



**“THEY DON’T TREAT US
LIKE HUMANS”**

UNLAWFUL RETURNS OF AFGHANS FROM TURKEY AND IRAN

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Cover photo: Afghans forcibly returned from Iran getting off a bus at Islam Qala / Dogharoun border crossing. March 2022.

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GLOSSARY

FORCED RETURN	A transfer to a person's country of origin against their will. Forced returns vary in the way they take place and include a variety of lawful and unlawful procedures. They include extraditions, deportations and pushbacks.
UNLAWFUL RETURN	This is a forced return to a person's country of origin in violation of international law.
DEPORTATION	This is one of the possible procedures leading to the forcible return of a person to his/her country of origin. It usually involves being detained and then escorted on to a flight by security officers from the national police or immigration authority of the sending country.
PUSHBACK	The practice to intercept, repel and/or forcibly return refugees and migrants. In this report, we employ the term "pushback" to describe the summary, forcible, and sometimes violent transfer of refugees and migrants back across an international border, often, but not exclusively, upon or shortly after they crossed it. Pushbacks, unlike deportations, are carried out outside of legal procedures.
ASYLUM/ INTERNATIONAL PROTECTION	A formal legal status – including refugee, subsidiary protection, and humanitarian status – granted due to the real risk of serious human rights violations in a person's country of origin.
REFUGEE STATUS	The international protection status granted to people with a well-founded fear of persecution for reasons of their race, religion, nationality, membership of a particular social group or political opinion, as defined under the 1951 Convention Relating to the Status of Refugees.
SUBSIDIARY PROTECTION STATUS	The international protection status granted to people who are at risk of serious human rights violations in their country of origin but are not granted refugee status.

EXECUTIVE SUMMARY

Since the Taliban seized control of Afghanistan in August 2021, hundreds of thousands of Afghans have fled the country. According to the UN High Commissioner for Refugees (UNHCR), the UN Refugee Agency, more than 180,000 Afghans in need of international protection have arrived in neighbouring countries since 1 January 2021, but the overall number of Afghans with international protection needs is likely to be much higher.

Most of the men, women and children who attempt to cross into Iran do not have valid travel documents and put their lives at risk to make the journey. Many of them are pushed back into Afghanistan, some remain in Iran, and some travel the length of Iran before attempting a similarly dangerous crossing into Turkey. This report presents Amnesty International's research on the hazardous journey undertaken by Afghans fleeing their home country. It documents unlawful killings, pushbacks by shooting and other unlawful returns, arbitrary detention, and torture and other ill-treatment of Afghans at the hands of both Iranian and Turkish officials.

It is Amnesty International's position, in line with UNHCR, that no Afghan should be returned to Afghanistan, because of the real risk of serious human rights violations they could face there. Based on the findings of this report, Amnesty International also concludes that no country should forcibly return Afghans to either Turkey or Iran, where they would be at real risk of unlawful return to Afghanistan.

Amnesty International documented the cases of 121 individuals – 37 children, five women and 79 men – who were unlawfully returned from Iran to Afghanistan or from Turkey to Iran or Afghanistan between April 2021 and May 2022. Some of these 121 individuals had been pushed back multiple times, allowing the organization to review a total of 255 unlawful transfers or returns. These unlawful returns fit within a broader pattern of violent pushbacks at borders and unlawful deportations of thousands of Afghans via land and air from Iran and Turkey.

Iranian and Turkish security forces have unlawfully used firearms against Afghans trying to cross the border irregularly as a deterrent and a pushback method, sometimes resulting in deaths or injuries. By shooting at people trying to cross the border to find refuge and summarily forcing them back across an international border, Turkish and Iranian security forces have violated their obligations under international law, including the right to life and the right seek asylum and the principle of non-refoulement.

Amnesty International documented the unlawful killing of 11 Afghans by Iranian security forces and of three Afghans by Turkish security forces. In the cases that Amnesty International examined, none of the people killed or injured appeared to represent the "imminent threat of death or serious injury" to security forces or others that would meet the threshold for the use of firearms under international law and standards; accordingly, the use of such force would have been unlawful and arbitrary. Unlawful killings should also be investigated as potential extrajudicial executions.

Iran and Turkey routinely return Afghans who have crossed their borders. Afghans seeking safety have been intercepted at Iranian and Turkish informal border crossings or on the road further into the territories of the two countries. Turkish and Iranian security forces have either immediately transferred them to the border and pushed them back, or they have detained them before returning them. Turkish and Iranian authorities have forcibly returned Afghans after failing to provide them the opportunity to lodge claims for international protection and failing to assess the risk of serious human rights violations upon return, in violation of the international obligation of non-refoulement, which prohibits states from transferring people to a place where they would be at real risk of persecution or other serious human rights violations.

METHODOLOGY

Amnesty International researchers travelled to Afghanistan in March 2022 and to Turkey in May 2022. They interviewed 76 Afghans (64 men, six women and six children); five Afghan officials whose work is related to Afghans' travel across international borders (including the director of the Department of Return and Repatriation of Herat and the border commissioners of Nimroz and Herat); four immigration lawyers from Turkey; three Afghan doctors who have been treating returnees; and seven Afghan and international NGOs and humanitarian workers providing assistance to Afghan returnees or documenting the violations they faced. The organization also reviewed official documents including visas, passport stamps, Turkish detention orders, Turkish deportation orders and travel documents delivered by the Afghan embassy in Turkey, as well as interviewees' medical reports, videos, and pictures to corroborate their statements, where those were available. Amnesty International wrote to the Ministry of Interior of Turkey on 8 August 2022 and to the Head of the Judiciary of Iran on 19 August 2022 requesting a response to its findings. At the time of writing, the organization had not received a response from either government to its communications.

A RISKY JOURNEY TO SAFETY

Since the last evacuation flight departed from Kabul on 30 August 2021 following the takeover by the Taliban, many thousands of Afghans have been trapped. Former government and security officials, journalists, human rights defenders, women activists, and members of minority groups have been among those threatened or in fear of reprisals from the Taliban. Those who do not hold passports often do not want to bring themselves to the attention of the Taliban authorities by applying for passports or other travel documents. However, Afghanistan's neighbouring countries have essentially closed their borders to Afghans without passports or visas.

Many Afghans try to cross into Iran at informal crossings along the border. They usually travel in large groups, including women and children, with a smuggler. At night, they either crawl underneath a fence near the official Islam Qala border crossing in Afghanistan's Herat province, climb over a two-metre-high wall in Afghanistan's Nimroz province, or cross to Pakistan from where they try to reach Iran. If Iranian security forces do not stop and forcibly return them, Afghans continue their journey in smaller groups, often in cars arranged by smugglers, until they reach Tehran or other cities in Iran.

Some Afghans continue their journeys into Turkey. With the help of smugglers, they attempt to cross along the Iranian-Turkish border facing Lake Van, where pushbacks and other violations by Turkish security forces are common. Those who successfully cross into Turkey later walk or drive to Van and to cities in the centre or west.

PUSHBACKS, UNLAWFUL KILLINGS AND DETENTION IN IRAN

In communications to UNHCR at the end of 2021, Iranian authorities estimated that 5,000 Afghans were arriving daily in Iran. The government of Iran denies that Afghans would face real risks of serious human rights violations if returned to Afghanistan, and forcibly returns thousands of Afghans every day, without any assessment of their individual needs for international protection. UNHCR estimates that Iranian authorities have been forcibly returning 65% of all newly arriving Afghans. Amnesty International documented 67 forced transfers by land from Iran to Afghanistan (53 involving men and women and 14 involving children).

Iranian security forces use a range of means to deter Afghans seeking protection. They have fired on Afghans as they were climbing border walls, crawling under fences, or walking or driving away from the border and into Iran. Amnesty International's investigations indicate that dozens of Afghans have been shot and killed, and many others suffered gunshot injuries. The Border Commissioner of Nimroz province in Afghanistan told Amnesty International in March 2022 that "on average, every month, between 25 and 30 deaths are caused by gunshot [in Iran]. They [Iranian security forces] shoot at everyone. Sometimes we receive bodies of women and children, maybe around two or three. But the vast majority are men."

Amnesty International interviewed witnesses to the killings by Iranian security forces of ten Afghan men and one boy as they attempted to cross the border from Afghanistan, and heard detailed accounts of 22 cases of Afghans shot and wounded by Iranian security forces at the Iranian border or on Iranian territory close to the border.

Sakeena, a 35-year-old widow who left Afghanistan through Nimroz province with her four daughters and two sons, told Amnesty International that as they were walking into Iranian territory, they came under fire from Iranian security forces:

"We heard gunfire. They [Iranian security forces] said: 'Stop, don't move forward'. The smuggler said not to stop. Some people ran away, some came under fire. I heard my [16-year-old] son screaming for me.

He had been hit by two bullets in his ribs. I don't know what happened after. I fainted because I was afraid for my children. When I gained consciousness, I was in Afghanistan. I saw that my son was dead. I was next to his body in a taxi."

Of the Afghans interviewed by Amnesty International who were intercepted after entering Iran and were not immediately pushed back, almost all were detained before being forcibly transferred back to Afghanistan by bus via official border crossings. Twenty-three of the men interviewed said they were subjected to torture and other ill-treatment by Iranian security forces while detained or during their forced returns. One man, Amir, described his treatment in custody after he had sustained gunshot wound to the head crossing the border:

"They [Iranian security forces] noticed [that] my head [was] bleeding and asked me what had happened. When I explained, they would beat me directly on the wound, and it would start bleeding again... One time I said, 'please don't beat me on my head,' and the guard [at the detention facility] said, 'Where?' When I showed him, then he beat me in that same spot."

PUSHBACKS, SHOOTINGS AND UNLAWFUL RETURNS FROM TURKEY

Those Afghans who manage to cross Iran and try to enter Turkey often suffer similar human rights violations at the hands of the Turkish authorities.

Amnesty International interviewed 24 people who had been pushed back from Turkey to Iran, some multiples times or with relatives, allowing the organisation to document 178 individual instances of forced return (124 involving men and women and 54 involving children). Of these, six people were pushed back from Turkey to Iran and then from Iran to Afghanistan in a double refoulement.

Witnesses described shootings at the border fences or in what they described as a canal. Amnesty International spoke to two men who had been shot and wounded by Turkish security forces, and interviewed others who described the killings of three teenage boys and the wounding of six men and three boys by the Turkish security forces.

Aref, 24, a former Afghan intelligence officer, fled Afghanistan in October 2021 because he received death threats from the Taliban. After reaching Iran, he attempted to cross into Turkey several times. He came under fire from Turkish security forces twice. In one incident, Aref recounted:

"The police were shooting from their tower on the mountain. They shot directly at us, not in the air... I witnessed a woman and two children who were injured. A two-year-old child was shot in the kidney, and a six-year-old child was shot in the hand. I was very scared. I was amazed I survived."

None of the Afghans interviewed by Amnesty International had been given a full assessment of their individual circumstances and protection needs by the Turkish authorities, in violation of the principle of non-refoulement. Instead, the officials ignored the claims of Afghans who said they were in danger in Afghanistan and in some cases threatened them to deter them from crossing the border again. "The Turkish police said: 'Why have you left your country? Why aren't you staying there?' We all said that we faced risk and that's why we came. They replied: 'It's not our business. We will kill you here'," said Aref, who was pushed back four times from Turkey to Iran.

In addition to the 178 unlawful returns mentioned above, Amnesty International documented the unlawful deportations of seven men and three children by plane from Turkey to Afghanistan between mid-March and early May 2022. Turkish authorities have labelled deportations by plane as "voluntary returns". Yet the interviewees told Amnesty International that they did not want to return and that the Turkish authorities did not make any assessment of the risks they would face once back in Afghanistan.

Zahir described his deportation: "They took us to Istanbul airport. There were four policemen in our bus. When we changed bus, two men tried to escape. The policemen beat them severely. A man was crying, pleading not to be deported because his wife and his child are in Turkey. He fainted, but the police didn't help him. Then, they took us to the plane directly."

The Afghans interviewed said that Turkish authorities deported them in large groups, ranging from 60 to 400 people, with groups commonly averaging over a hundred people. Comprehensive figures of returns of Afghans from Turkey since August 2021 are not publicly available, but in late April 2022 the Presidency of Migration Management (PMM) announced that the government had deported more than 11,000 Afghans in the four months since the beginning of the year.

Interviewees told Amnesty International that Turkish authorities pressured them to sign voluntary deportation documents. One of them described the process:

“They said: ‘If you don’t put your fingerprints [on the document to sign it], [the security forces] will force you’. I refused to do it. The security forces took me in a room with no camera. There were six of them. I told them that I was at risk in Afghanistan. They didn’t care. They beat me, pushed me to the wall. I fell down on the ground. Two men held my legs, and one was sitting on my chest. Two others put my fingers on the paper.”

Other interviewees said that they had refused to sign a document but saw later that there was a signature on it, or that Turkish authorities pressured them to sign by telling them that they would be detained longer, and in the end deported, if they did not.

Amnesty International heard detailed accounts of 21 instances of torture or other ill-treatment by Turkish security forces. Beatings were common, according to the interviewees. During his detention, shortly after crossing into Turkey, Hamid said that agents mistreated him and his friend. “One of the policemen beat my friend with the butt of his gun, and then the policeman sat on my friend, as if he was sitting on a chair. He sat there and lit a cigarette. Then he hit me on my legs with his gun as well... When I was sitting, down, the Turkish policeman kicked me on the knee. He gave me two big kicks. And now I feel a big pain in my knee joint,” Hamid said.

KEY RECOMMENDATIONS

It is Amnesty International’s position that no Afghan should be returned to Afghanistan because they could face a real risk of serious human rights violations there. In addition, and based on the findings of this report, Amnesty International concludes that no country should forcibly return Afghans to either Turkey or Iran, where they would be at risk of unlawful return to Afghanistan.

- The governments of Turkey and Iran must ensure that authorities and security forces managing migration movements respect the rights of refugees and migrants, including the principle of non-refoulement, the right to seek asylum, the right to life, the absolute prohibition against torture and other ill-treatment, and the rights and best interests of the child. States are bound to ensure access to justice for victims of human rights violations, including by conducting effective investigations into allegations of human rights violations and ensuring that those suspected of criminal responsibility are prosecuted in fair trials.
- The governments of countries hosting Afghans should actively arrange or support safe passage and evacuations from Afghanistan for all those at risk of being targeted by the Taliban, including by seeking bilateral and multilateral agreements from neighbouring countries to establish land corridors and allow the safe transfer of people at risk of being targeted by the Taliban.
- Authorities in countries of arrival of Afghans should grant them international protection. Countries concerned about their ability to host large numbers of Afghans should request the financial and material assistance of other countries. The international community should have a common and coordinated response to sharing the responsibility of supporting Afghan refugees.

METHODOLOGY

This report documents serious human rights violations committed by the Turkish and Iranian security forces against Afghans fleeing their country between April 2021 and May 2022. It explores violations against Afghan individuals that occurred during their journey to Iran and Turkey, especially at the Afghan-Iranian border and the Iranian-Turkish border. It complements other reports that have exposed violations against Afghans and other refugees at the borders between Europe and Turkey.¹

Amnesty International carried out the research for this report between November 2021 and May 2022; including field research in Afghanistan, in Herat city and Islam Qala border town in March 2022; and in Turkey, in Van and Istanbul in May 2022. The organisation's researchers conducted in-person interviews, as well as remote interviews via a messaging app and online video calls, in English and with interpretation from Dari or Pashto to English.

Amnesty International documented a total of 121 cases of individuals who were unlawfully returned to Afghanistan or Iran and subjected to serious human rights violations during their journey through Iran and Turkey between April 2021 and May 2022. These consisted of 37 children aged between one month and 17 years at the time the violations occurred, five women and 79 men. Among these 121 people, some were pushed back multiple times, allowing the organisation to document a total of 255 unlawful transfers or returns. Out of these 255 instances, only two unlawful returns took place before August 2021.

Amnesty International interviewed 76 Afghan individuals (64 men, six women and six children) including 74 who were unlawfully returned, sometimes with family members; one relative of an Afghan man who was pushed back by shooting at the Afghan-Iranian border; and one relative of a man who was shot dead at the Afghan-Iranian border. Among the 74 individuals who had been unlawfully returned, 33 had been pushed back from Iran to Afghanistan, 24 from Turkey to Iran, including six men who had been subjected to chain-refoulement from Turkey to Afghanistan through Iran, 10 had been deported from Turkey to Afghanistan; and one was pushed back from Turkey to Syria.

Names of interviewees have been changed, and specific dates and locations of their places of detention withheld, in order to protect their identities and ensure their safety.

In addition, Amnesty International interviewed five Afghan officials, including the director of the Department of Return and Repatriation of Herat and the border commissioners of Nimroz and Herat, four Turkish immigration lawyers defending Afghans detained for immigration-related reasons, three Afghan doctors who have been treating returnees in Herat and seven Afghan or international NGOs and humanitarian workers in Afghanistan providing assistance to Afghan returnees or documenting the violations they faced. The organisation reviewed official documents including visas, passport stamps, Turkish detention orders, Turkish deportation orders and travel documents delivered by the Afghan embassy in Turkey, as well as interviewees' medical reports, videos and pictures, where available. Researchers also reviewed reports of United Nations (UN) bodies, research organisations and NGOs relating to movements of Afghan refugees.

This report focuses on human rights violations related to access to a territory and to asylum and does not comprehensively cover violations committed in the context of detention. Most of the individuals interviewed who were detained in Iran were unable to provide information about the names, exact locations or security

¹ Amnesty International, *Greece: Violence, Lies and Pushbacks – Refugees and Migrants Still Denied Safety and Asylum at Europe's Borders*, 23 June 2021, Index: EUR 25/4307/2021, www.amnesty.org/en/documents/eur25/4307/2021/en/
Human Rights Watch, *Bulgaria: Migrants Brutally Pushed Back at Turkish Border*, 26 May 2022, www.hrw.org/news/2022/05/26/bulgaria-migrants-brutally-pushed-back-turkish-border
Amnesty International, *Pushed to the Edge: Violence and Abuse Against Refugees and Migrants Along Balkan Route*, 13 March 2019, Index: EUR 05/9964/2019, www.amnesty.org/en/documents/eur05/9964/2019/en/

bodies in control of detention facilities in which they were held due to the lack of information provided to them by the Iranian authorities.

Amnesty International wrote to the Ministry of Interior of Turkey on 8 August 2022 and to the Head of the Judiciary of Iran on 19 August 2022. At the time of writing, the organization had not received any response to its communications.

1. BACKGROUND

1.1 FLEEING AFGHANISTAN

Since the Taliban seized control of Afghanistan in August 2021, hundreds of thousands of Afghans have sought to leave the country. According to data from the United Nations High Commissioner for Refugees (UNHCR), there have been more than 180,000 reported newly-arrived Afghans in need of international protection since 1 January 2021; but the overall number of Afghans with international protection needs is likely to be much higher.²

The evacuation operation that accompanied the withdrawal of US and NATO forces from Afghanistan during the second half of August 2021 airlifted 123,000 people from Kabul airport, including tens of thousands of Afghan nationals at risk of reprisals from the Taliban.³ The airlift operation was chaotic and many who were at serious risk were left behind.⁴

Men and women, including former security officials, former government officials, journalists, human rights defenders, members of civil society, former members of the justice system, and members of minority groups, had been threatened by the Taliban, or had credible fear of reprisals, prompting them to decide to leave.⁵ Daoud, a 28-year-old man and member of the local police, told Amnesty International:

“We received threat letters, and my family said that I had to leave. (...) I have a son who is five months old and I never met him. I left my area the second day after the fall of Kabul. There was a group of American special forces in my area, and the Taliban said that I was spying for them and giving them information. My family told them that I was just working for the district governor. But [the Taliban] said: ‘No, he killed our people before, so now we will kill him.’ They arrested two of my friends, tortured them, and released them. They both fled to Pakistan. I am at serious risk in Afghanistan.”⁶

Some Afghan people have also fled because of insecurity and general fear of the Taliban, according to statements given to Amnesty International and data from UNHCR.⁷ Others have decided to leave because of the economic crisis affecting the country, which they said was compounded by the takeover of the Taliban and the subsequent halt of business and income loss.⁸ No matter why they fled, UNHCR calls on states to suspend the forcible return of all Afghans, including those who have had their asylum claims rejected.⁹

2 UNHCR, External update : Afghanistan situation #18, 1 July 2022, data.unhcr.org/en/documents/details/94212

3 US Department of State, Secretary Antony J. Blinken’s Remarks on Afghanistan, 30 August 2021, www.state.gov/secretary-of-antony-j-blinken-remarks-on-afghanistan/

4 Amnesty International, *Like an Obstacle Course: Few Routes to Safety for Afghans Trying to Flee Their Country*, October 2021, (Index: ASA 11/4832/2021), www.amnesty.org/fr/documents/asa11/4832/2021/en, pp. 3.

