

INTERACT – RESEARCHING THIRD COUNTRY NATIONALS’ INTEGRATION AS A THREE-WAY PROCESS - IMMIGRANTS, COUNTRIES OF EMIGRATION AND COUNTRIES OF IMMIGRATION AS ACTORS OF INTEGRATION

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Country Report Afghanistan

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Immigrants, Countries of Emigration and Countries of Immigration as Actors of
Integration

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INTERACT - Researching Third Country Nationals' Integration as a Three-way Process - Immigrants, Countries of Emigration and Countries of Immigration as Actors of Integration

Around 25 million persons born in a third country (TCNs) are currently living in the European Union (EU), representing 5% of its total population. Integrating immigrants, i.e. allowing them to participate in the host society at the same level as natives, is an active, not a passive, process that involves two parties, the host society and the immigrants, working together to build a cohesive society.

Policy-making on integration is commonly regarded as primarily a matter of concern for the receiving state, with general disregard for the role of the sending state. However, migrants belong to two places: first, where they come and second, where they now live. While integration takes place in the latter, migrants maintain a variety of links with the former. New means of communication facilitating contact between migrants and their homes, globalisation bringing greater cultural diversity to host countries, and nation-building in source countries seeing expatriate nationals as a strategic resource have all transformed the way migrants interact with their home country.

INTERACT project looks at the ways governments and non-governmental institutions in origin countries, including the media, make transnational bonds a reality, and have developed tools that operate economically (to boost financial transfers and investments); culturally (to maintain or revive cultural heritage); politically (to expand the constituency); legally (to support their rights).

INTERACT project explores several important questions: To what extent do policies pursued by EU member states to integrate immigrants, and policies pursued by governments and non-state actors in origin countries regarding expatriates, complement or contradict each other? What effective contribution do they make to the successful integration of migrants and what obstacles do they put in their way?

A considerable amount of high-quality research on the integration of migrants has been produced in the EU. Building on existing research to investigate the impact of origin countries on the integration of migrants in the host country remains to be done.

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Abstract

The Islamic Republic of Afghanistan does not have concrete policies focussing on emigration and/or the diaspora. Despite the large numbers of Afghan nationals residing outside the country, the Islamic Republic of Afghanistan does not have an overall policy-framework related to migration. This report describes the existing structures and laws that can have an impact on emigration from Afghanistan and on Afghanistan's diaspora.

Key words: Afghani migration policy, Afghani migration, Afghani diaspora

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1. Introduction

The Islamic Republic of Afghanistan does not have concrete policies focussing on emigration and/or the diaspora. Despite the large numbers of Afghan nationals residing outside the country, the Islamic Republic of Afghanistan does not have an overall policy-framework related to migration. Currently three different migration-related policies are under development:

- in December 2012 a labour migration policy draft was completed. However (because of its quality and feasibility) a new national labor migration policy (NLMP) was developed by the International Labor Organization (ILO) in collaboration with the International Organization for Migration (IOM);
- the Internally Displaced Persons (IDP) policy was granted presidential approval in 2014 and was officially launched on 11 February 2014. Concrete implementation strategies are currently under development under the supervision of the Ministry of Refugees and Repatriation (MoRR);
- Recently the development of a return migration policy has been initiated by MoRR and a draft policy framework has been developed.

Despite the large numbers of Afghans residing outside the country and the large out-flows of (economic) migrants on a monthly basis, emigration is low on political agendas and little attention is paid to migration-related issues. If attention is paid to migration-related issues, concepts are often incorrectly framed. This happens because the majority of Afghan politicians (working both in and outside the field of migration) are not aware or have low capacity to distinguish between different migration-related terminology. An example is the understanding of definitions such as (economic) migrant, migrant worker, refugee and asylum-seeker. Which results in the fact that these terms are regularly ‘miss-used’ when developing strategies and policies.

