPs was ceased by local power brokers. Fazal Muzhary, "Re-settling Nearly Half a Million Afghans in Nangarhar: The Consequences of Mass Return of Refugees," (Kabul: Afghan Analyst Network, May 2017).

33 "Afghanistan - Conflict-Induced Internal Displacement 2015: Year in Review," (UNHCR, December 2015), p. 14.

34 SIGAR, "Afghan Refugees and Returnees: Corruption and Lack of Afghan Ministerial Capacity have prevented Implementation of a long-term Refugee Strategy," (SIGAR 15-83 Audit Report, August 2015), p. 6/7.

35 Independent Joint Anti-Corruption Monitoring and Evaluation Committee, (MEC) "VCA Report on the Process of Land Distributions for Repatriations and Displaced People" (Kabul, October 2013).

Analysts describe the corruption in the land allocation scheme as endemic from its early years, constituting a legacy that is difficult to overcome for the ministry.³⁶ Even more destructive than this structural challenge may be the effect the perception of corruption had on the reputation of the MoRR and willingness of stakeholders to cooperate with the ministry. Trust of Afghan as well as international stakeholders into the ministry deteriorated rapidly over the years, resulting in organisations that facilitate migration and displacement programmes increasingly circumventing the MoRR in planning and implementation.³⁷

4.1.2 Humanitarian Aid vs. Development

The shortcomings in coordination capacity of the MoRR were elevated by the change in dimensions the subject of reintegration adopted. Initially treated primarily as a humanitarian issue, calls for a more comprehensive approach began to emerge as the displacement crisis unfolded over the past years. Linking humanitarian action with longer-term development was identified as key to ensuring sustainable solutions. Implying the need for incorporating additional actors into an already fragmented institutional system, this expansion of reintegration introduced additional coordination challenges that the governance system in place was ill-equipped to provide for.³⁸

4.2 Policy-Making vs. Implementation

While lack of capacity at the side of the MoRR dominates the perceptions of stakeholders on gaps in migration governance, the ministry itself refers to a more complex set of factors spanning all layers of governance that stood between the policy and its implementation.

4.2.1 Inconsistency and Gaps in the Legal Framework and Policy Guidelines

This included, for once, contradictions within the policy- and legal framework, as exemplified by the matter of land allocation. Positions put forward by the IDP policy, which emphasises the right for displaced populations to choose between return to the area of origin, integration into host community or re-settlement, contradicted the preference expressed in Presidential Decree 104 for displaced persons to return to their home communities.³⁹ This interpretation of the Presidential Decree can be contested, and may not have been the actual source of inter-agency disputes over the implementation of land allocation, yet it certainly opened space for dispute over due process and subsequently caused delays.⁴⁰

Other reports examining the land allocation scheme observed general gaps in the legal and administrative framework, which failed to clarify and de-conflict roles of provincial authorities. These procedural challenges were also identified as one major risk contributing to the endemic corruption at the MoRR and its involvement in the land allocation decried earlier.⁴¹

4.2.2 Planning and Subnational Governance

Insufficient integration of migration governance into the general planning process of line ministries was also seen as hampering the ability of the MoRR to enforce priorities for the response to displacement.⁴² While line ministries may agree on support measures for displaced populations, their consideration in the annual planning process could be outweighed by internal priorities. As a cross-cutting policy without separate budget lines, the MoRR and its efforts to implement the IDP policy essentially relied on the planning process at the relevant line ministries, which was therefore subjected to the stark variations in planning capacity across ministries as well as the

36 Jelena Bjelica, "Afghanistan's Returning Refugees - Why are so many still landless?" (Kabul: Afghan Analysts Network, March 2016).

37 Key informant interviewee (KII), international development professional, Feb 2017.

38 Dialogue Event (Feb 2017), participant's contribution.

39 Key informant interviewee (KII), government official, Feb 2017.

40 For the Presidential Decree, see - *President of the Islamic Republic of the Republic of Afghanistan on Land Distribution for Housing to Eligible Returnees and IDPs*, No. 104.

41 Independent Joint Anti-Corruption Monitoring and Evaluation Committee, "VCA Report on the Process of Land Distributions for Repatriations and Displaced People," (Kabul: MEC, October 2013) p. 7.

42 Key informant interviewee (KII), government official, Feb 2017.

internal agendas that shape decision-making.