5 Interviews in Herat on 10 and 13 March, by voice call on 11 April, in Istanbul on 6, 7 and 8 May 2022. Amnesty International, *Like an Obstacle Course: Few Routes to Safety for Afghans Trying to Flee Their Country*, October 2021, (Index: ASA 11/4832/2021), www.amnesty.org/fr/documents/asa11/4832/2021/en, pp. 4.

6 Interviews in Herat on 13 March 2022.

7 Interviews in Herat on 10 March, in Islam Qala on 12 March, in Istanbul on 7 May, in Van on 10 May and by voice call on 13 May 2022. UNHCR, *Afghanistan Situation: Emergency Preparedness and Response in Iran*, 23 January 2022, data.unhcr.org/en/documents/details/90577

8 Interviews in Herat on 10, 11 March 2022.

9 UNHCR, *Guidance Note on International Protection Needs of People Fleeing Afghanistan*, February 2022, www.refworld.org/docid/61d851cd4.html

UNHCR POSITION ON RETURNS TO AFGHANISTAN

In February 2022, UNHCR released a new Guidance Note on International Protection Needs of People Fleeing Afghanistan. Based on the “current uncertainties including disregard for the rule of law, the fear and uncertainties related to authoritarian governance, and the lack of comprehensive information about the human rights situation in Afghanistan”, UNHCR considers that “presently it is not possible to determine with the requisite degree of certainty that an Afghan asylum-seeker is not in need of international refugee protection.” It calls on all countries to “allow civilians fleeing Afghanistan access to their territories, to guarantee the right to seek asylum, and to ensure respect for the principle of non-refoulement at all time”; and to “register all arrivals who seek international protection and to issue documentary proof of registration to all individuals concerned.” UNHCR also urges States “to suspend the forcible return of nationals and former habitual residents of Afghanistan.”

It is also Amnesty International’s position that no Afghan should be returned, because of the risk of serious human rights violations they could face in Afghanistan.

While countries including the United States of America (USA), Qatar, France and Germany have carried out some evacuations between September and December 2021, the main way for Afghans to leave the country has been to travel by land to neighbouring countries.¹⁰ But Afghanistan’s neighbouring countries – Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan – have essentially closed their borders to Afghans without passports, visas and other travel documents. This has created major obstacles for Afghans aiming to leave the country.

First, many Afghans do not have passports. Passport offices were closed immediately after the Taliban takeover, and have gradually reopened, but there continue to be long delays in processing.¹¹ People Amnesty International interviewed mentioned the lack of access to the passport office, cost and delays, as obstacles to obtaining a passport.¹² “With the amount of money [needed] to renew the passport and obtaining the Iranian visa, I could travel with my whole family to Iran,” Zabi said, referring to the money paid to smugglers for each individual crossing.¹³ People interviewed by Amnesty International who had a passport were mostly former government or security officials and had obtained it before August 2021.¹⁴ In one case, a former soldier said that he preferred to travel irregularly and leave his passport at home because he was afraid, in case of a checkpoint from the Taliban on the way, to be identified and killed.¹⁵

Second, it has been very difficult to obtain visas, including for neighbouring countries. Afghan people told Amnesty International that they could not access a consulate, that consulates did not deliver visas at the time they wanted to travel, that delays were too long, or that they could not afford the cost.¹⁶ Some obtained a visa after paying an intermediary.¹⁷ The price of a visa to Iran can reach USD 800 on the black market, according to a humanitarian worker.¹⁸

In addition, Taliban officials issued rules restricting travel for women, further hampering women’s ability to leave the country.¹⁹ In December 2021, the Ministry of Vice and Virtue issued guidance that women must be

10 Reuters, “Taliban restrict Afghans going abroad, raises concern from U.S and UK”, 1 March 2022, www.reuters.com/world/asia-pacific/taliban-restrict-afghans-going-abroad-draws-criticism-uk-envoy-2022-02-28/; Al Jazeera, “France evacuates more than 300 people from Afghanistan”, 4 December 2021, www.aljazeera.com/news/2021/12/4/update-1-france-evacuates-more-than-300-people-from-afghanistan; ABC News, “7th Qatari evacuation flight takes off from Kabul”, 11 October 2021, abcnews.go.com/Politics/live-updates/afghanistan-withdrawal-live-updates/id=79482353; European Council on Refugees and Exiles: Afghans Seeking Protection in Europe, December 2021, https://ecre.org/wp-content/uploads/2021/12/Evacuations-pathways-to-protection-and-access-to-asylum-for-Afghans-in-Europe_FINAL.pdf, pp 11; Amnesty International, *Like an Obstacle Course: Few Routes to Safety for Afghans Trying to Flee Their Country*, October 2021, Index: ASA 11/4832/2021, www.amnesty.org/fr/documents/asa11/4832/2021/en, pp. 5.

11 AFP, “Taliban government resumes issuing Afghan passports in Kabul”, 18 December 2021, www.france24.com/en/live-news/20211218-taliban-govt-resumes-issuing-afghan-passports-in-kabul-1, Tolo News, “Passport processing resumes in Kabul”, 9 April 2022, tolonews.com/afghanistan-177494

12 Interviews by voice call on 11 April 2022 and on 8 and 19 May 2022, and in Istanbul on 5 May 2022.

13 Interview by voice call on 11 April 2022.

Afghan people crossing border irregularly most of the time go with a smuggler, who they pay in exchange for guiding them through irregular border crossings.

14 Interviews in Herat on 13 March, by voice call on 11 April, in Istanbul on 7 and 8 May 2022.

15 Interview in Istanbul on 7 May 2022.

16 Interviews in Herat on 13 March, in Istanbul on 7 May, and by voice call on 7 May 2022.

17 Interviews in Istanbul on 6 and 7 May and by voice call on 8 May 2022.

18 According to UNDP, the annual individual income per person amounted to USD 500 in 2020 and is expected to drop to USD 350 in 2022, UNDP, Afghanistan, *Socio-economic outlook 2021-2022*, 1 December 2021, www.undp.org/afghanistan/publications/afghanistan-socio-economic-outlook-2021-2022

Interview by voice call on 22 November 2021.

19 Amnesty International, *Death in Slow Motion: Violations Against Afghan Women and Girls*, 27 July 2022, (Index: ASA 11/5685/2022), <https://www.amnesty.org/en/documents/asa11/5685/2022/en/>, p.25

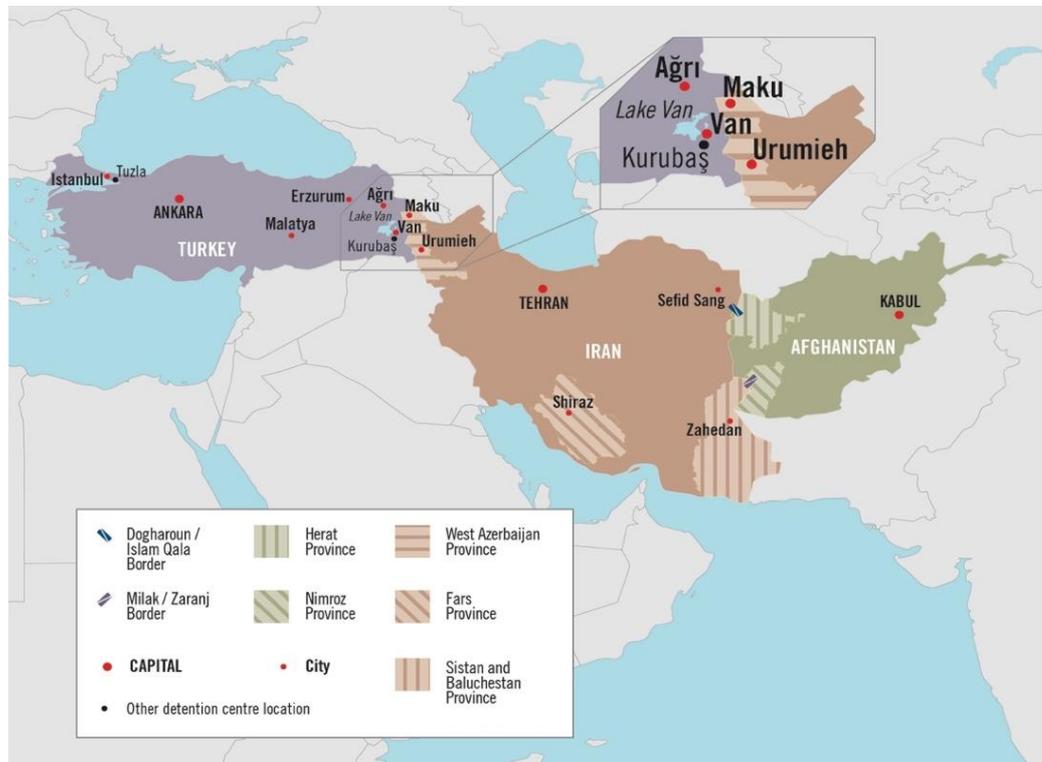
accompanied by a male chaperone for journeys longer than 72km.²⁰ The Taliban has also instructed airlines to prevent women from flying domestically and internationally without a male chaperone.²¹

As a result of these barriers, many Afghans who want to flee the country have few options left but to attempt a highly dangerous, irregular journey using smugglers.

1.2 A RISKY JOURNEY

According to interviews conducted by Amnesty International, Afghan people fleeing the country cross to Iran at informal border crossings along the border. At night, they either crawl underneath a fence near the official Islam Qala border crossing (Herat province), climb over a two-metre-high wall in Nimroz province, or cross to Pakistan from where they reach Iran.²² They usually travel in large groups, including women and children, with a smuggler. If Iranian security forces do not stop and forcibly return them (see 3.1 Pushbacks and other forced return by land), Afghans continue their journey in smaller groups by car arranged by smugglers, until they reach Tehran or other cities in western Iran. Along the journey, they may be abused by the smugglers, separated from their families, or face extreme temperatures, hunger and thirst.²³

Some Afghans decide not to stay in Iran and continue their journeys to Turkey. With the help of smugglers, they attempt to cross along the Iranian-Turkish border facing Lake Van (Turkey), where pushbacks and other violations by Turkish security forces are common (see below).²⁴ Those who successfully cross into Turkey later walk or drive to Van and to cities in the centre or west of Turkey, if Turkish security forces do not stop them.



20 AFP, “No trips for Afghan women unless escorted by male relative: Taliban”, 26 December 2021, france24.com/en/live-news/20211226-no-trips-for-afghan-women-unless-escorted-by-male-relative-taliban. 0

21 AFP, “Taliban ban Afghan women from flying without male relative”, 28 March 2022, france24.com/en/live-news/20220328-taliban-ban-afghan-women-from-flying-without-male-relative

22 Interviews in Herat, Islam Qala, Istanbul, Van and by voice call between 9 March and 16 May 2022.

23 Interviews in Herat, Islam Qala, Istanbul, Van and by voice call between 9 March and 16 May 2022

24 Interviews in Herat, Islam Qala, Istanbul, Van and by voice call between 9 March and 16 May 2022.

1.3 CHALLENGES OF SEEKING REFUGE IN IRAN AND TURKEY

Afghans make up one of the largest refugee populations worldwide. There are 2.6 million registered Afghan refugees in the world, of whom 2.2 million are registered in Iran and Pakistan alone, according to UNHCR.²⁵

1.3.1 IRAN: RETURNING NEWLY ARRIVED AFGHANS

In October 2020, some 3.4 million Afghans resided in Iran, of whom 780,000 had refugee status, according to UNHCR.²⁶ There have been several waves of Afghans fleeing to Iran since 1979, resulting in different statuses, from resident to refugees, while a large number are irregular. Many more have arrived since August 2021, though the exact number is difficult to determine. Since the Taliban seized control of Afghanistan, borders to Iran have remained closed to Afghan nationals who do not hold a passport and a visa, leading a majority of Afghans to cross irregularly. According to UNHCR's update on the situation of Afghan refugees in Iran, issued in July 2022, figures provided by the Iranian authorities for new Afghan arrivals varied from 500,000 to 1,000,000.²⁷ Since the end of 2021 and as of July 2022, Iranian authorities reportedly estimated that 5,000 Afghans were arriving daily in Iran.²⁸ In February 2022 the Iranian authorities stated in a letter to the Office of the High Commissioner for Human Rights of the United Nations (OHCHR) that only 505 Afghans had officially applied for asylum in Iran without specifying the timeframe.²⁹ All the Afghans who fled to Iran interviewed by Amnesty International said that Iranian authorities denied them the opportunity to lodge a claim for international protection.

In the same letter, the Iranian authorities explained their policy regarding Afghan asylum seekers, stating: "Subsequent to the announcement of Amnesty for all by Taliban, hitherto Iran has not found any reliable, convincing and neutral international report on existence of systematic, pre-mediated [sic] and imminent risk of irreparable harm and grave human rights violations. The Government scrupulously gives out that if there are some countries convinced of the perpetration of the aforementioned violations in Afghanistan, Iran will be ready to facilitate the transfer of those Afghan nationals to their territories."³⁰

In parallel, Iranian authorities have increased their crackdown on unregistered Afghans, forcibly returning thousands every day. According to UNHCR's December 2021 update on the situation of Afghan refugees, Iranian authorities stated that there had been a 53% increase in the number of arrests of newly-arrived Afghans between July 2021 and 15 December 2021.³¹ UNHCR observed a daily average of 3,500 forcible transfers of Afghans from Iran in October 2021, 2,600 in November 2021 and 1,500 in December 2021.³² After a decrease over the winter, UNHCR noted an increase in the daily average to over 2,200 forced returns of Afghans from Iran in March 2022.³³ UNHCR estimates that Iranian authorities have been forcibly returning 65% of all newly arriving Afghans.³⁴

1.3.2 TURKEY: PREVENTING ARRIVALS OF AFGHANS

Turkey hosts 130,000 Afghan refugees and asylum-seekers, according to UNHCR.³⁵ Additionally, almost 56,000 Afghans live in Turkey with an alternative residence status, most of whom hold a short-term residence permit or a student visa.³⁶

25 UNHCR, Afghanistan, www.unhcr.org/afghanistan.html

26 The figure does not include Afghans not seeking international protection. The figures on refugee status were communicated to UNHCR by the Iranian government in October 2021. UNHCR also estimates that an additional two million undocumented Afghans, and about 600,000 Afghan passport holders were also living in Iran, a significant number of whom were thought to have need of international protection. UNHCR, Refugees in Iran www.unhcr.org/ir/refugees-in-iran/

27 UNHCR, Flash external update : Afghanistan situation #18 As of 1 July 2022, data.unhcr.org/en/documents/details/94212

28 UNHCR, Flash external update : Afghanistan situation #12 As of 15 December 2021, data.unhcr.org/en/documents/details/90202

29 UNHCR, Flash external update : Afghanistan situation #18 As of 1 July 2022, data.unhcr.org/en/documents/details/94212

29 Mission Permanente de la République Islamique d'Iran auprès des Nations Unies et autres organisations internationales à Genève, Comment by the Islamic Republic of Iran concerning the risk of refoulement and obstacles faced by Afghan nationals seeking asylum,

14 February 2022, spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36808

30 Mission Permanente de la République Islamique d'Iran auprès des Nations Unies et autres organisations internationales à Genève, Comment by the Islamic Republic of Iran concerning the risk of refoulement and obstacles faced by Afghan nationals seeking asylum,

14 February 2022, spcommreports.ohchr.org/TMResultsBase/DownloadFile?gld=36808

31 UNHCR, Flash external update: Afghanistan situation #12, December 2021, data.unhcr.org/en/documents/details/90202

32 UNHCR, Flash external update : Afghanistan situation #12 As of 15 December 2021, data.unhcr.org/en/documents/details/90202

33 UNHCR, Flash external update : Afghanistan situation #16 As of 15 April 2022, data2.unhcr.org/en/documents/details/92260

34 UNHCR, Iran: Afghanistan Situation Update - 1-10 March 2022, data.unhcr.org/en/documents/details/91312

35 UNHCR, Turkey bi-annual factsheet, September 2021, reporting.unhcr.org/document/385

36 Turkey Presidency of migration management, Residence permits, en.goc.gov.tr/residence-permits

Afghan people traveling without a visa enter Turkey through its eastern land border. According to Turkish official statistics, Turkish authorities have intercepted 70,252 Afghans who entered irregularly in 2021, and 75,825 between January and the end of August 2022.³⁷ In 2021, 21,926 Afghans applied for international protection.³⁸

Following the Taliban takeover of Afghanistan, the Turkish authorities declared their opposition to admitting potential large numbers of Afghans to Turkey, with the President reportedly warning that the country would not become “Europe's migrant storage unit”.³⁹ Elections scheduled for June 2023 have apparently increased pressure on the government to adopt a stricter policy on immigration, and the government has been putting tougher border control measures in place.⁴⁰ In April 2022, Turkish authorities announced that a 191km-long wall at the border with Iran (under construction since 2017) had been completed, and that it would be extended to 295km by 2023.⁴¹ According to Turkey's Interior Minister, the EU is providing financial support of 110 EUR million for the construction of the wall.⁴²

Comprehensive figures of returns of Afghans from Turkey since August 2021 are not publicly available. But in late April 2021, the Presidency of Migration Management (PMM) (Göç İdaresi Başkanlığı), the body within the Ministry of Interior responsible for migration and asylum, announced on its website that “the number of Afghan foreigners deported this year has reached 11,036.”⁴³

REFUGEE STATUS DETERMINATION

IRAN

Iran is a party to the 1951 Convention Relating to the Status of Refugees (Refugee Convention) and its 1967 Protocol. According to UNHCR, the Bureau for Aliens and Foreign Immigrants' Affairs (BAFIA) of the Ministry of Interior is in charge of examining asylum requests lodged by asylum seekers, but the process for registration and documentation remains unclear.

TURKEY

Turkey is also party to the 1951 Refugee Convention and its 1967 Protocol. However, Turkey retains a geographic reservation to its ratification of the Convention, so that only citizens from Council of Europe member states are allowed to apply for refugee status. Therefore, Afghans are not entitled to seek asylum in Turkey and can only request conditional refugee status under the Law on Foreigners and International Protection of 2013 (LFIP). The conditional refugee status was created for people originating from “non-European” states and provides more restrictive rights than the ones granted to refugee status holders and to temporary protection holders. For instance, the conditional refugee status does not offer the possibility for long-term legal integration in Turkey, or for family reunification.

Since 2018, the Presidency of Migration Management (PMM), under the Ministry of Interior, has been responsible for registering asylum-seekers and determining refugee status, replacing UNHCR. This change translated into a significant decrease of access to international protection. In 2019, PMM granted international protection to 5,449 people, while in 2018, UNHCR had granted international protection to 72,961 people.

37 Turkey Presidency of migration management, Irregular migration statistics, en.goc.gov.tr/irregular-migration

38 Turkey Presidency of migration management, International protection, en.goc.gov.tr/international-protection17

39 The Guardian, [Turkey reinforces Iran border to block Afghan refugees](https://www.theguardian.com/world/2021/aug/23/turkey-reinforces-iran-border-to-block-afghan-refugees-refugees), 23 August 2021, www.theguardian.com/world/2021/aug/23/turkey-reinforces-iran-border-to-block-afghan-refugees-refugees

40 Interviews in Istanbul on 5 and 6 May 2022, International Crisis Group, [This week in conflict and crisis](https://www.icsg.org/publications/this-week-in-conflict-and-crisis), 7 May 2022.

41 Yeni Safak, [Turkey completes half of security wall along Iranian border](https://www.yenisafak.com/en/news/turkey-completes-half-of-security-wall-along-iranian-border-2921679), 30 December 2017, www.yenisafak.com/en/news/turkey-completes-half-of-security-wall-along-iranian-border-2921679 Reuters, [Turkey builds wall to stop Afghan influx](https://www.reuters.com/world/middle-east/turkey-builds-wall-stop-afghan-influx-2021-07-28/), 28 July 2021, [www.reuters.com/world/middle-east/turkey-builds-wall-to-stop-afghan-influx-2021-07-28/](https://www.reuters.com/world/middle-east/turkey-builds-wall-stop-afghan-influx-2021-07-28/)

42 Anadolu Ajansı, [İçişleri Bakanı Soylu Türkiye-İran sınır duvarını inceledi](https://www.aa.com.tr/tr/turkiye/icisleri-bakani-soylu-turkiye-iran-sinirduvarini-inceledi/1867763), 6 June 2020, [www.aa.com.tr/tr/turkiye/ icisleri-bakani-soylu-turkiye-iran-sinirduvarini-inceledi/1867763](https://www.aa.com.tr/tr/turkiye/icisleri-bakani-soylu-turkiye-iran-sinirduvarini-inceledi/1867763)

43 The article was accessed on 5 May 2022. It has been removed from the website since. Screenshots on file with Amnesty International.

