



SPECIAL REPORT

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ABOUT THE REPORT

The vast majority of land in Afghanistan is untitled and unregistered, further complicating the Afghan state's ability to help sustainably resolve land disputes. The United States Institute of Peace (USIP) and the Afghanistan Land Authority sought to address this problem by testing a new model of engaging community dispute resolution in formal land registration. This report examines the lessons learned from the pilot and proposes recommendations for reform.

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Erica Gaston and Lillian Dang

Addressing Land Conflict in Afghanistan

Summary

- Land disputes are a primary driver of conflict in Afghanistan. Population pressures, rapid urbanization, displacement and resettlement, and rising land value have increased competition for land since 2002.
- When disputes over land arise, they fester and multiply because both the formal and informal mechanisms for land conflict resolution and enforcement are weak.
- Community-based dispute resolution historically mediated land disputes, but the two decades of conflict and instability following the 1979 coup weakened community social structures. Socioeconomic changes and the ongoing insurgency and displacement since 2002 have further destabilized traditional mechanisms.
- State mechanisms are even less able to sustainably settle disputes given their limited presence, poor enforcement capability, bad reputation (due to corruption and land grabbing), and the widespread lack of authentic title deeds.
- In the 1960s and 1970s, the Afghan state tried to formalize land ownership, but the effort was limited and primarily urban. Most of the documentation created has since been destroyed, lost, or deliberately falsified. No more than 20 percent of land in Afghanistan is accurately titled.
- USIP conducted a pilot project from fall 2013 to spring 2014 seeking to increase formal registration of land that had gone through community dispute resolution. The legal framework was a substantial hurdle. The limited means for recognizing communal and pasture lands and customary ownership under Afghan law are at odds with the reality of most land ownership in Afghanistan.
- The current Land Management Law creates a fundamental catch-22: To establish ownership a person must already have formal documents proving ownership. Given the pervasive lack of formal documentation, this creates inherent disincentives for citizens to register lands and gives rise to an inherent conflict between the state and most landowners in Afghanistan.

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Land Conflict in Afghanistan

Land disputes have long driven violent conflict in Afghanistan. Widespread poverty and a scarcity of productive land generates intense competition among communities, ethnicities, and tribes for land and resources. Disputes over access to land and water are a major source of intercommunal and intracommunal conflict and can have violent ramifications.¹ These dynamics are exacerbated by historically unequal land distribution and periodic forced redistribution and resettlement of groups from particular ethnicities for political control.²

Precise national statistics of the prevalence of land conflicts since the fall of the Taliban are unavailable. In an Oxfam International security survey of five hundred respondents in 2008, however, half of those interviewed said that land was a major cause of insecurity.³ Studies of dispute resolution mechanisms in particular provinces have tended to find that between 50 and 70 percent of disputes involve land and property.⁴ One of the most prominent land scholars, Liz Alden Wily, notes that sources of land conflict in Afghanistan, ranging from “interpersonal conflicts to more serious inter-communal conflicts over large land areas ...[are]...more common in 2012 than in 2002.”⁵ A multiyear national survey by the Asia Foundation indicates rising demand for land dispute resolution; survey participants who sought outside help or dispute resolution for a land issue jumped from 28 percent in 2007 to 52.5 percent in 2014.⁶ In the pilot studies that are the focus of this report, residents in Kunduz and Khost provinces said that land conflicts have risen significantly in recent years or that they have been more difficult to resolve than in the past.

Multiple factors drive pervasive land conflict. Demographic and geographic shifts have in turn changed customary settlement and ownership patterns since 2002, intensifying land competition. By early 2012, nearly 5.7 million Afghans who had fled during previous conflicts came back to Afghanistan, increasing the population by nearly 25 percent.⁷ Once home, they found that their former homes or property had long since been occupied by others—sometimes for decades.⁸ They also often returned with new demands, those who had previously worked as tenants now wanting their own land.

The overall population has increased significantly independently of the returnees. In rural areas, this growth led to the division of already heavily subdivided family land into smaller tracts, sparking numerous inheritance disputes.⁹ Urban areas such as Kabul have as much as doubled since 2002, resulting in village-sized tracts of informal settlements and increased competition and conflicts over urban property and resources.¹⁰

Another critical factor driving land conflict since 2002 is higher property values, which have given rise to land grabbing and predatory behavior among state actors and armed groups. Since the Bonn Agreement, Wily notes, the value of land has increased by more than 1,000 percent in key urban areas, due in part to rising investment by wealthy Afghans returning from abroad and in part to the influx of international military and development aid.¹¹ Outside urban areas, the explosion in poppy cultivation has increased rural land value. Poppy cultivation has also taken over land previously available for agriculture and sapped irrigation sources, increasing rural land conflict.¹²

The higher property values, together with a weak land administration system, general insecurity, and corruption, have created an enabling environment for widespread land grabbing by powerful government officials and their affiliates.¹³ The Afghanistan Land Authority estimates that more than 1.2 million jeribs (240,000 hectares) have been usurped.¹⁴ Land usurpation has given rise to a multitude of forged land documents within the court deed registry, as well as through the government land distribution schemes, which compromises the legitimacy of the state land management system and is an additional hurdle to land reform.

Land Management and Dispute Resolution

Another significant reason behind the prevalence of land disputes is the lack of available mechanisms for regulating or preventing land conflict, through either the Afghan state or community-based mechanisms.

Most land ownership and use in Afghanistan has been based on informal or customary arrangements that evolved over time. Historically, the Afghan state had only a minimal role in land management. Legal title was also of little value to most Afghans because the state was too weak to enforce property rights beyond urban centers. Sporadic efforts in the 1920s under King Amanullah and again in the 1930s under Zahir Shah to privatize and increase documentation of land for tax retrieval purposes had little effect. In 1964, the Department of Land Affairs (AMLAK) was established to manage land and register properties for tax collection. In the 1960s and 1970s, AMLAK made the first real attempts at collecting and tracking Afghan landholdings, collecting them in what they called the Basic or Principle books. Registration with AMLAK ultimately was made compulsory in 1978. In addition, in the 1960s and 1970s, the Afghan government led an initiative—supported and promoted by the U.S. Agency for International Development (USAID) and other international donors—to expand land titling and registration and to develop a record of all registered and certified property claims in Afghanistan, known as a cadastral map. These maps never included any coordinates, however, making it difficult to locate land parcels, and the project was primarily carried out in the urban areas of a few provinces, by some estimates no more than 30 percent of Afghanistan’s territory.¹⁵

