



**Australian Government**  
**Refugee Review Tribunal**

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# Country Advice

## Afghanistan

Afghanistan – AFG36160 – Haji Abdul –  
Nasr Party – Hazaras – Shia Muslims –  
Land disputes  
16 February 2010

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**1 Is there any information on Haji Abdul or Haj Abdul, and who he is and what his background is? Is he a powerful warlord in Afghanistan?**

A search of the sources consulted did not locate specific information on a powerful warlord in Afghanistan named Haji Abdul or Haj Abdul. Reference was found to a warlord in Jalalabad named Haj Abdul Qadir.<sup>1</sup> However, sources referred to in an RRT research response dated 16 September 2005 indicate that Haji Abdul Qadir, who had become the Minister of Public Works, was assassinated in 2002.<sup>2</sup>

A UNHCR district profile dated 24 February 2003 refers to a Commander Abdul Hakim Nassiri from the *Nasr* faction, affiliated to Hezb-e-Wahdat (Khalili), being in the Malistan district of Ghazni province at that time.<sup>3</sup> Ghazni province adjoins Wardak province.<sup>4</sup>

**2 [Deleted.]**

**3 Please provide general information about what the Nasr Party is, what they stand for, and who they are affiliated with. Do they have anything to do with the Taliban?**

The following RRT research responses provide background information on the Sazman-e Nasr in Afghanistan:

RRT Country Research 2003, *Research Response AFG15791*, 3 March.<sup>5</sup>

RRT Country Research 2003, *Research Response AFG23184*, 22 December.<sup>6</sup>

RRT Country Research 2004, *Research Response AFG17045*, 25 October.<sup>7</sup>

RRT Country Research 2005, *Research Response AFG17439*, 5 August.<sup>8</sup>

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<sup>1</sup> Suyono, S.J. & Qudsy, Z. 2001, 'After the Taliban, Old Dangers Resurface – The Rise of Warlords, *Tempo*, 2 December, Worldpress.org website <http://www.worldpress.org/Asia/392.cfm> – Accessed 1 September 2005 – Attachment 1.

<sup>2</sup> RRT Country Research 2005, *Research Response AFG17530*, 16 September, (Question 1) – Attachment 2.

<sup>3</sup> UNHCR 2003, *UNHCR Field Office Ghazni District Profile, Province: Ghazni, District: Malistan*, 24 February – Attachment 3.

<sup>4</sup> Afghanistan Information Management Service (AIMS) (undated), 'Afghanistan District Maps' – Attachment 4.

<sup>5</sup> RRT Country Research 2003, *Research Response AFG15791*, 3 March, (Question 6) – Attachment 5.

<sup>6</sup> RRT Country Research 2003, *Research Response AFG23184*, 22 December, (Questions 7, 8 & 9) – Attachment 6.

<sup>7</sup> RRT Country Research 2004, *Research Response AFG17045*, 25 October – Attachment 7.

<sup>8</sup> RRT Country Research 2005, *Research Response AFG17439*, 5 August, (Question 3) – Attachment 8.

RRT Country Research 2006, *Research Response AFG30918*, 8 December.<sup>9</sup>

A paper dated 16 June 2003 by Dr Sayed Askar Mousavi indicates that Sazman-e Nasr was “formed in and supported by Iran,” and was one “of the 6 main Hazara and Shi’a groups of the time” that formed the original Wahdat Party in 1989 in Bamiyan:

The original WP was formed in 1989 in Bamiyan, with the coming together of the 6 main Hazara and Shi’a groups of the time. These were: Sazman-e Nasr, Sepah-e Pasdaran, Nazhat-e Islami, Jabha-ye Mottahid-e Ingelab-e Islami, Harakat-e Islami and Sazman-e Niroo-ye Islami (Mousavi, 1998: 185). From the beginning it was clear that Sazman-e Nasr was the dominant force, rivalled by Sepah-e Pasdaran. The relationship between Mohammad Akbari, leader of Sepah-e Pasdaran, and Abdul Ali Mazari, leader of Sazman-e Nasr, was very tense following the inter-fighting of the 1980s. Mazari was elected leader of the WP, as Akbari did not enjoy much popularity outside his party.

The personal differences between the two became obvious in 1992, when the Mujahideen took over Kabul, and peaked in 1994 during the struggle for the capital. Fierce infighting began between followers of the two factions, resulting in a split between WP forces’ presence in Kabul. While Mazari’s followers remained in West Kabul, a Hazara stronghold, Akbari’s followers took refuge in the east of the city. The former group came to be known as ‘the Mazari Faction’ and the latter ‘the Akbari Faction’. This was not so much a factional split, as the inevitable separation of the Nasr and Sepah parties from an uncomfortable alliance. Both parties were formed in and supported by Iran, and continued to receive financial support from Iran until the fall of the Taliban.

