

Australian Red Cross

**Submission to the Senate Foreign Affairs, Defence and
Trade References Committee**

**INQUIRY INTO AUSTRALIA'S ENGAGEMENT IN
AFGHANISTAN – EXTENDED REMIT**

Prepared January 2022

Foreword

I write on behalf of Australian Red Cross (Red Cross) regarding the Senate Foreign Affairs, Defence and Trade References Committee's Inquiry into Australia's Engagement in Afghanistan – Extended Remit.

Red Cross recognises the strong and whole of government work undertaken by Australia to date to address this crisis. The crisis in Afghanistan continues to cause unprecedented humanitarian need, and the International Red Cross and Red Crescent Movement (the Movement) is responding.

In Afghanistan, our partners at the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies are working alongside the local Afghanistan Red Crescent Society (ARCS) and are committed to maintaining their presence across the country to address the humanitarian impacts of the numerous crises that have impacted Afghanistan and its people. Our Movement partners continue, with assistance from the Australian public through donations to the Afghanistan Crisis Appeal, to provide critical humanitarian support which is focused on health and protection services.

Worldwide, the Movement is present at every stage of the journey of migrants and people seeking safety – in the places they come from, the places they travel or flee to, and the places they settle in.

In Australia, Red Cross is embedded in communities across Australia through our 27,000 strong membership, staff, and volunteer base. Red Cross supports people with connection to Afghanistan through our Restoring Family Links tracing service, community cohesion initiatives and by providing complex casework support and emergency relief to those in need.

Red Cross is contracted by the Department of Home Affairs to provide the Humanitarian Settlement Program (HSP) in Western Australia, the Australian Capital Territory, and Southern New South Wales. Prior to the COVID-19 pandemic and the closure of international borders, our teams would support the settlement of approximately 150 refugees a month. In response to the Afghanistan evacuation, our teams saw a significant increase in intake levels.

Through the program, Red Cross, supported by local and diaspora communities, has been able to make a significant difference to people evacuated from Afghanistan during an incredibly difficult time. Red Cross staff and volunteers meet people when they land, support them through hotel quarantine, try to trace family members separated through the evacuation, and assist them to understand life in their new home and country. We have worked closely with the Department of Home Affairs and other providers to effectively stand up this response in a short timeframe. While the HSP has gone above and beyond its usual purpose for this response, our position is that it was appropriate to mobilise the HSP service providers and extend eligibility for the HSP to citizens, Permanent Residents and other people entering Australia through the Australian Government Plan for the reception of Australian citizens and approved foreign nationals evacuated from overseas (AUSRECEPLAN) response.

Based on our longstanding experience and insights domestically and internationally, we apply an exclusively humanitarian lens to the extended remit of this inquiry, specifically questions 1 – 3, which sit within our expertise.

Yours sincerely,



Noel Clement
Director, Australian Programs
Australian Red Cross

Acknowledgements

We acknowledge the thousands of people who have arrived in Australia from Afghanistan over many years, who have spoken to us about their experiences. We acknowledge the millions of people in Afghanistan experiencing a crisis that continues to unfold and increase in complexity, and our colleagues within the Movement working to maintain contact and humanitarian support. We acknowledge local and diaspora communities, especially those with lived experience of forced displacement who have extended their support and assistance to people most recently evacuated from Afghanistan. We also acknowledge the policy and operational staff involved with the AUSRECEPLAN response, across states and territories and including the Department of Foreign Affairs and Trade and Department of Home Affairs, who have helped to facilitate our important work in Australia and abroad.

Abbreviations

Abbreviation	Descriptor
ACT	Australian Capital Territory
AUSRECEPLAN	Australian Government Plan for the reception of Australian citizens and approved foreign nationals evacuated from overseas
DFAT	Department of Foreign Affairs and Trade
HRP	2022 Afghanistan Humanitarian Response Plan
HSP	Humanitarian Settlement Program – the Australian Government’s program to settle humanitarian entrants in Australia, utilised in the AUSRECEPLAN response.
ICRC	International Committee of the Red Cross
IFRC	International Federation of Red Cross and Red Crescent Societies
IHL	International Humanitarian Law
NSW	New South Wales
IHL	International Humanitarian Law
Red Cross	Australian Red Cross
RFL	Restoring Family Links – Red Cross’ family tracing program
SHEV / TPV	Safe Haven Enterprise Visa / Temporary Protection Visa
The Movement	The International Red Cross and Red Crescent Movement, the world’s largest humanitarian organisation comprising the International Federation of Red Cross and Red Crescent Societies, 192 National Societies, and the International Committee of the Red Cross
UN	United Nations
UNSC	United Nations Security Council
WA	Western Australia

Australian Red Cross submission on Australia's Engagement in Afghanistan – Extended Remit

The Australian Red Cross (Red Cross) is one of 192 National Red Cross and Red Crescent Societies that, together with the International Committee of the Red Cross (ICRC) and International Federation of Red Cross and Red Crescent Societies (IFRC), make up the International Red Cross and Red Crescent Movement (the Movement); the world's largest and most experienced humanitarian network.

As a member of the Movement, Red Cross responds to disasters and crises in Australia, in the Asia Pacific region, and globally. As auxiliary to public authorities in the humanitarian field, Red Cross has a unique position in the humanitarian sector, which includes a specific mandate in times of war, and other large-scale disasters and emergencies.

We are often first to the scene and for migrants and people seeking safety, the Movement is there at every stage of the journey – in the places people come from, the places they travel or flee to, and the places they settle in.

As a trusted partner, we work directly with communities and authorities, as advocates and humanitarian diplomats, providing facts and evidence that support decision makers and opinion leaders to act for humanity and in the interests of people facing vulnerability.

