

Case Studies Series

THE SHIWA PASTURES, 1978-2003:
Land Tenure Changes
and Conflict in
Northeastern Badakhshan

Afghanistan Research and Evaluation Unit

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GLOSSARY

Dari terms:

<i>Ailoq</i>	upland pasture
<i>Alafpuli</i>	annual payment for pasture (synonymous with <i>saralafi</i> and <i>quruqpuli</i>)
Ali Moghul	an Uzbek group from near Baharak, Badakhshan
<i>Farsiwan</i>	Dari-speaker (prior to the advent of the Taliban this term was used almost exclusively for Tajiks, though from the mid-late 1990s its use in normal parlance became expanded to include all non-Pashtu speakers - including Uzbeks, for whom it is their second language, and Hazaras)
Firman	official decree
Islamic Revolution	victory of the <i>mujahedin</i> et al over President Najibullah in 1992
Ismaili	minority, Shia Islami sect
<i>Jamiat-i Islami</i>	<i>mujahedin</i> political party
Afghanistan	
<i>Jihad</i>	the period of resistance to the communist governments from 1978-1992
<i>Jihadi</i>	pertaining to the <i>jihad</i> (e.g., <i>jihadi qawwalla</i> , <i>qawwalla-i jihadi</i>)
Kuchi	pastoralist
<i>Mantiqa</i>	local area
<i>Qawwalla</i>	legal title deed
<i>Qawwalla</i> - verb	to <i>qawwalla</i> , to obtain <i>qawwallas</i> (as in Dari, <i>qawwalla kardan</i>)
<i>Qawwalla-i Jihadi</i> / Sharia'	legal title deed issued by the <i>mujahedin</i> authorities
Qataghan	traditional name for the northeast of Afghanistan (the area covering, approximately, Baghlan, Kunduz and Takhar); name of the province of Qataghan and Badakhshan until the 1960s when subdivided; name at times applied to nomads for Takhar by people from Badakhshan
<i>Qotan</i>	amount of pasture required for one <i>rama</i> , or flock, or sheep
<i>Saralafi</i>	see <i>alafpuli</i>
<i>Quruqpuli</i>	see <i>alafpuli</i>

District and population names:

Arganjkhaw	district (new) northwest of Shiwa
Arganjkhawchi	people from Arganjkhaw
Jurm	district in Badakhshan
Jurmi	people from Jurm
Khwash	district (new) southwest of Baharak
Khawshi	population from Khawsh
Ragh	district north of Shiwa
Raghi	population from Ragh
Sheghnan/Shughnan	district west of Shiwa, also populated by Ismaili Sheghni-speakers as in Shiwa
Sheghni/Shughni	the ethnic group, and its language, of the wider Sheghnan area (including Sheghnan, Shiwa and the area around Khorog in Tajikistan)
Sumdara	area northwest of Shiwa
Sumdarachi	population from Sumdara
Yaftal	district in Badakhshan, northwest of Shiwa; Yaftali - population of Yaftal

I. Introduction

This paper provides an overview of changes in land tenure in the Shiwa area in Badakhshan since 1978. It examines the nature and extent of land tenure change, and the way in which this has occurred. It focuses on three areas: (i) the context of change and the administration of tenure during the war; (ii) on *ailoqs* (upland pastures) as analytical units and on how their use and their users changed during the war; and (iii) on the experience of the Shiwachi community and its expansion of agriculture and settlement, both of which were made possible by the changes in context. Within this analysis a description is provided of conflicts over *ailoqs* and specifically the interaction of returnee kuchis and those who held tenure in their absence. The interaction between kuchis and Shiwachis also serves to provide a case study of the allocation and administration of disputed resources by the *mujahedin* and the political economy of the early *jihad*.

In many respects the situation in Shiwa reflects that of other areas in Afghanistan where tenure inequality and imbalanced nomad-agriculturalist relations existed prior to the war. In this sense, Shiwa, as elsewhere, displays a general pattern of multi-causal wartime retraction of pastoralism by one population and an inter-related expansion of agricultural activities by another. However, a number of factors make the nature of land tenure change in Shiwa distinct. In particular, the process of land tenure change was not an unfettered process. The actual transfer of tenure was formally administered and tightly controlled by a semi-local political authority using the legitimacy of the *jihad* as its legal basis. The situation in Shiwa, after 1979, is not one in which political power was usurped by the local population, and this is a key distinction in comparison to other parts of the country. It is also critical that the semi-local administration was not fundamentally hostile to the kuchis.

In terms of the experience of the kuchis, the situation in Shiwa did not involve their complete withdrawal or expulsion (which in turn would have created a vacuum to be filled by the local population). Kuchis - of all ethnic backgrounds - continued to summer in Shiwa throughout the war, although their numbers dropped over time. Fluctuations in the ethnic profile of kuchis did occur as a result of external political factors - principally the Taliban. Throughout the war the kuchis maintained relations with the *mujahedin* administration, which assured their protection and taxed them within then reasonable parameters. In the many cases where nomads did withdraw, it was often other kuchis that filled the vacuum, including many shorter-range, Badakhshi kuchis. The expansion of Shiwachi agriculture thus took place within a context of continuing kuchi presence, and indeed the emergence of new kuchis, into a space much smaller than might appear the case.

With the nationwide political changes of 2001, the political and security contexts of the whole northeast have been transformed. Many kuchis who had either withdrawn or been displaced during the war commenced returning in 2002, especially those that had been absent during the Taliban era when they were unable to travel to the area. These kuchis, understandably, have attempted to retrieve pasture reallocated to others during their absence and, at times, cultivated.

A broad spectrum of situations and responses has emerged. At one end of the spectrum, there are many cases of kuchis having relinquished *ailoqs* to their original users without excessive debate. In other, mid-spectrum cases, returnee nomads, Shiwachi agriculturalists and newcomer Badakhshi kuchis are now sharing *ailoqs* and compromise solutions have been reached. The permanence of such co-existence remains, however, very much to be seen. Additionally, the basis of compromises varies - in some it relates to a balance of force, in others a rational agreement. And, at the opposing, complicated end of the spectrum, cases exist of *ailoqs* that were vacated long ago and have been in the hands of a new generation of users for, in cases, over two decades. There are also complicated cases involving disputes pre-dating 1979. Here, claims by returnees are and will be contested and their resolution will be problematic.

Clearly, many kuchis, Shiwachi and Badakhshis are still waiting for a stabilisation of national politics in order to raise their claims for either restitution of pasture or the equitable distribution of land and pasture.

Methodology

The information contained in this report was collected over four summers - 2000-2003 - in the Shiwa area and is part of a broader study into the area. Follow-up research has been carried out in Faizabad City, Takhar and Kunduz Province. Fieldwork was conducted by, depending on the year involved, either the author or field researchers. Systematic interviews were conducted with kuchis; household and agricultural surveys and systematic interviews conducted with Shiwachi; oral histories collected from Shiwachi; village and *ailoq* histories collected from both kuchis and Shiwachi; extant documents reviewed; and discussions held with those involved with the area's administration at various times in the past.

2. Background

2.1 The Shiwa area

The area under discussion lies in the mountainous region between Faizabad and Baharak. The area is bordered by Sheghnan in the east, Ragh and Darwaz in the north, Arganjkhaw in the northwest, Baharak to the west and the Zardew valley to the south. The area is generally above 3000m, although altitude in the north and northeast is considerably higher than the rest of the area, with peaks approaching 5000m in height. The altitude is obviously reflected in the nature and quality of the soils and vegetation cover and has implications for both grazing and cultivation.

The best *ailoqs* - i.e., those well carpeted with short grasses - are to be found in the well watered, flat areas with good soil cover towards Hauz-i Shiwa, in the east, and along the river in Shiwa-i Kalan, in the southwest. These areas are, however, in the minority. The majority of *ailoqs* are much higher, have steep slopes and poor, rocky soils with low humus contents. While many of the valleys in the high altitude *ailoqs* have extensive and dense vegetation - which makes good grazing - many others have only sparse, low alpine plant cover that is of lesser value. Within the Shiwa area, there are approximately 200 distinct, identifiable *ailoqs*, some of which have internal sub-divisions. Although the capacity of an *ailoq* - in terms of its ability to sustain livestock - varies due to the factors noted above, an individual *ailoq* should generally be able to feed a flock of 800 sheep for a whole summer. *Ailoqs* are usually large enough to permit sufficient internal movement of livestock to permit adequate regeneration of grazed vegetation.

Population Profiles

The kuchis

It is important at the outset to properly characterise the kuchis and their economy (the points made below apply to kuchis from all ethnic groups in the region). First, they are agro-pastoralists, not pure pastoralists, albeit from communities that own high numbers of livestock, and as a result have a dual economy. The majority own land, or come from families that own land, much of which - in the case of those from Kunduz and Baghlan - is highly productive double-cropping irrigated land. They are, generally speaking, now more economically dependent on agriculture than on pastoralism. Second, they are pastoral transhumants in the sense that they conduct a seasonal movement to fixed, or relatively fixed, upland pastures. Third, they are semi-nomadic, not nomadic. They all have permanent settlements where they spend the winter months, and only use tents - now often modern canvas tents - during the summer months.

The participation of families in seasonal migration is now limited. Due to route insecurity during the war and in later years a Taliban attempt to prevent families from travelling, many women and children now remain all year round in their permanent villages. Some, however, did stoically visit Shiwa continuously during the period under review, particularly those from Arab kuchi groups.

It is important to differentiate between this group of kuchis and those in southern and eastern Afghanistan who, whilst also called kuchis, have significantly different livelihoods. The latter do not traditionally have permanent settlements, but

inhabit tents all year round. They normally do not own land nor habitually practice agriculture. They traditionally have a single rather than a dual economy, and their livelihoods are thus, until relatively recently, almost entirely livestock-dependent. (These kuchis have also been affected by the war and, from the 1990s onwards, many diversified their livelihoods widely, becoming involved with the transport industry and becoming urban labourers.)

In some areas the term kuchi has a degree of ethnic specificity attached to it in the sense that it refers to, or is used only to refer to Pashtun kuchis. However, in northeastern Afghanistan the term kuchi is used both by kuchis themselves and others to refer to all kuchis irrespective of their ethnic affiliation. This study also uses the term in this fashion.

It is also important to conceptually differentiate this population from other populations that also take or send their livestock to upland pastures in the summer months. Kuchis in the sense understood within the context of this study and this region are those that have any or a combination of a historic tradition of large scale livestock raising involving seasonal movements; presently possess large numbers of livestock that represent a significant proportion of their economy; and undertake relatively long-range seasonal movements. Villagers that take small flocks to the hills relatively close to their villages are not considered to be kuchis. Using the number of livestock criterion, villagers from Sheghnan or Baharak that bring small numbers of livestock into the area are not considered kuchis. However, those that bring many hundreds of livestock in one flock from the same areas are considered kuchis if this represents a significant proportion of their economy (even though they are not involved in long-range movements). Using the historical tradition criterion, an Arab from Takhar who now only has 50 sheep, having lost a substantial number of livestock during the war, is still a kuchi. And, an Uzbek or Pashtun from Kunduz who has acquired 50 sheep and who now undertakes a seasonal movement to Badakhshan is a kuchi by virtue of the length of migration. Someone from Jurm in Badakhshan who has 50 sheep, travels for only two days and has no tradition of seasonal movement involving large numbers of livestock is not a kuchi in the terms understood by this study. That this person has a right to pasture livestock is not, and should naturally not be, affected by such considerations.

As is noted below, livestock owners from Badakhshan can thus fall into either the kuchi category - by virtue of history and/or high level of livestock, either traditionally held or newly acquired - or the straightforward Badakhshi category - by virtue of absence of recent history or seasonal movements, low level of livestock and proximity of residence to the *ailoqs*. That different people from the same village can be both kuchis and non-kuchis is, hopefully, not as paradoxical as it may appear at the outset.

The Shiwa area in the pre-war years served as the summer quarters for a large proportion of the transhumance nomads from all four provinces of northeastern Afghanistan, i.e., from Takhar, Kunduz and Baghlan - the erstwhile province of Qataghan - and from Badakhshan itself. This population has historically been ethnically mixed, including Arabs, Dari-speaking Larkhabi, Pashtuns, Tajiks and Uzbeks. They all moved into the area at various and different historical periods. Many of these nomads have fixed *ailoqs* to which they have been seasonally migrating, in some cases, since the 1920s or earlier.

The actual ownership of kuchi livestock varies greatly. In all groups there are major livestock owners, with one individual or family owning quite often many thousands

of sheep. The phenomenon of single-ownership of a flock or flocks is more prevalent among Arab and Pashtun kuchis. Single flock ownership also exists among Tajiks and Uzbeks, but their flocks are often an amalgamation of livestock from several or many owners into one flock for the purpose of summer pasturing. Flock size is currently, in the case of Qataghan kuchis, 700-900 sheep, though much less - from 300 upwards - among kuchis from Badakhshan.

As of 2003, there were approximately 250 flocks comprising approximately 150,000 sheep belonging to kuchis summering in Shiwa.

The Shiwachi

The Shiwa area is the permanent residence of the eponymous Shiwachi, a locality-defined group of Sheghnis, who are the Ismaili and Sheghni-speaking population of Sheghnan District and surrounding areas. They have a mixed agro-pastoral economy, albeit an extremely precarious one, focusing on limited and subsistence crop production, livestock rearing and, to a limited degree, handicraft production (principally the production of cloth). Agriculture is generally restricted due to limitations of arable land (a part historical, part environmental factor), climate and altitude. There are parts of Shiwa that have good arable land, both irrigated and rainfed, but much of the area has limited arable land and cultivation is restricted to small plots in narrow valley bottoms. The higher areas are totally unsuitable for wheat cultivation due to the short cropping season, the altitude and in areas the soil type. Beans have replaced wheat as the primary crop, which is used to make bread, and barley is planted in some areas (though many areas are also unsuitable for cultivating barley). Subsistence food production tends to be, on average, for six months. Livestock rearing is widespread, but in upper areas is restricted by the length of winter and ability to provide winter fodder. The Shiwachi invest as much effort in gathering fodder during the summer months for winter-feeding of animals as they invest in producing crops. The majority of the area is under snow from October/November to May, and many Shiwachi are snow-bound during much of this period.¹

The Badakhshis

The area also serves as the summer residence for livestock-rearing Tajiks and Uzbeks from adjoining areas (principally Faizabad, Sumdarra, Shorabak, Zardew, Sarghilon and the Baharak area), some of who also now carry out seasonal agriculture in specific areas. These are all from established agricultural communities and their involvement in the area, particularly that of Tajiks, was limited before the war. A marked increase in their numbers occurred during the war. The flock size of these groups is at times quite small, involving less than a hundred sheep, while many simply bring smaller numbers of cattle.

The Badakhshi Uzbeks - primarily from Argu - are traditional kuchis (and are one of the earliest kuchi populations to use the Shiwa area) and are therefore not considered in the Badakhshi category. Tajik groups with large numbers of livestock, for example from Sumdara and Faizabad, are similarly not counted as Badakhshi but as kuchis.

¹ The contrast between the livelihood of the kuchis - with their "two season" double-cropping irrigated land, their livestock, and their access to urban centres - and the livelihood of the Shiwachi - who often lack adequate time to both cultivate and harvest their single crop of barley (i.e. sowing late because of snow and having to thresh the following year), subsist on barley and peas, and spend up to six months per year snow-bound - could perhaps not be greater within the context of northeastern Afghanistan.

The identification of this group as Badakhshis is both externally ascribed, by the Shiwachi, and self-ascribed. While being from Badakhshan Province, the Shiwachi do not identify themselves primarily as Badakhshis. This term is used rather to refer to Tajiks. Additionally, for the Shiwachi, Badakhshan does not necessarily refer to the province, but rather to the provincial capital, Faizabad. This reflects both the persistence of the traditional conception of political units and the more modern one of the “province” being where the governor is based.

3. Historical Context of Resource Allocation

3.1 Pre-war resource allocation and tenure

The *ailoqs* in this area are the property of individuals, based on *qawwallas* (legal title deeds) issued over the course of the last eighty or so years. *Qawwallas* are not, as they are in some areas, the communal property of a particular group, but are rather issued in the name of one person, or several people, and are inheritable.