However limited the initial reach and effect of these initiatives, they were further undermined in the two decades of occupation, civil war, and conflict that began with the Soviet invasion in 1979. For much of that period, the Afghan state lost the capacity to even safeguard the formal documents that existed, much less to enforce the law. A vast proportion of the maps and surveys, basic or principle books, and title deeds—held either with the property owners or with local courts—were damaged, destroyed, or lost. Municipal records and maps were often deliberately destroyed or altered to enable land grabbing and misappropriation.¹⁶ What records did survive were infrequently updated.¹⁷ Meanwhile, demographic and social changes, ongoing land transfers, and creation of new tracts of land vastly altered land ownership and use but went unrecorded by a largely inoperative Afghan state. As a result, one land expert interviewed in 2013 estimated that only 20 percent of the land is accurately titled, even though significant effort had already been spent trying to clarify titles since 2002.¹⁸ In areas where formal records once existed they are now unreliable, many forged to enable illicit land grabs, and accordingly the conflicting story they tell can be as much a source of conflict as an avenue for resolving disputes. The lack of true cadastral maps does not help.

Given the limited role and capacity of the state on land issues, communities have long looked to informal community dispute resolution, such as mediation through local elders or groups of elders, known as *shuras*, to resolve land disputes.¹⁹ Research and pilot projects from 2009 to 2011 found that citizens overwhelmingly prefer community dispute resolution over the formal justice system due to mistrust of the government system, fear of corruption or taxes, or a lack of documentation.²⁰

However, although most citizens still prefer community dispute resolution, it is no longer as effective as it once was. The two decades of conflict, civil strife, and repression from Soviet occupation to civil war to the Taliban period displaced roughly half the population and left at least one million dead, among other consequences.²¹ Such massive demographic changes repeatedly disrupted customary patterns of ownership and weakened the under-

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lying power structures that provided authority to community dispute resolution. Local structures have been further strained in the post-Taliban period by political instability and a thriving insurgency, which has—to expand its control—directly targeted tribal leadership. Increasing encroachment by state actors, either land grabbing or asserting legal ownership over what was previously communally or customarily held land, has further eroded elders’ authority. The erosion of these traditional structures limits elders’ ability to force a resolution of land disputes or to ensure that any compromise brokered is respected over time.

In some communities, the diminished influence of local elders might not be entirely negative, given that in many communities elders were also powerful and sometimes exploitative landowners. This trend, however, explains much of the increasing instability in local property rights in recent years. Customary mechanisms for land dispute resolution are simply no longer the guarantor of property rights that they once were.²²

The breakdown of these mechanisms has led to increased interest in a greater state role. In Kunduz, for example, all sixty-nine respondents cited inadequate state-approved documentation and land registration processes as a significant cause of conflict and argued for a more assertive government role.

Even in communities that do not necessarily embrace a stronger state role, the breakdown in community enforcement has led to greater interest in official forms of documentation. In Khost, the community was warier of state interference. Nonetheless, tribal leaders “expressed a keen desire for written documentation to increase and, under certain conditions, for government land titling and dispute resolution institutions to expand their mandate.”²³ Customary documentation—some written record of the outcome of a tribally mediated land dispute—has long been prevalent in Khost. Elders argued that when a record existed, disputes were easier to resolve and the risk of violence was lower. Formal documentation—evidence of having paid taxes, the formal stamp of a government official on a community dispute resolution decision, or even a formal title—tended to be even more decisive. At this time of greater instability in customary enforcement, some level of formal documentation or evidence is thus even more desirable from the community perspective.²⁴

Piloting a New Approach

Based on these findings, USIP pursued a pilot project testing whether greater cooperation between community dispute resolution actors and state land management actors was possible to promote increased formal land registration or title, and—if so—whether increased formal documentation might contribute to reduced land conflict.

Since 2002, many Western donors have supported initiatives to formalize land rights and strengthen state land management. This pilot was intended to complement such initiatives. Many efforts to expand land title have been in urban areas, notably those to register and formalize informal settlements.²⁵ For this reason, this pilot sought to focus more on peri-urban or rural areas. Pasture and range land issues have also been documented, and possible solutions piloted.²⁶ Thus, although these issues—which are arguably the most significant land issues in rural areas—ultimately came up in the pilot, the initial focus was on individual landholdings rather than communal land.

Of particular interest in the lessons learned from past projects is the importance of including or incorporating Afghan state land management actors into the process. A 2007 joint project by the Asian Development Bank (ADB) and the United Kingdom’s Department for International Development (DFID) sought to establish a community-based register for private rural land based on a locally facilitated village-level land-use agreement identifying land by satellite mapping coordinates. One key ADB-DFID recommendation was the need

for state recognition of locally facilitated agreements and government involvement in the process to lessen tension between the state and citizens. It was viewed as important that citizens are provided with “much demanded official documents clarifying land use and ownership rights.”²⁷ The USIP initiative sought to use a similar community-based approach, in this case working through or with community dispute resolution actors, but to build on the ADB-DFID lessons learned by directly involving state actors and encouraging some form of official documentation or recognition of the outcomes as an end result.

Since the 2009 and 2010 reforms designed to centralize land management, Afghanistan’s land management has been led by the Afghanistan Land Authority (nicknamed *Arazi*, a word meaning land in Dari and Turkish). *Arazi* is an independent government agency that reports to the council of ministers and has separate national, provincial, and district offices. In 2013, *Arazi* also assumed responsibility over cadastral surveys.²⁸ Recognizing the prevalence of land disputes, and that these contests were preventing wider registration and government assessment of land, *Arazi* established a land dispute resolution unit, but it was not well resourced and had limited capacity. *Arazi* sought ways to connect the unit with communities and to flesh out its mandate and role.

USIP and *Arazi* envisioned a joint pilot to test a new set of administrative procedures and processes that would allow *Arazi* to register land through its dispute resolution office in coordination with local community dispute resolution bodies.²⁹ In addition to testing *Arazi*’s ability to expand community outreach, the pilot would help identify continuing roadblocks to converting the millions of *jeribs* of untitled, customarily owned land to full title. Another potential outcome was to gather evidence on whether creation of a temporary title—a way to convert customary ownership to formal title that has proved effective in other countries where communal or customary ownership predominates—might be useful in Afghanistan.³⁰

The provinces of Kunduz and Khost were selected because the differences in land conflict and registration dynamics between the two would offer an idea of how the model would apply under differing circumstances.³¹ The Peace Training and Research Organization (PTRO) and The Liaison Office (TLO) were chosen to facilitate the USIP-*Arazi* pilots in Kunduz and Khost, respectively. Both local organizations had experience with dispute resolution research and programming in these provinces.³² The nongovernmental organizations would work with community elders to identify land disputes that were resolved through community dispute resolution, in which the landowner would be interested in having the land registered or proceeding to full title. They would then work with the local *Arazi* office to clear and register the tracts of land through the *Arazi* dispute resolution unit.