This unique role gives us access to deliver humanitarian assistance where other international agencies cannot.

In Australia, Red Cross is embedded in communities across the country through our 27,000 strong membership, staff, and volunteer base. At all times we are guided by seven Fundamental Principles: Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity and Universality. These principles are at the very core of our mission and ways of working. Through Humanity and Impartiality, Red Cross endeavours to prevent and alleviate human suffering guided solely by need and giving priority to the most urgent cases of distress. Red Cross does not discriminate as to an individual's nationality, race, culture, gender, sexual orientation, religious beliefs, social background, disability, family status, marital status, age, or political opinions.

Following the change of government in Afghanistan in mid-August 2021, the Movement promptly began responding to the humanitarian needs of people affected. In Australia, Red Cross launched an appeal to fund life-saving humanitarian support to people and communities in Afghanistan and to help Afghan communities in Australia locate and reconnect with missing family members. We increased capacity of our Restoring Family Links (RFL) program and reached out to support our sister society in Afghanistan and the wider Red Cross and Red Crescent Movement. We also stood ready to support people arriving from Afghanistan through the Humanitarian Settlement Program (HSP) and continued to provide emergency relief and other relevant support to people from Afghanistan in Australia, in particular people on temporary visas without access to a sustainable safety net.

As such, our expertise and insights as related to Points 1, 2 and 3 of the Terms of Reference are informed by our work in:

- Settling humanitarian entrants and refugees in WA, the ACT and Southern NSW through the Humanitarian Settlement Program (HSP). This includes people evacuated from Afghanistan;
- Reconnecting people who have lost contact with family members due to war, disaster or migration through our Restoring Family Links (RFL) program;
- Supporting the broader community to ensure they understand, welcome and can support new arrivals by delivering programs in schools, communities and workplaces across the country;

- Providing emergency relief and complex casework support for people seeking safety who are ineligible for other government support and have limited or no access to mainstream support services;
- Working with people seeking asylum and refugees as well as employers to increase economic participation;
- Supporting people who have experienced, or are at risk of, modern slavery, including forced marriage;
- Supporting critical humanitarian needs in Afghanistan, focused on health and protection services; and
- Supporting and working alongside the Australian Government to ensure respect for International Humanitarian Law (IHL) and principled humanitarian action.

Red Cross suggests that the Committee broadly consider the following when developing recommendations:

- The unique, rapid and emergency nature of events leading up to the implementation of the AUSRECEPLAN, and ongoing emergency humanitarian situation in Afghanistan.
- Australia's bi-partisan history of powerful humanitarian responses to comparable crises, including in response to the Kosovo crisis in 1999, extending humanitarian intake numbers from Syria and Iraq in 2015, and providing funding for humanitarian crises based on need, as stipulated by the principle of humanity.
- The added complexity caused by the health environment in which the AUSRECEPLAN was implemented, including the closure of international borders, internal border restrictions and quarantine requirements.
- The humanitarian impact of the situation on people already in Australia, people evacuated to Australia, people remaining in Afghanistan and people on the move in other countries.
- The evidence of the humanitarian importance of family unity and the impact of family separation.

Red Cross provides the following specific recommendations:

Recommendation 1	Australia provides a special humanitarian intake of 20,000 people from Afghanistan in need of humanitarian assistance and protection, in addition to the Humanitarian Program.
Recommendation 2	Australia provides initial support to countries in the region providing protection and also addresses resettlement needs in our region, including reviewing the decision to not resettle refugees in Indonesia who registered with the UNHCR after July 2014.
Recommendation 3	The Department of Home Affairs ensure people in Australia with links to Afghanistan can settle and build their lives here, including providing access to pathways to permanency, in particular for people who are on Temporary Protection Visas and Safe Haven Enterprise Visas.
Recommendation 4	The Department of Home Affairs broaden eligibility and increase flexibility in processing of family reunion visas for separated family members. This includes removing any distinctions by humanitarian visa type or mode of arrival in the family reunion processing prioritisation.
Recommendation 5	The Australian Government work with its international partners and support agencies to develop and establish a protocol to assess and record, in an emergency evacuation, instances of family separation of people in their care to (a) reduce instances and (b) enable prompt action to resolve instances.

Recommendation 6	The Department of Home Affairs review supports available for people on Subclass 449 or other visas that may be used in similar emergency situations, to ensure the visas provide access to enhanced supports in line with permanent humanitarian protection visas.
Recommendation 7	The Department of Foreign Affairs and Trade update the AUSRECEPLAN based on successes and lessons learnt from this experience (including service provider and community feedback), to strengthen responses to future humanitarian emergencies requiring a rapid evacuation response. For example, update paragraph 1.4.13 with a supporting Annex outlining contingency plans for the HSP and other government funded programs which may be relied on in an activation.
Recommendation 8	The Australian Government directly support the work of the International Red Cross and Red Crescent Movement members including the ICRC and the IFRC who, through their operations and National Societies' extensive network of volunteers and dedicated staff are ensuring humanitarian provisions, essential services, and a basic level of healthcare are available to Afghans in the most vulnerable
Recommendation 9	The Australian Government join with the international donor community by providing an increased level of funding that is commensurate with the extreme levels of humanitarian need in Afghanistan. Building on its experience of flexible funding in other contexts, Australia provide access to flexible humanitarian funding that can quickly adapt to meet changing conditions.
Recommendation 10	The Australian Government recognise its role in advocating to reduce the reliance on parallel systems for the delivery of health and social protection services.
Recommendation 11	The Department of Foreign Affairs and Trade undertake scenario planning with its humanitarian partners, including Australian Red Cross, to inform a mid to longer term Australian Government strategy for Afghanistan. In recognising that Afghanistan is now a protracted crisis there is strong sense in developing a protracted crisis plan.
Recommendation 12	The Australian Government make formal amendments to its Taliban Sanctions Regime to explicitly safeguard impartial humanitarian action in a manner consistent with IHL and humanitarian principles.
Recommendation 13	The Australian Government consider implementing long-term humanitarian safeguards to its broader sanctions regimes, including domestic laws implementing both UNSC and autonomous sanctions, to prevent future situations like that of Afghanistan where sanctions have impeded the timely delivery of critical humanitarian assistance to those in need.