The official allocation and reallocation of pasture has occurred during various periods, though much of the basis of the tenure, which existed immediately prior to the war, was established in the period of Nadir Shah (1929-1933). The earliest mentioned *qawwalla* still in existence is in possession of Kunduz Arabs and putatively dates from Nadir Shah's period. Shiwachi elders, however, report kuchis having come to the area in the period of Habibullah (1901-1919). While the majority of kuchis claim, often disingenuously, that they and their predecessors have been summering in Shiwa since these periods, there is evidence that Uzbek and Arab kuchis have been in the area since the early 1900s.

This period, particularly the 1930s, coincided with the development and expansion of Kunduz town and the widespread granting or nominal sale of land in parts of Kunduz Province. It was during this period that the sizeable movement of Pashtuns into the Kunduz area commenced and many of these received, over the following years, grants of summer pastures as well as of land around Kunduz. Pasture allocations at that time were primarily in Khawak (Baghlan) with small numbers being allocated pasture in Dasht-i Ish in Darwaz and in Shiwa, both significantly further away.²

In the 1930s, all the current four northeastern provinces were one unit - the Hukumat-i Kalan of Qataghan and Badakhshan - and comprised the sub-units of Baghlan, Khanabad and Badakhshan. This was centred initially in Khanabad and subsequently in Baghlan. Allocation of pasture was, during that period, the prerogative of the governor then responsible for the entire northeastern region. Some kuchis claim to have initially received firmans from Kabul authorising the regional authorities to issue them with pasture.

The 1940s and 1950s saw an expansion of allocations of pastures, particularly in the Dasht-i Archi area, paralleling the development of Kunduz Province, and an increased in-movement of Pashtuns. In the 1940s, the authority for the allocation of *ailoqs* was transferred to the local Badakhshan governor, appointed from Kabul, whose first incumbent was Juma Gul Khan and who is remembered as having been actively involved in this field. During this period kuchis from all ethnic groups obtained tenure for *ailoqs*, as did some of the settled populations from both Shiwa and Sheghan, though there were few sizeable stockholders in this area at that stage and limited settlement.

It was during this period that the predominance of Pashtun kuchis - then, and to some degree still, called Kandaharis - emerged. The state institutionalised a policy of support for Pashtun expansion within the Shiwa area and Pashtuns' received

² Barfield, T., *The Impact of Pashtun Immigration on Nomadic Pastoralism in North-Eastern Afghanistan*, unpublished paper, 1975; Schurmann, H.F. *The Mongols of Afghanistan: An ethnology of the Moghols and related peoples of Afghanistan*, s-Gravenhage, Mouton, 1962.

both the largest number of allocations of *ailoqs* and also the best *ailoqs*. The 1950s provided a break with the past, which would ultimately cast shadows into the future, as prior to this Pashtun movement into the area was basically consensual and uncontested, and little different from that of other kuchis.

Many complaints persist that the central government was overtly partisan in support of Pashtun kuchis. Uzbeks from Argu³ and Takhar, Arabs from Kunduz and Takhar, semi-local populations from Darwaz, Yaftal, Sumdara and Baharak, all claim they were divested of *ailoqs* they had traditionally used and which were allocated to Pashtun kuchis. There also appears to have been widespread conflict, including between Uzbeks and Pashtuns in the Shokhdara valley, with Kandaharis obtaining *ailoqs* held by Uzbeks (some of which the Uzbeks managed to retrieve through bribery).

The 1950s also witnessed a process of extending earlier *qawwallas*, and the Governor's Office in Faizabad seemingly collected and reissued a large number. Documents issued to *ailoq*-holders were of the format below, which refers to an *ailoq* at Dawlat Shahi:

Ministry of Finance Finance Department of Badakhshan Property Section							
Number of title: 116 Date: 7/5/1335 (29 July 1956)							
Due to a distribution of pastures, Mullah Khawaja Niyaz son of Atasuq from the Turkmen tribe, Ali Abad village belonging to Chahrdara village of Kunduz of Qataghan Province, has been given a pasture according to this letter, page 331 of 1351/3/21 of the Property Section of the Finance Department and according to the decision of the Office of the Hukumat-i Ahla-i Badakhshan [sub-province of Badakhshan].							
The boundaries of the pasture are as below: On the south Nazari Bek's house and Siya Qoton Sar-i Tegha of Zhaladara, on the west Qorom Sang and Shakh, on the north Tegha-i Zhaladara and on the east the River (Darya-i-kalan). The area within the mentioned boundaries is for the use of Mullah Khwaja Niyaz and his relatives to pasture their livestock. The number of animals is as below:							
Name	Father's name	From	Horses	Cows	Sheep	Camels	Donkeys
Khwaja Niyaz	Atasuq	Kunduz	3	0	510	2	4
M. Niyaz	Atasuq	Kunduz	3	0	262	0	2
Tora	Baba Nazar	Kunduz	2	0	360	0	1
Total			8	0	808	2	7
The Signature of the Hukumat-i Ahla [Badakhshan sub-province] (indecipherable)							
The Signature of the representative of Shiwa (indecipherable)							

³ It is reported that some of the largest community figures and livestock owners from Argu - Karim Kardah, Haji Khall Mad, Kalta Bey, and Misr Ali Bey - were divested of *ailoqs* at this juncture, and that their economic and social positions deteriorated subsequently. The impact on the local communities of the events of this period requires further study.

The relationship between the local agricultural population, the Shiwachi, and the kuchis in the same period was also clearly disharmonious, though this relationship was to have an additional ethnic dimension as the majority of the Shiwachi's problems involved Pashtun kuchis. Local historical memory holds that there was widespread conflict between the two sides. The Pillaw area, for example, was forcibly occupied by kuchis in 1947, in spite of the authorities having officially given tenure of the area to Shughnis and endorsed the establishment of a settlement. The Shughni leader was killed and the area's small population expelled. In Baqi, Korang, Nakshirpar, Siyachaghat and other areas the local inhabitants were similarly forcibly displaced, or were compelled to abandon land or pasture to kuchis. There exist many other reports, which have not been verified, of actively used agricultural land being allocated, or appropriated, as pasture. It would be incorrect to say that every *ailoq* obtained by incoming kuchis was previously used by the Shiwachi, but it is clear that a sizeable number were.

Subsequent disputes between the Shiwachi and kuchis were seemingly a frequent occurrence, and there appear to have been a spate of these in the 1950s, with attempts by Khirad Bey Kandahari to take Zajjat in 1952, by Kunduz Pashtuns (Abdullah Jan, Agha Gul, Haji Bahadur and Haji Barakat) to take Juruj in 1956, and Lodines to take Zajjat in 1958 (a separate attempt). In each case the local authorities based in Sheghnan and Baharak supported the Shiwachi, though this was immaterial in the case of Juruj, as other Pashtun kuchis blocked access by the Shiwachi and the area remained inaccessible to them and their livestock. Thus, what was an agriculturalist-pastoralist conflict acquired a prominent ethnic dimension, as it was with Pashtuns that the Shiwachi found themselves primarily in competition and conflict over the best arable land/pasture.

There was little further change in the tenure situation over the next 20 or so years, and Shiwachi claims abated though did not disappear. The right to cultivate land was severely restricted, which had obvious implications. Resentment over livestock damage to Shiwachi agricultural holdings was widespread, as were other abuses. The Shiwachi appear to have been resigned to the situation and received little support from the authorities. It was, as if the Shiwachi were (and it is a subtle point) living in an area of kuchi pastures.

The Pashtun kuchis had not only ethnicity but also economic strength on their side, as bribery was often required when dealing with officials in the case of disputes. However, mutually beneficial exchange relations did develop between the kuchis and the Shiwachi, though this was symptomatic of the weak economy of the latter and the isolation of the area. The Shiwachi emerged dependent on the kuchis to import goods as a result of their poor trading links and lack of capital. The kuchis would bring salt, tea, material, saddlebags, etc., for exchange for Shiwachi wool, local cloth and livestock. Relations also developed between the elders and elites, but it was a politically imbalanced relationship.

Intra-kuchi disputes were a yearly occurrence and the government apparently deployed troops at various times to control these. In the mid-1970s, Arabs and Pashtuns who had traditionally summered in Dasht-i Ish in Darwaz District were displaced due to political instability and a number of them moved into vacant *ailoqs* in Shiwa. These *ailoqs* were either rented to them on a yearly basis, as with some of the Arabs in Dozokhdara, or allocated permanently with the kuchis receiving formal *qawwallas*, as with the Arabs in Khersdarra.

3.2 The jihad-era administration and resource allocation

The *mujahedin* era administration in certain senses did not functionally differ from pre-war administrations. It allocated and reallocated resources to both kuchi and local populations, adjudicated in disputes, and moderately taxed both populations. There were, however, fundamental differences. Where pre-war administrations are remembered as being sympathetic towards the kuchis, those of the *jihad*-era endeavoured to be neutral, while accommodating what were considered the just demands of the Shiwachi. A moderate, conservative, middle course was steered, with an emphasis on the equitable resolution of disputes and allocation of resources. Additionally, and axiomatically, the management of resources, including the allocation of *ailoqs*, as well as produce and livestock taxation, were of critical importance to the political economy of the early, self-funding years of the *jihad*.

It should be noted at the outset that the *qawwallas* or tenure documents issued by the *mujahedin* authorities formed the basis of what, for many, and particularly the Shiwachi, was a new legal and administrative system for the area. This new administrative system was seen to supercede all earlier systems. This fact is fundamental to understanding both the kuchi and Shiwachi experience of the period, and their perspective on the present and future.

As kuchis disappeared, or as their livestock levels fell, their *ailoqs* became vacant. Many kuchis owned multiple *ailoqs* and, with reduced numbers of livestock, focused their use on particular ones. As this happened, the *mujahedin* administration assumed the responsibility for the reallocation of *ailoqs*, on a demand-driven basis. There does not appear to have been any significant level of direct appropriation during this period, and the allocation of *ailoqs* does appear to have been tightly regulated and documented. The means of obtaining formal tenure of an *ailoq* was quasi-legal, based on the political legitimacy of the *jihad* and sanctified by reference to Sharia. A standing delegation was established early in the *jihad*, which had responsibility for land distribution and general use, much as the ministries of agriculture and finance would have done prior to the war. Its membership varied but generally included one representative of the *mujahedin* and two senior Shiwachi. The Shiwachi representatives on the committee had both been involved in the pre-war administration of land and were familiar with the distribution of *ailoqs*.⁴ The *ailoq* documentation that has survived from that era displays a thoroughness of approach and an experience of administration on the part of those involved.

The earliest *jihad*-era *qawwallas* located date from the early 1980s, and continued to be issued until the late 1990s. The amounts paid for *ailoqs* were not large, particularly in the early *jihad* period. Payments were generally under US\$100 (though this increased considerably in the late 1990s to several hundred) and were usually paid in installments. This price was still prohibitively high, particularly for the Shiwachi. All *qawwallas* were subject to the approval of Basir Khalid who was the main commander in the Shiwa area and the head of the *Jamiat* front in Badakhshan during the *jihad*. In the 1980s, other commanders also issued *qawwallas*, including those commanding the Baharak and Sarghilon fronts that had control over parts of southern Shiwa.

⁴ This delegation at times consisted of some or all of Mullah Ghaffour (from Shiwa), Maalim Ismail "Passik" (from Sumdarra, a Sunni Tajik), Shah Amwar (a relative of the Mir of Shiwa, murdered with him in 1999), Mullah Sahib Nazar (from Shiwa) and Mullah Ahmad Jan Mutawakil (from Faizabad).

The procedure for issuing *qawwallas* appears to have been as follows: If an *ailoq* had been vacated, a potential user petitioned the land commission, stating that they needed land, and that a particular *ailoq* was vacant. Subject to the approval of the land commission, which vetted applications, a one-off payment was agreed and paid in return for formal ownership documents, or “*qawwallas*” (*qawwalla-i Sharia’i* or *qawwalla-i jihadi*). Interestingly, as far as can be ascertained, those who ultimately received *qawwallas* appear to have been primarily local people or kuchis with legitimate needs. *Qawwallas* were written on either official, headed paper or on plain paper and were stamped. These entitled the new owner to use the *ailoq* as either pasture or for agricultural purposes. In *qawwallas* issued to kuchis the use for pasture is explicitly stated. In those issued to Shiwachi the use was sometimes not specified, though agriculture was generally assumed. All *ailoq* and land allocations were subject to the final approval of the senior military leadership, and most *qawwallas* thus bear signatures of approval. Although both kuchis and Shiwachi maintain that before 1979 *qawwallas* were required to use *ailoqs*, it is conceivable that in some cases the process of obtaining *qawwallas* for *ailoqs* in the *jihad* period may have operated retrospectively and served to formally approve the tenure of *ailoqs* or land that had already been occupied. As prior to the war the cultivation of *ailoqs* was prohibited, the *qawwallas* issued under the *jihad* conferred formal legal authority for cultivation.

It should be noted that the above process also operated in cases of disputed *ailoqs* where kuchis were still present and where the local population was seeking to obtain land or where more comprehensive dispute adjudication was required.

Qawwallas, issued by the *jihad*-era administration, specified the precise boundaries of the *ailoq*. In cases of land distributed for agriculture, the *qawwallas* stipulated the approximate area (in seers), the cost, the details of the new owners and, at times, the name of the former owner. Details were maintained by the allocating authorities - these were recorded and cross-referenced in a formal register held by the *mujahedin* commission responsible.

Translations of examples of *qawwallas* issued to Shiwachi follow:

67/29
1367/4/1
Jamiat-I Islami Afghanistan
Badakhshan Province
General Command

Due to the instruction of the honest follower of the Koran the honorable Basir Khalid, General Commander Badakhshan, and in the process of pasture and land distribution, the *ailoq* belonging to Muhammad Ismail Hazara who has been absent for several years has been sold to sixteen families from Khetef.

The price of the *ailoq*, which is Afs 100,000, has been given by the mentioned families.

The boundaries of this *ailoq* are follows: On the east it is bordered by the camp of Nasruddin Larkhabi's *ailoq*, Mohammad Ghani's land and the Khetef river; on the west by the main river; on the south by the land of Nasruddin Larkhabi, Baba Ali and Haji Reza, and on the north by the main stream from Haji Muhammad Reza's *ailoq*.

Delegation members: Muhammad Ismail Pasikh, Shah Anwar, Abdul Hakim
Signatures
Approved 1368/3/20 by Basir Khalid

The format of *qawwallas* issued to kuchis is identical, as below:

Jamiat-i Islami Afghanistan The General Head Quarters of Mujahedin in Badakhshan Land and pasture title document In accordance with the land and pasture distribution in Shiwa and due to the decision of the General Commander and the Head of High Military Council of Badakhshan province (No. 7), land which has the following boundaries: On the east it meets Dargaw and the area above Dildar Beg's house, on the west it meets Abdul Wahid son of Taghai Nazar and Dara-i-Abdar Kalan, on the north it meets Tigha-i-Silsila Kohi Safid Khaki and Zanjir-I Kaaba and on the south it meets the farming land of Shabal Shah and Shah Jamal is offered to four kuchi familis from Chardara, Kunduz. The title is offered for 500,000 Afghanis, which is the price of <i>ailoq</i>. The mentioned amount has been paid in the presence of the Shiwa delegation. The current document will be reviewed and approved by the honorable General Commander of Badakhshan. Date: 28/4 /1372 The signatures of the delegation Maalim Ismail, Shah Anwar, Mullah Saheb Nazar 1/ 6/1372 The current document is correct, signature: Abdul Basir Khalid, General Commander Badakhshan

Many Shiwachi, who had traditionally felt vulnerable, obtained *qawwallas* from the *mujahedin* administration to re-confirm their tenure over their traditional *ailoqs*. It is unclear to what degree this was externally encouraged, but the practice appears to have been widespread. In general, the new *qawwallas* appear to have been respected during the war, with a few notable exceptions. The Shiwachi-Khwashi dispute in Nakshirpar is a case in point where Shiwachi obtained a *qawwalla* for their traditional *ailoq* to support a claim against newcomer kuchis, though to no avail. Shiwachi also appear to have taken out *qawwallas* for changes in land use, especially when they wanted to cultivate their own traditional *ailoqs*.

