

Case Studies Series

**LAND RELATIONS IN
FARYAB PROVINCE:
Findings from a field study
in 11 villages**

Afghanistan Research and Evaluation Unit

By Liz Alden Wily

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About the Author

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About the Afghanistan Research and Evaluation Unit (AREU)

The Afghanistan Research and Evaluation Unit (AREU) is an independent research organisation that conducts and facilitates action-oriented research and learning that informs and influences policy and practice. AREU also actively promotes a culture of research and learning by strengthening analytical capacity in Afghanistan and by creating opportunities for analysis and debate. Fundamental to AREU's vision is that its work should improve Afghan lives. AREU was established by the assistance community working in Afghanistan and has a board of directors with representation from donors, UN and multilateral organisations agencies and non-governmental organisations (NGOs).

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Disclaimer

Factional politics have been an important element in land relations, especially over the last decade. Inevitably, the names of commanders, past and present, arise in a survey which encountered a multitude of disputes over property. Ethnicity also comes into play. The author has attempted to represent the opinions offered by villagers and officials as accurately and impartially as possible, although no such guarantee may be offered for the fairness of those opinions. While making these available in order to illustrate and analyse the stress which land relations in the study area are under, neither the author nor AREU can be held accountable for those views.

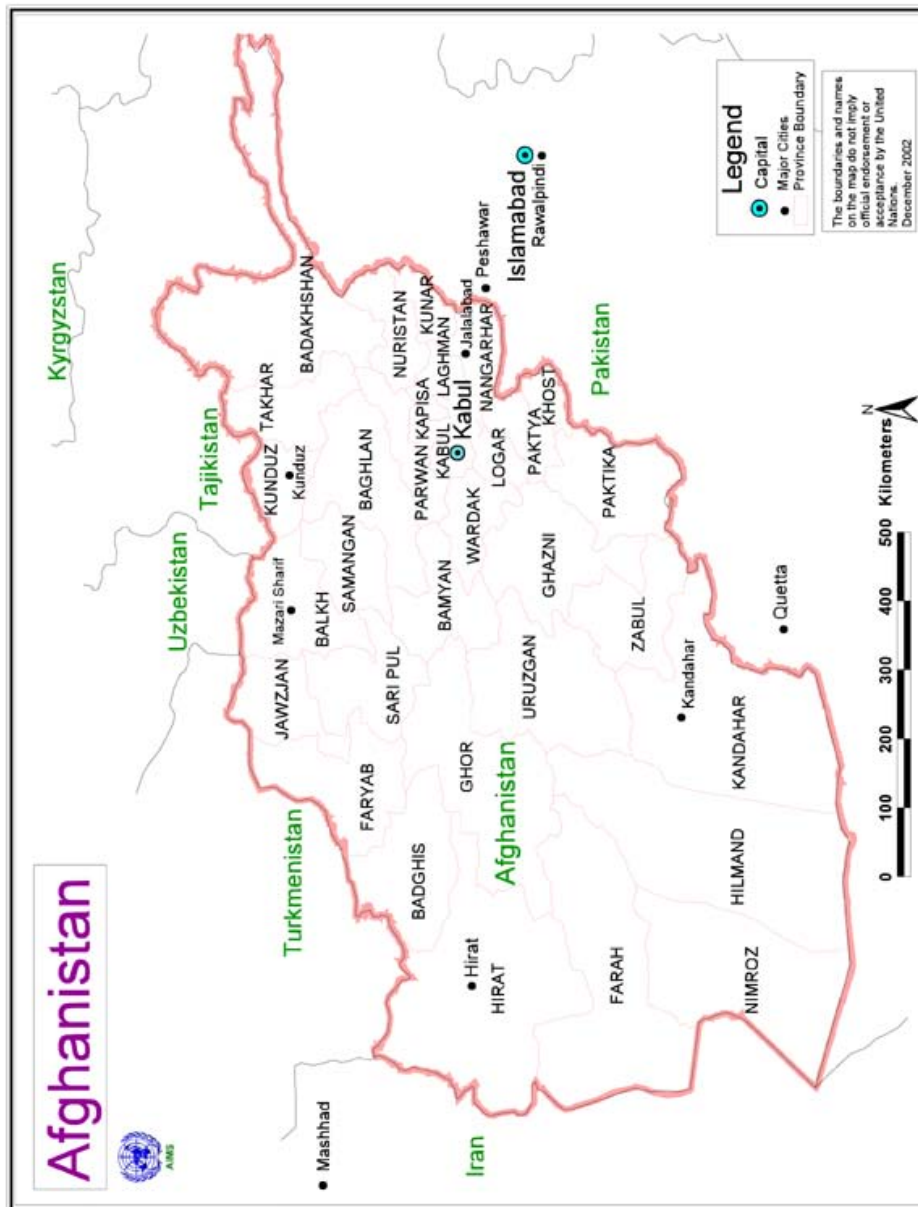
Additionally, the primary text for this report was drafted in January 2004. Events which may have affected land relations in the province after this date have not been mentioned in this paper.

Table of Contents

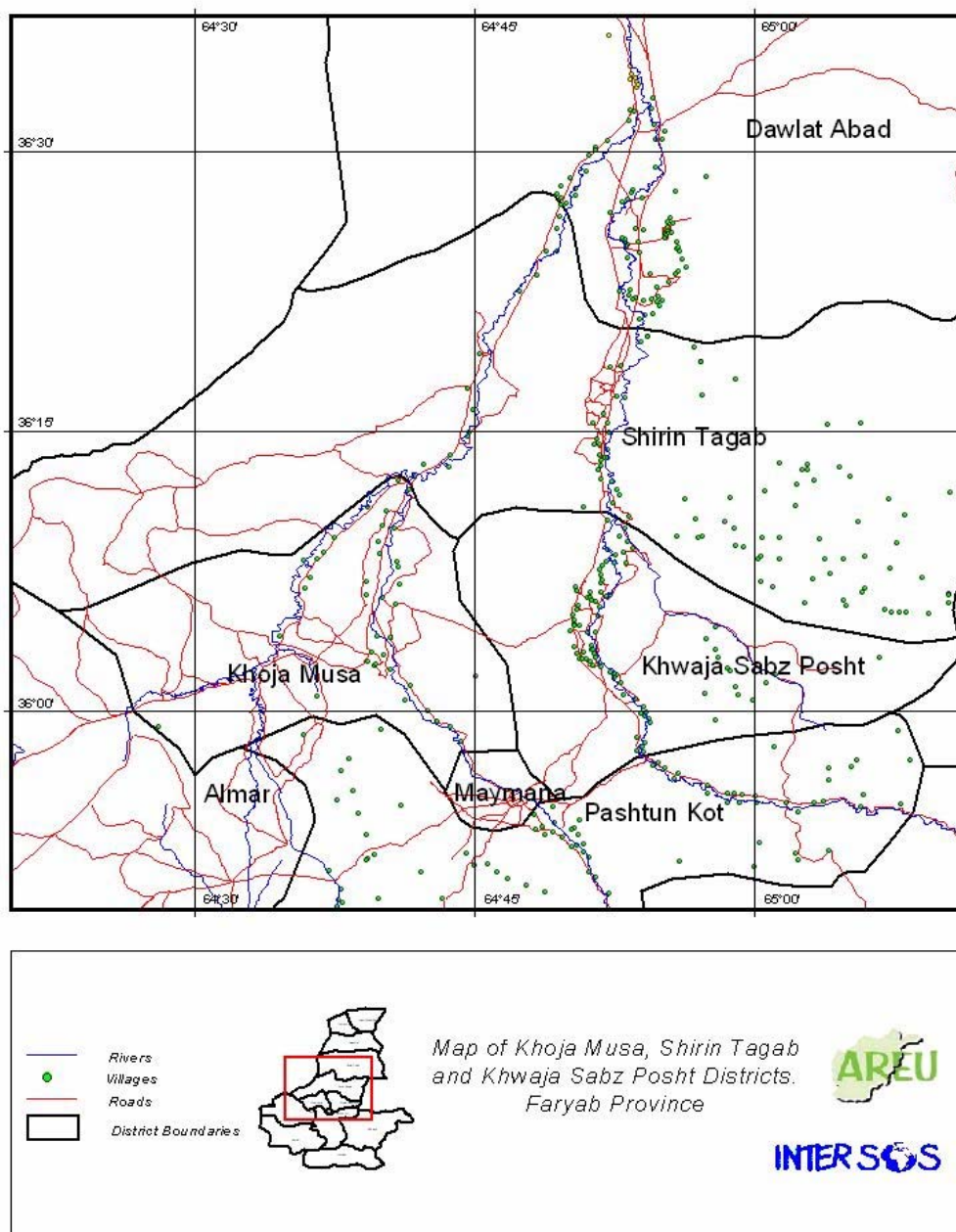
Map 1. Afghanistan and Its Provinces	i
Map 2. Districts Studied in Faryab Province	ii
Map 3. Location of <i>Mantiqas</i> Studied	ii
Glossary	iv
Executive Summary	1
I. Introduction	4
A. Purpose of the Study	4
B. A Snapshot of Land Relations	4
II. Historical Background on Faryab Province	7
A. The Study Area	7
B. Faryab in the Past	8
C. Faryab in the 1990s	13
D. After the Taliban: 2001-2003	15
III. Findings from the Field	18
A. Khwaja Musa District	18
Mantiqa #1 Ortepa - An Arab Community	18
B. Khwaja Sabz Posh District	23
Mantiqa #2 Qala-yi Shaikhi - A Mixed Community	26
Mantiqa #3 Kamozaï - A Pushtun Community	33
C. Shirin Tagab District	35
Mantiqa #4 Islam Qala - An Uzbek Community	38
D. The Pushtun Village of Khoja Charkhi	42
Mantiqa #5 Turkul Baluch - A Peri-Urban Uzbek Community	44
Mantiqa #6 Gurzad - An Uzbek Community	47
IV. The Widows of Faryab	51
IV. Conclusions and Recommendations	55
A. Key Findings	55
B. The Way Forward	63
Bibliography	67
Appendix A: Interviewees in Faryab Province Other than Villagers	70
Appendix B: The Governance of Faryab Province in November 2003	71
Appendix C: Property Status of 27 Widows in Maimana	73
Abbreviations and Acronyms	76
 Boxes and Tables	
Box 1: Rural Classes in Faryab	25
Box 2: The Koran & Women	52
Box 3: The Civil Code and Female Inheritance	52
Box 4: Land Relations and Ethnic Identity	58
Box 5: Warlordism as a Prop to Land Tensions	62

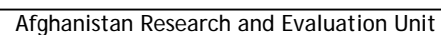
Table 1: Population Data for Survey Districts	5
Table 2: Dominant Ethnicity of Villages in the Three Survey Districts 2003..	5
Table 3: Survey Sites 2003.....	6
Table 4: Land Cover in Faryab Province, 1993	8
Table 5: Villages of Ortepa <i>Mantiqa</i> in Khwaja Musa District.....	19
Table 6: Land Ownership in Arlan Village, Ortepa= <i>Mantiqa</i>	22
Table 7: Mantiqa of Khwaja Sabz Posh District.....	24
Table 8: Villages of Qala-yi Shaikhi Mantiqa.....	26
Table 9: Landless of Cheshma Qeshlaq Village	30
Table 10: Villages of Islam Qala <i>Mantiqa</i>	38
Table 11: Livestock Past and Present in Islama Qala <i>Mantiqa</i>	40
Table 12: Current Occupants of Khoja Charkhi Village	44
Table 13: Livestock Ownership in Turkul Baluch <i>Mantiqa</i>	45
Table 14: Pastures of Turkul Baluch	46
Table 15: Villages of Gurzad <i>Mantiqa</i>	47

Map 1. Afghanistan and Its Provinces



Map 2. Districts Studied in Faryab Province





Glossary

ābī.....	irrigated farm land
ādat/rawāj.....	customary/common law
alafcha	lit, "little, or small, grass" grazing land in village
ailāq	upland pasture
amīr	king
amlāk	properties (plural of "mulk")
arbāb	appointed village leader
aryat/jaizī/gerau/rahn	pledge or mortgage
alāqadārī	village/mantiqa administration sub-district, the lowest official administrative unit
arzān.....	cheap
alaqa.....	area, ward, <i>mantiqa</i>
alāqadār	government appointed village representative/liaison officer reporting to <i>wulswali</i> or district governor
bazgah	sharecropper
birenj	rice
bāī.....	landowner, trader, rich man
būta	bush
chūl	loess dunes
daulatī.....	government land
dehqān.....	peasant farmer
dōkandār	shopkeeper
ijāra	lease
firmān	state order/decreed
gandum	wheat
gau	cow (barley is jau)
gharībkār	daily paid labourers/the very poor
gerau/bai jaez.....	lease/paw/mortgage
geraudar.....	the person to whom land is pawned or mortgaged
huqūq.....	law (primarily religious)
ezāfa.....	excess land above ceiling
jerīb.....	one-fifth of a hectare
jawārī.....	maize
khākbād	dust storm
khār/khār buta	prickly bushes
khass.....	brushwood
kāh	straw
kābulī sīr	14 <i>pau</i> equivalent to 7.264 kg
kabaghal.....	destitute
kunjid.....	sesame
kōknār	poppy plant
lalmī	dryland farming/rain-fed agriculture land
lubiyā	red kidney bean
loyi sāranwāl.....	public prosecutor
māldār	herd owner
mehr	marriage gift made to wife, may be property
mālik.....	landlord, owner
mantiqa	area, ward, territory, cluster of villages with a linked identity
mīr	leader, commander, tribal chief
mustūfiyat	finance department
māsh	grass pea
maimana sīr.....	twice that of Kabuli <i>sīr</i> , equivalent to 14.528 kg
mimcha	middle peasant
mirās.....	inheritance
mullāh	religious teacher, mosque prayer leader
mujāhid	Holy Warriors fighting in <i>jihad</i> , or Holy War (pl. <i>mujahidin</i>)

mirāb	water manager/water bailiff
nakhud	chickpea
nanawatī	asylum/sanctuary
paimana	sieve, used also to measure crop shares
qariya/qeshlāq/dēh	village
qrut	dried yoghurt curds
rāsh	bank (e.g. of canal or river)
rishqa	fodder crop
shari'a	Islamic law
shūra	community committee
Shūra-yi Nizar	Panjshiri Military/Political Party Council established by Massoud
zamīn-i shakhsī	privately owned land
shōr daryā	saline river or river bed
shudkar	grazing land
seghir	oil seed
tariyāq	opium
ushr	Islamic obligatory tithe on land and produce
usha	communal work
ummah	religious community comprising only of Muslims
waqfī	land endowed for religious purposes
wasayeq shari'a	legal (religious) documents
wasiyat khat	last will and testament
zakat	Muslim obligatory alms tax
zamindār/mulkdār/badār	landlord, landowner

Dates: Laws are indicated by their Afghan date. Excepting the Taliban regime, which used the Arabic lunar calendar, Afghanistan follows a solar calendar beginning in 622 AD, the year of the *Hijrat*. The first day of the year coincides with the first day of spring (the month of Hamal) which, except in a leap year, falls on 21 March in the Common Era. The approximate corresponding western date is derived by adding 621 years, two months and 21 days to the Afghan date.

MONTHS

Hamal begins March 21st
 Sawr begins April 21st
 Jawzā begins May 22nd
 Saratān begins June 22nd
 Asad begins July 23rd
 Sumbula begins August 23rd
 Mizān begins September 23rd
 Aqrab begins October 23rd
 Qaus begins November 22nd
 Jādī begins December 22nd
 Dawl begins January 21st
 Hut begins February 20th

Note on Transliteration: Many place names in the text have been recorded phonetically and may be incorrectly spelt. The most doubtful have been placed in parentheses.

Executive Summary

This report presents the findings from a field study conducted in Faryab Province in November 2003. It represents the second of three field studies on rural land relations conducted by the Afghanistan Research and Evaluation Unit (AREU).¹ A synthesis and critical analysis arising from these three studies will be published by AREU in summer 2004.

Fieldwork for this study was conducted in three districts immediately adjacent to Maimana City: the districts of Shirin Tagab, Khwaja Musa and Khwaja Sabz Posh. Together these form a central belt in Faryab Province where intensively (usually irrigated) farmed land gives way to rain-fed agriculture and wide-ranging pasture. Each district represents a socio-spatial mosaic of discrete *mantiqas*, averaging five villages. Interviews were undertaken in 11 villages in six *mantiqas*.

The main findings of this study include the following:

- ***Land relations are in disarray.*** Rural land relations are currently deeply disturbed in Faryab, with abundant disputes over ownership and access. These reach well beyond routine boundary and inheritance disputes. Many spill over into violence. Many disputes also are expressed along ethnic lines or are fuelled by ethnic tension.
- ***Pasture land is at the centre of dispute.*** The outstanding focus of disputes is not homes and farms, but pasture land. This is a critical resource in a region where most live by livestock and crop farming. Claims and counter-claims over pasture are both triggered by, and established by, conversion of pasture into rain-fed farms. Pasture disputes involve and affect large numbers of people, including the landless; are communal and inflammatory in nature; and are the most difficult conflicts to resolve.
- ***Historical tensions and poor policy propel problems.*** Difficulties arise not only from their ethnic colouring and associated bitter inter-ethnic histories related to pasture access, but from the unsound policy environment that generated these problems over the last century. This includes, for example:
 - The state's appropriation of all pasture as its own domain, an act which dispossessed local communities of precious communal properties and truncated the opportunity for locally regulated allocation systems to evolve to meet the demands of modern land pressures;
 - An opaque definition of "public land" as indeterminately belonging to the nation or government, and related unclarity as to the powers of government as administrator and allocator;
 - Unfair bias in the allocation of pasture rights towards Pushtun and seasonal users;
 - Lack of clarity as to the nature of pasture rights as either use rights or outright ownership of the resource; and
 - Unsatisfactory or non-existent adjudication processes which have allowed wealthy landlords in the community to be registered as the owners rather than trustees of substantial communal pastureland;

¹ The other two studies were, respectively, a minor field study of land relations in Bamyan Province and an examination of the Shiwa Pastures in Badakhshan. Both studies are available from AREU's web site (www.areu.org.af).

- ***Disorder creates an environment ripe for land tensions and seizure of land by the elite.*** War and factionalism has provided an environment in which land occupations and changing land use have been allowed and even encouraged to occur. Warlords and their increasing economic opportunism have played a particularly pernicious role and in some areas continue to do so. The fall of the Taliban generated a new wave of ethnically disposed pastoral disputes that have continued up until the present era.

Removing warlords may not, however, be sufficient to resolve those disputes. This is because of the structural problems in the conception and management of pastoral access noted above and because current problems have their origins in large part in resentments that have been simmering for several generations. These resentments started with land colonisation of Faryab by Pushtuns, which began in an organised fashion in 1885 and continued in sporadic and voluntary fashion up until the 1970s. In the early decades, Pushtuns acquired farmland and pasture by being granted the confiscated properties of Uzbek notables and by assuming that other lands were largely unowned and vacant. From the 1930s, land colonisation was felt locally in the form of favoured allocations of public lands (pasture) to mainly Pushtun nomads. In addition, the government's own projects converting public pasture to farmland in the 1980s helped set environmentally unsound precedents and tenure norms. Thus, the roots of these current conflicts need to be tackled if resolution is to be lasting.

To begin to deal with these tensions, this paper sets forth the following recommendations:

- ***Initiate localised and community-based approaches.*** Action to restore order in land relations will need to take local history into account for lasting resolution to be achieved. It will also need to avoid decision-making on pastoral land rights only on the basis of proffered legal documents. As well as possessing low local legitimacy, these documents are often corrupted, with the courts themselves known to have endorsed wrongful allocations under duress or otherwise.

Nor will decision-making, policymaking or lawmaking at the centre be sufficiently nuanced or practically grounded to be effective. A pasture by pasture community-based process of pasture use planning, decision-making and regulation offers the most promising route forward.

Creating peace on the pastures will contribute to sound governance norms generally. In the process, peace on the pasture lands, sustained by registered agreements involving all disputants as to access, could be incrementally delivered. Important contributions towards a more workable, fair and sustainable rural tenure policy would also arise from this development. This includes the urgent need to draw policy and operational distinctions between pastures appropriately owned and regulated in the national domain (public land) and those more viably (and customarily) held and regulated at local community level. Systems for satisfactorily layering and supervising pasture access and adherence to agreed restrictions on arable conversion would also be identified through practical testing. Systems for ensuring that the rights of the landless to access communal and public grazing resources could also be instituted, of particular importance to this group as smallstock are usually their single capital asset.

- ***Develop different approaches for rural vs. urban, and private vs. communal land disputes.*** The survey also concludes that it will be important for the administration to adopt a plural approach to restoring order in land relations for the results to be effective and lasting. Casual promotion of classical cadastral approaches or insistence upon restoring rights recognition systems to an imagined utopia of the 1970s will not be fruitful with respect to pastures. Distinctly tailored approaches need to be adopted in urban and rural areas, and within the rural sphere, towards properties which are held individually (houses, irrigated farms and shops) and shared resources (pasture, water, forests). Even in respect to the former, it will be wise to explore and test recordation approaches that are highly simplified and stem from locally owned and sustained procedures.
- ***Reconciliation is the key.*** Decisions as to ownership and access rights over shared resources like pasture (and water and forests) must be founded upon reconciliation and shared agreement, not narrow adherence to highly disputed paper claims. Clarification as to the conditions in which private rights over pasture may and may not occur will also emerge; through insufficiently nuanced land registration policies from the 1960s, many landlords (and warlords) have been able to secure public and customary common assets as their private domain, generating dispute.
- ***Greater clarity as to social units is needed.*** The survey provides a range of other findings relating to landlessness and classes in the rural community. One general strategic conclusion drawn is that it is important for development agencies to much more rigorously identify and work within locally constructed understanding of "community area." The survey found (as found previously in Bamyan) that a community is more properly constituted not in a single village but in a cluster of villages/hamlets (best described as *mantiqa*) and it is this whole which identifies its shared space or "territory." This will be a helpful construct for advancing community-based land administration (and related governance tasks). For statistical purposes, failure to take the *mantiqa* or comparable socio-spatial clustering as the working unit, may result in highly skewed findings. In land ownership for example, one village in the *mantiqa* may comprise mainly land owners while others comprise mainly landless families. A third may constitute an evenly mixed group. All villages/hamlets in the *mantiqa* need to be included to afford an accurate picture of landholding. The same principle holds true for a range of social and developmental matters.
- ***Address the issues of homelessness.*** It also is apparent that a significant body of rural households are homeless as well as landless and have traditionally survived through selling their labour to land owners on a temporary (one to two year) basis. Because they are not regarded as permanent members of the target community, or indeed often of any community, this group of extremely disadvantaged tends to be ignored and excluded. In land matters this directly concerns secure access to public and common pasturelands. Tentatively, this survey found that this group is also likely not among those who benefit from significant supplementary off-farm and out-migration incomes. Attention to homelessness in rural areas (as well as urban areas) could be one of more productive stepping stones to poverty alleviation as well as loosening the conventions of oppressive social relations.

I. Introduction

A. Purpose of the Study

This paper represents a second field study on the subject of rural land ownership in Afghanistan, undertaken in Faryab Province (Map 1) in November 2003. The first study was conducted in the central province of Bamyan in June 2003.² A third report arising out of longer-term study of land relations in Badakhshan was published by AREU in May 2004.³ A synthesis of findings from these three papers will be released by AREU in late summer 2004.

The objective of these short studies was to steeply increase ground knowledge about rural land relations through localised study in different parts of the country. This proceeds from a background study of secondary research carried out in October 2002.⁴ The overriding conclusion of the study was that land relations in Afghanistan are deeply disturbed and this is contributing to difficulties with achieving real peace and stability. Conflicts do not arise only from the disorder of the war years and after; many have their roots in the conditions prior to 1978, including in the policies of the central state. Attention to these is needed to afford lasting resolution.

B. A Snapshot of Land Relations

Limitations on resources and time mean that the first two field studies do *not* represent in-depth research but rapid reconnaissance, and are therefore referred to as minor field studies. In Faryab Province, transport and security problems and the need to travel and work strictly within daylight hours during a month of already short days (November 2003) added to limitations. Aside from several days spent in Maimana City interviewing officials⁵ (and widows), only seven days were spent in the rural community. Once there, difficulties with interpretation further frustrated data collection.

To save time, fieldwork was conducted only in three districts immediately adjacent to Maimana City: the districts of Shirin Tagab, Khwaja Musa and Khwaja Sabz Posh (hereafter KSP). Together these form a central belt in Faryab Province where intensively (usually irrigated) farmed land gives way to rain-fed agriculture and wide-ranging pasture. Schelhas provides an overview of agriculture in the area under the categorisation of Turkestan Plains and Northern Mountains and Foothills, with figures for pre-drought wheat, rice, wheat and barley production. Rain-fed cultivation predominates, with fallows of between 3-5 years. Fertiliser use and mechanisation are very low. Livestock numbers are high.⁶

Many problems were experienced in collecting background data on the area, found to be scant, out-dated and contradictory. The exact boundaries of the province,

² Alden Wily, L. *Land Relations in Bamyan Province: Findings from a 15 Village Case Study*. Kabul: Afghanistan Research and Evaluation Unit. August 2003.

³ See Patterson, M. *The Shiwa Pastures 1978-2003*. Kabul: Afghanistan Research and Evaluation Unit. May 2004.

⁴ See Alden Wily, L. *Land Rights in Crisis: Restoring Tenure Security in Afghanistan*. Kabul: Afghanistan Research and Evaluation Unit. March 2003. Also see Alden Wily, L. *Land and the Constitution*. Kabul: Afghanistan Research and Evaluation Unit. July 2003. These and the above-mentioned paper on Bamyan are available at AREU's website: www.areu.org.af or may be acquired in hard copy from AREU.

⁵ See Appendix A for list of officials interviewed.