At the subnational governance level, the IDP policy faced opposition from provincial administrations for its local settlement solutions, as decision-makers feared shifts in local power balances as a result of the influx into their constituency.⁴³ While the IDP policy with its multi-layered decision-making approach is remarkable for a country where otherwise centralistic approaches to planning are preferred, it lacked the ability to manage and enforce the decision-making process at the provincial level.

Furthermore, the process laid out in the IDP policy presumed a level of local planning capacity that did not yet exist at the provincial level. With subnational governance systems only slowly developing, subnational governance widely remained disconnected from planning processes at the central level. Stakeholders in Nangarhar Province observed this lack of integration between governance levels and insufficient capacity at local administrations to be a dominant factor that prevented more effective policy implementation and service delivery.⁴⁴

Both at the national and subnational level, thus, policy fell short of being implemented after clashing with the realities of political process and institutional capacity.

4.2.3 Political Economy at the Subnational Governance Level

Apart from capacity of government structures, the subnational level also presented a broader challenge for enforcing policy through its political economy of decision-making. For the aforementioned land allocation scheme, for instance, reports concluded that apart from the DoRR a range of other actors - from both formal and informal governance structures - was involved in corrupt practices and land grabbing.⁴⁵ Provincial officials subsequently saw little chance to enforce procedures where informal networks limited the reach of the local authorities.⁴⁶ The problems encountered by the land allocation scheme thus in part simply reflect broader governance challenges at the subnational level that arise from informal power structures penetrating and circumventing formal mechanisms of governance.

4.2.4 Technical Challenges and Resource Scarcity

Finally, various sources point out the importance of considering technical challenges when reviewing the effectiveness of the MoRR. This starts with the lack of reliable data on population movements. Data gaps thereby stretch from systematic collection of quantitative figures on population movements - which to date are being collected separately by various agencies, applying differing standards and data collection methods, and therefore regularly display inconsistencies in figures - to higher level analysis, such as the factors that fuel out-migration and its impact it has on the communities, or the implications of migration on Afghanistan's economic development. This lack of data and analysis limits the evidence-base on which policy can be build.⁴⁷

4.3 Summary

The review of past challenges for migration governance reveals a range of obstacles that range from limitations in the institutional and legal framework, gaps in institutional capacity, transparency and accountability, technical challenges, and local governance challenges. In fact, while at first glance the delays and inefficiency of migration governance in the past seemed to have originated from limitations at the MoRR, a more in-depth analysis linked several of the problems the MoRR struggled with to deeper structural and systematic issues. Corruption, for instance, was fueled by a combination of factors that comprised shortcomings at the ministry as much as legal and procedural gaps, and an adverse political economy in which informal networks interfere with local governance.

43 Key informant interviewee (KII), government official, Feb 2017.

44 Key informant interview, NGO representative, Nangarhar (Jan 2017).

45 Jelena Bjelica, "Afghanistan's Returning Refugees - Why are so many still landless?" (Kabul: AAN, March 2016).

46 Key informant interview, Government Representative, Nangarhar (Jan 2017).

47 Key Informant Interview, MoRR representative, Jan 2017 - In the interview the MoRR representative listed a series of subjects that were identified by the ministry as requiring analysis, but where no resources were available to do so.

5. The Policy Framework for Returnees and IDPs - An Assessments of its Potential and Limitations

To what degree the recently launched policy framework accounts for these challenges, and what conclusions can be drawn on Afghanistan's future migration governance capacity, shall be examined in the following section.

5.1 *Concepts on Reintegration*

The policy framework on returnees and IDPs introduced at the end of 2016 places large emphasis on the importance of interlinking humanitarian and development spheres, and attempts to formulate a comprehensive approach to reintegration. This is demonstrated by the three phases the document identifies for the interventions - humanitarian aid, support to reintegration, and long-term economic development. The long-term perspective on reintegration adopted by the policy is further underscored by the inclusion of provision of public services such as education and the need for an economic response component aimed at generating employment opportunities into the seven core focus areas for intervention identified by the policy. Integrating displacement response into the Afghan government's flagship for local development - the Citizen's Charter, successor of the National Solidarity Programme (NSP), and Afghanistan's development with the largest outreach across the country - is another case in point for the development-perspective the document adopts.⁴⁸

In fact, however, this understanding of reintegration as multi-dimensional, long-term challenge for development in Afghanistan already surfaced in the IDP policy, with similar action points identified as relevant for reintegration as in the 2016 policy framework. The new policy may place larger emphasis on economic development, yet does not expand beyond already existing initiatives in its propositions on how to tackle the issue. The only completely new elements discussed by the final action plan accompanying the policy framework are cultural initiatives to ensure social cohesion, and the need for strengthened public outreach. While these indisputably are critical for a comprehensive reintegration strategy, essentially, in both the IDP policy and the new policy framework access to land remains the dominant mechanism for facilitating reintegration of displaced populations, and the introduction of the new policy constitutes only a minor shift in the strategic outlook of migration governance.