A number of kuchis also took out *qawwallas* for their traditional *ailoqs*, though this was not a generalised practice. There is, for example, a clear pattern of Arabs in Shiwa-i Khord taking out *qawwallas*, especially those who did not have pre-war *qawwallas*, even though they may have been present since before the war, such as those kuchis in Darraz Beg, Rizwandara, Guldong, etc. In other areas, and with other ethnic groups, few kuchis appear to have taken out *qawwallas* for traditional land. All, however, would have paid yearly livestock taxes, irrespective of the history of their tenure (as was the case pre-war). Kuchis, in some cases, paid an annual payment for grazing rights (*alafpuli/saralafi/quruqpuli*), regardless of whether they possessed *qawwallas* or not. This practice was expanded in the 1990s and was used by some of the commanders in the area as another category of taxation.

As noted above, the post-1992, post-*jihad* period saw a gradual fragmentation of political authority in the area, and the emergence of a number of small, semi-local commanders. These also intervened in the arena of *ailoq* allocation and at times

there were different sets of authorities allocating *ailoqs* or land. This resulted in a number of cases of Shiwachi *ailoqs* being given by the authorities to kuchis and in such cases (e.g., Rezwandara) the kuchis' ownership was generally upheld. There were also cases of *ailoqs* already occupied by kuchis being allocated to other kuchis. In these cases, the existing user generally prevailed.

Periodically rumours appear to have circulated about the validity of *qawwallas*, including some purporting that cultivation was not permitted unless tenure was confirmed by the provincial authorities (pre-war it was required that agricultural land be formally registered). Quite conceivably these related to competition over the right to collect taxes in the area, or that the provincial bureaucracy wanted to assert its authority. The precise rationale notwithstanding, around 2001, a number of Shiwachi took their *qawwallas* to Faizabad to have them revalidated so as to formalise, and thus defend, their tenure. These were in due course approved by and registered with the Property Section of the Department of Agriculture, the Cooperatives Section, and the Department of Finance. There are also cases of kuchis having their *qawwallas*, including pre-war ones, updated. A number of Arabs also had their pre-war *qawwallas* confirmed by the Property Section, the Department of Agriculture, and the Governor in Faizabad in 2001.

3.2.1 *The jihad-era administration and contested ailoqs*

It is important to recognise that it was to a large degree inevitable that Shiwachi claims to *ailoqs*, lying dormant from before the war, would be raised with the change in political context. It was also inevitable that, in areas where the relationship between the kuchis and the Shiwachi had been poor, friction would develop. This was especially the case where perceptions of injustice were felt by the Shiwachi or neighbouring Tajik populations or, indeed, by other kuchis. In some cases violence and/or intimidation occurred and kuchis were forcibly displaced, their access to pastures blocked, and their *ailoqs* occupied. This was particularly the case after 1992 when internal stability and inter-ethnic solidarity started to deteriorate.

The question that arises, and will be explored in the focus on specific *ailoqs*, is the degree to which kuchis passively vacated *ailoqs*, as opposed to being actively pushed out. While cases of the latter did occur, the good political and economic relations between kuchis and the local *mujahedin*, and the fact that kuchis of all ethnic groups remained in large numbers throughout the war in Shiwa (at least until 1997), suggests that kuchis withdrew from *ailoqs* primarily for external reasons rather than being expelled. The post-2001 return of many kuchis would tend to substantiate this.

That kuchis were, generally speaking, aware of the shift in the balance of power and of the fact that, for the reasons adumbrated above, their rapport with the local, permanent populations was sub-optimal, is clear. They, and particularly the Pashtun kuchis, would also have been inescapably cognisant of the fact that they could no longer count on the central government to defend them and their interests. Consequently, in many cases they complied with the requests of local populations to cede what were relatively small amounts of land for cultivation or did not object when cultivation occurred on their *ailoqs*.⁵ While few kuchis would

⁵ Hasti Khan - scion of one major Kunduz Pashtun kuchi families, Achikzai from Nawabad, Chardara, son of the late Haji Alla Gul (who was the brother of Haji Mawlaw Gul), and brother of Haji Akhtar and Muhammad Ewaz - reports that his father's policy was, in the case of land claims, to allow Shiwachi to cultivate small amounts (which were generally "insignificant"). Hasti Khan is typical of the large predominantly Pashtun livestock owners/livestock-

have consented to this entirely willingly, it was nevertheless a necessary concession and, in most cases, not an altogether unreasonable one. For some kuchis it may have been the thin end of the wedge, but it was essentially of limited impact. What kuchis were, however, unwilling to countenance was the much larger cultivation of vacant *ailoqs*, and friction did occur in Shiwa-i Kalan between Pashtuns objecting to vacant Pashtun *ailoqs* - which they maintained should be kept in perpetuity - being cultivated by Shiwachi in the mid-1980s. In this dispute the Shiwachi prevailed.

It is significant that the *mujahedin* administration also seemed to encourage kuchis to accede to the requests of the local population and to share land, thereby facilitating a more equitable distribution of land, maintaining the goodwill of the local population and preventing land claims from being addressed using more aggressive approaches. An example of this approach is the Imam Sahib Pashtuns, at the behest of the *mujahedin* administration, allowing the local population to use part of one of their Sehdarra *ailoqs* near Sumdarra in 1989. The rationale, "you have rice, we have barley bread, you are here four months a year, we are here twelve," was one that was difficult to argue with. Moreover, relations between the majority of the kuchis and the *mujahedin* were, on the whole, positive during the war. The kuchis were, obviously, a primary source of revenue for the *mujahedin*, and could not, had the *mujahedin* wished, be alienated without considerable cost to the *mujahedin*. With the *mujahedin* administration essentially maintaining the pre-war system of management in the area, they acted in many respects to defend the interests of the kuchis. However, the political dominance of the kuchis, particularly that of the Pashtun kuchis, was curtailed, while their *ailoq* holdings were limited in some areas and, if vacated, reallocated. It was not a case of kuchi tenure being radically overturned. Thus, what the administration oversaw during the *jihad* was a more equitable redistribution of resources - this was not an active strategy that they conceived and directed, rather a natural process that they facilitated.

Inter-ethnic relations, most notably Pashtun-non Pashtun, were not adversely affected in this area until the Taliban period. The kuchis, including the Pashtuns, were in many cases a population supportive of the *jihad*, and often shared the same party affiliation - *Jamiat-i Islami* - as the *mujahedin* in Shiwa (much of the Kunduz Pashtun and Arab population was affiliated with *Jamiat-i Islami*). Good personal relationships between some of the Pashtun kuchi elite and elements of the Badakhshan political and military leadership also clearly existed, or developed, during the war.

It is also salient to note that the changes unleashed by the war were not simply those of the Shiwachi benefiting at the expense of kuchis, or at their misfortune. There were perhaps more cases of Shiwachi losing both disputes over *ailoqs* and of them losing *ailoqs* through weakness than of them winning or gaining them. Kuchis from Khwash took over Shiwachi *ailoqs* in Korang, Nakshirpar, Khoja Arzana (Khetef); Sumdarachis took them in Sharbatdara (Khetef); Argu Uzbeks took them in Pusht-i Alla Tash, Khetef; and Takhar Arabs took them in Safed Abi and Khetef. There are repeated cases of the Shiwachi obtaining new *ailoqs*, including getting *qawwallas*, only for new kuchis to forcibly occupy them (generally in the mid-late 1990s). And, in a reflection of the complexity of the situation, there were cases of the Shiwachi winning disputes or disputing *ailoqs* only for the *ailoq* in question to

owning families which dominated pre-war Shiwa. He personally had 7000 sheep and ten *ailoqs* pre-war (Shokhdara, Shiwa-i Kalal, Khen, Andarab, Jawadara, Chulalla, Turaidarra, Gilasdarra, Sarghilon and Taqarcha). Haji Mawlaw Gul, his uncle, reportedly had 20 flocks and *ailoqs* also scattered throughout Shiwa.

be taken by another group. For example, in Kalandarra, Dozokhdara, after a long dispute the kuchis left, only for the *ailoq* to be taken by Sumdarachis. Thus for the Shiwachi disputes were not necessarily resolved, but oftentimes continued with a new group of kuchis.

3.3 A brief summary of the post-*jihad* period to the present

Resource allocation from 1992 until 2002 is marked by a breakdown in administrative procedures as the overall situation in northeastern Afghanistan became increasingly unstable. The context of resource allocation from 1992 onwards can be divided into three distinct phases: (i) the post-*jihad* period, (ii) the Taliban period, and (iii) the post-Taliban period.

3.3.1 The post-*jihad* period

This period, from 1992 until 1997, saw the start of the breakdown of the overarching control that had existed in the Shiwa area during the *jihad*. While it had always been complicated for kuchis to migrate due to the need to pay taxes in kind to every commander en route, within the pasture areas of Badakhshan the situation had been stable during the *jihad* when it had been under the single control of one well-respected commander, Basir Khalid. With the fall of Kabul to the *mujahedin* and the subsequent conflicts there, many commanders, including Basir Khalid, moved to Kabul. Internal politics also played its part in the breakdown of stability in Badakhshan and elsewhere as attempts, both by aspiring junior commanders and the senior political leadership, were made to undermine the position of existing senior commanders. Numerous small commanders emerged, generally beholden to no one and pre-occupied with self-enrichment through controlling taxation. Conflicts between them, and with established commanders, were frequent, and abuses of civilians commonplace.

Factional conflicts and the war economy also deeply impacted on kuchis in their areas of origin. Inter-factional conflict - pitting, after 1994, *Jamiat* against *Jumbesh* allied, in areas, with *Hizb-i Islami* - over Baghlan, Kunduz and parts of Takhar was frequent, often involving large-scale offensives. The Farsiwan-Pashtun ethnic polarisation occurring at the national level started to impact on the region. The war economy, increasing lawlessness and an increasing degree of outright thefts of livestock continued to undermine the asset base of kuchis. In terms of livestock theft, there does not appear to have been an ethnic dimension; all groups were affected.

This period witnessed a further reduction in the numbers of kuchis summering in Shiwa, principally those from Kunduz, many of whom were Pashtun. The ethnic polarisation also resulted in a number of dormant Shiwachi-Pashtun kuchi conflicts resurfacing and of *ailoqs* being taken, or retaken, by force or through intimidation. A considerable expansion of agricultural activities by semi-local Badakhshi populations also occurred, as did the movement into the area of many Tajik kuchis from Badakhshan as well as many small-scale livestock owners.

3.3.2 The Taliban period

During this period (1997-2001) both Kunduz Province and at times Taloqan town were in the hands of the Taliban, and there was an increase in the breakdown of internal stability in Shiwa. There was widespread conflict in the Sheghnan district

centre and the abduction and murder of much of the Shiwachi elite (including the Mir of Shiwa, in 1999). This was a deliberate attempt to maintain the political marginalisation of the Shiwachi. Heavy taxation of both the local population and, more lucratively, of kuchis took place, principally by commanders from Arganjkhaw who were competing for control of the area and whose main *raison d'être* was self-enrichment. Many Shiwachi during this time reduced cultivation due to instability or onerous taxation, and a number of kuchi and Shiwachi lost *ailoqs*.

As with the earlier periods, conflict in the areas of origin impacted on the kuchis. During this period there was intense conflict, massive population displacement and an aggressive scorched earth policy implemented by the Taliban, which resulted in widespread destruction of much of western and northern Takhar Province, the winter quarters of many of the Takhar Uzbek and Arab kuchis. Additionally, the drought of 1999-2001 blighted much of this area, destroying winter pasture.

It was after 1997 that the majority of the remaining Pashtun kuchi population stopped, temporarily, summering in Shiwa, though primarily for external reasons. With the majority of the Kunduz Pashtun commanders at that stage aligned with the Taliban, Pashtun kuchis had understandable concerns for their security. Some kuchis from Dasht-i Archi, Kunduz had been forcibly evicted from an *ailoq* at Khoja Parwaz in 1997 by Yaftalis in retaliation for the Taliban defeat of United Front in Kunduz. This was clearly ethnically motivated. Additionally, to have actually tried to migrate would have rendered them suspect in the eyes of the Taliban for having crossed into opposition territory. Pashtuns did, however, continue to come from opposition areas during that period (for example, Imam Sahib) as did Arab, Larkhabi and Uzbek kuchis from Kunduz. It was a high risk undertaking for the latter, and there were many reports of flocks having been fired upon with correspondingly high losses of livestock. Kuchis also faced ethnically motivated obstruction from the Taliban - using the logic, as one Arab put it, "*If Pashtu zabon [Pashtu-speaking] kuchis cannot go, then why should Farsiwan [Dari-speaking] kuchis?*" The Taliban lacked any comprehension as to why kuchis might want to move to summer pastures. Many kuchis enlisted the assistance of the late Taloqan Pashtun commander, Abdul Baqi Takhari, to intercede with the Taliban in order to obtain permission to cross into non-Taliban controlled areas.

This period saw the *ailoqs* of most of the remaining Pashtuns fall vacant, and some of these were *qawwalled* and cultivated, or appropriated. There are also numerous reports of *ailoqs* being taken by force, or occupied or part occupied, from either kuchis or Shiwachi during this period, mostly by Badakhshi kuchis.

3.3.3 The post-Taliban period

This period, essentially from the summer of 2002 onwards, has seen something of a return to the situation during the *jihad*. Many of the kuchis absent due to Taliban control of Kunduz returned, and others that have long been absent have started reappearing, albeit with considerably reduced livestock levels. Internal stability has improved significantly since 2002.

4. *Ailoq* Tenure: Continuity and Change

Focusing on select *ailoqs*, this section reviews how *ailoq* use and users changed during the war, as a means of illustrating the impact of the war on tenure. Within this analysis a description is provided of the interaction of returnee kuchis and those who held tenure in their absence, and of conflicts that have arisen between them over *ailoqs*. A description of the current situation in each *ailoq* is also provided. Where significant Shiwachi cultivation or settlement occurred this is noted, but a fuller examination is carried out in the succeeding chapter.

Ailoq area overviews

The pattern and extent of change in the tenure of *ailoqs* varied considerably between *ailoqs* and areas. In some cases these changes simply involved a change of user - from one kuchi to another, from Shiwachi to kuchi, or from kuchi to Shiwachi, with the status of the *ailoqs* as pasture being maintained.

In other cases the change of tenure involved a change in use from pasture to agricultural land, or from arable land to pasture where Shiwachi lost land to kuchis. Some areas experienced considerable change, principally those which were subject to pre-war disputes, and in some of these - as will be described below - tenure passed successively through the hands of up to six different kuchi groups, or oscillated between Shiwachi and kuchis and Tajik agriculturalists.

Some areas, however, witnessed little change in tenure, and continuity of tenure was more the norm. This was principally the case where kuchis managed to continue to visit during the war. Where there was an existing user present the chances of change were reduced, though the legitimacy and/or extent of the tenure of some existing users were challenged in a number of cases.

The picture, as of 2003, is unsurprisingly one of a complex and sensitive situation. Many claims and counter-claims exist, and such issues as traditional use, pre-war title, pre-war inequality, rights of local populations, *jihadi* title, the *jihad* itself, and absence or presence of tenure holders over the previous two decades, are being raised in various combinations to defend current tenure or attempt to restore the situation to that of pre-war. Problems are, while at times ostensibly intractable, not entirely beyond resolution, and there are cases of disputes having been resolved in a reasonable manner. In some cases kuchis have managed to retrieve, with the payment of a few livestock or a relatively small sum of money, their former *ailoqs*. In other areas situations exist of kuchis and Shiwachi, and at times also Tajik agriculturalists, occupying and using the same *ailoq*. Resolution of these disputes, however, very much depends on the individual personalities involved and the approach adopted. For many of those who have been using the *ailoqs* for the past two decades their tenure is more legitimate than that of the former users. Many of the most sensitive cases have yet to be raised.

Dadali area

This area has four *ailoqs*, which display a wide range of wartime change in tenure as well as considerable contrast within what is a relatively small area.