⁶ Schelhas, B. *Promotion of Agricultural Rehabilitation and Development Programs Farming Systems*. Rome: FAO. 1996, 9-10.

districts and even number of districts in the province have long been in flux for 30 or more years. Nor do such statistics as were ascertained compare consistently with information collected in the field. The most complete data available was from InterSoS, an NGO operating in the three survey districts selected. InterSoS has recently surveyed villages in these areas but has not recorded the crucial socio-spatial clustering of villages in *mantiq* (wards) (also known as *mohalla* or *alaya*). Population data are changing as refugees and internally displaced persons (IDPs) slowly return. Table 1 summarises InterSoS data together and their breakdown into *mantiq* as ascertained by this survey.

Table 1: Population Data for Survey Districts

District	No. Villages	Estimated No. <i>Mantiq</i>	No. Households	Average Households per Village	Average Households per <i>Mantiq</i>
Shirin Tagab	87	12	16,356	188	1,363
Khwaja Musa	39	6	8,431	216	1,405
Khwaja Sabz Posh [KSP]	102	24	11,569	113	482
TOTAL	228	42	36,356	159	866

Sources: This survey & InterSoS.

Each district represents a socio-spatial mosaic of discrete *mantiq*, averaging five villages. A *mantiq* is generally but not always ethnically distinct. Where this is not the case, people of different ethnic groups usually live within their own villages or at least in their own neighbourhood of a mixed village. Uzbeks are the majority in the three survey districts (Table 2) and in Faryab Province as a whole. Shirin Tagab is the most ethnically mixed area, with significant numbers of Arab and Pushtun communities. Turkmen, Tajiks and "Mongol" in these districts are few.⁷

Table 2: Dominant Ethnicity of Villages in the Three Survey Districts 2003

	SHIRIN TAGAB		KHWAJA SABZ POSH		KHWAJA MUSA		TOTAL	
	No.	%	No.	%	No.	%	No.	%
Uzbek	39	44.8	68	66.6	21	54	128	56
Arab	23	26.4	15	14.7	7	18	45	20
Pushtun	19	21.8	6	5.9	7	18	32	14
Tajik			9	8.8			9	4
Turkmen			1	1			1	0.4
Mongol			3	2.9			3	1.3
Mixed Uzbek-Pushtun	4	4.6			2	5	6	2.6
Mixed Arab-Uzbek	2	2.3			1	2.5	3	1.3
Mixed 3 groups					1	2.5	1	0.4
TOTAL	87	100	102	100	39	100	228	100

Source: Collated from data provided by InterSoS.

Interviews were undertaken in 11 villages in six *mantiq* (Table 3). *Mantiq* were not randomly selected but chosen for their accessibility and ethnic composition. As

⁷ Although InterSoS identifies these people as Mongol (or Mughal, the Persian version of the Turkic word Mongol), Jonathan Lee suggests that they are more likely linked to either the Arlat or Chaghatai sub-tribes of Uzbeks.

this report will demonstrate, ethnic affiliation is deeply significant in land relations in this province.

Table 3: Survey Sites 2003

District	<i>Mantiqa</i>	Village Interviews	Dominant Ethnicity	Interviewees	Information Collected on:
Khwaja Musa	Ortepa	1 Takhta Bazaar	Arab	10 men	14 landowners 35 landless & 50+ others [transient workers]
		2 Arlan	Arab	5 men	8 landowners 3 landless
Khwaja Sabz Posh	Afghaniya	3 Kamozaï	Pushtun	2 men	15 landless 15 landowners
	Qala-yi Shaikhi	4 Elbegi 5 Qala-yi Shaikhi 6 Qeshlaq	Arab Arab Uzbek	10 men 30 men 11 men	8 owners & 100+ relatives 30 landless 11 landless
Shirin Tagab	Islam Qala	6 Islam Qala	Uzbek	10+ men 6 women	10 landowners
		7 Khoja Charkhi	Pushtun	10 men	16 landowners 8 landless
			Pushtun	6 men	24 IDPs from Faizabad area
	Turkul Baluch	8 Baluch 9 Turkul	Uzbek Uzbek	10 men 6 men	Pasture use only 10 landowners & 13 landless
	Gurzad	10 Gurzad	Uzbek & Arabs	20 men	30 landless
Maimana City			Uzbek	27 women	27 widows
TOTAL	6 <i>mantiqa</i>	11 villages	6 Uzbek 5 Arab 3 Pushtun	163 men & women	277 households

With exceptions, interviews were held in groups of mainly men (79 percent) and involved more than 160 persons. Half the interviewees were Uzbek (49 percent), 11 percent were Pushtuns and 40 percent were Arabs. Precise information on the landholding status of 227 individuals was collected.

The next section of this paper provides a socio-historical background to land relations in the study area. Chapter III presents the findings of current land relations from the 11 study villages. This is followed by a chapter outlining the landholding status of women in the districts. Finally, chapter V provides conclusions and recommendations for policymakers.

II. Historical Background on Faryab Province

A. The Study Area

Faryab is one of 34 provinces in modern Afghanistan.⁸ It lies in the extreme north-west, bordering Turkmenistan. Jauzjan and Sar-i Pul Provinces lie to the east and Ghor and Badghis Provinces to the south (Map 1). The province is predominantly dry, enduring Siberian winds in winter and dust storms (*khakbad*) in the summer. The mountain snow of the southern districts (Belchiragh and Kohistan) eventually feeds and often floods the two main north-flowing rivers of the study area, known as Shirin Tagab and Ab-i Maimana. A third river, Ab-i Qaysar, joins the Shirin Tagab further north of the study area in Dawlatabad District. The study area falls within that part of Faryab famous for its unusually high, undulating sandy dunes (*chul*) that nonetheless sustain both rich pasture and often rain-fed cultivation.

Large areas that are more definitively deserts dominate both the border area towards Turkmenistan and the east adjoining Jauzjan Province. These also have long histories as seasonal pastures for both settled and nomadic communities. The latter desert, Dasht-i Laili, is famous for its magnificent carpet of spring flowers. It is also infamous for the massacres that occurred there in recent history and the now emerging wind and soil erosion arising from mechanised cultivation in the last decade or so. Both matters are discussed in this report.

Faryab Province historically has been predominantly agro-pastoral with an extensive degree of pastoral transhumance practised up until the present. Early occupants were often nomadic stock owners.⁹ Rangeland accounts for two-thirds of the area. Over 30 percent of the province today is cultivated as rain-fed farms, nearly all of it on sloping land (Table 4). Less than seven percent of the area is under irrigation and this includes irrigation through seasonal flooding.

Faryab Province is currently divided into 16 districts (Appendix B), some of uncertain status. There is in addition the municipality of Maimana "City" run by its own mayor, which exerts a notable degree of administrative and fiscal independence.¹⁰ Provincial and district boundaries have been fluid since 1978 as local commanders attempted (and still attempt) to carve out their own domains and alliances. Appendix B provides notes on the current period (late 2003). Commanders in the north have looked to Shibarghan where General Dostam and his Junbesh military faction/party were based. The carpet production and trade of Andkhui and the border customs post at Aquina heightened Shibarghan's interest to bring these areas under their own aegis. Easier road access has also helped orient the four northern districts towards Shibarghan. Thus, although these remain technically under Maimana, they are in practice under Jauzjan Province. The current governor admits he rarely meets with *woluswal* or other officials from those districts.

⁸ Faryab did not become a province until 1964. From the administrative reforms of the 1930s until then it was known as Maimana and was a sub-province of Balkh Province, which had its headquarters in Mazar-i-Sharif (Pain, A. *Livelihoods under stress in Faryab Province, Northern Afghanistan. Opportunities for Support*. A Report to Save the Children (USA), Pakistan/Afghanistan Field Office. October 2001). It comprised seven districts with around two sub-districts in each (*alaquadaris*), a level of sub-national administration that was abandoned in the 1970s.

⁹ Yate as cited in Tapper, N. "The advent of Pushtun maldars in north-western Afghanistan." *Bulletin of the School of Oriental and African Studies, University of London*. 1973; XXXVI: 55-79.

¹⁰ Refer to Lee, J. "The History of Maimana in Northwestern Afghanistan 1731-1893." *Iran Journal of Persian Studies*. 1987. 25; 107-124 for the 18th and 19th century history of Maimana, an ancient settlement.

Table 4: Land Cover in Faryab Province, 1993

Category	Area in Ha	%
Urban land	641	0.03
Orchards	7,681	0.3
Irrigated land 1 crop per year	52,288	2.6
Irrigated periodically ¹¹	81,535	4.0
Valley rain-fed land	5,418	0.3
Hilly rain-fed land	620,588	30.5
Forests ¹²	0	0
Rangeland	898,218	44.2
Rocky barren land	6,638	0.3
Sandy barren land ¹³	354,949	17.5
Marshes	680	0.03
Rivers	992	0.04
Permanent snow	0	0
TOTAL	2,029,628	100

Source: 1993 Landcover Statistics in FAO 1999

Several other districts in Faryab have sub-divided themselves, generally along the sub-district boundaries of previous decades (see Appendix B).¹⁴ Factionalism and “empire building” on the part of warlords drive this. It also represents an attempt by local level officials to secure the infrastructural benefits that are now promised to accrue to new districts, such as construction of a school, clinic and bazaar.¹⁵ A frustrating effect of these changes is that district-based data are unreliable and even unusable on such matters as land area, proportions of irrigated, rain-fed and pasture land, numbers of settlements and population.¹⁶ Of the three districts visited by this survey, one does not appear at all in most documents (Khwaja Musa) and one erratically so (Khwaja Sabz Posh, or KSP). Maps share these problems. Even the widely-used maps of the Afghanistan Information Management Service (AIMS) do not reflect up-to-date boundaries of districts on the ground. The 2003 survey being carried out by InterSoS in Maimana is therefore all the more valuable.

B. Faryab in the Past

Because the history of Faryab is directly relevant to issues of territoriality and private tenure today, it needs to be briefly recounted. Much of this history depends upon the location of the province on the gateway between north and south Asia, either on the Silk Route or in more recent centuries, as the frontline buffer between the expanding interests of the British and Russian empire-builders — most recently revisited in the form of the Russian occupation from the north in 1979 (although neighbouring Shibarghan was to become the Soviet headquarters of the north, not Maimana).

¹¹ Generally through spring flooding.

¹² However, the Ministry of Agriculture claims 76,700 ha of pistachio forests in seven districts, although he acknowledges that up to 80% has been destroyed since 1978 (Pers comm., Abdul Satar Borez, Maimana).

¹³ Much of this is used as seasonal pasture.

¹⁴ Up until 1964 provinces were governed at four levels: by the Provincial Governor (Wali) at the Province (Wilayat), by the Sub-Governor (Loy Woluswali) at Sub-Province, by the District Governor (Woluswali) at District level and by Administrators (Alaqadaris) at Sub-District level.

¹⁵ Wilder, A. *Governance/Political Issues Faryab Trip Notes*. 2003.

¹⁶ Such as presented, for example, by SCA (Swedish Committee for Agriculture). *The Agricultural Survey of Afghanistan. Sixth Report 1988 and 1989 Surveys*. Kabul: SCA. 1990 and FAO-UNDP. *Provincial Landcover Atlas of Islamic State of Afghanistan, 1999*. Kabul: FAO-UNDP. 1999.

The Pre-Islamic Period

The history of settlement in Faryab is ancient and comprises layer upon layer of occupation, but which unfortunately (as this short survey will show) has not yet attained the status of “melting pot” within which a host of cultures have merged into a non-conflictual whole or at least peaceable coexistence.¹⁷ Maimana and Andkhui actually entered written history 2,500 years ago when Jews arrived and settled in 586 BC, fleeing the destruction of Jerusalem by Nebuchadnezzar.¹⁸ The area was under Persian control at the time,¹⁹ which gave way in due course to “barbaric and despotic” Greek control following conquest by Alexander the Great in 326 BC.²⁰ Persian dominance was restored from the 3rd to 7th century AD.

Islamic Conquest

What is now perceived as the pre-Islamic period ended with the conquest of northern Afghanistan by Arab Muslims (651-661 AD). Lee describes this period as one in which the area “turned into a vast battlefield as the two great Arab and Persian cultures battled for not only political and geographical supremacy but ideological supremacy.”²¹ It took a full century for Zoroastrianism, Buddhism, Nestorian Christianity and indigenous pagan cults to be finally swept away by the Arab-Islamic armies. Various Islamic dynasties dominated Faryab and surrounds for six centuries.²²

The Chingizid Empire

Life was greatly altered with the destructive invasion of Ghengis Khan and his “Mongol Horde” from 1220 AD. As he moved into the area from the north, cities and towns including Maimana were razed, populations massacred, grain, fields and livestock stolen or burnt and ancient irrigation systems obliterated.²³ This Turco-Mongol rule over what was to be named Balkh was to last 500 years; this covered the modern provinces of Faryab, Jauzjan, Balkh, Samangan, Kunduz and Baghlan. British officials were later to name this area Afghan Turkestan.²⁴ Control by the descendants of Ghengis Khan (Chingizids) stemmed from the alternating capitals of Bukhara or Samarkand north of the Amu Darya River. They ruled in a decentralised manner, however, allowing local amirs in Maimana and elsewhere considerable autonomy, a legacy which was to last until the end of the 19th century.²⁵

Uzbek occupation of the north began within the Chingizid period. In 1500, Uzbek princes (themselves a Turco-Mongol product) swept across the Amu Darya, reaching Faryab and related areas around 1505. They joined a substantial and largely pastoral Arab population.

¹⁷ Refer to Lee, J. *The ‘Ancient Supremacy’: Bukhara, Afghanistan and the Battle for Balkh, 1731-1901*. New York: Brill, Leiden. 1996. Chapter One provides an excellent overview of the history of the area. Also see Chapter One in Gregorian, V. *The Emergence of Modern Afghanistan. Politics of Reform and Modernization, 1880-1946*. California: Stanford University Press. 1969.

¹⁸ When Arabs arrived and settled there in the 8th century AD, they changed the name of Maimana from Al-Yahudiyya (“City of Jews”) to Maimana, meaning good luck or prosperity; Lee 1996, op cit. 6-7. Also see Lee, 1987, op cit.

¹⁹ Achaemenid Empire: 6th-4th centuries BC.

²⁰ Graeco-Bactrian Kingdom: 4th-2nd centuries BC.

²¹ Lee 1996, op cit., 10.

²² Saffavids 870-890 AD, Samanids 874-999 AD, Ghaznavids 999-1186 AD, Seljuks 1038-1157 AD and Ghurids 1150-1217.

²³ Lee 1996, op cit., 14 ff.

²⁴ The area has at times also been called Khurasan, particularly in very recent times, not to be confused with the use of that name for Persia.

²⁵ Lee 1996, op cit., xii ff.

Pushtun Domination

As tsarist Russia and Britain began to fight for hegemony over the region, northern control of Balkh gave way, leaving around ten small and mutually hostile Khanates, of which Andkhui and Maimana were two. Expansionism into the north by the Afghan amirs (Pushtun amirs) occurred during this period in the hands of Durrani Ahmad Shah in 1722. His control of the north was uncertain and following his death in 1747, local Uzbek amirs largely reasserted their internecine autonomy with weak Afghan (Pushtun) dominance from the south.

It was not until a century later that the north was thoroughly annexed by the south and brought into what thereby evolved into the modern Afghanistan state. This arose not only from the personal vision of Amir Abd al-Rahman (1880-1901) but from the longstanding ambitions of the British India colonial state for the creation of a buffer state between it and Russia. The path towards this was mixed, the important Mingid principality of Maimana being the last of the Uzbek Khanates to resist Afghan control (1893/94). Nonetheless, it did fall, and under Abd al-Rahman, the subjugation of the north in general and its "Pushtunisation" began in earnest.

Pushtun Colonisation

This policy of "Afghanisation" (as it was in fact described in the 1880s) was to have an enormous impact upon all social relations in the north, land relations included. Up until 1880 Pushtuns in the north numbered less than 3,500 households or under five percent of an estimated population of 87,000 families.²⁶ Most were Pushtuns who had remained in the area following a century of ambivalent control by Muhammadzai Amirs. Pushtun numbers first accelerated with Abd al-Rahman's exiling of political prisoners to "Afghan Turkestan" in 1882.²⁷ Loyal Aimaq were also sent to border areas to help limit incursions from Russian-dominated territories. Following an important incident in which the Aimaq were unable to prevent the loss of several thousand square miles of territory (the Pandjeh incident of March 1885),²⁸ the British urged Abd al-Rahman to replace these settlers with more loyal settlers from his own tribe (Durrani Pushtun).²⁹ This catalysed formally planned mass colonisation of the north, to last throughout Abd al-Rahman's reign, on both a voluntary and coerced basis. Abd al-Rahman saw this as a means to both extend Pushtun hegemony and deal with the increasingly recalcitrant Durrani Pushtuns at home.³⁰

Both Tapper (1973) and Lee (1996) provide detailed accounts of the process, based upon meticulous examination of India Office and other records. Their accounts differ to the extent that, while acknowledging the role of the British in prompting and supporting the amir, Tapper perhaps too uncritically accepts the much-recorded justifications made by both British officials and the amir that the valuable lands of what are now Badghis and Faryab were essentially vacant lands, following Turkomen attacks and enslavement of Uzbek populations.³¹ In the process, Tapper does, however, elaborate the economic drivers in Abd al-Rahman's ambitions: not

²⁶ Tapper 1973, op cit. Lee 1996, op cit.

²⁷ Lee 1996, op cit., 481ff.

²⁸ The Panjdeh debacle brought Britain and Russia close to war (Tapper 1973, op cit., 58-60; Lee 1996, op cit., Chapter Nine; Dupree, N. *An Historical Guide to Afghanistan (Revised and Enlarged)*. Kabul: Afghan Air Authority, Afghani Tourist Organization. 1977.)

²⁹ Lee 1996, op cit., 421ff; Tapper 1973, op cit. 59-60.

³⁰ The Ghilzais and other recalcitrant tribes who opposed the amir tended to be sent to Balkh, where there was a strong garrison to overawe them. Some Ghilzais also found a home in the Maimana area between the town and the northern border and in time expanded their occupation. Pushtun Kot is so named because of the predominance of Pushtuns in the district. Durrani Pushtuns such as the Ishaqzais were sent to Badghis and the Murghab frontier with the promise of permanent grassland and pasture (personal comm., J.L. Lee). Also see Tapper 1973, op cit. for a detailed account of settlement.

³¹ Tapper 1973, op cit., 56ff.

only had he grown up in the north and badly wanted it to be part of his kingdom, he regularly pronounced himself delighted with the obvious fertility of the north and espoused his vision of turning the area "into a vast cultivated and inhabited place" that would yield much wealth for the royal purse. British officials helpfully concurred.³² Lee provides a very detailed account of the political to-ing and fro-ing from the British as they steadily manoeuvred Abd al-Rahman towards their own interests.³³

In any event, Afghanisation was launched on November 1, 1885, with the deportation of Aimaqs and the occupation of their lands by Pushtun nomads, told to become cultivators.³⁴ *Firman* (land grants) were systematically issued to the colonists. Clashes with the still many existing local populations predictably arose, especially as they were forced to build shelters for the arrivals and to sell their produce to the nomads (who had no experience of settled agriculture) when drought occurred. In addition they had to pay taxes to help cover the costs the assisted colonisation. By the end of 1888 some 18,000 Pushtun families were settled in the north.³⁵ Volunteers were well supported by the king, with free land, tools, tax concessions on yields and travel expenses. The "strongest" were sent to Maimana but colonies spread throughout Afghan Turkestan, with concentrations in Baghlan, Balkh and Sar-i Pul.³⁶

By no means were all Afghans/Pushtuns who were sent north volunteers. Even many Durrani Pushtuns had to be flattered, cajoled, bribed and eventually heavily taxed to be forced from their home areas.³⁷ Once they arrived in the north, few made attempts at cultivation as instructed, and famine and drought resulted initially in mass losses of sheep. Uzbek-Pushtun tensions soared when the king recruited 12,000 Uzbeks to put down the Ghilzai rebellion in the south (1886).³⁸ Many Ghilzai in the north fled to Persia or attempted to return south. Turmoil and oppression continued, and not surprisingly, exiled Afghans were among those who supported the (failed) rebellion of the Pashtun leader in the north, Ishaq Khan in 1888 against his cousin, King Abd al-Rahman.³⁹

Conditions became more settled and during the 1890s, Pushtuns who had no intention of cultivating also began moving voluntarily into the north, at first seasonally. These Kuchis were "delighted" with the potential wealth of the pastures compared to those of their homeland.⁴⁰ Increasingly they settled down there.⁴¹ Invaluable local karakul sheep were added to their fat-tailed flocks, dramatically boosting values.⁴² Leading Pushtun *maldars* especially flourished economically and laid claim to ever-increasing areas of both pasture and arable lands, helped with formal grants over large estates owned by amirs and leading families.⁴³ Land disputes with local Uzbek and Arab populations multiplied, but with Pushtun interests officially steadfastly supported. Tapper records that the

³² For example, Yate explained that the "supply of water had been far in excess of requirements," while another explained how it was known it would only take a few years "to turn these wastelands into a granary to eclipse the Herat Valley" (Tapper 1973, op cit., 56).

³³ Lee 1996, op cit.

³⁴ Ibid, 479.

³⁵ Ibid, 484.

³⁶ Tapper 1973, op cit., 73.

³⁷ Lee 1996, op cit., 480-490.

³⁸ Ibid, 489.

³⁹ Ibid, 495, 507.

⁴⁰ Tapper 1973, op cit., 71.

⁴¹ Ibid, 62.

⁴² Ibid, 78.

⁴³ Ibid.

amir made it clear that it was the job of the Durrani Pushtuns to establish clearly that they were the dominant and superior ruling race.⁴⁴

Pushtun Kuchis were also quick to take up trading opportunities, encouraged by expanding populations and low transit taxes. Groups like the Hazarabuz Kuchis became especially prominent in trading along the Silk Route and establishing “shops” at key points like Andkhui and Maimana.⁴⁵

Entrenchment of Ethnic Tensions over Property: 1901-1978

The death of Abd al-Rahman in 1901 did not end Pushtun settlement into the north.⁴⁶ A report of 1907 records at least 11,000 Durrani Pushtun families and 9,200 non-Durrani Pushtun families in accessible areas.⁴⁷ At least 6,000 were in Faryab Province.⁴⁸ By this time, Pushtun ideas of ethnic superiority were well established, “reinforced by government support and by the grant of both formal and informal privileges over the other ethnic groups.”⁴⁹ British foreign subsidy and weapons also continued up until the First World War, with the holding of the northern boundary a sustained focus.⁵⁰

Abd al-Rahman’s grandson, the reformist King Amanullah (1919-1929) did attempt to limit the worst of the predatory and human rights abuses of one people against another in such areas, including bringing allocation of land rights to settlers under more scrutiny, but his efforts were not lasting.⁵¹ Uzbeks and Tajiks rose in support of the Tajik leader Bacha-i Saqau, who seized the throne in Kabul in 1929 but were routed following the restoration of the Durrani monarchy by Nadir Shah.⁵² Under Nadir Shah’s rule (1931-1933), the Afghanisation policy was firmly revived and then sustained by his son, King Zahir Shah, throughout the 1930s and after.⁵³ Many thousands of new Pushtun settlers were encouraged to move to Balkh and Faryab Provinces.⁵⁴ The improvement of trading conditions from the 1920s further stimulated Pushtun Kuchi expansion into the north, where they established dominant rights over areas like Dasht-i-Laili. As wealth and social change advanced, many of these Kuchis invested in farm land, hiring poorer Uzbeks as sharecroppers.⁵⁵

A contributing factor to Pushtun dominance over pastures was the mid-century emergence of the concept of “state land.” With each new Constitution and land law, the definition of public land became increasingly synonymous with state land or government land. Although both the 1965 Land and Statistics Survey Law and the 1970 Pasture Law described pasture as “public land” only administered by the government, this empowered the government to allocate access rights to those of

⁴⁴ Ibid, 73.

⁴⁵ See Frederiksen, B. *Caravans and Trade in Afghanistan: The Changing Life of the Nomadic Nazarbuz*. Thames and Hudson. 1995, 265, and Tapper 1973, op cit., 71.

⁴⁶ Nor did the people of Hazarajat to the south see the return of their pastures which had been forcibly taken from them in 1884, and who had endured virtual genocide, relocation, imprisonment and enslavement especially during the 1890s. Refer to Alden Wily, *Land Relations in Bamyan Province*, op cit. for details.

⁴⁷ Cited by Tapper 1973, op cit., 73.

⁴⁸ See Poullada, L. *Reform and Rebellion in Afghanistan, 1919-1929. King Amanullah’s Failure to Modernize a Tribal Society*. Ithaca, New York: Ithaca University Press. 1973; Mousavi, S. *The Hazaras of Afghanistan. An Historical, Cultural, Economic and Political History*. Surrey: Curzon Press. 1998; and Roy, O. *Islam and Resistance in Afghanistan*. Cambridge Middle East Library. 1986.

⁴⁹ Tapper 1973, op cit., 78.

⁵⁰ Roy, op cit., 17. The period is most thoroughly covered by Gregorian, op cit., 163ff.

⁵¹ Poullada, op cit.; Dupree 1980, op cit.; Gregorian, op cit., 227ff; Mousavi, op cit., 94.

⁵² Tapper 1973, op cit., 79.

⁵³ Ibid. Roy, op cit.

⁵⁴ Roy, op cit.; Dupree 1980, op cit., 188.

⁵⁵ Frederiksen, op cit.

their choice, in practice, to mainly Pushtun Kuchis.⁵⁶ Although these entitlements were technically use rights only, holders treated these as evidence of their exclusive ownership.⁵⁷ Grazing taxes had been paid on these lands from the 1930s, a fact that became a prime indicator of this tenure.⁵⁸ USAID-supported land registration during 1965-1974 embedded these rights further, with many near pastures being registered as the private lands of leading livestock-owning families, including one or two wealthier Uzbek and Arab landlords. Notions of community pasture were in the process severely undercut.