Australian Red Cross submission to the Inquiry into Australia's Engagement in Afghanistan – extended remit

Key issues of humanitarian concern

1) Australia's humanitarian visa intake from Afghanistan and visa processing issues

Humanitarian visa intake

The Australian Government's initial commitment to provide 3,000 humanitarian visas and its commitment that "no Afghan visa holder currently in Australia will be asked to return to Afghanistan while the security situation there remains dire"¹ was important, necessary, and provided vital reassurance to people in Australia fearful of being forcibly returned to Afghanistan.

We also acknowledge the Australian Government's announcement that it "will provide at least 15,000 places for Afghan nationals, through the Humanitarian and Family Visa Program over four years"² and note that these places are within Australia's existing Humanitarian Program and Family stream.

There are additional steps that can be taken to provide increased pathways to protection and certainty to people from Afghanistan seeking safety beyond the current crisis.

We are aware of people evacuated from Afghanistan whose family members remain in Afghanistan. We are particularly concerned for women and children at risk. We are also aware of cases where family members left Afghanistan by their own means seeking safety in neighbouring countries, such as Pakistan and others remain in countries without access to effective assistance, protection, and durable solutions, such as Indonesia. We are also aware that some people made vulnerable due to their affiliation with the Australian Defence Force are in similar situations.

Given the scale of the crisis, Australia's humanitarian and other connections to Afghanistan, and the pressing humanitarian need for protection, Red Cross recommend that an additional intake to the Humanitarian Program be established specifically for people from Afghanistan in need of humanitarian assistance and protection. An increase of intake in response to need is not new; in 2015, the Australian Government announced a one-off additional intake of 12,000 places for people displaced by the Syria and Iraq conflicts.³ Over the five years between 2015 and 2020, 46,085 offshore Humanitarian visas were issued to people from Syria and Iraq.⁴ A commitment like this would reflect commitments from other nations, such as the United Kingdom and Canada, who have committed to taking an additional 20,000 people from Afghanistan in response to the crisis.

Red Cross recommends that:

1. Australia provides a special humanitarian intake of 20,000 people from Afghanistan in need of humanitarian assistance and protection, in addition to the Humanitarian Program.
2. Australia provides initial support to countries in the region providing protection and also addresses resettlement needs in our region, including reviewing the decision to not resettle refugees in Indonesia who registered with the UNHCR after July 2014.

¹ Hawke, A, (2021)

² Hawke, A, (2022)

³ Dutton, P. (2017)

⁴ Figures taken from Department of Home Affairs, (2015 – 2020)

We note that as at 31 December 2021,⁵ there were 4389 people from Afghanistan who have been recognised by Australia as refugees in need of protection under the 1951 Refugee Convention but who remain on Safe Haven Enterprise Visas (SHEVs) or Temporary Protection Visas (TPVs), which do not provide them with certainty and safety about their future.

Our longitudinal research study on the impact of visa uncertainty, in collaboration with University of NSW and other agencies (Settlement Services International and Phoenix Australia), highlights the significant negative impacts that insecure visas have on people's ability to feel safe, secure, and plan for the future.⁶ We further note that as at 31 November 2021,⁷ there were at least an additional 346 people from Afghanistan in Australia on other temporary visas (excluding people on a Bridging Visa E) who may require pathways to permanency to ensure safety and certainty.

Australia's current policy settings mean that access to durable solutions in Australia are not equally available to everyone and may hinder the effectiveness of the international refugee protection regime.

Red Cross recommends that:

3. The Department of Home Affairs ensure people in Australia with links to Afghanistan can settle and build their lives here, including providing access to pathways to permanency, in particular for people who are on Temporary Protection Visas and Safe Haven Enterprise Visas.

Supporting family reunion

As a result of the rapidly changing situation in Afghanistan, many people have lost contact with their relatives.

In the two months prior to the fall of Kabul, Red Cross had received no Restoring Family Links enquiries relating to Afghanistan. In the two months after the crisis, we received 256 enquiries. The number of new enquiries in general doubled in the space of three weeks after the transition of governance arrangements, with 60 per cent of all new enquiries relating to Afghanistan. While the number of enquiries has now steadied, we still receive on average five new enquiries relating to Afghanistan a week.

The experience of Red Cross over the past 100 years in responding to conflict and disaster has underscored the essential role of family in overcoming trauma and re-establishing life after crisis. Conversely, we have also observed the significant challenges that emerge for those who experience prolonged family separation.

Red Cross has long been aware through our work with migrants experiencing vulnerability, including but not limited to those who have sought protection in Australia, that family separation is often associated with elevated mental health symptoms and can be a barrier to settling and establishing a new life.

These practice-based observations are supported by research⁸ including the findings from the Refugee Adjustment Study (RAS), a longitudinal investigation of refugee settlement and well-being in Australia, supported by Red Cross in collaboration with University of NSW and other agencies (Settlement Services International and Phoenix Australia), involving more than one thousand participants.⁹ Initial findings from the RAS show an association between family separation and elevated mental health symptoms while also pointing to the protective role of social capital, including social group membership in the mental health and well-being of those on insecure visas.