2. PUSHBACKS BY SHOOTING AND UNLAWFUL KILLINGS

“They [Iranian security forces] said: ‘You came here illegally. If we kill you, no one will know, and no one will come after you.’”

Habib, a 28-year-old Afghan farmer who was pushed back by Iranian security forces in January 2022.

The most immediate way of preventing Afghans from accessing Iran or Turkey has been to fire on them at border-crossing points. Interviews conducted by Amnesty International confirm that security forces have repeatedly shot into the air or directly at Afghan men, women and children during their attempts to cross the Afghan-Iranian or the Iranian-Turkish border.⁴⁴ Afghan officials, doctors, NGO staff, human rights and humanitarian actors in direct contact with those forcibly returned from Iran and/or Turkey have corroborated information about repeated shootings at different informal crossing points along the Afghan-Iranian border (hereafter referred to as the Iranian border) and the Iranian-Turkish border (hereafter referred to as the Turkish border).⁴⁵

Amnesty International interviewed 48 Afghans who said that they and their relatives came under fire when attempting to cross the Iranian or the Turkish border (including some fired on at both borders).⁴⁶ Turkish and Iranian security forces have used firearms in order to scare Afghan people and deter them from crossing, force them to return to the other side of the border, or arrest them.⁴⁷ In Iran, security forces fired at Afghans as they were climbing border walls, crawling under fences or walking or driving away from the border and into Iran. In Turkey, witnesses described shootings at the border fences or in what interviewees described as a canal. As Afghans usually crossed borders at night, security forces often fired with limited visibility, on refugees who were apparently unarmed and posing no immediate threat.

44 From the Afghan-Iranian border between March 2021 and March 2022 and the Iranian-Turkish border between April 2021 and January 2022. Interviews in Islam Qala on 12 March, in Herat on 10, 11, 13 and 14 March by voice call on 15 March, 1, 7 and 16 April, in Istanbul on 5, 6, 7 and 8 May, in Van on 9, 10, and 12 May 2022.

45 Interview by voice call on 22 November 2021, on 9, 21, 23 and 28 February, on 17 March 2022, on 7 April 2022, and in Herat on 12, 14, March, and in Istanbul on 6 May 2022. Protection Cluster, Afghanistan Protection Analysis update -Q4,2022, pp.3, www.globalprotectioncluster.org/wp-content/uploads/AFG_Protection-Analysis-Update_Q4.pdf

46 Interviews in Islam Qala on 12 March, in Herat on 10, 11, 13 and 14 March by voice call on 15 March, 1, 7 and 16 April, in Istanbul on 5, 6, 7 and 8 May, in Van on 9, 10, and 12 May 2022.

47 Interviews in Islam Qala on 12 March, in Herat on 10, 11, 13 and 14 March by voice call on 15 March, 1, 7 and 16 April, in Istanbul on 5, 6, 7 and 8 May, in Van on 9, 10, and 12 May 2022.

Two men interviewed by Amnesty International said that they decided to continue their journey in spite of coming under direct fire because the alternative – going back to Afghanistan under the control of the Taliban – appeared worse to them.⁴⁸ “The Iranian security forces started shooting. They warned us on speakers, saying: ‘Stop! Don’t run, otherwise we’ll fire at you.’ We knew that if we went back, we would face the Taliban, so we had no choice but to cross,” said Nasrat, a 19-year-old student who fled to Iran when the Taliban took control of his town in March 2021.⁴⁹

Amnesty International’s investigations indicate that dozens of Afghans have been shot and killed, and many others suffered gunshot injuries. The organization documented the unlawful killing by Iranian security forces of six Afghan men and one 16-year-old boy as they attempted to cross the border from Afghanistan.⁵⁰ The organization also spoke to seven men who had been shot and injured by Iranian security forces.⁵¹ In addition, Afghan witnesses told Amnesty International that during their journey they saw four men shot dead by Iranian security forces. Another 14 men and one woman were shot and wounded at the Iranian border or on Iranian territory close to the border, they said.⁵²

Amnesty International also spoke to two men who had been shot and wounded by Turkish security forces,⁵³ and interviewed others who described the killings of three teenage boys, and the wounding of six men and three boys by the Turkish security forces.⁵⁴

In the cases that Amnesty International documented, none of the people killed or injured appeared to represent the “imminent threat of death or serious injury” to security forces or others that would meet the threshold for the use of firearms under international law and standards.⁵⁵ Accordingly the use of such force was unlawful and arbitrary. Unlawful killings should be investigated as potential extrajudicial executions.

2.1 SHOOTING AS A PUSHBACK METHOD

“We tried to cross again, and this time they [Turkish security forces] shot towards us. Two of my friends were hit by bullets in their legs. (...) A bullet grazed my head. So we returned to Iran.”

Amir, a former Afghan soldier who attempted to cross into Turkey for the second time, after Turkish security forces returned him to Iran.

2.1.1 CIRCUMSTANCES OF THE SHOOTINGS

Amnesty International documented the use of live ammunition directly against Afghan men, women and children in 14 incidents by Iranian security forces that took place between March 2021 and March 2022 and eight incidents by Turkish security forces between April 2021 and January 2022.⁵⁶ Nadim, a 15-year-old boy who left his village in September 2021 because of the insecurity in Afghanistan, crossed the Iranian border from Nimroz province with other teenagers:

48 Interviews in Van on 10 and 11 May 2022.

49 Interview in Herat on 10 March 2022.

50 Interviews in Herat on 9 and 14 March, by voice call on 11 and 13 March and in Istanbul on 5 May 2022.

51 Interviews in Herat on 10, 11, 13 and 14 March and in Van on 11 May 2022.

52 Interviews in Herat on 10, 11 and 14 March 2022.

53 Interviews in Herat on 10, 11, 13 and 14 March and in Van on 11 May 2022.

54 Interviews in Istanbul on 5 May, in Van on 9 May and by voice call on 21 April and 16 May 2022.

55 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; Special Provision 9: “9. Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”

56 Interviews in Herat on 9, 10, 11, 13 and 14 March, in Istanbul on 5 and 7 May, in Van on 11 May and by voice call on 13 and 16 May 2022.

“At night, the Iranian [security forces] shot at us. At first, they were firing into the air and told us to stop. Then, because people didn’t stop, they shot at people. Shots were coming from two different directions, from the ground and from a tower. (...) Several times, it felt like a bullet was flying close to my hair. I heard the sound of the wind. (...) I didn’t notice if anybody was injured or killed because I was only running away from there.”⁵⁷

In four cases, individuals interviewed by Amnesty International said that Iranian security forces shot at them as they were climbing a several metre-high wall that separates Afghanistan and Iran in some areas, or as they had climbed down the wall on the Iranian side.⁵⁸ Naeem, a former Afghan security forces member, said that Iranian security forces fired at him while he was attempting to enter Iran from Nimroz province in late August 2021.⁵⁹

“They started firing. I realised it was not warning shots but directly at us. I was on the top of the wall. I saw somebody injured in the chest. (...) I jumped back to the Afghan side. I don’t know how many people were hit. I saw my cousin on the top of the wall when the shooting started, after that I lost [sight of] him. I don’t know where he is now. I saw many people with broken arms or bleeding from [the] head. The day after, in Nimroz, people were saying that seven people had been killed and 30 injured.”

In five cases documented by Amnesty International, Iranian security forces fired at vehicles transporting small groups of Afghans away from the border and into Iran between April 2021 and March 2022.⁶⁰ While in four of these instances, Iranian security forces shot at moving vehicles, in one case, they aimed at a stationary vehicle in Iranian territory. Hanif, who was travelling with eight family members, told Amnesty International that he came under fire twice after crossing into Iran in March 2021. He told Amnesty International that Iranian security forces initially opened fire on him, his relatives and other people in their group after they had climbed down the Iranian side of the border wall and walked for about 100 metres.⁶¹ Hanif managed to escape and continued his journey by car with 11 other people, including his relatives, until he reached Shiraz city surroundings. Hanif said that Iranian security forces shot once at the car, which then stopped. But even after the car had stopped, he said, Iranian security forces continued to fire.⁶² Hanif said that he and all the men in the car sustained gunshot injuries and two of his cousins subsequently died from their injuries.

Witnesses also described 24 instances in which security forces fired into the air in order to scare refugees back across the border or prevent them from entering in the first place. Lawyers in Turkey confirmed that this is a common practice, and 15 of the incidents reviewed by Amnesty International took place in Turkey.⁶³

Nine similar incidents took place on the Iranian border or inside Iran.⁶⁴ Bilal, age 20, attempted to cross the border into Iran in August 2021: “When we crossed, the police started shooting into the air and in the ground near the feet of people to frighten them.”⁶⁵ People ran away,” he said.⁶⁶

When a “warning” shot is fired into the air, the bullet will come down with a potentially lethal velocity, often at quite a distance from the place of firing. Its trajectory cannot be controlled so there is no way of knowing where it will land or whether it will accidentally hit someone. When warning shots are fired into the ground or horizontally in any direction there is a risk of potentially lethal ricochets, especially where the ground or walls consist of solid materials such as brick or concrete.⁶⁷ Accordingly, the firing of warning shots generally constitutes an unacceptable risk to life and an unlawful use of a firearm.

Security forces sometimes provided verbal warnings. Afghans told Amnesty International about 17 instances in which Iranian or Turkish security forces warned them before shooting, mostly by ordering them to stop, or shouting something that people did not understand.⁶⁸ Farhad, who was shot at alongside 12 other men when he tried to enter Iran, explained: “I heard: ‘Stop. If you don’t stop we will shoot you.’ Nobody stopped, we kept running. They started firing at everyone.”⁶⁹

57 Interview by voice call on 6 May 2022.

58 Interviews in Herat on 9, 13 March and in Istanbul on 7 May 2022.

59 Interview in Herat on 13 March 2022.

60 Interviews in Herat on 9, 11, 14 March, by voice call on 11 April and in Van on 10 May 2022.

61 Interview in Herat on 13 March 2022.

62 Interview in Herat on 13 March 2022.

63 The incidents took place between April 2021 and January 2022. Interviews in Islam Qala on 12 March, by voice call on 15 March, 7 and 16 May, in Istanbul on 7 May and in Van on 9 and 11 May 2022.

64 The incidents took place between March 2021 and March 2022. Interviews by voice call on 7 and 11 April, on 11, 13 and 16 May, in Istanbul on 5, 6, 7 and 8 May, and in Van on 9 and 10 May 2022.

65 Amnesty International cannot independently ascertain the Iranian law enforcement or security body involved in this incident.

66 Interview by voice call on 3 May 2022.

67 Amnesty International, *Guidelines For Implementation Of The Un Basic Principles On The Use Of Force And Firearms By Law Enforcement Officials*, pg 114

68 Interviews in Herat on 11 and 14 March, in Istanbul on 7 May, in Van on 9, 10 and 11 May, and by voice call on 15 March, 11 April, 6 and 16/05 2022.

69 Interview in Herat on 14 March 2022.

Turkish and Iranian security forces have fired at groups of Afghans which included children, according to witnesses, humanitarian actors working with children, and two Afghan human rights researchers.⁷⁰ Four boys and the parents of four girls said that they were fired at by Turkish security forces in September 2021 and in January 2022, and witnesses described three similar incidents involving Turkish security forces. One of the boys described “bursts of fire”, suggesting the use of automatic or semi-automatic weapons, which also increase the risk of injuring or killing people.⁷¹ “They shot continuously, without any pause. It lasted about 20 minutes,” said Najib, age 16, who said that Turkish security forces forcibly returned him to Iran 15 times and that he was shot at by Turkish security forces the last time he crossed. Iranian security forces also fired on groups containing children; at least six similar incidents occurred at the Iranian border.⁷²

Some of the interviewees said that the security forces pointed light at them when they were firing, but in most cases, shootings took place at night, so it is likely that the security forces were firing in low visibility.⁷³

The interviews conducted by Amnesty International strongly suggest that there was no justification for the use of lethal force against Afghans crossing the borders. There is no indication that the Afghans crossing the borders represented a threat to the security forces, much less the imminent threat of death or serious injury that would justify the use of firearms. Interviewees generally claimed to have been unarmed, and Amnesty International is not aware of any reports of incidents in which Afghans trying to cross the border have shot at or attacked the security forces.

2.1.2 FORCED RETURNS UNDER FIRE

Turkish and Iranian security forces have used firearms in order to repel Afghans coming into the country, to capture them, to scare them and ultimately to force them to return to the other side of the border, according to interviews conducted by Amnesty International.⁷⁴

Aref, 24, a former Afghan intelligence officer, said that he fled Afghanistan in October 2021 because he received death threats from the Taliban. After reaching Iran, he attempted several times to cross into Turkey. He said he came under fire from Turkish security forces twice. On one occasion: “We crossed at 1am. We were about 30 people, with some families. No one had weapons. They [Turkish security forces] shot at us. One man was injured in the leg. Not many were injured because everyone jumped in the canal. We stayed there for about one hour. We went out after they stopped shooting and we returned to Iran,” Aref said.⁷⁵ Amnesty International interviewed 38 men, women and children who crossed the Turkish border, the vast majority of them had experienced shooting at a border crossing at least once.⁷⁶

Iranian security forces have also fired on Afghans to prevent them from entering the country or travelling onwards. Abbas, a 22-year-old construction worker who tried to cross into Iran in February 2022, told Amnesty International: “At night, we tried to cross through Islam Qala border. We crawled under the fence. The Iranian forces shouted: ‘Don’t come!’ But the smuggler moved forward. We didn’t represent a threat, no one had weapons. They fired a lot of bullets. (...) The smuggler in the front was shot. Everyone ran back to Afghanistan,” Abbas said.⁷⁷

Sabur, a 35-year-old labourer, managed to cross the Iranian border in the summer of 2021 and continued his journey by car until the Iranian security forces spotted the vehicle. He told Amnesty International:

“They told us to stop. The car stopped but some people tried to escape. When they started running, security forces fired three shots into the air to stop them. I thought they wouldn’t fire at us. No one was a threat to them. People continued to run. So security forces shot at everyone. I was shot in the right leg, just below the knee. I can’t remember what happened after that because I lost consciousness. When I woke up, I was on the Afghan side of the border. I don’t remember how.”⁷⁸

70 Interviews in Herat on 10, 13 and 14 March, by voice call on 11, 21 April, on 6, 8, and 16 May, in Istanbul on 5 May and in Van on 9 and 10 May 2022.

71 Interviews in Herat on 10, 11, 13, 14 March, by voice call on 7 May, in Istanbul on 5 and 7 May and in Van on 10 May 2022.

72 Interviews by voice call on 6, 8, and 16 May 2022, and in Van on 9 May 2022. Interviews in Herat on 10, 13 and 14 March, by voice call on 11, 21 April and 8 May, in Istanbul on 5 May and in Van on 10 May 2022.

73 Interviews in Herat on 10 March, in Istanbul on 7 May, in Van on 9 and 10 May, and by voice call on 5, 6, 7, 13 and 16 May 2022.

74 Interviews in Islam Qala on 12 March, in Herat on 13 March by voice call on 15 March and 16 May, in Istanbul on 5, 6, 7 and 8 May, in Van on 9, 10, and 12 May 2022.

75 Interview in Herat on 10 March 2022.

76 26 interviewees described shootings. Interviews in Herat on 10, and 13 March, in Istanbul on 5, 6, 7 and 8 May, and in Van on 9, 10, and 12 May 2022.

77 Interview in Herat on 10 March 2022.

78 Amnesty International researcher saw a scar on Sabur’s leg that was consistent with his testimony. Interview in Herat on 11 March 2022.

By shooting at people trying to cross the border to find refuge and summarily forcing them back across an international border, Turkish and Iranian security forces have violated international law, including the right to seek asylum and the principle of non-refoulement. Under the international legal obligation of non-refoulement, Turkey and Iran cannot transfer anyone to a place where they would be at real risk of serious human rights violations (see Box: Why is it unlawful to return Afghans?). Through the use of unlawful lethal force, Afghans were forced to the other side of the border before they were able to lodge a claim for international protection and before authorities could assess their individual circumstances and protection needs.

2.2 DEATHS AND INJURIES CAUSED BY FIREARM

“We walked for 20 minutes. Then we heard gunfire. They [Iranian security forces] said: ‘Stop, don’t move forward.’ The smuggler said not to stop. Some people ran away, some came under fire. I heard my son screaming for me. He had been hit by two bullets in his ribs. I don’t know what happened after, I fainted because I was afraid for my children. When I gained consciousness, I was in Afghanistan. I saw that my son was dead. I was next to his body in a taxi.”

Sakeena, a 35-year-old widow who left Afghanistan through Nimroz province with her four daughters and two sons.

Amnesty International's investigations indicate that dozens of Afghans have been shot and killed, and many others suffered gunshot injuries. In 2021 alone, humanitarian actors and Afghan doctors interviewed by Amnesty International recorded 59 deaths and 31 injuries,⁷⁹ although the total number of deaths and injuries is likely to be significantly higher overall given the absence of comprehensive procedures to record casualties. Afghan authorities in Herat and Nimroz confirmed to Amnesty International that shootings by the Iranian security forces were a regular occurrence at the border.⁸⁰ Mowlawi Anzala, the border Commissioner of Nimroz province, told Amnesty International in March 2022 that “on average, every month, between 25 and 30 deaths are caused by gunshot [in Iran]. They [Iranian security forces] shoot at everyone. Sometimes we receive bodies of women and children, maybe around two or three. But the vast majority are men.”⁸¹

Amnesty International spoke to the relatives of six men and a 16-year-old boy who were shot and killed by Iranian security forces as they attempted to cross into Iran between April 2021 and January 2022.⁸² In addition, witnesses told Amnesty International about four further killings by Iranian security forces.⁸³ Dozens of people have also suffered gunshot injuries. The organization interviewed seven men who had been shot and injured while attempting to cross the Iranian border, and heard witnesses describe the shooting and wounding of 14 men and one woman.⁸⁴ Amnesty International reviewed photographs of injuries and x-rays that corroborated some of these testimonies.⁸⁵

79 Interview by voice call on 22 November 2021 and on 28 February 2022, and in Herat on 14 March 2022.

80 Interviews in Herat and Islam Qala on 12 March 2022 and by voice call on 17 March 2022.

81 Interview by voice call on 17 March 2022.

82 Interviews in Herat on 9, 13 and 14 March, by voice call on 11 March, and in Istanbul on 5 May 2022.

83 Interviews in Herat on 10, and 14 March, in Istanbul on 5 May, in Van on 9 May and by voice call on 16 May 2022.

84 Interviews in Herat on 10, 11, 13 and 14 March and in Van on 11 May 2022.

85 Families were not provided with death certificates or autopsy reports by Iranian or Afghan authorities.

Similar incidents reportedly took place on the Turkish border; witnesses described the killing of three boys and the injury of six men and three boys by Turkish security forces, while Amnesty International interviewed two more men who were shot and injured.⁸⁶

2.2.1 KILLED FOR ENTERING IRAN

“He arrived at the wall of the border, climbed it and he raised his head up over the top. They shot him in the head, in the left temple. He fell to the ground on the [Afghan] side of the border.”

Ghulam, the uncle of a 19-year-old man shot dead by Iranian security forces at the border with Nimroz province, just after the fall of Kabul in August 2021.

It took nine days for Ghulam to find someone to retrieve his nephew’s body from the morgue in Iran and bring it to an Afghan border crossing. A handwritten note in Persian, which Ghulam said was delivered with the body, and reviewed by Amnesty International, says that his nephew “died from a bullet in the head.” The identity of the note’s signatory is unclear.⁸⁷

Aziz, an 18-year-old construction worker, told Amnesty International that his uncle was shot dead by Iranian security forces when they sought to cross into Iran from Nimroz province together with a group of other Afghans in the summer of 2021:

“Iranian security forces arrived, they told us to stop. We were all down the wall [on the Iranian side of the border]. My uncle was 20 metres away ahead of us. They started shooting at him without any warning. They fired a full magazine. Two bullets hit him: one entered his shoulder blade and went out through his chest, the other entered his ear, went through his head and he died. Soldiers could have easily arrested him, he was unarmed.⁸⁸ (...) Three or four soldiers came next to us. I was crying. They said: ‘We wish you were killed by the Taliban on the other side of the border.’”⁸⁹

Aziz said that Iranian security forces took him to a detention centre and took his uncle’s body to the morgue. He picked up the body the following day and returned to Afghanistan. According to Aziz’s testimony, his uncle did not pose a threat, and this would have been clear to the Iranian security forces due to their close proximity, but they deliberately fired anyway.