5.2 *Strengthening Coordination Capacity*

The actual difference introduced by the policy framework thus lays in the mechanisms that are implemented to drive policy implementation. As discussed earlier, the limited success of the IDP policy was ascribed to failure in translating the propositions of the policy effectively into Afghanistan's planning mechanisms and institutional procedures. Whether an actual shift in approach to reintegration will be achieved, thus, will be determined by the degree to which Afghanistan's governance mechanisms can be utilised to implement policy across sectors of public service delivery.

In the IDP policy, the MoRR had served as the explicit lead agency for policy-making and coordination, as well as organisation tasked with managing land allocation and durable solutions programs. Although generally naming the MoRR as "leading implementer of all policies and strategy in this area,"⁴⁹ the subsequent institutional arrangements discussed in the policy framework no longer re-affirm this role. While the MoRR is nominally co-chairing the DiREC, it is only a regular member in the support groups. Instead, the Policy Support Group, for example, is co-chaired by UNHCR and the National Security Council. The Technical Support Group is lead by the Afghanistan Independent Land Authority (ARAZI) and the Office of the President, while World Bank and Ministry of Finance oversee the Financing Support Group.⁵⁰ On-going initiatives to create a coordination unit directly attached to DiREC, which among other responsibilities will be tasked to provide policy expertise and advice, is another element of the newly introduced mechanisms that challenges the role of the MoRR as coordination and nodal agency.

48 Policy Framework for Returnees and IDPs (December 2016), Ministry of Refugees and Repatriation.

49 Policy Framework for Returnees and IDPs (December 2016), Ministry of Refugees and Repatriation, p. 5.

50 Ibid.

In the national action plan which operationalises the policy framework, the re-allocation of functions is equally visible. On land allocation, for instance, the action plan now lists ARAZI as lead agency.⁵¹ Durable solutions as well are distributed across other line ministries, with the MoRR only mentioned as a support agency in these areas. Policy-coordination itself becomes a prerogative of the DiREC, as demonstrated in both the Terms of Reference developed for DiREC as well as the action plan. For other functions, such as Monitoring & Evaluation, the policy framework and action plan remains ambivalent about their allocation between agencies. In essence, the policy framework and its accompanying action plan circumvent the capacity gaps of the MoRR by re-distributing coordination functions, including to the newly established DiREC (see table 4).

Table 4. Allocation of Functions - Cross-Comparison between IDP Policy and Policy Framework on Returnees and IDPs

No.	Function	Sub-Function	Allocation to Institution	
			IDP Policy ¹	Policy Framework on Returnees and IDPs/ Action Plan
1	Information/Data Collection	-	MoRR	MoRR
2	Research	-	Undefined	Undefined
3	Policy-Making	=	MoRR	DiREC
4	Planning	-	MoRR/Line Ministries/ Provincial Administrations	DiREC/Line Ministries
5	Coordination	-	MoRR/IDP Policy Working Group/Task Forces	DiREC (Coordination Unit)
6	Implementation	Population Registration	Ministry of Interior	Ministry of Interior
		Land Allocation	MoRR	ARAZI
		Rural Development	Ministry of Rural Rehabilitation and Development (MRRD)	MRRD/Citizen's Charter
		Urban Development	Ministry of Urban Development Assistance (MUDA)	Independent Directorate for Local Governance (IDLG)/ Citizen's Charter
		Education	Ministry of Education	Ministry of Education
		Skills/Economic Development	Ministry of Labour, Social Affairs, Martyrers, and Disabled (MoLSAMD)v	Ministry of Labour, Social Affairs, Martyrers, and Disabled (MoLSAMD)
7	Communications	-	Undefined	DiREC
8	Monitoring & Evaluation	=	MoRR	DiREC (Monitoring & Evaluation Cell)
1 See National IDP Policy, Annex 2, "Role and Responsibilities of Line Ministries and other Government Agencies."				