Implementation Challenges

PTRO and TLO conducted the preliminary assessments in the summer and early fall of 2013, examining the conditions of land conflict and land registration in both provinces and identifying potential land dispute test cases for registration. Simultaneously, USIP worked with *Arazi*’s national office to develop *Arazi*’s internal procedures and modalities for registration, and then to train local *Arazi* staff in Kunduz and Khost on these procedures.³³ This took far more time than anticipated because it involved not only developing new procedures and templates but also navigating the often-complex interdepartmental politics surrounding land regulation in Afghanistan.

An additional challenge was resistance from district and provincial *Arazi* staff who were unaccustomed to the new procedures and feared that engaging with community dispute resolution might be illegal. In their uncertainty, local *Arazi* staff frequently sent mixed messages to local community elders and landowners participating in the project, which in itself delayed and frustrated outcomes.

Although many landowners in Kunduz and Khost were interested in the pilot, their enthusiasm for obtaining formal land documentation was allayed by equally serious misgivings and mistrust of engaging with state actors, or simply the desire to avoid tax liability. Misgivings about government intervention were stronger in Khost. Tribal elders feared that any government interference, whether surveys or registration, would result in government appropriation of what they perceived as tribal land—a justified fear given the lack of recognition of communal land under Afghan land law.³⁴ Even in Kunduz, where initial willingness among landowners to engage in the process was greater and mixed messages from the local Arazi office were fewer, trust building was critical. PTRO's presence in registration meetings between landowners and Arazi officials was essential because landowners were not confident about approaching Arazi independently.

As a result, only a short period was available for registration, a few weeks between April 2014 and July 2014. This proved a difficult time because it overlapped with the April 2014 presidential election cycle, the beginning of the summer fighting season, and Ramadan. Ultimately, twenty cases were registered in Kunduz and seven in Khost.

Given more time, the number of registered cases would likely have been higher in both provinces, particularly in Khost. Registration of more complex or difficult disputes was not possible given the limited registration period, nor was there time to resolve the dispute within the course of the pilot and then register it, as TLO had initially proposed.³⁵ During the pilot, TLO identified an additional thirty cases of landowners willing to register but unable to do so because they were unresolved when the pilot closed.

Case Selection

Time limitations and legal restrictions may also have de facto eliminated certain types of cases from being registered in the pilot. In Kunduz, most of the cases registered involved lower-level individual disputes, such as those between neighbors, between brothers about an inheritance, or a returning refugee claiming land from new settlers. None involved land grabbing or militia engagement. In Khost, all of the disputes were, according to TLO, “low intensity, with no violent altercation or significant obstacles to resolution,” involving inheritance, the customary right to make the first offer to purchase (*shafa*), passage user rights, and land transfer issues.

The focus on low-intensity individual disputes was in part a function of the limited time available—sorting through the more complex evidentiary questions inherent in intertribal or tribal-state disputes was not possible in the limited registration period available. However, the focus was also the result of the legal framework governing land law, which limited what types of cases Arazi could meaningfully engage.

Afghan Law on Establishing Land Ownership

Afghan land law does not recognize many forms of communal ownership or use that are customary in Afghanistan. For example, tribes in Khost consider themselves to be the communal owners of large areas of forest, mountain, and desert land, which they have been using for long periods. This conception of ownership is not supported under Afghan law, however.³⁶ Thus, trying to refer intertribal disputes over communal lands to Arazi or any state actor offers no value. State actors would have no choice in most cases but to declare the land in question to be state owned. This would likely exacerbate the immediate conflict and set back efforts to broker trust and encourage greater formalization, registration, and taxation of land in that area in the long term.

Another significant limitation stemmed from the limited recognition of customary ownership under Afghan law. The availability of formal documentation proving ownership is

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important even simply to clear land for registration, as this pilot attempted to do, because a 2003 presidential decree stipulates that any land for which there is not definitive proof of other ownership belongs to the state.³⁷ Thus, without documentation, the landowners introduced to the Arazi pilot registration process might have their land declared state land.

Despite that formal registration and titling has never been widespread, for the most part Afghan law only recognizes land ownership based on formal documents. The gold standard for establishing land ownership is a court-certified deed, ideally supported by copies in court registries.³⁸ If court records have been destroyed or are otherwise missing, court certification of the original deed must be obtained.³⁹ Additional supporting evidence would be registration in the Basic books, though this is not essential.

In countries where formal land titling has not been prevalent, land and property law frequently permits some way for de facto or customary landowners to gain legal recognition. In Afghanistan, the mechanism is so limited that it excludes most customary ownership.⁴⁰ Under Afghan law, various customary documents can be legally recognized as long as they are written and signed or otherwise marked with fingerprints or stamps by parties to the document.⁴¹ For customary documents related to land, an additional criterion is required—an original formal land document.

The relevant legal provision is Article 5(5) of the Land Management Law (LML).⁴² Under this provision, land ownership transferred via customary documents rather than formal deed is recognized given three criteria: an original valid deed from the seller, the purchaser has a customary deed prepared before 1975, and a declaration form registered with AMLAK by 1978. In provinces where declaration forms were not distributed or were destroyed, a landowner may confirm the claim by oral testimony of neighbors.⁴³ Interviews suggest that judges in practice have been more lax on enforcing the narrow date requirements to the letter.⁴⁴ This is a positive step given that it would prima facie exclude most land transfers for the last three decades, but the requirement for an original valid deed cannot be avoided. Given that only an estimated 30 percent of the country has been mapped, and a smaller portion titled, this effectively invalidates nearly all customary land transfers or acquisitions in which, despite being a bona fide owner of the land, the seller did not have or never had an original formal land document.