⁵ Home Affairs, (2021)

⁶ RTRP, (2021)

⁷ Australian Government, (2022)

⁸ British Red Cross, (2019)

⁹ Liddell BJ et al. (2020)

The support that family members provide to each other is known to strengthen people's wellbeing and resilience and is a strong protective factor. Family unity is crucial for providing the emotional, material, cultural and physical support necessary to ensure resilience and healing.

We have outlined our considerations in detail in our submission to the Senate Legal and Constitutional Affairs Committee's inquiry into *The efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions*.¹⁰

In Red Cross experience, emergency evacuations and population movements carry a high risk of family separation and require strong and safe planned coordination mechanisms to ensure that governments and resettlement agencies know where people are and to prevent separation.

With regards to people from Afghanistan, we have witnessed that the speed in which evacuations had to be carried out and the separation of families that occurred during the emergency evacuation has had significant psychological impacts on people who arrived in Australia.

The ICRC has opened a central register for children and young people who have been separated during the evacuation from their families who are/were in Afghanistan or a transit country or country of resettlement to assist families and authorities in locating missing family members and to facilitate the subsequent reunion of families.

As a member of the Restoring Family Link Network of the Red Cross Movement, Australian Red Cross continues to work with government to ensure that separated and unaccompanied children evacuated to Australia are registered.

In Australia, we have been working with other major settlement providers and government to register individuals where there were separation concerns. Where separation was across Australian States, we worked with state and territory governments to facilitate the movement of people across states so they could be reunited. Where separation is across other countries providing resettlement or situations of transit (such as the United States of America, United Kingdom or Germany), we have supported people impacted in Australia to access legal assistance to resolve the separation with the Department of Home Affairs.

Current policy settings further limit the priority placed upon any application for family reunion for people on TPVs and SHEVs.¹¹

Red Cross recommends that:

4. The Department of Home Affairs broaden eligibility and increase flexibility in processing of family reunion visas for separated family members. This includes removing any distinctions by humanitarian visa type or mode of arrival in the family reunion processing prioritisation.¹²
5. The Australian Government work with its international partners and support agencies to develop and establish a protocol to assess and record, in an emergency evacuation, instances of family separation of people in their care to (a) reduce instances and (b) enable prompt action to resolve instances.

Subclass 449 Humanitarian Stay visas

The Australian Government responded quickly and made legislative changes to accommodate legal barriers to the evacuation, such as the legislative changes to the 449 visa criteria. The decision to issue category 449 visas also meant that many people, who in a different situation and with more time may have applied for humanitarian protection prior to departing Afghanistan, have entered Australia on a temporary visa. As a result, people on 449 visas were not initially eligible for the same supports as someone entering on a

¹⁰ Red Cross, (2021)

¹¹ Ministerial Direction 80

¹² Red Cross, (2021).

permanent visa. For example, should someone want to enrol to study at university in January, they are considered a foreign student and would technically be required to pay international fees. Comparatively, if they were to enter on a humanitarian protection visa (a permanent visa) they would have paid domestic fees.

The Department of Home Affairs ensured the Humanitarian Settlement Program (HSP) provided additional assistance, including by helping people to navigate initial service eligibility and ensuring support was still available as required. We know that establishing permanent ties and connections to Australia and creating effective networks are important to settlement and wellbeing. Recognition of 449 visas varied across many state and commonwealth services which impacted access to individual and social benefits, though we recognise that these are already a focus of government and are being proactively resolved.

While acknowledging the real need by Government to make pragmatic decisions given the urgency of the situation, there is now an opportunity for Australian Government agencies to look to learnings and adapt the policy settings to ensure visas that may be used in similar emergencies are able to provide people with the required access and to improve Australia's preparedness in future emergencies.

Red Cross recommends that:

6. The Department of Home Affairs review supports available for people on Subclass 449 or other visas that may be used in similar emergency situations, to ensure the visas provide access to enhanced supports in line with permanent humanitarian protection visas.

2) The capacity, suitability and delivery of settlement programs and support services for Afghans who have arrived in Australia

The Humanitarian Settlement Program (HSP) is designed to provide wraparound support to refugees and Humanitarian Entrants, including by linking new arrivals with local and diaspora communities and ensuring access to other wider supports, under Australia's humanitarian program. The aim is to support people who have newly arrived in Australia to build the skills and knowledge needed to become self-reliant and active members of the community.

The mechanisms available under the Australian Government Plan for the Reception of Australian Citizens and Approved Foreign Nationals Evacuated from Overseas (AUSRECEPLAN)¹³ have proven to be a life-saving public service involving a whole of government approach. We acknowledge and appreciate the role of the Department of Home Affairs and HSP providers in going above and beyond the ordinary purpose of HSP for this response. It is our position that it was appropriate to mobilise the HSP service providers and extend eligibility for the HSP to citizens, Permanent Residents and other people entering Australia through the AUSRECEPLAN response.

As the HSP provider in WA, Southern NSW and the ACT, Red Cross has been able, and continues, to provide those who have been evacuated from Afghanistan with: assistance during their initial period of quarantine; support to find long term accommodation; support to access mainstream and specialist services; assistance to enrol their children in school; connections to local and diaspora community groups; orientation to Australia, including our values and laws; and access to employment and training support to help them recommence their careers.

The nature of the emergency in Afghanistan and the Australian Government's response meant that the circumstances of people entering Australia through the HSP were different from usual. The emergency situation meant there was limited opportunity for pre-arrival information sharing to assist people to understand the scope of support available to them on arrival and manage expectations.

Considering the circumstances of their departure, the Australian Government took the positive decision to offer all people evacuated access to settlement services through the HSP irrespective of their immigration status. This meant that all people (Australian citizens, permanent residents, and holders of other visa subclasses including protection visas), were eligible for HSP support. We welcome this decision and have found it to be of value to people other than refugees who requested to receive HSP support.