⁵¹ Whether ARAZI will eventually integrate the functions of land allocation and housing into its institutional agenda, though, remains unclear to date. Key informant interviews at national and provincial level provided contradicting statements on ARAZI's intend to accept or refuse the responsibility for land allocation.

5.3 *Early Successes - Migration as Catalyst for Institutional Change?*

An indicator for the DiREC indeed being effective where other mechanisms so far have failed are the initial successes in driving forward policy initiatives that had been in jeopardy for considerable period. Relying on accurate knowledge about the numbers and movements of displaced populations, for instance, migration governance in the past had been severely impaired by the lack of ubiquitous identification mechanisms. Without being able to verify identity and area of origin of displaced persons, tracking population movements and the support they receive is a futile task. While various quick fixes have been discussed, the underlying problem has been the general lack of an effective population registration mechanism in Afghanistan.⁵² The electronic ID card - the e-taskera system - which had been in process since 2009 to allow for more reliable registration, was blocked for years due to disagreement among Afghan decision-makers over the identity categories to be displayed at the ID card.⁵³ The programme experienced an unexpected boost when the Afghan government eventually announced its roll out in January 2017. The returnee crisis is considered to have played at least a supporting part in generating the political pressure that pushed this decision forward.⁵⁴ In addition to providing refugee and returnee agencies with crucial data on beneficiaries, the development can be expected to lead to a generally better knowledge of the Afghan population, a factor which had hampered countless policy- and program initiatives in the past. The sense of urgency generated by the migration crisis thus can indeed be utilised to address pressing governance challenges.

To what degree this success of the electronic taskera can be replicated for other policy fields, however, remains uncertain. While political conflict stood at the core of the blockade of the e-taskera, the challenges for streamlining displacement response into education and other public service sector lays in the capacity of the planning processes in that sectors. A major factor therefore is the weak integration between national and subnational levels that hampers effectiveness of planning for service delivery, and its responsiveness to local needs. These fundamental barriers remain untouched by the re-arrangement of coordination functions at the policy level. The new policy framework makes some indications about intending to address the issue by establishing provincial reintegration committees. Yet, again, such provincial coordination bodies already exist under the IDP policy with the provincial IDP task forces and Reintegration Working Groups, without having succeeded in bridging the capacity gap that defines the provincial levels of administration.

5.4 *The Long-term Perspective - Ad-hoc Coordination Bodies vs. Institutional Development*

Finally, the question arises about the sustainability of an approach in which functions are re-allocated from ministerial bodies to ad-hoc coordination forums. Perceptions of stakeholders on the future role of the DiREC diverged quite substantially, as some expected the DiREC to be a short-term solution, while others saw the coordination body as a structure that would remain for the years to come.⁵⁵ Donor agencies which supported the establishment of the DiREC described the prospects of institutionalising DiREC as a decision that would have to be made by the Afghan government.⁵⁶ Without clarity on the prospects of DiREC becoming a fixture in the institutional landscape, the decision not to invest into building capacity of the MoRR appears a risky choice. Already weakened in its institutional capacity and authority, the installation of the DiREC will further hamper the MoRR in its attempt to overcome shortcomings that led to its current marginalisation in the political process. The DiREC on the other hand remains reliant on political support to date, raising the question about what would happen if the sense of urgency that encouraged its creation wavered or were to be distracted by more pressing political issues.

⁵² Relying on community representatives for verification of identity and issuing paper identity cards, with registration maintained in de-centralised archives, the current system is prone to manipulation and struggles to produce comprehensive population statistics. Most importantly, only a part of the Afghan population has been registered in the system so far.

⁵³ For a discussion on the history of the e-taskera projects and the barriers it encountered, see Jelena Bjelica and Martine van Bijlert, "The troubled History of the E-Taskera (Part 1) - Political Upheaval" (Kabul: AAN, Jan 2016).

⁵⁴ Stakeholder contributions to AREU Dialogue Meeting on Migration Governance, March 2017.

⁵⁵ Key informant interviews (KII), government officials (multiple), Feb 2017.

⁵⁶ Key informant interview (KII), international development expert, Feb 2017.

If the installation of the DiREC should succeed, on the other hand, the re-structuring of coordination in the migration sector may give cause for generally revisiting the value of dedicated coordination agencies. Apart from the MoRR, this characterisation of being primarily policy and coordination bodies also applies to the Afghan National Disaster Management Agency (ANDMA) and the Ministry of Women's Affairs (MoWA), both known to struggle with fulfilling their roles within the system.