Proposed amendments to the LML at the time of writing will remove the date requirements under Article 5(5) but not the requirement that customary land documents be based on an original formal land document.⁴⁵ Without removing this criterion, bona fide landowners who have possessed or acquired land through customary practice—that is, without any original formal land document—have no legal avenue to establish legal ownership. Afghan law creates a fundamental catch-22: To establish formal legal ownership based on customary documents, one must already have formal legal ownership as established in an original formal land document.

The other way for those without legally valid land documents to establish ownership is through adverse possession, a legal term of art that essentially grants ownership following physical possession for a (usually statutorily set) number of years. However, adverse possession rights have also been limited by changes to the LML since 2002. The Taliban era land law from 2000 permitted visible occupation of lands and testimony of neighbors to establish ownership when evidence of ownership had been either destroyed or never registered.⁴⁶ However, the 2008 amendments to the LML require occupation for more than thirty-five years (that is, since 1973, the year the amendment was enacted) to establish adverse possession, which must be demonstrated through evidence of construction, testimony of neighbors, and other conditions for that time.⁴⁷

Afghan law creates a fundamental catch-22: To establish formal legal ownership based on customary documents, one must already have formal legal ownership as established in an original formal land document.

An additional limitation is the 2003 presidential decree that presumes state land ownership in the absence of definitive proof to the contrary.⁴⁸ This sets a high bar against adverse possession claims succeeding. If a landowner without formal title or valid customary documentation tried to assert a claim over land based only on the oral testimony of neighbors, it is not clear that they would prevail against presumption of state ownership.

Proposed amendments to the LML 2008 would reduce the occupation time requirement for adverse possession to more than fifteen years before 1979.⁴⁹ Although better than thirty-five years, it would still fail to realistically take into account the years of conflict and scale of displacement interrupting normal occupation and tenure patterns in Afghanistan. In many postconflict contexts, the statutory period to establish adverse possession tends to be shorter (such as five years in Cambodia) to better account for population movements during extended periods of conflict.

This pilot project was not primarily about establishing full legal title, but the limited avenues for recognizing customary ownership were nonetheless a significant bar to expanding any type of engagement between state land management authorities and communities. These legal issues would have to be addressed for any initiative aimed at expanding formal land rights or relations to succeed.

Different Dynamics, Different Outcomes

The model worked notably better in Kunduz than Khost. Not only were more than double the cases registered in Kunduz (twenty) than in Khost (seven), but at each step along the way, the project was also easier to implement in Kunduz. Registration faced less resistance, both among communities and with the local Arazi office in Kunduz. This was due to both the nature of disputes in Kunduz and the history of land registration. Understanding the land conflict contexts in the two provinces is important to unpacking these dynamics.

Types of Land Conflict

Land and water are predominant sources of conflict in both provinces, but the nature of conflict differs.⁵⁰ In Kunduz, land disputes tend to be between individuals, often related to inheritance disputes, conflicts sparked by the return of internally displaced persons and refugees, and the illegal occupation and sale of land by local commanders.⁵¹ In contrast, in Khost, persistent land conflict tends to be between tribes or between the tribe and the state; individual disputes tend to be resolved within the still somewhat resilient tribal structures.⁵² The majority of persistent and serious disputes are about forested land or previously unsettled land now ripe for development.⁵³ TLO notes that land conflicts are also frequently caused by one tribe or party attempting to “extend the boundaries of the territory it is currently occupying, with communities competing over what they perceive as their legitimate rights over neighboring unexploited—and mainly government-titled—land.”⁵⁴ Such clashes between the tribe and the state are infrequent in more remote areas, where the state has little effective writ, but have become a growing source of conflict in urban areas and peri-urban areas around Khost city.⁵⁵

The pilot was better suited for dealing with individual disputes. Individual cases were easier to resolve within its relatively simple structure and limited time frame. In addition, as noted, Afghan law would have in many instances prohibited state engagement in addressing many of the communal land conflicts in Khost short of declaring the land in question to be state land. As a result, nearly all of the cases ultimately registered in both provinces dealt with disputes between individuals. Even in Khost, where intertribal disputes dominate, the cases registered—with only one exception—involved small, individually owned plots of land. Because individual disputes were the bigger issue in Kunduz, the pilot model was more applicable there.

In Kunduz, land disputes tend to be between individuals. In contrast, in Khost, persistent land conflict tends to be between tribes or between the tribe and the state.

A second reason the model was more easily applied in Kunduz was that the nature of disputes was such that state intervention was perceived as beneficial. Militia activities and control have risen dramatically in Kunduz since 2009, and with them so has land grabbing by armed groups and commanders.⁵⁶ Landowners argued that some form of state-recognized legal land registration or title would help protect their rights from land grabs and violence from militia groups or power brokers, who more frequently target those with no formal documentation.⁵⁷ Corruption among and land grabbing by state-affiliated actors is also a major issue in Kunduz. Although legal title is not necessarily foolproof protection against such threats, it is the most compelling proof in the event of land usurpation or corruption. By contrast, in Khost, because individual disputes were largely resolved relatively well within the tribal system, demand for a government-backed system was scant. Problematic disputes, for which third-party intervention and recognition might have been appropriate and desired, were predominantly intertribal, which were off limits for state intervention. In sum, in Kunduz, community demand matched relatively well with what Arazi could offer, whereas in Khost the disputes demanding intervention were exactly those in which Arazi could not helpfully intervene.

Documentation and Registration Patterns

Another reason the pilot may have had more traction in Kunduz than in Khost was the greater availability of documentation and registration records.

As noted, the Afghan state made some efforts to collect and record evidence of land and property ownership in the 1960s and 1970s, even attempting a cadastral map. These efforts had more impact in some areas than in others. Kunduz is one of the provinces where the impact was greater, an estimated 20 percent of its land being surveyed—among the highest in Afghanistan.⁵⁸ Voluntary registration of land in the AMLAK Basic books was also more prevalent in Kunduz. As a result, landowners in Kunduz often have some form of formal documentation, whether tax or land receipts from AMLAK, inheritance letters, financial receipts of land purchases, cadastral registry cards, customary documents registered with the AMLAK Department between 1971 and 1978, and even court-issued deeds.⁵⁹ This helps explain the easier registration process in Kunduz: Of the twenty test cases identified, only one had no documentation.

By contrast, the state has made virtually no land management effort in Khost. Only an estimated 10 percent of land is documented, and that is typically in tax records or *firman*s (land grants by decree) dating from before 1978, which are of little legal value in the current system.⁶⁰ Although past documentation does not always facilitate registration, having something increases the odds of success. That none of the original forty cases identified in Khost featured any meaningful documentation meant that nearly all of them faced a steep evidentiary challenge to establish even basic registration. This seriously limited how far the pilot could be pursued.