Rizwandara *ailoq*

This was the traditional *ailoq* of the Dadali village and was used primarily as pasture with a small amount as agricultural land. The amount used for agriculture has increased over the last 20 years. Prior to the war, this *ailoq* was shared with a kuchi called Nasrullah, a Malakikhail Pashtun from Kunduz, who failed to return during the war. In 1979, Arabs from Chardara, Kunduz - Juma Khan and Shah Mardan Qul - who had formerly been in Kaldong (Guldong), Nalburha, took a *qawwalla* for Afs 500,000, and moved into the area. There is currently a dispute between the local Shiwachi and the newcomer Arabs.

Mahtabsang *ailoq*

This *ailoq* was used pre-war and erratically during the war by Pashtuns from Kunduz (Jalil Bey), Arabs from Kunduz (Imam Niyaz) in one part, and Shiwachi (who used it in conjunction with their Nakshirpar *ailoq*). All three populations are currently present and there are no reported disputes.

Safid Hawki *ailoq* (north of the river)

This area was traditionally used by Arabs - Abdul Hakim, from Kunduz - who were present throughout the war. The local population has also traditionally had an *ailoq* here but cultivated some of it during the war (for which they obtained a *qawwalla* in 1991). There are no disputes at present, though, as noted above, there have also been movements of Arabs from other *ailoqs* into this general area, which has caused some concern among the Shiwachi.

Nakshirpar *ailoq* (south of the river)

This *ailoq* is currently used by kuchis from Khawshi (Tajiks - Arbab Saber Khan and Haji Daoud - who are linked to Mahmud Khan, the main Khwash commander). The Shiwachi were the original users of the *ailoq* and used it for both pasture and agriculture. Prior to the war, Kunduz Arabs (Arbab Haidar, Mullah Juma) also used the *ailoq*. Local Shiwachi, who have inhabited the area for four generations, have a historical memory that Kunduz Arabs (specifically Juma, whose son Abdul Hakim is still in the area, and Jabal) were the earliest nomads to use the area. A pre-war dispute between the Shiwachi and Arbab Haidar was seemingly resolved in favour of the Shiwachi.

The area saw considerable change during the war. The local population recall that the Arabs were present until at least 1979, and conceivably later, and that Kandaharis - called Muhammad Alam and Kalla Khan - then moved into the *ailoq*. In 1982, the Khawshis took possession of the *ailoq*, though it had seemingly been *qawwalled* by Shiwachi people in 1980. The Khawshis, however, prevailed, retaining control of the *ailoq* by force. They also claimed that they had *qawwalled* the *ailoq*. They did acknowledge that the *ailoq* had previously belonged to Arbab Haidar Arab. The local Shiwachi perception is that Arbab Haidar Arab sold the *ailoq* in 1979 to Mahmud Khan, the Khawshi commander. The area's original Arabs returned in 2002 and 2003, basing themselves with other Arabs in Darraz Beg and Nakshirpar. The Khawshis have refused to completely relinquish the *ailoq*.

Shiwachi from the Dadali area and Shughnis from Weir continue to cultivate the lower parts of the slopes, calculated to be 420 *seers*, and Dadali Shiwachi continue to use it as pasture.

The Khawshis are in a permanent state of conflict with the local Shiwachis. They re-directed a stream in 2001, 2002 and 2003, ostensibly to irrigate their pasture, depriving Shiwachi agricultural land in the valley bottom of water. The Khawshis have persistently refused to restore the stream to its natural course when petitioned by Shiwachi. The local Shiwachis still view the *ailoq* as theirs, while the Khawshi kuchis maintain that they have a *qawwalla* and that the Shiwachi are, in general, at fault for having increased the level of cultivation during the war.

Nalbar

This area has three *ailoqs* north of the Shiwa River, some of which illustrate the extreme limits of intra-kuchi change of tenure.

Siah Nahwah

Siah Nahwah is presently used, separately, by two of its pre-war users, both Arabs from Chardara, Kunduz (Amir Muhammad and Abdul Wahid). They continued to use the *ailoq* during the war, although in the mid-1990s they moved uphill towards the higher area around Safid Hawki, and only returned in 2002. During the late 1990s, Malang Abis from Baharak occupied the area, and then relinquished the area without dispute in 2002. A problem exists, however, with nomads from Khawsh - Arbab Saber Khan and Arbab Qaderbaksh - who continue to graze this *ailoq*, along with the Nakshirpar *ailoq* mentioned above.

The Arabs presented their pre-war *qawwallas* to the Land Registry, the Department of Finance, and Department of Agriculture in Faizabad in 2003 and requested them to confirm their tenure. The Land Registry subsequently provided them with a document (see the *qawwalla* below), which was counter-signed by the Governor of Badakhshan, stating that this tenure had been registered and that it should be upheld.

947

Date: 1382/8/4

To: The honorable delegation and related authorities of Shiwa

According to the observation of the assessment delegation of the Governor's office of Badakhshan province in 1356 (1977), a pasture was registered in the general registry in the names of Mullah Abdul Hamid son of Imam Nazar and four more people from Chahrdara district of Kunduz. The boundaries of the pasture are as below:

On the east it meets Azokam, on the west Siya Dara and farming lands of Sheghnis, on the north Nakshirpar River and on the south Shakhdara Mountain.

According to the documents the above information is correct. Your cooperation in this regard is requested.

Regards, Signatures, Abdul Latif, the administrator of the Property Section of Finance Department of Badakhshan province; [indecipherable] the representative of the Agriculture Department

Approved, 1382/4/8

To: the Land Affairs Section, Department of Agriculture

Deal with this in accordance with the law!

Regards, Signature of Muhammad Aman Hamimi, the Governor of Badakhshan province.

Nalbar

At times also referred to as Kawkdasht and *Ailoq-i Ismail*, this *ailoq* has changed hands numerous times since 1978.

The Nalbar *ailoq* per se has traditionally been used by Shughnis, although in the pre-war period tenure was held at times by Uzbeks from Hazar Bagh, Takhar, Gortepa Pashtuns and Arabs. The Gortepa Pashtuns (Haji Ismail, Haji Nik Muhammad and Haji Malang) claim to still have a pre-war *qawwalla* for part of the area. However, the authenticity of the *qawwalla* is widely questioned, and there have been disputes between Gortepa Pashtuns, and also between Gortepa Pashtuns and the local Shiwachi. Local Shiwachi maintain that the oldest kuchi population in the area is actually the Takhari Uzbeks, followed in succession by the Kunduz Arabs and subsequently the Gortepa Pashtuns, the latter two overlapping.

Early in the *jihad* the Uzbeks, reportedly, stopped visiting the *ailoq*. Both Arabs (Haji Muhammad Karim, Kunduz) and Pashtuns (Haji Ismail) were present during the early *jihad*. The Arabs reportedly went to Pakistan as refugees around 1981, seemingly leaving Haji Ismail in control of the whole area. He remained in the area until 1992, although the area was subject to repeated claims and disputes. Haji Ismail claims that the *ailoq* was at this stage usurped by Jurmis, either the Baharak Ali Moghuls or the Jurm Malang Abis, and that Pashtun access was blocked. There is a report that other groups of Pashtuns, also from Kunduz, moved into the area, though it is unclear who these were. There are also reports that the Shughnis moved into the area.

By the mid-1990s, Ali Moghuls from Baharak were using the *ailoq*. Shughni Boi, the Ali Moghul leader, paid Afs 30 million (approximately \$400) in 1997 after having spent several years there. Ali Moghuls were present in the *ailoq* until 2002. In 2001 Haji Muhammad Karim, the Arab who had used the *ailoq* in the early war years, returned and camped lower in the main valley and staked a claim to the *ailoq* against the Ali Moghuls. Haji Ismail also returned in 2002 and raised his claim against the Ali Moghuls. By 2003, the Ali Moghuls had moved on and both the Pashtuns and the Arabs were in possession of the *ailoq*. The exact relationship between the two is as yet unclear, though the situation has returned to the pre-war one, to some degree.

Tenure has thus been held by at least six groups - Shughnis, Takhar Uzbeks, Arabs, Pashtuns, Malang Abis and Ali Moghuls. The Arabs themselves concede that they are not the original user, and concur with the Shiwachi that the earliest kuchis were Uzbeks, but maintain that they are the oldest in the present line of (kuchi) claimants.

Kaldong (Guldang) (located between Khersdara and Nalbar, above Dildar Beg's)

Arabs from Kunduz (Qurban Khan, Haji Kuchak Ali, Muhammad Khan, Haji Shah Mardan Qul) used this *ailoq* prior to the war. There appears to have been considerable movement between the Arabs in Kaldong, Rizwandara and Siah Nahwah *ailoqs* during the war, and conceivably the *ailoqs* were used collectively. In 1993, the Arabs who used the *ailoq* before the war, re-*qawwalled* the *ailoq* for Afs 500,000. Local people report that other Arabs - including Imam Nazar Arab -

also used the area during the *jihad*, as did Arbab Rustam, a Dukriha Pashtun, from Kunduz.

Many of the original Arabs returned in 2002, and there has been a degree of tension with the Shiwachi since then. The *ailoq* is adjacent to agricultural land, and the kuchis claim that the Shiwachis, principally Dildar Beg, have encroached onto pasture land.

Darraz Beg

There are three *ailoqs* in this area, all on the south side of the river. There were 15 Arab families in the area in 2003, of which at least two sub-groups were present prior to the war whereas one came during the war.

Darraz Beg *ailoq*, above Sarai-i Jarobkash (also referred to as Nalbar-i Darraz Beg)

Arabs from Imam Sahib, Kunduz used this *ailoq* pre-war, having moved into it in 1971 from the Siya Chaghat *ailoq* as a result of a family conflict (a family dispute had arisen between Mullah Kenja Bey, who stayed in Siya Chaghat, and Imam Niyaz, Chopan and Gulabi, who moved to Darraz Beg). The Arabs remained there for five years, left in 1977, then returned and were present during the conflict. Although they did not have formal *qawwallas*, their tenure was officially accepted. They obtained *jihadi qawwallas* in 1993. Following the death of their father, Haji Muhammad Khan, another inheritance dispute arose, and it appears that Imam Niyaz moved to Mahtabsang *ailoq* (in agreement with the Shiwachi).

Sahib Begum, above Darraz Beg

Arabs from Gortepa, Kunduz, principally Hassan-i Kar, presently use this *ailoq*. These Gortepa Arabs traditionally summered in Dasht-i Ish, Darwaz, but were displaced in 1973 due to insecurity there (there was a local, leftist revolt against the Kabul government that resulted in nomads being expelled or fleeing). They moved to Shiwa, took an *ailoq* in Dozokhdara, and paid *alafpuli* on an annual basis. After the conflict began they continued to come to Shiwa and moved to Sahib Begum in the early 1980s when it became vacant. Taimori Pashtuns had previously used the *ailoq*, but disappeared during the war, and before the Taimori Pashtuns Shughnis used the *ailoq*. In 1996 Hassan-i Kar *qawwalled* the *ailoq*; it noted that he had been in the area for the previous fourteen years.

At present there do not appear to be any competing claims to the *ailoq*. One attempt was made in 1998 by a Pashtun kuchi called Muhammad Alim, who was not the original owner. He claimed to have bought the *ailoq* from a local commander, Adina from Arghanjhaw. This claim failed.

The area has seen recurrent problems between the nomads and Shiwachi. It is the usual complicated picture involving Shiwachi cultivation of land which the Arabs claim, disingenuously, is their pasture; Shiwachi reclaiming land which they abandoned when they left the area in the 1980s; and livestock grazing on Shiwachi cereals. The local military have aggravated the situation by invariably taking sides with the nomads (according to the Shiwachi this is due to bribery) and using violence against the Shiwachi. In 2000, the local military beat one farmer for cultivating what the Arabs maintained was pasture.

A perception exists in the minds of the Arabs that the Shiwachi have increased cultivation at the expense of their pasture, and that they have also expanded their settlement as a result of immigration from Sheghnan. In this area, while there has been an incremental increase in agriculture, it has generally not been on kuchi pasture land, rather on land that appears to have been traditional Shiwachi arable land or Shiwachi pasture, or common property land that has been *qawwalled* during the war. As of 2003, the relationship between the Arabs in the area and the Shiwachi had stabilised (though problems persist with the Khawshi in adjoining areas).

Kars (up to Qabristan-i Kandahari)

The Baluch from Chardara, Kunduz, and Lodine Pashtuns from Zulmabad, Aq Tepa, Kunduz used this area before the war. It is not clear when, but the Baluch left early in the *jihad*. The Aq Tepa Pashtuns were present in small numbers during the war and the area was under-utilised at times with only one flock being present. Groups of Baharak Tajiks moved into the area in the 1990s uncontested. No Pashtuns came to this *ailoq* during the four years of the Taliban occupation of Kunduz Province. A few Pashtun kuchis did summer in 2002, and then thirteen families summered in 2003 in Kars, Korang and Juruj. After jointly using the area, and then exclusively using it, the Baharakis vacated the area in 2003. None had obtained *qawwallas* during the war. There are also small numbers of Shiwachi pasturing sheep in the area.

Korang

Prior to the war this *ailoq* area was primarily under the control of Pashtun kuchis, although the area also includes traditional *ailoqs* belonging to Shiwachi and Rustaq Tajiks. There are numerous side valleys and many small *ailoqs*. The Aq Tepa Pashtuns mentioned above presently use the area.⁶ As noted, these were present in very attenuated numbers during the war and were absent during the Taliban period. Also present are Imam Sahib Mohmand Pashtuns (Mirzak, who *qawwalled* the *ailoq* running from Qabristan-i Kandahari towards Shiwa Lake, as well as parts of Baqi *ailoq*); one new Pashtun kuchi (Alluaddin) also from Zulmabad, Kunduz, who was not present pre-war and who had obtained a season's grazing rights from a local commander (Abdul Awwal); newcomer Khawshis in Mian Koh, formerly used by Pashtuns and Shiwachis; and Rustaq Tajiks at the eastern end of Korang who were present pre-war. At present there does not appear to be any disputes.

Juruj (opposite/south of Qabristan-i Kandahari)

This area has seen an expansion of Shughni pastoral and agricultural activity, particularly by populations who have a long-standing claim on the area.

Historically, this was a Shughni *ailoq* area, but in 1953, as with a variety of other areas in Shiwa, Kunduz Pashtuns claimed the area. The authorities eventually resolved the dispute between the Shughni and Kunduz Pashtuns in favour of the Shiwachi. However, as the *ailoq* was situated between two other Pashtun-controlled *ailoqs* - one controlled by Sultan and Azim Gadi from Baghlan and one controlled by Haji Ghaffour in Sangi Abdara - the Shiwachi were seemingly prevented from accessing the area. During the war, when the kuchis stopped

⁶ Haji Khiru Bey, Haji Daoud Shah, Haji Darwaz Shah, Haji Muhammad Shah, Shiru Bey, Haji Kamal, Lalo, Sayyid Gul, Bashir, Abdullah Khan, Bismillah and Juma Gulkhan

coming to the area, the Shughnis repossessed the *ailoq*. Those from Darmarakht re-established farming and pasture and were joined by others from Weirrizne who obtained pasture land in 1992. There are reports that there was fighting - "with sticks and stones" - between kuchis and Shiwachi around 1992.

The return of the Pashtun kuchis, including some of the thirteen family groups based in Korang mentioned above, does not appear to have created any problems to date.

Baqi

The Baqi area has also witnessed considerable change, and a number of interesting disputes. Prior to the war the kuchi profile was mixed, with three Arabs and four Pashtuns alongside Shughnis from Weirrizne, some of who had long-standing seasonal settlements and agricultural land. During the war the majority of the Pashtuns and the Arabs disappeared, and the *ailoqs* did not have any stable user. In the late 1980s two flocks, totalling 1,600 sheep, belonging to Mirzak, a Mohmand Pashtun from Imam Sahib, who had previously used Dasht-i Ish in Darwaz, arrived in the area with an authorisation from one of the Arghanjkhaw commanders for them to take an unused *ailoq*. He occupied the *ailoq* in Sang-i Obdarra formerly used by Azzam Bey, a Gadi Pashtun from Baghlan. Shughnis also occupied a second *ailoq*. In 1998 Malang Abis from Baharak obtained a *qawwalla* for one of the Lodine *ailoqs*.