The War Years: 1978-1989

In areas like Faryab where livestock-keeping was as important as cultivation, and transhumance traditionally practiced (by early Arab and Uzbek stock owners as well as by the later Pushtun *malدار*), competition for pasture within and among ethnic groups increased, with only temporary relief in the dramatic drought of 1970-72 and the death of up to 80 percent of herds (to be repeated in 1998-2002).⁵⁹ Inter-ethnic tension over land was never far from the surface, and although already of long standing, Pushtun claims were contested right up until the time of the 1978 revolution and subsequent Russian occupation (1979-1989). This was especially so in the districts of Dawlatabad, Shirin Tagab and Gurziwan, where settled Pushtun communities were numerous and where Pushtun khans had been the recipient of estates previously owned by the amirate of Maimana and related Uzbek landlords.

The communist Land Reform of 1978 did not reach deeply into Faryab.⁶⁰ Although some khans had their arable lands redistributed (such as recorded later in respect of Qala-yi Shaikhi Village), this was not lasting. Gurziwan District in Faryab was one of the first areas to openly rebel against the government of Taraki and put to death numerous teachers and officials.⁶¹ One of the first acts of Tajik and Uzbek *mujahidin* after the arrival of the Russians was not to attack Communist-held Maimana but to expel or execute a number of Pushtun khans.⁶² Land grievances were core to these actions. As in many other areas, nomadic Pushtuns (Kuchis) were told not to come to the area and semi-sedentary Kuchis living to the east and west of the Dasht-i-Laili were forcibly expelled by Tajik and Uzbek *mujahidin*.⁶³

C. Faryab in the 1990s

Resistance to Russian occupation was significant in Faryab and was only partly held by Communist and Soviet forces during the 1980s, the front line being at Imam Sahib and Pushtun Kot. Formation of *mujahidin* groups flourished. *Mujahidin* took Shirin Tagab District during the rule of President Najibullah (1986-1992). From about that time Faryab was governed by warlords with different and often shifting political allegiances. These were primarily but not entirely ethnically aligned. Uzbek allegiance was mainly to Junbesh, with General Dostam the most strongly emergent Uzbek leader. Contrary Uzbek support for the Tajik Atta Mohammad of

⁵⁶ Alden Wily, *Land Rights in Crisis*, op cit.

⁵⁷ Frederiksen, op cit.

⁵⁸ Alden Wily, *Land Rights in Crisis*, op cit.

⁵⁹ Male, B. *Revolutionary Afghanistan A Reappraisal*. London & Canberra: Groom Helm. 1982.

⁶⁰ Alden Wily, *Land Rights in Crisis*, op cit.; Roy, op cit.

⁶¹ Personal comm., J.L. Lee.

⁶² Ibid and this study.

⁶³ Ibid.

Jamiat also existed.⁶⁴ Many (but not all) Pushtun supported President Najibullah before his resignation in April 1992 and then Rabbani (1992-1996).⁶⁵ Then those in the Dawlatabad/Shirin Tagab area tended to join the notorious Rasul Pahlawan, an Uzbek warlord whose base was in the study area, but whose harsh rule and influence were to spread over much of Faryab and beyond between 1990-1995.

The impact of Rasul Pahlawan on the lives, livelihoods and land holding of the people of Faryab can hardly be over-estimated, the effects of which continue until this day. From the returns of forceful exploitation and theft, he built a new capital for himself in his home town of Faizabad in Shirin Tagab. He continued the decimation of the intelligentsia of Maimana begun by the *mujahidin*.⁶⁶ Exploitation gave way to outright persecution, with homes and lands destroyed or occupied at will. Although his main adviser was Pushtun and he commanded support from local Ghilzai Pushtuns and from those in Balkh and Chimtal, he is remembered by some in the study area as being "partial to killing Pushtuns." Uzbeks also greatly feared the abusive behaviour of Rasul and his commanders, with gang-rape and property theft rife.⁶⁷ Vast sums of money and other assets were accumulated during this period. Taxing, tithing and human rights abuse are said to have become the norm, affecting virtually every family in the province to one degree or another.⁶⁸

Although Rasul was murdered in 1995, Malik, his step-brother (and whose mother was Pushtun) stepped into his shoes. Although aligned to Junbesh, Malik fell out with Dostam in 1997 and the Taliban felt safe to negotiate with Malik to secure safe passage through Faryab.⁶⁹ The Talibs reached Shirin Tagab with 4-5,000 men in May 1997, the Uzbeks fleeing in their path. Two days later (24 May 1997), just as celebrations for "Teachers Day" were getting underway, the Taliban attempted a double-cross to remove Malik and he reneged on the agreement and attacked the Taliban. It was at this point that Malik is popularly accused today of taking lorry loads of Taliban prisoners into the Dasht-i-Laili Desert and shooting them.⁷⁰ Reciprocal massacres of Uzbek by Taliban fighting along the Badghis front took place.⁷¹ The Taliban eventually secured Maimana and areas north.⁷² People in the study area recall that the Talibs "entered with much anger in their hearts" about the massacre in the desert and the treachery of their supposed ally, Malik. Local Pushtun, some of whom had in fact fought with Malik, now assisted the Taliban.⁷³

⁶⁴ Especially in Kohistan, Almar and the upper reaches of Gurziwan District. The Jamiat Party has its origins as the multi-ethnic Islamiat party under Rabbani. This was combined with Massoud's Tajik Shura-e-Nizar Party of the Panshir Valley to become Jamiat. Jamiat commands many supporters in Parwan, Mazar and Kabul. Three of its key leaders are Defence Minister Fahim, Education Minister Junus Qaoni and Foreign Minister Abdullah Abdullah (the former spokesman of General Massoud). Many other Uzbeks in the 1980-1990s were members of the Parcham Communist party and fought against the *mujahidin*. In addition, Faryab had a strong Uzbek nationalist party, some of whose members espoused cession from Afghanistan, led by an exiled Uzbek in Pakistan. See Roy, op cit.

⁶⁵ Pushtuns were also divided; some joined Hisb-i Islami of Hekmatyar while others were members of the Khalq Communist Party and held positions in Faryab Province and elsewhere during the governments of Taraki, Babrak Karmal and Najibullah (1979-1992). See Roy, op cit.

⁶⁶ Personal comm., M. Patterson.

⁶⁷ Human Rights Watch. *Afghanistan. Paying for the Taliban's Crimes: Abuses Against Ethnic Pushtuns in Northern Afghanistan*. April 2002. 14(2c).

⁶⁸ Ibid.

⁶⁹ It is alleged by officials in Maimana and rural villagers alike that the Taliban paid Malik millions of dollars for safe passage. Malik took the money and stood down his army and permitted the Taliban to pass via Faryab.

⁷⁰ Human Rights Watch. *Afghanistan: The Massacre in Mazar-i-Sharif*. November 1998. 10(7c).

⁷¹ Ibid.

⁷² This took at least three attempts, led by Dostam, once Malik had retreated and fled to Iran. Maimana City was one of the main sites of fighting.

⁷³ Malik is reputed to have commanded considerable support from a range of Pushtun commanders throughout the north, including some known to have committed some of the worst abuses of the period (Personal comm., various UNAMA staff). Also see Human Rights Watch 1998, op cit.

The Taliban ruled the north for three years (August 1998-November 2001). As general policy they appear to have sought out anyone associated with the Junbesh, Jamiat or Wahdat parties, and then targeted non-Pushtun civilians in general. Activities that cumulatively suggest a systematic elimination of non-Pushtuns began to occur throughout the north and in the associated rebellious area of Hazarajat. Massacres began to mount,⁷⁴ including the execution of 2,000 mainly Hazara civilians in Mazar that shocked the world in August 1998.⁷⁵ Dasht-i-Laili once again became a graveyard for the murdered, with bodies often left unburied. Many (but not all) local Pushtuns supported (and were supported by) the Taliban; some raped and pillaged Uzbek villages in vengeance for their own suffering under Rasul and Malik.⁷⁶ Where Pushtuns had fled in terror several years previously, now Uzbeks fled.

Every village in the study area from Shirin Tagab to Maimana was affected. Properties again changed hands. Pastures that had been allocated to Pushtuns, wrongfully or rightfully, were recouped from 1998 and Uzbek stock owners or farmers evicted. Others of uncertain status (such as common lands) were declared public land and reallocated to Pushtuns with supporting deeds prepared. These actions were complemented by blockades of food, medicine and fuel to Uzbeks, mass arrests, hostage-taking, and torching of some Uzbek villages.⁷⁷

D. After the Taliban: 2001-2003

The forces of Junbesh, Jamiat, Wahdat and Harakat combined to defeat the Taliban in the last months of 2001. Their fall once again engendered recriminations. Irrespective of whether they had supported the Taliban or not, Pushtuns fled, mainly to the south, where many still remain. All 30 or so Pushtun communities along the Shoor Darya were abandoned in 2001.⁷⁸ UNHCR and human rights groups began to record the same litany of abuses against Pushtuns that the ethnic group previously wrecked upon others.⁷⁹ Virtually every one of the many villages throughout the province named "Afghaniya" were looted and/or destroyed between November 2001 and February 2002.⁸⁰ Those who had been sharecropping the farms of Pushtuns generally continued to do so while others were directly annexed. Some warlords and their followers have begun to cultivate poppy on these fields.⁸¹

As this short study will illustrate, too little time has yet passed for the fear and bitterness between Uzbeks and Pushtuns to have fully diminished. Altogether some 10,000 Pushtuns fled Faryab in 2001-02 and although returns have been steady since, fear and insecurity abounds.⁸² Around 5,000 Pushtun households from Faryab are still registered as IDPs, with large groups in Kandahar or Herat. Some who have attempted to return have been rebuffed, while others have had crops they have

⁷⁴ Human Rights Watch 1998, op cit. and see Human Rights Watch 2002, op cit., 10-12.

⁷⁵ Human Rights Watch 1998, op cit.

⁷⁶ Human Rights Watch 2002, op cit.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Tyler, A. for UNHCR. *Mission Report: Faryab 26th November to 3rd December 2002. Northern Return Commission*. Maimana: UNHCR. December 2002; Human Rights Watch 2002, op cit.

⁸⁰ Interviewees reported that Rahmat Rais of KSP and Astana of Shirin Tagab and their supporters looted every Pushtun home between Faizabad and Juma Bazaar.

⁸¹ In Kohistan, for example, Pushtuns sent a report to UNHCR in 2002 that they feared they would lose all rights to the farms even in the long term as Uzbek occupants had begun to cultivate poppy (UNHCR 2002, op cit.)

⁸² Some 7,085 families registered as having returned to their homes by end September 2003 (UNHCR. *Property Issues in Faryab*. Maimana: UNHCR. October 2003). Three local IDP camps (in Dawlatabad, Qaysar and Maimana) closed in 2003.

collected from tenants stolen on their way to return out of the area.⁸³ Numbers of Arabs and Uzbeks are also absent from their homes. However, their absence is difficult to distinguish from widespread out-migration of males to Iran for work.

It is also the case that commanders in the province have taken full advantage of the fall of Taliban to since exploit conditions. Without a strong or armed central state there has been continuing competition in the north between the Jamiat-i Islamic Atta Mohammad and his followers and those of the Junbesh Abdul Rashid Dostam, with periodic armed conflict up to the present.⁸⁴ Power-sharing agreements have been brokered between the two and by 2003 Junbesh was established as the dominant force in Faryab, but with competition among its adherents still rife, and the future uncertain.⁸⁵ For local people in the study area districts, the continued presence of feared commanders with histories of extortion, atrocities, forced recruitment, beatings, rape and the keeping of harems of young boys, sustain anxiety.⁸⁶ Opium production and smuggling now add to these concerns. Some of the culprits fill official positions as military commanders under the aegis of the Ministry of Defence, adding to the local sense of helplessness. The civil administration also lacks the neutrality necessary to command respect. Annex B illustrates the complex leadership patterns that existed in Faryab leadership at the time of the survey in November 2003.

For its part, the UNAMA office in Maimana has worked tirelessly to mediate between Jamiat and Junbesh commanders and to reduce the number of abuses described in a stream of petitions submitted over recent years. Warlords have been visited and embarrassed into returning wrongfully acquired funds, stock, implements and land.⁸⁷ During the survey period UNAMA was seen to address complaints against commanders in both Shirin Tagab and KSP, the latter involving complaints from all ethnic groups against incidents of coerced payment of contributions, forced labour on the farms of commanders, forced recruitment and theft of donkey loads of straw.⁸⁸

Land disputes in which commanders play a prominent role have also been widely reported in both these districts, as will be illustrated in the next chapter. Nonetheless, NGOs working in these areas consider the situation improved upon that of two years past. Armed clashes continue to periodically occur, however, as recently as September 2003 in Almar and Pushtun Kot, both of which passed from Jihadi to Junbesh control. Complaints to UNAMA are declining but are still many. While some concern rapes and murders, others come from returning refugees,

⁸³ Human Rights Watch 2002, op cit.; UNHCR 2002, op cit.

⁸⁴ There was, for example, an armed struggle in November 2002 between the Jamiat Beg and Junbesh Shara Beg in Sara-yi Qala Village on the border of KSP and Shirin Tagab. Other clashes were reported in Pushtun Kot and Almar (UNHCR 2002, op cit.).

⁸⁵ In 2003 Faryab Province was declared demilitarised, and a certain number of soldiers relocated into official bases on either side of Maimana City, one for Jamiat soldiers and one for Junbesh soldiers, with agreement in October 2003 that these be integrated (Mazar Resolution 26 October 2003). Over 2003 the balance of power moved to the side of Dostam's faction, with defections from Jamiat. Hashim Hashim Habibi Khan, an Uzbek commander with tenuous loyalties to Dostam, was appointed as Head of the Military Council of Faryab. He has had a history of changing allegiance; Hashim originally headed up a Najib militia then joined the *mujahidin*, then sided with Junbesh (Dostam), then with Rasul Pahlawan, then with the Taliban and then became a virtually an autonomous leader of the south-central parts of Faryab Province. His human rights record is among the poorest and it is alleged that he is involved in opium smuggling into Ghor and is a main beneficiary of income from the salt mines of Faryab. His hold over even other Junbesh commanders is weak, with several key military commanders by-passing him and reporting directly to Dostam.

⁸⁶ Personal comm., UNAMA, Maimana.

⁸⁷ UNAMA Reports 10 November 2003, 15 November 2003.

⁸⁸ CHA, as cited in UNAMA Report 10 November 2003 and InterSoS, Pers. Comm. Chris Green.

trying to recoup property taken during the time of Rasul and Malik Pahlawan (1990-1998).⁸⁹

It will be evident that property matters as a whole have been deeply central to the disturbances of the last 25 years. This paper will now turn to report on the specific findings in the review of land relations in 11 villages/hamlets.

⁸⁹ Summary of Petitions, UNAMA, November 2003.

III. Findings from the Field

A. Khwaja Musa District

Khwaja Musa District is a new district, carved out from Khwaja Sabz Posh. It is administered from Shah Nazar, an original sub-district headquarters. The governor at the time of survey (November 2003) was considered effective but suspected of royalist tendencies. He has since been dismissed and replaced with a Junbesh-supporting Uzbek. The district comprises 39 villages, 21 of which are Uzbek (54%), seven are Arab (18%), seven are Pushtun (18%) and the rest ethnically mixed (10%). Only one *mantiqa* was visited: the mainly Arab *mantiqa* of Ortepa.

Mantiqa #1 Ortepa - An Arab Community

Ortepa comprises a series of related villages that lie along the banks of the Maimana River, an eastern tributary of what further north becomes the larger Shor Darya River (Saline River). Ortepa was originally administered by Shirin Tagab District and is shown as such in official maps. There is general agreement that it falls today within the boundaries of Kwaja Musa District. Map 3 shows this location.

Ortepa is one of eight sub-areas or *mantiqa* that constitute the modern Khwaja Musa District. It is bounded on the south by the Uzbek village of Bad Kok, from where Uzbek settlement begins. It is bounded on the north by Ata Khan Khwaja, a large Pushtun village that is located at the conjunction of the two river tributaries that become the Shor Darya. This marks the beginning of the valley referred today as Jalaier (or Jalayir), settled since the 1890s by Pushtuns through land grants by Abd al-Rahman as described earlier. At that time, one British official described the area as vacant; referring to Qaisar/Shur Darya in 1886, he wrote:

*"Formerly it was well inhabited and there were large settlements of both Arab and Ersari nomads, who grazed their flocks in the chul to the west; these though were gradually reduced by (Sariq) Turkoman raids, and in 1877, the two last Usbeg villages at Ata Khan Khojeh and Jalaier were attacked and plundered, and since then the land has lain waste."*⁹⁰

Ethnic Cohesion

The defining feature of the Ortepa *mantiqa* and the glue of its cohesion is ethnicity; all permanent residents are Arabs. In addition, there are a number of transient workers/sharecroppers of mainly Uzbek descent and some Pushtun IDPs. As shown earlier in Table 2, one-fifth of the communities in the three districts claim Arab descent. Linkages among these Arab villages are strong, providing support and homes to each other during the conflicts of the last two decades. Arab villages in Shirin Tagab District are very closely related to the Ortepa Arabs.⁹¹ These communities claim descent from Arab-Muslim arrivals from Saudi Arabia in the 8th century (2nd C Hihra). Settlement along the Ortepa valley is said to have occurred more recently, when settlers came from Sar-i Pul during the 19th century. Farsi with Uzbeki is spoken, rather than Arabic.

⁹⁰ Yate as cited by Tapper 1973, op cit. 72-73.

⁹¹ The Astana Valley, Arpatu, Dahan-e-Shoor, Farhat, Karkhana and Qala-yi Shaikhi were specifically mentioned.

The factional allegiance of Ortepa and other Arab communities in the province varies; elders claim they have always been caught between Uzbek and Pushtun and blamed by both. In this village, the Taliban era was recalled as mainly “quiet,” suggesting that they supported or cooperated with the Taliban. Indeed, when the Taliban were defeated, many Pushtuns from especially Jalaier further north along the Shor Darya fled south to Ortepa, following terrible looting and torture.⁹² Through their Arab hosts, they gained tents and support from UNHCR. While some remain in the area, elders say most have returned to their home areas or left Faryab altogether. A range of minor local commanders has given way to a single recognised Junbesh commander, recently returned from exile in the south, who is said to have no weapons and to be respected mainly as an elder in the community. Nonetheless, at the time of the visit a security *shura* was being held. No cases where an ex-commander had appropriated private lands were indicated.

The *mantiqua* comprises between 10 and 15 villages, depending upon how five are defined (see Table 5). At least half the villages are made up of mainly landless households (9) and serve as satellite communities of the main five landlord villages.

Table 5: Villages of Ortepa *Mantiqua* in Khwaja Musa District

	Village or Leader	No. Mosques	Est. Households [Study]	Households [InterSoS]	Plough Oxen	Cows	Sheep & Goats
1	Utuz/Ata Khan Khwaja	2	100	212	0	0	100
2	Ataullah	3	200	100	0	0	100
3	Amanullah (Takhta Bazaar)	2	100	887	3	0	100
4	Bagha	1	100	134	3	0	100
5	Sai	1	100	120	2	0	500
6	Masjid Safid (White Mosque)	2	300	264	8	2	110
7	Haji Mohammed Yar	2	300	263	18	0	600
8	Haji Yaqub	1	100	60	0	0	150
9	Almari	1	200	150	4	1	500
10	Yaka Taz	1	100	140	4	0	2,000
Five hamlets which are not noted in Inter SoS population of livestock data							
1	Awaz Bai	1	100				
2	Haji Jani	2	200				
3	Nawabad	1	100				
4	Arlan	1	100				
5	Haji Khalniyaz	1	100				
15	TOTAL	22	2,200	2,330			

Source: This survey and InterSoS.

Each village has its recognised elders and a senior elder serves as a link person with the government for the area as a whole (*arbab*). A community *shura* was formed in 2002 with encouragement from the NGO, ACTED. Road improvements and water developments are underway. Like all communities along this salty river, potable water is chronically scarce. The river valley is wide and flat at this point of the tributary and most fields are irrigated by river flooding in spring rather than by permanent channels from the river.

⁹² As described by Human Rights Watch only three of some thirty Pushtun villages in Jalaier and beyond along the Shor Darya were occupied in February 2002 (Human Rights Watch 2002, op cit., 29-32).

Land disputes within the *mantiqua* are few; the most recent addressed by the elders concerned the failure of a returnee to pay the full amount he owed for land he had purchased. Although villagers claimed that little land changes hands, a market in land is apparent with the value of farmland well-known; one *jerib* of flood-irrigated land costs around \$300, channel-irrigated land costs around \$600 and rain-fed land around \$150 per *jerib*.

Farm ownership

Landowning in Ortepa *mantiqua* ranges from majority landless (calculated as up to three-quarters of the current population) to those who are said to own up to 100 *jeribs* of *abi* (irrigated land) and 200 *jeribs* of *lalmi* (rain-fed farmland). Distribution is self-evidently highly skewed.

Pastureland

With the large numbers of stock still possessed today, pasture is important. A small pasture in the southern area of the *mantiqua* is named Mohammad Shukur (200 *jeribs*) and a larger area also to the south is named Tokchi. Local Arab rights to these areas are disputed by Uzbeks in the neighbouring *mantiqua* to the south, following the expansion of Uzbek cultivation into the pasture. The Ortepa Arabs lodged a formal complaint in 1996 to the District Officer, but no ruling has been forthcoming. Uzbeks have since stopped cultivating the pasture, possibly as they themselves have begun to reacquire stock. Currently both areas are shared by Arab and Uzbek livestock owners as was the case in the past, and the issue of ownership has for the moment been put aside.

A much larger pasture is located directly to the east of the Ortepa villages, referred to as Alam Li. Arabs and Pushtuns from the Shirin Tagab River Valley villages appear to share this, although Ortepa people claim ownership. By far the larger pastures are found in the west, both between the two tributaries of the Shor Darya (which does not become one river until further north) and beyond the rivers. The latter area is especially vast, extending to the border with Turkmenistan ("Chaiqasim").⁹³ This is known as Charmgar Chashma⁹⁴ and is consistently acknowledged as public land or government land. Livestock owners from all ethnic groups, including nomadic Pushtuns and Arabs from further south in the province use this area during spring and summer. Several permanent and seasonal villages loosely referred to as Ming Darakht⁹⁵ are located in the area, suggesting that some amount of cultivation may also be taking place in the pasture. Competition for grazing Charmgar Chashma has been historically considerable but less so currently due to the reduction in stock as a result of the 1998-2002 drought and the fact that many fewer Pushtun nomads are using this public space.

Interviews about household land holding were held in the central trading centre of Takhta Bazaar and a small hamlet in the south of the *mantiqua*, Arlan. The former is made up of mainly Uzbek traders and landless Uzbek and Arab households. The latter is a hamlet of inter-related Arab landlords, with worker households living in neighbouring *mantiqua*.

Only 14, mostly Arab, landowners were listed in Takhta Bazaar. Shopkeepers number at least 30 but claimed they do not own land in the village or *mantiqua* generally. Holdings range from three to 50 *jeribs* of irrigated land and from five to

⁹³ This may be a version of Khwarazm, the ancient name for what is now Turkmenistan (Personal comm., J.L. Lee).

⁹⁴ Meaning "tanners spring" (Personal comm., J.L. Lee).

⁹⁵ Meaning "a thousand trees" in Uzbek/Farsi.

200 *jeribs* of rain-fed land. Inheritance is the main means of acquisition. It is uncommon for heirs to subdivide the farm. All 14 holdings were said to be farmed cooperatively among brothers. In the past, tax was paid by the family and the Book of Ownership held by the Amlak Department of the Ministry of Agriculture lists the farm only under the family name. As typically the case elsewhere in the province, the size, grade and owner of farms in Ortepa was registered on the basis of owners self-reporting via the village *arbab* during the 1970s and may be chronically inaccurate. When asked if female members of the household are considered shareholders in the family holding, interviewees were unable to respond. They made the point that women are always looked after in the family and that widows live with their children when their husbands die. They could not recall a widow in the village who was considered a landowner in her own right or considered the head of a landowning household.

The landless

The landless survive through providing labour on the farms within Takhta Bazaar and in neighbouring villages and, in addition, collect dung and brush for winter fuel and serve as shepherds. They also work for the shopkeepers. Much of the work is undertaken on a daily paid basis. Sharecroppers are considered a more stable element of the community, tending to work for the same landowner over some years. None are paid more than one-fifth of the crop they plant and harvest, an insufficient product to sustain them through the year. "They just have to tolerate this" was the response of elders, "There is nothing we can do. One-fifth is the rule."

Landless farmers quite commonly own small stock. Some also own a donkey and receive payment for transporting goods. Landowners own camels, oxen, cows and up to 100 goats or sheep (Table 6). Livestock keeping is a major source of survival, and residents say Arabs generally keep more livestock than neighbouring Uzbek and settled Pushtuns. "Our origins are as nomads; when we first came to Afghanistan, we came with livestock and moved around with our animals. We were Kuchis same as the Pushtun Kuchis."

Arlan Village is the smallest village of the *mantiq*, located in the far south of the territory, directly adjoining the Uzbek village of Bad Kok in the next *mantiq*. Relations between the two are now peaceful despite the heated quarrel over the ownership of the local pastures of Tokchi and Mohammad Shurur mentioned above. Arlan's land area is divided among eight landowning families, as shown in Table 6. Two widows live within these families, both of whom were said to have inherited their rightful share as laid down by the Koran but who had both promptly handed this over to their sons "as is our custom" (note, not to their brothers in this case). Three other families are landless but related to landowning families. Each is a sharecropper, as their fathers and grandfathers had been before them. They may be considered as client households who will remain under the protection of their richer relatives. Farm workers and other sharecroppers are Uzbeks from adjacent Bad Khok where they reside.

