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**UNHCR**United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

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Re: Response to your request concerning internal flight alternative and the situation in Kabul

Dear Ms [REDACTED],

Further to your request dated 04/11/2011 for UNHCR's opinion on Internal Flight or Relocation Alternative ("IFA/IRA") with reference to the situation in Kabul, this letter provides UNHCR's observations on the concept of IFA/IRA and the situation in Kabul, particularly as it relates to the possible consideration of a possible internal relocation area within the framework of the refugee status determination process. UNHCR notes that these observations are provided without prejudice to UNHCR's position under the Convention on the Privileges and Immunities of the United Nations.

According to its Statute, UNHCR fulfils its mandate *inter alia* by "[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto[.]"¹ UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention relating to the Status of Refugees ("1951 Convention").² Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status ("UNHCR Handbook")³ and subsequent Guidelines on International Protection⁴. This supervisory

¹ UN General Assembly, *Statute of the Office of the United Nations High Commissioner for Refugees*, 14 December 1950, A/RES/428(V), available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=3ac6b3628> ("UNHCR Statute"), paragraph 8(a).

² UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations Treaty Series No. 2545, vol. 189, p. 137, available at: <http://www.unhcr.org/refworld/docid/3bc01b964.html>.

³ UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees*, 1 January 1992, available at: <http://www.unhcr.org/refworld/docid/3ac6b3314.html>.

⁴ UNHCR issues "Guidelines on International Protection" pursuant to its mandate, as contained in the Statute of the Office of the United Nations High Commissioner for Refugees, in conjunction with Article 35 of the 1951 Convention. The Guidelines complement the UNHCR Handbook (see above footnote 3) and are intended to provide guidance for governments, legal practitioners, decision-makers and the judiciary, as well as UNHCR staff.

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responsibility is reiterated in Article 35 of the 1951 Convention and Article II of the 1967 Protocol relating to the Status of Refugees ("1967 Protocol"), to which Denmark became a State Party on 4 December 1952.⁵

UNHCR, in exercising its mandate and supervisory responsibility, provides information on a regular basis to decision-makers and courts of law in cases concerning the proper interpretation and application of provisions of the 1951 Convention and the 1967 Protocol. UNHCR's expertise on asylum issues has been acknowledged in the context of the European Union's asylum *acquis* and beyond, including in the pronouncements of the European Court of Human Rights, which has highlighted the reliability and objectivity of UNHCR in this field.

1. UNHCR's Position on the Internal Flight or Relocation Alternative

UNHCR's position on the application of the internal flight or relocation alternative is set forth in UNHCR Guidelines on International Protection No. 4: *"Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees* of 23 July 2003. ("IFA/IRA Guidelines")⁶

As described in the IFA/IRA Guidelines, it is important to note at the outset that international law does not require threatened individuals to exhaust all options within their own country first before seeking asylum; that is, it does not consider asylum to be the last resort. The concept of IFA/IRA should therefore not be invoked in a manner that would undermine important human rights tenets underlying the international protection regime, namely the right to leave one's country, the right to seek asylum and protection against *refoulement*. Moreover, since the concept can only arise in the context of an assessment of the refugee claim on its merits, it cannot be used to deny access to refugee status determination procedures.

The 1951 Convention does not require or even suggest that the fear of being persecuted need always extend to the *whole* territory of the refugee's country of origin. The concept of an internal flight or relocation alternative therefore refers to a specific area of the country where there is no risk of a well-founded fear of persecution and where, given the particular circumstances of the case, the individual could reasonably be expected to establish him/herself and live a normal life. Consequently, if internal flight or relocation is to be considered in the context of refugee status determination, a particular area must be identified and the claimant provided with an adequate opportunity to respond.

Within the context of a holistic assessment of a claim for refugee status, the assessment of whether or not there is a relocation possibility requires two main sets of analyses, undertaken on the basis of answers to the following sets of questions and procedural considerations:

1.1. The Relevance Analysis

a) *Is the area of relocation practically, safely, and legally accessible to the individual?* If any of these conditions is not met, consideration of an alternative location within the country would not be relevant.

⁵ According to Article 35 (1) of the 1951 Convention, UNHCR has the "duty of supervising the application of the provisions of th[e 1951] Convention".