Zajjhat

The Sheghnis have used the two *ailoqs* in Zajjhat since before the war. There were two attempts by Pashtun kuchis to take possession of these *ailoqs* in the 1950s, but the courts supported the tenure of the Sheghnis. The Sheghnis continue to use the *ailoqs* and there are currently no kuchis present and no disputes.

Zanjir Kabaa

The main change to occur in the Zanjir Kabaa area has been the disappearance (early in the *jihad* period) of the Baghlan Pashtuns, who previously grazed eight flocks in this area. Some of the area's five Arab groups (four from Gortepa and one from Imam Sahib) were absent during varying parts of the conflict but all returned by 2002. A fifth Arab kuchi (Zaher Boi), who had formerly been a shepherd and was allocated pasture in agreement with other nomads, started using the *ailoq* from 2001 onwards. The Baghlan Pashtun kuchis have been replaced by Baharak Tajik kuchis, all of whom have *jihadi qawwallas*. To date there has been no reappearance of the Baghlan Pashtuns.

Kuchi-Shiwachi relationships are generally harmonious. There is an ongoing dispute due to limited Shiwachi expansion of agriculture on what appears to have been formerly shared *ailoqs* - Ab-i Safid and Sar Darra-i Wali Jan. The expansion of agriculture occurred when Gortepa Arab kuchis were absent.

Andarab

Tenure change has been limited in this area, with most of the pre-war kuchis having been present during the war. The area has an ethnically mixed kuchi profile: there are three Larkhabi, five Pashtun, two Tajiik, one Uzbek and six Shiwachi flocks. Only one *ailoq* appears to have changed hands during the war

years, that of Haji Ismat Gadi from Baghlan, at Sehdarra, who was present until the mid-1980s. However, the *ailoq* at Sehdarra was subject to a dormant pre-war claim by local Shiwachi, who *qawwalled* it in 1987 after Haji Ismat Gadi departed. Chardara Arabs temporarily occupied the area after the Haji ceased using the *ailoq*. It is now used primarily as a Shiwachi *ailoq* with a small amount being cultivated.

The Baqi dispute - dispute resolution or aggravation?

At a joint Sheghni-Mohmad Pashtun campsite, opposite the Juruj/Baqi side valley, a Gadi Pashtun (Haji Ulus Mir) appeared after fifteen year's absence and demanded, somewhat aggressively, that the Shughnis and Mohmands return his *ailoq* to him. This case provides a clear illustration of the sensitivities surrounding both the return of long-absent kuchis, highlighting the issues of Kuchi-Shiwachi relations, and the legacy of the inequitable allocation of *ailoqs* by previous governments.

From the perspective of the Haji Ulus Mir his case was straightforward and revolved around the unquestionable legitimacy of his former tenure conferred upon him, allegedly, in the time of Zahir Shah. Furthermore, Wakil Rahmat Khan, a Sheghni elder, had seemingly endorsed the allocation of the *ailoq* to Haji Ulus Mir's family in the 1930s, as would have been incumbent upon him to do so. For the Shughnis, the case was also clear - the original allocation was unjust and had resulted in the loss of their traditional pastures. Indeed, Wakil Rahmat Khan's involvement was viewed as rubber-stamping a decision of the central government and was not seen as an endorsement given by the Shughni community.

It was put to the Haji that he had left of his own accord; that he had not been expelled by the local people; that the local people had the right to use local resources; that the local people had the need; that the government (i.e. the *mujahedin*) had approved their use of the *ailoq*; and that they, the local people, had paid for it. The legitimacy of the *jihadi qawwallas* was also reiterated, including that they have superceded all earlier documents, and cannot be reversed. Haji Ulus Mir initially conceded these points.

In terms of resolving the issue, other *ailoqs* were now vacant, and a suggestion was made that Haji Ulus Mir take his flock to Khenj, where the local village leader would issue him with a vacant *ailoq*. Haji Ulus Mir refused categorically, saying that this was impossible, that he had been here for 100-150 years and that he could not relinquish his *ailoq*. Furthermore, he claimed, quite implausibly, that the main regional commander had sent him letters telling him to return. The Sheghnis again put it to him that he had left, been absent for fifteen years, and that by now aggressively staking a claim he was turning the area into a potential war zone. An aggressive approach was not going to help resolve the situation. Haji Ulus Mir reiterated the grounds of his claim, citing the legality of the allocation of *ailoqs* in Zahir Shah's period and after. At the mention of Zahir Shah the focus sharpened: the Haji was told, with the deference normally associated with dealing with elders, that "you" were the government previously, now "we" are, that Zahir Shah was King in his own time and that now "we" are in charge, that "you" are our guest, that "we" say welcome, then you tell us to give you our land, and that if anyone should leave it should be him, the visitor, not the local people.

Additionally, the Mohmand Pashtun added, Haji Ulus Mir was previously in Shiwa as a shepherd, not as a livestock owner. He had subsequently come by a flock, but the *ailoq* was not actually his but belonged to members of his tribal group, not to him or his family. He had allegedly neither inherited it nor bought it from the original owner. Furthermore, *jihadi qawwallas* were never issued free and they, the Mohmad Pashtuns, had paid for them, and it was they who had fought and supported the *jihad* while others had spent the war years safely in Pakistan.

Dawlat Shahi

There has been no significant change in this area, with the current kuchis being primarily pre-war Takhari Uzbeks and Goretpa Kunduz Pashtuns. Disputes are, however, a feature of the area.

One dispute is ongoing over part of Darra-i Zardi *ailoq* between Najibullah, a Bekawol Turkmen from Chardara, Kunduz, the traditional user of the *ailoq* (he has a *qawwalla* from 1956 and was present during the war) and Ghaffour and Muhammad Afghan (both Kunduz Pashtuns) who appear to have moved into the area during the war.

There are also three areas disputed between kuchis and Shiwachi. One is the Shagum Beg Darra *ailoq*, above Dawlat Shahi village, that the Shiwachi maintain has been in the possession of five local families since 1942, and which is part *ailoq*, part agricultural land. Takhar Uzbeks Haji Safar and Noor Muhammad seemingly forcibly occupied this *ailoq* in 2000. Neither they nor other Uzbek groups or the two Pashtun groups in this area have any legal title. The same problem exists with the Katabar *ailoq* on the slopes of Pir Mad mountain, which was formerly used by eight Shiwachi families, and is now disputed by Takhari Uzbeks. Likewise four Shiwachi families used the Gandak Darra *ailoq* as joint pasture-agricultural land, but this is now disputed by Takhari Tajiks (and reportedly now inaccessible to Shiwachi).

Zoodraban

This area has only three kuchi *ailoqs*, which are used by Shiwachi and Takhari Uzbeks who have been in the area since before the war. Disputes exist over Surkh *ailoq* from where the Shiwachi maintain they were evicted in 1991-1992 (they allege that the Uzbeks petitioned and bribed the Arganjkhaw authorities demanding that the Shiwachi vacate the *ailoq*), and over the Cheditch *ailoq* involving identical circumstances.

Badood

There has been no change in land tenure here during the war, with the area's two *ailoqs* being used by Uzbek kuchis from Takhar and Kunduz (Dasht-i Archi District). There is a degree of insecurity in the area, caused by banditry from Darwaz and Ragh, which has prevented access to some parts by Shiwachi.

Khenj

The Khenj area, in northeastern Shiwa, has sixteen identifiable *ailoqs*, some of which are extremely large and have numerous sub-*ailoqs* (e.g. the Qaradong *ailoq* accommodates eleven separate kuchi flocks). Changes in tenure during the war primarily reflected a reduction in the number of Pashtuns, with those from Baghlan and Kunduz having disappeared in the mid-1980s, and being replaced by Tajik kuchis from Badakhshan (some of whom obtained *qawwallas*). Of the 37 kuchi groups presently in the area all but six (of the eleven) Badakhshi Tajiks were present pre-war. There are currently, in total, three Kunduz Pashtuns, eleven Uzbeks (five from Badakhshan, six from Takhar), four Arabs (Takhar 3, Kunduz 1), eight Larkhabis (all from Kunduz) and eleven Badakhshi Tajiks.

Additionally, there are a number of kuchi groups - Khwagaghar Tajiks, Kunduz Larkhabis and Imam Sahib Pashtuns - who have no fixed *ailoqs* but use the area. They have either never had an *ailoq* in the area or have been forcibly displaced from elsewhere. These are, generally speaking, allocated *ailoqs* or parts of *ailoqs* as and when available by the Mardana of Khenj, often subject to the agreement of other kuchis. Of the kuchis which pre-date the war only a very small number have taken *jihadi qawwallas* (as has occurred elsewhere to reconfirm one's tenure) - many paid, and continue to pay, relatively small amounts on a yearly basis (as *alafpuli*).

There has been some expansion of Shiwachi into vacant *ailoqs*. The Shiwachi currently use an *ailoq* at Safid Abi, under Koh-i Pir Madad, as pasture. Larkhabis used this *ailoq* before the war, although it was subject to an ongoing Shiwachi claim. The Shiwachi *qawwalled* the *ailoq* in 1983, paying "two oxen, Afs 100,000, three chakmans [local chapans or long-sleeved cloaks], and one milch cow and its calf."

Relations between kuchis and Shiwachi appear to be good and there do not appear to be many disputes. There is one long-standing dispute between the Shiwachi and Baghlan Pashtuns over the Pashbay Darra *ailoq*. The Shiwachi's claim was raised but not resolved during the war. Once the kuchis failed to return after 1992, the *ailoq* was appropriated by Tajiks from Shorabak (just south of Faizabad) linked to a commander called Barakatullah. The Shiwachi continue to claim the *ailoq*, though the subject of their claim has now changed. A number of the kuchi *ailoqs* in the area were disputed before the war, principally between Shiwachi and Pashtun kuchis, and are now used by either Shiwachi or Tajiks - in cases of the latter discontent exists over the Tajiks usurping what the Shiwachi claim was rightfully theirs. To date there has been no attempted return of absent kuchis.

Khetef

Khetef, the north central region, has twelve identifiable *ailoqs* and, as with Khenj, many contain internal sub-divisions. This area saw a widely noted reduction in the numbers of Takhar Uzbeks and Arabs during the war - six groups have disappeared, along with one group of Kunduz Arabs and the Imam Sahib Hazaras. There has been a compensatory in-movement of both Uzbek and Tajik kuchis from Badakhshan. There are presently 18 groups of kuchis in the area - six Arabs (all from Takhar), six Uzbeks (all from Badakhshan), one Pashtun (from Kunduz) and five Tajiks (all from Badakhshan).

There are a number of ongoing tenure-related problems in the area, principally between kuchis and Shiwachi:

- At Khoja Arzana, newcomer Khawshis and Argu Uzbeks have occupied traditional Shiwachi *ailoqs*;
- At Sharbatdara newcomer Sumdarachis have occupied a traditional area of joint Shiwachi pasture and agricultural land; and
- At Pusht-i Alla Tash, in 1991, Chardara Argu Uzbeks, claiming that the *ailoq* was empty, displaced the Shiwachi who had traditionally cultivated and grazed the area.

The Shiwachi did attempt to claim Safed Ab, which they maintained had been taken from them by Takhari Arabs. The Shiwachi attempt was unsuccessful. The

Shiwachi did, however, *qawwall* the *ailoq* of Muhammad Ismail Hazara from Imam Sahib, who disappeared early in the war, in 1989.

Taqarcha

There has been a degree of change in this area involving, principally, the expansion of both Shiwachi and Tajik kuchis and agriculturalists from neighbouring districts into *ailoqs* vacated by Kunduz Arabs or Pashtuns, and at times into those occupied by Shiwachi. The area has a multi-ethnic kuchi profile - three Uzbek groups (two from Takhar, one from Badakhshan), three Badakhshani Tajiks and three Kunduz Pashtuns.

The Shiwachi have *qawwalled* the *ailoq* of Mir Bai from Chardara, and currently use it as pasture. The tenure of the Shiwachi in the area appears to have been affected quite negatively during the war, and there are a number of kuchi-Shiwachi disputes at present. Uzbeks from Rabat, Argu forcibly occupied the Qarradong *ailoq*, which belonged to Shiwachi in 1983 (they obtained a *qawwalla* in 1983 though the Uzbeks rejected it). On the actual *Ailoq-i Taqarcha*, one Kunduz Pashtun kuchi (Kot Mer) left and was subsequently replaced by another (Niyaz Muhammad), though the *ailoq* was the subject of a claim, and, in the interregnum, had been both cultivated and used as pasture by Shiwachi. Both areas are disputed at present, although it appears that the Uzbeks in the first dispute have relinquished part of the *ailoq* to the Shiwachi.

In terms of intra-kuchi issues, in this area pre-war Khwagaghar Pashtun kuchis now co-exist with newcomer Sumdarachi (Badakhshani Tajik) kuchis. The Sumdarachi kuchis occupied part of the area by force and Takhar Arabs claim that they were dispossessed as a result. Some of area has also been traditionally cultivated by local Shiwachi who are now in dispute with the Sumdarachis.

Additionally, one vacant *ailoq* - Darra-i Saleh, formerly used by Saleh, a Kunduz Pashtun, who ceased coming during the war - was occupied by a flock belonging to an Argu Uzbek commander (Wadood) who now rents part of the *ailoq* to other kuchis. Interestingly, it is currently rented - for Afghani 1,000 - to another Khanabad Kunduz Pashtun, Muhammad Alam, who formerly used Kotal-i Khawak, between the Andarab and Panjshir valleys. Muhammad Alam relocated to Shiwa due to increasing livestock levels, therefore needing to find a larger *ailoq* (not an altogether uncommon phenomenon), and also because of increasing cultivation at Khawak.

Dozokhdara

Dozokhdara has seen considerable change and the tenure of many *ailoqs* here remains contested. Many Pashtuns and Arabs withdrew during the war, with the numbers of Pashtuns dropping after 1992, before they ceased to visit the area after 1997. Some evidently left much earlier (e.g. those from Darra-i Karam left in the early *jihad* period). In some cases, vacant *ailoqs* were occupied by other kuchis or Shiwachi, and at times Tajiks from the surrounding areas. The Tajiks accessing the *ailoqs* generally came into conflict with the Shiwachi, who often had claims on the *ailoqs*. While tenure is widely disputed, the area has also witnessed the uncontested return of a number of kuchi groups.

The Shiwachi have obtained control of three *ailoqs* on which they have had long-standing claims. One of the Shiwachi claims dates from 1962, when they allege the

ailoq was taken over by kuchis. As a result, the *ailoqs* were used before the war by a number of Pashtuns, including Sayyid Noor Muhammad, Haji Akhtar (Ganjorak), and Gul Muhammad and Mangal. Based on *qawwallas* extensive cultivation was carried out on these *ailoqs*.

In terms of kuchis replacing kuchis, the Pashtuns in Darra-i Karam stopped coming to the area by 1981 and were replaced by Khawshis. The Arabs who used Sarga-i Dozokhdara (Haji Zarif and Haji Sultan) ceased appearing and were replaced by Sufi Nik Muhammad and Rabbani, also Arabs, and Haji Zaidullah, a Tajik from Shashpul, Baharak.

There has also been some forcible displacement of Shiwachi from their *ailoqs*. Shah Mahmud, a Kunduz Arab, displaced Doab Shiwachi (who were allegedly present in the area from 1924-1987) from Pahandara-i Dozokhdara and blocked them from using the *ailoq*. Kunduz Pashtuns, Arabs and Shiwachi had used the area jointly before the war. In addition, Uzbeks from Argu (Sayyid Ahmad from Toshkak) and Rustaq forcibly occupied the Darra-i Kol area in 1990, which had formerly been a Shiwachi agricultural area. Furthermore, Yaftalis took control of the Khoja Parwaz *ailoq*.