5.5 Summary

While the introduction of the new policy framework suggests a substantial change in how migration and displacement is approached by the Afghan government, a detailed review of the framework does not reveal fundamental change in concepts and approaches. The shift from reintegration as a predominantly humanitarian task to a question of public service delivery that required broad inter-agency cooperation already marked the IDP policy from 2013. Reintegration also remains dominated by a focus on access to land, with the urban character of displacement movements only slowly transfusing into political concepts. Instead of conceptual changes, the new policy primarily represents a re-allocation of functions between agencies related to migration governance, with the MoRR being relieved of several of its coordination- and policy responsibilities. This certainly reflects past lessons learnt on the shortcomings of the MoRR, and has led to first achievements, as for instance in the form of the agreement on the e-taskera. While offering solutions to some of the most pressing issues, however, the policy framework does not account for the main obstacle encountered by the MoRR and its partners when attempting to translate the IDP policy into practice - the structural barriers to policy implementation. Lack of institutional capacity in the line ministries, weak integration of national and subnational governance levels in planning and implementation as well as local politics represent challenges that thus far received little attention in the policy. As a cross-cutting issue that increasingly transfuses into general public service delivery, migration governance is inadvertently interlinked with the effectiveness and efficiency of Afghanistan's broader governance systems.

6. Prospects for Institutional Development - A Strategic Analysis on the Future Role of the MoRR

As discussed in the previous section, to what degree the MoRR is being replaced by the new coordination structures put in place is a matter of debate, whereas the fact that the installation of an additional coordination body will have implications for the ministry's role is not. Initiated by MoRR staff, discussions on the future role of the MoRR have started, a debate to which this chapter hopes to contribute. To do so, though, it first requires a better understanding of the dynamics which led to the re-definition of the ministry's functions in the first place to sketch the limitations within which re-organisation of the MoRR will be feasible.

6.1 Contextual Analysis - The Political Economy of Migration Governance

Apart from offering an outlook on Afghanistan's ability to respond to migration crisis, recent events in migration governance also provide a window into the broader dynamics of governance in Afghanistan, and how it affects policy-making and institutional development. In fact, it is difficult to understand the processes that led to the introduction of the new policy framework without two key factors - Afghanistan's political factionalism, and the role of the international donor community.

6.1.1 Institutional Development and Political Conflict

As a topic that gained a high profile in the political debate over the period of 2016 and can be expected to carry considerable financial implications for the national budget and funding streams in the near future, the re-structuring of migration governance inevitably was subjected to the fundamental political dynamics of the Afghan government.

A dominant factor thereby is certainly the much-discussed conflicted relationship between the camps of the President and the Chief Executive Officer that emerged after the former contestants for the presidency agreed to a joint government concept in form of the National Unity Government. Far from being a smooth transition, both sides have since accused each other of blocking political reform. External analysts interpret this political conflict as the driving factor behind appointments as much as initiatives to re-structure governance mechanisms. At first glance, the shift of functions away from the MoRR - which belongs to CEO Abdullah Abdullah's portfolio - appears like an extension of this political struggle. However, this is contrasted by the fact that the center of gravity for decision-making now lies with the DiREC, which is also embedded at the CEO's office. Instead, the move mirrors similar trends in other policy fields where authority for programmes and initiatives was shifted from line ministries to central organs such as the President's office.⁵⁷ The re-shaping of migration governance structures thus does not so much reflect open competition between the two political camps, as the tendency born from it to cluster authority at political centers within the executive.

6.1.2 Migration Governance and Donor Policies

While internal dynamics were important in shaping the discussion on migration governance, the role of external actors must not be underestimated.

In supporting the initial assessment that produced the recommendation to form DiREC, in fact, the international community was instrumental in re-organising migration governance.⁵⁸ Key actors thereby were UNHCR and IOM (traditional stakeholders in displacement and migration work), the United Nations Assistance Mission in Afghanistan (UNAMA), and the World Bank (WB). This was also reflected in the composition of the new structures established, as UNAMA co-chairs

⁵⁷ International Crisis Group (ICG), "Afghanistan - The Future of the National Unity Government," (Washington, DC: ICG, Asia Report No. 285, April 2017), pp. 7/8.