Trust and Awareness of Afghan Land Authorities

The history of engagement in land management in a province was important in terms of not only the availability of formal documentation but also the community's basic awareness and trust in state processes. In Kunduz, half of the respondents were aware of the cadastral mapping process. Many said that if they had a land dispute they would already take it to state actors for recognition, some even specifically mentioning AMLAK.⁶¹ Working with Arazi was thus neither unfamiliar nor particularly intimidating.

In Khost, however, the idea of state engagement with land management was so foreign that TLO had to work much more on outreach and trust building between the community and local Arazi officials to reach even a starting level of engagement. The preliminary TLO study described examples of land titling in Khost under the Karzai government as “virtually nonex-

istent, or at least unknown.”⁶² Almost none of those interviewed were aware of any AMLAK or Arazi role in land management in Khost.

Although not unsurpassable, this factor means that in provinces such as Khost with no past engagement with state land management, it would take far more time and effort to ground projects like the USIP-Arazi pilot.

Pilot Outcomes and Future Directions

Although the pilot demonstrated interest in land registration among communities, and some traction in increasing it, its real value is the insight it offers on the challenges and limitations to expanding registration. The model worked notably better in Kunduz than in Khost for two reasons, the nature of land disputes and the baseline level of documentation. However, many more provinces in Afghanistan mirror the situation in Khost in having no prior documentation and significant communal land conflicts. The solution is not that registration should not be attempted in provinces like Khost, because that would foreclose registration in most of Afghanistan. The solution is instead to reform the legal framework to be more flexible in recognizing community and customary land ownership and use.

More fundamentally, the experience of the pilot raises questions about whether any model can encourage registration unless some of the obstacles to recognition of communal and customary land rights under existing law are first addressed. The USIP-Arazi pilot tested one small component of the larger challenge of formalizing land rights and improving sustainable dispute resolution. Formalization of uncontested parcels or of informal settlements is a much larger issue. Initiatives designed to address these issues would likely face problems similar to those the pilot faced.

Future Legal and Policy Reform

Eventually offering some means for obtaining formal title to all landowners and areas is attractive from a state as well as a community perspective. Greater formalization of property rights might reduce the risk of repeated land disputes, limit land grabbing, protect property owners' individual rights, provide a tax basis, and offer other potential benefits. Because community guarantees of property rights and usage are less and less certain, landowners in Afghanistan are increasingly willing to accept some level of state engagement if it helps protect their rights.

The basic issue is that the law is so narrowly written that, in most cases, the state is a threat rather than a protector of rights. Because customary ownership and long-standing communal ownership or usage rights are not recognized in Afghan land management law, fundamental conflicts between the state and the majority of landowners and tribes are inevitable. These two issues doom any initiative to increase registration and title to failure. Reforming the land law to enable legal recognition of communal land rights would significantly expand the state's ability to productively engage with some of the most common sources of land disputes.

In the short term, two critical legal provisions need to be amended. First, to expand legal recognition for bona fide landowners in possession of customary documents, the requirement under Article 5(5) of the LML that a customary document be based on an original formal land document needs to be removed or revised. The proposed amendment maintains this criteria—requiring proof which tends to have never existed or has been destroyed in the subsequent decades of conflict. The LML needs to consider ways for bona fide customary documents to be legally recognized in the first instance.

Second, to enable bona fide landowners without documentary proof of ownership legal protection, the adverse possession requirements under Article 8 of the 2008 LML need to

Because community guarantees of property rights and usage are less and less certain, landowners in Afghanistan are increasingly willing to accept some level of state engagement if it helps protect their rights.

be revised. The current requirement of thirty-five years of continuous possession or the proposed amended language requiring occupation of more than fifteen years before 1979 is too long a period of occupation to establish title, given that many Afghans became refugees or internally displaced during the country's three decades of civil strife.

In addition to these legal reforms, a full-scale cadastral survey and a comprehensive national land titling and registration program are both essential. Nationwide land titling and registration would be challenging because of both the dissonance between the legal structure and land tenure in practice and of the current limited state capacity. An immediate, short-term priority to enable these long-term goals would be to build the internal capacity of all state actors engaged in land management. One of the most time-consuming but important aspects of this pilot was developing the internal capacity of Arazi. Such efforts must continue and be addressed not only nationally but also at district and provincial levels.

Finally, an important guiding principle for both short-term and long-term goals should be greater receptivity toward community interests and land management solutions that respond to the reality of land tenure. The avenue this pilot pursued was to allow community-based dispute resolution processes to feed into land registration and identification processes. Such a methodology was useful.⁶³ However, the validity of such processes is still controversial under Afghan law. Working with community elders or shuras on a systematic level would require greater legal and policy development and reform. Land management authorities must identify a way to involve community preferences in any formalization process. Without that, the problems that arise from the current, unregulated system are likely to continue.

Recommendations

- National cadastral mapping and land surveys are needed to clarify land ownership and user interests. However, given the weaknesses in the current land law, future mapping and surveying efforts must do more to engage communities in the process to ensure a fair, accurate, and legitimate titling and registration of land.
- Arazi should be empowered to conduct land registration on a more widespread basis, but only after due discussion with other Afghan ministries and bodies involved in land management, notably the judiciary. A range of community-based land registration processes is being applied globally. These models should be explored for possible application in Afghanistan. Future land registration needs to incorporate learning from land registration efforts that have already been tested, such as those implemented by international donors, such as USAID, ADB, and DFID.
- Given the importance of community input, effort should be made to clarify the legality of Afghan state actors engaging with community-based forums. The Arazi land dispute office should continue its efforts to develop cooperation with community-based actors.
- To expand local outreach and registration, the internal capacity of local Arazi offices needs to be increased. This will help ensure a clear understanding of Arazi's institutional mandate, the process of land registration, and the ability to carry out the necessary technical and administrative tasks to record land title.
- The registration process developed in the USIP pilot should be further tested and expanded in provinces with land dynamics and past documentation patterns similar to those of Kunduz, where it might immediately help prevent recurring individual land conflicts and encourage wider formalization of land rights.

Land management authorities must identify a way to involve community preferences in any formalization process. Without that, the problems that arise from the current, unregulated system are likely to continue.