Up until 1996, Haji Kabir, a Dasht-i Archi Pashtun, used the Kalan Darra *ailoq*, which Qalai Mirza Shah Shiwachi maintain had been appropriated from them. When Haji Kabir ceased to use the *ailoq*, Sumdarachis appropriated the *ailoq* and used it as arable and pasture land, with disregard to the Shwiachi claim. A delegation attempted to resolve the situation in 1999, ruling that the *ailoq* should be divided between the Sumdarachis and Shiwachis. The Shiwachis, however, were unable to access the *ailoq* out of fear. In 2002, Haji Kabir returned and both he and the Shiwachis managed to have the Sumdarachis relinquish control of part of the *ailoq*. The area is being used jointly at present.

The return of some of the absent kuchis in 2002-2003 has produced a full range of responses. In Shoturgardan, from where Chardara Pashtuns were absent for four years, and where there was no attempt to fill the vacuum, their return in 2002 was straightforward. In other areas such as Ganjorak, one of the Pashtun-controlled *ailoqs* claimed by the Shiwachi and *qawwalled* for pasture during the war, tension now exists between returnee kuchis and Shiwachi.

The valley presently has eight Arabs, four Pashtuns, five Tajiks and five Uzbeks (four from Badakhshan and one from Takhar). None of the newcomers - i.e. those from Khawsh, Sumdara and Baharak - have *qawwallas*.

Kamar Saighan

There has been very little change in the tenure situation in this area since 1979, and there are few substantive problems at present. The area has a large number of what are essentially local Tajik kuchis from Ragh and Yaftal - the two neighbouring districts, with ten and eight flocks from each respectively - as well as Uzbeks from Takhar (nine flocks), Argu (four) and Yaftal (three). All these kuchis pre-date the war. Problems over *ailoqs* between Raghis and Yaftalis did occur during the *jihad* though these are now dormant. The relationship of these kuchis - both sets of which have strong political and military backing - with the local Shiwachi population are apparently normal at present. Wide-ranging cultivation by Raghis and Yaftalis of their own *ailoqs* is now occurring.

Do Abi Shiwa (Siya Chaghat)

Tenure of the four Siya Chaghat *ailoqs*, above the village of Do Abi Shiwa, was formerly held by Pashtun Mohmands from Imam Sahib, Kunduz and, at times, Arabs. While some Pashtun Mohmands and Arab users disappeared during the war, two Pashtun groups remained (Jalal and Muhammad Amin). The vacant *ailoqs* - Darra-i Sayyid Beg, Darra-i Baz Muhammad and Darra-i Nazar Aman - have been occupied by three groups of Tajiks from Rubab, Baharak, who use the area both as pasture and for cultivation. There are no reported disputes between the two groups at present.

Do Abi Shiwa (Khoja Parwaz)

Tenure change is again primarily a reflection of the disappearance of several groups of Baghlan Pashtuns and the consequent, though limited, expansion of Shiwachi. The Shahin Chagal *ailoq* on the slopes of Khoja Parwaz mountain, which was previously used jointly with Ali Ahmad from Baghlan, was *qawwalled* by three Shiwachi families in 1995 (payment was made to Abdul Awwal, from Arganjkhaw). Only a small amount was cultivated, with the majority continuing to be used as pasture.

Dasht-i Archi Pashtuns were in the area until 1997 when, following the defeat of United Front forces by the Taliban, which had been joined by most of the senior Kunduz Pashtun commanders, they were forcibly displaced by Yaftalis. The Yaftalis have also created problems for the Shiwachi who have traditionally used the area.

Kalandarra (Charsang ailoq)

As with Siya Chaghat, the withdrawal of kuchis - in this case Chardara Pashtuns who were absent for the four years when the Taliban occupied Kunduz - led to the vacuum being filled by local Tajik kuchis, this time from Sumdara. The original tenure holders returned with eight flocks in 2002. The *ailoq* is presently being used by the original kuchis and the Sumdarachis, and a small number of Shiwachi livestock. The area is subject to an active dispute between the Pashtuns and the Sumdarachis. A petition was made in 2002 to the local Shiwachi authorities and the provincial governor for assistance to resolve the dispute. It has, however, been left unresolved.

Pillaw

This area has seen considerable change in tenure during the war, most notably the establishment of a settlement and extensive agriculture by Shiwachi and Tajiks. The area was, pre-war, used exclusively by Pashtuns from Kunduz who were present well into the 1980s, when they were joined by Shiwachi settlers. (The history of this area is reviewed in the following chapter.)

In 2002, the Pashtun kuchis returned, with four flocks in Pitawshar and eight flocks (belonging to Haji Mawlaw Gul) in Duabi Pillaw. These are presently coexisting with the Shiwachi, though relations are tense. The area remains a potential flashpoint.

Tajik agriculturists and cattle herders from Zardew and Sarghilon have also moved into the area, particularly the southern parts, e.g., Gilassdarra and Khwaja Lal. These have been used extensively for irrigated agriculture as well as pasture.

There are no Shiwachi in the areas, and there has been no attempted kuchi return to date.

Mardarra

The Mardarra *ailoq*, on the high ground to the northwest of Mazardarra, was apparently subject to a long-standing kuchi-Shiwachi pre-war dispute. Shiwachi, originally from the interior - i.e. Khetef, Khenj, etc. - reportedly inhabited the area until 1963, when they were displaced by Kunduz Pashtuns. They subsequently visited the area seasonally until 1981, when the kuchis withdrew and they re-established permanent dwellings (though cultivation is limited).

Gilikdara (Dashthai-i Balaa, north of Pul-i Zirribon)

This area has seen both a reduction of the traditional kuchis and an expansion of pastoralism by the local community. It would appear that Brouni Kandaharis from Baghlan stopped coming to the area around 1981, and Gortepa Pashtuns (Sahib Khan, Wali Muhammad and Musa Khan) stopped around 1988. Gortepa and Chardara Arabs, including Haji Khan Shirin, who had been present from before the war and erratically present during the war, have now returned, though in lesser numbers. There has to date been no reappearance of the Pashtun kuchis.

At least two groups of Baharak Tajiks - conducting joint agriculture and livestock rearing - have moved into the area, as has at least one group of Argu Uzbeks. There has been friction between them and both the local Shiwachi and the Arabs. The latter were prevented from using the *ailoq* at some stages, although this was seemingly resolved in 2003.

Dilwarza (south of Pul-i Zirribon)

Prior to the war this area was used by Khanabad and Darqad (north Takhar) Pashtuns and Argu Uzbeks. Apart from the Darqad Pashtuns (Abdur Rahman Bey and Allah Nazar) all came continuously during the war and continue to use the *ailoq*. There are reports that Prooti Baluch also used the *ailoq* during various stages before the war, though they are no longer present. The *ailoqs* of the Darqad Pashtuns are now used by Tajiks from Wakhshir, Baharak.

There has been some cultivation by local Shiwachi, though no disputes have arisen to date.

Shokhdarra

The change in the tenure situation, reflecting changes in the kuchi profile, has been limited in the two Shokhdara valleys and, where it occurred, conforms to the pattern prevailing elsewhere.

In Shokhdara-i Khord the kuchis are predominantly Argu Uzbek, who had five flocks before the war. There is one Kunduz Pashtun kuchi who uses the area, while another Kunduz Pashtun, Mir Hassan, stopped coming to the area during the war. There are no disputes at present.

In Shokhdara-i Kalan, there are five Argu Uzbek and two Kunduz Pashtun groups. There has been a sizeable disappearance of Pashtuns from this area. An intra-kuchi

dispute exists between Haji Jabal and Haji Samad, both Uzbek, and Haji Muhammad, a Pashtun. Both parties claim ownership of one particular *ailoq*, which they claim they were the sole pre-war users of and that the other was not actually present. Local people, and other Uzbeks, report that both used the *ailoq* before the war. The dispute has been raised with the Shiwachi authorities and with Abdul Awwal (the Arghanjkhaw commander), although it has not been resolved.

A number of kuchi-Shiwachi disputes did occur during the war, and in two known instances - with Kandaharis and with Chardara, Kunduz Arabs (Daoud Bey, Hassab Khan and Sher Ali) - the Shiwachis succeeded in obtaining control of disputed *ailoqs* for which they subsequently obtained *qawwallas*. Shokhdara has had a long history of Shiwachi-kuchi conflict, with Shiwachi elders recalling actual conflicts and dispossession - including emigration - when nomads moved into the area in the 1930s and after.

Qurumsang

As in Shokhdara, the tenure situation and kuchi profile remains largely unchanged. Two groups of Kunduz Arabs and two groups of Kunduz Pashtuns remain in the area from before the war. One other Kunduz Pashtun called Haji Juma Khan disappeared around 1979/1980 and was subsequently replaced by Tajiks from Khairabad, Baharak (though without *qawwallas*). There is presently a dispute between the two groups of Arabs.

Khersdarra

There has been no change in the tenure situation in Khersdarra. Two flocks belonging to Kunduz Arabs - Hussain, Saifullah and Arbad Ghulam Nabi - and who have been in the area from the 1970s, continue to use the area's two *ailoqs*. Both obtained *qawwallas* during the war to confirm their tenure.

5. Shiwachi Agriculture and Settlement Expansion

With the withdrawal of many of the kuchis, and the general sympathy of the new local administration during the *jihad*, the Shiwachi were presented with the opportunity of cultivating pasture land, some of which was no longer used by kuchis. The rationale for expanding cultivation was to attempt to redress the area's traditional food insecurity. Moreover, Shiwachi settlements were coming under increasing pressure due to population growth beyond pre-war numbers. Additionally, and importantly, the Shiwachi were also presented with a context that made it relatively easy for them to move, and settle, within the region. While the numbers involved in moving were small, this was nevertheless both socially and economically important. Both the agricultural expansion and the movement within Shiwa appear to have acted to offset what was potentially a mounting population and land crisis.

This chapter will endeavour to analyse the tenure-related expansion of both agriculture and settlement undertaken by the Shiwachi community, made possible by the change in context, and to explain the limitations under which this occurred.

5.1 The expansion, and retraction, of agriculture

Before looking at specific areas in Shiwa, it is important to note that the process of expansion of agriculture was not a linear or smooth one. There were alternate periods of expansion and contraction, coupled with a general phenomenon of locality-specific retraction. Many factors were clearly at play, including conflict or the fear of conflict, and importantly heavy taxation, which profoundly affected cultivation. High taxation coupled with low yields made cultivation economically unviable in some areas and is actually cited as a reason why many ceased cultivating in the late 1990s. After 1992, politics also had a significant impact on Shiwachi expansion. The drought of 1999-2001 also impacted on the area, as did excessive snowfalls in 2002. Tenure issues deeply affected cultivation, with problems with kuchis or other agriculturalists having frequently resulted in land, including traditional agricultural land as well as *qawwalled* land, being lost.

Inheritance fragmentation has exerted a major destabilising effect, with the land holdings of many farmers having become agriculturally non-viable. This has in turn propelled population movements, including emigration out of the area, resulting in some cases in arable areas being abandoned in one area and, at times, new areas cultivated in another. Environmental degradation, erosion and land losses due to floods and landslides have also complicated the situation of those in the peripheral, more ecologically marginal areas.

It should be noted at the outset that not all of the land which was newly cultivated by Shiwachi was formerly linked to kuchis. It was clearly commonplace for unused common property land (e.g. at Shokhdara and Dadali, in the main Shiwa-i Khord valley) and for *ailoqs* traditionally used by local communities to be cultivated (e.g. at Nakhjirpar, Rezwandara, Qala-i Mirza Shah, Qamar Saigon and Siyachaghat). In such cases they invariably obtained *qawwallas* to confirm a right to cultivate, and more often than not *qawwalled* an alternative pasture *ailoq*.

A precise quantification of the change in cultivation at the Shiwa level is thus not entirely realistic. With this caveat in mind, it is, however, possible to generate a comparison of what is currently cultivated relative to that which was cultivated before the war. In addition, it is possible to quantify the number of households that purport to have obtained land during the war. This provides what can be considered a conservative and approximate assessment of both the direction and level of change, though not a precise figure.

Of the 619 family heads interviewed from the area's 21 settlements, over one quarter reported actually having obtained additional land, and of having cultivated some part of it during the course of the war. Excluding the new settlements of Pillaw and Mardarra, both of which emerged - or re-emerged in the case of the former - during the course of the war, the actual increase in arable land was 4,092 *seers*.⁷ This represents an increase of about 19 percent on pre-war cultivation (21,178 *seers* were reportedly cultivated before the war).

This should, however, be viewed in the context of considerable decreases in cultivated land, principally from villages in the interior (Repseh, Zud Raban, Dawlat Shahi, Andarab and Zangir Kabaa), reportedly totalling 1,286 *seers* or 6 percent of the total cultivated area. Taking this into consideration, the net change in land cultivated in Shiwa is an increase of 2,737 *seers* or 12 percent of pre-war land cultivation.

Inclusive of the two villages of Pillaw and Mardarra, which did not exist immediately before the war and where there are now 1,936 *seers* under cultivation (one third of the total increase in Shiwa), the total increase in land under cultivation amounts to 6,028 *seers*. This does not include the reduction in land under cultivation in the interior. With the decrease factored in, the overall net change in land cultivated in the entire area is an increase of 22%. Given that there had been a reduced level of cultivation at the time of this survey, it should be noted that this is most probably an under-estimate.

This increase was clearly highly significant in terms of its impact on the area's traditional food insecurity.

5.2 Factors Limiting Agricultural Expansion

That the expansion reviewed below is locally significant is generally accepted by the Shiwachi. An understandable perception exists, however, that this represents a development more limited than should have been the case.

A variety of factors, often acting in combination, clearly served to circumscribe the actions of the local population in Shiwa, and these accentuate the contrast between the Shiwa situation and what happened in other similar areas in Afghanistan. Before looking in more detail at individual cases of agricultural and settlement expansion, it is worth summarising the key limiting factors briefly:

- First, in Shiwa the kuchi withdrawal was only partial, and those whom withdrew were, in many cases, replaced by other kuchis, many from within

⁷ As in much of the country, arable land is measured in terms of the weight of seed in units of Kabuli *seers* (7kg) which would, using normal sowing rates, normally be sown on it. In the Shiwa area an average of approximately four *seers* are sown per *jerib* (0.2 hectare or 2000m²), hence one *seer* of seed is the equivalent of 0.25 *jeribs* (or 0.05 hectares, 500msq).

Badakhshan, thereby limiting land availability for local people. For the Shiwachi their primary competitor for land, therefore, did not fully disappear but rather changed in character. There are many cases of *ailoqs* on which Shiwachi had historical claims being vacated during the war only to be taken by other kuchis.

- Second, and critically, local political authority did not fall into the hands of the local population but rather into the hands of *mujahedin* groups from neighbouring areas. There was consequently no free land-grab. The *mujahedin* regulated access of both the local population and the kuchis to land and maintained the previous “legal” status quo, generally speaking. There was no distinct partisanship displayed towards the local population vis a vis kuchis as might otherwise have been the case. In essence, outsiders continued to control the land and restrict access to land. In many cases kuchis continued to be politically dominant.
- Third, while the local population was able to gain access to vacated *ailoqs*, their acquisition was generally quasi-legal and not simply a matter of appropriation or forcible seizure. Land and land rights were generally sold by the incumbent *mujahedin* authorities, thereby limiting access to only those with the financial ability to purchase land. As was often remarked, *qawwallas* were not free and, while payments in instalments were often possible, this still represented a considerable burden on the Shiwachi.
- Fourth, in some areas, competition from incomer agriculturalist groups from neighbouring, politically dominant areas, especially over the prime arable areas, was acute. Sizeable numbers of small-scale herders and seasonal agriculturalists from, inter alia, Baharak, Sumdara, Arghanjkhaw and Faizabad, also moved into the area and appropriated optimal land, thereby filling the vacuum created by the kuchi withdrawal (in cases into *ailoqs* which the Shiwachi had been disputing).
- Fifth, environmental factors limited Shiwachi expansion. In much of Shiwa, particularly in the interior - Khenj, Khetef, Zangir-i Kabaa, Dawlat Shahi, etc. - vacated *ailoqs* were generally not suitable for cultivation due to factors including soil type and quality, angle of slope, altitude (many areas are over 3000m), climate and the short cropping season. In these situations the population made no effort to expand agriculture (leaving many of these communities dependent on landholdings pushed beyond their carrying capacities).⁸

5.3 Area overviews

The area overviews illustrate that the expansion of agricultural activity was not evenly distributed throughout Shiwa, and was in many cases highly localised. It is

⁸ In these areas, where *ailoqs* may have become vacant but where expanded agriculture was not viable, there does not appear to have been any significant increase in livestock holdings which might have been explored as an alternative. It would appear that this was inhibited by the problems of stockholding and feeding during the long, snow-bound winters - collecting winter fodder during the summer requires a massive investment of effort - plus the absence of an internal market and the difficulty in accessing an external market. As with agriculture, there is currently a relatively low and finite limit on the local carrying capacity for livestock.

pertinent to reiterate that one third of the newly cultivated land is located in two adjoining areas - Pillaw and Mardarra - in the southwest of the region.