⁶ UN High Commissioner for Refugees, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04, available at: <http://www.unhcr.org/refworld/docid/3f2791a4.html>

b) *Is the agent of persecution the State?* National authorities are presumed to act throughout the country. If they are the feared persecutors, there is a presumption in principle that an IFA/IRA is not available.

c) *Is the agent of persecution a non-State agent?* Where there is a risk that the non-State actor will persecute the claimant in the proposed area, the area will not be an IFA/IRA. This finding will depend on a determination of whether the persecutor is likely to pursue the claimant to the area and whether State protection from the harm feared is available there.

d) *Would the claimant be exposed to a risk of being persecuted or other serious harm upon relocation?* This would include the original or any new form of persecution or other serious harm in the area of relocation.

1.2. The Reasonableness Analysis

a) *Can the claimant, in the context of the country concerned, lead a relatively normal life without facing undue hardship?* If not, it would not be reasonable to expect the person to move there.

1.3. Procedural issues

The Burden of Proof

Paragraphs 33 to 35 of the IFA/IRA Guidelines state that the use of the relocation concept should not lead to additional burdens on asylum seekers. In general terms, the burden of proving an allegation rests on the one who asserts it.⁷ On this basis, the decision-maker bears the burden of proof of establishing that an analysis of relocation is relevant to the particular case. If considered relevant, it is up to the party asserting this to identify the proposed area of relocation and provide evidence establishing that it is a reasonable alternative for the individual concerned.

Basic rules of procedural fairness furthermore require that the asylum-seeker be given clear and adequate notice that such a possibility is under consideration.⁸ They also require that the person be given an opportunity to provide arguments why (a) the consideration of an alternative location is not relevant in the case, and (b) if deemed relevant, that the proposed area would be unreasonable.

Country of origin information

While examination of the relevance and reasonableness of a potential internal relocation area always requires an assessment of the individual's own particular circumstances, well documented, good quality and current information and research on conditions in the country of origin are important components for the purpose of such examination. In regard to the procedural aspects, it should further be emphasized that once authorities have identified a relevant and reasonable location, as noted above, basic rules of procedural fairness require that the asylum-seeker be given clear and adequate notice that the possibility of applying IFA/IRA

⁷ *Ibid*, at paragraph 33; See also, *UNHCR Handbook*, footnote 3 above, at paragraph 196.

⁸ Summary Conclusions – Internal Protection/Relocation/Flight Alternative, Global Consultations on International Protection, San Remo Expert Roundtable, 6-8 September 2001, at para. 7, available at: <http://www.unhcr.org/refworld/docid/470a33b84.html>

is under consideration, thereby providing the claimant with the possibility to provide evidence or arguments against such a relocation.

2. UNHCR's Observations on the Current Situation in Afghanistan, and Kabul in particular

UNHCR issued *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan* on 17 December 2010 ("Eligibility Guidelines").⁹ These Eligibility Guidelines note that the security situation in Afghanistan has been extremely volatile for many years and remains highly unstable. This has resulted in the shrinking of the humanitarian space, thereby limiting the presence and activities of humanitarian workers and NGOs.¹⁰ Conflict-related human rights violations are on the rise, including in areas previously considered relatively stable.¹¹ The escalation of the conflict between the Afghan and international military forces, and the Taliban and other armed groups, has contributed to limiting the access to health care and education, particularly in the southern and south-eastern regions of the country. A broad spectrum of civilians, including community elders, humanitarian personnel, doctors, teachers and construction workers has been targeted by armed anti-Government groups.¹²

The UNAMA *Afghanistan: Mid Year Report 2011 on the Protection of Civilians in Armed Conflict*¹³ reported a total of 3,606 civilian casualties, with 1,462 deaths and 2,144 civilians injured, during the first half of 2011. The death toll represents a 15% increase over the same period in 2010. The main trends that led to rising civilian casualties in early 2011 were increased and widespread use of improvised explosive devices, more complex suicide attacks, an intensified campaign of targeted killings, increased ground fighting, and a rise in civilian deaths from air strikes, particularly by Apache helicopters.