- A separate registration model should be developed to apply to large-scale, intertribal disputes over communal land and resources. Such a model, however, would depend on reform of the land law to recognize communal land interests.
- The legal presumption that any land for which no definitive proof of other ownership exists is state land needs to be removed. Such a presumption undermines constitutional protection of private land rights because it effectively renders a large part of the population landless in the eyes of the law.
- In addition, the criteria for legally valid customary documents should incorporate recognition of bona fide community-based dispute resolution outcomes that are mutually agreed on by disputing parties and that do not undermine individual property rights under law, in particular, women's property rights.
- Longitudinal studies should be commissioned assessing whether and what types of documentation help make land dispute resolutions more durable over time.

Notes

1. Liz Alden Wily argues that land capture is becoming increasingly connected with broadly contested relations “amongst communities, ethnicities, political movements and insurgencies, or simply economic classes.” See Wily, “Land, People, and the State in Afghanistan: 2002–2012,” Afghanistan Research and Evaluation Unit (AREU), February 2013, 3, 4.
2. Forced migration has been used historically to extend control over unruly regions. See, for example, Thomas J. Barfield, “The Impact of Pashtun Immigration on Nomadic Pastoralism in Northeastern Afghanistan,” in *Ethnic Processes and Inter-Group Relations in Contemporary Afghanistan*, ed. Jon W. Anderson and Richard F. Strand (New York: Afghanistan Council of the Asia Society, 1978).
3. Matt Waldman, “Community Peacebuilding in Afghanistan: The Case for a National Strategy,” Oxfam International Report, 8, 9.
4. See, for example, Christian Dennys and Idrees Zaman, “Trends in Local Afghan Conflicts Synthesis Paper” (Kabul: Cooperation for Peace and Unity, June 2009); Rene El Saman, “Linking Formal and Informal Conflict Resolution Mechanisms in Afghanistan: A Survey of the People’s Perspective” (Kabul: Sanayee Development Organization, August 2008).
5. See Wily, “Land, People, and the State,” 3. For a more detailed discussion of available studies that suggest rising land grievances and disputes, see 89–92.
6. Zach Warren, “Afghanistan in 2014: A Survey of the Afghan People” (San Francisco: The Asia Foundation, 2014), 97, <http://asiafoundation.org/resources/pdfs/Afghanistanin2014final.pdf>. Land was also the most prevalent cause for dispute resolution intervention in previous years, cited as the most common dispute for which communities seek resolution: 28 percent in 2007, 21 percent in 2010 and 2011, and 22 percent in 2012 (p. 142).
7. United Nations High Commissioner for Refugees (UNHCR), “2012 UNHCR Country Operations Profile—Afghanistan,” January, 2012, www.unhcr.org/pages/49e486eb6.html. Despite the significant returns since the Taliban were overthrown, with continued strife and weak economic conditions, in 2013 Afghanistan remained the largest source of refugee flows, a position it has held year-on since 1980. UNHCR, “Facts and Figures About Refugees,” 2013, www.unhcr.org.uk/about-us/key-facts-and-figures.html.
8. See, for example, UNHCR, “Land Issues Within the Repatriation Process of Afghan Refugees,” September 1, 2013, www.refworld.org/pdfid/3fccca304.pdf.
9. A typology of land disputes identifies repeated intergenerational divisions of family resources, alongside population growth, returnee and internally displaced persons climate change, and corruption as major causes of land conflict. See Colin Deschamps and Alan Roe, “Land Conflict in Afghanistan: Building Capacity to Address Vulnerability,” AREU, April 2009, 6.
10. The population of Kabul doubled from roughly two million in 2000 to more than four million in 2014. See UN-Habitat, “Afghanistan’s Urban Future,” discussion paper no. 1, 2, <http://unhabitat.org/afghanistans-urban-future/>.
11. Wily, “Land, People, and the State,” 8.
12. On the connection between poppy cultivation and land grabbing, see Alex McEwan and Sharma Nolan, “Water Management, Livestock and the Opium Economy: Options for Land Registration,” AREU, February 2007.
13. On the causes of land grabbing see Independent Joint Anti-Corruption Monitoring and Evaluation Committee, “Report of the Public Inquiry into Land Usurpation,” translated from Dari, November 2014, www.mec.af/files/2014_11_01_Final_Report_of_the_Public_Inquiry_Into_Land_Usurpation_ENGLISH.pdf.
14. Methods for usurping state land include bribing the deed repository to issue a title deed, replacement of names in the repository, illegally or illegitimately obtaining a government land allocation, or taking land through force. For private land, forging power of attorneys, inheritance letters, and customary deeds are common. *Ibid.*, 9.
15. “Most rural holdings had no documentation at all between 1961 and 2001. Most landowners and tenants held and used their land on trust, under customary norms. These norms were community-based and sustained arrangements, which had evolved over time.” Wily, “Land, People, and the State,” 18–19, 21.
16. Many district and provincial copies of the AMLAK basic records were destroyed by “tenants and sharecroppers” seeking to eliminate “records of the properties whose ownership they disputed,” Wily notes. “Influential community members destroyed records to grab more land, particularly during the Mujahidin era of the 1990s.” *Ibid.*, 21.
17. In the background assessment, PTRO found the following in a Kunduz province district: “The Land Administrator from Imam Sahib stated many people have kept their original documents and the Amlak in Kunduz City has been monitoring officially notified property changes throughout the past decade. Unable to register new land, the Amlak is able to only track changes in ownership via land transfers, such as inheritance claims. Nonetheless the majority of records are outdated and subsequent land divisions through inheritance, mortgaging or land sales have largely gone unrecorded by official government agencies.” Fareeda Miah, “Land Titling in Kunduz, Afghanistan, Past and Present,” Peace Training and Research Organization (PTRO), July 2014, 12, www.usip.org/sites/default/files/files/Land-Titling-in-Kunduz-Afghanistan.pdf.
18. Interview with land registration expert, October 1, 2012, Kabul.
19. For an elaboration of these mechanisms, see Noah Coburn and John Dempsey, “Informal Dispute Resolution in Afghanistan,” Special Report no. 247 (Washington, DC: U.S. Institute of Peace, August 2010), 2–3, www.usip.org/sites/default/files/resources/sr247_0.pdf.
20. Studies on such dispute resolution mechanisms suggest that nearly 80 percent of land disputes in Afghanistan are resolved through informal or community-based dispute resolution forums. See Coburn and Dempsey, “Informal Dispute Resolution.” Corruption is particularly rife within the judiciary, which is where formal land title must be certified. In 2014, more than half (54.7 percent) of Afghans who had contact with the judiciary in the past year said they paid a bribe, exchanged a gift, or performed a favor. Warren, “Afghanistan in 2014,” 94. See, for example, Erica Gaston, Akbar Sarwari, and Arne Strand, “Lessons Learned on Traditional Dispute Resolution in Afghanistan,” Building Peace no. 3 (Washington, DC: U.S. Institute of Peace, April 2013), www.usip.org/sites/default/files/Traditional_Dispute_Resolution_April2013.pdf.
21. By the end of the Soviet occupation, an estimated six million Afghans—roughly half the population—were living as refugees outside the country. World Bank, “Refugee Population by Country or Territory of Origin,” 2015, <http://data.worldbank.org/indicator/SM.POP.REFG.OR/countries>. An estimated seven hundred thousand to 1.3 million people were killed during the decadelong Soviet occupation. United Nations, “Afghanistan and the United Nations,” www.un.org/News/dh/latest/afghan/un-afghan-history.shtml.