Afghanistan has experienced decades of conflict, which has caused large outflows of migrants seeking asylum or refugee status in neighbouring countries and beyond. Up to date the focus within the Afghan migration context is on refugees, asylum seekers and IDPs, which largely ignores economic (driven) migration and the benefits of diaspora engagement for development. This is also partially reflected in the Afghanistan National Development Strategy (ANDS)¹ for 2008 to 2013, in which refugees and IDPs are highlighted under Pillar 7 (social protection). The action plan under ANDS aims to reach various objectives related to migration by setting concrete policy actions and activities. The objectives and outcomes that are related to refugees and IDPs for 2013 under Pillar 7 include:²

- the government’s capacity to manage and support return and reintegration programmes is strengthened;
- refugees and Internally Displaced Persons (IDPs) return voluntarily according to agreed principles and procedures;
- voluntary refugees have returned;
- the government’s capacity has been strengthened;
- the terms of stay and conditions for Afghans in neighbouring countries have improved;
- bilateral agreements on temporary labour migration have progressed.

¹ See Annex 1.

² See Annex 1, pp. 237-239.

Unfortunately most of the policy actions/activities linked to objectives/outcomes that are related to refugees and IPDs under Pillar 7 have not been completed. More recently, recognition for economic emigration has been increasing; both the Afghan president and the minister of labor have recognized the need for a national labor migration policy, which has been drafted recently by the ILO in collaboration with the IOM and MoLSAMD.

Various ministries in Afghanistan work in the area of migration. Table 1 provides an overview of ministries working on migration-related topics.

Table 1. Ministries in Afghanistan working on migration-related activities

<p>Ministry of Labour, Social Affairs, Martyrs and Disabled (MoLSAMD)</p>	<p>Plays a central role in the administration and management of overseas employment of Afghan workers:</p> <ul style="list-style-type: none"> - responsible for overseas labour administration (Foreign Employment Administration Unit [FEAU]); - responsible for the development/implementation of labour emigration policy; - implements labour policies and executes labour laws; - MoLSAMD issues Employment Licenses to enable private recruitment agencies to place Afghan workers abroad. <p>Mission (under MoLSAMD’s Labour Welfare & Skill Development Programme) includes:</p> <ul style="list-style-type: none"> - “To draft, and enforce labour laws, policies and conventions based on international best practices; to encourage and promote migration of Afghan labour to other countries; - To regulate the employment of foreign workers”.
<p>Ministry of Refugees and Repatriation (MoRR)</p>	<p>MoRR aims to:</p> <ul style="list-style-type: none"> - “Ensure voluntary and gradual repatriation of Refugees and Internally Displaced Persons (IDPs); - ensure proper livelihood and legal conditions for their re-integration through joint efforts with related governmental and non-governmental organizations; - ensure their resettlement and re-integration; - find solutions for unemployment; - provide facilities for professional training; and - provide legal support according to International laws”³. <p>MoRR carries responsibility for:</p> <ul style="list-style-type: none"> - return migration and reintegration; - IDP management; - refugee management; - diaspora for development initiatives.
<p>Ministry of Foreign Affairs (MFA)</p>	<ul style="list-style-type: none"> - General focal point for bilateral and multilateral relations with migrant host countries. - Afghan missions abroad are tasked with providing assistance to the diaspora abroad.
<p>Ministry of the Interior (MoI)</p>	<p>MoI is responsible for the:</p> <ul style="list-style-type: none"> - delivery of passports to Afghan citizens (through MoI’s passport office); - prevention of irregular migration, trafficking, smuggling and related activities such as the illegal recruitment of workers (especially to Pakistan/Iran).

³ Source: MoRR, see <http://morr.gov.af/en> [Accessed 16 September 2014].

2. State-level emigration or diaspora policies – national level

The Islamic republic of Afghanistan has no concrete emigration policy. However, the 5-year strategic planning (2013-2018)⁴ for MoRR encompasses the development of emigration-related policies. At the present time, no concrete actions (in relation to the strategic plan) have been taken. Furthermore, international organizations (UN, NGOs) and academic scholars question the feasibility of this strategic plan. Table 2 provides an outline of the current policy-related situation with regard to labour emigration in Afghanistan.