The nature of the emergency, the evacuation and the personal experience of people arriving from Afghanistan, has meant that the design of the HSP has needed to be adapted to the specific needs of this cohort. Some examples of the unique characteristics of those entering through the AUSRECEPLAN response, along with the impact of those characteristics on the HSP, can be found in Appendix A: Observations of the unique nature of the Afghanistan HSP intake.

Governments (National, State / Territory and local levels) have collaborated and responded quickly to emerging needs. This has meant that potential issues of the time, such as the closure of state and territory borders and requirement for hotel isolation, were responded to effectively with minimal impact on people arriving in Australia.

The response highlighted some areas that could be improved within the AUSRECEPLAN, for example:

1. **Identification of role of the HSP or other government funded services which may be relied upon within the AUSRECEPLAN:** Paragraph 1.4.123 states "*Where an evacuation involves*

¹³ AUSRECEPLAN, (2017)

persons requiring special assistance and support, the Australian Government and jurisdictions will negotiate specific arrangements".¹⁴ The specific arrangements applied in this instance were to provide evacuees with access to the HSP. Providing the necessary support to evacuees was achieved by having the HSP to go outside usual arrangements and work closely with the Department of Home Affairs to agree what services can be provided.

2. **Responsibilities of States and Territories:** According to part 2.13 of the plan, Australian states and territories have responsibility for developing and activating jurisdictional reception plans as appropriate. With the activation of the HSP, some confusion initially arose regarding responsibilities as processes and plans conflicted. States sometimes took on roles which the HSP staff would usually undertake and were not always aware of the scope and capability of HSP teams. HSP staff adapted and negotiated service delivery as required.
3. **Responsibilities of other service providers:** The HSP does not work in isolation; people require access to social services according to their needs (e.g., schools, health, employment, welfare, disability support, aged care support etc.). Similarly, local and diaspora communities receiving people need to be prepared and have capacity for an influx of new arrivals. Service providers, including the HSP, local and diaspora communities, and other stakeholders worked together closely to respond to the short lead in timeframes of the evacuation. The comparatively high volume of arrivals over a short timeframe, combined with many people having connection to specific towns or cities, meant that certain wraparound services were in demand. For example, we have seen a shortage of appropriate housing in the ACT, southern NSW and WA. We know many of the children require Early Childhood Early Intervention support under the National Disability Insurance Scheme.
4. **Media and public communications:** As we have seen with other emergencies, the Australian public followed this emergency closely and are generally educated on the evolving situation in Afghanistan and are compassionate to the needs of people being evacuated. On occasion community expectations were not aligned with the role of the HSP and more work was needed to explain the supports available to people through the program.

Our experience is that the HSP is aligned to the objectives of the AUSRECEPLAN, which is why the HSP has been able to successfully support evacuees from Afghanistan despite the significant challenges outlined above. However, to smooth out implementation challenges when the AUSRECEPLAN is enacted again, it would be beneficial to incorporate contingency plans for the HSP and other government funded programs which may be relied on in an activation, and to incorporate responsibilities within the AUSRECEPLAN.

The need to adapt services to changing humanitarian environments has happened before, for example with the emergency evacuation of people from Kosovo in 1999. With a continued increase in forced displacement and several protracted crises globally¹⁵ it is reasonable to anticipate that a similar emergency response may be needed in the future. There is opportunity now to embed the successes and learn from the lessons of this response and to ensure appropriate plans are in place for the next emergency.

Red Cross recommends that:

7. The Department of Foreign Affairs and Trade update the AUSRECEPLAN based on successes and lessons learnt from this experience (including service provider and community feedback), to strengthen responses to future humanitarian emergencies requiring a rapid evacuation response. For example, update paragraph 1.4.13 with a supporting Annex outlining contingency plans for the HSP and other government funded programs which may be relied on in an activation.

¹⁴ AUSRECEPLAN, (2017), page 6

¹⁵ UNHCR, (2020)

3) The situation on the ground in Afghanistan (including issues relating to the funding and delivery of humanitarian assistance)

Humanitarian context and impact:

The situation on the ground in Afghanistan remains extremely serious. A massive man-made humanitarian catastrophe is unfolding against the backdrop of decades of complex and protracted conflict, combined with a changing climate and a global pandemic. 24.4 million people need humanitarian assistance, a 30 per cent increase from last year.¹⁶ Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator at the United Nations (UN) Office for the Coordination of Humanitarian Affairs recently highlighted the enormity of the crisis in his opening remarks at the launch of the 2022 Afghanistan Humanitarian Response Plan (HRP).¹⁷ The UN appeal, of \$4.4 billion, is world's largest-ever single country humanitarian appeal.

A key contributor to the current situation is that Afghanistan is experiencing one of the worst droughts and food shortage crises in decades. Severe drought has hit more than 80 per cent of the country, crippling food production and forcing people from their land; 55 per cent of Afghanistan's population are experiencing high levels of acute food shortages. One million children in Afghanistan are now facing severe acute malnutrition.¹⁸ With heavy snow falling in Kabul and other parts of the country and temperatures reaching -9 degrees Celsius, we are hearing stories of people resorting to relying on dangerous coping mechanisms to survive, like selling their assets or burning furniture, shoes and tyres to keep warm. The situation for women and girls is particularly challenging as their rights and opportunities have become increasingly restricted; many are no longer able to work, study or make a living.

On top of this, the Afghan economy is collapsing with very little cash to purchase goods available through the banks due to the freezing of financial reserves. Many Afghan people, including key public sector workers (doctors, nurses and teachers), have not been paid for a long time, putting great pressure on the delivery of key social and health services. There is an unprecedented level of poverty leading to people and families being evicted from their houses because they are unable to pay rent.