⁵⁸ One example is the establishment the coordination unit supporting the DiREC which was a suggestion produced by a UNDP-funded consultancy. See "Coordination Unit of the Migration High Council - Concept Note" (Dec. 2016).

DiREC while UNHCR adopts a lead role in the Policy Support Group and WB serves as co-chair of the Financial Support Group.⁵⁹ Germany also can be considered a key contributor through its funding of the new structure; for instance, through GIZ which supports the establishment of the Coordination Unit.⁶⁰

The strong international support for the new coordination mechanism comes as donors re-evaluate the MoRR's potential for institutional development. Concluding that "more of the same will not work," donors turned to backing the DiREC instead.⁶¹ This assessment arguably negates the fact that the MoRR was never a major recipient of capacity building support, as had been granted to line ministries more central to development or security agendas in the country's reconstruction. In fact, only from 2008 onwards had the MoRR been gradually assigned as lead agency for matters of displacement. Resources and political influence, however, remained inadequate to enable the ministry to fulfil its responsibilities.⁶² In bypassing the MoRR when responding to the return crisis in 2016, decision-makers thus opted for institutional solutions which re-enforce existing imbalances in the capacity of governmental bodies.

In addition, concerns over the MoRR capacity - which as discussed earlier were well substantiated - appear to not have been the only motif for this change in approach. Friction over the signing of the "Joint Way Forward" - an agreement between the Afghan government and the European Union on the return of rejected Afghan asylum seekers from Europe also seems to have had a lasting effect on donor relations with the ministry. Following the refusal of the Minister of Refugees and Repatriations to acknowledge the agreement, the document only came into effect when the Deputy Minister of the MoRR signed it.⁶³ For this reason, only very limited EU support is provided to the MoRR directly, despite the "Joint Way Forward" foreseeing a capacity building element dedicated to the ministry.⁶⁴

6.2 Options for Building Capacity at the MoRR

As shown, internal dynamics of the Afghan governance system currently favor centralised decisionmaking over systematic institution-building. This coincides with the international community's move away from pursuing long-term institution-building to prioritising short-term solutions. Apart from shaping past debate, these trends imply strong limitations for the prospects of institutional development for the MoRR, and its future role in migration governance.

From the assessment of the political context in which migration governance is shaped, it can be concluded that major interventions to address the capacity-gaps the MoRR is experiencing are unlikely to date, as it does not fit the priorities of the relevant actors. Furthermore, having yielded insufficient results in the eyes of decision-makers, capacity building as a concept has been somewhat discredited, even though these perceptions may be based on vague understanding of the approaches to capacity building applied, and their efficiency. All these aspects represent structural limitations that are unlikely to change in the near future, and therefore have to be incorporated into any plans on strategic development of the MoRR.

The ministry itself is divided on how to position itself within the new framework. While some decision-makers at the MoRR propagate focusing on the functions ascribed by the Policy Framework for Refugees and Returnees, others argue for re-organisation to adopt a more implementation-oriented role.⁶⁵ Though prominent among MoRR staff, this debate so far has remained an informal one, as neither of the mentioned perspectives is captured in strategy documents of the ministry.

59 Displacement and Return Executive Committee, Terms of Reference, Islamic Republic of Afghanistan (Dec. 2016).

60 GIZ supports DiREC in recruitment and payment of staff for the coordination unit as well as organisational development of the unit through its Open Policy Fund. Key informant interview (KII) with international expert, March 2017.

61 Key informant interview (KII), international organization representative, Feb 2017.

62 Andrew Solomon and Chareen Stark, "Internal Displacement in Afghanistan: Complex Challenges to Government Response," in *From Responsibility to Response: Assessing National Approaches to Internal Displacement*, 259-278 (London: London School of Economics and the Brookings Institution).

63 Key informant interview (KII), government official, Feb 2017.

64 Key informant interview (KII), international organisation representative, 2017.

65 Stakeholder contributions to AREU Dialogue Meeting on Migration Governance, Jan 2017.

Building implementation capacity at the ministry, for instance, is not mentioned in the five-year strategic plan the MoRR adopted in 2015, which includes a dedicated section on capacity building for the MoRR.⁶⁶

Given the limited resources and capacity available at the ministry, a focus on selected roles may be more appropriate rather than the broad-scale approach pursued by the MoRR up to now. Demonstrating efficiency in selected areas could also assist in re-gaining trust and credibility, a main factor for the ministry's recent sidelining. Thereby, options for re-organisation of roles can be defined along subjects of migration/displacement, and technical functions.