Similarly, Hanif recounted how Iranian security forces in Fars province shot at the car he was travelling in, killing his two cousins inside the car: “Suddenly, we were shot at. There was no warning. It was a burst of shots. First, they fired one shot. The car stopped. After that, they shot many bullets. It damaged the car. Everyone in the car, except my two sisters, was wounded, including the driver. I was hit by two bullets: one in the head that later required 10 stitches, and one in the lower back. My two cousins were killed. One [of them] received 18 bullets, some in his chest, some in his feet, and one in the neck that damaged his throat. The other [cousin] was hit by a bullet that entered from his shoulder blade and went out through his stomach.” As the car had come to a stop and was apparently posing no threat, there was no justification for firearms to be discharged at the car, let alone sustained and heavy fire on the occupants.

Iranian security forces fired on vehicles in a reckless way on other occasions, according to witnesses. For instance, Fareeda, a mother of four who was eight months’ pregnant when the family left Afghanistan, told Amnesty International:

“The car was driving fast. We came under fire. I heard ‘stop’ from behind but the car didn’t stop. I heard gunfire... I was bleeding because I was pregnant. The driver was shot on his collarbone. My husband was hit by two bullets, one in his leg, one between his shoulder blades. My nine-year-old son was shot in the leg. I fell unconscious and don’t remember anything else. When I woke up, I saw that my husband had died.”⁹⁰

86 Interviews in Herat on 10, 11, 13 and 14 March and in Van on 11 May 2022.

87 Note on file with Amnesty International. Although the note also claims that he was killed in Afghanistan behind the border wall, it goes on to say that his “body was delivered to Amirmomenin Hospital in Zabol” in Sistan and Baluchistan province in Iran.

88 Amnesty International is not in a position to independently ascertain the law enforcement or security body involved in the incident described by Aziz.

89 Interview by voice call on 11 March 2022.

90 Interview in Herat on 14 March 2022.

Witnesses also told Amnesty International that they had seen Iranian security forces shoot and kill four children aged between 13 and 17. Sakeena, who crossed into Iran from Nimroz province with her six children, aged from 11 to 16 years old, said that her 16-year-old son was killed when Iranian security forces fired at them as they were walking away from the border further into Iranian territory.⁹¹ Munir, a 24-year-old hairdresser, told Amnesty International that Iranian security forces shot dead his 13-year-old cousin, as well as two other boys, aged 14 and 17, traveling with them from Nimroz province. “Thirty minutes after crossing, men in border [guard] uniforms who were 30 metres away from us shot at us from two sides (...) There was a burst of fire. I was not hit because I handed myself in, whereas the other boys tried to escape. We were six. Three of us were shot dead,” Munir recounted.⁹²

Relatives said that Iranian security forces either transported the bodies directly to the Afghan border or sent them to an Iranian morgue or hospital nearby until a relative retrieved the bodies and paid for their transfer back to Afghanistan.⁹³

2.2.2 INJURIES CAUSED BY FIREARM

“A bullet went into my left calf and got out. I ran a few metres and I fell down. I fell unconscious for three hours. (...) After that [incident], my leg was paralysed for one month. Even now, I can’t move it fully”.

Hadi, who sustained a gunshot wound after Iranian security forces opened fire at him close to the border in late August 2021.⁹⁴

Amnesty International spoke to nine people who had sustained gunshot wounds (seven by Iranian security forces and two by Turkish security forces), as well as with witnesses who described another 24 injuries of (15 caused by Iranian security forces and nine caused by Turkish security forces). An Afghan doctor treating individuals who had been forcibly returned to Afghanistan from Iran showed the organization pictures of gunshot wounds he treated and corroborated some of the testimonies. “I treated wounds in the head, in the neck, in the shoulder, in the hand, in any part of the body,” the doctor told Amnesty International.⁹⁵

Afghan doctors told Amnesty International that in the first three months of 2022, they treated five injuries caused by live ammunition sustained by individuals forcibly returned from Iran.⁹⁶ A doctor working in Herat city said that the actual number of casualties is likely to be significantly higher, because people generally go to hospitals in their home provinces to be treated.⁹⁷

Bahir, a 35-year old construction worker who left Afghanistan in September 2021, said that he was shot in the head by Iranian security forces after he had crossed into Iran from Nimroz province:

“I had just made it over the wall, and they [Iranian security forces] started shooting at us. We were 300 or 400 metres away from the wall. My relative was shot in the leg, I was crouching down to check on him. They shot him in his right calf. Then a bullet grazed my right ear, and another bullet went into the side of my kidney, and a third went into my groin. (...) Bullets were going by us on every side. There were dozens of bullets. When the bullet hit me, it was the tenth or eleventh bullet that had gone by me. I’m not sure what firearms they were using, but I think they were Kalashnikovs. No one in our group had a weapon. I don’t know how much they fired after that, I was in pain. I lost a lot of blood.”⁹⁸

Afghan interviewees also suffered injuries as a result of fire from Turkish security forces. After crossing the Turkish border, Nasrat said that the Turkish security forces fired at him and his group. “Something hit the back of my head. I was very scared, I couldn’t feel my wound. It was open. I was bleeding,” Nasrat said.⁹⁹ Three Afghan men who said that they had been shot showed Amnesty International’s researchers scars that were consistent with their accounts.

91 Interview in Herat on 14 March 2022.

92 Interview in Istanbul on 5 May 2022. Amnesty International reviewed a picture of the dead cousin.

93 Interviews in Herat on 9, 13 and 14 March, by voice call on 11 March, and in Istanbul on 5 May 2022.

94 Interview in Herat on 14 March 2022.

95 Interview in Herat province in March 2022. Exact date and location retained for confidentiality.

96 Interview in Herat on 14 March 2022.

97 Interview in Herat on 14 March 2022.

98 Interview in Herat on 13 March 2022.

99 Interview in Van on 11 May 2022.

Older people and children were also injured, according to witnesses.¹⁰⁰ For instance, during one of his attempts to cross into Turkey, Najib said that he heard three teenage boys screaming as they were hit by fire from Turkish security forces.¹⁰¹ Aref also told Amnesty International that he saw young children who were wounded by bullets fired by Turkish security forces. “The police were shooting from their tower on the mountain. They shot directly at us, not in the air. (...) In this shooting incident, I witnessed a woman and two children who were injured. A two-year-old child was shot in the kidney, and a six-year -old child was shot on his hand. I was very scared. I was amazed I survived,” Aref said.¹⁰²

Six out of the nine Afghans injured who spoke to Amnesty International said that Iranian security forces detained them after they had been shot and denied them health care for serious injuries (see 4.2 Other ill-treatment).¹⁰³ In Turkey, Nasrat, who sustained an injury in the head because of shooting from the Turkish security forces, said that he did not have access to health care either. Instead, Turkish security forces pushed him immediately back to Iran.¹⁰⁴

None of those interviewed who were injured filed complaints with the Iranian or Turkish authorities. Three men who had been injured by Iranian security forces told Amnesty International that they did not lodge complaints because they lacked Afghan documentation, because they were considered irregular in Iran or because they did not know which government entity would register their complaint.¹⁰⁵ Amnesty International is not aware of any investigations by Turkish or Iranian authorities into any of these incidents.

2.2.3 UNLAWFUL USE OF FORCE, ARBITRARY AND UNLAWFUL KILLINGS AND POTENTIAL EXTRAJUDICIAL EXECUTIONS

IRAN’S FLAWED LEGISLATION ON THE USE OF LETHAL FORCE

Iran’s 1995 Law on the Use of Arms by Armed Forces in Necessary Instances, which governs the use of firearms by law enforcement bodies and other security forces, allows for their use in circumstances that do not involve an imminent threat of death or serious injury as required under international law and standards. The use of firearms is permitted by law enforcement bodies and security forces “for preventing and stopping individuals who intend to enter or exit [the country through] illegal borders and do not pay attention to the border guards’ warnings” when they “have no other choice”. Prior to the use of firearms, the Law requires law enforcement bodies and security forces to issue verbal warnings “when circumstances require” and to begin by firing warning shots into the air “if possible”, before targeting individuals’ lower bodies and ultimately, if the objective is not achieved, aiming at their upper bodies. These limited safeguards are in flagrant violation of international law and standards, as the Law allows the security forces to resort to lethal force and fatally shoot at individuals who cross borders irregularly, including asylum seekers, when they do not pose an imminent threat of death or serious injury.

Respect for the right to life is protected by international human rights law binding on both Iran and Turkey.¹⁰⁶ It is a right described by the UN Human Rights Committee as of being of “crucial importance, both for individuals and society as a whole,”¹⁰⁷ and the committee has been clear that international law requires states to “take all necessary measures to prevent arbitrary deprivation of life by their law enforcement officials.”

As has been set out in this chapter, Amnesty International has documented gross violations of the right to life by both the Turkish and Iranian authorities in their use of firearms on the border with Afghanistan or with Iran. The unlawful killings committed by Iranian security forces may in some instances constitute extrajudicial executions and must be investigated accordingly.

100 Interviews in Herat on 10 and 14 March and by voice call on 11 April and 16 May 2022.

101 Interview by voice call on 16 May 2022.

102 Interview in Herat on 10 March 2022.

103 Interviews in Herat on 9, 10, 11 and 13 March and by voice call on 21 April 2022.

104 Interview in Van on 11 May 2022.

105 Interviews in Herat on 11 and 13 March 2022.

106 ICCPR, Article 6. Iran accessed ICCPR in 1975 and Turkey in 2003.

107 UN Human Rights Committee, General Comment 36, Para 2

The UN Basic Principles on the Use of Force and Firearms provide that, “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives. In any event, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life.”¹⁰⁸ Any contravention of these principles is a violation of the right to life.¹⁰⁹

As the interviews conducted by Amnesty International indicate, Iranian and Turkish security forces have fired at Afghans trying to cross the border, and Iranian security forces have killed Afghans trying to cross the border. These were people fleeing Afghanistan, apparently unarmed, and sometimes exhausted, and included older people or children. Opening fire in these circumstances, where there is no evidence that the individuals concerned posed any imminent threat of “death or serious injury” to those guarding the border is a stark violation of the right to life.

Further, in several instances documented in this report, there are indications that the authorities were wilfully and unlawfully using firearms against unarmed people, in a manner that demonstrated an intention to kill, including: shooting directly at individuals from close range; the use of automatic or semi-automatic weapons repeatedly fired into cars full of people; the shooting of people in precarious positions, such as climbing over a wall, where they were clearly fully occupied and unable to pose an immediate threat. Where killings of this nature are deliberate, and carried out by the order of a government or with its consent or acquiescence, this constitutes an extrajudicial execution. Amnesty International considers extrajudicial killings to refer to deliberate and unlawful killings carried out by order of a government or with its complicity or acquiescence, or by an official or state agent acting without orders.

The UN Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions prohibit all extra-legal, arbitrary and summary executions and require the criminalization of such executions.¹¹⁰ They also require the prevention and investigation of such executions and prosecution of perpetrators.¹¹¹

Even in instances where it is unclear whether there was a deliberate intention to kill, it was certainly the case that those firing did so with reckless disregard for the likelihood that their bullets would hit someone and cause death or serious injury. The UN Human Rights Committee is clear that the right to life is not only violated where a person is killed by the state, but also where it creates reasonably foreseeable threats to life.¹¹² The use of firearms will almost always pose such a risk, not least in situations of low visibility or where gunfire is deployed in a haphazard manner, and so will constitute violations of the right to life.

In addition to violating the right to life, severe suffering inflicted by untreated gunshot wounds can also violate the prohibition on torture.¹¹³ International law prohibits torture and other cruel, inhuman or degrading treatment or punishment absolutely, in all circumstances and without exception. Turkey is a state party to both the Convention against Torture and ICCPR, which prohibits torture and other ill-treatment in all circumstances and without exception, whereas Iran is only a party to the ICCPR. Regardless of their treaty obligations, the prohibition against torture and other ill-treatment is also a peremptory norm of international law which means it is binding on all nations.¹¹⁴

108 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Principle No.9, www.un.org/ruleoflaw/files/BASICP-3.PDF

109 UN Human Rights Committee, General Comment 36, Para 13

110 The UN Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions. Economic and Social Council resolution 1989/65, (24 May 1989). See also, para. 9 of the *Minnesota Protocol on the Investigation of Potentially Unlawful Deaths: The Revised UN Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions* (2016): “Depending on the circumstances, States also have a duty to cooperate internationally in investigations of potentially unlawful death, in particular when it concerns an alleged international crime such as extrajudicial execution;” UN General Assembly Resolution (A/RES/67/168,) 20 December 2012 (para. 3);

111 The UN Principles on the Effective Prevention and Investigation of Extra-legal, Summary and Arbitrary Executions. Economic and Social Council resolution 1989/65, (24 May 1989).

112 UN Human Rights Committee, General Comment 36, para 7

113 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, adopted by General Assembly resolution 39/46, 10 December 1984,

114 See, for example, International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v Furundžija*, Trial Chamber Case No. IT-95-17/1-T (Judgement), 10 December 1998, paras. 153-154; International Court of Justice, Case Concerning Ahmadou Sadio Diallo (*Republic of Guinea v Democratic Republic of the Congo*), Judgement of 30 November 2010, para. 87.

7 For the full definition, see Convention Against Torture, Article 1(1).

The shootings and killings described by Afghans trying to cross the Iranian border fits into a pattern of the unlawful use of lethal force against unarmed people by Iranian security forces previously documented by Amnesty International.¹¹⁵

115 Amnesty International, "Iran: Unlawful killings of destitute fuel porters must be independently investigated", 2 March 2021, www.amnesty.org/en/latest/news/2021/03/iran-unlawful-killings-of-destitute-fuel-porters-must-be-independently-investigated-2/

3. UNLAWFUL RETURNS OF AFGHANS

Amnesty International interviewed 73 Afghan individuals – 62 men, five women and six children – who said that they had been forced to return from Iran to Afghanistan, from Turkey to Iran or from Turkey to Afghanistan, including six men who experienced chain **refoulement** from Turkey to Afghanistan through Iran. Through the accounts of multiple forced returns to which interviewees have been subjected, as well as accounts of forced returns of relatives traveling with interviewees, Amnesty International documented in total 255 instances of forced returns, including 72 involving children, between March 2021 and May 2022. In only two instances, forced returns took place before August 2021. These 255 instances encompass 178 forced transfers by land from Turkey to Iran and 67 by land from Iran to Afghanistan, including immediate pushbacks at the border and other transfers by land without administrative procedure of individuals intercepted further within the territory of Turkey or Iran; the remaining instances include 10 unlawful deportations by plane from Turkey to Afghanistan.

In all the cases, interviewees said that Turkish and Iranian authorities coerced them to leave the country even though they did not want to return to Afghanistan or Iran. Some interviewees told the Turkish and Iranian authorities that they were at risk in their country. NGO members, Afghan human rights researchers, humanitarian actors in Afghanistan and Turkish lawyers corroborated information on forced returns of Afghans from Iran and Turkey to Afghanistan.¹¹⁶ Despite this, Turkish authorities have labelled deportations by plane as “voluntary returns”.

Iranian and Turkish security forces have forcibly transferred Afghans across borders by land. According to testimonies, Afghans have been intercepted at Iranian and Turkish informal border crossings or on the road further into the territories of the two countries. Turkish and Iranian security forces have either immediately transferred them to the border and pushed them back, or they have detained them before returning them. Amnesty International documented 53 cases of detention of men, women and children, 31 in Iran and 22 in Turkey, including 34 cases that lasted between two days and two-and-a-half months. In both Iran and Turkey, detainees were denied access to a lawyer and were not brought before a judge. Iranian security forces transferred the detainees by bus to the border and sent them back to Afghanistan, while Turkish security forces transferred them back to Iran at irregular crossings.

In March 2022, Amnesty International witnessed the arrival of dozens of Afghan men and boys forcibly returned from Iran at the Islam Qala border crossing in Afghanistan.

In addition, as Amnesty International has documented, the Turkish authorities unlawfully deported 10 people from Turkey to Kabul by charter flights.¹¹⁷ Afghans who were deported said that they did not want to return and that Turkish authorities did not make any assessment of the risks they may face once back in Afghanistan.

Two Afghan men told Amnesty International that Iranian security forces arrested and detained them for a day before forcibly returning them to Afghanistan without providing them with healthcare, even though they had been injured by live ammunition from Iranian security forces or in incidents in Afghanistan prior to their journey.¹¹⁸ Hadi said that Iranian security forces shot at him as he was walking after crossing the Iranian border

116 Interview by voice call on 22 November 2021, on 9, 21, 23 and 28 February, on 17 March 2022, on 7 April 2022 and in Istanbul on 6 May 2022.

117 Interviews by voice call on 5, 6, 7, 10, 11, 13 and 16 May 2022.

118 Interviews in Herat on 14 March 2022.

in August 2021 and he fainted after a bullet hit his leg. “I woke up in a detention centre in Zahedan [Sistan and Balouchistan province, Iran]. Eighteen people [from the group] had been arrested, the others ran away. All those who had been wounded were there,” Hadi said.¹¹⁹

In all of the forced returns documented by Amnesty International, the Iranian and Turkish authorities failed to assess individual circumstances and protection needs. Instead, they ignored the claims of Afghans who said they were in danger in Afghanistan and in some cases threatened them to deter them from crossing the border again, according to testimonies. In all the documented cases, Turkish and Iranian authorities denied Afghan individuals the opportunity to lodge a claim for international protection.

UNHCR has called on states not to return anyone to Afghanistan.¹²⁰ Additionally, in all of the 255 instances of forced returns documented in this report, Turkish or Iranian authorities failed to provide the procedural safeguards required under international law to ensure respect for the obligation of non-refoulement, which prohibits states from transferring anyone to a place where they would be at real risk of persecution or other serious human rights violations. Therefore, Turkish and Iranian authorities violated international law when forcibly returning Afghans to Afghanistan or to another country where their protection was not guaranteed (see Box: Why it is illegal to return Afghans?). They have also violated the prohibition of collective expulsions, which prohibits expulsion decisions based on group considerations, such as their nationality or circumstances related to their arrival, instead of the examinations of each individual case.

3.1 PUSHBACKS AND OTHER FORCED RETURNS BY LAND

“The bus stopped at the border, somewhere on the mountain next to a tower. Women were crying, holding the legs of policemen and begging them not to deport them. They kept us there from 6pm until midnight. It was very cold, we were freezing. At midnight, [Turkish security forces] lifted the barbed wire so we could go underneath one by one. They pointed big, long guns at us so that we couldn’t escape.”

Seema, a 36-year-old woman who was forcibly transferred from Turkey to Iran ten times with her husband and their four daughters.

Afghans fleeing their country are at risk of being apprehended and forcibly returned as soon as they enter Iran or Turkey, according to testimonies. Twenty-five interviewees said that Iranian or Turkish forces intercepted them near the border just after they crossed.¹²¹ Security forces stopped others later on, either on the road as they were progressing towards the centre of the country, or as they reached larger cities such as Shiraz or Tehran in Iran and Van or Istanbul in Turkey.¹²² In some cases, security forces intercepted Afghan people as they were about to enter a neighbouring country, for instance on a boat to Greece or, in Iran, close to the

119 Amnesty International observed a large mark on the interviewee’s calf that is consistent with his testimony. Interview in Herat on 14 March 2022.

120 UNHCR, Guidance note on international protection needs of people fleeing Afghanistan, February 2022, www.refworld.org/docid/61d851cd4.html

121 Interviews in Herat on 9, 10, 11 and 13 March, by voice call on 15 March, 8 and 16 May, in Istanbul on 6, 7 and 8 May, and in Van on 10 and 12 May 2022.

122 Interviews in Herat on 10, 11 and 13 March, by voice call on 11 April and 16 May, and in Van on 9 May 2022.

Turkish border.¹²³ In all cases documented by Amnesty International, forcibly returned Afghans said that security forces took them to what they described as irregular border crossings, forcing them to climb over a fence or crawl underneath it. In two separate cases, Afghan interviewees said that the Turkish police arrested and detained one Afghan man with his extended family and a 17-year-old boy, at the police station, after they came to lodge a claim for international protection.¹²⁴ Shakib, a 22-year-old man who used to work for the international coalition in Afghanistan, was arrested and detained with his mother, his wife, his brother, his sister and their seven children, as he told Amnesty International:¹²⁵

“We decided to go to the immigration office in Van, we thought we could apply for asylum. There, they said that they could not register us. Next to the immigration office there was a police station, they told us to go there. We thought the police would help us. When we entered the police station, they didn’t say a word to us, they took our cell phone to switch it off and took everything we had. They put us in a cell and locked us [in], including the seven children.”¹²⁶

After apprehending them, Turkish and Iranian security forces either pushed Afghans back to the border immediately, or detained them for between one day and two-and-a-half months before driving them by bus to the border, Amnesty International found. Pushback is so common at the Turkish border that a Turkish immigration lawyer said that smugglers guarantee three crossings to people who pay them to guide them to enter Turkey.¹²⁷

Pushbacks and other returns by land without administrative procedure have been carried out repeatedly and in a consistent manner by authorities in both Iran and Turkey, according to testimonies. A lawyer practicing asylum and immigration law in Turkey also confirmed the consistency of practices for forced returns from Turkey. “Since August 2021, thousands of people have been pushed back. Turkey has started to systematically push migrants back. Pushbacks occur daily. They take place in the same way, security forces act in the same way at different points of the border,” Mahmut Kaçan, the head of the Asylum Commission of the Van Bar Association, said.¹²⁸

3.1.1 IMMEDIATE PUSHBACKS AT THE BORDER

“At 6am, when it was still dark, they sent us back to Iran. They came with us to a barbed wire fence to make us cross from there. It was already damaged, because people cross from Iran to Turkey there. They said: ‘Never come back because we won’t allow you to enter.’ We were scared to be arrested by the Iranian police.”