For more than 20 years Afghanistan has been wracked by civilian casualties and internal displacement exacerbated by a lack of medical care. In 2020, at the same time COVID-19 was spreading across the globe and into Afghanistan, the country was also subject to a drought which has turned into one of its worst in decades. Across its borders, many Afghan refugees are also in need of assistance and protection. Despite the end of Australia's military and diplomatic missions, the humanitarian situation in Afghanistan means we cannot turn our back on the people of Afghanistan.

The International Red Cross Red Crescent Movement (the Movement)

Together with the Afghan Red Crescent National Society (ARCS), founded in 1934, the ICRC and the IFRC are present and operational in Afghanistan today. The ICRC has served the people of Afghanistan for more than 30 years and has not evacuated or withdrawn staff. The Movement has been working to rapidly scale up operations across the country in response to the growing humanitarian need in accordance with its unique mandate under the Geneva Conventions and their Additional Protocols to undertake relief activities. This includes support to communities struggling to meet their basic needs, support to essential services such as water, sanitation, and healthcare, protection, visits to places of detention, and tracing services to reconnect separated families. ICRC has a team of 1,800 staff, including 1,700 Afghan staff, who provide diverse humanitarian assistance across the country. In August 2021 ICRC doubled the number of health

¹⁶ UN OCHA, (2022a)

¹⁷ UN OCHA, (2022b)

¹⁸ UN OCHA, (2022a)

facilities it supports to 89 clinics and mobile health teams, up from 46, which are run by Afghanistan Red Crescent Society across the country, mostly situated in rural areas. In August 2021 ICRC doubled the number of health facilities it supports to 89 clinics and mobile health teams, up from 46, which are run by Afghanistan Red Crescent Society across the country, mostly situated in rural areas. In August 2021 ICRC doubled the number of health facilities it supports to 89 clinics and mobile health teams, up from 46, which are run by Afghanistan Red Crescent Society across the country, mostly situated in rural areas. In August 2021 ICRC doubled the number of health facilities it supports to 89 clinics and mobile health teams, up from 46, which are run by Afghanistan Red Crescent Society across the country, mostly situated in rural areas.

Our experience is that the Australian public is very concerned and engaged with the situation in Afghanistan and continues to donate generously to Australian Red Cross's Afghanistan Crisis Appeal, with the Appeal raising almost one million dollars. This funding from the public will provide life-saving humanitarian support to people and communities in Afghanistan and help Afghan communities in Australia locate and reconnect with missing family members.

Red Cross funds raised through the Afghanistan Crisis Appeal have gone to support the case management of those in Australia who have lost contact with loved ones in Afghanistan and the ICRC Afghanistan operation which is focused on health and humanitarian assistance. Key activities include:

- Supporting running costs, medical supplies and salaries for around 10,000 staff working across 23 regional and provincial hospitals in Afghanistan since August 2021. These hospitals provide almost 750,000 consultations per month providing access to healthcare for millions of people.
- Providing cash assistance for 2,000 female headed households (16,000 individuals) to cover their basic needs in terms of food, healthcare, and other expenses.
- Delivering fuel to hospitals, water stations, clinics, detention places to ensure continuity of power supply and water provision (between September and December 695,566 liters of fuel was delivered).
- Training members of the communities in rural areas to repair water handpumps. This will allow them to fix more than 300 water handpumps and improve access to safe water, which will benefit 9,940 people.
- Providing 9,465 detainees with winter assistance items (blankets, patou, shawl, jackets, and socks) and hygiene items in several places of detention across the country.

Red Cross recommends that:

8. The Australian Government directly support the work of the International Red Cross and Red Crescent Movement members including the ICRC and the IFRC who, through their operations and National Societies' extensive network of volunteers and dedicated staff are ensuring humanitarian provisions, essential services, and a basic level of healthcare are available to Afghans in the most vulnerable situations.

An enhanced Australian role to address the escalating humanitarian humanitarian situation in Afghanistan

We recognise the strong and whole of government work undertaken by Australia to date and, most recently, Australia's role in adding its voice to the call to the United Nations Security Council (UNSC) for a humanitarian exemption to its Taliban sanctions regime. These actions were necessary and appreciated.

However, the scale of the immediate need in Afghanistan is extreme and requires increased and coordinated donor support. At the launch of the recent Afghanistan HRP, the international community emphasised the importance of scaling up the humanitarian response. Donors, such as the United States of America (\$308 million), are increasing their contributions in additional humanitarian funding. Assessments indicate that Australia's current funding commitments can increase to match the scale of need, comparable to other

countries' commitments, and past funding levels. An increase to funding would represent follow through on previous funding announcements and reflect Australia's commitment to a strong and stable region.

The Australian Government can do much more to join with the donor community and provide urgent additional humanitarian assistance that is commensurate with the extreme humanitarian need in Afghanistan. At the same time, the international community must also learn from past experience of international assistance in Afghanistan and act to reduce the creation of parallel systems of aid delivery. Afghanistan is a country historically shored up by external aid. This untethered as international political positions hardened, and previous channels of support were stopped. Australia has a role in advocating to minimise the reliance on dual systems for the delivery of health and social protection by the donor community. International actors can provide necessary stopgap measures to save lives in the here and now. However, the critical role of Afghan institutions in the health and social protection sectors must be considered and utilised in the long-term.

To achieve this, there must be greater flexibility in what donor funding can be used for, including salaries for public sector workers and support to local structures and civil society organisations delivering basic services such as health, education, and assistance to support citizens' livelihoods.