Table 2. Labour Emigration Afghanistan

Legislation	<ul style="list-style-type: none"> - Labour Law [2007]⁵ Article 150 “sending labourers abroad” states that “MoL SAMD can send Afghan workers overseas in accordance with the relevant legislation, in order to prevent unemployment and achieve better income”. - Regulation for Sending Afghan Workers Abroad, 1384 [2005]⁶ This regulation sets out “the requirements that have to be met by a worker in order to be employed abroad as well as the obligations of workers and of the Ministry responsible for sending them abroad”.⁷
Policy	With support from UNDP, a labour emigration policy ⁸ was developed for the Ministry of Labour in 2012. This was the first policy in Afghanistan related to labour emigration. Currently the ILO is in charge of developing a new labour emigration policy for the Ministry of Labour. This policy is expected to be finalised in December 2013.
Bilateral Agreements	The Islamic Republic of Afghanistan has signed a bilateral agreement with Qatar (2008) to regulate the flow of Afghan labourers in Qatar and to further strengthen bilateral relations between both countries.

The Islamic Republic of Afghanistan does not have a diaspora policy. This is unfortunate since there are large informal remittance flows (through the *hawala* system) coming into the country. Furthermore, there are large flows of irregular labour migrants seeking (short-term) labour opportunities in neighbouring countries such as Iran and Pakistan (or beyond).

2.1 Return migration

Since 2002 the importance of return migration (policy) has increased. This was fuelled especially by the host governments in Iran, Pakistan and various ‘western’ countries, who started encouraging the (forced and voluntary) return of irregular Afghan migrants and failed asylum seekers. However, the Islamic Republic of Afghanistan has largely failed to sustainably reintegrate these populations or mainstream returnees into development and reconstruction plans. This has resulted in large re-migration flows (both internal and external) to improve/find better livelihoods. Table 3 provides an overview of policy related documentation on return migration in Afghanistan.

⁴ See Annex 7.

⁵ See Annex 2.

⁶ See Annex 3.

⁷ See *Regulation for Sending Afghan Workers Abroad*, text and unofficial English translation available on: http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=AFG&p_classification=17&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY [Accessed 16 September 2014].

⁸ See Annex 5.

Table 3. Return Migration in Afghanistan

Presidential decree(s)	<i>Presidential Decree 297</i> ⁹ Decree 297 on the Dignified Return of Refugees (June 2001) <i>Presidential Decree 104</i> ¹⁰ Decree 297 on Land Distribution for Housing for Eligible Returnees and IDPs.
Policy	MoRR, with technical support from the IOM, has developed a framework for a return migration policy for Afghan migrants in Pakistan and Iran. MoRR aims to finalize the return migration policy by the end of 2014.
Bilateral and tripartite agreements	The Islamic Republic of Afghanistan has signed a number of bilateral and tripartite agreements with countries including: Australia, Denmark, France, the Netherlands, Norway, Sweden and the UK. These agreements focus on the facilitation of failed asylum seekers, Afghans awaiting the decision of the asylum-procedure and those who have time-limited exception leave to enter or remain but who wish to return to their country of origin. ¹¹
Development plans	Return migration is mainstreamed within the ANDS ¹² under Pillar 7; social protection.

2.2 Diaspora: remittances and foreign direct investments

There are no concrete numbers on the influx of remittances by the Afghan diaspora. A large share of remittances is transferred informally through the *hawala* system.¹³ “The International Fund for Agricultural Development (IFAD) estimated in 2006 that annual remittance flows to Afghanistan were valued at US \$2,485 million or 29.6 percent of GDP” (Kuschminder and Dora 2009: 37). These numbers also account for informal flows. In addition to remittances, the Afghan diaspora is recognised as an important (foreign) investor, especially in the following sectors: construction, telecommunication, banking, leasing and other service sectors. As indicated, there are no concrete regulations or policies for diaspora investments and remittances. Table 4 provides an outline of legislation related to international transfers and money-transfer operators; this can indirectly be linked to remittances transfers.

⁹ See Annex 5.

¹⁰ See Annex 6.

¹¹ IOM (*forthcoming*).

¹² See Annex 1.

¹³ Western Union and MoneyGram are the only registered non-hawala Money Transfer Operators in Afghanistan.