Table 6: Land Ownership in Arlan Village, Ortepa= *Mantiqa*

Land Owner	Jeribs of Irrigated Land	Jeribs of Rain-fed Land	Acquired Land by	Farms un-subdivided	Has Bought or Sold Land	Has Mortgaged Land	Tenants	Workers	Sharecroppers	Livestock
1	8	20	Inheritance	Yes; Farms with 2 sons & 2 brothers	No	No	None	None	None	3 camels, 1 ox 1 donkey 10 goats
2	5 [%]	10	Father bought rain-fed	No	Yes	No	None	None	3 (all Arabs) receive 1/5	20 goats
3	4	8	Inheritance	Yes	No	No	None	None	None	10 goats
4	25	20	Inheritance	Yes; Farms with 2 brothers	No	No	None	None	5 (all Arabs) 2 live in village, 3 in close villagers	1 camel, 1 donkey, 1 goat
5	10	5	Inheritance	No; with 1 son only	No	No	None	None	None	20 shoats
6	-	8	Bought 1971	No; with 3 sons	Yes	No	None	None	None	1 donkey 2 goats
7	20	40	Inheritance	Yes	No	No	None	None	5 (all Arabs) Live in Almari	1 cow, 2 oxen 2 donkeys 20 goats
8	100	200	Inheritance	Yes	No	No	None	None	10; 2 Uzbek, 8 Arabs. 3 Live in village	4 camels, 2 oxen, 2 cows, 2 donkeys, 20 shoats
8	162	311	Mostly inheritance	Mostly farm as one farm.	Limited	None	None	None	4 of 8 have sharecroppers	

[%] This land is in KSP, near Juma Bazaar, inherited from his father who was born there. He has three *quarandar* (sharecroppers) who farm for him and receive one-fifth of the crop as payment. None of the other eight farmers own land outside Arlan Village, although the land of Akoroheem extends over several adjacent villages.

Off-farm incomes

More or less, all families have an adult male who has spent time in Iran or is still in Iran or Herat. Remittances provide a significant input into survival. The number of people who left Ortepa for Iran rose steeply during the drought years. Land sales occurred. Currently only two persons in the village have their land under mortgage (*gerau*), a shopkeeper in the bazaar being the mortgagee. Indebtedness to shopkeepers by landless households was said to be very high with all “poor” people buying food and other goods on credit, usually paying off the debt after some months with the sale of sheep. The “very poor” are those with no sheep and little income from daily paid work, and these people tend to be refused credit. “We give them charity,” explained a shopkeeper. “They come to us when they are starving and we cannot refuse them.”

B. Khwaja Sabz Posh District

Two *mantiqa* were visited in Khwaja Sabz Posh District (KSP): Qala-yi Shaikhi and Afghaniya-Kamozai. These are adjacent and both lie on the northern boundary of the district with Shirin Tagab District (and are usually shown on maps as within Shirin Tagab). Rasul Pahlawan created KSP as a distinct district in 1987. Its current administration is strongly influenced by a well-known local commander, Rahmat Rais, who in 2003 was officially absorbed into the military hierarchy as the Chief of Staff of Division 200 in Maimana.

KSP is a composite of 24 *mantiqa* (Table 7). The boundaries of each are known, identified by natural features such as rivers, streams, and rocky outcrops. *Mantiqa* typically include settled and farming areas and open pastures. The district governor maintains records by *mantiqa*.

Boundaries among the different village areas that make up the *mantiqa* are also known. Small pastures (*alafcha*)⁹⁷ are often located within village areas, along with religious land (*waqfi*) where mosques and cemeteries are located. Both village and *mantiqa* pastures tend to be controlled by influential landowners in the community, some of whom claim personal ownership. Conflicts are common among villages and especially among *mantiqa* in respect to pasture access.

Two-thirds of the villages within the *mantiqa* of KSP are Uzbek, and over half the *mantiqa* are considered by the authorities to be Uzbek.⁹⁸ Turkmen, Moguls, Pushtuns and especially Arabs are found within one-third of *mantiqa*, living within discrete villages or at least neighbourhoods of those villages. Qala-yi Shaikhi is the most ethnically mixed areas of the district, but is also notable in that it appears to have “exiled” the Pushtun village of Kamozai from its sphere. Accordingly, Kamozai is treated as a separate *mantiqa* below. District and local leaders justify this on the grounds that Kamozai (or Afghaniya as it is also known by non-Pushtuns) is the only village in Qala-yi Shaikhi to be on the western side of the Tagab River, but as shown later, the situation is more complex.

⁹⁷ Literally “small grasses.”

⁹⁸ As so often with demographic data collected during the survey, the figures of villages given by the Governor and those collected by InterSoS do not agree; as shown in Table 8, the Governor’s Office claims 66 villages while InterSoS lists 102 villages in the District as shown in Table 2. InterSoS did not collect data on *mantiqa*.

Table 7: Mantiqa of Khwaja Sabz Posh District

	MANTIQA ⁹⁹	ETHNIC COMPOSITION	NO. VILLAGES IN MANTIQA	NO. HOUSEHOLDS
1	Takht-i-Eshan	Arab	4	1,000
2	Morchaghal ¹⁰⁰	Mongol (Uzbek)	3	1,000
3	Sumlik Pawgan	Uzbek	5	400
4	Arab Laghman	Arab	1	90
5	Pawgan Laghman	Uzbek	10	510
6	Qaraqul?	Uzbek, Tajik	2	100
7	Sherbaghi	Tajik, Uzbek	2	300
8	Shurgul	Tajik	2	110
9	Khwaja Qushouri	Uzbek	5	1,303
10	Fakhal Toghi	Uzbek	2	170
11	Katar Qeshlaq	Uzbek	1	202
12	Qizil Qeshlaq	Uzbek (Turkman?)	1	200
13	Ghuzari	Uzbek	1	740
14	Badghisi	Uzbek	3	600
15	Deh-I Nau (Juma Bazaar)	Uzbek	2	1,333
16	Kosa Qala	Uzbek	1	344
17	Yangi Qala	Uzbek	2	523
18	Taga Qeshlaq	Uzbek	1	150
19	Sarayi Qala	Uzbek	8	1,800
20	Chuyan Chaqdeh	Arab	2	120
21	Bai-yi Moghuli	Uzbek	1	344
22	Turkmaniya	Turkmen	1	105
23	Afghaniya/Kamozai	Pushtun	1	105
24	Qara Shaikhi	Arab, Turkmen Uzbek, Pushtun ¹⁰¹	5	

Source: District governor's office.

Lalmi (rain-fed) cultivation is important and has been steadily expanding in KSP over the last 25 years. The distinction between land that is suitable for cultivation and pasture is thin, determined as much by use as by agro-ecological characteristics. Again, as in Khwaja Musa District, issues of private versus common ownership of pasture and common versus public ownership of pasture frequently arise. Several tense conflicts currently pertain and garner ethnic colour. One of the most important involves Uzbek leaders in Sara-yi Qala and Arab leaders in Qala-yi Shaikhi as outlined shortly. The expansion of cultivation is beginning to take its toll. Although the *chul* (loess hills) are famously resistant to erosion, degradation is visible. Villagers complain of ever-widening and more rapidly flowing spring floods destroying their fields from uncontrolled run-off from the hills. They also acknowledge that top soils have been lost on the hills and that the protective shrubbery on hills, so important for winter fodder and fuel, has sharply declined. Few villagers interviewed in the survey generally connected expanding cultivation with these problems (or perhaps preferred not to make the connection), fairly obvious to most farmers.

Officials and villagers concur that the majority of villagers in the district are landless and often homeless (Box 1). A large number come from outside the community and work as contract sharecroppers (*gareeb kar*). Others eke out a

⁹⁹ The first five *mantiqa* are located in the eastern half of the district in the area broadly referred to as the Astana Valley.

¹⁰⁰ In the past a substantial wild pistachio forest was found in Morchaghal. Much of this was destroyed during 1978-1998. The Ministry of Agriculture claims that this was done by local people with the encouragement of commanders. The area remains unsafe and Ministry of Agriculture staff do not enter the area. They claim, however, to have brought at least the periphery under control, through hiring locally resident forest guards who collect the pistachios for the government from local people. The Ministry claims the area as public land, which it treats as synonymous with government land.

¹⁰¹ Only one Pushtun landowner, allegedly the wealthiest man in the district.

living through seasonal daily paid work; this is popular given current rates of around US\$2 cash per day, but opportunities are more limited than contract sharecropping work. Out-migration for work to Iran occurred prior to 1978 but has gathered pace since then for both political and economic reasons. This has usually been the privilege of the better-off, those able to meet transport costs and make arrangements (leave funds) for their wives and families to be fed in their absence.

Box 1. Rural Classes in Faryab

Kambaghal (beggars/destitutes)	Landless and homeless who survive by begging, including many elderly and disabled persons but also some of those who are unable to earn enough from daily paid work to survive
Mard-i kar/muzdakar (labourer)	Landless (and very often homeless) daily paid workers, often from outside the area or even district. They spend their lives moving from village to village in search of work, especially in spring and summer. Typical work includes building walls, houses, digging channels. The mean wage today is \$2 per day, mostly paid in cash; this is proving attractive to some better-off landless farmers.
Gharib kar/Charikar (sharecropper)	Landless (and often homeless) who attach themselves to a landlord as a sharecropper and are thereby accommodated by the landlord. Generally receive one-fifth of the product they plant and harvest. Often come from the <i>mantiq</i> a and may work for the same landlord for several years. (Note: Char yak kar - literally four to one for work).
Baz kar (sharecropper)	Usually a settled member of the community and may have his own accommodation. May also own a small plot himself. Works as a farmer, often for the same landlord for many years. Receives one-fourth of the total crop.
Khistmand (tenant)	Sharecropper who receives up to 50 percent of the crop in return for providing all inputs (seed, plough, oxen and labour). Usually farms the same plot each year. May own a small plot himself.
Nimcha Bai (half landlord)	Middle-sized landowner able to employ a worker or sharecropper.
Bai (landlord)	Rich landowner (but may also mean rich merchant). Bai and beg are also synonymous terms for important personages.

Officials in the district governor's office said that the recent drought sent hundreds of households into destitution. "The very poor were selling their clothing and children for food." Slightly better-off landless lost their small stock, while those who owned a small farm or house often sold those assets, or lost them when they were unable to pay back loans within the time stipulated for mortgages/pawning (generally one to two years).

Unlike Andkhui to the far north and some other parts of the province, KSP District is not noted for extremely large land holdings, although a substantial number of "large" estates clearly exist and the farming of which is the main task of the multitude of landless and sharecroppers. Absentee landlordism is uncommon. The

most well-known “khan” is a Pushtun who happens to hold land in Qala-yi Shaikhi, variously estimated as running to one thousand hectares of irrigated and flood-irrigated land. He does not live in the community but in one or other of his substantial homes in Maimana or Mazar-i-Sharif. He acquired this land through *firman* granted by Abd al-Rahman around 1894. This was land owned by the Amir of Maimana.

Mantiqa #2 Qala-yi Shaikhi – A Mixed Community

Qala-yi Shaikhi¹⁰² is made up of five villages with a current population of over 1,200 households (Table 8). This includes a group of 42 so-called refugees living in the neighbourhood of Qulghunat who had been displaced from their homes in nearby Qulghatoo by an earthquake 20 years ago. They have recently been provided land to build shelters by the main landlord Ilbegi family. Around 150 households from the *mantiqa* are absent; the *malik* listed 483 households as having left the area from 1979; 250 went to Iran, 60 to Pakistan and 73 to other provinces. Over 100 families emigrated to Europe or Canada via Pakistan. Few of this last group are expected to return. Many better-off households have sons working in Iran or further abroad.

Table 8: Villages of Qala-yi Shaikhi Mantiqa¹⁰³

	VILLAGES	Total Households	Ethnicity	Land Owning Households	Landless Households	% Landless Households
1	Haji Ghulam Sakhi Bai	125	Arab	30	95	76
2	Haji Baba Sher Aqha	123	Pushtun, Tajik, Uzbek	5 (1+4 sons)	118	96
3	Ilbegi Qala	960	Arab	75	885	8
	Mulaiaha & Qulghunat		Arab	0		
	Dewana Qeshlaq ¹⁰⁴		Arab	0		
4	Cheshma Qeshlaq ¹⁰⁵	11	Uzbek	0	11	100
	Chokarzayi	2	Pushtun	0	2	
5	Abdul Wahid (Haji Wakil)	15	Arab	1	14	94
	TOTAL	1,234		110	1,123	91

The Landowners

Only four households in Qala-yi Shaikhi are substantial landowners. One of these includes the extended Arab family of Ilbegi, the core members of which live within a vast walled compound referred to as the castle (Ilbegi Qala). A close relative is

¹⁰² Meaning the fortress of the sheikhs or religious personages, who could be Saiyyids (i.e., Arabs claiming descent from Muhammad), Eshans (religious mystics) or Khwajas (mystics who claim descent also through the female line from Muhammad).

¹⁰³ Note: these figures derive from interviews in the *mantiqa*; they do not agree with those collected by InterSoS at an earlier date and which identify 1,517 households in four villages only, including the area referred to as Qulghunat Refugee Camp, which includes IDPs from a range of other areas.

¹⁰⁴ Meaning “village of the madman.”

¹⁰⁵ Meaning “village on a spring.”

Haji Ghulam Sakhi Bai, who lives a mile distant with his own village of relatives, dependents and workers.

Interviews were held with ten or so male family Ilbegi members, one of whom is also acknowledged as the *malik* or *arbab* of the area (selected because he has education). Their fortified Ilbegi Qala was founded during the 1880s by their forefather, Rahim Begi, a wealthy Arab who had been granted land for loyal support by King Abd al-Rahman. This may mean that although he was not Pushtun, he was a colonist (*naqil*) given land that was probably owned by one or other of the Uzbeki large landowning families, confiscated by Abd al-Rahman from 1884, and particularly after 1889 and 1893/94, as integral to the subordination and colonisation of Maimana khanate touched upon earlier. His descendants claim he created 500 *jeribs* of irrigated land, now expanded to over 1,500 *jeribs* (300 ha). The household also admits to owning over 4,000 *jeribs* of rain-fed land (800 ha). Others in the village, including their relatives, say their farm is "much larger."

This land is divided among three main branches of the family, who together comprise 42 families with 280 members.¹⁰⁶ One acknowledged owning 300 *jeribs* of irrigated land, farmed by ten tenants and four sharecroppers. All 14 of his farmers come from the village but are of different ethnic groups. Not all the Ilbegi family members own land; some of the poorer members say they were forced to sell their share during the drought or in order to meet taxes, bribes and *ushr* demanded by Taliban leaders. Family members agree that around 200 *jeribs* of rain-fed land was sold for these purposes in 1999-2001. This land was bought by wealthy Uzbek relatives of another large land-owning dynasty within the community, the sons of Haji Sher Agha. They paid the equivalent of 5,000 new Afghanis (\$100) per *jerib* at that time but today could sell the land for 15,000 new Afghanis (\$300).

Irrigated land has meanwhile been purchased by some of the wealthier farmers from departing Pushtuns in neighbouring Afghaniya-Kamozai. (Kamozai are a sub-tribe of Pushtuns). This occurred in late 2001 to early 2002. Prices in the range of 10,000 new Afghanis (\$200) were paid, contrasting sharply with the value of their own land, which Ilbegi family members said would never be sold today for less than 50,000 new Afghanis (\$1,000).

The Landless

Ilbegi Qala: a village of mixed land ownership

In total, over 90 percent of households in the *mantiq*a are landless (Table 9). The largest group lives within the central village of Ilbegi Qala. Around 800 of these families are dependent upon the Ilbegi household to one degree or another; only half their number are hired to farm their land. The remainder depend in turn upon those workers or leave the village in search of off-farm daily paid work or farm work with other landlords.

A group interview was held with 30 landless men who live within Ilbegi Qala village. All were Arabs, all born in the village but not necessarily related to the Ilbegi family. Twenty-two of the 30 worked on Ilbegi land, three worked for another landlord within the area and the remainder had been working outside the *mantiq*a or had no work other than occasional off-farm daily paid work. Eight of the 22 Ilbegi workers were *khistmand* (tenants), providing more than their labour and received between half and in rare cases, three-quarters of the crop as payment.

¹⁰⁶ Haji Raouf, the most direct descendant of Rahim, comprises five families with 80 members. Haji Ayab's branch comprises 15 families with 100 persons. Haji Hussain comprises 22 families with 110 persons.

The remaining 14 farmers were providing only their labour (*baz gar*). Only one had worked for the same Ilbegi for more than a decade (in fact for 30 years). The rest said they usually stayed with the same landlord for one or two years only. To stay longer, was to encourage exploitation: "They start to expect voluntary work from you, to take advantage."

Only six of the 30 landless men interviewed owned their own house; the remainder lived with relatives, also mainly landless sharecroppers. Thirteen of the 30 men (44%) had been at least once in Iran since 1999.

"Everyone who was able, left for Iran or Pakistan during the drought; those who stayed had to eat grasses. Some managed to do some daily work for the landowners who have large irrigated lands and could still cultivate even without the rain."

Three-quarters had visited Kabul, Herat, Mazar or other cities in Afghanistan at least once during this period. The remainder had worked elsewhere in the district or province, sometimes only going as far as Juma Bazaar, the capital of the district. In sum, not a single of the 30 men had *not* worked (or attempted to work) outside the village. For most of them, farming was also not the only source of survival, the trend being to supplement spring and summer farm work with daily paid work, contracts (or even begging) elsewhere.

"When the crop share runs out we have no choice but to go and offer ourselves to landlords or townspeople for jobs, any job that can earn money. We fix up walls, make bricks, carry loads, make things for them or become shepherds. We are paid 100 new Afs every day but the work never lasts long."

The one-fifth crop share varies with the area cultivated by the farmer but is said to average around 300 kg of wheat and barley, 100 melons and 8kg of sesame seed. All but the wheat is sold if at all possible, yielding a total income of around 3,300 new Afghanis (US\$66). It is common for farmers to have to borrow from relatives or shopkeepers up to the same amount of wheat again to feed themselves and their families.

For most, conditions over the last decade had deteriorated. One told:

"For ten years I was a kistmand, getting three-quarters of the crop then with the drought I had to sell my oxen and was reduced to just one-fifth. This last season I could not even get work as a farmer. I fed my family with loans from shopkeepers."

Debt

The shopkeeper confirmed mass indebtedness. He did not know a single landless person in the village community who did not owe him money. No landowners owed him money. The shopkeeper claimed no choice but to let people have food on credit, usually wheat, for their crop-share runs out after five months. As he charges no official interest he covers his costs (and more) by charging high prices (and possibly charges compound interest behind the scenes). Since the drought he has imposed no time limit for repayment "as people always try to pay me whenever they can" (in order to keep their credit line good). Many collect and sell dry fodder from the hills to repay at least something on the debt.

The shopkeeper also noted that whereas prior to the drought, even the very poorest owned some small stock "as was our custom," numbers of sheep and goats had dropped dramatically. Among the 30 farmers interviewed, ten had owned sheep in the past ("sometimes 200 animals"), but only three owned animals today (respectively 5, 20 and 50 sheep). Those who had lost all of their sheep were concerned that the high current price of animals would keep them without livestock.¹⁰⁷

Land relations

This group of landless farmers were mixed in their view as to their status. Some felt that landlords have become less generous and are reserving what work they have for relatives. Others said, for example:

"We have good relations with the landowners. In the old days, the verbal agreement was that you must spend all day and all night the whole year working. This has gone now and the landlord knows now that he cannot force you. But even in the old days we were forced to go farmer to farmer to find work like we do today."

Farmers recalled a brief period of respite in 1978-1979:

"During Taraki's time the government took some thousands of jeribs from the three largest khans here (Ilbegi, Haji Ghulam Sakhi Bai and Haji Sher Agha Baba) and made a government farm. We were employed; we had no choice, we had to work for the government. It was made a cooperative. It was a good time as we were paid around what would be today 100 new Afghanis (\$2) every day, the same as you can earn today for daily paid work. It worked well for two years before the revolution collapsed and the landlords took back the land."

There was agreement that the divide between landowners and landless is difficult to bridge.

"People can buy animals but not land. Land is for the landlords."

"Land has always been owned by just one or two people and there has never been land for us to farm. Even the pasture is owned by landlords."

"The only land rule is that those with land and those without land will always be so."

"The difference between a landowner and a landless person is very simple. It is like owning a car; either you have a car or you don't have a car. It changes the way you are, what you can do and how people look at you. The behaviour is different."

Most wrath was reserved for commanders/warlords and those landlords who supported them.

"Our fathers had a better time than we. There was security and peace and lots of animals. We have no control over our lives today. We can be forced

¹⁰⁷ Current prices (November 2003) in KSP: Goat: 2,500-3,000 Afs; Sheep: 3,500 Afs; Oxen: 20-30,000 Afs; Donkey: 5-10,000 Afs and Camel: 25-30,000 Afs.

anywhere at any time. The big landlords support the commanders so we have no one to turn to."

"We are tired of being bullied and forced. We want a law that favours us and peaceful conditions. Local commanders just come and make us work two days here, two days there, for themselves. Even last month I was going along on my donkey and I was stopped and made to work the whole day for the commander."

Cheshma Qeshlaq: a satellite village

Another hamlet in Qala-yi Shaikhi was visited. All 13 households of Cheshma Qeshlaq are landless. Eleven are Uzbek and live together in a single compound with one large shared sleeping room, a kitchen, store, yard and adjacent mosque. The land and accommodation is owned by the Ilbegi family, to one of whom they pay a small rent. Two Pushtun households live apart in their own quarters, under similar arrangements. Unlike the landless of Ilbegi Qala, these farmers are not native to the *mantiqa* (Table 9). None had ever owned land, and neither their fathers nor grandfathers had owned land. Like them, the current farmers have spent their working lives moving area to area in search of farm work. Only two own houses in their home areas but fear these will have collapsed through lack of repair (theft of poles in particular), as they have no one to look after those houses.

Table 9: Landless of Cheshma Qeshlaq Village

HH	Years Ago came to work here	Home Area	Owens house in home area	No. Employers including current landlord	No. Current Live-stock	Had Stock Prior to Drought	In debt	From whom taken loans/grain
1	6	Astana Valley	Yes	4	0	1 cow 1 ox 1 donkey	Yes	Shopkeeper
2	6	Astana Valley	X	4	0	3 donkeys 2 cows	Yes	Shopkeeper
3	5	Astana Valley	X	6	0	1 donkey 1 cow	Yes	Shopkeeper
4	8	Shirin Tagab	X	3	0	1 cow	Yes	Shopkeeper
5	6	Shirin Tagab	X	4	0	3 cows 1 donkey	Yes	Shopkeeper
6	5	Shirin Tagab	X	4	0	1 cow 2 donkeys	Yes	Shopkeeper
7	5	Astana Valley	X	3	0	1 cow	Yes	Shopkeeper
8	7	Maimana	X	2	0	2 cows	Yes	Shopkeeper
9	9	Shirin Tagab	X	4	0	4 cows 2 donkeys	Yes	2 shopkeepers
10	2	Sarayi Qala	X	5	0	3 cows 1 donkey	Yes	Shopkeeper
11	2	Astana Valley	Yes	2	0	2 cows 2 donkeys	Yes	Large landowner in Astana

* All but one has only worked within the Province and one third only within the district.

Although these workers claim they do not like to stay with one landlord for more than a year or two, most had been in Cheshma Qeshlaq for five years, some of them with the same landlord.

Each year a new arrangement is made with the landlord; these are verbal contracts, made in September/October for the coming year, and include the right to reside in the accommodation for the winter. At the time of interview, the farmers suspected they might be evicted, as it was November and they had not been told that they would be hired again. In this event, most said they will try to go to Iran and find work. Three held IDP cards which have helped with getting food, even though they are not IDPs; movement out of their home villages is the norm, not induced by strife.¹⁰⁸

All 11 farmers were in debt and had lost their livestock during the drought. This included a surprising number of cows, considered their prime asset. They did not believe they would have the means to re-purchase oxen or milk cows. Their wives do not work for landlords, do not embroider or make gilims, as they have no skills for this nor the means to purchase wool, dyes or looms. The farmers showed limited interest in becoming landowners themselves, saying that a landless person could never become a landowner. They shared a single main aspiration to own their own housing. This seemed achievable to them over the long term. They spoke enviously of their predecessors, a group of Turkmen who had occupied their current accommodation; these families had enjoyed an unusually good run of years from growing cotton prior to the drought and had been able to move into Juma Bazaar, the district centre, and set up small trading enterprises. They believed that some of them now owned rooms of their own.

Without plough oxen, their share from farming is much less than it had been in the past. Today it lasts around half the year. Like the landless in neighbouring Ilbegi Qala Village, they borrow from the shopkeeper in preference to landlords, although they would not state exactly why.

Changing land use and conflict

Like other locations in the province, rain-fed farming (*lalmi*) in the area of Qala-yi Shaikhi has greatly expanded since 1979. Traditionally, *lalmi* was undertaken only in the floodplains and on gentle slopes near villages. The *arbab* was unusual among villagers in clearly linking farm expansion into pasture areas with soil degradation and floods. He pointed out the line to where cultivation had been originally permitted and complained that it was now reaching the top of hills, whereas previously cultivation was deliberately limited to the lower third of hillsides. Expansion was causing degradation and limiting the area for stock.

"The floods are getting worse and destroying our farms in the valley. The soils fall down the hills and the area is useless after several seasons. Even the stock owners suffer, for no grasses grow. The bushes get rooted up. When people cultivate the hills we lose the hills and the valley lalmi as the big floods wash our fields away with the soil. Arabs who own a lot of stock are against the hills being cultivated. Uzbeks are the ones extending cultivation. The extension began when we began to sell land to Uzbeks."

In the past (pre-1978) the government had limited expansion of cultivation, although villagers were unclear exactly why. Since 1978, and particularly since the 1990s, a free-for-all situation appears to have existed. It was evident that the *arbab* did not have the authority to halt the expansion, but mainly because the Uzbeks referred to were not members of his ward (Qala-yi Shaikhi *mantiqā*) but from the neighbouring ward of Sara-yi Qala.