⁹ UN High Commissioner for Refugees, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, 17 December 2010, HCR/EG/AFG/10/04, available at: <http://www.unhcr.org/refworld/docid/4d0b55c92.html>

¹⁰ See, for example, OCHA, *Monthly Humanitarian Update – September 2010*, 7 October 2010, <http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docid=1175710>; UN General Assembly, *The situation in Afghanistan and its implications for international peace and security: report of the Secretary-General*, A/64/911-S/2010/463, 14 September 2010, para. 37, <http://www.unhcr.org/refworld/docid/4ca187f62.html>; and ANSO, *ANSO Quarterly Data Report: Q.2.2010, Jan 1st-June 30th 2010, 30 June 2010*, <http://english.aljazeera.net/mritems/Documents/2010/7/19/201071954927192734anso-report.pdf>.

¹¹ According to ANSO collected data, eight provinces have moved into a higher attack rate by armed anti-Government groups category in 2010, namely: Takhar, Baghlan, Balkh, Faryab, Nangahar, Paktya, Uruzgan and Badghis; see ANSO, *ANSO Quarterly Data Report: Q.3.2010, 1 January 2010-30 September 2010*, 30 September 2010, p. 14, <http://www.reliefweb.int/rw/rwb.nsf/db900sid/JA1R-8A9DLQ>.

¹² See, for example, UNAMA, *Afghanistan: Mid Year Report 2010 – Protection of Civilians in Armed Conflict*, August 2010, available at: <http://www.unhcr.org/refworld/docid/4c6120382.html>; Amnesty International, *Amnesty International Report 2010 – Afghanistan*, 28 May 2010, <http://www.unhcr.org/refworld/docid/4c03a845c.html>; UNAMA, *Annual Report on Protection of Civilians in Armed Conflict*, 2009, January 2010, <http://www.unhcr.org/refworld/docid/4b4ef6d52.html>; and AIHRC, *Report on the Situation of Economic and Social Rights in Afghanistan - IV*, December 2009, <http://www.unhcr.org/refworld/docid/4b3b2df72.html>.

¹³ Available <http://unama.unmissions.org/Portals/UNAMA/Documents/2011%20Midyear%20POC.pdf>

A relatively new feature of the conflict is that violence has now also extended to Kabul, which was until recently considered as safe being cordoned off by a so called 'ring of steel'¹⁴ involving concrete barriers equipped with state-of-the-art apparatus - including CCTV and metal detectors- and manned round the clock by heavily armed personnel and police sniffer dogs, specifically deployed to stop suicide bombers and attackers from bringing explosives and arms into the city¹⁵. As recently as 6 December 2011, a suicide attack took place in Kabul, killing around 60 persons¹⁶. This attack was preceded by several other attacks in Kabul most notably on the US Embassy and ISAF HQ, Kabul on 13 September¹⁷, the Intercontinental Hotel in Kabul on 28 June¹⁸, the ANA Hospital in Kabul on 21 May¹⁹, the Safi Landmark Hotel in Kabul on 14 February²⁰, the Finest Supermarket in Kabul on 28 January²¹ and an ANA Bus on 12 January 2011, also in Kabul. All these attacks, while believed to be initially targeting places or individuals associated with the Government and/or the International Community including ISAF, resulted in civilian casualties.

2.1. Situation in Kabul with respect to (i) relevance criteria and (ii) reasonableness criteria

2.1.1. *Relevance of relocation to Kabul*

With regard to the "relevance" of an IFA/IRA to Kabul, decision-makers must evaluate whether the relocating area is safely, legally and practically accessible to the individual. This requires that the general security situation, as well as the situation relating to the individual's own protection needs, be considered safe. The individual must further have the legal right to enter and remain in the area. Uncertain legal status may lead to onward movement to unsafe areas, or to the area of original persecution.

It is particularly important to note that the presence of the Taliban (including the Haqqani network), the Hezb-e-Eslami (Gulbuddin) and other armed groups in 2011 in the South, South-East, East, West, North, North-East and Central regions²² is not only evidenced by high-profile attacks, such as (complex) suicide bombings, but also through more permanent infiltration in some neighbourhoods. In the course of the year, "Taliban Shadow Governments" have been, moreover, reported in all 34 Provinces²³. Because of their links or close association with influential actors in the local and central administration, armed groups largely operate with impunity and their reach may extend beyond the area under their immediate (*de facto*) control.