Table 4. Legislation and regulations related to international

Legislation	<p><i>Law on Banking of Afghanistan (2003)</i>¹⁴ The Law on Banking in Afghanistan (which came into force in September of 2003) established the legal framework for the operation of commercial banks in Afghanistan. Under this legal framework, an Afghanistan Bank is granted the authority to register, regulate, and monitor commercial banking institutions.</p> <p><i>Law of Da Afghanistan Bank (2003/2004)</i>¹⁵ Introduced in December 2003 and enacted in February of 2004, the Law of Da Afghanistan Bank granted autonomy to Da Afghanistan Bank and outlined the specific responsibilities and obligations of DAB as the central bank of Afghanistan. This law contains 134 articles including articles focusing on aspects such as: currency; monetary policy and operations; foreign exchange controls and exchange rate policy; banking regulation; payment, clearing and settlement; securities services and transfer systems.</p> <p><i>Law on Domestic and Foreign Private Investment in Afghanistan (2005)</i>¹⁶ This law was established to promote economic development and furthermore further allows domestic or foreign entities (real or legal) to invest in all sectors in Afghanistan.</p>
Regulation	<p><i>Regulation on Money Service Providers (2006/2011)</i>¹⁷ This regulation (issued under the Law of Da Afghanistan Bank) was first introduced in 2006 and has since been updated in 2009 and 2011. It is comprised of seven subsections: 1) authority; 2) issuance of licenses; 3) activities; 4) registry and supervision; 5) application requirements for an EMI license; 6) EMI operations and procedures, and; 7) EMI fees, charges and penalties.</p> <p><i>Regulation on Foreign Exchange Dealers (2008)</i>¹⁸ This regulation (issued under the Law of Da Afghanistan Bank) provides explicit guidance for money exchange dealers through six sections: 1) general regulations and definitions; 2) issuance of licenses; 3) activities; 4) supervision; 5) enforcement; and 6) miscellaneous and transitional provisions.</p>
EMIs	<p><i>Electronic Money Institutions (EMIs)</i> There are only a small number of EMIs (legal entities that accept monetary deposits in exchange for e-money) in Afghanistan. EMIs are defined (under the Law of Da Afghanistan Bank) as non-commercial banks (or depository MFIs) that accept e-money and facilitate its transfer. Mobile network operators (MNOs) have been the first types of businesses to tap into the EMI market in Afghanistan (for example, Roshan Telecommunications).</p>

¹⁴ See Annex 7.¹⁵ See Annex 8.¹⁶ See Annex 9.¹⁷ See Annex 10.¹⁸ See Annex 11.

2.3 Diaspora: dual citizenship

Afghan Citizenship Law.¹⁹ Citizenship (including dual-nationality) is governed within the Islamic Republic of Afghanistan under the Law on Citizenship of the Islamic Emirate of Afghanistan (June 2000). According to article seven, “[a]nyone who, according to the orders of this law, is citizen of the [Islamic Emirate of Afghanistan] cannot hold a double citizenship position”.²⁰

2.4 Management and responsibility

Table 6 outlines the ministries that are responsible for the migration-related aspects discussed above.

Table 6. Ministries in charge of various migration-related policies

Migration-related aspect	Ministry with core responsibility
Return Migration	Ministry of Refugees and Repatriation (MoRR)
Diaspora	Ministry of Refugees and Repatriation (MoRR) and Ministry of Foreign Affairs (MoFA)
Remittances	Ministry of Finance (MoF) and Afghan National Bank
Foreign Direct Investments	Ministry of Commerce (MoC), Ministry of Finance (MoF), Ministry of Foreign Affairs (MoFA), Ministry of Justice (MoJ), Ministry of Reconstruction (MoR), Ministry of Commerce (MoC), Ministry of Mines & Industry (MoMI), and the Ministry of Planning (MoP)
Dual Citizenship	Ministry of Interior (MoI)

The Ministry of Refugees and Repatriation (MoRR) has signed MOUs related to (return) migration with various countries including: Denmark, Iran, the Netherlands, Norway, Pakistan and the UK.