Nawad, a 34-year-old former translator for international military.¹²⁹

Iranian and Turkish security forces have pushed back Afghans to Afghanistan and Iran respectively, immediately or shortly after they crossed. Amnesty International documented four cases of immediate pushbacks from Iran to Afghanistan and 17 cases – including two children – from Turkey to Iran.¹³⁰ Security forces drove newly arrived Afghans or forced them to walk to a crossing points immediately after they had crossed the border or the following day. “If Afghans are spotted close to the [Turkish] border, they are immediately pushed back,” a Turkish immigration lawyer told Amnesty International.¹³¹

When Nader, an 18-year-old student who had left Afghanistan in the spring of 2021 because of the on-going conflict in his province, crossed into Turkey, security forces fired gun shots and arrested his group. “They searched everyone. They said ‘No Turkey’ in English. They took all the belongings of the adults. They broke everyone’s phones in front of us.¹³² They beat adults. They took us to the border wall 50 metres away. Under the wall there was a hole and we had to crawl to cross the border,” Nader said.¹³³ In some cases, Turkish security forces did not escort people up to the border but only showed them the way. “They kept us overnight

123 Interviews in Herat on 10 and 13 March and by voice call on 7, 8 and 11 May 2022.

124 Interview by voice call on 11 April and in Istanbul on 5 May 2022.

125 A multinational military coalition led by NATO was present in Afghanistan, alongside the US military from 2001 to 2021.

126 Interview by voice call on 11 April 2022.

127 Interview by voice call on 15 May 2022.

128 Interview by voice call on 7 April 2022.

129 Interview in Istanbul on 6 May 2022.

130 Interviews in Herat on 9 and 10 March, by voice call on 8, 10 and 16 May, in Istanbul on 5, 6, 7 and 8 May, and in Van on 12 May 2022.

131 Interview in Istanbul on 6 May 2022.

132 Amnesty International cannot independently ascertain the Iranian law enforcement or security body involved in this incident.

133 Interview in Istanbul on 7 May 2022.

and they sent us back. They told us not to come back again. They walked with us half-way, and told us: 'Go back to Iran!' They let us go alone the rest of the way", Najib said.¹³⁴

Two forcibly returned Afghans told Amnesty International that they experienced multiple immediate pushbacks as they were bounced back and forth several times across the Iran-Turkey border because Iranian and Turkish security forces both prevented them from entering their territory.¹³⁵

For instance, both Turkish and Iranian security forces arrested Hamid, a 21-year-old student, as he was walking on a mountain path in the mountain in February 2022:

"They [Turkish security forces] sent us to a checkpoint at the top of the mountain. Then they sent the first group to the Iranian security forces. The Iranian security forces came, and they sent us back to the Turkish border. They [Turkish security forces] started beating us, and my friend fainted because of the beating. The Iranian border police and the Turkish border police had a fight about us. One group said: 'They are your people!' And the other group said: 'No, they are yours!' The Iranian police fired at us, and said "Go, Go!" One bullet whizzed just over my head, and the others were all around me."¹³⁶

Hamid said that the Iranian security forces eventually arrested him and the 80 men, women and children who were with him and took them to a detention centre in Urumieh, a city in the West Azerbaijan province of Iran and about 50 kilometres away from the Turkish border.

Upon arrest or just before forcibly returning newly arrived Afghans, Turkish security forces confiscated their phones, clothes, shoes and money, according to testimonies, which were corroborated by a lawyer from Turkey.¹³⁷ In some cases, interviewees told Amnesty International that Turkish forces broke their phones and/or burned their belongings.¹³⁸ In one case, an interviewee said that Turkish forces burned his Afghan identity card.¹³⁹ Rafi, an Afghan former government employee, recounted how Turkish forces burned his belongings:

"They told us to put aside our belongings and phones. If they found money or phones, they would beat you. They burned our clothes and [Iranian money]. If they find euros or dollars they take them. They took my clothes and phone. They broke my phone and everyone's phones. They sent me back with a t-shirt and underwear only. I was barefoot. The weather was cold. They did this because they don't want us to come again. Just before crossing into Iran, the police were ordering us to repeat after them: 'No Turkey'. "¹⁴⁰

As Afghans trying to flee their country have been immediately pushed back, they have been prevented from lodging a claim for international protection, which violates international law. Nor have Iranian or Turkish authorities assessed their individual circumstances and whether they would be at real risk of persecution or other serious human rights violations in Afghanistan or Iran, in violation of the principle of non-refoulement. Therefore, these immediate mass returns (pushbacks) are unlawful and incompatible with the obligations of Iran and Turkey under international law, in particular the prohibition of refoulement and the prohibition of collective expulsions.

134 Interview by voice call on 16 May 2022.

135 Interview in Herat on 10 March and Islam Qala on 12 March 2022.

136 Amnesty International cannot independently ascertain the Iranian law enforcement or security body involved in this incident. Interview in Islam Qala on 12 March 2022.

137 Interviews in Herat on 10/03, by voice call on 7 April 2022, in Istanbul on 5 and 7 May, and in Van on 9 May 2022.

138 Interviews in Istanbul on 7 and 8 May, by voice call on 8 May and in Van on 10 May 2022.

139 Interview in Van on 9 May 2022.

140 Interview in Istanbul on 7 May 2022.

WHY IS IT ILLEGAL TO RETURN AFGHANS?

Under the international legal obligation of non-refoulement, Turkey and Iran cannot transfer anyone to a place where they would be at real risk of serious human rights violations – such as persecution, torture or other cruel, inhuman, or degrading treatment or punishment. The principle of **non-refoulement** has been codified in the of the 1951 Refugee Convention, Article 33, the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN CAT), Article 3. In addition, the prohibition of refoulement forms part of customary international law, meaning that it is binding on all states, irrespective of whether a country ratified relevant international treaties or imposed limitations to the applicability of such treaties. When the person concerned would risk a violation of their right to life or be in danger of suffering torture or other cruel, inhuman or degrading treatment upon removal, the prohibition is absolute and admits no exceptions. In addition, both Turkey and Iran have incorporated the principle of non-refoulement into their national legal framework.

During a visit to Afghanistan in May 2022, the UN Special Rapporteur on the situation of human rights in Afghanistan “expressed alarm that many of the de facto authorities’ policies and drive for absolute control are having a cumulative effect on a wide range of human rights and are creating a society ruled by fear,” and added that “the advancing erasure of women from public life is especially concerning.”

Given the security and human rights situation across the country since the Taliban takeover, all forced returns to Afghanistan amount to refoulement and are therefore unlawful. UNHCR urges all states to suspend forcible returns of Afghans and calls on States to ensure that all Afghans are protected from refoulement in line with their obligations under international and regional law. UNHCR also encourages States to provide a legal basis of stay to Afghans, such as forms of temporary protection or other stay arrangements, with appropriate safeguards, until such time their asylum status can be determined.

3.1.2 UNLAWFUL DETENTION BEFORE TRANSFER

Almost all the Afghans interviewed by Amnesty International who have been intercepted after entering Iran or Turkey and were not immediately pushed back were detained before being forcibly transferred to Afghanistan or Iran.¹⁴¹

Amnesty International documented 53 cases of detention in Iran and Turkey, according to Afghan interviewees’ testimonies. Of the cases Amnesty documented, Iranian security forces detained six people for less than two days and 25 others between two days and one-and-a-half-months.¹⁴² Turkish security forces detained three Afghans for less than two days and 19 people, including five children, between two days and two-and-a-half months, with four of them detained on two separate occasions.¹⁴³ Lawyers in Turkey, humanitarian actors and NGO staff in Afghanistan confirmed that Afghans have been detained in Turkey and Iran before being returned.¹⁴⁴

Former Afghan detainees told Amnesty International that in Iran they were held in what they described as formal detention centres.¹⁴⁵ UNHCR and NGOs do not have access to these centres and few details are publicly available. Interviewees recalled their detention in large detention facilities in Urumieh, close to the Turkish border; in Tehran province – including in the city of Varamin; in Shiraz (Fars province); as well as in Zahedan (Sistan and Baluchistan province). Most of those forced to return through the Dogharoun/Islam Qala border crossing were also held for periods between one night and several days in Sefid Sang removal centre (Khorasan Razavi province in north-eastern Iran) 150 kilometres North-East of the Dogharoun/ Islam Qala border crossing with Afghanistan. Iranian authorities then returned them to Afghanistan between one day and a month and a half after arresting them.

Four Afghans who had been shot and wounded by Iranian security forces told Amnesty International that Iranian security forces detained hem in spite of the injuries they sustained.¹⁴⁶ The Iranian authorities only provided two of them with medical treatment, while denying medical care to the other two. Iranian security

141 Five refugees said that they were eventually released, one with an order to check in regularly at a police station and the four others said that Turkish authorities dropped them off at the Greek border or at the Bulgarian border.

142 Interviews in Herat on 10, 11, 13 and 14 March, in Islam Qala on 12 March, and by voice call on 11 and 14 April 2022.

143 Interviews in Herat on 10 March, in Istanbul on 5 May, by voice call on 5, 6, 8 and 16 May and in Van on 9, 10, 11 and 12 May 2022.

144 Interview by voice call on 22 November 2021, on 9, and 28 February, on 17 March 2022, on 7 April 2022, and in Istanbul on 5 and 6 May 2022.

145 Interviews in Herat on 10, 11, 13 and 14 March, in Islam Qala on 12 March, and by voice call on 11 and 14 April 2022.

146 Interviews in Herat on 9, 13, and 14 March 2022.

forces shot and injured Abdul's 18-year-old son in the leg as he was driving into Iranian territory after crossing from Nimroz province in April 2021. Abdul said that they took him to a detention centre before forcibly returning him the following day, without providing any healthcare. "My son was saying that he had lost so much blood and needed medication to relieve the pain. They [Iranian security forces] said to him: 'Stop talking, you are Afghan shit'," Abdul said.¹⁴⁷

Afghan interviewees intercepted in Turkey said that security forces held them both in informal sites such as small security force bases in the mountains, or outside next to the border, and in formal centres including briefly in police stations, before transferring them to removal centres such as Tuzla centre (Istanbul province), Kurubaş centre (Van province), Erzurum centre (Erzurum province), Ağrı centre (Ağrı province), and Malatya centre (Malatya province).

The only reason for detention occasionally provided verbally by the Turkish authorities was that the Afghans did not have official documents.¹⁴⁸ Most former detainees in Iran and two former detainees in Turkey told the organisation that detention conditions in which they were held in both countries were overcrowded and they received little to no food and drink.¹⁴⁹

UNLAWFUL DETENTION

According to the 1931 Law on the Entry and Residence of Foreign Nationals in Iran, irregular entry by foreign nationals into the country is an offence punishable by prison sentences or fines.¹⁵⁰ However, Iranian authorities failed to inform any of the people interviewed by Amnesty International about the legal grounds for their detention, the possibility to challenge it and the other due process and fair trial rights.

Additionally, five Afghan former detainees told the organisation that Iranian authorities detained them despite the fact that they (and other people in their group) were in possession of valid visas.¹⁵¹ Khalil, a 28-year-old construction worker travelled to Iran with a visa for entry into Iran. He said that Iranian security forces arrested him close to the Turkish border after he attempted to cross into Turkey unsuccessfully. "I showed that I had a passport and a visa, when they arrested me and later in a [detention centre in] Urumieh, Iran. But they didn't care. The official saw the visa and threw the passport at me," Khalil said.¹⁵²

In Turkey, Afghans have been detained in removal centres because they entered the country irregularly. Amnesty International reviewed the detention notifications of two interviewees, which did not state clearly the reason for detention. Under the Law on Foreigners and International Protection (LFIP), foreigners who have received a removal decision can be subjected to administrative detention for up to six months.¹⁵³ For the detention to be legal under Turkish law, the Governor's Office should issue an administrative decision on detention as well as a removal decision. Although the Law includes the possibility of non-custodial measures ("alternatives to detention"), detention pending removal is often de facto automatic for those who entered Turkey irregularly or have used false documents.¹⁵⁴ However, according to Articles 8 and 65 of the LFIP, the provisions on regular entry and document checks cannot prevent international protection claims; asylum seekers should be able to apply for international protection within a "reasonable period of time" without being arrested, even though they entered irregularly; and they should be able to apply while detained.¹⁵⁵ Under Article 68 of the LFIP, asylum-seekers can be detained for up to thirty days to deter them from entering irregularly into Turkey.¹⁵⁶

Under international law, the right to liberty can only be restricted in specific and the most exceptional circumstances,¹⁵⁷ accordingly migration-related detention should be used only as a measure of last resort.¹⁵⁸

147 Interview in Herat on 9 May 2022.

148 Interviews in Van on 11 May, and by voice call on 11 April, 8 May and 11 May 2022.

149 Interviews in Herat on 9, 10, 11, 13 and 14 March, in Islam Qala on 12 March and in Istanbul on 6 May 2022.

150 Art. 13 and 15 of the 1931 Law on the Entry and Residence of Foreign Nationals in Iran, May 1931, rc.majlis.ir/fa/law/print_version/92268

151 Interviews in Herat on 13 March 2022 and by voice call on 8 May 2022.

152 Interview by voice call on 8 May 2022.

153 Art. 54-57, Law on Foreigners and International Protection No. 6458 (2013), www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf

154 Art. 53 and 57, Law on Foreigners and International Protection No. 6458 (2013), www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf

155 Art. 8 and 65, Law on Foreigners and International Protection No. 6458 (2013), www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf

156 Art. 68, Law on Foreigners and International Protection No. 6458 (2013), www.unhcr.org/tr/wp-content/uploads/sites/14/2017/04/LoFIP_ENG_DGMM_revised-2017.pdf

157 See, inter alia, Article 9 ICCPR which provides that "No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

158 UN Working Group on Arbitrary Detention, **Revised deliberation No. 5 on deprivation of liberty of migrants**, para 12: "Any form of administrative detention or custody in the context of migration must be applied as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose..."

Automatic migration-related detention is, by definition, arbitrary, and therefore illegal.¹⁵⁹ States must conduct individual assessments of each migrant, refugee, or asylum-seeker, taking account their specific circumstances and needs. Automatic restrictions of liberty prevent an individualized assessment of the proportionality and necessity of detention and are therefore unlawful. Children, should not be detained in immigration detention under any circumstances.¹⁶⁰ Detention should not be imposed for the sole purpose of assessing an individual's protection needs, and cannot be justified solely on the grounds of sovereignty, states' power to control their borders, or a general policy of deterrence against irregular entry or stay.

Out of the 53 cases of interviewees who were detained in either Turkey or Iran, none were provided access to legal representation in Iran and only one had access to a lawyer in Turkey but too late to challenge his removal order.¹⁶¹ Afghans detained both in Turkey and in Iran told Amnesty International that they did not request legal aid during their detention either because they did not know they had the right to, or because did not dare to ask authorities as they did not know who to call, because they had no access to a phone or because they expected to be promptly released for those detained in Turkey.

In Turkey, three interviewees said that Turkish authorities dissuaded them from calling a lawyer, saying that they did not have the right to do so, or that it was useless as they would be returned anyway.¹⁶² "The translator said that even if a lawyer came, I won't be released because I was in a place from where people are returned," Shafi, who was detained for three days in Van before being transferred to the border, said.¹⁶³ Lawyers in Turkey confirmed that it was very difficult for detainees.¹⁶⁴ "We hear that they discourage foreigners from contacting a lawyer. They tell [detainees] that if they have a lawyer, they will be detained for a longer period of time. It is difficult for detainees to access state-funded legal support," a lawyer said.¹⁶⁵

None of the individuals interviewed by Amnesty International were brought before a judge to challenge their migration detention in either Turkey or Iran.¹⁶⁶ Amnesty International documented 34 cases of Afghans who were forcibly returned by land from both Iran and Turkey after being detained for more than two days.¹⁶⁷ None of them reported being brought in front of a judge during their detention, or being allowed to challenge their detention.

159 Ibid.

160 See, for example, the interpretation of the UN Convention on the Rights of the Child by the UN Committee on the Rights of the Child: <https://www.ohchr.org/en/press-releases/2018/02/un-child-rights-experts-call-eu-wide-ban-child-immigration-detention>

161 Interview by voice call on 8 May 2022.

162 Interviews by voice call on 5 and 16 May and in Van 11 May 2022.

163 Interview in Van 11 May 2022.

164 Interviews in Istanbul on 5 and 6 May and by voice call on 17 May 2022.

165 Interview in Istanbul on 6 May 2022.

166 One appeared in front of a court in Turkey because he was accused of smuggling after being arrested close to the Greek border (where Turkish authorities had initially dropped him off). One was sentenced to three years of prison in Iran because he was accused of theft. After he completed his sentence he was transferred to Afghanistan early 2022. Interviews in Herat on 9 March 2022 and by voice call on 11 May 2022.

167 Interviews in Herat on 10, 11, 13 and 14 March, by voice call on 11 April, in Istanbul on 5 May, and in Van on 9, 10 and 11 May 2022.

APPLICABLE LEGAL FRAMEWORK

Everyone deprived of their liberty has the right to undertake proceedings to challenge the lawfulness of their detention before a court.

Both Iran and Turkey are parties to the International Covenant on Civil and Political Rights (ICCPR), which along with other international law instruments, enshrines the right to personal liberty. An individual may only be lawfully deprived of his or her liberty on grounds and according to procedures established by law. International law prohibits arbitrary arrest, detention or imprisonment. In order to avoid arbitrariness, states must ensure that deprivation of liberty is in accordance with law, is proportionate and includes procedural safeguards.

Under international law, refugees and migrants benefit from a presumption of liberty and their detention for migration-related purposes can only be justified in the most exceptional circumstances, on a case-by-case assessment and only for as long as strictly necessary. Any deprivation of liberty must be clearly prescribed by law, strictly justified, non-arbitrary and as minimally restrictive as possible. The use of prolonged administrative detention without the possibility of review is prohibited under international law.

International standards require that anyone arrested or detained be brought promptly before a judge or other officer authorized by law to exercise judicial power and set out the rights of anyone facing a criminal charge (Article 9(3) of the ICCPR). In most cases, delays of more than 48 hours following arrest or detention have been considered excessive. Being detained without access to a lawyer and without judicial oversight make the detention unlawful, according to international law.

DETENTION OF CHILDREN

Turkish authorities have routinely detained Afghan children, both those travelling alone and those travelling with their families, keeping them in the same detention facilities as adults. Five boys, aged between 15 and 17, told Amnesty International that Turkish authorities detained them with adults for between four days and two-and-a-half months.¹⁶⁸ Assad, a 17-year-old, said that he spent ten days in the Aşkale detention centre in Erzurum (eastern Turkey) before being forcibly returned. “There were a lot of teenagers as young as 12 years old. Through a translator, I told [Turkish authorities] that I was 17, but they didn’t care,” Assad said.¹⁶⁹ In one case, a boy who was traveling without adult family members, said that when he told his age to the authorities, they asked him if he had a friend in the group with him and assigned this friend to be responsible for him.¹⁷⁰

In addition, Shakib said that his seven nephews and nieces, aged from 3 to 11, spent three days with him and their parents at what he identified as the Van police station, when they were arrested after attempting to lodge an asylum claim.¹⁷¹ Similarly, eight interviewees told Amnesty International that a total of 40 children were held in the same room as them during their detention.¹⁷²

Iranian authorities have also detained children, alongside adults, according to former detainees and NGO workers in Afghanistan, as well as Afghan human rights researchers.¹⁷³ One Afghan interviewee told Amnesty International that Iranian authorities detained him with his two young children for one day in Zahedan in September 2021, and two others said that during their detention, at a centre in Shiraz in March 2022, children were detained in a room close to them.¹⁷⁴

The migration-related detention of children is prohibited under international law as it can never be in their best interests.¹⁷⁵ Iran and Turkey are both signatories to the Convention on the Rights of the Child (CRC). The Committee on the Rights of the Child, the body that oversees the Convention’s implementation, has specified that “children should not, as a general rule, be detained,” and that “detention cannot be justified solely [...] on their migratory or residence status, or lack thereof.”¹⁷⁶ The Committee on the Rights of the Child and the

168 Interviews in Istanbul on 5 May, by voice call on 6, 8 and 16 May and in Van on 9 May 2022.

169 Interview in Van on 9 May 2022.

170 Interview by voice call on 8 May 2022.

171 Interview by voice call on 11 April 2022.

172 Interviews in Istanbul on 5 May, by voice call on 7, 8 and 13 May, and in Van on 9 May 2022.

173 Interviews by voice call on 9, 21, 23 and 28 February 11 March and 11 April and in Herat on 13 March 2022.

174 Interviews by voice call on 11 March and 11 April and in Herat on 13 March 2022.

175 CMW, Concluding observations on the initial report of Nicaragua, 11 October 2016, (CMW/C/NIC/CO/1) paras 39-40; Concluding observations on the initial report of Turkey, 31 May 2016, (CMW/C/TUR/CO/1), para. 47-48; Concluding observations on the initial report of the Niger, 11 October 2016, (CMW/C/NER/CO/1), para. 33. See also WGAD 2018, para. 11; Inter-American Court of Human Rights, Advisory Opinion OC-21-14: Rights and Guarantees of Children in the Context of Migration and/or in Need of International protection, 19 August 2014, para. 154; Special Rapporteur on Migrants 2017, para. 61; and UNHCR, “UNHCR’s position regarding the detention of refugee and migrant children in the migration context”, January 2017.