In general, the majority of newly cultivated land was in the western part of the Shiwa area, particularly along the east-west running Shiwa river in Shiwa-i Khord (the valley running from the Duabi area east to Hauz-i Shiwa). An understandable preference existed for irrigable land, and newly cultivated areas in Dadali, Qala-i Mirza Shah, Taqarcha and in Shiwa-i Kalan (Pillaw and Mardarra) are primarily, though not exclusively, irrigated. Interestingly, this is often on sloping ground. Most of the new land in Duabi and Nakshirpar is rainfed, and that in Shokhdara and Pul-i Zirribon is a mixture of irrigated and rainfed.

The eastern/northeastern, peripheral areas witnessed very limited expansion, if it occurred at all. The areas around Dawlat Shahi, Khenj and Khetef display little increase in agricultural land. There is a shortage of irrigated or rainfed land in these areas.

As will be seen from the following overviews, the majority of expansion of agriculture involved the cultivation of essentially small and at times scattered plots. For the local populations this was, in terms of their livelihoods, a major advance.

Dadali

A significant increase in cultivation occurred in this area: 13 of the 30 families in the area cultivated more land than they did before the war and there was an increase of 356 *seers* over pre-war cultivation (1,552 *seers*).

The Shiwachi cultivated land in a number of areas, including in the main valley on the south side of the river on pre-war common property, which was neither *ailoq* nor agricultural land. In addition, the Shiwachi cultivated some of their own *ailoq* on the lower slopes of the southern Nakshirpar *ailoq*; on the north side of the river above the village (where 11 families obtained 256 *seers* of common property land); and, also on the north side of the river, in Mahtabsang where one family obtained 30 *seers* from their own *ailoq*. The tenure of some of the land newly cultivated had traditionally been held by the Shiwachi but had not been cultivated, or at least not cultivated during the *jihad*. The area east of Dadali village towards Sahib Begum is noteworthy because when the Shiwachi resumed cultivation from 2000 onwards, it brought them into conflict with the Gortepa Arabs who had moved into the area during the war. Also, agriculture on the south side of the river was disrupted in each of the years 2000-2003 when Khawshi nomads redirected a stream away from Shiwachi arable land to irrigate pasture (which they had usurped from Shiwachi).

As is a pattern throughout Shiwa, local land shortages have compelled villagers to acquire agricultural or pasture land in adjacent areas, and a number of Dadali villagers have obtained 100 *seers* of agricultural land in Shokhdarra. This was done with the agreement of the people of Pul-i Zirribon, who previously used the area as *ailoq*. As a result, 15 families jointly *qawwalled* a vacant *ailoq* for pasture having cultivated their own Safid Khawki *ailoq*. They did, additionally, obtain a *qawwalla* for the cultivation of their *ailoq*.

Shokhdara

An increase has also occurred in Shokhdara, with 31 of the 50 villagers reporting increases in cultivation totalling 665 *seers* (relative to 2358 *seers* cultivated before the war). *Qawwallas* were widely obtained, and a number of *ailoqs* disputed from before the war retrieved.

Land newly cultivated was primarily in the main Shiwa-i Khord valley, including:

- 76 *seers* of land around Chasma Sawaron that had previously been common property cultivated by three people;
- 24 *seers* of land at Darai Jarabkash cultivated by one person;
- 177 *seers* of land at Sar Darra where 12 people again cultivated previous common property;
- 40 *seers* of land in Khersdarra cultivated by two people; and
- 84 *seers* of land cultivate in Gullik Darra, a traditional Shiwachi *ailoq*, by three people.

In the lower Shokhdara valley, before it bifurcates, nine people also obtained 304 *seers* of a vacant *ailoq*. All obtained *qawwallas*.

Shiwachi agricultural expansion was conceivably constrained by what appears to have been an increase in the numbers of Argu Uzbeks and Badakhshi Tajiks in the area.

Pul-i Zirribon and Pahandara

The acquisition of 640 *seers* of arable land at Dashthai-i Balaa and Turaidarra south of the river saw a doubling of the area under cultivation. All of this was rainfed land, though only suitable for barley, not wheat. Many Shiwachi from Pul-i Zirribon also obtained additional pasture in this area where they already had three *ailoqs*. Of the many *qawwallas* issued for this area, some were counter-signed by President Rabbani in 1992.

The availability of land in this locality also facilitated in-movement from land deficit areas, with a number of families moving from Andarab and *qawwalling* 150 *seers* of land at Turaidarra and Pahandara (immediately above the village). There was also reportedly some in-movement from Sheghnan.

Petitions have been submitted requesting further distribution of land south of the river at Pul-i Zirribon - as well as at Mazardarra and Pillaw - to landless, or functionally landless, Shiwachi from the more peripheral areas.

Pillaw

The Pillaw area is the relatively low-lying valley along with several large side valleys, which runs northsouth in the southwest of Shiwa (it is part of the area known as Shiwa-i Kalan). It is relatively flat, well watered and highly fertile, providing both excellent pasture and agricultural land. Largely on account of these facts it has a long history of dispute associated with it, and is deeply politically salient to the Shiwachi, illustrating both what they perceive as the inequity of their

treatment by kuchis in the past and the economic development which is possible if they have access to land.

In 1942-1943 Wakil Iskander, an elder from Sheghnan, was officially authorised to settle people in Pillaw and went with at least seven ostensibly landless families (those of Wakil Khisraw Beg, Wakil Khuja Berdi, Aksaqal Khesrawbik, Abdulsalam, Juma Khan, Afsaqal Muhamed Tahur and Aksaqal Muhamed Nazir). The area was reportedly previously uninhabited. A settlement was established and they farmed the area until 1946/1947 when Kunduz Pashtun kuchis occupied the area and forcibly expelled them. As noted earlier, it was during this period that increasing numbers of kuchis moved into the area. The Shiwachi petitioned the authorities who, interestingly, ruled in their favour. They duly attempted to reoccupy the area, though this was opposed, with Wakil Iskander being killed by the kuchis and the Pillaw villagers abandoning the area and returning to Sheghnan. The area remained under the control of Kunduz Pashtuns and was used over the following three decades, until the *jihad*, with no Shiwachi involvement, by flocks belonging to Haji Mawlaw Gul, Haji Majnun Bey, Haji Akhtar Muhamed, Shayista, Sherin, Muhammad Mir, Haji Sulaiman, Haji Juma Khan, Ajab Nur and Zarghon.

In the early 1980s, the Shiwachi, as elsewhere, started to petition the *mujahedin* for land. The first recorded *qawwalla* reallocating this area to the Shiwachi dates from 1360 and relates to people from Dawlat Shahi, although it is generally accepted that Mardana from Khenj initiated the process. Local memory holds that he sent a letter, along with three *chapans* (long overcoat especially worn in northern Afghanistan) to one of the members of the land commission requesting that he request Basir Khalid to allocate land in Pillaw, on the grounds that the population in the peripheral areas could not subsist based on the land then at their disposal. Three meetings seemingly followed between Pashtun kuchi and Shiwachi elders, the former discountenancing the Shiwachi taking part of the *ailoq*, irrespective of it allegedly being vacant, and preferring that it be retained by them in perpetuity. Whether they were subsequently convinced or otherwise is unclear - if the latter had been the case then their objections were over-ruled as, in due course, the commission responsible for land issues agreed with the Shiwachi the price for *qawwallas* and issued them.

In 1981, seven people from Dawlat Shahi, one of the areas with an acute land shortage, received two parcels of land (four families in one, three in the other). Their *qawwallas* are as below:

No. 75, Date: 28/6/1360

**Jamiat-i Islami Afghanistan
Badakhshan Province
Financial Committee**

Due to the recommendation of honorable Abdul Baser Khaled, the General Commander of Badakhshan province and in the process of land distribution to those in need, a plot of land, which is located in Pillaw, is sold to Imamyar Biki son of Isfandiyar, the inhabitant of Dawlat Shahi, Sayyid Nazar son of Nawruz Muhamed, the inhabitant of Dawlat Shahi, and Mer Dawlat son of Muhamed Reza, the inhabitant of Andarab. The price of the land, which is 150,000 Afghanis, has been received and the land has been given to the mentioned men. The boundary of the land is as below:

In the north it meets Tigha-I Turaidara, in the west Tigha and Janshah's land, in the south Pillaw River and in the east it meets Tigha-i-Puza Kalan, Mazar-I Turaidara and Tigha-i-Kalan-I Imamyar Beg.

The title is submitted for the approval of the honorable commander.

Signature of Ismail Pasikh

Approval, Date: 12/4/1381 The signatures of Al Haj Abu Aman, the Head, Agriculture Department, Abdul Malik, from the Cooperatives Section of the Agriculture Department, Nur Ahmad, Administrator, Property Department.

No. 76
Date: 28/6/1360
Jamiat Islami Afghanistan

Due to the recommendation of honorable Abdul Basir Khaled, the respected General Commander of the Mujahedin of Badakhshan province, and in the process of land and house distribution to those in need, a plot of land in Pelaw has been sold to Jansha son of Rahmansha, Sheerin Bik son of Shahtoot, Gul Ahmad son of Oshur Muhamed and Khanjar Bik son of Shairjan. The price of the land is 150,000 Afg, which is received and the title of land is given to them.

The boundaries of the land are as below,

On the east it meets Tigha and Mer Dawlat's land, on the west Tihga-i-Surkh and Faiz Muhammed's land, on the north Zamin Dara and on the south Pillaw River.

The Signature of Muhamed Ismail Pasikh

The Approval, Date: 12/4/1381 The signatures of Al Haj Abu Aman, Head of Agriculture Department, Mullah Nur Ahmad, Administrator of Property Section and Abdul Malik, Director of the Cooperatives Section

In 1982 three people from Khenj, where there was also an acute land shortage, received land, and a specific authorisation that they could both farm and build houses in the area was included in their *qawwalla*.

74
Date: 5/1/1361
Jamiat-i Islami Afghanistan
Badakhshan Province
The General Military Council

In the process of land distribution in Khenj, Dawlat Shahi and the other areas in Shiwa and due to the recommendation of the General Headquarters of Badakhshan, a piece of land, which is located in Shiwa-i-Kalan has been sold to Khalifa Faiz Muhamed son of Adina Muhamed, Tazagul son of Iyaz and Dadali son of Merali Bik, the inhabitants of Khenj. The price of land is 150,000 Afg, which is supposed to be paid in three years.

The boundaries of the aforementioned land are as below:

On the east it meets Surkh Tigha, which meets Pahandara Tigha, on the west Dara-i-Kalan, which meets Mardana and his partner's land, on the north Tigha-i Pahandara and on the south it meets Pilaw River and Jamiat Islami's property.

The land having the abovementioned boundary was given to them and the current title is provided, hopefully it goes to the approval of the respected Commander.

The title is also registered in Page (192-no. 42) of Property Book of Shiwa (Dafter Amluk).
Regards, Muhamed Ismail Pasikh

The current title is correct and a document for the honorable buyers. They can establish houses and farm within the aforementioned boundaries

Date: 5 1 1361 Signature, General Abdul Baser Khaled, the General Commander of Badakhshan province

Approved, Al Haj Abu Aman, Head of Agriculture Department Signature, Date: 12 4 1381 Signature, Abdul Malik, Director of the Cooperatives Section, Signature, Nur Ahmad, Administrator of the Property Section

In 1985 a further 20 families, this time from both Khenj and Dawlat Shahi received land (as is noted in the *qawwalla*, they had already moved to Pillaw). Their *qawwalla*, this time issued by the front controlling the southern part of Shiwa, is as below:

Date: 24 /5/1364

Due to the petitions of some of the landless inhabitants of Khenj and Dawlat Shahi who are currently living in Pillaw of Shiwa and due to the recommendation of *Jihadi* Front of Sarghilan a piece of farming land which is located at the end of Dasht-i Chillopanj and has the following boundaries:

On the east it meets the main River of Pilaw of Shiwa, on the west Du Ab-i-Darya Gulistan of Shiwa, on the north also the main River of Pillaw of Shiwa and on the south the last dry valley of Tigha-i Chillopanj.

The piece of land, which has the abovementioned boundaries, is given in return for 200,000 Afghanis to 20 families whose names are Mardana son of Muhamed Alem, Nazarsha son of Muhamed Alem, Khudaidad son Niyatbik, Dostnazar son of Khwaja Nazar, Khwajamer son of Mhamed Rahim, Gulaziz son of Mastibik, Faizmuhamed son of Adina Muhamed, Dadali son of Meralibik, Tazagul son of Ayaz, Khanjar son of Shair Muhamed, Gulahmed son of Ashurmuhamed, Dawlatbik son of Shahtut, Jahansha son of Rahansha, Amanbik son of Yakshshibik, Alidad son of Taghaibik, Mulanazar son of Dawlatmuhamed, Muhamed Khan son of Gulmuhamed, Merdawat son of Muhamed Reza, Imamyarbik son of Isfandiyar and Sayyidnazar son of Nawruzmuhammed. The land is sold in absolute price and the land is given to the abovementioned families. The mentioned price of the land is registered to the account of the Financial Section of the Jabha-i Sarghilan. This title is given to the above-mentioned families to have it as a legal document in the future.

Signatures, Abdul Wodud, the Commander of Jabha-i Sarghilan Muhamed Amer, the representative of the village.

The Approval: I - Amrulah Khan - in charge of finances of the Jebha and Omar Abdul Aziz Khan assure that we have received the abovementioned money from the mentioned families in the presence of two high officials from the Jabha whose names are Arbab Muhamed Amir Khan and Abdul Wodud who are two commanders of Abdul Sabur Khan.

Signed: Abdul Wodud Adilyar, the commander of Jabha-i-Sarghilan, Inayat, one of the commanders of Sarghilon, Amrulah Niyani (in charge of Financial Affairs)

This process occurred while kuchis were present, though reportedly in reduced numbers. The Shiwachi report that there were conflicts in 1985 and 1986 with the kuchis, although they shared the use of the *ailoq*. The kuchis remained in the area until the mid-1990s when they withdrew, in circumstances that are as yet not fully clear.

The *qawwallas* of a number of the Shiwachi were verified by the provincial authorities in 2002. By 2003 there were 38 Shiwachi families in the area cultivating 1,874 *seers* of land, almost one third of the land currently cultivated by Shiwachi in the whole area and nearly half of that cultivated before the war.

It is noteworthy that in 2002 the kuchis returned, with four flocks in Pitawshar and eight flocks (belonging to Haji Mawlaw Gul) in Duabi Pillaw. These are presently coexisting with the Shiwachi, though relations are tense.

In the other areas of Pillaw - Gilassdarra and Khwaja Lal - Kunduz Pashtuns withdrew in the late 1980s. The former has been occupied by Zardew and Sarghilon Tajiks for both pasture and agriculture, without *qawwallas*, and has seen no return or attempted return to date. The latter has been occupied by Sarghilon Tajiks who have used it extensively for irrigated agriculture as well as pasture. There are, however, no Shiwachi in either area.