Bilateral agreements signed with the Islamic Republic of Afghanistan have a broad focus on return migration encompassing both voluntary and forced return. The majority of the agreements apply to all cases of failed asylum that should, by definition, result in a return to the country of origin. Voluntary (and in some cases, forced) return migration from both neighbouring countries and various European countries is happening on a frequent basis. It must however be noted that the voluntary return of migrants is largely managed by IOM and UNHCR in collaboration with MoRR. Additionally, Table 5 provides an overview of tripartite agreements signed by the Islamic Republic of Afghanistan which are related to the return of Afghan refugees.

¹⁹ See Annex 12.

²⁰ *Law on Citizenship of the Islamic Emirate of Afghanistan*, English translation available on: <http://www.refworld.org/pdfid/404c988d4.pdf> [Accessed 16 September 2014].

Table 5. Tripartite Agreements on the return of Afghan refugees

Tripartite Agreements on the return of Afghan refugees	Parties	Implemented
Agreement between the Government of the Islamic Republic of Pakistan, the Government of the Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees (UNHCR) Governing the Repatriation of Afghan Citizens in Pakistan.	Afghanistan Pakistan UNHCR	March 2002
Joint Programme between the Government of the Islamic Republic of Iran, the Islamic Republic of Afghanistan and UNHCR for Voluntary Repatriation of Afghan Refugees and Displaced Persons.	Afghanistan Iran UNHCR	1992 /April 2002
Tripartite Memorandum of Understanding (MoU) between the Government of the Netherlands, the Transitional Islamic State of Afghanistan and the United Nations High Commissioner for Refugees (UNHCR).	Afghanistan Netherlands UNHCR	March 2003
Tripartite Memorandum of Understanding (MoU) between the Islamic Transitional State of Afghanistan, the Government of Denmark and the United High Commissioner for Refugees (UNCHR).	Afghanistan Denmark UNHCR	October 2004
Tripartite Memorandum of Understanding (MoU) between the Government of Norway, the Islamic Republic of Afghanistan and the United High Commissioner for Refugees (UNHCR).	Afghanistan Norway UNHCR	August 2005
Tripartite Agreement between the Government of the French Republic, the Government of the Islamic Transitional State of Afghanistan and the United Nations High Commissioner for Refugees (UNCHR).	Afghanistan France UNHCR	September 2002
Tripartite Memorandum of Understanding (MoU) between the Government of the United Kingdom and Northern Ireland (the UK Government), the Transitional Islamic Administration of the Transitional State of Afghanistan and the United Nations High Commissioner for Refugees (UNHCR).	Afghanistan United Kingdom UNHCR	October 2002
Tripartite Memorandum of Understanding (MoU) between the Government of Australia, the Government of Afghanistan and the United Nations High Commissioner for Refugees (UNHCR).	Afghanistan Australia UNHCR	January 2011
Tripartite Memorandum of Understanding (MoU) between the Government of the Kingdom of Sweden, the Government of the Islamic Republic of Afghanistan and the United Nations High Commissioner for Refugees (UNHCR).	Afghanistan Sweden UNHCR	December 2007

Source: IOM *forthcoming*.

There are no concrete emigrant policies implemented by local governments. However the provincial Departments of Refugees and Repatriation (DoRR)²¹ play a central role in the implementation of return, (re-) integration and resettlement projects. Furthermore, DoRRs are well- represented during policy dialogues and national consultations with regard to return migration and re-integration in Afghanistan.

²¹ DoRRs are under direct supervision of MoRR.

3. Engagement of non-state actors

Diaspora for development projects and initiatives are low on the agendas of many organisations which instead tend to focus on displacement and disaster (risk) management, refugee and IDP resettlement and return migration. Table 6 provides a short overview of current activities.