To be clear, supporting these structures does not mean financing the Afghan de facto authorities. Rather, it means working with public institutions in Afghanistan that are managed by public sector workers, almost all of whom were in these jobs before the Taliban takeover. The structures they maintain are essential to avoid further destabilisation of the state and reduced capability to provide basic services to an already stressed population. Our message is the same as it has always been, humanitarian assistance should never be conditional, and the humanitarian imperative should be prioritised.

Afghanistan is a protracted and complex crisis, therefore there is strong sense in the Australian Government planning beyond immediate humanitarian aid for medium to long term humanitarian assistance. Undertaking this scenario planning collaboratively with its humanitarian partners, including Red Cross, will increase understanding of capacity, risk and access. Consulting closely with humanitarian partners to determine how risks associated with the delivery of humanitarian services can be jointly managed will support the Australian Government to protect the humanitarian space, central to design and implementation of humanitarian assistance.

Red Cross recommends that:

9. The Australian Government join with the international donor community by providing an increased level of funding that is commensurate with the extreme levels of humanitarian need in Afghanistan. Building on its experience of flexible funding in other contexts, Australia provide access to flexible humanitarian funding that can quickly adapt to meet changing conditions.
10. The Australian Government recognise its role in advocating to reduce the reliance on parallel systems for the delivery of health and social protection services.
11. The Department of Foreign Affairs and Trade undertake scenario planning with its humanitarian partners, including Australian Red Cross, to inform a mid to longer term Australian Government strategy for Afghanistan. In recognising that Afghanistan is now a protracted crisis there is strong sense in developing a protracted crisis plan.

Sanctions and International Humanitarian Law:

The humanitarian and economic crisis in Afghanistan has been exacerbated by the UN Security Council (UNSC) Taliban sanctions regime, which resulted in Afghanistan's financial assets being frozen and the banking system becoming paralysed. The sanctions regime has also impaired the ability of humanitarian actors, such as the Movement, to provide time-critical and life-saving humanitarian assistance to people most in need.

Financial sanctions under the UNSC Taliban sanctions regime, and its implementation under Australian law,¹⁹ have been the source of uncertainty for Australian humanitarian actors such as Red Cross, operating in, or otherwise providing assistance to, Afghanistan. Under Australia's domestic laws, it is currently an offence, to "*directly or indirectly make an asset available to, or for the benefit of*" the Taliban and sanctioned members of the Taliban,²⁰ a breach of which can carry large corporate fines and imprisonment terms for individuals. These laws currently provide limited safeguards for humanitarian organisations operating in accordance with established international laws, like International Humanitarian Law (IHL), which require States to allow and facilitate rapid and unimpeded passage of impartial humanitarian relief.

Without appropriate safeguards, sanctions offences may potentially risk capturing funding, incidental payments or relief consignments made during humanitarian operations. Due to these risks, humanitarian organisations have often erred on the side of caution when considering their involvement in Afghanistan, either delaying or restricting their operations despite the urgent and growing humanitarian needs in the region. Like other humanitarian agencies, Red Cross had to invest significant internal resources before any public funds could be sent to support the ICRC, despite it having a clear humanitarian mandate under the Geneva Conventions and their Additional Protocols to undertake relief activities.²¹

Private sector de-risking in the face of these uncertainties has also impeded the provision of humanitarian assistance and funding to Afghanistan, with banks, donors and service providers either limiting or refusing engagement on humanitarian activities associated with Afghanistan due to the risk exposure posed by sanctions. As a result, Red Cross has had to work closely with our own bank and corporate partners to address and alleviate concerns, outlining our due diligence and assessment processes before being able to make payments to support ICRC's Afghanistan operation.

Financial sanctions have seriously impeded the ability of humanitarian organisations to mobilise quickly and respond to the humanitarian crisis in Afghanistan and runs contrary to principles and rules of IHL, which protects rapid and unimpeded passage of impartial humanitarian relief for civilians in armed conflict.

On 22 December 2022, in an effort to address issues faced by the humanitarian sector, the UNSC adopted Resolution 2615, which provides a humanitarian exemption clarifying that "*humanitarian assistance and other activities that support basic human needs in Afghanistan*" are not in violation of financial sanctions against the Taliban and that "*provision of goods and services necessary to ensure the timely delivery of such assistance [or activities]*" is also permitted.

We understand that the Australian Government had a role in efforts to advocate for humanitarian exemptions within the UNSC Taliban sanctions regime and consider these efforts a demonstration of Australia's commitment to respect and ensure respect for IHL as part of its obligations under Common Article 1 of the Geneva Conventions.

¹⁹ *Charter of the UN Act 1945* (Cth), and the *Charter of the United Nations (Sanctions – the Taliban) Regulation 2013* (Cth).

²⁰ Regulation 9 *Charter of the United Nations (Sanctions – The Taliban) Regulation 2013* (Cth) (Taliban Regulations). Similarly see Regulation 6 and 8 of the Taliban Regulations which makes it an offence to provide "*technical advice, assistance or training related to military activities to designated persons or entities.*"

²¹ For example, see Article 70-71, *Additional Protocol (I) to the Geneva Conventions, 1977*; Article 18 (ii), *Additional Protocol (II) to the Geneva Conventions, 1977* and Articles 59-60, *Geneva Convention (IV) on Civilians, 1949*.

Red Cross welcomes the adoption of this resolution and appreciates the Australian Government's guidance²² and willingness to engage with our sector on this development. While the adoption of this resolution provides well-needed clarification that humanitarian assistance and activities are excluded from the operation of financial sanctions against the Taliban, formal amendments are needed to Australia's domestic laws to explicitly reflect this exemption. Such amendments will not only provide explicit assurances to the Australia's humanitarian sector, they will also provide clarity to donors, as well as financial and private institutions supporting humanitarian organisations in their activities regarding Afghanistan.