¹⁰⁸ Both a UNHCR and NGO official in Maimana admitted that they are not aware of the tradition of mobility and do tend to assume that someone not from his home area is an IDP. This is especially so currently if they are Pushtun.

Although the *chul* hills to the east of the settled part of the village are used for grazing, these were not identified as common land, but the private lands of the handful of landlords in the area. A landless villager observed:

"The hills are owned land and have always been owned in our lifetime. Our fathers and forefathers used to identify their land not just by cultivation but by the wider area; from this hill to this. There is no chance to have common land that we can all use because of this; all the land is owned. The only land we can access is pasture beyond the lalmi. But even this is not owned by us but by the landlords. They have to let us use their pasture. That is the way it has always been."

Expansion of cultivation now extends well beyond the village edge into the deeper *chul*. A series of small settlements have been established an hour's walk from Qala-yi Shaikhi.¹⁰⁹ It is this area known as "Kalta Shor" that has come under heated dispute with leaders of the neighbouring *mantiqa* of Sara-yi Qala.

The conflict has taken on ethnic dimensions between Arab and Uzbek. In addition, commanders of non-Junbesh and Junbesh are respectively supporting their people. Shah Mohammed, an Arab of Qala-yi Shaikhi who is said to have had links with the Taliban, is identified as the commander on the Arab Qala-yi Shaikhi side. An Uzbek descendant of Sharab Beg supports Sara-yi Qala landlords. He gains direct support from the Junbesh Governor, Chief of Police and Commander of KSP in Juma Bazaar, and who in turn are supported by Rahmat Rais, the (Junbesh) Head of Division 200 in Maimana, who comes from the area.

For his part, Shah Mohammed is a member of the Ilbegi clan and like all Ilbegi claim that Kata Shor was public land ("government land") and that under King Amanullah (1920s), the Ilbegi were given the right to use it as pasture. They claim to have paid tax on the land up until 1978 and say this proves that the government accepted their ownership. When pressed as to the nature of this ownership, they could not distinguish between ownership of the pasture or ownership of rights to use the pasture (access rights). They said this was the same thing. The Ilbegi *arbab* said that the Taliban had endorsed their ownership, and that documents existed to this effect. However, some Qala-yi Shaikhi villagers believe the Ilbegi bribed Taliban officials to provide this endorsement.

Several years past, the Uzbek families of the neighbouring Sara-yi Qala *mantiqa* took their claim to the court, which ruled in their favour. Whereas documents held by Ilbegi describe the area as Shor-i Qala-yi Shaikhi (the saltpan of Qala-yi Shaikhi), the new documents name this area Shor-i Alaqa-yi Maimana (the saltplan of Maimana).¹¹⁰ The Ilbegi dismiss the documentation, claiming that Uzbek courts will always support Uzbek claims. They have no faith in the government either and point to the fact that the governor of the district, from Sara-yi Qala, is an Uzbek and would never rule in their favour.

Much of the Kata Shor pasture is now cultivated. Relatives of the Arabs in Qala-yi Shaikhi have established summer shelters in the pastures to guard against further expansion. They were recently ordered to leave the area by the district commander but have resisted.

¹⁰⁹ Arab settlers from Arkatoo and Takhto-i-Shan were specifically named.

¹¹⁰ *Alaqa* being another term for *mantiqa*.

"We will fight for this pasture even until we are killed. We have no choice. We cannot rely on the government. There is no government to rely upon. Even if Karzai himself came here he could do nothing to the commanders. They have the guns and the power over everyone. Hashim Habibi supports Mohammed Gul Takla, the District Governor, and the Deputy of the Military Junbesh is Rahmid Rais and he is also from Sara-yi Qala. We have no hope of getting anything which the Junbesh Uzbeks do not want."

Mantiqa #3 Kamozai - A Pushtun Community

Kamozai (also referred to as Afghaniya, as are most Pushtun villages in Faryab Province) comprises a large Pushtun settlement on the main road along the Tagab Valley, with a smaller sister Pushtun hamlet half a mile to the south. Today both villages are entirely destroyed. Other than one visibly able-bodied farmer, those who live today in the ruins are the very poor, elderly or ill. They refused to give information and urged our immediate departure.

"Until we have complete disarmament we have nothing to say because we would be killed if we told you anything or complained. Even now it will be reported that you have come here to talk to us. Even the central government can't control the warlords. Every time Karzai promotes a Pushtun we fear the worst, for the Uzbeks hate Pushtuns and will attack us."

Below is presented the story of Kamozai as far as could be gleaned from the one able-bodied farmer and people living across the river in Qala-yi Shaikhi. Kamozai is not one of the original Pushtun colony settlements. The village was first constructed during King Zahir Shah's reign (1933-1973). Its founders were 15 related Durrani Pushtuns from the Kandahar area, possibly a whole clan.

"Our fathers brought hundreds of animals. They did not come because the government sent them but because they were desperate for new grazing land. They did not plan to return to Kandahar but to settle here. They bought all this side of the river from the wealthy Uzbek on the other side of the river, Sayed Rahman Agha, the grandfather of Haji Agha today."

These founders had been nomads; they did not have or keep homes back in Kandahar; their plan was to settle. They claim to hold bills of sales testifying to the purchase of the land, bought with cash from livestock sales. Although they built houses and cultivated, their primary objective was to raise livestock and these were taken annually westwards into the dry deserts of Shor Darya extending up to the Turkmenistan border (Charmgar Chashma).

Up until the 1990s Afghaniya was considered part of Qala-yi Shaikhi and comprised 350 households. Some left the area for Herat and Iran after the Russian invasion, ("fearing they would lose their sons to the fighting"). Those who remained looked after the lands and livestock of the others. No property was stolen during the Russian period. Uzbek sharecroppers continued to farm the land. Problems began with the rise of *mujahidin*, the hated time of Rasul Pahlawan and his half-brother, Malik (1990-1998) and with the rise of local Junbesh commanders in the area who supported them. As early as 1986 these commanders looted the village and killed some Pushtuns. Such attacks continued through the 1990s. The Junbesh Sharaf Beg from neighbouring Sara-yi Qala is specifically cited as the lead perpetrator. Most of

the residents fled, leaving their lands and homes in the charge of poorer Pushtuns or tenants.

They returned with the Taliban occupation and retrieved their lands. After the fall of the Taliban in late 2001, the Kamozaï Pushtun escaped again en masse, first to the Shor Darya Desert in the west, then to Herat and elsewhere. Today the descendants of five of the 15 landowning families live in Kandahar, five in Herat and three in Pakistan. Some will not return.

As they feared, their houses and stock were looted between December 2001 and February 2002, with not a single wooden beam or window or door frame remaining. Both Arabs from Qala-yi Shaikhi and especially Uzbeks from Sara-yi Qala are blamed. More deaths among the poor who remained occurred. The farms they had left were taken over by Uzbeks. But as had been the case during Rasul and Malik's time, these sharecroppers do not appear to have claimed these lands as their own, or at least do not do so now. Many are the same tenants that worked for these Pushtuns before, very poor Uzbeks. Others are new workers. Because of the disadvantaged situation of the Pushtuns, they are able to claim a higher share for their work, one-fourth rather than one-fifth of the crops. They have, however, lost access to their pasture. One of the poor in the abandoned village observed that even if the Pushtun landlords return, they will not be allowed to take their livestock to the desert: "This is now Uzbek and Arab territory."

Two Pushtun elders from the community returned from Kandahar in August 2002 to collect shares from their expansive farms but were allegedly robbed by Rahmat Rais when they attempted to transport 21 tonnes of wheat.¹¹¹ During 2003 a handful of poorer persons returned, and Uzbeks from Sara-yi Qala are reported to have provided them with some beams to help them rebuild their houses, suggesting a degree of reconciliation.¹¹²

However, an Arab in neighbouring Qala-yi Shaikhi observed:

"The Pushtuns will not return to Kamozaï for so long as Taliban are alive and fighting for power. They are too afraid. We blame the Taliban for our troubles and Uzbeks especially hate the Pushtuns because the Taliban are Pushtun. Many Pushtuns supported the Taliban. They led the Taliban to our houses to take guns and property. If the Taliban get power again in this area, the Pushtuns will support them again."

Another noted:

"In the old days Kamozaï used to be part of this mantiqa. Since the troubles no one wants those Pushtuns back and their villages will never be part of our community."

As noted earlier, the district authorities concur with this distinction, listing Kamozaï as a separate community.

¹¹¹ UNHCR 2002, op cit.

¹¹² Ibid.

C. Shirin Tagab District

Shirin Tagab District comprises 12 *mantiqa* overall, with 87 villages and an estimated population of over 16,000 people (see Table 1).¹¹³ Interviews were held in four villages in three *mantiqa* of Shirin Tagab District: Islam Qala, Turk al-Baluch and Gurzad. In particular within the first village the interrelationship between warlordism, ethnic hatred and land tenure problems was sharply apparent, and a constantly volunteered subject of conversation. This no doubt stems from the fact that the district headquarters, Faizabad, was the headquarters of one of the most feared warlords in the north, Rasul Pahlawan and his half-brother Malik, whose legacy is still most felt.

The current governor, who left the area in the early 1990s (to Iran) along with many other officials who were persecuted by Rasul,¹¹⁴ had this to say: "Rasul was a dictator. He made himself king, chief of court, chief of police and mullah - everything. All our problems in this province stem from Rasul." Malik, to whom Rasul's mantle passed on his death in 1995, was widely recorded by the survey to have permitted the same exploitation and brutality of his half-brother, including the theft of farms, pasture and water mills. Although half-Pushtun himself and gathering significant support from local Pushtuns, those Pushtuns who supported other parties than the one to which Rasul or Malik at the time adhered (mainly Junbesh) found themselves at the receiving end of the routine extortion, abuse and land theft. During his several years of rule (1995-1998) villagers allege that hundreds of Pushtuns were killed in the district. A commonly cited event was the massacre of more than 120 Pushtuns in the Jalaier Valley to the north of Ortepa, whose bodies have been recently recovered from wells (2003).

Pushtun retribution upon Shirin Tagab Uzbeks when they returned under the security and support of Taliban rule (1998-2001) was fierce. Uzbek homes, farms and livestock in the district were looted, much as their own had previously been. As outlined shortly in the case of Islam Qala, both the association of the area as the home area of the hated Pahlawans and the location of most Shirin Tagab villages along the main road to the north made Taliban-supported retribution all the more forceful. This was a fate, however, which some Uzbeks from the district in turn revisited upon the Pushtuns, as they fled after the fall of Taliban, attempting to take as many livestock as they could with them (November/December 2001).

An alleged lead actor in the expropriation of Pushtun farms and livestock during 2001-02 was the Junbeshi warlord, Hashim Astana, now the formally recognised commander of the Ministry of Defence post in the headquarters of the district (Faizabad). In theory, he is confined to this post and permitted only five armed bodyguards. In practice, villagers say he has some 20 armed men at the post and can call up many hundreds of armed supporters, especially from his home area, the Astana Valley in the east of the district. As head of Junbesh in Faryab and the Chairman of the Provincial Military Council, Hashim Habibi has cautioned Astana for inciting ethnic hatred and extortion,¹¹⁵ but is himself considered a dangerous torturer and exploiter by many residents of the province (Annex B). Astana in turn

¹¹³ The remaining *mantiqa* may be named Gurzinam Qeshlaq, Tapa Qala, Koh-i-Sayed, Faizabad, Shashtepa, Rahmad Abad, Jar Qala and Astana (Personal comm., Governor Khal Nazar).

¹¹⁴ Many of these men were forced to flee to Iran or Mazar during the time of Rasul Pahlawan who persecuted them mercilessly, mainly because of their loyalty to Dostam. Many of them tell stories of Rasul executing their relatives, stealing their women and looting their homes (Personal comm., J.L. Lee).

¹¹⁵ Personal comm., UNAMA, Maimana.

allegedly despises Hashim Habibi for siding with Pushtuns. He avoids reporting to General Dostam through Hashim Habibi.¹¹⁶ In contrast, while both the governor and chief of police are also Uzbek and Junbesh supporters, it is said that they are antagonistic to Astana. Other officials comment thus:

"No one is safe from Astana. We hear complaints that he still fines people ushr and zakat and is very harsh to Pushtuns who have returned to the district. Many come and live next to this office so they will be protected."

"Astana's continued presence in this district is a worry to us. At the moment this district is peaceful, but we fear that trouble will begin again. We have begged the military authorities to ask Dostam to remove Astana from our area."

"Our worry is also about his half-brother, Malik. Although he now lives in Kabul he is powerful and has taken land in this district which he refused to return."

And a villager near Faizabad:

"Astana is a thief. He bribes. He steals. He is like a wolf, taking in the night what he wants. Pushtuns in Shor Darya and Shah-i Suf fear him, fear him coming. He is a devil (shaitan)."

While a survey such as this is in no position to adjudge the reliability of these accusations, one fact remains clear: warlords or commanders, past or present, are deeply disliked and feared, even by those people of their own ethnicity. In addition, an important instrument of their power is their ability to steal land and livestock, for themselves or their followers.

Land disputes

Not surprisingly, land disputes are common in the district. Most have ethnic dimensions. Some concern private arable land. A typical minor case concerns a 10 *jerib* vineyard in Koh-i Saiyed Village that was sold by Pushtuns to Uzbeks in 1996 but reclaimed on their return during the Taliban period. They said they have been forced to sell the land for a minor sum. On the fall of the Taliban, the evicted Uzbeks reoccupied the land. Both parties have lodged their claims in court, although the Pushtun family considers the court biased towards Uzbeks and does not hope for a positive outcome.

A more significant case concerns Bish Gul, a 500 *jerib* rain-fed cultivation area within Shah-i Suf pasture, west of Faizabad. The area belonged originally to Faiz Bai, a very large Uzbek landowner. He and three of his sons were murdered by Rasul Pahlawan after forcing Faiz Bai to sign over the land to him. Remaining sons fled to Iran. Rasul sold their land for high sums to 30 different people and caused the court to issue false documents of ownership. The sons have returned to live in the bazaar at Faizabad to await the return of the land. The 30 current owners are unwilling to surrender the land, having paid for it, and are using the evidence of their title deeds signed off by the head of the district court. That judge is still in place. The files have now moved to the provincial court in Maimana but the local judge has the support of that court. The district governor said:

¹¹⁶ Ibid.

"To tell you the truth our problem is that the court signed the title deeds, and the same judge is still here. How can he now say what he signed was not true? He refused to deny any wrongdoing."

Pastureland at the centre of conflict

Similar to the previous two survey districts of Khwaja Musa and KSP, ownership and control over local pasture land is a matter of widespread dispute in Shirin Tagab District. Pasture divides into spheres considered public land, common land and private land. The lines between each are poorly defined. An exception is the vast Charmgar Chashma to the west of the Shor Darya River, agreed by all to be public land. What is meant by public land is, however, also ill-defined. The Pasture Law of 1970 implies public ownership, with the government as merely administrator and issuer of access rights over these estates. Government officials, including those of the current administration, tend to perceive "public land" and "government land" to be one and the same. Nor do they pay much attention to local common land, lumping all pasture into the one class of "public/government land."

A more nuanced approach to these definitions is provided at the local level. In Shirin Tagab, the current governor (effectively a self-appointed official) acknowledges distinctions between private, common and public pastures. Villagers interviewed concurred. Private pastures are generally closer to villages and are considered by local notables to be included within their estates. Those large landlords who own pasture generally consolidated their personal title to these lands in registration exercises during the 1970s, on the basis of paying tax for those lands.¹¹⁷ It is not always clear whether these payees are claiming to own the land or claim only the exclusive right to use the land. Even those pastures acknowledged locally as common lands are under dispute, both among communities and between leading families. Named major pastures include: Takht-i Eshan, "Arpatoo" and Shah-i Suf, all to the east of the Tagab Valley, and generally grazed today by Arab owners. Pushtuns are said to have traditionally grazed to the west, at "Shulooktu" and beyond the Shor Darya River into Charmgar Chashma. Large private pastures are located within the Turk Al-Baluch *mantiqa* and perhaps others not identified by this short survey.

The vast Dasht-i-Laili desert, the southwest quadrant of which falls within Shirin Tagab District, is hotly disputed public pasture. For much of the last century, this desert has been an important seasonal pasture for people in the north, including the many Kuchis who were resettled into or migrated to the area from the 1890s and especially from the 1920s. Pushtuns on the whole consider the Dasht-i-Laili their domain, public land which has been earmarked for their use. There has been an uneven history of periodic minor cultivation in especially the perimeter areas of the desert. Formal cultivation of the area was in fact begun by the government itself during the 1980s, the Ministry of Agriculture bringing some 3,000 *jeribs* in the west under rain-fed cultivation, for its own income generation. This area was appropriated by Rasul Pahlawan for himself and his relatives. Allegedly he forced some 1,500 people to go and work there. "Some died of thirst."¹¹⁸

Commander Hashim Astana has been among those who are said to have followed up this appropriation by expanding cultivation further. One villager described the commander's personal holdings in the Dasht-i-Laili as so large that "even his ten tractors are unable to complete the ploughing." A review by FAO in 2003 showed that 24,000 *jeribs* had been ploughed on the Shirin Tagab side alone (and another

¹¹⁸ Villager at Turk al-Baluch.

54,000 *jeribs* on the Shibarghan side of the desert).¹¹⁹ Pushtuns from Chahr Asiya (four mills) in the Astana Valley who claim this land as their pasture are allegedly also among those cultivating, or at least sending workers to cultivate, and receiving one-fifth of the crop as rent. Meanwhile all customary and official controls over the use of the vast desert have fallen away. A number of writers have made reference to these over time.¹²⁰ These include strategies to limit or spread stock numbers, arrangements for watering and closure of vehicle routes at certain times — but most of all, limitation upon cultivation in pastureland, a provision lodged in law since the 1965 Statistics and Land Survey Law, and entrenched in the Pasture Law of 1970. The government itself has not adhered to this, no doubt on the grounds of another article in that law permits government projects to be exempt from such restrictions.

Mantiqa #4 Islam Qala - An Uzbek Community

Islam Qala is one of the larger *mantiqa* in Shirin Tagab District and comprises 13 villages, all of which are Uzbek save one (Table 10). These lie along the main road from Maimana to Andkhui. Each village of Islam Qala has a representative, appointed by the male elders. They do not form a *mantiqa shura*, although a local NGO has formed a women's *shura*.

The *mantiqa* is bounded on the north by Tash Qala and Gurziwan Qeshlaq, on the south by "Gurza" and by pasture to the east and west. Relations are close with Uzbek communities to the west, some families owning land in Atta Khana Khoja and other villages along the Maimana-Shor Darya Rivers.

Table 10: Villages of Islam Qala *Mantiqa*

	Village	No. Mosques	HH (Elders)	HH (InterSoS)	Dominant Ethnic Group
1	Kul tepa	1	100	84	Uzbek
2	Bed Qeshlaq	1	300	250	Uzbek
3	Kata Qeshlaq (Islam Qala)	11	500	350	Uzbek
4	'Ishpalta'	1	50	50	Uzbek
5	'Saqek' Qeshlaq	1	120	100	Uzbek
6	Nowabad	1	75	60	Uzbek
7	Baghat	1	150	150	Uzbek
8	Kohna Bazaar	1	50	*	Uzbek
9	'Gurralama'	1	120	45	Uzbek
10	Khanaqa	1	200+	150	Uzbek
11	Yangi Qala Khurd	1	70+	220	Uzbek
12	Yangi Qala Kalan	1	120		Uzbek
13	Khoja Charkhi	1	12	20	Pushtun
	TOTAL	23	1,867	1,479	

* Included in Yangi Qala

Kata Qeshlaq

Kata Qeshlaq (also known as Islam Qala) is said to be an old settlement of many hundreds of years, strategically placed along the main spine of the Shirin Tagab

¹¹⁹ Favre, R. *Grazing Land Encroachment. Joint Helicopter Mission to Dasht-e Laili 25-27 March 2003*. Kabul: FAO Afghanistan. 2003.

¹²⁰ For example, Tapper 1973, op cit. and Tapper, N. *Bartered Brides, Politics and Gender and Marriage in an Afghan Tribal Society*. Cambridge: Cambridge University Press. 1991; Frederiksen, op cit., Dupree 1977, op cit.

Valley. Uzbeks claim that their forefathers arrived in the area with the first wave of Uzbek settlement around 1500 AD. Pushtun settlement (Khoja Charkhi Village) occurred in the 1890s. Unlike the community of Qala-yi Shaikhi further south, the Uzbeks of Islam Qala acknowledged this village as within their *mantiqa* even though it too is on the other side of the river.

The area is densely populated, farm size said to be low and pasture limited. Interviews were held in the main roadside village of Kata Qeshlaq and the Pushtun village of Khoja Charkhi. No large landowners were identified in the former village. Most who own land in Islam Qala have one to five *jeribs* of irrigated or flood-fed land and five to ten *jeribs* of rain-fed land. The majority of villagers own no land at all.

A principal complaint of the people of Kata Qeshlaq is the worrying loss of more and more irrigated and flood-fed farmland over recent decades. Elders estimate that over 3,000 *jeribs* of prime land has been lost to floods in the last ten years. Flooding in the Tagab Valley is normal and people depend upon the flood to irrigate the fields. However, this last decade floods are reputed to have been particularly fierce, breaking the walls of fields and carrying away the soil. Many fields were still flooded late into the 2003 summer and had remained unplanted. The elders suggested "changing weather" as the cause, but one did ponder whether expansion of farming in the hills from where streams feed the floods might be a factor.

Meanwhile, the area available for grazing is also decreasing as farmers expand cultivation into areas traditionally reserved for pasture. All local pastures had disappeared since Rasul's time, save one large and very dry pasture some kilometres to the west, adjoining the Shor Darya pasture of the Pushtun of Jalaier Valley. This 2,000 *jerib* pasture, named "Itaqotan," was claimed as belonging solely to the Uzbeks of Islama Qala, but "we let those Pushtuns on the other side of the pasture (Jalaier Valley) use a part." People from their own local Pushtun village of Khoja Charkhi do not attempt to cross the Tagab River with their stock to reach Itaqotan, but travel in the opposite direction to Shah-i Suf in the east. This pasture marks the southern edge of the Dasht-i-Laili and is one of the areas subject to conflict since recent Uzbek cultivation of the area.

Like so many in Afghanistan, the elders of Islam Qala were vociferous as to the dire effects of the recent drought which began to be most felt in the area in 2000. Livestock numbers plummeted (Table 11). Taliban taxes and oppression were considered contributory. Many were made destitute and "the poor have not yet recovered." Numbers of landless and homeless rose, along with begging. Among a group of women interviewed,¹²¹ one told how her father had been a small landowner but the *mujahidin* fined him for passively supporting the Najibullah government and he had been forced to sell his land to pay the fine. In retaliation he took up arms and left, but returned only to find drought. From then until this time he has owned no land, no house and cannot get sharecropping work. Every now and again he earns 100 Afghanis doing daily paid work. It was also said by this group of women that some farmers sold their daughters before they sold their land. Mortgaging was not favoured during this time, as sellers wanted to maximise the

¹²¹ An interesting feature of Islam Qala was the number of women who participated in interviews and their apparent high profile in the community. This seems to be the result of the work of NGOs and CHC in particular, which has established a women's *shura* in the *mantiqa*. This comprises 30 women drawn from all the villages. Only one project has been launched, one that has distributed 20 sheep to widows, repaid with progeny; useful but insufficient in a *mantiqa* of an estimated 500 widows.

returns. The elders reported that only one person in the *mantiq*a who had sold land has since been able to buy it back.

Table 11: Livestock Past and Present in Islama Qala *Mantiqa*

	Village	Plough Oxen 1999	Plough Oxen 2003	Milk Cows 1999	Milk Cows 2003	Sheep & Goats 1999	Sheep & Goats 2003
1	Kul tepa	14	6	50	2	500	50
2	Bid Qeshlaq	190	6	260	2	3000	100
3	Kata Qeshlaq/Islam Qala	160	5	300	10	5000	500
4	"Ishpalta"	60	4	40	0	900	100
5	"Saghech" Qeshlaq	60	4	100	5	1000	20
6	Nowabad	30	4	30	1	100	7
7	Baghat	50	6	150	5	300	200
8	"Gurralama"	16	2	30	2	200	0
9	Khanaga	30	4	60	5	200	0
10	Kohna Bazaar	40	4	250	6	700	100
11	Yangi Qala Khurd						
12	Yangi Qala Kalan						
13	Khoja Charkhi	300	0	100	1	2000	50

Source: InterSoS¹²²

Female property rights

Widows are today numerous in the village of Kata Qeshlaq and most are bad off, forced to live on the charity of relatives. Elders calculated that widows number around 500 in the 13 villages. Death from fighting had been a main cause of widowhood (although two cases where men had fallen off donkeys were cited). Widows themselves noted that life was difficult and "widows do their best to remarry quickly in order to gain a man's protection and food." Widows of poor families had predictably fared worse, described by the elders themselves as "destitute" and "difficult to assist;" they have no homes, their children have no homes and there is never enough food.

Neither elders nor widows could recall an Uzbek woman in the community who owned land or who had inherited land. Women do inherit, they said, but pass this land immediately to their sons as usually it is just a small share of land.

The situation among the slightly wealthier group of Tajiks in the village was different. Several Tajik women do own land, acquired through inheritance. Their brothers or husbands farm this land for them and the income goes into the household pot. One Tajik woman interviewed had received a share of land along with her two sisters some 20 years ago, as her father had no sons. She had never actually seen the land (it is rain-fed land some distance away). Her husband arranges for a sharecropper to cultivate it. Her two sisters also married and their husbands manage their share of land for them. One has died and her land remained with the husband; it was not passed on to her daughters. The woman knew two other Tajik women in the neighbourhood who owned land. A Tajik male said that he farmed the garden of his grandmother, which she had inherited from her husband. As farmer, he receives one-fifth of the grapes. He said this was insufficient return for the work involved, but accepted this as it was for his grandmother. He farms his own land as well and in addition runs a small business.