Currently, the WPK [Wahdat Party-Khalili Faction], which is in effect the former Nasr party under the leadership of Khalili, is the most powerful and popular political organisation amongst the Hazaras and in Hazarajat. The WPA [Wahdat Party-Akbari Faction], still under the leadership of Akbari, is the other group with presence in the Hazarajat. Both parties, however, are suffering internal struggles. The WPK has three separate claimants to leadership: Khalili himself, Qurban Ali Irfani, and Mohammad Mohaqiq. Khalili, who was elected leader for one year in 1995 following the death of Mazari, has continued in that capacity for seven years now. Irfani, who is from Yekaulang, is currently Khalili’s deputy in the party. Mohaqiq, who is in charge of northern Afghanistan as representative of the WPK, is effectively an independent local leader with a strong political and military power base.<sup>10</sup>

A more recent DFAT advice dated 3 February 2009, which provides information from two sources, refers to “the Nasr faction of Wahdat party... maintaining its influential government positions at the district level” in the district of Malistan in Ghazni province. “They have also control over armed individuals, who are ready to counter-attack or prevent possible attacks by the AGEs [anti-government elements].” There were “political factions of Naser Hizbe Wahadat” in Malistan, with Hizbe Wahdat being “pro Afghanistan Government”. The DFAT advice also provides a list of persons “originally from Jaghori district of Ghazni and politically affiliated to Nasr branch of Wahdat party”, who “are some of the well known and main local commanders and government officials in Malistan district”. The advice also refers to “Mr. Urfani, former local commander ‘Nasr’, working as the head of the human rights section of the Police department” in Jaghori district, and to “District Commanders Erfani and Wassiq” having “control of the Hezbi Wahdat faction” in Jaghori.<sup>11</sup>

A report dated June 2009 commissioned by the UNHCR Emergency Preparedness and Response Section indicates that “Karim Khalili, a Hazara political leader with ailing health

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<sup>9</sup> RRT Country Research 2006, *Research Response AFG30918*, 8 December, (Question 5) – Attachment 9.

<sup>10</sup> Mousavi, S.A. 2003, *The Hazaras in Jaghori and Kabul in 2003*, 16 June – Attachment 10.

<sup>11</sup> DIAC Country Information Service 2009, *Country Information Report No. 09/14 – CIS Request No. AFG 9509; Situation for Hazaras in Ghazni, Uruzgan and Dai Kundi Provinces*, (sourced from DFAT advice of 3 February 2009), 5 February – Attachment 11.

and a declining political base,” was one of Afghanistan’s vice-presidents. The report also indicates that:

Hizb-i Wahdat, which once enjoyed almost monopolistic control over the political life of Afghanistan’s Hazaras, is now split into three main factions (Karim Khalili’s, former presidential candidate Usdad Mohammed Mohaqeq’s and Sayed Mohammad Akbari’s) and has lost almost every military capability. Most of the Hazara MPs do no longer claim allegiance to any of these three factions.<sup>12</sup>

#### **4 Can you provide information on whether Shia Muslims of Hazara identity are likely to experience ill-treatment more than any other ethnic group in Afghanistan?**

The following RRT research responses provide information on the situation of the Shia Muslim Hazaras in Afghanistan:

RRT Country Research 2005, *Research Response AFG17439*, 5 August.<sup>13</sup>

RRT Country Research 2005, *Research Response AFG17457*, 15 August.<sup>14</sup>

RRT Country Research 2006, *Research Response AFG30446*, 16 August.<sup>15</sup>

RRT Country Research 2006, *Research Response AFG30918*, 8 December.<sup>16</sup>

RRT Research & Information 2008, *Research Response AFG32907*, 18 February.<sup>17</sup>

The most recent US Department of State report on religious freedom in Afghanistan dated October 2009 indicates that “[h]istorically, the minority Shi’a community faced discrimination from the majority Sunni population. This discrimination continued.” The report also indicates that “[m]ost Shi’a were members of the Hazara ethnic group, which was traditionally segregated from the rest of society for a combination of political, ethnic, and religious reasons, some of which resulted in conflicts... Although there were reported incidents of unofficial discrimination, and treatment varied by locality, Shi’a generally were free to participate fully in public life.” According to the report:

The government took limited steps to increase religious freedom, but serious problems remain. Still recovering from more than 30 years of violence and suffering from an ongoing insurgency, the country continued to move toward greater stability and democracy. Residual effects of years of jihad against the USSR, civil strife, Taliban rule, popular suspicion regarding outside influence and the motivations of foreigners, and still weak democratic institutions remain obstacles. Intolerance was manifested in harassment and occasional violence against religious minorities and Muslims who were perceived as not respecting Islamic strictures

...Relations between the different branches of Islam continued to be difficult. Historically, the minority Shi’a faced discrimination from the Sunni population. Since Shi’a representation has increased in government, overt discrimination by Sunnis against the Shi’a community

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<sup>12</sup> Giustozzi, A. 2009, ‘Afghanistan: Getting worse before getting better?’, UNHCR Refworld website, June, pp. 4-5 <http://www.unhcr.org/refworld/docid/4a9797572.html> - Accessed 1 September 2009 – Attachment 12.

<sup>13</sup> RRT Country Research 2005, *Research Response AFG17439*, 5 August, (Questions 1- 3) – Attachment 8.

<sup>14</sup> RRT Country Research 2005, *Research Response AFG17457*, 15 August, (Question 2) – Attachment 13.

<sup>15</sup> RRT Country Research 2006, *Research Response AFG30446*, 16 August, (Question 1) – Attachment 14.

<sup>16</sup> RRT Country Research 2006, *Research Response AFG30918*, 8 December, (Questions 2 & 4) – Attachment 9.

<sup>17</sup> RRT Research & Information 2008, *Research Response AFG32907*, 18 February, (Question 4) – Attachment 15.

decreased. Sunni resentment over growing Shi'a influence was expressed widely often linked to claims of Iranian efforts to influence local culture and politics.

Most Shi'a were members of the Hazara ethnic group, which was traditionally segregated from the rest of society for a combination of political, ethnic, and religious reasons, some of which resulted in conflicts. The Hazaras accused the government, led by Pashtuns, of providing preferential treatment to Pashtuns and of ignoring minorities, especially Hazaras. The government made significant efforts to address historical tensions affecting the Hazara community, including affirmative hiring practices. Although there were reported incidents of unofficial discrimination, and treatment varied by locality, Shi'a generally were free to participate fully in public life.<sup>18</sup>

An article in *The Washington Post* dated 26 July 2009 indicates that:

For generations, Afghanistan's Hazara minority has occupied the humblest niche in the country's complex ethnic mosaic. The political power structure has been dominated by the large southern Pashtun tribes, followed by the slightly less numerous northern Tajiks.

During various periods in history, the Shiite Hazaras have been forced from their lands and slaughtered in bouts of ethnic or religious "cleansing." In more recent times, they have often been relegated to lowly jobs as cart-pullers or domestic servants.

However, the article also indicates that Hazaras stood "poised to play a decisive role in the Aug. 20 presidential and provincial council elections" in Afghanistan, having "had high voter-registration and turnout rates in the last presidential election, in 2004." Afghanistan's President Karzai and his major challengers were "aggressively courting the Hazara vote":

Karzai, whose second vice presidential pick is a Hazara, took pains to appease conservative Hazara leaders in March by approving a controversial Shiite family law, even though it outraged human rights groups because it subjected Hazara women to the absolute control of their fathers and husbands.

Yet the political emancipation of Afghanistan's Hazaras, whose children are flocking to universities and office jobs, has created a generational and political split in a community that long fell in lockstep behind ethnic militia or religious leaders such as [Mohammed] Mohaqeq as a matter of survival.

Many older or less educated Hazaras still express strong loyalty to such leaders and say they intend to follow their political instructions on voting day. But many others, including students and former refugees who have returned after years in Iran, said they value their political independence.

...As a minority group that has long faced economic exploitation and social oppression, Hazaras seem to be taking particular advantage of political freedoms that have opened up since the fall of extremist Sunni Taliban rule in late 2001.

...In West Kabul, the rundown but bustling heart of the capital's Hazara community, every public surface is papered with campaign posters. Yet many cart-pullers, mechanics and other workers said they are fed up with both national and ethnic politics. They said that their community suffers from widespread unemployment and poverty, but that no one in power has done anything to help.<sup>19</sup>

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<sup>18</sup> US Department of State 2009, *International Religious Freedom Report for 2009 – Afghanistan*, October, Introduction & Section III – Attachment 16.