6.2.1 Subject Focus - Reintegration vs. "Niche" Aspects of Migration Governance

Currently, the debate on migration and displacement is dominated by the pressing matter of reintegrating returnees and IDPs. Other aspects of migration governance - such as labor migration, irregular out-migration, or Afghans living abroad - consequently received less attention. This entails two options for the MoRR. Either the ministry dedicates all resources to the functions allocated to it by the new policy framework, in order to excel in its performance and make a case for re-ascribing DiREC capabilities into the ministry once the executive committee is dissolved.

Alternatively, the MoRR could focus on these "niche" aspects of migration governance currently negated. Aside from the above-mentioned subjects, this could also include adopting a preventive focus, as most activities facilitated through the Policy Framework on Returnees and IDPs are reactive in response to the crisis. By concentrating on aspects that are not central to the policy framework, the MoRR could prevent migration issues in the migration sector that may prove disruptive if displacement patterns were to change again. From the organisational perspective, it would provide the ministry with the opportunity to act more independently, and develop its policy and coordination capacity.

6.2.2 Functional Focus - Coordination vs. Implementation

A long-standing theme not only at the MoRR has been how effective sole coordination agencies can be within the realities of Afghanistan's political system. Arguments exist both for and against adopting an additional implementation function. While implementation responsibility provides a level of authority that is crucial for effectively facilitating coordination, it can also instil a sense of competition among stakeholders that conflicts with the original coordination role. The MoRR thus will have to carefully balance between the two functions. With regard to functioning as coordination body, considerable space is offered to the MoRR on all levels - from research to programming. As migration governance gains in complexity, an agency which can provide comprehensive overviews will be in high demand. Conceptualising coordination as a function, and the aspects required by it, would be a crucial step.

In terms of implementation, the space to operate for the MoRR is limited by the resource scarcity the ministry is already experiencing. The shift to streamlining reintegration into public service delivery, and therefore into the sphere of influence of other line ministries, further restricts the possibilities for areas where MoRR could get involved. Return programmes, thus far managed by international organisations, may be the most suitable option in case the MoRR were to decide pursuing an implementation function. The positive relationship between the MoRR and IOM, one of the few organisations that maintained its capacity building support to the ministry, also speaks in favour of this option.

Finally, coordination and implementation are not the only functions involved in facilitating the response to migration and displacement. Information management and research are aspects that to date are not at all or only poorly addressed by the policy framework. As complexity of migration governance grows, however, these issues will become more important for informing policy and decisionmaking. These functions also constitute areas where the MoRR has made some progress in recent years, providing it with a strategic advantage for expansion of its role.

⁶⁶ Ministry of Refugees and Repatriation, "Strategic Plan," 2015 -2019 (13941398), p. 19-20.

6.3 Summary

The political economy within which migration governance systems are shaped - consisting of political dynamics and donor relations - proved detrimental to capacity building of the MoRR. In opting to install a new institution instead of fixing a defunct one, the Policy Framework on Returnees and IDPs raises broader questions about the trajectory of institution- and state-building in Afghanistan. For the MoRR, however, it primarily entails that little space exists for reformulating the ministry's role in migration governance. This calls for a prioritisation of the resources available, and subsequently the formulation of a narrower role for the MoRR than had been established by the strategic plan thus far. A number of options exist to refocus MoRR activities, both with regard to the subjects addressed and functions adopted. To decide between these options, though, the ministry will have to conduct a critical review of its past achievements, and facilitate a broad debate between all stakeholders within the MoRR.

7. Conclusions

This study analysed migration governance in Afghanistan, with a view on the system's capacity to mitigate current and future migration challenges. Emphasis was placed on the role of the MoRR, and prospects for enhancing its functions and institutional capacity.