¹⁴ <http://www.dailymail.co.uk/news/article-2055048/Kabul-suicide-bomb-attack-12-Americans-Canadian-killed-Taliban-Afghanistan.html>

¹⁵ Tuesday's attack took place just 50m from a police checkpoint in the so-called ring of steel meant to protect strategic areas of Kabul. The security cordon involves concrete barriers and is equipped with state-of-the-art apparatus - including CCTV and metal detectors. It is manned round the clock by heavily armed personnel and police sniffer dogs, specifically deployed to stop suicide bombers and attackers from bringing explosives and arms into the city. "That the insurgents managed to strike so close to the ring proves that its steel was not reinforced enough," an Afghan security analyst said.

¹⁶ <http://www.bbc.co.uk/news/world-asia-16059991>

¹⁷ <http://www.guardian.co.uk/world/blog/2011/sep/13/us-embassy-under-attack>

¹⁸ <http://www.bbc.co.uk/news/world-south-asia-13947169>

¹⁹ <http://www.reuters.com/article/2011/05/21/us-afghanistan-bomb-idUSTRE74K0ZM20110521>

²⁰ <http://www.guardian.co.uk/world/2011/feb/14/suicide-bomber-hits-kabul-hotel>

²¹ <http://www.bbc.co.uk/news/world-south-asia-12307463>

²² UNAMA Mid year Report 2011, Available at

<http://unama.unmissions.org/Portals/UNAMA/Documents/2011%20Midyear%20POC.pdf>

²³ https://www.cimicweb.org/Documents/CFC%20AFG%20Governance%20Archive/CFC_AFG_Shadow_Governance_September11.pdf

The Kabul-Kandahar highway, reconstructed in December 2003, can only be used at high risk due to criminal and insurgency activities.²⁴ Given the wide geographic reach of some of these armed anti-Government groups, a viable IFA/IRA may not be available to individuals at risk of being targeted by such groups.²⁵

Despite Government efforts to promote gender equality, women continue to face pervasive social, political and economic discrimination due to persistent stereotypes and customary practices that marginalize them.²⁶ Most Afghan women in rural areas do not leave the family compound without a *burqa* and a male companion, due to societal and familial pressure.²⁷

Unaccompanied women or women lacking a male “guardian” (*mahram*), including divorced women, unmarried women who are not virgins, and women whose marriage engagements have been broken, continue to face social stigma and general discrimination.²⁸ Women without male support and protection generally lack the means of survival, given existing social norms imposing restrictions on women living alone, including limitations on their freedom of movement.

Detention on the ground of perceived “morality crimes,” such as “running away” from home²⁹ (including in situations of domestic violence),³⁰ being improperly unaccompanied³¹ or refusing

²⁴ UN Office of the High Commissioner for Human Rights, *Human Rights Dimension of Poverty in Afghanistan*, March 2010, <http://www.unhcr.org/refworld/docid/4bbc313d2.html>.

²⁵ UNHCR, *Eligibility Guidelines*, Footnote 9 above, at p. 38.

²⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: concluding observations of the Committee on Economic, Social and Cultural Rights: Afghanistan*, E/C.12/AFG/CO/2-4, 7 June 2010, <http://www.unhcr.org/refworld/docid/4c1732dc2.html>. For further analysis of the treatment of women perceived as contravening Shari’a law, see Section III(A)5 members of Minority Religious Groups and Persons Perceived as Contravening Shari’a Law.

²⁷ Although many women in urban areas no longer wear the burqa, most still wear some form of head covering either by personal choice or due to community pressure; see US Department of State, *2010 Report on International Religious Freedom - Afghanistan*, 17 November 2010, <http://www.unhcr.org/refworld/docid/4cf2d0bb64.html>; and US Department of State, *2009 Country Reports on Human Rights Practices - Afghanistan*, 11 March 2010, <http://www.unhcr.org/refworld/docid/4b9e531a82.html>.

²⁸ According to research conducted by UNAMA, “women who appear in public on their own put their reputation and their safety at risk. Mullahs consulted during the research for this report referred to Islamic tenets to justify their perspective that a woman can only appear in public when accompanied by a male relative chaperone namely, a *mahram*. This interpretation of Islam is common in Afghanistan, although Sharia specialists consulted in the context of this research disagree that religion imposes the need for a male chaperone, provided that certain rules regarding the hijab (Islamic veil) are respected.”; see UNAMA, *Silence is Violence: End the Abuse of Women in Afghanistan*, 8 July 2009, p. 10, <http://www.unhcr.org/refworld/docid/4a548f532.html>. See also *Womankind Worldwide, Taking Stock Update: Afghan Women and Girls Seven Years On*, February 2008, p. 25, <http://www.womankind.org.uk/upload/Taking%20Stock%20Report%2068p.pdf>.