22. See also Lawrence Devlin, Jacob Rinck, Christian Dennys, and Idrees Zaman, "Conflict Analysis: Kunduz City, Kunduz Province," Cooperation for Peace and Unity, March 2009, 6–7, www.cmi.no/pdf/?file=/afghanistan/doc/ACF178.pdf.
23. The Liaison Office (TLO), "Major Land Disputes and Land Titling Systems of Khost Province," October 2014, 13, www.tloafghanistan.org/Major%20Land%20Disputes%20and%20Land%20Titling%20Systems%20of%20Khost%20Province%20-%20USIP%20October%202014.pdf.
24. *Ibid.*, 42–45.
25. For example, the USAID-funded Land Title and Economic Restructuring Activity project attempted to engage community actors in arbitrating and recording property claims and informal settlements in Kabul, Mazar-e Sharif, Kunduz, and Taloqan. The follow-up USAID-funded Land Reform in Afghanistan project had a similar mandate to engage communities and community dispute resolution with the local government in Jalalabad to identify and grant some formal title to informal or undocumented settlements. UN-Habitat has been working with the Ministry for Urban Development and local authorities in Kandahar to survey and grant title to informal settlements in Kandahar.
26. For example, significant fieldwork and pilots have been conducted on pasture and rangeland tenure arrangements by international nongovernmental organizations Solidarite and the Aga Khan Foundation. For more, see Wily, "Land, People, and the State," 38. See also Wily, "Looking for Peace on the Pastures: Rural Land Relations in Afghanistan," AREU, Synthesis paper series, December 2004.
27. Scanagri Denmark A/S, "Islamic Republic of Afghanistan: Capacity Building in Land Policy and Administration Reform," ADB Technical Assistance Consultant's Report, TA 4483-AFG, September 2007, 31, www.terrainstitute.org/pdf/Final%20Report%20RLAP.pdf.
28. Executive Order 11 (2013) made Arazi independent from the Ministry of Agriculture and subsumed the Cadastral Survey Department of the Afghanistan Geology and Cartography High Office under it.
29. See Scanagri Denmark, "Islamic Republic of Afghanistan," 31.
30. See, for example, Commission on Legal Empowerment of the Poor, *Making the Law Work for Everyone*, Volume II: Working Group Reports (New York: Commission on Legal Empowerment of the Poor and United Nations Development Programme, 2008), 88–90, www.unrol.org/files/making_theLaw_work_II.pdf.
31. In Kunduz, PTRO's preliminary assessment and outreach focused on three districts: Kunduz city, Imam Sahib, and Khan Abad. In Khost, TLO conducted a broad-based survey of land conflict and ownership patterns across Khost. Participants were selected without a specific geographic focus. See TLO, "Major Land Disputes," 15.
32. PTRO and TLO have each published independent studies of the pilot projects in Kunduz and Khost that provide more detailed information about the background conditions in each province, as well as the specific experiences with the pilot in each province. See Miah, "Land Titling in Kunduz," and TLO, "Major Land Disputes."
33. Within Arazi, cases are to be collected at the district or provincial level and forwarded to national Arazi. There, depending on the nature of the case, they are recorded in one of a series of books. Before this pilot there was no such book for cases brought to Arazi's dispute resolution department, or for land registration that was the outcome of a community dispute resolution process. As part of its technical assistance, USIP worked with Arazi to develop a registration book for these cases. In addition, a training manual on how to use the registration book was prepared, and training was delivered to staff at Khost and Kunduz Arazi offices.
34. TLO, "Major Land Disputes," 42–45.
35. In Khost, TLO initially envisioned establishing a joint adjudication body between tribal elders and Arazi, with tribal elders resolving disputes in accordance with Arazi standards, and Arazi reviewing and recording the results of the resolution. However, joint adjudication was ultimately unworkable, in large part because local Arazi officials were unsure if that degree of cooperation would be permitted under law, even for an exploratory pilot.
36. TLO, "Major Land Disputes," 14.
37. The term *land clearance* is interchangeable with *land settlement* by Arazi, whose Land Clearance Directorate is responsible for determining the boundaries, grades, type of land (state or private), and ownership. See Arazi, "An Operational Strategy to Become a Modern Public Land Services Institution" (Kabul: Independent Land Authority of Afghanistan, March 2014), 25, www.humanitarianresponse.info/system/files/documents/files/English%20version%20of%20Strategy%20for%20ARAZI%20-%2010%20March%202014.pdf. Decree on Immovable Property (Decree no. 83), 2003 (SY 1382), Article 3. "The Decree also established that government property included any land or buildings that had been under its custody for 37 years. Appeals against this were disallowed (Article 2). Those whose lands had been taken since 1978 for public purposes could not claim compensation (Article 5(2)). Those who had been granted parcels in settlement schemes but for whom the formalities had not been completed and those who had not yet fully paid for those lands were also to lose their lands." Wily, "Land, People, and the State," 32–33.
38. The law also recognizes state decrees, tax payment documents, water rights documents, and customary deeds. Land Management Law (Decree no. 62, Official Gazette no. 958), July 21, 2008 (SY 1388) [LML 2008].
39. LML 2008, Article 5(1).
40. Muhammad Arif Hafiz, judge of the Kabul Primary Court Civil Division, interview, April 14, 2015, Kabul.
41. Judges refer to the Civil Code and Civil Procedure Code when interpreting customary documents before looking at other laws. Arif Hafiz, interview, April 2015. Articles 289–292 of the Civil Procedure Code stipulate the requirements for customary documents.
42. The LML was originally promulgated in 2000 and amended in 2008, with this provision remaining the same. It is not the only land law in Afghanistan but is the closest equivalent to a basic national land statute. For a further discussion of the current, proposed amendments, see Liz Alden Wily, "Land Governance at the Crossroads: A Review of Afghanistan's Proposed New Land Management Law," AREU, October 2012, 2, www.areu.org.af/Uploads/EditionPdfs/1212E%20Land%20Reform%20I%20BP%20Oct%202012.pdf.
43. Interview with Afghanistan land law expert, February 9, 2015, Kabul.
44. Interviews suggest that many judges no longer apply the date requirements under Article 5(5) in practice. Arif Hafiz, interview, 2015.
45. Proposed amendments to the LML 2008 were drafted by Arazi and submitted to the Department of Legislative Drafting (Taqnin) at the Ministry of Justice in 2013. At the time of publication, the proposed amendments were pending approval of the Ministry of Justice prior to the enactment process.