¹²² Spellings by InterSoS which are most uncertain are in quotation marks.

Land and the Taliban

The Uzbeks of Kata Qeshlaq typically wanted to speak of their recent history and in describing this presented a picture of fear and loss during the late 1990s that mirrors that subsequently experienced by local Pushtuns. The main evacuation of Uzbeks from the area had been ahead of the Taliban, with further out migration during the drought. Departures had occurred previously but on a lesser scale. The entry of Taliban into the area had been dramatic. Word reached the roadside community that the Taliban were arriving and panic ensued, with people departing without clothes or food for a week. Villagers fled to the north (Andkhui) and east (Shibarghan, Mazar) as they feared to go west because of Pushtun habitation along the Shor Darya (Jalaier Valley) and recognition that they would not be permitted to pass into Turkmenistan. The Taliban established a base camp in Islam Qala with around 150 soldiers.¹²³ Within a week or so, many villagers had to return because they were starving in the hills. They recall with bitterness how they found many homes destroyed and many animals taken.

However, among the women interviewed, comments were more sanguine. One woman observed that she had been surprised at the same time to see how much was actually left intact, including some animals.

"It is wrong to say that the Taliban took everything. They did not. But they did take a lot. They did not occupy our houses either. They did not take the land although some Pushtuns made Uzbeks sell them their land."

Another woman noted:

"In fact, we looted each other. After they looted us when the Taliban came then later, when the Taliban left, we looted the Pushtun homes on the other side of the river in Khoja Charkhi. We took everything we could find, doors, windows, poles and anything left in the houses. We were disappointed; they had not left much and had taken all their animals. They had been making preparations as they knew the Taliban would not survive the bombing of the Americans, so they sold as much as they could. There was not much for us to take."

Not all Uzbeks returned to the village in late 2001 and many are still absent. Landless households in particular have often not come back: "They have no homes here. Perhaps they are working now in other villages." For those who were present during the Taliban rule, life was difficult. From time to time there were brutal beatings and mortality.¹²⁴ The Taliban did not try to recruit anyone in the village. They considered Uzbeks the enemy and potential soldiers against them. Young men who did not leave the area were periodically rounded up and sent to gaol in Herat. There was only one local commander in the area and he attempted without success to rouse resistance against the terrorised community.¹²⁵ He eventually left for Iran where he still is a labourer. He would not ally with Astana, a stronger Uzbek warlord and now powerful in the area, and had no arms of his own. Uzbeks were subject to intensive taxing, especially prior to the drought. Local Pushtuns tended to support them.

¹²³ There were also posts to the north and south in, respectively, Faizabad and Juma Bazaar.

¹²⁴ One woman said: "You can imagine during the night, look at the moon, look at the hill and you would have seen on the ridge many of the men taken there and beaten and beaten. Some of the old ones died. We think around 40 people from this *mantiq* died at the hand of the Taliban."

¹²⁵ Named as Ahmad Qamandan.

*"When the Taliban arrived, the Pushtuns who lived here were just ordinary poor people like us, but they were given weapons and began being cruel. Some stayed just working their lands but some were very bad and joined the Taliban wholeheartedly."*¹²⁶

D. The Pushtun Village of Khoja Charkhi

With such events in the very recent past, it is not surprising that the Pushtun villagers of Khoja Charkhi demonstrate the same nervousness and fear encountered further south in Kamoza Afghaniya. Khoja Charkhi lies on the eastern side of the Tagab River, a mile from the nearest sister villages of Islam Qala *mantiqa*. The village has its origins in a land grant made to colonists in the 1880s. The grantees were Noorkhel Kuchis from Kandahar and received assistance from Abd al-Rahman. A sister community of Kuchis was established at the same time, located half a mile south but falling within the neighbouring *mantiqa* of "Gurza." In both cases, the Pushtuns were given land that they insist was vacant but which the Uzbeks claim was their property. The settlement lies directly alongside the river and has significant channel-irrigated farmland.

Human Rights Watch describes the arrival of Hashim Habibi, the Uzbek commander currently in charge of Faryab (November 2003).¹²⁷ He arrived with soldiers and proceeded to loot and abuse the residents, most of whom left. Prior to this time, around 40 Pushtun families lived in the village.¹²⁸ Those that have since returned to the village protest their innocence:

"We were not Talibs but the Uzbeks always assumed just because we were Pushtun that we must be Talibs. We rushed away when the Taliban left the area; we were afraid we would all be killed. We only left because we wanted to save our lives and to prevent our women from being raped. When we returned the Uzbeks were farming our land and had taken everything. But they did not keep the land. Most have let us farm our land again."

For their part Uzbeks in the area say they know precisely who supported the Taliban and those ones will never return as they fear for their lives. Their land is being farmed by others as described below.

Sixteen of 40 households listed by residents have not returned (40%). All 16 have retrieved their farms and houses and re-established relations with previous Uzbek labour, albeit on different grounds. Returnees acknowledged that "many" of the households who have not returned fear to do so because of their involvement with the Taliban. Today these displaced persons live in Maimana, Herat or Iran and two in Gurziwan District.

At first, the villages said that the land of these absentee villagers was abandoned but later it transpired that around half have tenants farming their land, supervised by those who have returned. Most of the tenant sharecroppers are Uzbeks from the

¹²⁶ One Pushtun from Khoja Charkhi is particularly singled out. "This was Abd al-Raouf Mullah who led the beatings and attacks. When the Taliban lost he escaped to Pakistan although someone said he is now a shopkeeper in Herat. He could never return here given the things he did here."

¹²⁷ Human Rights Watch 2002, op cit., 34-35.

¹²⁸ Although interestingly, Human Rights Watch cites a resident saying the village comprised 100 families; this is either inaccurate or refers to each nuclear family rather than households. (Ibid, 35.)

other villages of Islam Qala *mantiqa* across the river. A few are Tajiks. There is also a handful of poor Pushtuns sent back to the village to cultivate. The returnee Pushtuns complained bitterly of having to pay Uzbek tenants more than half the cropshare (four-fifths) against the normal half share when farmers provide all inputs (seeds, ploughing, labour). Where the land is irrigated, the tenant keeps only three-fifths of the crop, even though irrigation management is added to his tasks. Both are higher rates than normal; Uzbek sharecroppers are clearly taking advantage of Pushtun vulnerability. It would be difficult, however, to accord these improved shares yet at the level of a fair return for the farmer.

The villagers made a repeated point that Pushtuns in this village always owned land ("the Noorkhel was always a landowning clan"). The suggestion was that their forefathers were cultivators in the south before they immigrated into Faryab with Abd al-Rahman's help. Once they arrived, local Uzbeks were drawn in to provide labour and have done so ever since. Pushtuns themselves in the area rarely involve themselves directly with farming any more than Uzbek landlords.

Table 12 provides a slightly less rosy picture of land ownership, with only 83 percent owning rain-fed fields and two-thirds owning irrigated land by the river. Three own no land at all. However, one is a 10-year-old boy whose father has died and some claim he will inherit land soon, held currently by his uncle. A second is elderly; it was not clear who has his land now or whether he has abandoned it. A third household owns substantial land in the Jalaier Valley (Shor Darya). The heads of household of four families are in Iran and these families hire tenant sharecroppers along with most of the other landowners.

Pushtun IDPs

Additionally, the village has 14 guest families from other Pushtun villages. They are registered IDPs. They fear to return to their own villages, again likely because of their involvement in abuses during the Taliban time. Some acknowledged having tenants of their land in their absence, from whom they managed this year (2003) to collect their due share. Eight of the 14 are from Faizabad, not far to the north. Two are from Shah-i Suf, a pasture area to the east. They were livestock owners with only small farms in the pasture. They lost most of their stock in the drought. They hope to return to the pasture when the Uzbeks allow them. Four displaced families are from Darzab, near Shibarghan.

One of the IDPs is a mullah from Faizabad. He listed 20 extended families who left their homes in the district capital in 2001 and have still not returned. Four are in Khoja Charkhi as above, 12 are in Shahr-i Nau (the new town built to the south of the old town by Rasul Pahlawan and which is today the governor's centre in Faizabad), two are in Iran but their families are in Nau Shahr, one is in Kunduz and one is in the Jalaier Valley (Shor Darya). All those in Nau Shahr and in Khoja Charkhi employ sharecroppers to tend their farms on the much-complained about four-fifths arrangement.

Table 12: Current Occupants of Khoja Charkhi Village

HH	Owns House	Owns irrigated land	Owns rain-fed land Jeribs	Employs farmers or only family labour	Farms Others' Land as Well as Own	Works for others
1	Yes	Yes	Large	Family	No	No
2	Yes	No	Large	Family	No	No
3	Yes	No	Large	Abandoned	No	No
4	Yes	No	No	-	No	No
5	Yes	No	Yes	Uzbek sharecroppers	No	No
6	Yes	Yes	Yes	Uzbek sharecroppers	No	No
7	Yes	No	No	Livestock only, old	No	No
8	Yes	Yes	Yes	Family	Yes	No
9	Yes	Yes	Yes	Family	No	No
10	Yes	Yes	Yes	Family	No	No
11	Yes	No	Small	Family	Yes	No
12	Yes	Yes	Yes	Hires sharecroppers 4/5. He is in Iran, family here	No	No
13	Yes	Yes	Yes	Family	No	No
14	Yes	Yes	No	Old, hires sharecropper	No	No
15	Yes	Small	Small	Sharecropper	No	No
16	Yes	Small	Small	Family	No	No
17	Yes	Small	Small	Family	No	No
18	Yes	Yes	Yes	Iran but family here; hires 2 sharecroppers 4/5	No	No
19	Yes	Small	Small	Iran, family here. Hires 1 sharecropper 4/5	No	No
20	Yes	Yes	Yes	Sharecropper	No	No
21	Yes	No	No	Farm in Shor Darya	No	No
22	Yes	Yes	Yes	Iran; family here, Hires sharecropper 4/5	No	No
23	No (destroyed)	No	Yes	2 sharecroppers	No	No
24	Yes	Yes	Yes	Family	Yes	No

Mantiqa #5

Turkul Baluch - A Peri-Urban Uzbek Community

This *mantiqa* comprises just two villages on the edge of Faizabad, the district headquarters. Almost everyone is Uzbek. Villagers who were interviewed did not know the total number of households but spoke of thousands. This is confirmed by data collected by InterSoS which suggest two unusually large peri-urban communities: Baluch numbering 6,000 households and Turkul 1,200 households.

Land holdings are small, with interviewees asserting that "almost everyone" is landless. This was borne out in the survey; less than one percent of the 1,200 households in Turkul were identified as khans (large owners) and their farms were considerably smaller than those encountered elsewhere; these averaged only two hectares of irrigated and flood-fed land (10.3 *jeribs*) and less than eight hectares of rain-fed land (39 *jeribs*). Two of these landowners did not in fact own any rain-

fed land. Irrigated and flood-fed land ranged from 2-40 *jeribs* (0.5-8 ha) and rain-fed fields from 10-100 *jeribs* (2-20 ha).

Interviewees could not recall any women, widows or otherwise, who owned land in their own right. They believed that cases of this must exist but that their sons were farming on their behalf. Nor could the villagers identify any women who owned livestock, although again they observed that there was no rule against women owning stock, especially milk cows. Prior to the drought a much greater proportion of households owned livestock and Baluch was noted for its very large herds. As everywhere, stock losses were significant (Table 13).

Table 13: Livestock Ownership in Turkul Baluch *Mantiqa*

Village	HH	PLOUGH OXEN 1999	PLOUGH OXEN 2003	MILK COWS 1999	MILK COWS 2003	SHEEP & GOATS 1999	SHEEP & GOATS 2003
Turkul	1,200	200	30	900	20	500	70
Baluch	6,000	20,000	160	10,000	10	11,000	500
TOTAL	7,200	20,200	190	10,900	30	11,500	570

Source: InterSoS 2003

Pastureland

In both villages the status of pasture was a matter of concern to interviewees. All ten pastures described as used by villagers are on the eastern side of the Tagab River and extend some two hours' walk towards the Dasht-i-Laili. One of these is Shah-i Suf, but unfortunately which one was not clarified. Most of the pastures adjoin each other. Table 14 provides a summary of their status. It will be seen that disputes are rife. Six of the ten are subject to conflicting Pushtun and Uzbek claims. Internal dispute also rages among those wishing to see the pastures retained for that purpose and those who are desperate for new land. Usually these are not the traditional landless but those who had land but were forced to sell it due to the drought or who have lost part of their farms as a consequence of recent excessive flooding and erosion. They also sold their stock during the drought so their need for pasture is currently less. Larger owners, those who managed to hold onto substantial herds, are expectedly the most keen to protect the pastures. The very poor, those who neither own land nor stock, do not seem to be part of the disputes. In principle, however, most support the expansion of farming into pastures. These reasons are given: first, the more land farmed, the more labour work available; second, the pastures belong to Uzbeks anyway, not Pushtun, and Uzbeks should be able to use them. One villager contradicted these views saying that poor people do not want the pastures cultivated, as the rich will claim these lands as their private land. "The pasture belongs to everyone, not just the big farmers." In all cases, it will be evident that the expansion of cultivation into pastures has served as the catalyst for dispute.

Table 14: Pastures of Turkul Baluch

	PASTURE ¹²⁹	CLAIMED OWNER	UNDER DISPUTE	STATUS OF CULTIVATION
1	Lihab	Privately owned by a Baluch landlord. Used by Baluch villagers.	Yes; both by villagers claiming it as <i>de facto</i> common property and by Pushtuns claiming as within their wider area.	Yes; 400 <i>jeribs</i> and expanding; the source of dispute.
2	Hashbuka	Common property of Baluch village.	No	None
3	Parm bala	Originally private, now held to be common property of Turkul-Baluch since owner deceased.	Yes; internal conflict. Taken to the governor, not solved.	Yes; 120 <i>jeribs</i> by 3 households. The source of dispute.
4	Hikordengan	Turkul-Baluch common property (whole <i>mantiqā</i>)	Yes; claimed by Pushtuns. Also disputed by local people although cultivators recognised as needy because lost land to floods.	Yes; 10 Turkul near-landless households cultivate post-drought although some cultivation pre-drought also.
5	Barra	Turkul common property	Yes; Pushtuns claim as their land.	Yes Only one person from Turco cultivating.
6	Qushai Quldi	Turkul-Baluch common property (whole <i>mantiqā</i>)	No	Only one farmer has "broken the rule."
7	Engishka Queshlaq	Baluch common property	Yes; claimed by Pushtuns.	Minor cultivation by Pushtuns "far away."
8	Booka	Turkul-Baluch common property (whole <i>mantiqā</i>).	No	Yes; Half cultivated, but mainly before drought, "long time ago."
9	Arabzayi	Remote, near Astana area.	Yes; Pushtuns claim. Indications that could be public land as claims are for shared use, not just Turkul-Baluch <i>mantiqā</i> .	Yes; Pushtuns began to cultivate during Taliban. Uzbek also now cultivating.
10	Qojat	Beyond Arabzayi.	Yes; Pushtuns have submitted claim to the governor following Uzbek cultivation.	Yes; 800 <i>jeribs</i> and expanding. Began during Taliban period.

The Lihab pasture¹³⁰ provides an example of the issues. This is claimed as a private pasture, owned today by the four sons of a deceased very large landowner of Baluch Village. These men apparently flourish a title deed as evidence of their tenure when challenged. Since the drought and decline in their herds, the sons have begun cultivating this area for melons and wheat (400 *jeribs*), retaining the remainder for grazing their stock. Others from the village may also graze this land.

The discussion around the pasture's ownership was indicative of the nuances contained in constructs of private ownership, routinely perceived at the same time as a local common good. That is, those who dispute the right of the Yuldash sons to convert the pasture into farmland acknowledge that they own the area but in terms that suggest trusteeship.

¹²⁹ These names were phonetically recorded and will not accord with Dari spelling.

¹³⁰ Also referred to as Lailab and Lilibab.

"Lihab belongs to that family but they can't use it without our needs in mind. We have always had the right to graze there."

"The pasture only belongs to the large landlord of our village because all land has to be owned by someone."

Notions of local common property are heavily implied in these perceptions. The implication is that the Yuldash dynasty acquired the land not only on their own behalf only, but also on behalf of those who may depend upon them as relatives, tenants and workers. In this construction, Yuldash was not pasture owner in his personal capacity but as head of a community. Registration of his ownership was titular, as head of community, used now to entrench personal claim.

Meanwhile, one part of the Lihab pasture is claimed by Pushtuns, who occupy an adjacent area. Baluch villagers say that they are newcomers, moving from Shah-i Suf following the drought and the loss of their stock. Villagers claim that Pushtuns received legal documents for the land only recently, during the time of Rasul Pahlawan (1990s) "because he was easily bribed and the Pushtuns are wealthy."

Mantiqa #6 Gurzad - An Uzbek Community

Gurzad is located in the far south of Shirin Tagab District. It comprises three villages, a main village and two satellite communities of different ethnicity. Tapa Lalajan (or Afghaniya) is largely deserted, the Pushtuns again said to be still fearful of returning. Many of their houses were destroyed during the December 2001-February 2002 post-Taliban backlash.

Table 15: Villages of Gurzad *Mantiqa*

Village	Ethnic Group	House-holds	Oxen 1999	Oxen 2003	Cows 1999	Cows 2003	Shoats 1999	Shoats 2003
Gurzad	Uzbek & Arab	400	200	20	500	5	2,000	200
Tapa Lalajan/ Afghaniya	Pushtun	10-50	40	2	50	0	500	50
Beland Dasht	Turkmen	50	No data					

Source: This survey and InterSoS for livestock data

This is a poor *mantiqa* like Turkul Baluch. Interviewees claim that no more than 10 percent of households own their own land. Many landless do, however, own their own homes, with heads of households frequently out-migrating to work in Iran (and less frequently, Pakistan) for periods that range from three to 24 months. Some adult males said they had been going to and from Iran since the 1970s and continued to do so throughout the conflict years. One noted:

"Some come back and see there is no work here and go back the next year. Some never return. It is too expensive to come back and forward and some marry in Iran. There are some wives here who have not seen their husbands for ten years even though they get money sent to them. It is easy for people in Iran to arrange money to be sent. There are people in Juma

Bazaar and Faizabad who are reliable agents (mohalla); the family always gets the money."

Ten of 30 landless householders interviewed had not worked as contracted farmers during the last season but as daily paid workers, sometimes doing farm work but mainly carrying out wall and house building and repairs. For this they received the current standard wage of 100 Afghanis per day, paid at the end of each day. Unskilled and generally younger men looked after livestock for a lesser fee.

Returns from sharecropping

Most of the farmers work as sharecroppers. Few own oxen and had received the standard one-fifth of the product as payment at the end of the 2002/03 season. They worked for landowners only six days a week and said that conditions are better today than had been the case for their fathers. Shares are typically measured by a tightly-woven sieve (*paimana*), with the sharecropper receiving one sieve for every four sieves measured out for the owner. The process is undertaken by both parties.

In Gurzad each sharecropper plants an average of one sack of wheat and/or barley seed (estimated as around 10 Maimana *sir* or 145 kgs).¹³¹ Yield in a very good year such as 2003 may provide a six-fold return (870 kg). The sharecropper receives one-fifth of this grain (174 kg). This had a market value in late 2003 of 18,000 Afghanis (US\$360). The wheat is not sold but consumed, and normally lasts four to seven months depending upon the size of the family. Thereafter wheat must be purchased, usually on account from one of the several local shopkeepers. In addition, the sharecropper receives an average of one *paimana* of sesame seeds (50 kg) and between 100-150 watermelons. These are sold in Juma Bazaar for a total of less than 2,000 Afghanis or US\$40.

Farmers in Gurzad prefer growing maize and millet to barley but without seed of their own, landowners could only access wheat and barley this year from the aid agencies.

Distress sales

Three among 30 landless householders interviewed had owned land in 1999 but lost it during the drought. One had described how hunger forced him to sell his five *jeribs* of irrigated land (1 ha) as well as his water mill. He had received the equivalent of 100,000 Afghanis (US\$200) for the land in 2001 but believed it would cost him five times that amount to repurchase the same land today, two years later. The land had been bought by a "doctor" in the village (an unqualified dispenser with a shop selling drugs). As the shopkeeper has hired others to work the land, the seller and his son now work as sharecroppers for other farmers. The two other farmers had sold smaller farms to landowners, one of whom also owns a shop in the village. They and their sons survive on erratic daily paid work. They regretted they had not become sharecroppers, but at the time were uncertain that the 2003 season would not fail as the three before it and leave them still hungry and in even more debt. Daily paid work seemed a safer bet.

All farmers interviewed knew of others who had lost land over the last decade. One included a widow who had inherited land from her father. This was taken from her by her brothers during the 1990s. They estimated that there were between five and ten other widows in the community who owned a share in the family land.

¹³¹ Each sack of wheat seed in 2003 was 15,000 Afghanis (\$300).

Land disputes

Gurzac is uncomfortably placed close to Juma Bazaar, a frequent site of fighting over the last decade. Villagers have seen more than their fair share of looting, extortion and taxing. Major incidents were cited during Najibullah's regime (1986-1992), the Pahlawan period (1990-1998) and the Taliban era (1998-2001). Commanders in all instances had led the destruction. More routine fines and excessive taxation were also common during the 1990s (Rasul Pahlawan). Land theft also occurred. Several disputes arising from these are pending; one concerns mortgaged land, which the lender claims he bought outright.

Others mainly involve Pushtun land in the village of Tapa Lalajan. One involves a 12 *jerib* vineyard and associated rain-fed fields in Shor Darya. The brothers of the original owner, who have returned to the village, claim their brother was forced to sell the land to the powerful Guli Pahlawan (a brother or half-brother of Rasul and Malik Pahlawan),¹³² who is indeed accused in many villages of extorting money and land illegally. They took the case to court. Another villager suggested that it could be just a case of the brothers of the sellers now wanting the land back. For his part, the governor of Shirin Tagab, no friend of the Pahlawans, was emphatic that the title deed held by Rasul Pahlawan's uncle was "illegally prepared." He said he had ordered the restoration of the lands to the Pushtun family but that Guli Pahlawan was still contesting the case and making it impossible for the family to re-enter either lands.

Water rights and management

As everywhere up and down the Tagab Valley, water is sometimes scarce and its management problematic, with floods and the constant need to renew channels. Water is said to be owned by everyone, although only landowners control its access. In general, the larger the land the farmer owns, the greater his influence in establishing the system for sharing water. The Gurzac *mirab* (water manager), who has been managing water sharing for 40 years, could not recall a single dispute that lasted more than a day: "I manage the water so there are no disputes." Those around him testified to his success. One noted that this is not always the case, with frustrated people blaming *mirabs* for water shortages that they cannot control. The *mirab* said his job involved opening and closing the ten water points he controls several times a day, including at night. All three villages in the *mantiqa* are served. He does this work with the help of villagers; a crier is sent to call for assistance. He has neither time nor need to farm himself, receiving two *paimana* of wheat from each sack of grain produced (20 kg) from families who benefit from the canals.

Rain-fed land in the immediate vicinity of the village is scarce and those with means have typically used such lands to the west towards the Shor Darya River. Melons are mainly planted there from late March (*Hama*). They admit this land has also been traditionally used by Arabs from especially the Ortepa *mantiqa* but that they have no current disputes with them. They claimed that boundaries of fields are well known and respected. "The Arabs always return to their village as settled people. They do not try to claim the *lalmi* as their living place like many Pushtuns are now doing."

¹³² During Malik Pahlawan's time (1996-1998) Guli served as Provincial Military Commander and gained a notorious reputation for extortion. He is currently serving in Mazar-i-Sharif, appointed by Minister Fahim, and the owner of many businesses and buildings there.

Common pasture

The pasture owned and used by Gurzad people is one hour's walk to the east and known as "Parhad." This falls within the area generally known as "Astana." It was agreed among interviewees that this pasture is the common property of all village members, irrespective of whether they own stock or not. There is no committee to manage the pasture. Agreements as to movement, shepherding and watering are made by interested families annually. Animals are taken to the pasture in the very early spring (*Hoot*, beginning March 21st) and returned to the village in *Saratan* (from June 21st to July 20th). Larger herds remain longer, usually under the supervision of sons.

There is no cultivation on the pasture - as yet. During President Daoud's time (1973-1978) several hundred Arab Kuchi families from Kohistan began to arrive in the area annually for the period March to April. They would return to Kohistan for May through August and then return again briefly to Parhard on their way westward to the public land beyond the Shor Darya River (Charmgar Chashma) and remain there until March. One of the leading Kuchi Arabs claims to have a title deed, issued during King Zahir Shah's time, a not unlikely claim. Up until 2003, the Gurzad and Arab herders managed to share the pasture without open conflict. In 2003, when Gurzad people attempted to cultivate some of the pasture they were forcibly prevented from doing so by the Kuchi Arabs. Their leader claimed to hold a deed for the area, issued by King Zahir Shah's government, a not unlikely claim. The issue of ownership will likely be reactivated as soon as the Kuchi Arabs return to the pasture this year (2004). "The matter has not been resolved. We still want to cultivate that area, as it is our land."

IV. The Widows of Faryab

One of the other purposes of this survey was to obtain a snapshot of the property rights of urban widows. This arose from recognition of the high proportion of widows in the 11 villages visited, following years of fighting, stress and impoverishment, and the wistful opinion of one village widower that every widow would move to town if they could, as life in the village was so oppressive for them. The proportion of widows is not unusual; some agencies estimate that there could be up to two million widows in Afghanistan today but it is more likely around the one million mark.¹³³ Government officials in Maimana estimate that there are around 30,000 widows in Faryab Province. Some 5,000 widows have been formally registered in Maimana City alone.

Houses

Everywhere the lives of these widows are considered difficult. Access to shelter especially concerns them. Village elders and *arbabs* claimed to do their best for widows, but the women interviewed spoke bitterly of their poverty and of discrimination against them. Loss of the earning male household head typically plunges poorer widows into destitution, as it was only through their husbands' employment as a farm worker that they had shelter. They generally try to move into the homes of relatives or try to remarry to secure shelter and food for themselves and their children.