²⁹ According to the Head of the northern branch of the AIHRC, the number of girls running away from home, often fleeing forced marriages or domestic violence, has risen in recent years. Detention for running away is still a reality. During a recent visit of women’s prisons, Fawzia Nawabi, head of the AIHRC women’s department, reportedly met 15 girls imprisoned for running away from home in Balkh province, 22 in Jawzian province, eight in Sar-i Pol province and four in Samangan province; see Institute for War and Peace Reporting, *Afghan Runaways Flee Forced Marriages*, 26 November 2010, <http://www.unhcr.org/refworld/docid/4cf4a3e32c.html>. Running away from home is stigmatized in Afghanistan. While not specifically defined in the Penal Code, it is understood to mean the action of running away, with no intent to return home, abandoning family members without the permission of parents or legal custodians; see AIHRC, *Report on the Situation of Economic and Social Rights in Afghanistan - IV*, December 2009, p. 58, <http://www.unhcr.org/refworld/docid/4b3b2df72.html>.

³⁰ According to an opinion issued by the High Council of the Supreme Court of Afghanistan on 1 August 2010, the act of running away as a result of domestic violence is not considered a religious

marriage, also occurs.³² In such matters, customary law often takes precedence over criminal or civil law.³³ Detention for breaches of customary or Shari'a law disproportionately affects women and girls.³⁴ Women and girls who run away are often also prosecuted under "intention" to commit *zina* (sexual intercourse outside of marriage) charges.³⁵ Since adultery and "morality crimes" may elicit honour killings, detention of women accused of such acts has been, in some instances, justified by the authorities as a protective measure.³⁶

Adopted in March 2009, the Shiite Personal Status Law³⁷ sanctioned, in its initial form, marital rape and restrictions on Shiite women's freedom of movement outside their home without their

(moral) crime where the woman seeks shelter/protection with a relative or the appropriate authorities. Running away to a stranger's house is, however, considered against Shari'a principles and subject to discretionary punishment. A copy of the Supreme Court decree (in Dari) is on record with UNHCR. In practice, however, women fleeing domestic violence may face severe punishment. In a well-publicized case, an 18 year old girl who fled her husband's home because of domestic violence was sentenced to having her ears and nose cut by the local judge, a Taliban commander; see Time, *Afghan Women and the Return of the Taliban*, 29 July 2010,

<http://www.time.com/time/world/article/0,8599,2007238,00.html>. It is reported that Afghan authorities have recently arrested the victim's father-in-law in connection with the case. However, previous reports of Taliban's involvement in the case were denied by the head of the AIHRC in Uruzgan province. The victim was reportedly given away by her family in childhood to settle a "blood debt"; see BBC News, *Arrest in case of Afghan teenager who had face maimed*, 7 December 2010,

<http://www.bbc.co.uk/news/world-south-asia-11937681>. In addition, women and girls escaping domestic violence may be forcibly returned to their families by law enforcement authorities rather than being afforded protection; see, for example, The New York Times, *Child Brides Escape Marriage, but Not Lashes*, 30 May 2010, <http://www.nytimes.com/2010/05/31/world/asia/31flogging.html>

³¹ "Improper accompaniment" is considered a crime according to Hanafi jurisprudence. Women have also been detained, indicted and convicted for being in the company of a man without proper accompaniment, or *Khelwat-esahiha*; see UNAMA, *Arbitrary Detention in Afghanistan: A Call For Action, Volume I - Overview and Recommendations*, January 2009, p.7, <http://www.unhcr.org/refworld/docid/49d07f272.html>.

³² UNAMA, *Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan*, 9 December 2010,

<http://www.unhcr.org/refworld/docid/4d00c4e82.html>. Women and girls who have committed morality crimes are also at risk of repercussions from their family members; see Institute for War and Peace Reporting, *No Life Outside for Female Ex-Cons in Afghanistan*, 24 August 2010, <http://www.unhcr.org/refworld/docid/4c762dc72c.html>; and Human Rights Watch, *"We Have the Promises of the World": Women's Rights in Afghanistan*, 3 December 2009, <http://www.unhcr.org/refworld/docid/4b179c4a2.html>. According to a 2008 study, most women were imprisoned for "moral crimes", primarily *zina* (30 percent) or running away (24 percent); see Women and Children Legal Research Foundation, *Women's Access to Justice - Problems and Challenges*, 2008, http://www.wclrf.org/English/eng_pages/Researches/Women_at_Justice/WATJ.pdf.