176 UN Committee on the Rights of the Child, General Comment No.6, para 61.

Migrant Worker Committee have underlined that “the detention of any child because of their or their parents’ migration status constitutes a child rights violation and contravenes the principle of the best interests of the child.”¹⁷⁷

IMPLICATIONS OF THE EU’S SUPPORT TO TURKEY’S BORDER MANAGEMENT

The European Union (EU) has financially supported the construction of the wall at the Turkish-Iranian border and surveillance systems, according to the Turkish Minister of Interior and reports from the Council of Europe. In addition, according to documents from the EU Delegation to Turkey, the EU has financially supported the construction of removal centres. It contributed EUR 60 million to construct six removal centres, including in Izmir and in Erzurum in 2016, and EUR 13 million to construct one removal centre in Kurubaş, Van in 2017, with a hosting capacity of 750 individuals for each of them. Eleven Afghan interviewees told Amnesty International that they were detained in one or two of these centres, including three children. All of them said they were subsequently unlawfully returned to Iran or to Afghanistan by charter flights.

Under international law, an international organisation which aids or assists a State in the commission of an internationally wrongful act by the State can be internationally responsible for this wrongful act. Financial support is considered as aid or assistance in the commission of an internationally wrongful act provided there was knowledge that the wrongful act would take place. This reports provides information on Turkey’s programme of unlawful forced returns of Afghans to Iran and Afghanistan. Should the EU continue funding the detention centres where Afghans are held before being unlawfully returned, it would be considered complicit in the violations committed by Turkish authorities against Afghans detained and returned from centers it has funded. In addition, Amnesty International would expect the EU to have conducted a thorough human rights risk assessment and to have had conditions in place in the provision of aid to Turkey to ensure that international human rights protections were not violated.

3.1.3 FORCIBLE RETURNS BY BUS

“They [Turkish officials] transferred the fifty of us to the border in a minibus without seats. It was 8pm. There were two men wearing a uniform and holding a gun. They handed us over to the Turkish border police (...). They took all our belongings, including my warm coat. They beat us. They slapped me three times on my face. They cursed us. They kept us until 1am. Then, they told us to go to Iran. They showed us the way. They pointed long guns at us. We had to cross a two-metre [wide] canal. We could see the Iranian villages.”

Ayub, a 17-year-old boy who said that he was forcibly returned by Turkish security forces to Iran after being detained.¹⁷⁸

RETURNS FROM IRAN TO AFGHANISTAN

Those forcibly returned from Iran told Amnesty International that after Iranian security forces apprehended them and transferred them to detention centres, they subsequently forcibly transferred them by bus to the official border crossings in Dogharoun (Razavi Khorasan province, Iran)-Islam Qala (Herat, Afghanistan) or Milak (Sistan and Baluchistan province, Iran)- Zaranj (Nimroz, Afghanistan). “The following morning they ordered us to get into a bus, a normal passenger bus. They were not armed, but we couldn’t refuse getting into the bus because we knew that we are illegal. The bus took us to the border,” Shaukat who was forcibly returned to Afghanistan between late January and early February 2022 after being detained overnight in a detention centre in Sefid Sang (Razavi Khorasan province), said.¹⁷⁹

177 CMW, Joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, 16 November 2017, (CMW/C/GC/4-CRC/C/GC/23), para. 5.

178 Interview in Istanbul on 5 May 2022.

179 Interview in Herat on 9 March 2022.

During a visit to Islam Qala border crossing in Afghanistan on 12 March 2022, Amnesty International researchers witnessed the arrival of buses from Iran and saw Afghan men and boys, who had just been forcibly returned, getting off a bus and going through formalities on the Afghan side of the border.¹⁸⁰

Four Afghans forcibly returned by Iranian security forces told Amnesty International that when Iranian security forces transferred them back to Afghanistan there were several young children in their groups.

Interviews conducted by Amnesty International indicated that Iranian security forces transferred Afghans held in detention centres in the interior of the country to facilities closer to the border, where they remained for one or more nights before being forcibly returned.¹⁸¹ Afghans who were forcibly returned told Amnesty International that around 40 Afghan people were transferred back with them on the bus and that sometimes several buses together forcibly returned a large group of people to the border.

In addition, 13 forcibly returned Afghans told Amnesty International that an armed member of the Iranian security forces escorted them in the bus.¹⁸² “There were two men in uniform, one with a pistol. He threatened everyone, showing his pistol and said: ‘If anyone tries to run, I will shoot him with this gun’,” said Turyalai, a 30-year-old man who was transferred by bus from Shiraz (Fars province) to Sefid Sang (Razavi Khorasan province) in March 2022 before being forcibly returned to Afghanistan.¹⁸³ One former detainee told Amnesty International that he was detained together with four men who said that they had injured their hands and feet as they tried to jump off the bus forcibly returning them.¹⁸⁴ Three people also reported that they were handcuffed and a further two blindfolded during the transfer.¹⁸⁵

All Afghans interviewed who had been forcibly returned by the Iranian authorities by bus told Amnesty International that they were forced to pay a fee for what they believed or were told were their transportation costs. Iranian security forces asked them for money for each journey from one detention centre to another, until they reached the border. It is unclear to the organisation what this fee covers. Hanif told Amnesty International that in a detention centre in Sefid Sang, an Iranian official demanded that he pay him for the equivalent of USD 59. When Hanif asked the purpose of the payment in April 2021, the official replied: “So that you Afghans don’t come again,” Hanif recounted.¹⁸⁶

According to testimonies, the amount of money that Iranian security forces have demanded from Afghans varied significantly, even for similar journeys; people paid an average of the equivalent of USD 70 to be transferred to the Afghan border, with individuals reporting being forced to pay anywhere between USD 16 and USD 278. The average of USD 70 is a significant amount in both Afghanistan and Iran, way in excess of regular bus fares for journeys of this distance. In addition, payment was mandatory and individuals who could not pay were held until they were able to do so or had others pay for them, as Zaitullah, who was held in a detention centre in Varamin, Tehran province, explained. “I stayed ten days because I had no money. Those who have money are sent back quickly. Those who don’t have money have to wait for it to be collected,” Zaitullah said.¹⁸⁷ Detaining and extending the already unlawful detention of an individual merely because they cannot pay transportation costs is arbitrary. (see 3.1.2 Unlawful detention before transfer).

TRANSFERS FROM TURKEY TO IRAN

Turkish authorities have similarly transferred Afghans to the border with Iran, but the number of people in buses varied, and people were not forced to pay any money to Turkish officials, according to testimonies.¹⁸⁸ Transfers from Turkey have also been documented by several research organisations and human rights organisations.¹⁸⁹

Turkish security forces usually dropped off people at night, at different unofficial crossings, interviewees told Amnesty International.¹⁹⁰ Two men said that armed security forces escorted them on the bus.¹⁹¹ Turkish security forces also transferred children, as two Afghan interviewees said they were returned with their young

180 Interviews in Herat on 10 and 13 March, and by voice call on 11 and 21 April 2022.

181 Interviews in Herat on 10, 11, 13, 14 March and by voice call on 11 April and 7 May 2022.

182 Interviews in Herat on 9, 10, 11, 13, 14 March 2022.

183 Interview in Herat on 13 March 2022.

184 Interview by voice call on 14 April 2022.

185 Interviews in Herat on 10, 11 and 13 March 2022.

186 Interview in Herat, 13 March 2022.

187 Interview in Herat, 10 March 2022.

188 Interviews in Istanbul on 5 May, by voice call on 11 April, 8 May and 13 May, and in Van on 9, 10 and 11 May 2022.

189 Afghanistan Analyst Network, *Afghan Exodus: Migrants in Turkey left to fend for themselves*, 22 December 2020, www.afghanistan-analysts.org/en/reports/migration/afghan-exodus-migrant-in-turkey-left-to-fend-for-themselves/; EuroMed Rights, *Afghan refugees stuck in limbo at Turkish border need EU protection*, 31 August 2021, euromedrights.org/publication/afghan-refugees-stuck-in-limbo-at-turkish-border-need-eu-protection/; Human Rights Watch, *Turkey: Soldiers Beat, Push Afghan Asylum Seekers Back to Iran*, 15 October 2021, www.hrw.org/news/2021/10/15/turkey-soldiers-beat-push-afghan-asylum-seekers-back-iran.

190 Interviews in Istanbul on 5 May, by voice call on 11 April, 8 May and 13 May, and in Van on 9, 10 and 11 May 2022.

191 Interviews by voice call on 11 April 2022 and in Istanbul on 5 May 2022..

children to the border.¹⁹² Three others said between two and 25 children were forcibly returned by bus with them to the border with Iran in three separate transfers.¹⁹³

Shakib said that Turkish security forces forcibly returned him, his wife, his mother, his siblings, and his seven nephews and nieces aged between three and 11 years old, from Van detention centre to a place they did not know along the Iranian border.

“Around 100 people were sent back with us, in a white bus, with a police officer on the bus who had a small gun. They made us go down to the bus, it was 4pm. They told us to wait. I think they avoid sending people back during the day so that Iranian soldiers don’t notice it. When it was dark, Turkish soldiers said: ‘You should not come illegally to the country, you should leave and never come back.’ They showed us the way. There was a fence that they cut.”

Shakib, who was returned from Turkey to Iran with his family members in January 2022.¹⁹⁴

One interviewee told Amnesty International that he went on hunger strike for two days to stop the Turkish security forces from forcibly returning him, but they eventually transferred him to the border a few days later.¹⁹⁵

As they did upon arrest and during detention, in four cases, Turkish security forces took people’s belongings and burned them at the border just before sending them back, according to witnesses.¹⁹⁶ “They transferred us in six minibuses to the Turkish border police. There were two teenagers with me. The border police took all our belongings, our backpacks and set them on fire. (...) It was midnight. They sent us to Iran. There was a short barbed wire over which we jumped,” said Sharif, a 16-year-old who was forcibly transferred from Turkey to Iran twice.¹⁹⁷

Turkish security forces used force to coerce Afghans to return to Iran. Eight Afghan interviewees told Amnesty International that Turkish forces threatened them with a weapon in order to force them to cross back to Iran in 12 instances.¹⁹⁸ Shafi, a 19-year-old student who left his hometown in March 2021 after the Taliban took control of it, said that he attempted to reach Turkey from Iran but Turkish security forces pushed him back twice. On both attempts, they threatened him so that he returned to Iran, according to his testimony. “They showed us with [their] weapons that we had to go back to Iran. They pointed [their] guns at us. Maybe they would have shot at us if we hadn’t returned. (...) [The second time] they pointed at us with big weapons and told us to go. When we went, they fired in the air four or five times,” Shafi said.¹⁹⁹

UNLAWFUL RETURNS

Afghan individuals interviewed by Amnesty International were forcibly returned by bus from Iran to Afghanistan and from Turkey to Iran after detention, without being able to apply for international protection, without receiving individual assessment of the reasons for their removal or of the risks they would face upon their return to either Afghanistan, Iran or, in one case, Syria. Before removal, Turkish and Iranian authorities denied any chance to challenge their detention and removal or access to a lawyer.

Most of the Afghans forcibly returned by land were not provided with an official written removal decision from the Turkish or Iranian authorities, setting out the individual grounds for removal.²⁰⁰ It was therefore impossible for them to challenge the decisions. Only two interviewees told Amnesty International that Turkish authorities made them sign a document during their detention, but the documents were in Turkish and the authorities did not explain what they said nor did they provide an interpreter.²⁰¹ The detention orders issued by Turkish authorities reviewed by Amnesty International also did not specify the reasons for detention and/or removal, with the fields destined to provide the individual grounds for detention or removal left blank by the authorities.

In none of the cases documented by Amnesty International did the Iranian and Turkish authorities examine individual cases and their need for international protection. In some cases the authorities denied access to

192 Interviews by voice call on 8 May 2022 and in Van on 9 May 2022.

193 Interviews by voice call on 8 and 13 May, and in Van on 9, and 10 May 2022.

194 Interview by voice call on 11 April 2022.

195 Interview in Van on 10 May 2022.

196 Interviews in Istanbul on 7 and 8 May, and in Van on 9 and 10 May 2022.

197 Interview in Istanbul on 8 May 2022.

198 Interviews in Herat on 10 March, in Istanbul on 5 and 7 May, in Van on 9 and 11 May 2022, and by voice call on 16 May 2022.

199 Interview in Van on 11 May 2022.

200 Interviews in Van on 9 and 10 May 2022.

201 Interviews in Van on 9 and 10 May and by voice call on 8 and 13 May 2022.

asylum procedures to those who explicitly expressed fear for their life or human rights if returned. These forcible transfers are therefore in violation of the principle of non-refoulement.

Besides violating the principle of non-refoulement, due to the lack of fair and objective considerations or references to each individual case and circumstances, these forced removals also constitute a violation of the prohibition of collective expulsions, which prohibits expulsion decisions that are not taken on the basis of examinations of the case of each individual in a group, but are rather based on group considerations, such as nationality or circumstances related to their arrival. Collective expulsions are prohibited under international customary law, binding on all states, as well as by major human right treaties.²⁰²

CASE STUDY: CHAIN REFOULEMENT

Amnesty International documented six cases of chain-refoulement, in which Turkish authorities pushed Afghans back to Iran, and then Iranian security forces forcibly returned them to Afghanistan.

Khalil used to work in a government Ministry, but since the Taliban came to power, he said that they did not allow him to enter his office and did not pay his salary. In early March 2022, Khalil decided to leave Afghanistan with his wife and his five-year-old son. They had previously crossed the Iranian border through official crossings because Khalil managed to obtain visas to Iran (by paying extra money to a travel agent), but they attempted to cross the Turkish border irregularly. Turkish police arrested Khalil and his family close to Van, and detained them in Van removal centre for six days. Khalil said that he told the Turkish security forces that he used to work for the previous government and that he was in danger in Afghanistan. Still, Khalil said that Turkish authorities transferred him, his wife and his son, along with other families - a total of about 150 people- to the border by bus, and made them climb a two-metre-high wall.

The Iranian security forces were waiting on the other side of the wall, Khalil said, and arrested them. They took the group to a detention centre in Maku (West Azerbaijan province) before transferring them to a detention facility in Urumieh, where they detained them for three days. Then they transferred Khalil, his family and the other Afghans to a detention centre in Varamin (Tehran province), where Khalil told authorities that he would be at risk if sent back. Two days later, Iranian security forces transferred Khalil's family and other Afghans to Sefid Sang city (Razavi Khorasan province) before returning them to Afghanistan through the Islam Qala border crossing, Khalil said.

3.2 UNLAWFUL DEPORTATIONS FROM TURKEY TO AFGHANISTAN

“Everyone was handcuffed until the airport. They [Turkish officials] gave us deportation papers to pass through the counter. On it, it was written in Dari and in Turkish, “voluntary return to homeland”. Even though it was written “voluntary”, it was not

²⁰² Among others, the Human Rights Committee found that “laws or decisions providing for collective or mass expulsions” would entail a violation of Article 13 ICCPR. Collective expulsions have also been found in violation of international law by the Committee for the Elimination of All Forms of Racial Discrimination and the Committee against Torture. See International Commission of Jurists, Migration and International Human Rights Law, 2021 (third edition), p. 200.

voluntary. I was forced to be deported. [Security forces] escorted us to the airplane.”

Eltaf, who was deported to Afghanistan mid-April 2022.

Amnesty International spoke to ten Afghan individuals – seven men and three children – who were deported by plane from Turkey to Afghanistan, between mid-March and early May 2022.²⁰³ All of them said that Turkish authorities deported them in large groups, ranging from 60 to 400 people, with an average of several hundred people. Out of the ten Afghan deportees interviewed, six said that children were deported with them on the plane, with the number of children varying from two to a hundred.²⁰⁴

Amnesty International reviewed official documents issued for the deportation of three interviewees.²⁰⁵ The organisation also reviewed an official note from the Van Provincial Directorate of Migration Management (PDMM), dated 25 January 2022, stating that 227 Afghan nationals would be transferred from Kurubaş removal centre (Van province) to Van airport on 27 January to return to their country by charter flights.²⁰⁶



 Screenshot of Presidency of Migration Management (PMM) website's home page, published late April 2022, accessed on 20 May 2022.

It states: The last of the four charter flights planned from Malatya between 22-25 April reached Kabul with 227 Afghan nationals from Malatya Airport without any problems.

Since January 27 until today, 30 charters [flights] have been arranged to [be sent to] Afghanistan, and 6,805 Afghan citizens have been returned to their country with [just these] charter flights.

The number of foreigners who are Afghan citizens deported this year has reached 11,036. The total number of irregular migrants deported this year reached 23,853.

Turkish officials announced that they had carried out deportations. In late April 2022, PMM released on its website information about deportations of Afghans. It reads: “The last of the four charter flights planned from Malatya between 22-25 April reached Kabul with 227 Afghan nationals from Malatya Airport without any problems. Since 27 January until today, 30 charter [flights] have been arranged to [be sent to] Afghanistan, and 6,805 Afghan citizens have been returned to their country with [just these] charter flights.”

203 Interviews by voice call on 5, 6, 7, 10, 11, 13 and 16 May 2022.

204 Interviews by voice call on 7, 10, 13 and 16 May 2022.

205 Documents on file with Amnesty International.

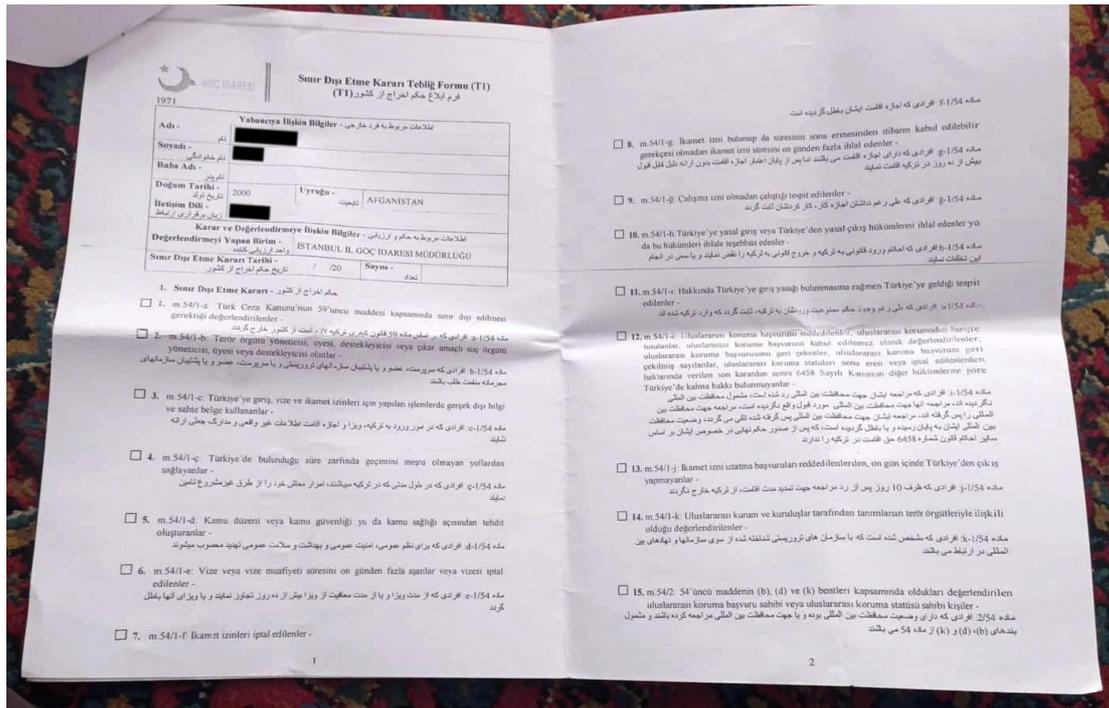
206 Documents on file with Amnesty International.