Farms

Inheritance of property by widows is expectedly complicated. Many interviewees, both male and female, acknowledged the dictates of the Koran (see Box 2). The Civil Law, prepared in the mid-1970s and supposedly used by courts,¹³⁴ is as clear on the property rights of widows. However, its many articles do not present a clear picture as to the required division of shares (refer to Box 3). Villagers obviously do not have access to their laws. Customary practice generally overrides both Shari'a law (or what is understood locally as Shari'a) and civil law.

It will be recalled that cases of female inheritance were recorded, particularly among Tajik women, a minority in the districts visited. No instances of widows inheriting land or houses were recorded in the Arab and Pushtun communities and in two villages it was indicated that this was not normal; sons and daughters are expected to house and care for their widowed mothers and unmarried daughters, and remarriage of younger widows is encouraged. Although banned by the Koran (Sura 4, Article 19), inheritance of widows by brothers-in-law was said to be quite commonly practised.

¹³³ UNDP estimated in 2002 that there were 500,000 female-headed households (UNDP 2002, op cit.). Azarbaijani-Moghaddam suggests that there are 50,000 widows in Kabul alone and up to two million in the country overall. (Azarbaijani-Moghaddam, S. *Report of the EC Rapid Reaction Mechanism Assessment Mission. Afghanistan, Gender Guidelines*. European Commission Conflict Prevention and Crisis Management Unit. April 2002.)

¹³⁴ The author has visited courts which do not have copies of the Civil Code, although most have copies of the Penal Code prepared at the same time.

Box 2.
The Koran & Women

From Chapter 4: The Women (Surah 4 - Al Nisa)

Section 2: Law of Inheritance

God (thus) directs you as regards your children's inheritance: to the male, a portion equal to that of two females: if only daughters, two or more, their share is two-thirds of the inheritance: if only one, her share is a half. For parents, a sixth share of the inheritance to each, if the deceased left children; if not children, and the parents are the (only) heirs, the mother has a third; if the deceased left brothers (or sisters) the mother has a sixth. The distribution in all cases is after the payment of legacies and debts. Ye know not whether your parents or your children are nearest to you in benefit. These are settled portions ordained by God: and God is All-knowing, All-wise [Article 11].

On Widows

If any of you die and leave widows behind, they shall wait concerning themselves four months and ten days; when they have fulfilled their term, there is no blame on you if they dispose themselves in a just and reasonable manner [Chapter 2: The Heifer (Al Baqarah) Article 234]

Those of you who die and leave widows should bequeath for widows a year's maintenance and residence [Article 240].

Extracted from *The Meaning of The Holy Quran Complete Translation* by Abdullah Yusuf Ali, Islamic Book Trust, Kuala Lumpur, 1996.

Box 3.
The Civil Code and Female Inheritance

The Civil Law was drafted upon Koranic principles, as interpreted by Hanafi jurisprudence. It was finalised in the mid-1970s. Articles 1993-2102 of the Civil Law outline the procedures for inheritance.¹³⁵ This includes precise provision of shares for all parties (*farz*) including for widows and daughters (Article 2004). Widows are to receive one-eighth of the property, or more (one-fourth) if they are childless. Where there is more than one wife, this proportion is shared among them.

It is of note that only after this allocation and that due to parents are made, do children then inherit their shares. That is, provision for the widow is the first priority - at least in the civil law. Of the property that remains after taking the due share for the widow(s) (one-eighth), and the share of the parents (one-sixth), daughters will receive one-third of the remaining estate. Sons receive two-thirds.

Authoritative commentators have observed that the shares of sons and daughters do not alter even when there is only one son and five daughters; the daughter(s) will share the one-third, no more, no less.¹³⁶ In practice, it seems to be the case that when there are no sons, the daughters do inherit more than the normal share.

The Civil Law is also clear that wives may inherit from both their husband and members of their natal family (Article 2003).

Urban conditions

The situation of urban widows does appear to be somewhat easier than for their rural sisters. Twenty-seven widows were interviewed in Maimana City at a government-supported feeding centre. The cause of their widowhood was mainly

¹³⁵ Under Part Two, Transfer of Ownership Due to Death, Topic One Inheritance, Sub-Topic One General Provisions; see pages 616ff.

¹³⁶ See D'Hellencourt, N., Rajabov, S., Stanikza, A. and Salam, A. *Preliminary Study of Land Tenure Related Issues in Urban Afghanistan with Special Reference to Kabul City*. Kabul: UN-HABITAT. March 2003. However, a strict reading of the Civil Law does state that "male and female offspring shall receive equal proportions" and when there is more than one offspring (male or female) the proportion rises from 1/6th to 1/3rd (Article 2006). In addition, "one daughter shall be entitled to half the patrimony; two or more shall be entitled to two thirds" (Article 2008). The English translation of the Civil Law is difficult to read and this author will forego this suggestion in favour of d'Hellencourt's interpretation, whose team may have read the Dari original text.

war.¹³⁷ Only five of the 27 (18.5%) had come from rural villages. Their views accorded with those of village widows:

"It is easier to be a widow in town. There are jobs here, you can work in bakeries. You can be slave in a house (sic) and get a bed that way. You can meet together with other widows. Village women can't do that. There is no work for them to do. They may starve."

"Women are like prisoners in the rural house. They are not even allowed to leave the house without permission, even to collect water. They have no rights. They get beaten and shouted at and are kicked and beaten when the husband is angry. It is no better when you are widowed; your sons or brothers-in-law treat you just as badly as your father-in-law and your husband."

"Women in the rural areas have no choice. They have to marry the brothers-in-law. We can refuse that in the town. Elders are wiser in the towns and do not force widows to do things against their will."

While most women pleaded destitution and stress, many admitted it *could* be preferable to be a widow than a wife.

"When you are a widow you see how you were oppressed. Husbands control even the money that you earn from embroidery. I get more today from embroidery than I got from my husband."

"It is better to be a widow these days. Elders respect those who lost their husbands fighting. They try to help you."

"Because we are so poor we are allowed to work and to move about the town. When we were married with husbands we could not do that. It is accepted that widows can do things that wives cannot be trusted to do."

Among the Maimana widows interviewed, a surprisingly high proportion do work; eight of 27 women or 29.6 percent. Around half work as domestics while others work in bakeries or do embroidery piecework on order from shops.

Property rights

Appendix C details the property status of the 27 widows. In summary, prior to the death of their husbands most (70.3%) had been living in their husband's house or with his family (father-in-law, brothers-in-law). The remainder had been living in rented accommodation, the homes of employers, or relatives of the wife. One had been homeless.

Of the nine women who had been living in their husband's house only one-third are still living there. Three others were evicted (two by first wives). Two others say they are likely to be evicted. One other was made homeless because her husband's house was destroyed in fighting. The three who remain in their husbands' homes say this is only because there are no male in-laws alive to evict them.

¹³⁷ Among the 27 urban widows interviewed, 63 percent of their husbands had died in fighting, 15 percent from illness, and one (four percent) from a murder unrelated to war. Eighteen percent did not indicate how their husbands had died.

Among the ten women who lived with their in-laws at the time of their husbands' deaths, two-thirds were evicted (seven women). Of the three women who were not evicted, two live precariously: one remains only through doing all the housework for her in-laws, while the other has been limited to one room in the house, her in-laws taking over the rest of the house occupied previously by her with her husband and children. Overall, two-thirds of these wives (68.4%) have lost their homes. Most (58%) had been forced to return home to their natal families, while the remainder were either homeless or living with employers for whom they cleaned houses.

Among those eight women who were living in rented, natal or other homes at the time of the death of their husbands, five had been forced to take up work to pay for the rent and/or otherwise survive. Two had moved out of rented accommodation into domestic work which provided a room to live in.

Only five women have inherited a share of land or houses on their fathers' deaths or expect to (18.5%). In two of these cases their own mothers inherited the house. Most (22 of 27 or 82%) have no expectation of inheriting land or houses from their father. In 59 percent of cases this is because their brothers will inherit land and/or houses; one woman had in fact inherited a share but was forced to pass this share to her brothers. Among the remainder (41%) this lack of expectation was due to the fact their fathers do not own houses, or these have been sold or destroyed in fighting.

In summary, the lowly position of women in respect to ownership of property is grim but perhaps not as strikingly so as expected. Although they only represent a third of those interviewed, some of the women who were living in their husbands' houses had in effect inherited these. A smaller proportion had inherited real estate from their fathers. Some improvement in the authority of widows to claim their rights was detected and which likely results from their greater empowerment in towns, particularly through taking up work and gaining economic independence. Because of the respect they command, and the fact that widows conjure up an image of maturity, attention to widows' land rights, rather than those of women in general, could prove a productive and practical avenue of promotion for greater fairness in domestic land relations.

IV. Conclusions and Recommendations

A. Key Findings

Findings and conclusions drawn from this study must be read with recognition that the survey was of a short duration and the data accordingly are limited. Thus, the information that was collected must be taken as suggesting or hinting at conclusions, not proving these. Nonetheless, many findings endorse existing or new knowledge about rural land relations in Afghanistan, such as has been documented and commented upon previously by this author.¹³⁸

The farming family does not only depend on the farm.

Many rural families do not depend only upon the farm for their livelihoods. In all the villages visited, in this and in previous surveys, families try to supplement farm work if they can with returns from out-migration and off-farm tasks. Two in-depth studies being conducted by AREU will throw more light on these issues and offer considerable concrete data to support this.¹³⁹ That rural families send members outside the village to towns or other countries is not new knowledge, and is quite apparently a very long-standing practice (found to be so in both Faryab and Hazarajat). Still, not enough data were collected by this minor study to know which strata in the rural community are benefiting from remittances and from off-farm work, what proportion of livelihoods these sources provide, or even what impact these sources have upon land ownership (e.g., investment in land). What was recorded hinted that it is mainly the better-off (like landowners) who benefit from out-migrating family members, as the very poor reported not having the means to go to large towns to seek work (let alone to Iran and Pakistan). Off-farm labour opportunities and benefits may in practice be similarly skewed.

Landlessness is clearly significant but difficult to pin down, and homelessness is a serious problem among the landless.

The socio-spatial nature of the rural community needs to be properly understood. While this study has been extremely cursory and its data indicative at best, questions are raised as to how “villages” are identified and sampled. This survey suggests that villages vary widely in their landholding character. Landowning families may cluster within one village (based upon an original landlord family) while land-poor relatives cluster in another and landless live in still other villages. To sample one or the other only will produce an incomplete picture of arable land ownership within the social community. As was found to be the case in Bamyan, Faryab villages surveyed do not exist as fully autonomous socio-spatial entities but as parts of a great social whole, a cluster of villages, locally defined as wards, or *mantiqas*. These clusters may be spread over very large areas.

It may also be the case that some surveys (or rather, community leaders reporting to surveyors) have failed to acknowledge the presence of temporary workers, the itinerant farm labour noted above. Because many of these labourers do not have a real home place, having moved all their lives, they also do not appear in other village records, such as absentee families. Statistically, they may simply disappear.

¹³⁸ See Alden Wily, *passim*.

¹³⁹ Reports from these studies, a synthesis paper on an 18-month rural livelihoods monitoring programme, and a working paper on transnational networks, will be posted on AREU’s web site as they are published (check www.areu.org.af for updates).

They are, however, not only possibly very numerous within the overall rural population, but represent the truly poor and the core group of rural landless.

With these concerns in mind, along with the paucity of data collected in the survey, it is difficult to confirm the most commonly cited finding of surveys that roughly a quarter of the rural population does not own any land.¹⁴⁰ This figure could be much higher. Most recently, the WFP/VAM survey of 2002 found that rural landlessness in Faryab Province ranged from 34 percent to 63 percent by district¹⁴¹ with an average of 42 percent landless households in the province overall.¹⁴² Landlessness in the field study districts of Khoja Musa, KSP and Shirin Tagab were respectively calculated as 38 percent, 38 percent and 44 percent. Data from the 2003 WFP/VAM rural survey have not yet been compiled, but provisional figures suggest much lower rates of landlessness.¹⁴³ At the same time, the 2003 figures show that even among landowners in these areas, a significant number only own rain-fed fields.

In the meantime, it seems fair to conclude that landlessness, whether at one-quarter or one-third of the population, is significant. The fact that landless people perceive an impassable barrier between themselves and the landed also needs to be recalled; this may be both a prejudice borne of many generations of embedded landlessness and landlordism and a frank appraisal of reality. Certainly, although a land market clearly existed in the villages visited by this survey, purchasers were virtually all already existing owners buying more land. Sellers were with one exception recorded as the poor, and often making themselves landless through the sale. This suggests continuing polarisation, already fairly marked in the rural economy. Another relevant finding was that the very poor (itinerant labour) did not list "land" as their primary ambition; for these people and homeless villagers, acquiring shelter of their own is more urgent (and more achievable).

Similarly, the levels of homelessness among the landless in Faryab surveyed are just as high as in the Bamyan study and worthy of concern. The fact that many of the poor are itinerant workers needs concomitant attention, including by those who are responsible for identifying internally displaced persons (IDPs). It is easy but incorrect to assume that those who are not resident in their home villages are IDPs, something which mobile workers have used to their advantage. Without homes of their own, the poor lack a very basic platform of socio-economic choice and independence and are highly vulnerable to exploitation.

Finally, the finding from the Bamyan survey that small stock (sheep and goats) represent the main and often sole capital asset of the landless was echoed by this Faryab case study. This finding heightens the importance of pastoral issues included in the closer discussion below.

Contestation over land is rife and a major issue for peace overall.

The major findings of this field study lie within the political domain. In general, problems in the study area around property are integral to the disorder and conflict of the last 25 years. Conventionally, and in early donor and administration

¹⁴⁰ See Alden Wily, *Land Rights in Crisis*, op cit., Annex D.

¹⁴¹ T WFP/VAM. *Afghanistan Countrywide Food Needs Assessment of Rural Settled Populations 2002-2003*. Kabul: WFP Vulnerability Analysis Mapping Unit and Partners. 2003, Table 8.

¹⁴² As calculated by Andrew Pinney, 2003, drawing on unpublished base data. See Alden Wily, *Land Relations in Bamyan Province*, op cit., Appendix C.

¹⁴³ Pinney 2003 for MRRD; because the figures are provisional the actual statistics are not cited here at the request of the VAM project.

documents, the inherent strategy has been to assume that once order is restored, property disorder may be addressed. Two years on from the Bonn Agreement, order has not been achieved and property disputes have not been significantly resolved. In the study area they in fact became worse following the fall of the Taliban, with effects until the present. *Direct* attention to property disputes is needed.

This field study also confirms the more general conclusion drawn a year past that attention to property matters will in itself contribute to restoring order in local relations.¹⁴⁴ That is, property problems are helping to sustain disorder and violence.

Property problems as described in this report are clearly diverse. They range from issues of inequitable land access unrelated to the war of the last 25 years (or at least preceeding it), to problems associated with classification of land ownership categories and the land administration system. Clarity, prioritisation and focus are needed for impact. Tackling property problems through dispute resolution is an obvious starting point, from which wider tenure-related programming and action may more fruitfully proceed.

Determining which disputes to give most attention is also needed. In this regard, it is useful to conceive of land disputes recorded by this and others studies as falling into two classes: those that have arisen as a consequence of war and disorder (post-conflict disputes) and those that pre-date 1978 (pre-conflict disputes). While the former may reasonably respond to restitution action to the owners of 1978, the latter require a more complex approach. This is because conflict over land ownership has been shown to have origins that while old, remain very vibrant. Any programme which simply restores ownership of such properties to those who held sway in 1978 will be not only unproductive but provocative (and likely unenforceable in the current climate of weak rule of law).

Helpfully, the distinction between post-conflict and conflict land dispute coincides roughly with the two key classes of landholding: those conventionally assumed to be private and public properties (although as noted below this division is problematic itself). A more accurate designation of these estates is to refer to the former as individually held lands and the latter as jointly held lands, for they are held at national (public) or local levels (communal property).

In rural communities individually held properties include houses, irrigated farms and shops. Rain-fed farms are more unevenly included, as rights to these areas appear to be more moveable where shifting cultivation in rain-fed areas occurs and more tenuous as to real tenure where rain-fed farming is practised in areas of disputable classification, such as farmland or pasture. Shared lands prominently include pasture (but also forests and water sources), and rights over which are variously declared to belong to the public, to specific communities or to private khan families.

Pastures are often the centre of conflict.

It is in respect to pastures that this field study found disputes to be most numerous, most heated and most difficult to resolve. It is also in their respect that ethnic conflict is most expressed and sustained. Further, land use disputes are often centred around pasture, specifically on the matter as to whether these

¹⁴⁴ See Alden Wily, *Land Rights in Crisis*, op cit.

pastures may, or may not, be cultivated. Furthermore, pasture-related issues provide the most direct link to grievances from the pre-war period – grievances that in fact have had a role in promoting further conflict from 1978. On the ground, these grievances clearly relate to inter-ethnic competition over resources. Analytically, they also relate to unsound public policies as to land access over the past century, right up until 1978.

The reasons why pasture has come to represent the most contentious difficulties in land relations, and which are most coloured by ethnic jealousies and bitterness, are not difficult to find. In the first instance, by their nature as often public lands, pastures represent a form of open access property in conditions where regulation of public use falls away – the case in Afghanistan especially from the late 1980s. In short, these lands are effectively “up for grabs.”

Second, they are by nature resources which are used on a shared, group or community basis. This sharing tends to have ethnic cohesion in the same way as villages tend on the whole to be ethnically coherent social entities.

Third, pastures have also been the domain where historical inter-ethnic bitterness has had most power over the last half century (see Box 4). There appears to be resentment as to the way in which Pushtuns were granted valuable arable land along valleys. However, there is greater resentment among those of more recent arrival, who from the 1950s were able to use their toehold on the pastures to extend their reach into purchase or acquisition, through debt collection, of scarce irrigated land. A similar concern was found in parts of Bamyan Province. However, many of these Pushtun farmers are well established and well-known in the local community, which has a tempering effect. Although no firm conclusion may be drawn on the basis of such a limited survey, it is likely to be the case that Pushtun rights over farmland are “grudgingly accepted,” if ambivalently so by those who farm those estates for them. In respect to pastures, users and rightholders are a much more amorphous group.

Box 4. Land Relations and Ethnic Identity

Land relations are deeply coloured by ethnic identity. The central contestation over land is self-evidently between Uzbeks and Pushtuns. This has important class dimensions to the extent that the latter appear to have (to generalise) the upper economic hand over the other, in terms of competition for resources and income from land-based activity; this is most tangible in the fact that it is frequently Uzbeks who provide the labour for Pushtun landlords. Given that many Arab families are also large landlords, it is not surprising that many Uzbeks in the study area tend to lump this group with Pushtuns, and they themselves have felt deeply shared interests with these people. Interestingly, however, the nature of disputes today cannot simply be explained by the class divisions that classically mark antagonism and resentment between landowners and landless. Although difficult to digest, it does have to be concluded that ethnic identity has a great deal to do with current contestation over, and competition for, land.

Most important of all, however, is the simple fact that pastures are held to be the property of specific local communities or of the dominant local ethnic group as a whole. These are lands conceived of as common properties and by this the most land sphere to provoke notions of tribal territory, of “our land.” Moreover, these lands are seen as belonging to the local group irrespective of whether or not they are used actively or fully or not. Certainly, and the terms of state law notwithstanding, pastures are not locally conceived as vacant public land and which the state may allocate at will – such as it appears to Uzbeks to have

abundantly done over the last 50 or so years. The fact that the state has allocated such rights to mainly Pushtun stock owners is perceived as adding insult to injury. The fact that these owners are often not even local residents — i.e., Kuchis — is a further irritant. Finally, there is the fact that tenurial definition of pasture (“who owns pasture?”) is opaque and therefore vulnerable to competing versions.

The debate over private vs. common property causes further tension around land ownership.

There is an additional complexity to the notion of pasture ownership. This concerns the relative rights of community members to pastures and whether these are considered private pastures or genuine common properties. In the cases recorded by this survey where this is an issue, three versions of tenure pertain, and currently the battle for space depends upon the conflict at hand.

The first position acknowledges the pasture as being owned by a local landlord family, as part of the domain carved out by the ancestor/s who first settled the area, or as granted to the family by Abd al-Rahman and following monarchs up to 1973. This is the position which acknowledges the pasture as private property in the conventional sense. Certainly this is the assertion of most livestock-rich landlords who are finding “their” pasture encroached for cultivation.

The second holds that while the landlord family may be the titular owner, they do not own the pasture on their own behalf but as trustee for the entire community which they head (or in the past were the head of).

The third holds that local pastures were never privately owned but are the private property of the community as a whole (common property), and that while landlords/khans as community leaders may have the power (and duty) to defend those pastures against outsiders (and as those with most stock, will have the most incentive to do so), this should not be taken to mean that their rights are superior to those of other members of the community. Moreover, this common ownership includes the weaker and poorer members who may not own the means to use the pasture (livestock).

Examples of where the nature of common property is being so mooted were given in the study, albeit with struggles over meaning expressed in contesting claims. These disputes may be among members of the same ethnic community, such as is the case in Turkul Baluch *mantiqa*. Or, they may arise where the “territory” or natural domain of one *mantiqa* is pitted against another, such as the case between Qala-i Shaikhi and Sara-yi Qala. In this case the battle over pasture is between a respectively Arab and Uzbek community, and issues of ethnicity both cloud and fuel the more pressing dispute. The dispute is being played out between leading khans, who claim they are the rightful owners of the disputed pasture. They are unclear as to whether they are making these claims on their own behalf or on behalf of the communities they lead, because they tend to draw no distinction between the two.

Pastoral tenure norms are ill-defined and under challenge.

The precise tenurial nature of rights which have been granted over pasture land is unclear. The law (Pasture Law of 1970) is not known locally. This and related legislation are in any event ambivalent on several counts: first, in the meaning of public land, which directly affects pasture; second, in the right of tenure or rights

which the state as administrator of public land may grant; and third, in the extent to which customary rights over pasture are respected.

Broadly, Afghanistan statutory law holds that all pastures are public land. This should mean that they are owned by the nation, albeit held in trust by, and administered by, the state. In practice, even Afghan laws tend to *imply* these lands are directly government property. Certainly, administrations have always historically treated pasture as either *terra nullis* or government land and felt no constraint to allocating these lands to applicants of their choice. The status of these allocations as ownership rights or as just use rights, is not clear in documentation. The period for which holders may exercise these rights, and the conditions upon which they are sustained, are not detailed.

As touched upon above, a main problem with designating pasture as government property (*de jure* or *de facto*) is that when government authority/political order breaks down as has been the case, those lands become virtual open access properties, available to those who have the means to grab them. This has certainly been the case in Afghanistan. Millions of hectares of property which the administration considers to be public land/government land are now under occupation, pasture included. For its part the Faryab government (Ministry of Agriculture and Animal Husbandry) complains that some 28,831 hectares of government pasture have been invaded and that the only action now needed is to have sufficient force to recover these lands.¹⁴⁵

While force and restoration of order could have this result, there are other factors that need to be considered. For another main problem which arises from declaring all pastures to be publicly owned or government-owned is that this rides roughshod over the customary tenurial rights and interests of local communities. As illustrated above, it is not unexpected and may be accepted that many, if not all, of the pastures of Faryab are locally conceived of as common properties, that is, the private shared resources of nameable social groups/communities.

This survey has illustrated this case; most of the *mantiqa* visited hold certain pastures as their own. Sometimes these are owned by the *mantiqa* as a whole (and these may comprise up to five or more villages). Sometimes only one of those villages has rights or at least priority rights. It would be true to form to find that the distinction is a direct consequence of size and proximity: a pasture that is directly adjacent to one settlement and too small to share among too many may easily be considered as belonging to that village.

Even much larger pastures may be claimed as more rightfully locally owned than nationally available public properties. This has also been shown in the survey, although greatly complicated by opportunism. For while the vast and remote pasture of Charmgar Chashma seems to be accepted by almost all as a public asset which all users may share and have to share, the Dasht-i-Laili is not. Over the last century, this resource was largely allocated to Pushtun nomads, or at least this was their assumption or claim. We have seen how historically Kuchis are recorded as "being given the Dasht." Such favoured allocation provokes counter-claim. Had access rights been allocated equally or the whole genuinely held to be a public access area, then it may have been the case that this desert would have been accepted as public land. On the other hand, the important history of the Dasht-i-

¹⁴⁵ Two officials had been sent to such an area in September 2003 but were beaten by Commander Shamal and sent back wounded (Personal comm., Ministry of Agriculture, Maimana).

Laili in the north could have located it firmly as the privately shared property of the Uzbek community ("our land").

Either way, it has also been shown in this survey that the trigger to breakdown in acceptability of Pushtun allocation of the Dasht-i-Laili has been expansion of cultivation into the desert, and which has challenged Pushtun hegemony over the area. It should not be forgotten, however, that the first to launch this cultivation was the government itself during the 1980s. Greedy warlords have then proceeded to coopt and expand these developments, with a virtual free-for-all emerging, confined in practice to only those with the means (capital and labour) to exploit the opportunity. The case is similar for many smaller pastures.

Land administration systems are too weak and confused to support clear norms.

Severe shortfalls in the systems of land administration and issue and registration of land rights, in particular, complicate the situation. For example, when private landlords dispute ownership of the pasture, they may base their claims not upon the evidence of land grants, but on the fact that they have paid taxes on that land in the past. Afghanistan law does provide amply for tax receipts as a source of evidence of tenure. However, it can never be ascertained from tax receipts whether those taxes were levied in return for *use* of the pasture or on the basis of acknowledgement of ownership of the pasture. This is crucial, for the former delivers only use rights, while the latter delivers ownership. With a use right, the holder may not be permitted to do anything other than graze the land. With an ownership right, the owner could (in theory) farm the land or build houses upon it and sell it. In fact, the law (Pasture Law of 1970) explicitly disallows either the conversion of pasture to farmland or its sale, and had the law been applied, the distinction would not matter. In practice, however, these provisions have rarely been enforced. Most Kuchis and others who claim titles to pasture assume that their rights are those of full ownership. Their wish to retain the pasture uncultivated stems from their own interests, not the law. Many other claimants of pastureland are making these claims, precisely because they do want to cultivate the pastures.