³³ Human Rights Watch, *"We Have the Promises of the World": Women's Rights in Afghanistan*, 3 December 2009, <http://www.unhcr.org/refworld/docid/4b179c4a2.html>. It should also be noted that Court cases on family issues are dealt with under a civil code based on the *Hanafi* school of Sunni Islam, which applies regardless of whether the person is Sunni or Shi'a.

³⁴ UNAMA, *Arbitrary Detention in Afghanistan: A Call For Action, Volume I - Overview and Recommendations*, January 2009, p. 6, <http://www.unhcr.org/refworld/docid/49d07f272.html>.

³⁵ UNAMA, *Harmful Traditional Practices and Implementation of the Law on Elimination of Violence against Women in Afghanistan*, 9 December 2010, <http://www.unhcr.org/refworld/docid/4d00c4e82.html>.

³⁶ US Department of State, *2009 Country Reports on Human Rights Practices - Afghanistan*, 11 March 2010, <http://www.unhcr.org/refworld/docid/4b9c531a82.html>.

³⁷ Shiite Personal Status Law, March 2009, <http://www.unhcr.org/refworld/docid/4a24ed5b2.html>. The law was adopted pursuant to Article 131 of the Constitution of Afghanistan and regulates family law matters (e.g. marriage, divorce and inheritance rights) of the Shia community, which comprises circa 20 percent of the Afghan population.

husbands' permission, save in situations of emergency.³⁸ Amended following domestic and international criticism, the law retains some of the contentious provisions, including discriminatory provisions regarding guardianship, inheritance, under-age marriages, and limitations on movements outside the home.

As such, for categories of individuals who fear harm as a result of harmful traditional practices and religious norms of a persecutory nature – such as women and children with specific profiles and LGBTI individuals –, the endorsement of such norms by large segments of society and powerful conservative elements in the public administration needs to be taken into account within the context of any consideration of the relevance of an IFA/IRA.

2.1.2. Reasonableness of relocation to Kabul

Whether an IFA/IRA in Kabul is “reasonable” must be determined on a case-by-case basis, taking fully into account the security, human rights and humanitarian environment in the prospective area of relocation at the time of the decision. To this effect, the following elements need to be taken into account in the context of Afghanistan: (i) the availability of traditional support mechanisms, such as relatives and friends able to host the displaced individuals; (ii) the availability of basic infrastructure and access to essential services, such as sanitation, health care and education; (iii) ability to sustain themselves, including livelihood opportunities; (iv) the criminality rate and resultant insecurity, particularly in urban areas; as well as (v) the scale of displacement in the area of prospective relocation. These elements are examined in detail below:

The traditional extended family and community structures of Afghan society continue to constitute the main protection and coping mechanism, particularly in rural areas where infrastructure is not as developed. Afghans rely on these structures and links for their safety and economic survival, including access to accommodation and an adequate level of subsistence. Since the protection provided by families and tribes is limited to areas where family or community links exist, Afghans, particularly unaccompanied women and children, and women single head of households with no male protection, will not be able to lead a life without undue hardship in areas with no social support networks, including in urban centres.³⁹

Afghanistan's absorption capacity for more returnees has in recent years become severely strained, if not non-existent. The upsurge in violence has made return and reintegration even more challenging and the majority of returnees are living at or below the poverty level struggling for survival due to unemployment or underemployment.⁴⁰

³⁸ See, for example, Human Rights Watch, “*We Have the Promises of the World*”: Women's Rights in Afghanistan, 3 December 2009, <http://www.unhcr.org/refworld/docid/4b179c4a2.html>.