Table 6. NGO initiatives to involve the diaspora in home-country development

NGO	Programme/Initiative	Objectives
IOM	Temporary Return of Qualified Nationals (TRQN)	Recently TRQN III started; this project is managed by IOM the Netherlands and aims to contribute to the development of Afghanistan by facilitating the temporary return of qualified nationals living in European countries (mainly in the Netherlands).
IOM	Return of Qualified Afghan Nationals (RQAN)	RQA is managed by IOM Afghanistan and aims to contribute to the development of Afghanistan by facilitating the (temporary) return of qualified nationals living in neighboring countries such as Iran.
GIZ	Centre for International Migration and Development (CIM)	CIM places technical experts and managers within Afghan governments. The majority of these experts are Afghan diaspora members living in Germany. In Afghanistan, CIM concentrates on the development of priority policy areas agreed upon between Afghanistan and Germany. These are: <ul style="list-style-type: none"> - Economic reform and the development of the market system; - Urban water supply; - Energy; - Basic education.
IntEnt		The objective of the programme is to enable migrants living in the Netherlands to start up a business/enterprise in Afghanistan. IntEnt offers assistance in the following areas: <ul style="list-style-type: none"> - Development of an enterprise. - Provision of information and training related to entrepreneurship. - Provision of loans for business development in Afghanistan.

Various other projects have been initiated during the 2000s, for example UNDP's "Transfer of Knowledge through Expatriate Nationals" (TOKTEN) programme between 2001-2006. This project operated under the United Nations Volunteer Programme.²² Another example includes the World Bank, which administered "the multi-donor Afghanistan Reconstruction Trust Fund (ARTF) that allocated five million US dollars to the Afghanistan Expatriate Services Programme (AEP) in 2002" (Kuschminder 2011: 10).²³ Moreover during 2008, USAID funded TOFA.af, an online business that connected the Afghan Diaspora with their home-country via internet. This website facilitated electronic funds transfers (both in-kind and money transfers).

There are no concrete aims stipulated by Afghan state actors in relation to diaspora engagement. However within Afghanistan, NGOs must operate in line with the Afghan NGO law.²⁴ Organizations

²² For more examples see Kuschminder 2011: 11 (table 2).

²³ "The AEP was created to support the Afghan government by bringing highly-qualified Afghans to work in the government for a period of 6 months to one year in senior level positions" (Kuschminder 2011: 10).

²⁴ See Annex 13.

such as UNHCR and IOM therefore always involve ministries in their projects. For example the Ministry of Refugees and Repatriation (MoRR) has requested to provide input and approval for the majority of projects implemented by both organizations in Afghanistan.

References

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Kuschminder, K. and M. Dora 2009. *Migration in Afghanistan: History, Current Trends and Future Prospects* [online], Paper Series: Migration and Development Country Profiles, Maastricht Graduate School of Governance, available on: http://mgsog.merit.unu.edu/publications/external_policy_reports/2009_Afghanistan_Country_Paper.pdf [Accessed 16 September 2014].

Annexes (available in the INTERACT database)

Legal documents

These documents are provided in separate files (.pdf) uploaded in the INTERACT database.

- Annex 1: Afghanistan National Development Strategy (ANDS), 2008-2013.
- Annex 2: Regulation for Sending Afghan Workers Abroad, 2005 (unofficial translation by the ILO).
- Annex 3: Afghanistan Labour Law, 2007 (unofficial translation by the ILO).
- Annex 4: Afghanistan National Labour Emigration Policy, Final Draft.
- Annex 5: Presidential Decree 104 – Afghanistan.
- Annex 6: Presidential Decree 297 – Afghanistan.
- Annex 7: Law of Banking in Afghanistan (2003).
- Annex 8: Law of Da Afghanistan Bank (2003/2004).
- Annex 9: Law on Domestic and Foreign Private Investment in Afghanistan (2005).
- Annex 10: Regulation on Money Service Providers (2006/2011) under the Law of Da Afghanistan Bank (2003/2004).
- Annex 11: Regulation on foreign Exchange Dealers (2008) under Law on of Da Afghanistan Bank (2003/2004).
- Annex 12: Law on Citizenship of the Islamic Emirate of Afghanistan (English translation).
- Annex 13: Law on Non-Governmental Organizations – Afghanistan (English).

Other relevant documents

- Annex 14: List of NGOs operating in Afghanistan (including internet-links).