As auxiliary to the public authorities in the humanitarian field, Red Cross has a mandate to cooperate with Government to ensure respect for IHL. As part of this role, Red Cross can provide its IHL expertise and humanitarian perspective to assist with any sanction reforms.

Red Cross recommends that:

12. The Australian Government make formal amendments to its Taliban Sanctions Regime to explicitly safeguard impartial humanitarian action in a manner consistent with IHL and humanitarian principles.
13. The Australian Government consider implementing long-term humanitarian safeguards to its broader sanctions regimes, including domestic laws implementing both UNSC and autonomous sanctions, to prevent future situations like that of Afghanistan where sanctions have impeded the timely delivery of critical humanitarian assistance to those in need.

²²DFAT, (2022)

Conclusion

The Australian Government's rapid response to the changes in Afghanistan in August 2021 resulted in thousands of people from Afghanistan being relocated to Australia. Through the Department of Home Affairs mobilising the HSP as part of the response, we have collectively been able to successfully support people from Afghanistan with their journey to settlement in Australia. There is opportunity to learn from the response, including by identifying strengths that can be further reinforced and implementing changes to ensure Australia is better prepared for when a similar emergency evacuation is required in the future.

The humanitarian need of many people from Afghanistan remains critical, whether they remain in Afghanistan or have moved to another country in search of safety. Australia could do more, such as through expanding humanitarian intake levels, increasing humanitarian aid to the region and developing a protracted crisis plan, and continuing to remove administrative barriers to enable humanitarian agencies, such as Red Cross, to operate effectively in Afghanistan.

We stand ready, as auxiliary to the public authorities in the humanitarian field, to work with all stakeholders, within and outside of Afghanistan, to ensure that Afghan people have the protection and assistance they need, in all circumstances.

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Appendix A: Observations of the unique nature of the Afghanistan HSP intake

Below are some observations from our HSP experience regarding the way the 2021-22 Afghanistan HSP intake had characteristics which were unique compared with a 'normal' HSP response.

Strong collaboration:

There was a strongly collaborative approach between the Department of Home Affairs and Humanitarian Settlement Providers to stand up a unique settlement response in a very short timeframe. The willingness to go above and beyond the usual HSP service provision in terms of eligibility and available supports contributed to an overall successful implementation despite a range of challenges and a crisis environment.

Humanitarian status:

The group of people supported comprised people evacuated on temporary Humanitarian Stay visas (subclass 449) along with Australian citizens and permanent residents (for example people on partner or humanitarian visas).

Many of the Australian citizens we worked with were former refugees, or the children of former refugees, who settled in Australia in the 1990s and 2000s who had been working in Afghanistan for some years. Many had since married and had families, most of whom had never lived in Australia despite being citizens by descent.

Subclass 449 visa status:

People who were evacuated on temporary humanitarian stay visas are people with varied permanent pathways, primarily Family and Humanitarian streams.

People on temporary visas are unable to sponsor family members until they are granted a permanent visa.

Legislative change, collaboration with government and advocacy was undertaken to ensure people could access the support they require, including financial assistance (rent in advance and bond loans) to commence a tenancy, ensuring 449 visa holders were eligible to enrol children in schools, as well as access to Medicare and related concessions.

Pre-departure preparation:

People had limited access to pre-departure health assessments or to Australia's Cultural Orientation Program (AUSCO) due to the emergency nature of the evacuation. In the general resettlement process, these inform on-arrival support such as whether there are pre-existing health concerns which require close management, help people understand legal and cultural norms in Australia and assist people to understand the scope of support available to them on arrival and manage expectations.

The range and level of supports available to people on-arrival to Australia were consistent with those provided to other humanitarian entrants, however in some instances this did not match the expectations of people arriving or diaspora communities without prior knowledge of usual settings. The lack of time for pre-departure preparation and expectation setting contributed to this.

Family status:

Many families were separated during the emergency evacuation, including immediate family members either with family remaining in Kabul or travelling to other countries (e.g. USA). The lack of a coordinated point of reference for governments and resettlement agencies to know where people are contributed to this.

While many children, young people or their families who have been separated are now in contact through the Red Cross Restoring Family Links service, we continue to work on a number of cases that remain pending and unresolved.

Concern for family is the need raised most often by people to whom we have spoken. People are actively seeking confirmation about the safety and wellbeing of their family members, and where possible, are working with legal representatives to support their reunification.

Location of choice in Australia:

Many of those involved in the evacuation had strong existing ties to Australia which was the primary consideration for people when deciding in which state to ultimately settle or reside. Understandably, people made these decisions once they were safe and undergoing hotel quarantine, resulting in large movements of people domestically with little notice.

Family size and composition:

There was a mix of family sizes and compositions. Many people formed part of multi-generational households requiring larger homes which are scarcer. Many people also had a preference to live near family and friends, which is not always immediately feasible especially in the current housing shortage across many parts of Australia.

English Language proficiency:

Most lead applicants speak some English as they worked closely with the Australian military or other authorities in Afghanistan, including as interpreters.

Access to belongings and finances:

A significant number of people arrived with very few personal belongings and with varying levels of access to their finances and assets. Access to personal finances varies and has become more difficult for people who have funds within Afghanistan.

Public interest:

There is a high degree of public awareness and interest about the situation in Afghanistan and evacuation of people to Australia.

As happens with all settlement of refugees and humanitarian entrants, many people in local and diaspora communities provided material and practical support to those who arrived in Australia. This was important in demonstrating the degree to which the community stands in solidarity with Australia's Afghan community. As noted earlier, there were also occasions where community members' expectations of support provided did not match those ordinarily provided to humanitarian entrants.