Mazardarra and Mardarra

Mazardarra, on the plain at the crest of the escarpment as one enters Shiwa-i Kalan, was not used as a permanent *ailoq* before the war, rather as a staging area for livestock entering Shiwa, and for horses belonging to the government. Part of the area was *qawwalled* by Shiwachi who established a permanent settlement in the area in 1993. Much of the area was subsequently taken over by Faizabadis linked to Pir-i Bassir Commandant, who used the land for both pasture and agriculture, cultivating large areas of barley and potatoes (most of the agriculture is linked to the Faizabadis, and there are reports of streams being diverted away from Shiwachi agriculture).

The Mardarra *ailoq*, on the high ground to the northwest of Mazardarra, was apparently subject to a long-standing kuchi-Shiwachi pre-war dispute. Shiwachi, originally from the interior, i.e. Khenj, Dawlat Shahi and Andarab, reportedly inhabited the area on a seasonal basis until 1963, when Kunduz Pashtuns occupied it. In 1981, when the kuchis ceased coming to the *ailoq*, 24 Shiwachi families purchased a *qawwalla* for the area and established a permanent settlement (though cultivation is limited, with only 62 *seers* cultivated). Their *qawwalla* was endorsed by the provincial authorities in 2001.

Duabi

The Duabi area, including Kalandara and Charsang, saw an overall increase in area cultivated of 557 *seers* relative to 3,054 *seers* cultivated before the war. Land shortages do not appear to have been an acute problem in this area, and a number of the areas cultivated were formerly Shiwachi *ailoqs* or unused common property areas in the valley bottoms.

Agricultural expansion, including onto their own *ailoq* at Sangar Dasht (in the main valley opposite Duabi where 17 families obtained a total of 268 *seers*), occurred in the following areas:

- Kalandara, where one person obtained 24 *seers* of a vacated kuchi *ailoq*;
- Khoja Parwaz, formerly a joint Kunduz Pashtun-Shiwachi *ailoq*, where two people (from Qalai Mirza Shah) *qawwalled* 96 *seers* until 1992, when it was taken forcibly by Yaftalis/Sumdarachis; and
- Dozokhdara, where thirteen families from Charsang obtained 264 *seers*, including 150 *seers* from a disputed *ailoq* that had been subject to a claim since 1962 (when Shiwachi allege that Gul Muhammad and Mangal, Kandaharis, had forcibly taken it from them).

There has been a limited level of expansion of settlement in the Dozokhdara valley involving Shiwachi from different areas. One hamlet has emerged, of four families from Taqarcha (Ustad Mataba), Sheghnan (Hazrat Mir), Khenj (Tillaw) and Doab (Faiz), who obtained land through *qawwallas*, incrementally, four times over twelve years, using the income and experience gained from one to fund the next.

Qalai Mirza Shah

Qalai Mirza Shah is significant in that all families in this area obtained additional land during the war, with the area cultivated increasing by 703 *seers* or 40 percent on pre-war levels (from 1,680 to 2,383 *seers*). Two of their own *ailoqs* were partially converted to agricultural land, as was part of a vacated kuchi *ailoq*. The Bad Barik *ailoq*, which was seemingly shared with Kamar Saighan village, was also *qawwalled*, and eleven families from Qalai Mirza Shah obtained 264 *seers* between 1998 and 2000 from a delegation from Arghanjkhaw operating under the auspices of the commander Abdul Awwal. There is a report of the alleged displacement of Uzbeks and Kandaharis from Abi Borik, the neighbouring *ailoq*, around this time, although this remains unclear (this period saw considerable instability in the area).

The economic expansion of Shiwachi from Qalai Mirza Shah also involved obtaining land and pasture in other areas. In 1987, 19 families *qawwalled* an *ailoq* in Dozokhdara, vacated by Haji Akhtar in Ganjorak, to which they had an ongoing claim. This *ailoq* was seemingly not cultivated but was used as pasture. In a second case, 31 families jointly obtained a *qawwalla* for one *ailoq* when Kandaharis reportedly did not return in 1999. Additionally, part of Shahin Chagal *ailoq* on the slopes of Khoja Parwaz mountain (formerly used by Ali Ahmad, a Baghlan Pashtun), was *qawwalled* by three Shiwachi families in 1996 with a payment made to Abdul Awwal. Only a small amount was cultivated - with rainfed wheat - with the majority continuing to be used as pasture.

Kamar Saighan

In the Kamar Saighan area the increase in land under cultivation has been limited as there appears to have been adequate land before the war. Some new cultivation of their own *ailoq* at Bad Barik occurred, where 20 families presently both cultivate and pasture livestock, though this is without *qawwallas*. In addition, they *qawwalled* the Dandon Shekan *ailoq* in 1992, near where they had traditional cultivation. Outside the immediate area, at Khoja Parwaz, four families *qawwalled* 60 *seers* of land for agriculture in 1998.

Taqarcha

The Taqarcha area displayed a considerable increase in cultivation (70 percent) relative to land formerly cultivated. Most of the new cultivation was on traditional Shiwachi *ailoqs* - at Dandan Shukan, five families obtained 54 *seers*; at Bad Barik three families obtained 36 *seers*; at Turghan, 13 people obtained 78 *seers*; at Guldang, 14 people obtained 336 *seers*; and in Dozokhdara, six families obtained 240 *seers*. All obtained *qawwallas*.

Khetef

The increase in cultivation in the Khetef area - as in most of the interior - was limited in terms of both the total amount of land acquired and the number of

families involved. The area in general is characterised by an acute shortage of cultivable land with most of the area being relatively high altitude, with poor and dry rocky soils, and often very steep slopes. In areas where the soils might be cultivable the altitude/snow factor tends to be prohibitive (even for barely). Additionally, in this area and much of the interior there has been a relatively limited withdrawal of kuchis. The limited landholdings in this and other interior areas are unable to support the present, increasing population. There is a clear pattern of falling fertility and, related, there are cases of farmers not following. Falling productivity, and the oft-heard complaint of increased snowfalls and avalanches, are continuing to encourage many to move towards Shiwa-i Kalan.

In Khetef Darra, a traditional Shiwachi *ailoq*, Khalifa Jamaluddin obtained a *qawwalla* for 200 *seers* from Abdul Awwal in 1999, though this has only been partially cultivated. Very small plots have also been obtained on the lower slopes of Khoja Arzun/Arzana.

Khenj

The above comments for Khetef also apply to the neighbouring area of Khenj, with the only sizeable increase being 120 *seers* occurring on former common property land (half of which pertained to Mardana, the village head). Small-scale new cultivation has naturally occurred in other areas but is generally insignificant. Some of the villagers from this area moved to the Pillaw area.

Dawlat Shahi

In this area there was no increase in cultivation around Dawlat Shahi, rather the reverse. Disputes with nomads over Shiwachi joint pasture-agricultural land - at Shahgum Beg Darra, at Katabar and at Gandak Darra - have contributed to the decline of local agriculture.

Zangir-i Kabaa

In this area there was only one case of an increase in cultivation - of 100 *seers* of what appears to have been formerly shared *ailoqs* of Ab-i Safid and Sar Darra-i Wali Jan - though this has now ceased as the *ailoqs* are disputed with Arab kuchis.

Andarab

As above, a general decrease has occurred, with only one example of an expansion during the war involving about 50 *seers* of land of the former kuchi Sardarra *ailoq*. The area had been historically disputed by the Shiwachi with Haji Ismat Gadi, who left early in the *jihad* period, and then with the Chardarra Arabs, who temporarily occupied the area. The Shiwachi *qawwalled* the area in 1987.

Raipseh/Badud/Zudraban

There was one reported increase in these three inter-linked areas, with one person cultivating an extra 24 *seers* of former common property land in Rafak Shekan near Raipseh. An overall decrease in cultivation appears to be the norm. The anarchy after 1992 appears to have played a large part in this trend, impacting on both Shiwachi agriculture and livestock raising. Kuchis also appropriated arable land at the Cheditch Darra *ailoq*.

6. Conclusion

By 2003 there were clear examples of kuchi and Shiwachi claimants managing to coexist with each other and sharing the resources under dispute. In some areas there are cases of *ailoqs* being shared by Shiwachi, returnee kuchis, and new kuchis; in others, by new kuchis and Shiwachi; and in others by returnee kuchis and Shiwachi. While some are conceivably waiting for the appropriate time to press their claim, the fact that they are, for the time being, sharing *ailoqs* is significant. The slow pace of return of kuchis has clearly facilitated this.

In many areas *ailoqs* have been returned to their original users, albeit with the returnees often having to buy them back, at inexpensive prices. This is neither unsurprising, nor entirely negative, if it facilitates an orderly, locally endorsed process.

Significantly, while it is correct that there are numerous cases where claimants are either angry about the loss of former assets or, conversely, where current tenure holders are angry about demands for the restitution of what is now their *ailoq* or arable land, there have been to date no reported cases of forced change in either 2002 or 2003. There have also been no reports of returning kuchis displacing Shiwachi nor of returnees being forcibly, or by intimidation, blocked from returning. While it is inevitable that this will occur, to date the approach appears to have been, from all sides, non-confrontational.

The question that obviously arises is to what degree the present situation in Shiwa is permanent. It is also pertinent to ask what steps are feasible and what policy recommendations are appropriate to stabilise the situation, defuse latent tensions where they exist, and prevent any deterioration. Clearly, the aggressive pursuit or defence of claims, or the development of a perception of a tide once again turning against the Shiwachi and the Badakhshis, will have negative repercussions.

6.1 Key issues for land tenure in the future

There is no return to the past

It would be naïve to think that any complete kuchi return is ever likely - many kuchis themselves and their livestock were killed during the war; the livestock of many have been totally decimated and they are no longer kuchis; and many of the large livestock owners have withdrawn from nomadism. The kuchi profile has, clearly, changed. Additionally, the era of kuchi hegemony has passed, and it must be acknowledged that a more balanced approach to natural resource allocation and management should be adopted. It would also be naïve to think that any return to the status quo ante will be politically acceptable to the local and semi-local populations in the Shiwa area.

Shiwachi cultivation is based on need

It needs to be accepted that a central issue is the inequitable distribution of land before the war, and that many of the claims, which were articulated during the *jihad*, were, in the minds of the populations involved, fully justified. Many had their basis, either directly or in general, in the grievances of the past. An

acceptance of the rights of local and semi-local communities to use local resources is required. Many of the claims and all of the cases of the Shiwachi starting or expanding cultivation had their basis in a need, not in greed.

The kuchis have pasture rights

Interestingly, nowhere in Shiwa does one find any sentiment that the kuchis do not have a right to use the pastures of the area. The problem in the past has been the exclusivity of kuchi control over *ailoqs*, the inequity of the allocation of pastures (i.e. the historic appropriation of Shiwachi pastures), and the constraints which have been externally imposed upon the Shiwachi by pro-kuchi administrations. As noted, what has occurred during the war years has been a process of introducing an element of balance into a hitherto imbalanced relationship (though it is, however, still imbalanced in certain cases as kuchis continue to appropriate Shiwachi *ailoqs*). Clearly, it is important that the process of kuchi return continues and that obstacles to this are removed.

There needs to be local resolutions to disputes

From the perspective of the kuchis, they have suffered injustices during the war, and this is both correct and indisputable. To compound the physical destruction of their communities and their livestock assets, they now find that their *ailoqs* are no longer theirs, or solely theirs. The recent return of temporarily absent kuchis has, however, demonstrated that a return is possible, and a pragmatic approach, focusing on local resolution and the establishment of a new *modus vivendi* with the Badakhshis and the Shiwachi, has paid off. As shown above, the degree of cultivation of *ailoqs* - apart from in two areas - is actually small. There are, as far as can be ascertained, relatively few disputes about agriculture, and they are generally mild disputes and only affect twelve *ailoqs*. Shiwachi cultivation should not represent any significant impediment to livestock rearing.

In the case of Pillaw where there is both larger-scale cultivation and settlement, the only real option is for the kuchis who formerly solely used this area - and which formerly had numerous *ailoqs* - to again adopt a pragmatic approach. The kuchis will need to accept the presence of the Shiwachi in the area. It should be noted that in Pillaw, the area under cultivation, while extensive, is the lower portion of the *ailoq*, and not the area traditionally used for sheep pasture.

There are a number of general points which are worth stressing in regards to resolutions of disputes:

- The priority and responsibility for the resolution of conflicts should be local and focused on the elders of the district and the communities - including, critically, the kuchis - involved. Limited involvement from the provincial level ministry of agriculture and preferably from the Baharak district administrator's office would be desirable, though as observers and not in any executive capacity. The involvement of external bodies and commissions, none of who will have a comprehensive grasp of the situation and which run the risk of either being seen, or becoming, partisan, should be avoided. A local focus on conflict resolution does not intend to imply that this function should be partisan - many of the Shiwachi elders are held in high regard by kuchis due to their long-term involvement in the area's administration and in the resolution of conflicts during the recent years, and are capable, with minimal support, along with kuchi elders, of finding

mutually acceptable solutions to Kuchi-Shiwachi disputes. This may appear paradoxical, but the remaining Shiwachi elders, having been alienated from most administrations in the past and having clearly the most to lose if the situation deteriorates, are both the best placed and have the greatest need to ensure that mutually acceptable, durable solutions are reached. Where conflicts prove more intractable, these can obviously be referred upwards. (As mentioned below, the formal establishment of a district, the appointment of a local elder as district administrator and a tasking to formally address and resolve issues would be the ideal course, though it is unrealistic.)

- There is a need to ensure that the tenure of the Shiwachi is reconfirmed, and to accept that the priority of access, commensurate with the need, must both in principle and in practice reside with local populations. The obvious corollary of this point is that any arrangement where the Shiwachi are unfairly disadvantaged will be untenable. In practical terms, this would involve reconfirming the tenure of agricultural areas which they have *qawwalled* during the war. It is pertinent to recall that, as far as can be ascertained, their acquisition of land did not involve force but rather was by documented and legal means in accordance with the syncretistic legal system of the time. Given that their expansion of agriculture has not to date represented a major problem vis a vis the kuchis, and that cultivation generally only involves a small part of an *ailoq*, this should not be contentious. This does not imply that the kuchis do not have rights or that their rights should be infringed - rather, this is a means of accepting a ground reality, and establishing parameters that can best be used to defend both the rights of the local populations as well as those of the kuchis.
- The Shiwachi and, indeed, longer-range kuchis themselves have lost numerous *ailoqs* to kuchis, principally those from elsewhere in Badakhshan. In many cases it has been a case of straightforward *ailoq* theft that did not have any basis in a pre-war claim. Some have already been relinquished, others not. An equitable resolution of these must also be pursued locally. In areas this will be sensitive due to the political links of the kuchis involved, but this does not inhibit resolution. This will, inevitably, take time.
- In areas where there are multiple users at present, and/or competing claims exist clearly any re-confirmation of tenure will require an initial resolution of the dispute. As mentioned above, it has been demonstrated that it is possible to reach resolutions to conflicts at the local level. Again, responsibility for the resolution of disputes should be devolved and conducted at as low a level as is possible.
- Resolving the status of the Shiwa area, and its relationship to Baharak, Arganjkhaw, Sheghnan, Zardew and Sarghilon, is a priority. Given the lucrative opportunities for taxation which the summer livestock represent, there is pressure from a number of quarters for Shiwa to be included within their district boundaries. In light of the problems which the area and its population have endured from commanders from the districts of Zardew and Sarghilon and from Arganjkhaw it would be inappropriate to link it to either (administrative rationale would also dictate against a link with either). Clearly, a link with either Baharak or Sheghnan (with the status as a sub-district), or preferably separate status as a district, are the best options. It should be noted that it is varyingly referred to, by Shiwachi, as a district

and a sub-district, and that people purport at times to be district administrators (*uluswals*) or sub-district administrators (*alaqdars*). The situation is, however, unclear and requires urgent clarification. Critically, the Shiwachi must be given the primary role in managing the area. The management of the area will depend, to some degree, on military interference from surrounding areas.

A last point: the area was viewed, traditionally, as an area of pasture. Whatever the situation in the past, this is now incorrect, or at least not fully correct. The idea of pasture areas in Afghanistan needs to be reconceptualised and modernised, away from the image of empty, unused, uninhabited pastures to the currently more correct one of areas, more often than not partially inhabited, and partially cultivated, which are visited seasonally by kuchis and their livestock.

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