Additionally, the governor of Istanbul announced that 721 Afghans had been deported from Istanbul on 23 and 24 June 2022 and stated that “deportation procedures will continue in the coming days.”²⁰⁷

Amnesty International previously documented deportations of Afghans to Afghanistan throughout 2020, although the situation in the country did not allow for safe returns.²⁰⁸

Turkish authorities argue that deportations to Afghanistan are legal because they return Afghans who have an irregular migration status and Afghans who are willing to go back to Afghanistan. In mid-February 2022, the Turkish Minister of Interior said: “On January 27, we started sending illegal Afghans to Afghanistan with Ariana Airlines and charter flights. We made about five charter flights so far. Sometimes, we send Afghans in removal centres as part of voluntary repatriation within three days, sometimes every five days.”²⁰⁹ However, the information collected by Amnesty International casts serious doubt on the genuinely “voluntary” character of these removals. Deportations of Afghans are not dependent on a determination of risks upon return, in violation of the international law obligation of non-refoulement. UNHCR calls on all states not to return anyone to Afghanistan.

Turkish authorities have detained Afghans, including children, in removal centres before deporting them, according to testimonies and Turkish immigration lawyers. Afghans who are deported by flight usually receive two types of documents that Amnesty International has reviewed. First, a “deportation decision notification form”, issued by the PMM, under Article 59 of the Turkish Penal Code.²¹⁰ Although Turkish legislation allows the detention and deportation of foreign nationals because of their irregular entry, interviewees were not explicitly notified of the reasons for their deportation and they were not specified in documents reviewed by Amnesty International. Second, Afghan officials from the Afghan embassy or consulate in Turkey provide a travel document that confirms the identity and nationality of the individual who will be deported. In all cases documented by Amnesty International, the travel document stated that the return was “voluntary”, even though interviewees said it was not.



 ↑ Deportation decision notification form. ©Amnesty International

207 Istanbul governorship, Press release, 25 June 2022, www.istanbul.gov.tr/basin-aciklamasi-2022-55
 208 Amnesty International, Report 2020/2021: Turkey, <https://www.amnesty.org/en/location/europe-and-central-asia/turkey/report-turkey>
 209 Cumhuriyet, Süleyman Soylu announced the number of Syrians who obtained Turkish citizenship, 17 February 2022, <https://www.cumhuriyet.com.tr/turkiye/suleyman-soylu-turk-vatandasligina-gecen-suriyeli-sayisini-acikladi-1908803>
 210 Article 59, Turkish Penal Code, (Amended on 31 March 2005 – By Article 1 of the Law no. 5328) (1)The circumstances of a non-citizen who has been sentenced to a period of imprisonment, after benefiting from conditional release and, in any event, after completing his sentence, must be immediately communicated to the Ministry of Interior so the circumstances can be evaluated with respect to possible deportation, [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF\(2016\)011-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-REF(2016)011-e)

Seven out of the ten deported interviewees said Afghan officials visited the removal centres, or that they had a call with a “Dari speaking person”.²¹¹ An Afghan official and a Turkish lawyer confirmed that Afghan officials were involved in the process.²¹² An Afghan official told Amnesty International that Turkish authorities have pressured them to deliver documents so that Afghans can be deported.²¹³ In removal centres, Afghan officials confirmed Afghan returnees’ personal information and made them sign a document, without providing information or allowing them to read it in some cases, according to testimonies. One Afghan man and one Afghan boy said that they attempted to tell Afghan officials that they did not want to return but officials ignored their plea.²¹⁴

Eight Afghans who were deported and detained in five different removal centres told Amnesty International that Turkish authorities pressured them to sign the voluntary deportation documents.²¹⁵ One of them described the process:

“They said: ‘If you don’t put your fingerprints [on the document to sign it], [the security forces] will force you’. I refused to do it. The security forces took me in a room with no camera. There were six of them. I told them that I was at risk in Afghanistan. They didn’t care. They beat me, pushed me to the wall. I fell down on the ground. Two men held my legs and one was sitting on my chest. Two others put my fingers on the paper.”²¹⁶

Two other interviewees said that they did not sign a document but saw later that there was a signature on it.²¹⁷ “I never signed anything. (...) Later they gave me the paper and I saw they signed for me,” Bashir, a 21-year-old man who was deported early May 2022, said.²¹⁸

211 Interviews by voice call on 5, 6, 7, 10, 11, and 13 May 2022.

212 Interview by voice call on 17 May 2022, interview details withheld for confidentiality.

213 Details withheld for confidentiality reason.

214 Interviews by voice call on 5 and 6 May 2022.

215 Interviews by voice call on 5, 6, 7, 13 and 16 May 2022.

216 Interview by voice call on 11 May 2022.

Similar findings were made by a Turkish human rights organisation conducting research in one of the removal centres in Izmir. Bianet, *Afghans in Izmir forced to sign “voluntary return papers”*, 22 April 2022, m.bianet.org/english/migration/260844-afghans-in-izmir-forced-to-sign-voluntary-return-papers

217 Interviews by voice call on 10 and 11 May 2022.

218 Interview by voice call on 8 May 2022.



  *Travel document from the Afghan embassy in Turkey.*
© Amnesty International

In two cases, Turkish authorities pressured interviewees to sign by telling them that they will be detained longer, and in the end deported, if they did not sign, according to testimonies.²¹⁹

“Turkish security forces brought deportation documents. They asked me to sign the papers, saying that if I didn’t sign, I would spend six months in prison, but if I signed, I’d be deported. I said: ‘I will spend six months in jail rather than going back to Afghanistan’. They beat me and other people to force us but I didn’t sign. They kicked me, they hit me on my back. I started crying, then they told me to move away.”

Kader, 21-year-old a former soldier, who was deported from Turkey early May 2022.²²⁰

The practice of forcing people in need of international protection to sign “voluntary return” documents is consistent with practices previously documented by Amnesty International, both with Afghan refugees and with Syrian refugees.²²¹

Afghan interviewees also told Amnesty International that other detainees did not want to return either. Two said that people fainted at the idea of being deported and one said that one detainee attempted to take his own life.²²² “Three people were in despair about deportation. One

was 13 years’ old. One jumped out of the window of the dining room on the second floor,” Sharif said.²²³

In addition, Afghan detainees were not able to challenge the deportation decision at any stage, in violation of due process, because they did not have access to lawyer and they did not know that they could do so, according to testimonies. “The director said that we didn’t have the right to hire a lawyer. I said that I have problems in Afghanistan and the documents to prove it, but he didn’t answer. He said: ‘once you’ve been transferred to this camp, there is no possibility of being released. Whoever comes here will be deported’,” Shah, a 27-year old man who fled Afghanistan because he received threats from the Taliban, said.²²⁴

All Afghans who were deported said that armed security forces escorted them to the airport and to the plane, and four of them said that they were handcuffed during their transfer.²²⁵ Some tried to escape, according to Zahir, who was deported to Kabul in early May 2022 with 200 people.²²⁶ “They took us to Istanbul airport. There were four policemen in our bus. When we changed bus, two men tried to escape. The policemen beat them severely. A man was crying, pleading not to be deported because his wife and his child are in Turkey. He fainted, but the police didn’t help him. Then, they took us to the plane directly. There were 20 policemen on the ground, who waited until the plane took off. They forced me to be deported,” Zahir said.

These testimonies show that not all returns from Turkey by charter flights are voluntary, despite what Turkish authorities argue. International law prohibits Turkey from deporting Afghans or other foreign nationals in need

219 Interviews by voice call on 6 and 16 May 2022.

220 Interview by voice call on 16 May 2022.

221 Amnesty International, Turkey: Halt illegal deportation of people to Syria and ensure their safety, 29 May 2020, Index number: 44/24292020, www.amnesty.org/en/documents/eur44/2429/2020/en/; Amnesty International, Turkey: Thousands of Afghans swept up in ruthless deportation drive, 21 April 2018, www.amnesty.org/en/latest/news/2018/04/turkey-thousands-of-afghans-swept-up-in-ruthless-deportation-drive/

222 Interviews by voice call on 7, 8 and 11 May 2022.

223 Interview by voice call on 8 May 2022.

224 Interview by voice call on 5 May 2022.

225 Interviews by voice call on 10, 13 and 16 May 2022.

226 Interview by voice call on 10 May 2022.

of international protection to a place where they are at risk of persecution or other serious human rights violations, irrespective of whether they did not enter Turkey through an official border crossing or with identity documents. As Turkish authorities have not assessed individual risks Afghans would face if returned, and have not respected safeguards to ensure that the prohibitions of refoulement and collective expulsions are respected, these deportations have been unlawful.

3.3 NO EVALUATION OF RISKS UPON RETURN

“They [Turkish security forces] asked me why I came and how. I said I came because of economic problems and because of the civil war. They said: ‘You have to stay in your country and fight back [against the Taliban].”

Ayub, a 17-year-old boy whom Turkish security forces pushed back twice to Iran.

None of the 73 Afghans interviewed by Amnesty International were able to register and lodge a claim for international protection, either in Iran or in Turkey. They told Amnesty International that they attempted to tell Iranian and Turkish authorities that they would be at serious risk of human rights violations if returned to Afghanistan but the authorities dismissed their concerns.²²⁷

3.3.1 DENIAL OF ACCESS TO ASYLUM PROCEDURES

“They [Iranian security forces] didn’t mention any chance to claim asylum. They wouldn’t listen to you.

If you wanted to say something to them, they would just beat you.”

Rateb, a 30-year-old man who was pushed back from Iran to Afghanistan in March 2022.²²⁸

Even though structures exist in Iran and in Turkey to register claims for international protection (see Box: Refugee status determination), in practice, newly arrived Afghans said that they had not been able to access these structures. They told Amnesty International that it is due to the fact that they were forcibly returned shortly after arrival or because they did not know where to go and how to proceed, especially in Iran, or that they were told that immigration offices were closed in Turkey.²²⁹

Five Afghans told Amnesty International that they attempted to go to Turkish migration offices but officials there told them that registration was closed.²³⁰ Seema said that this is what happened to her, when she tried to register with her husband and their four daughters. “We went many times to the immigration office to register. They said that it was closed. They told us: ‘Go to the immigration police. They will either take you to another city [where the immigration office may be opened] or they will deport you’,” Seema said.²³¹ Twelve Afghan interviewees told Amnesty International that they did not know how to proceed to lodge a claim for international protection in Turkey, or that Afghans who had arrived previously told them it was impossible to do so, which is why they did not make any attempts.²³²

227 Interviews in Herat on 11, 13, and 14 March, by voice call on 11, 21 April, 16 May in Istanbul on 5, 6, 7, 8 May and in Van on 9 and 10 May 2022.

228 Interview in Herat on 13 March 2022.

229 Interviews in Herat on 11 and 13 March, in Istanbul on 7 and 8 May, by voice call on 7 May, and in Van on 9 and 10 May 2022.

230 Interviews in Istanbul on 5 and 7 May, by voice call on 11 April and 7 May, and in Van on 9 May 2022.

231 Interview in Van on 9 May 2022.

232 Interviews in Istanbul in Istanbul on 5 and 7 May, by voice call on 8, 11, 16 May, in Van on 9, 10 and 12 May 2022.

Turkish lawyers and a report by the European Council on Refugees and Exiles (ECRE) confirmed that it was extremely difficult for newly arrived Afghans to register and lodge an asylum application, without the assistance of a lawyer.²³³ “They [Turkish authorities] say that the immigration office is closed. They have stepped up efforts to prevent arrivals from Iran and discourage Afghans seeking asylum. There is no formal referral system,” a Turkish immigration lawyer said.²³⁴

All newly arrived Afghans in Iran told Amnesty International that they did not attempt to go to the Bureau for Aliens and Foreign Immigrants’ Affairs offices to register for international protection and, when Iranian security forces apprehended and detained them, officials did not inform them of their right to seek asylum or make available to them any information about the process.

In addition, eight Afghan interviewees said in Iran and in Turkey, they were afraid to ask for international protection, because they feared being beaten.²³⁵

“It was not possible to register for asylum [in Iran]. No one dared to ask them [Iranian security forces], they didn’t allow us to say a word. Even when we spoke among ourselves, they beat us. If we had talked to them, they would have beaten us and insulted us,” said Rahim, who was apprehended and briefly detained in January 2022 before being pushed back to Milak border crossing in Nimroz.²³⁶

Aref, a former Afghan intelligence officer, said that he did not tell Turkish officials that he was at risk because he was afraid of reprisals: “I said that I came for economic reasons. I didn’t say that I worked with security forces because we were supported by the United States and NATO, and maybe they would have had a problem with that.”²³⁷ Nasrat, a former Afghan soldier, said that he did not attempt to lodge a claim for international protection in Turkey because he was afraid of being arrested. This is what happened to Shakib, who was arrested with his family just after going to the immigration office (see 3.1. Pushbacks and other forced return by land).

All individuals have the right to seek and enjoy asylum from persecution, in line with the principles set out in the Universal Declaration of Human Rights.²³⁸ This right extends to those in detention. By denying Afghans this right, Iranian and Turkish authorities have violated international law. Turkey has also violated the European Convention on Human Rights (ECHR) (1954), which, as a state party, it is obliged to uphold. Under the Convention on the Rights of the Child (CRC), unaccompanied children enjoy all of the same rights as adults, including the rights to seek asylum, and to be free from abuse, discrimination, and refoulement.²³⁹ The CRC also requires that special assistance is provided to unaccompanied children, including immediate assessment, registration, and efforts to trace the child’s family.²⁴⁰

3.3.2 NO EVALUATION OF PROTECTION NEEDS

“The Turkish police said: ‘Why have you left your country? Why aren’t you staying there?’ We all said that we faced risks and that’s why we came. They replied: ‘It’s not our business. We will kill you here.’”

Aref, who was pushed back four times from Turkey to Iran.²⁴¹

None of the Afghans interviewed by Amnesty International reported being asked about their need for international protection, or given an evaluation of their individual circumstances, despite around half (37) of those interviewed informing Iranian and Turkish authorities both upon arrest close to the border and in

233 Interviews in Istanbul on 5 and 6 May and by voice call on 17 May 2022. European Council on Refugees and Exiles, Differential treatment of specific nationalities in the procedure, Turkey, asylumineurope.org/reports/country/turkey/asylum-procedure/differential-treatment-specific-nationalities-procedure/

234 Interview in Istanbul on 6 May 2022.

235 Interviews by voice call on 11 April, in Istanbul on 7 May, and in Van on 9, 11 and 12 May 2022.

236 Interview by voice call on 15 March 2022.

237 Interview in Herat on 10 May.

238 UN General Assembly, **Universal Declaration of Human Rights**, 10 December 1948, 217 A (III), <http://www.refworld.org/docid/3ae6b3712c.html>, Art. 14(1).

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

240 UN Committee on the Rights of the Child, “Treatment of unaccompanied and separated children outside their country of origin,” General Comment No. 6, 09/01/2005,CRC/GC/2005/6 (2005), Para. 31

241 Interview in Herat on 10 March 2022.

detention centres that they were at risk in Afghanistan. “I said: ‘My life is in danger. I don’t want to return to Afghanistan because of the situation.’ They didn’t care and said: ‘Go back to your country.’ Among us, there were a few former soldiers,” said Lotfullah, who was returned by Iranian security forces to Afghanistan in the beginning of March 2022.²⁴²

All Afghan interviewees, like Sabur who was pushed back twice by Iranian security forces, told Amnesty International that the authorities did not listen to them when they said they were at risk:

“They [Iranian security forces] asked us: ‘What are you doing here, you Afghans?’ I replied: ‘Our life is in danger in Afghanistan. Why are you sending us back?’ (...) One said: ‘Now your country is good. Go! Since when can you come [to Iran] illegally? Get documents [visa] and come back.’ I replied: ‘We’re not able to get a visa, let us in.’ He said no.”²⁴³

In eight cases, Afghan interviewees said that they showed documents to the Turkish authorities detaining them corroborating their claims, or evidence of wounds sustained in Afghanistan.²⁴⁴ “We told them we couldn’t go back to Afghanistan because of security problems and because we worked in the army. They [Turkish authorities] said: ‘Go back to your country.’ I showed certificates I had on my phone, but they didn’t care,” Kader said.²⁴⁵

In addition, an Afghan official told Amnesty International that Afghan diplomats in Turkey provided Turkish authorities with names and information about Afghan individuals at risk of persecution in Afghanistan and detained in removal centres. Yet Turkish authorities still deported these individuals, according to the Afghan official.²⁴⁶

Everyone is entitled to an individual evaluation of protection needs ahead of a return decision. If an individual says he/she is risk of persecution, authorities have the obligation to make an assessment. A lack of assessment exposes individuals to the possibility of being returned to persecution, which is prohibited by the principle of non-refoulement. Therefore, if a state does not assess individual risks in countries of destination, return is unlawful.

In some cases, Iranian and Turkish security forces blamed Afghans for coming to the country, insulted and threatened them not to come back, according to testimonies. For instance, Seema’s husband said that Turkish security forces threatened him before transferring him and his family to Iran: “One said: ‘If I see you again here, I’ll kill you.’ And he showed me the pictures of corpses shot in the head,” Seema’s husband recounted.²⁴⁷ Waheed told Amnesty International that in Iran, before he was forcibly returned to Afghanistan with 51 other Afghans, Iranian security forces in a detention centre in Sefid Sang told the group: “Afghan dirt, you make our country dirty, return to your country.”²⁴⁸

Iranian and Turkish authorities denied access to lodge a claim for international protection to all the individuals Amnesty interviewed who expressed a fear of being returned, nor did they provide for an evaluation of individual circumstances and risks before return, in violation of the principle of non-refoulement.²⁴⁹

242 Interview in Herat on 13 March 2022.

243 Interview in Herat on 11 March 2022.

244 Interviews by voice call on 5, 6, 8 and 16 May, in Istanbul on 6, 7 and 8 May, and in Van on 10 May 2022.

245 Interview by voice call on 16 May 2022.

246 Details of the interview withheld for confidentiality.

247 Interview in Van on 10 May 2022.

248 Interview in Herat on 14 March 2022.

249 The need for an individual assessment of the individual circumstances of returnees ahead of a return decision that could expose them to risks can be derived from the jurisprudence of the ECtHR under Article 3 and Article 4 of Protocol no 4 (Prohibition of Collective Expulsion), among others: ECtHR, *F.G. v. Sweden*, Application no. 43611/11, 16 January 2014, hudoc.echr.coe.int/fre#%7B%22itemid%22:%5B%22001-140020%22%5D%7D}, paras. 33-34. This is relevant for Turkey.

CASE STUDY: INFORMAL TRANSFERS OF AFGHANS TO SYRIA

“They told us they will send us to Greece. We were happy they would send us to Greece and not deport us to Afghanistan. Instead we arrived in Syria.”

Noor travelled irregularly to Turkey through Iran in December 2021. Turkish security forces arrested him and six other Afghan men as he was in a minibus on his way to Istanbul. He told Amnesty International that they tried to tell Turkish agents that they were at risk in Afghanistan, but agents told them to stop talking.

They took the seven men to a detention centre where they made them sign a document, without explaining what it meant. Amnesty International reviewed the document, entitled “Voluntary return request form”, a document with the men’s names, ages, nationality and signatures. “It was not possible to ask for a lawyer and the police reacted in an angry way when we talked to them. (...) They knew we were Afghans because they called us ‘Afghans’,” Noor said. Then he said that Turkish security forces drove the group to the border.

“The police didn’t tell us anything, just: ‘Greece, Greece’. We didn’t know it was the Syrian border, that’s only when we crossed that we understood. There was a [fighter] and they were speaking in Arabic. When we saw the [fighter] we said that we didn’t want to go, but the [Turkish] police beat us and forced us to go. They beat me and all of us, everywhere on the body, with black sticks,” Noor recounted.

In Syria, Noor said that an armed group detained him and the six Afghan men traveling with them for one month. After their release, Noor and the other men tried to cross into Turkey. The first time, Noor said that Turkish security forces fired in the air, stopped them, beat them and pushed them back, even though they said they were Afghans. Meanwhile, two Afghan men from the group managed to reach Turkey.

Noor said that they attempted to cross into Turkey a second time and that Turkish security forces intercepted them again. “We cried and asked why they would send us to Syria since we were Afghans. We asked to be sent to Afghanistan or allowed to stay in Turkey. They replied: ‘Go back to the place where you come from.’ They sent us back again [to Syria],” Noor recounted.

4. TORTURE AND OTHER ILL-TREATMENT

“They beat me on my back with the end of their rifle, even though they saw I was wounded. There was blood on my trousers and my shoes. I fell on a rock and broke my arm.”