The analysis depicts a system in rapid transition, driven by the returnee crisis Afghanistan experienced since 2016. A recent significant turning point is commonly seen in the introduction of the Policy Framework on Returnees and IDPs in 2016. At closer examination, though, the new policy framework does not offer a fundamentally different approach to its predecessor, the IDP policy, and instead represents predominantly a reallocation of functions. Core to this reallocation is the installation of a new coordination body which to some degree overlaps with the roles hitherto assigned to the MoRR. A review of past challenges that hampered migration governance - including fragmentation of the institutional system, and the lack of capacity and resources of the MoRR as lead coordination agency - suggests that the reorganisation indeed addresses key gaps in the system and may contribute to the overall efficiency of migration governance. This assessment enjoys support by indicators for early success, such as unexpected progress in reactivating the e-taskera initiative. It however also pointed to systematic shortcomings that are not addressed by the Policy Framework, specifically with regard to governance mechanisms at the provincial level. Thus, the paper argues that while the Policy Framework and its stakeholders focus on re-drafting of policy, the actual challenge lays in implementing policy. The key element to ensuring that policy is communicated effectively and fits local realities is strengthening the relevant institutional mechanisms related to planning and programming, including at the provincial level. These aspects require close attention as the formation of the institutional framework progresses.

In examining the factors which led to the introduction of the Policy Framework, the paper furthermore aimed at establishing limitations for future institution-building efforts at the MoRR. It was found that both dynamics inherent to the current political system as well as to the international community - i.e., the political economy within which decisions on allocation of functions are made - favor clustering of authority over capacity building of institutions which have been at the periphery of national interest until recently. In between these tendencies and the crisis in trust that the MoRR has suffered over the past years, the ministry is left with little space in which to advocate for donor support. The paper therefore suggests preparing a strategy on institution-building for the MoRR that is informed by an in-depth historic assessment of institutional development at the MoRR, prioritises the allocation of resources and capacity for aspects of migration governance which assist in re-establishing credibility with stakeholders, and provides the MoRR with a starting point for reclaiming its functions.

Apart from informing strategic positioning of the MoRR, the findings of the paper also serve to provide insight into general dynamics of governance in Afghanistan. Of particular interest would be the MoRR as a case study for evolution of capacity at institutions of secondary relevance, with respective limited resourcing and political influence. Sudden shifts in priority thus could trigger the introduction of additional institutions that distort the existing system. Another broader implication of the findings are the challenges faced by ministries that are primarily assigned policy and coordination functions. If the establishment of the DiREC should succeed, this model of inter-agency coordination may be questioned not only for migration governance.

8. Recommendations

Based on the findings of the study, the following recommendations have been made:

For the Government

- Institutionalisation of Coordination Mechanisms - Develop a long-term strategy for DiREC and the functions it adopted, by either institutionalising the committee or formulating a transition process in which its functions are reverted to original stakeholders;
- Institution-Building - Establish institutional structures that reduce dependency of progress in migration governance on active political support, and allow for effective decision-making across all levels of administration;
- Focus on Policy Implementation and its Challenges - Work to enhance the general governance mechanisms effective migration governance relies on. Shift the focus from policy-making to implementation, and enhance the integration of national and subnational governance levels in planning and programme management;
- Institutional Support - Assist the MoRR in clarifying its roles and responsibilities with view on the Policy Framework for Returnees and IDPs, and de-conflict or redefine allocation of functions where necessary;

For the MoRR

- Lessons Learnt Exercise - Conduct a strategic review that generates a joint assessment on the factors that hampered institutional development in the past;
- Relationship Management - Identify and implement initiatives that foster credibility and trust of the MoRR among national and international stakeholders. This may include revision and optimisation of cooperation mechanisms, and the introduction of regulations that ensure responsiveness of the ministry to requests from stakeholders;
- Prioritization of Functions - Re-define the role of the MoRR by prioritising responsibilities and functions, using the options suggested in this paper - Reintegration focus vs. “Niche” Aspects of Migration Governance, and Coordination vs. Implementation;
- Standardisation of Inter-Agency Coordination - Conceptualise coordination as a function, by defining standards and procedures for effective inter-agency coordination;
- Internal Management - Revise the ministry’s strategic plan to align to the Policy Framework for Returnees and IDPs, as well as the prioritisation of roles prepared by the MoRR;

For the International Community

- Alignment of Interventions - Align reintegration programmes to the government’s comprehensive approach of streamlining reintegration into public service delivery, and shift focus to support the strengthening of the institutional systems that deliver these;
- Institution-Building Agenda - Revisit the current position on limiting engagement with the MoRR to assess whether space for cooperation exists that could assist the MoRR in breaking the cycle of distrust and lack of capacity;
- Utilise migration governance as a case study to review the general strategic approach to institution-building and development in Afghanistan;
- Conceptualisation of Capacity Building - Systematically evaluate past efforts in capacity building to enhance understanding of best practices and limitations, as well as the effectiveness of individual methods and instruments.

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