46. Wily provides a translation of key provisions of the Taliban era land law: "Article 4 (5) provides that *urfee* or customary documents are valid where they 1) were certified before 1978; or 2) in cases where the customary document was not certified by 1978 or the certification was destroyed, 'if there is no dispute concerning the ownership of the land and the purchase and occupation of the land is recognized as valid by the neighbours and the area's state department, then the document will be accepted as valid.' In addition, Article 9 provides that farmers with no legal document, for land which has not been registered in the Basic books 'if no one claims that land and there is sign of structures and agricultural activity, and the neighbors and the local state authorities approve his occupation, then the land may be known as his property.'" See Law on Land Under Decree no. 57, Taliban Islamic Emirate of Afghanistan Ministry of Justice Issue no. 795, 2000, Chapter II, article 4 (5), article 9. See Liz Alden Wily, *Land Rights in Crisis* (Kabul: AREU, March 2003), appendix K, 112–13.
47. The conditions for establishing adverse possession are set out under Article 8(1) of the LML 2008: "Where the landowner is not in possession of a deed and the land possessed by him has not been registered in the State properties book, and other individuals did not make claim for the ownership of the land, and where the signs of agricultural construction have been observed on the land, and where the landowners holding lands have joint borders with his land confirmed the location under his possession for thirty-five years and where it is not located under government project, the same land of up to 100 jeribs shall be deemed his property on the basis of his possession as owner" (author's translation). See also Wily, "Land Governance at the Crossroads," 4.
48. Decree on Immovable Property, Article 3. "The Decree also established that government property included any land or buildings that had been under its custody for 37 years. Appeals against this were disallowed (Article 2). Those whose lands had been taken since 1978 for public purposes could not claim compensation (Article 5(2)). Those who had been granted parcels in settlement schemes but for whom the formalities had not been completed and those who had not yet fully paid for those lands were also to lose their lands." Wily, "Land, People, and the State," 32–33.
49. The proposed amendment to Article 8 of the LML 2008 reads: "A landowner who has not an authentic document [can succeed with an adverse possession claim], if: his occupied land is not recorded in the governmental properties' registration (sic) books; no bodies have authentic documents of that land against him; the signs of development and agriculture made by him are seeable; neighbors and local land commission approves his occupation for more than fifteen years before December 27, 1979" (author's translation).
50. A 2009 study of conflict dynamics in northern Kunduz province found that land and water disputes accounted for approximately half of all local conflicts. Devlin et al. "Conflict Analysis," 9. The most fertile land in the southeast region is in the Khost basin, making the land in Khost the most expensive and thus often the most contested. TLO, "Southeastern Cluster: Paktia, Khost and Paktika, Afghanistan Border-District Exploratory Assessment," 2008, 31.
51. An estimated 20 percent of Kunduz's population returned to the province after the fall of the Taliban. Many returned to find their land occupied by others and themselves landless. Devlin et al., "Conflict Analysis," 14. Resettlement and return in Kunduz are additionally complicated by the historical competition between ethnicities in Kunduz, which is in part the result of strongly encouraged and "sometimes forced" settlement of Pashtuns in the province under the reign of Amir Abdur Rahman. See Nils Wörmer, "The Networks of Kunduz: A History of Conflict and Their Actors, from 1992 to 2001," Afghan Analysts Network, 7, www.swp-berlin.org/fileadmin/contents/products/fachpublikationen/wrm_2012_the_networks_of_Kunduz.pdf. On land grabbing by commanders and militia, see Miah, "Land Titling in Kunduz."
52. Tribal structures have remained more intact in the southeast than other parts of the country. Khost is made up of major Pashtun tribes, such as the Zadran, Mangal, Mandozi, Tani, Zazi, Gurbuz, Babakar Khel, Matunwal, Lakan, Shamalwal, and Terezaei. TLO, "Major Land Disputes," 67.
53. TLO noted that fights over land suitable for development, for example in urban or peri-urban areas, often result from increased population and clashes with Kuchi groups and returnees. *Ibid.*, 10.
54. *Ibid.*, 16–36.
55. *Ibid.*, 10.
56. See Devlin et al., "Conflict Analysis," 6–7; Human Rights Watch, *Just Don't Call it a Militia: Impunity, Militias, and the Afghan Local Police* (New York: Human Rights Watch, September 2011), www.hrw.org/sites/default/files/reports/afghanistan0911webcover.pdf.
57. Miah, "Land Titling in Kunduz," 11, 14.
58. USIP and PTRO interviews at a national and local level with land authorities or officials knowledgeable about the cadastral process resulted in estimates of 20 percent of Kunduz land being effectively surveyed and recorded in a cadastral map. See, for example, Miah, "Land Titling in Kunduz," 13. Information gathered and published in another report by Wily suggests a higher percentage of Kunduz land survey, however she notes in her comments on the data that she believes the records may be inaccurate. See Wily, *Land Rights in Crisis*, 101–02.
59. Miah, "Land Titling in Kunduz," 6.
60. TLO, "Major Land Disputes," 11.
61. Few residents were aware of the reforms switching authority to Arazi from AMLAK.
62. TLO, "Major Land Disputes," 12.
63. For a full discussion of the drawbacks to the proposed changes to the LML 2008, including the lack of consideration of community dispute resolution, see Wily, "Land Governance at the Crossroads," 13–15, 20–21.

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