Farhad describes his treatment in detention in Iran, after he had been shot and wounded by Iranian security forces in October 2021.

Forty-four Afghans individual interviewed by Amnesty International said that Iranian security forces in 23 instances and Turkish security forces in 21 instances subjected them to torture or other ill-treatment.²⁵⁰ A Turkish lawyer, NGO workers, humanitarian actors in Afghanistan, Afghan human rights researchers and an Afghan official working at the border also reported to Amnesty International allegations of torture and other ill-treatment, including beatings, against Afghans by Turkish and Iranian security forces.²⁵¹

4.1 BEATINGS

“They kept me for two days and two nights. They constantly beat me. A commander ordered the

²⁵⁰ Interviews in Herat on 10, 11 13 and 14 March, in Islam Qala on 12 March, by voice call on 15 March, 8, 11 and 16 May, in Istanbul on 5, 7, 7 and 8 May, and in Van on 9, 10 and 12 May 2022.

²⁵¹ Interviews by voice call on 22 November 2021, 9, 23, 28 February, and on 7 April 2022, and in Islam Qala on 12 March 2022. Protection Cluster, Afghanistan Protection Analysis update -Q4,2022, pp.3, www.globalprotectioncluster.org/wp-content/uploads/AFG_Protection-Analysis-Update_Q4.pdf

soldiers to beat us with heavy sticks every two hours.”

Aref, during his detention in what he described as a military base close to Van in Turkey.

The most frequently reported method of torture or other ill-treatment involved beatings, including of three children.²⁵² Iranian and Turkish security forces beat men and boys upon arrest, during detention or before pushbacks. Ismael described how Iranian security forces, wearing beige uniforms on which ‘border police’ was written, beat him shortly after he crossed the border from Turkey into Iran late February 2022: “They arrested us. They beat us. They didn’t have mercy, they kicked us and punched us. They beat us with sticks and some with their weapons. They hit one man on his head with a kalashnikov. They kicked me and punched me. I still feel pain in my back,” Ismael said.²⁵³

Two interviewees said that during their detention, Iranian security forces beat them after they had been injured by gunshots while crossing the Iranian border.²⁵⁴ Amir recounted that a bullet grazed his head as Turkish security forces fired at Afghans attempting to cross into Turkey from Iran in late August 2021. After Turkish security forces pushed him back, Iranian security forces intercepted him and detained him in a detention centre in Urumieh. “They [Iranian security forces] noticed [that] my head [was] bleeding, and asked me what had happened. When I explained, they would beat me directly on the wound, and it would start bleeding again. (...) One time I said, ‘please don’t beat me on my head,’ and the guard [at the detention facility] said, ‘Where?’ When I showed him, then he beat me in that same spot,” Amir said.²⁵⁵

Similarly, Turkish security forces also beat Afghans during their detention, interviewees told Amnesty International.²⁵⁶ During his detention, shortly after crossing into Turkey, Hamid said that agents mistreated him and his friend. “One of the policemen beat my friend with the butt of his gun, and then the policeman sat on my friend, as if he was sitting on a chair. He sat there and lit a cigarette. Then he hit me on my legs with his gun as well. (...) When I was sitting, down, the Turkish policeman kicked me on the knee. He gave me two big kicks. And now I feel a big pain in my knee joint,” Hamid said.²⁵⁷

Rahim, who was briefly detained in January 2022 in a location unknown to him in Iran said that security forces beat him after he asked for water.²⁵⁸ Turkish security forces also beat detainees in order to force them to sign deportation documents, interviewees said. (see 3.2 Unlawful deportation).

252 Interviews in Istanbul on 5 May, by voice call on 8 and 16 May 2022.

253 Interview in Herat on 10 March 2022.

254 Interviews in Herat on 10 and 14 March 2022.

255 Interview in Herat on 10 March 2022.

256 Interviews in Herat on 10 March, in Istanbul on 5 May, by voice call on 7, 11 and 16 May 2022.

257 Interview in Herat on 10 March 2022.

258 Interview by voice call on 15 March 2022.

In three cases, forcibly returned Afghans said that Iranian security forces beat them because they could not or refused to pay the transportation fee they were demanding to return them to Afghanistan (see 3.1.3 Bus transfer).²⁵⁹ For instance, Naeem, a former Afghan intelligence officer described how one of the officials at Sefid Sang ordered guards to punish him for complaining about the illegality of the payment. “He [official] said ‘Beat him a lot so that he learns the law.’ They beat me so badly, using electric cables,” Naeem said.²⁶⁰

Three children told Amnesty International that security forces beat them.²⁶¹ In Turkey, children said that Turkish security forces beat them in three separate instances between October 2021 and February 2022. In Iran, one of the children said that Iranian security forces beat him between late November and early December 2021. In addition, one former detainee said that he witnessed the beating of children by Iranian security forces and one former detainee said that he also saw Turkish security forces beating children.²⁶² Afghan human rights researchers and a member of an NGO operating in Afghanistan also reported that they have received allegations from Afghans that Iranian security forces have subjected children to torture and other ill-treatment.²⁶³ Sharif, 16, said that when he was standing at the Turkish-Iranian border, just before Turkish security forces sent him back, they beat him. “They beat me with a farming wooden tool because they were angry that we crossed the border and had reached Erzurum, the translator told us,” Sharif said.²⁶⁴ A lawyer in Turkey also told Amnesty International that it was a common practice: “Security forces beat them in order to deter them from attempting to cross again.”²⁶⁵



 ↑ Torab, 15, who sustained an injury on the knee after being severely beaten by Iranian security forces.

Gorban, a 29-year-old former Afghan soldier, said that Turkish security forces beat him before sending him back to Iran saying: “No Turkey. Don’t come back to Turkey.” Similarly, Kader recounted that Iranian security forces apprehended him just after he crossed the border from Afghanistan in the second half of August 2021. Before forcibly sending him back to the Milak (Sistan and Baluchistan province, Iran) - Zaranj (Nimroz, Afghanistan), he said that they beat him and his friends: “They beat my friend on his knee. One of my friends was badly injured. He couldn’t walk after that. They told us to lay down, they put their feet on our heads and they beat us more. They put their feet on my neck and beat me on my back and my feet. They said: ‘Why are you here? Go back to your country.’”²⁶⁶

4.2 DETENTION CONDITIONS

“They [Turkish security forces] kept us without clothes outside in the yard. It was very cold and raining, there was snow on the ground. We stayed like that until 7am.”

Munir, before Turkish security forces pushed him back to Iran.

259 Interviews in Herat on 13 March 2022.

260 Interview in Herat on 13 March 2022.

261 Interviews in Istanbul on 5 May, and by voice call on 8 and 16 May 2022.

262 Interviews in Islam Qala on 12 March and in Herat on 13 March 2022.

263 Interviews by voice call on 9, 17, and 23 February 2022.

264 Interview by voice call on 8 May 2022.

265 Interview by voice call on 17 May 2022.

266 Interview by voice call on 16 May 2022.

Amnesty International documented seven cases of individuals who were denied access to health care in detention for injuries resulting from being shot or beaten by security forces in both Iran and Turkey.²⁶⁷ The organisation documented two additional cases of Afghans who were denied access to health care in detention in Turkey for serious injuries sustained in Afghanistan prior to their journey.²⁶⁸ Former detainees said that in detention, they were denied access to health care, even if they were bleeding. For instance, Naeem said that a bullet hit his toe when Iranian security forces shot him as he crossed the border from Afghanistan into Iran in late August 2021. Iranian security forces took him directly to a detention centre to return him to Afghanistan. “On the second day, I was not feeling well. I asked to see a doctor. They refused and said that is was not my country,” Naeem said.²⁶⁹ Deliberate denial of health care to detainees in this manner violates the absolute prohibition of torture and other ill-treatment.

Seven interviewees told Amnesty International that after being captured security forces kept them without clothes outside in freezing temperatures for several hours to a night - three, including one child, in Iran and four, including one child, in Turkey.²⁷⁰ Najib, 16, said that he was exposed to freezing temperatures for prolonged periods of time twice, once when he was detained by Iranian security forces and once by Turkish security forces in the winter 2021-2022. “They [Turkish security forces] kept us outside without clothes or shoes. We were only wearing underwear and a jacket. It was snowing. They told us that they did that so that we don’t come again,” Najib said.²⁷¹

APPLICABLE LEGAL STANDARDS

States have an obligation to respect, protect and fulfil the human rights of everyone on their territory or within their jurisdiction or effective control, irrespective of migration status and without discrimination of any kind.

Everyone deprived of their liberty must be treated with humanity and with respect for the inherent dignity of the human person.²⁷² No one may be subjected to torture or to other cruel, inhuman or degrading treatment or punishment. The right to freedom from torture and other ill-treatment or punishment is enshrined in Article 7 of the ICCPR, Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture, CAT) to which Turkey is party, Articles 37(a) and Article 19 of the Convention on the Rights of the Child.²⁷³ Iran is not a party to CAT, but the prohibition of torture is also a rule of customary international law and is binding on all states. It is one of a small number of peremptory norms of general international law (*jus cogens* rules) which means it cannot be restricted or derogated from.

According to Article 1(1) of the Convention against Torture, an act constitutes torture if four elements are present: (1) intention, (2) infliction of severe physical or mental pain or suffering, (3) a purpose such as coercion, intimidation, obtaining information or a confession, or discrimination and (4) a degree of official involvement.²⁷⁴

In contrast, cruel, inhuman or degrading treatment or punishment (other ill-treatment) is not defined under international law. In line with the position of many international and regional human rights monitoring bodies, Amnesty International considers that cruel, inhuman or degrading treatment or punishment may be defined negatively in relation to torture in that it lacks one or more of the above-mentioned elements of the torture definition.²⁷⁵

By subjecting Afghans to torture or other ill-treatment, the Turkish and Iranian authorities violated the absolute prohibition of torture and other ill-treatment. Under international law, the authorities have an obligation to prevent torture; investigate whenever there are reasonable grounds to suspect acts of torture or other ill-treatment have occurred, even when no official complaints have been made; bring those responsible to justice; and provide reparation to victims.

267 Interviews in Herat on 9, 10 and 13 March, by voice call on 11 and 21 April 2022.

268 Interviews in Istanbul on 5 and 8 May 2022.

269 Interview in Herat on 13 March 2022.

270 Interviews in Herat on 10 and 14 March, in Istanbul on 5 and 7 May, by voice call on 8 and 16 May, and in Van on 9 May 2022.

271 Interview by voice call on 16 May 2022.

272 Article 10 of ICCPR.

273 Turkey ratified the CAT in 1988.

274 For the full definition, see Convention against Torture, Article 1(1).

275 See Convention against Torture, Article 16. See also Committee against Torture, General Comment 2, *Implementation of Article 2 by States Parties*, 24 January 2008, UN Doc. CAT/C/GC/2 (2008), para. 10. For example, an act of ill-treatment would constitute cruel, inhuman or degrading treatment or punishment rather than torture if it lacks the required intention or the required purpose, or if the pain or suffering it causes is not “severe”.

5. CONCLUSION AND RECOMMENDATIONS

“I don’t know what will happen. I can’t go back to my place. I don’t know what to do. If I go home, they will arrest me. If I don’t, what would I do? I’ve lost my way. There is no way.”

Aref, who was pushed back four times from Turkey to Iran and pushed back from Iran to Afghanistan in January 2022.

“The situation here is bad. I live in hiding. I’m afraid that someone will report me to the Taliban. I’m scared. I’m planning to leave again.”

Eltaf, who was unlawfully deported from Turkey to Afghanistan in April 2022.

As the Taliban have consolidated their control over Afghanistan and borders have been closed to people without travel documents, Afghan individuals who are at risk of serious human rights violations have been trapped.

Amnesty International’s research shows that the majority of men, women and children who need to flee the country but do not have travel documents can only do so by putting their lives in grave danger. Iranian and Turkish security forces have used lethal force unlawfully against Afghans trying to cross the border irregularly as both a deterrent and a pushback method, injuring and killing a number of them. Amnesty International’s investigations have documented the killings of ten men and one boy by the Iranian security forces, and the true number is likely to be higher. In the cases documented in this report, none of the people killed or injured represented an “imminent threat of death or serious injury” to security forces or others that would meet the threshold for the use of firearms under international law and standards. Accordingly, the use of such force was unlawful and arbitrary. The organization is not aware of any investigations that the Iranian or Turkish authorities have carried out into the incidents of unlawful killings as potential extrajudicial executions.

The evidence presented in this report shows that Turkish and Iranian authorities have forced Afghans to return to their country, despite the general situation in Afghanistan not allowing for returns and despite the concerned individuals expressing a well-founded fear that they would be at risk of serious human rights violations if forcibly

returned. Turkish and Iranian security forces have arbitrarily detained Afghans prior to their removal, denying them access to legal counsel or judicial oversight, and have subjected them to torture and other ill-treatment.

Iranian and Turkish authorities have denied Afghans the opportunity to lodge claims for international protection. They have failed to assess individual cases and their need for protection before returning them, in violation of the prohibition of collective expulsions and the principle of non-refoulement, as protected by jus cogens norms of international law (universally binding), as well as in Article 33 of the 1951 Refugee Convention and other international instruments, which prohibit states from transferring people to a place where they would be at real risk of persecution or other serious human rights violations.

The governments of Turkey and Iran must ensure that authorities and security forces managing migration movements respect the rights of refugees and migrants, including the principle of non-refoulement, the right to seek asylum, the right to life, and the rights and best interests of the child. States are further bound to ensure access to justice for victims of human rights violations.

It is Amnesty International's position, in line with UNHCR, that no Afghan should be returned, because of the risk of serious human rights violations they could face in Afghanistan.

Amnesty International has found that the returns of Afghans from Turkey and Iran have been unlawful under international law as a result of the lack of safeguards required to prevent the violation of the principle of non-refoulement and the prohibition of collective expulsions.

Based on these findings, Amnesty International concludes that no country should forcibly return Afghans not only to Afghanistan, but also to Turkey or Iran, where they would be at risk of chain-refoulement. Authorities in countries of arrival of Afghans should grant them international protection. Countries concerned about their ability to host large numbers of Afghans should request the financial and material assistance of other countries. The international community should have a common and coordinated response to sharing the responsibility of supporting Afghan refugees.

TO THE TURKISH AND THE IRANIAN GOVERNMENTS:

- End all forcible transfers of Afghans to Iran and to Afghanistan, upholding the international obligation of non-refoulement.
- Immediately cease arbitrary killing of Afghans trying to leave their country, and unlawful use of firearms.
- Ensure that security forces at all times act in full conformity with the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, including to ensure that firearms may only be used when strictly unavoidable against an imminent threat of death or serious injury.
- Ensure safe access and passage through territory to Afghans trying to leave their country by keeping borders open and suspending all visa requirements until embassies and consulates of final destination countries reopen in Afghanistan. In particular, ensure safe passage of Afghans holding visas or other documents that would allow them access to a final destination country.
- Grant all Afghans international protection. Provide Afghans who want to seek asylum access to a clear, fair, transparent and functioning asylum system and ensure that they can access information in their own language on how to proceed.
- Provide all Afghans already in the country with a regular migration status which protects them from refoulement and chain-refoulement.
- End torture and other ill-treatment of Afghans fleeing their country.
- Conduct effective, transparent, prompt and independent investigations into allegations of serious human rights violations including the use of unlawful lethal force as well as torture and other ill-treatment against Afghans, and hold perpetrators accountable. In particular, ensure that all cases of killings resulting from deliberate and unlawful use of firearms against unarmed Afghans who do not pose an imminent threat of death or serious injury are investigated as potential extrajudicial executions in line with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Minnesota Protocol) and that those suspected of criminal responsibility are prosecuted in proceedings that adhere to international fair trial standards and do not involve seeking or imposing the death penalty.

- Ensure that Afghans in detention are treated humanely, have access to a lawyer and are brought before a judge, granted access to adequate healthcare including for injuries sustained as a result of security forces firing at them or subjecting them to torture or other ill-treatment.
- Immediately end all migration-related detention of children and families, and ensure that the best interests of the child are paramount in all decisions taken about their treatment.
- Allow unrestricted access to all migration-related detention facilities to independent monitoring organisations, including UN human rights experts.

TO THE HOSTING COUNTRIES' GOVERNMENTS, INCLUDING EUROPEAN COUNTRIES, THE USA AND CANADA:

- Actively arrange or support safe passage and evacuations from Afghanistan for all those at risk of being targeted by the Taliban, including human rights defenders, civil society activists, journalists, academics, women who worked in the security, justice and judicial sectors, as well as members of minority ethnic and religious groups and other marginalised communities. To this end, urgent steps must be taken to:
- Issue all necessary documentation (such as visa waiver letters, exemptions from the requirement to hold passports, emergency travel documents for Afghan people without a passport, etc.) in local languages to enable onward movement to neighbouring countries;
- Seek bilateral and multilateral agreements from neighbouring countries to establish land corridors and allow the safe transfer of people at risk of being targeted by the Taliban.
- Increase resettlement opportunities and commitments for Afghan refugees and provide complementary pathways to protection, including community sponsorship. In particular, set up a targeted resettlement and humanitarian admission scheme for vulnerable Afghan refugees in neighbouring and transit countries, which host the vast majority of displaced Afghans.
- Scale up the capacity of embassies and consulates in Iran and Pakistan and offer and expedite humanitarian visas, family reunification, and reduce documentation requirements to a minimum, including issuing laissez passer.
- Help neighbouring countries and other countries in the region to keep their borders open, by sharing the responsibility for the protection and assistance of refugees from Afghanistan and provide meaningful financial, technical and human contributions to meet the humanitarian needs of Afghan refugees.
- Ensure that Afghans reaching their territories independently to seek safety are protected and adequately assisted, whether they travelled by regular or irregular means, respect the principle of non-refoulement and refrain from unlawful practices such as pushbacks at borders.
- Refrain from any attempt to outsource the responsibility for the protection of Afghans to third countries.
- Support efforts to establish an international investigative and accountability mechanism to collect, analyse and preserve evidence of the most serious crimes under international law committed in Iran to facilitate fair criminal proceedings in the future

TO EUROPEAN UNION AND DUBLIN ASSOCIATED COUNTRIES:

- Make use of the Dublin provisions on family reunification to facilitate the reunion of separated members of extended families of Afghans who are already in Europe.
- Urge Turkey and Iran to end all transfer of Afghans to Iran or Afghanistan and to respect, protect and fulfil the rights of all Afghans on its territory or under its jurisdiction.

TO THE EUROPEAN COMMISSION:

- Ensure that EU migration and asylum related funding to Turkey does not contribute to human rights violations and is used in ways compatible with international human rights and refugee law, and that monitoring mechanisms fully assess the potential human rights risks prior to the provision or extension of such funding.

- Urge Turkey and Iran to end all transfer of Afghans to Iran or Afghanistan and to respect, protect and fulfil the rights of all Afghans on its territory or under its jurisdiction.

TO THE IRANIAN GOVERNMENT:

- Repeal or substantially amend, with a view to bringing into conformity with international law and standards, the 1995 Law on the Use of Firearms by Armed Forces in Necessary Incidents, which regulates the use of firearms at borders and allows law enforcement bodies and other security forces to use firearms without regard to the high threshold imposed by international law and standards on their use to protect against an imminent threat of death or serious injury.
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol.

TO THE TURKISH GOVERNMENT:

- Remove the geographical restrictions to the application of the 1951 Refugee Convention to allow non-European refugees, including Afghans, to access full refugee status.

TO THE UN HUMAN RIGHTS COUNCIL

- Urgently establish an independent international mechanism to collect, consolidate, preserve, and analyse evidence of the most serious crimes under international law committed in Iran that meets general standards of admissibility in criminal proceedings, including the unlawful use of lethal force against Afghans, to facilitat



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“THEY DON’T TREAT US LIKE HUMANS”

UNLAWFUL RETURNS OF AFGHANS FROM TURKEY AND IRAN

The majority of Afghans who need to flee the country but do not have travel documents can only do so by putting their lives in grave danger.

Turkish and Iranian security forces have unlawfully returned Afghan men, women and children to their country, despite the general situation in Afghanistan and the real risk of serious human rights violations there. Iranian and Turkish authorities have also denied Afghans the opportunity to lodge claims for international protection.

At borders, Iranian and Turkish security forces have used firearms unlawfully against Afghans trying to enter the country irregularly as both a deterrent and a pushback method, injuring and killing a number of them.

Amnesty International is calling on all countries not to forcibly return Afghans not only to Afghanistan, but also to Turkey or Iran, where Afghans would be at risk of refoulement to Afghanistan.

Amnesty International is also calling on countries hosting Afghans to arrange or support safe passage and evacuations from Afghanistan for all those at risk of reprisals from the Taliban and to increase resettlement opportunities and other commitments for Afghan refugees.