³⁹ See, for example, Internal Displacement Monitoring Centre, *Internal Displacement: Global Overview of Trends and Developments in 2009 - Afghanistan*, 17 May 2010, <http://www.unhcr.org/refworld/docid/4bf252560.html>; and IRIN, *Afghanistan: Family-related determinants of poverty*, 8 April 2010, <http://www.unhcr.org/refworld/docid/4bc80c5fc.html>. As documented in studies on urban vulnerability, the household and the extended family remain the basic social network in Afghanistan and there are indications that existing traditional systems of sharing and redistribution are less effective in the extended urban family. Brookings-Bern Project on Internal Displacement, *Beyond the Blanket: Towards More Effective Protection for Internally Displaced Persons in Southern Afghanistan*, May 2010, pp. 66-68, <http://www.unhcr.org/refworld/docid/4c3d8cab2.html>; and Stefan Schutte, *Urban Vulnerability in Afghanistan: Case Studies From Three Cities*; Working Paper Series, Afghanistan Research and Evaluation Unit, May 2004, at p. 3, http://www.areu.org.af/?option=com_docman&Itemid=&task=doc_download&g.

⁴⁰ OCHA Humanitarian Action Plan Afghanistan 2010, available at: <http://ochaonline.un.org/humanitarianappeal/webpage.asp?Page=1832>.

In urban centres, the IDP population and growing economic migration are putting increased pressure on labour markets and resources such as construction materials, land and potable water.⁴¹ Widespread unemployment and underemployment limit the ability of a large number of people to meet their basic needs. The limited availability of humanitarian assistance has generally not improved this situation in a meaningful way.⁴² In addition to the absence of a safe and minimally secure land tenure regime, landlessness, threats and other practical problems regarding access to property continue to provoke re-displacement and prevent return in accordance with minimally set standards. This may be more serious for families with children, resulting in the phenomenon of informal urban settlements, which today compose around 70% of Kabul.

The majority of internally displaced persons who have settled in Kabul lack access to adequate food, health care, safe drinking water, sanitation, clothes and education. Food insecurity is also a challenge for urban returnees and malnutrition of children in informal settlements in Kabul is a serious problem.⁴³

It should be noted that the absolute state of informality and heavy reliance on traditional social and tribal supporting mechanisms for survival makes it practically impossible for a female headed household or an unaccompanied woman to survive in an unknown and non-familiar environment. This is the case, for example, in the informal settlements in most urban centres. In Kabul and other cities in Afghanistan, urban settlements hosting returnees are commonly based upon shared tribal or social characteristics, based on a common place of origin and a common tribal origin or ethnicity. Persons who are not members of these communities would not be welcome and could be exposed to systematic discrimination, violence (including sexual violence against girls, women and boys), persecution and even death if perceived as uninvited outsiders.⁴⁴

3. Conclusion

UNHCR emphasizes that a full analysis of both the relevance and reasonableness of an IFA/IRA must be considered as part of the holistic assessment of a claim for refugee status. When assessing an IFA/IRA for unaccompanied women to Kabul, decision-makers should give particular importance to the consideration of whether she has a social network in the proposed area of relocation and, if not, her opportunities for economic survival and integration,

⁴¹ The level of urban migration to Kabul and the main provincial capitals is very high. In Kabul alone, the population has grown from about 1.5 million in 2001 to nearly five million, with the vast majority squatting in informal settlements, public buildings, or on public land; see Brookings-Bern Project on Internal Displacement, *Beyond the Blanket: Towards More Effective Protection for Internally Displaced Persons in Southern Afghanistan*, May 2010, p. 14,

<http://www.unhcr.org/refworld/docid/4c3d8cab2.html>. See also UN Committee on Economic, Social and Cultural Rights (CESCR), *Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: concluding observations of the Committee on Economic, Social and Cultural Rights: Afghanistan*, E/C.12/AFG/CO/2-4, 7 June 2010, <http://www.unhcr.org/refworld/docid/4c1732dc2.html>.

⁴² According to estimates, as of December 2009, 180-1,200 IDP families lived in 17 locations in and around Kabul City. Most IDPs claimed they had not received any assistance from the Government or aid agencies, and faced food, health, water and cold-related problems; see IRIN, *Afghanistan: Kapisa Province IDPs flock to Kabul*, 12 January 2010, <http://www.unhcr.org/refworld/docid/4b4f20ecc.html>.

⁴³ *Ibid.*

⁴⁴ UNHCR, Eligibility Guidelines, Footnote 9 above, at page 53.

without facing undue hardship. Other factors to be taken into consideration are the personal circumstances of the woman in question, including her level of education, and whether she is travelling with or without children.



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