In any event, as this study has also shown, corruption, including by the courts themselves, may render such documentation as exists suspect. Loss of confidence in the ethnic neutrality of the courts is pronounced, with many Pushtuns in particular currently considering it futile to take cases to the court. Others indicated a more general concern; a lead official described the state of the courts as "dangerous" in their corruptibility and misuse by a succession of warlords and administrations. Warlordism itself may be blamed as a trigger to disorder and corruption (see Box 5).

Nonetheless, the Maimana court acknowledges the proportion of land cases in their caseload is high, at 77.5 percent (62 land cases among 80 cases in the Provincial Court, Court of Second Instance). A significant number concerned alleged illegal occupation of farms (57%), with no pasture disputes recorded.¹⁴⁶ The judges noted

¹⁴⁶ A further 23.5% concern disputed inheritance and some of these are claims from widows, and the remainder relate to disputes as to mortgage payments (and dispute as to whether the land was mortgaged or sold outright (Judges of the Court of Maimana).

that they knew most pastures and forests in the province were under dispute but could not explain why so few cases had reached them.¹⁴⁷

In principle, records of ownership in the province up until 1978 are unusually complete, through the comprehensive conduct of land registration by the Amlak Department of the Ministry of Finance at that time during the 1970s. The Ministry of Agriculture claims that none of the resulting Books of Ownership have been lost and in 1999 the Taliban, for example, prepared to use these again as the basis of property taxes, as was the case in 1975-1977. These statements are contradicted by information given to another researcher by the the chief administrator of Shirin Tagab who said that the district's ownership records were burnt by retreating Taliban and that they will have to be rerecorded one by one.¹⁴⁸

Box 5. Warlordism as a Prop to Land Tensions

Outright exploitation, terrorising and land theft led by warlords (some of whom are now official or pseudo-official commanders) have certainly played a role in local land tensions. Although their motives almost certainly have been mainly personal and stem from their own economic interests and greed, the effects tend to have been delivered along ethnic lines. In short, land theft and occupation, and especially their role in greatly extending cultivation into pasturelands, has often been justified on ethnic grounds. These have in turn fed upon simmering discontentments as to land access and rights, brought by warlords and the general anarchy of the post-War period, to boiling point. Because of this land history, warlords may, however, be seen as possibly more catalyst than cause. Regrettably, their success in wrecking or supporting havoc in land relations may only have been possible and sustained because there has been as such a profound background of inter-ethnic tension over land resources.

The reliability and utility of these records even prior to tinkering is, however, questionable. As all over the rural areas, the books of ownership were based upon verbal self-reporting by landowners and not checked on the ground or by consultation in the area. The subsequent cadastral survey in the province in 1975-1976 found very different facts of ownership in the 34 villages it visited.¹⁴⁹ When it came to recording ownership of land, the main surveyor in the province recalled that pasture was generally *excluded* on the grounds that "all pasture belongs to the government." The surveyors did find that the majority possessed legal evidence of ownership in the form of court-prepared letters of ownership or subdivision deeds.¹⁵⁰ There were also a surprising number of *firman* or state-signed land grants from the 1920-1960s. In none of these cases, however, was pasture well identified.

Conflicts of interest also are interwoven into land tensions.

There is little doubt that loss of social and political controls over land use conventions has provided a real excuse and/or opportunity for challenging ethnic and private hegemony over pastures. Moreover, this loss of control has not only been from the side of the government. This survey has shown that communities too

¹⁴⁷ The Ministry of Agriculture in Faryab acknowledges that most of the 76,600 ha of natural forest in the province has disappeared since 1990 but does not believe that state ownership of forests is disputed, although staff have not been able to visit these areas for some years due to insecurity. J.L. Lee reports that juniper forests he saw in 1977/78 the Turkistan mountains in southern Faryab (mostly Gurziwan and Kohistan and which extended through to Sar-i Pul Province) have been cut down for fuel.

¹⁴⁸ Personal comm., J.L. Lee.

¹⁴⁹ Seven villages in Daulatabad, five in Qaysar, five in Pushtun Kot and 17 in Gurziwan Districts (Personal comm., Department of Cadastre & Geodesy, Maimana). Although Maimana staff refer to this as a cadastral survey the resulting documentation is without maps or even coordinates.

¹⁵⁰ Respectively waseqa khat-i shari'ayi, tamaliq khat-i shari'ayi and qabala-i-shari'ayi [NB all these terms relate to religious law (the Shari'a) rather than to common or state law (qanun).]

have allowed or enabled local conventions to be transgressed. The result has been creeping encroachment of farming into lands previously held to be pastures. This in turn has provided one of the main triggers to the intra-ethnic and inter-ethnic disputes that rage today as to rights over pastureland in Faryab.

Several conflicts of interest interweave themselves in this development. First, there is an obvious environmental concern. In many areas social or legal restrictions against farming pastureland have a visibly rational basis; the disturbance to top soils resulting from cultivation may not only destroy the pasture itself in a relatively short time but may impact upon long-held arable lands. This was most clearly seen in the two *mantiqas* of Islam Qala and Turkul Baluch where floods have increasingly destroyed irrigation systems and washed away the soil, rendering these useless and now unfarmed. This excessive flooding is likely to have been caused by the loosening of hilly soils through new cultivation, increasingly run-off. Loss of soils through wind erosion has also been recorded in respect of the less hilly Dasht-i-Laili.

Second, conflict of interest exists between those who have substantial numbers of livestock and therefore need for pasture, and those who do not. This, as we have seen, does not necessarily concord with an Uzbek-Pushtun or even Uzbek-Arab divide. Nor does it even accord with a straightforward division of interest among rich and poor within any or all of these groups. This is because the poor and very poor do not have the means to extend cultivation independently (seeds, oxen, plough) and rely upon richer members of the society to expand cultivation (and in the process provide more sharecropper jobs). At the same time, by supporting expansion of cultivation into previously uncultivated and open access land, they are depriving themselves of their one source of land access and one that only exists for so long as the land in question remains pasture - by nature a potentially shared resource.

B. The Way Forward

The preceding section has suggested that resolving disputes should be the primary focus for action in property relations and that pastures should be the starting focus for this development in Faryab. Use of the courts for this process may, however, not be appropriate. This is not just because the courts are part of the problem, as a programme of replacing corrupt judges and retraining new judges could go some way to removing this obstacle. Rather it is because the issues at stake will not be safely decided on the basis of "legal deeds," nor by the classical winner-loser approach of normal court processes. A much more exploratory process is required which inter alia, allows the emergence of new and workable norms (and law) and this is beyond the mandate or reach of the courts.

The issues that need clarification have been outlined above. For example, these prominently include:

- Development of a workable and acceptable distinction between public and common property.
- Development of a rigorous definition of exactly what powers may the State as administrator of public land, and through what procedures.
- Clarification of the nature of private rights over pasture, and where it is accepted that individual landlords own the pasture in question, then definition of their rights as well as responsibilities as the privileged party will need definition.

Two outstanding questions arise in respect of working through these and other matters and seeing them applied. The first is where such matters should be decided and how. The second is whether such action may proceed in circumstances where warlordism and weak rule of law prevail.

Accounting for history

Understanding the nature and origins of this land tensions becomes important in seeking paths to resolution. It is for this reason that this study, while minor and seeking largely to capture only a snapshot of land relations in the province, has found it necessary to investigate and examine and record the history of ethnic land conflict, as presented in the first part of this report. Of necessity, strategic planning must account for this history.

Adopting a community-based approach

The conventional response to problems is to launch a national policy and legal development process. However, this is unlikely to be timely, implementable or enforceable and more important, unlikely to have sufficient localised input to be significantly applicable to the concerns as seen at the local level. While commitment to building a sound new pasture policy and legal framework is essential (and something which the Ministries of Agriculture and Frontier and Tribal Affairs are committed to), achieving this through an incremental and practical approach shows a lot more promise at this juncture. The key advantages of a localised approach is that it will allow for those directly affected to be directly involved; for conflict resolution and decision-making towards policy development to be integrated; for implementation of agreed decisions to be immediately applied by consensually agreed actors; for not just pastoral access issues but pasture management decisions and use regulation to be integral to this approach; for the local institutions and procedures for sustaining the agreed rules to be put in place; and most of all, for the community itself to become the regulator. In short, the need is not only for conflict resolution, but new rules and a new system for those rules to be applied and regulated. Such a strategy represents an *integrated reconciliation and pasture development approach*.

More specifically, what is suggested would be founded upon an applied land use planning and action approach which begins with identification of pastures, brings all disputants together (including representatives of long-standing seasonal users; i.e., Kuchi clan heads as applicable) and facilitates resolution and compromise (reconciliation). Of necessity this should be through procedures which as far as possible set aside contested documents and events. While inter-ethnic resolution in respect especially to Pashtun and non-Pashtun land interests is difficult to resolve in ways that will be even-handed and locally acceptable, through face to face negotiation in relations to specific pastures, much more progress should be seen through a localised approach than can be achieved through a national-level dictate. In the field study districts, a readiness to negotiate and agree appeared to be incipiently emergent, with assistance, and assurity of just and fair process.

Within a community-based approach, agreeing to a precise definition of the pasture itself would be a logical starting point, in terms of defining its perimeter boundary with other pastures, its status or subdivision as logically public or common property, and the line agreed on the ground beyond it that no cultivation will occur. Agreement as to who owns the pasture may need to be set aside in favour of consensus among long-standing users and beneficiaries as to how and

when the pasture will be accessed, by whom, through which local reporting procedures and on what conditions. Distinctions and agreement on the ground between public and local pasture and between local and private pasture and the meanings of each will be more easily teased out and agreed once such use decisions have been agreed upon.

In effect, a pasture management plan for each pasture would be developed, the rules subjected to community-wide approval and public record, and this agreement written and registered with the district governor's office. Agreement on the physical limits of cultivation, procedures for handling crop damage disputes and fee paying by seasonal users could be among a range of workable points of compromise agreed.

Creation by participants of a pasture management committee or land *shura* would be a natural institutional corollary. Representation, means of selection, duties and accountability procedures would need to be rigorously worked through, laid out, agreed and signed against. On grounds of proximity, residence and practicality of management action and regulation, these bodies should be primarily comprised of settled members of the community but with seasonal users represented.

The logical level for such actions to proceed from would be the *mantiqa*, with negotiation with neighbouring *mantiqa* and seasonal users as applicable. Other communal properties and/or properties defined as privately owned by communal use obligations would need to be included, with their status and rights clarified and agreed. Remote seasonal pastures used by the community should also be addressed, inevitably involving a wider forum of users and reconciliation and management planning action. Non-pastoral commons traditionally used, or with logical potential as service centres, could be helpfully identified and entrenched at the same time. *Consensus access registers* could be established, written by appointed community actors or aids and subject to formal administration monitoring. While these consensus registers would be provisional-approved legal documents, they would represent a new platform of rights recognition, at the right time, formally endorsed by the appropriate level of court and administration as the new, definitive record.

Obviously such a process represents more than conflict resolution in attempting to lay a fresh foundation of agreement and acceptance of the pattern of rights in the vicinity. In addition it attempts to lay the basis for reform in the way in which land rights are articulated, recorded, protected and managed, and crucially, through empowering landholders themselves. Implementation could begin and build incrementally, within selected districts, a handful of early pilots providing first guidelines of process. Success would hardly be uniform, but a gathering number of working successes would offer powerful examples and have the advantage of going well beyond declamatory policy and decrees that have proved too contradictory, too general or too one-sided in their implications to be of much use or enforceable.

The experience gained through this practical implementation, confronting known and as yet unknown realities, would contribute significantly to the evolution of genuinely relevant paradigms for national land policy and law. If any legal and policy principle would need to be established ahead of such pilot developments, it would ideally be only in order to commit to this incremental and bottom-up strategy. Implementing facilitators would necessarily be carefully selected individuals, working as a limited number of commissions, liaising with rather than being controlled by government agencies at this point. Judicious inclusion of

appropriate Ministry of Agriculture, Tribal Affairs and Justice representation would need to be considered.

Local disarmament as a prerequisite

At first such proposals may seem too far removed from the current reign of disorder, lack of government, intimidation and inter-ethnic strife to be achievable. Realistically, not a great deal of progress is likely to be made in bringing to end especially ethnically-coloured disputes and the encroachment of traditional pastures that is precipitating these disputes or causing them, without disarmament. It may be necessary to disarm and disable warlords - including those currently afforded protection in their positions as official commanders of the military corps - to prevent them from derailing reconciliation and resolution processes. Until this occurs, it is difficult to suggest Faryab as a site for launching of priority or trial pasture dispute resolution processes and the concomitant development of new pasture tenure policies and law. However, there is a reasonable chance that such basic conflict resolution/systems development processes could be safely initiated at a modest *mantiqa* by *mantiqa* level in a district where peace reigns and warlordism is least. At the time of writing, among the three study districts, Khoja Musa District has the best potential in this respect. Should PRT services be afforded Maimana, their back up in this regard could be solicited.

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Appendix A: Interviewees in Faryab Province Other than Villagers

Ahmed Rama, World Food Programme
Sakhi Mohammad, Field Officer/Officer in Charge, UNAMA
Saiyed Habibullah, Program, Admin/Finance Assistant, UNAMA
Mohammed Nasir Gord(??) Nasirgird?, Language Assistant, UNAMA
Christina Goyer, Protection Officer, UNHCR
Kahim Ismail, Protection Officer, UNHCR
Chris Green, Local Director, InterSoS
Fernando Resta, Adviser, InterSoS
Inayatullah Inayat, Provincial Governor, Faryab
Qazi Sharaf al-Din, Deputy of Appeal Court (Provincial Court)
Qazi Muhammad Sharif, Member of Civil Court
Qazi Asif, Chief of the Primary Civil Court, Maimana
Qazi Habibullah, Member of the Civil Court
Khair Muhammad, Head of the Appeal Court
Abdullah Taghachi, Provincial Attorney-General
Sharifa Azimi, Ministry of Labour and Social Affairs
Zora Surkhabi, Ministry of Labour and Social Affairs
Mohammed Aslam Gudas, Ministry of Finance
Abdul Satar Bareez, Ministry of Agriculture
Abdullah Taghachi, Ministry of Agriculture
Mohammad Aslam Gudaz, Ministry of Agriculture
Gabriel Fralich, IOM
Engineer Barma, ACTED
Abd al-Ghani, Head of Statistics, District Governor's Office (Wulswal), Khwaja Sabz
Posh Mohammed Sahih, Officer, Khwaja Sabz Posh
Abd al-Qudus, Chief Surveyor, Department of Cadastre and Geodesy
Said Usman, Surveyor, Cadastre & Geodesy
Khal Nazar, District Governor, Shirin Tagab
Muhammad Halim, Chief of Police, Shirin Tagab

Appendix B: The Governance of Faryab Province in November 2003

No.	District	Security: Chief of Police	Administration: Governor	Military: Commander	Dominant Faction/Party Allegiance
1	Khwaja Sabz Posh (KSP) Created 1990s out of Pushtun Kot by Rasul Pahlawan and first known as Juma Bazaar (the capital town today).	Shah Mohammed, Uzbek, from area. Loyal to Hashim Habibi	Mohammad Gul Takla, from area, Uzbek. An ex-teacher appointed by Rahmat Rais (Junbesh) and Namat Mawin (Junbesh) from KSP. Not formally approved by Kabul.	Namat Nawan, Uzbek, appointed by Rahmat Rais (who comes from the area).	Junbesh, controlled by Rahmat Rais, holds official position as Head of Military Division 200, based in Maimana
2	Shirin Tagab Capital is Faizabad, established by Rasul Pahlawan, and who named the district Faizabad.	Halim, Uzbek, experienced, supported by Governor. Does not support Astana (military).	Munshi Khal Nazar Uzbek, ex-administrator from Russian time, forced to flee to Iran during Rasul Pahlawan time. Returned 2001, not approved by Kabul. Tends towards Junbesh but not Astana.	Hashim Astana, direct links to Dostam (i.e. bypasses Hashim Habibi). Permitted to retain five bodyguards. Believed to have many armed supporters in villagers.	Junbesh, but not loyal to Hashim Habibi.
3	Khwaja Musa A new district carved out of KSP since 1998	Abd al-Ahad, Uzbek, experienced and educated Police Officer from Pushtun Kot. Independent.	Izatullah, appointed by Provincial Governor but not confirmed by Kabul. From a wealthy Maimana family, allied to neither Junbesh nor Jamiat.	Ahmad Shah, Uzbek, part of border security with Turkmenistan. Area considered peaceful.	Junbesh
4	Dawlatabad An old district	Najm al-di, Pushtun from Shirin Tagab	Abd al-Latif, Uzbek, educated and experienced administrator. Comes from Gurziwan and is loyal to Hashim Habibi.	Uraz Zabit. Turkmen. Came under official complaint for robbing Pushtuns in November 2003. Reports directly to Dostam.	Junbesh
5	Pushtun Kot Old district, now subdivided (KSP). Headquarters is in Maimana City	Najibullah, Uzbek, ex-pilot, relative of Governor. Parchami. Limited control over district.	Qari Ghulam, Uzbek, uneducated, ex-Jamiat-i Islami Jihadi, now loyal to Hashim Habibi.	Different commanders in different villages. Most but not all are loyal to Hashim Habibi.	Junbesh
6	Gurziwan Created out of Belcharch by Hashim Habibi			Hashim Hashim Habibi; also Head of Faryab Military Council by Kabul.	Junbesh but with strong Jamiat and Hisb-i Islami factions.

7	Belchiragh	Alayar, Uzbek, from area, only loosely supportive of Hashim Habibi.	Uzbek, ex-City Police Chief of Maimana, loyal to Hashim Habibi. The post originally post filled by brother of Hashim	Ali Mohammad, loyal to Hashim Habibi.	Hashim Khan loyalists nominally Junbesh, but with strong Jamiat and Hisb-i Islami factions.
8	Qaysar	Saiyid Kama, Uzbek, but limited by Commander.	Ghulam Faruq, Uzbek, father-in-law of Commander.	Fathullah, Uzbek, uneducated, claims loyalty to Hashim Habibi but reports directly to Dostam.	Junbesh
9	Khawaja Chel Ghazi A new district created by Fathullah out of Qaysar	Under above	Under above	Under above	Junbesh
10	Almar	Mohammed Hashim, Uzbek from area and is a brother-in-law of Commander.	Saiyed Seraj Khan, Uzbek, educated, experienced, supported by local commanders and elders. Affiliated to Jamiat but now claims to be Junbesh.	Salam Pahlawan, related to Rasul and Malik Pahlawan. Uzbek, formerly Jamiat, defected to Junbesh in September 2003. Reports directly to General Dostam, loyal to Astana and Fathullah, not Hashim. Illiterate.	Junbesh/Jamiat
11	Laulash New district, created out of Kohistan	Ikhlas, only legal authority in District	No formal Governor; claimed by Mullah Mir Mohammad; Hisb-i Islami, now aligned to Hashim.	Dr. Saddat, the only Jamiat commander left in the Province. Has only a handful of bodyguards and control over a handful of villages.	Jamiat (but Governor supports Junbesh). Least secure area and no formal governance.
12	Bandar Created out of Kohistan	As above	As above	-	As above
13	Andkhui	Districts were under Jauzjan during 1978-1998. Minor local commanders, with governors supporting Junbesh. Qurghan is a new district, carved out of Andkhui during the 1990s. Although formally still in Faryab Province, the Governors effectively report to Jauzjan Province (Shibarghan).			
14	Qurghan				
15	Khan Chahr Bagh				
16	Qarangul				

Sources: UNAMA, this study, Personal Communication J.L. Lee.

Appendix C: Property Status of 27 Widows in Maimana

	NAME	YEAR & CAUSE OF HUSBAND'S DEATH	PROPERTY AT TIME OF HUSBAND'S DEATH	SITUATION AFTER WIDOWHOOD	EXPECTS TO INHERIT HOUSE FROM FATHER
1	Nazima	By fighting during Taliban	None: no house, living in quarters of people for whom worked	Homeless.	No; father also homeless
2	Amina	Mujahidin after Russian invasion	None: Living with husband's family in Kabul	Evicted by husband's family. Returned to relatives Maimana. Works when can.	No; house very small, brothers will inherit.
3	Sanaba	Several years ago, ill health	None: renting	Living with son who bought land near airport, built small house.	No; father did have land but sold it and escaped
4	Sister of 3	Fighting during 1990s	Yes: village house but destroyed by fighting	Homeless, living with 3 above. Does embroidery.	No; as above.
5	Shaqila	Taliban time, fighting	None: living with in-laws	Sent home; living with mother who has accommodation from workplace (domestic). Also helps work.	No; father died 13 years ago, no house of his own.
6	Sister of (5)	Taliban time; illness	Shared: living in husband's house shared by brothers	Permitted to keep one room in house with children.	No house.
7	Mehradil	Taraki time, illness	Yes: Husband built house for 2 wives	Retained her room in house. Bakery work sometimes.	No; will not inherit as brother has house.
8	Shaqila	2 yrs ago, fighting	None: Lived with in-laws	Evicted. Has no home, no work.	No; when father died she got share but was forced to pass her house and garden share to brothers.
9	Hajera	Taliban; torture	None: Lived in father's house with husband	Stayed in the in-laws' house. Accepted. Does all the housework.	Yes; father died and she and brothers inherited house; not subdivided.
10	Gul Bibi	Taliban, killed by mine when taking water to Taliban and mine exploded under donkey	Yes: Husband's own house. Husband was working on land of other people in peri-urban village	Still living in own house. Inherited it from husband. At first husband's family threatened to evict her ("they came ten times to try to evict me") but then the brothers killed in fighting and wives stopped forcing her to leave. Leader in village supported widow (and other widows).	No; father alive but brothers will inherit.

11	Gulanda	12 years ago, Mujahidin fighting	None: Because was Mujahidin, moving house to house, taken in and fed	Brother-in-law gave small room	No; father poor, no land, house will go to brother/s.
12	Sister of (11)	2 years ago, fighting	Yes: House of husband	Brother-in-law still trying to get house. Elders supporting her.	As above
13	Abaida	After Taraki time, Mujahidin	None: Living in Kabul with husband's parents	Evicted immediately and father-in-law has since never seen his grandson or expressed interest to see him. Returned to live with brother; feels she is a dependent of brother, no rights in the house	No; brothers inherited.
14	Fawzia	Killed for Government military in Gardez 11-12 yrs ago	None: Lived in rented accommodation in Maimana	Evicted because of rent; father took her in, then rented house again, working with embroidery to pay rent and food. In-laws provided no support for her children, now grown up.	No; father poor, expects nothing
15	Habiba	Aircraft crash, shot down during Najibullah's time 17 yrs ago	None: Living in father-in-law's house	Remained in house but when the father died, brothers-in-law expelled her. Now living in rented accommodation with daughters; all do embroidery to survive	No; one room house only, will go to his son.
16	Haja	No data	None: Husband's house, rented	Became ill because he was executed publicly, was leader of people. Could not find work, now evicted because can't pay rent. Living with relatives for the moment but will have to move soon.	No; brother will inherit father's house and does not want sister to live with him/his wife.
17	Laila	1990s; no data	None: Both living in the house of her brother	Brother's house, but now burnt down in the war. Living against the wall that stands, no money to rebuild.	No; deceased, and house destroyed.
18	Halima	6 yrs ago, illness	None: living in father-in-law's house	Still there "We have no problem, only poverty" No fear of being evicted.	No; brother inherited.
19	Gulnar	2 yrs ago; war	Yes: Husband's house with co-wives	Evicted by co-wife (first wife). Court supported first wife as Gulnar's son was allowed to remain in the house as disabled. Gulnar moved to sister's house.	No; house of father destroyed.
20	Sabira	13 yrs ago; fighting	None: House of maternal uncle.	Not evicted but went to mother's house, now working in a house and gets accommodation (domestic).	Yes; father died and her mother inherited the house.

21	Shaperi	14 yrs ago because of mines in village.	Yes: In husband's house in village	Remains in husband's house as he had bought it and has no parents or brothers to try and take it.	No; brother inherited.
22	Gulbar	5 yrs ago; no data	Yes: With husband and his brothers	Evicted by brothers-in-law. Living in house of aunt.	No; brothers inherited.
23	Sulzar	No data	None: In father-in-law's house	Evicted. Lives in rented room	No; house destroyed in fighting.
24	Siayma	2 yrs ago; fighting	Yes: Husband's house	Evicted by daughter of first wife	No; father alive but house will go to brothers.
25	Sabera	6 yrs ago; killed by another	Yes: Husband's house.	Evicted, moved back to home. Living with brothers and their families. Does all housework.	Yes; got share of land when father died. Not subdivided.
26	Ana	No data	None: Rented house	Stayed in house, earns money	Yes; got share of land when father died; sold to sister for cash.
27	Nigaa	War	Yes: Husband's house. Owned it.	Stayed in house, no problems with in-laws because far away.	No/Yes; mother inherited husband's house, sold it and came to live with Nigor, so nothing to inherit but would have if mother had kept house.

Abbreviations and Acronyms

AIMS	Afghanistan Information Management Service
DDR	Disarmament, demobilisation and reintegration
Ha	Hectare
IDP	Internally displaced person, as compared to a refugee who is a displaced person who left the country
InterSoS	International SoS, a French-based NGO
NGO	Non-governmental organisation
PDPA	Peoples' Democratic Party of Afghanistan
UNAMA	United Nations Assistance Mission in Afghanistan
UNHCR	United Nations High Commissioner for Refugees
WFP/VAM	Vulnerability Analysis and Mapping of the World Food Programme

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