<sup>19</sup> Constable, P. 2009, 'Hazaras May Play Key Role in Afghan Vote; Long-Oppressed Minority Is Wooed Karzai, Others', *The Washington Post*, 26 July – Attachment 17.

Another article in *The Wall Street Journal* dated 31 October 2009 refers to the Hazaras having a crucial role in Afghanistan's presidential runoff on 7 November 2009. "While the Hazaras account for only one-tenth of Afghanistan's population, their voting power is much greater because central Afghanistan's Hazara heartland is almost untouched by the Taliban insurgency that kept voters at home in many other parts of the country. In August, the Hazaras accounted for an estimated one-quarter of ballots cast." The article also indicates that:

Mr. Karzai, a member of Afghanistan's biggest ethnic community, the Pashtuns, has long courted the Hazaras. He appointed a Hazara as one of his two vice presidents and named Hazaras to key government jobs. He also fulfilled a series of Hazara demands, giving official state recognition to Shiite Islamic jurisprudence and carving out a separate Hazara-majority province, Daykundi, from the Pashtun-dominated Uruzgan. Hazara leaders expect Mr. Karzai to create additional Hazara-majority provinces from parts of the provinces of Ghazni and Wardak, which adjoin the Hazara heartland.<sup>20</sup>

An article in *The New York Times* dated 4 January 2010 indicates that there has been a revival by the Hazaras "built largely on education". The article also indicates that "[t]he Hazara resurgence is not so geographically concentrated. The principal Hazara provinces, while relatively safe, remain impoverished". It is stated in the article that:

Since the 2001 invasion, an influx of Hazaras has changed the composition of the capital [Kabul]. More than a million Hazaras now live here, making up more than a quarter of the city's population.

With a new generation of Hazaras attending school in relative security and motivated by their parents' dispossession, their success could alter the country's balance of ethnic power.

...The Hazara resurgence is not so geographically concentrated. The principal Hazara provinces, while relatively safe, remain impoverished and, their leaders complain, are bypassed by the foreign aid sent to Pashtun areas as a carrot to lure people from the insurgency.<sup>21</sup>

An earlier article dated February 2008 also provides information on the treatment of Hazaras in Afghanistan.<sup>22</sup>

In relation to the security situation for Hazaras, information was found on the security situation in Bamyan province in Afghanistan, which is largely populated by Hazaras. A *Deutsche Presse Agentur* article dated 28 November 2008 indicates that "[w]hile Coalition forces and Taliban insurgents battle it out in neighbouring provinces, the absence of hostilities" in Bamyan "stems from Bamyan's almost exclusive population by Hazaras". The Hazaras' "brutal persecution by the Taliban during the radical militia's rule of Afghanistan from 1994-2001 means that today they guard their territory with ruthless efficiency."<sup>23</sup>

A more recent *BBC* article dated 17 August 2009 indicates that:

Peaceful Bamiyan is peopled largely by ethnic Hazaras who have suffered greatly in Afghanistan's quarter-century of war. It sits in the central highlands, bordering more volatile provinces. Violence has already started to spill over.

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<sup>20</sup> Trofimov, Y. 2009, 'Afghan Minority Savors Its Pivotal Role in Runoff', *The Wall Street Journal*, 31 October – Attachment 18.

<sup>21</sup> Opiel Jr., R.A. & Wafa, A.W. 2010, 'Hazara Minority Hustles to Head of the Class in Afghanistan', *The New York Times*, 4 January – Attachment 19.

<sup>22</sup> Zabriskie, P. 2008, 'The outsiders', *National Geographic*, February – Attachment 20.

<sup>23</sup> Allen, N. 2008, 'Kiwis work rare peace in Afghanistan's Bamyan', *Deutsche Presse Agentur*, 28 November – Attachment 21.

...In recent months New Zealand, which heads the Bamiyan command, has started using armoured hummer vehicles after a sharp rise in attacks.

Shortly after our visit, Mullah Borhan, the Taliban's self-appointed shadow governor of Bamiyan was arrested.<sup>24</sup>

A further article dated 30 September 2009, which also refers to the detention of Mullah Burhan, the Taliban's shadow governor for Bamiyan, indicates that Bamiyan's Governor Habiba Sarabi had "warned that the Taliban are pushing into Bamiyan from neighbouring provinces where the insurgency is growing strong." The Taliban had increased their strength in Day Kundi, Ghazni, Wardak and Baghlan provinces, which border Bamiyan.<sup>25</sup>

An article in *Time Magazine* dated 16 September 2009 indicates that "[n]on-Pashtuns like the Tajiks, Hazaras and other minorities are certainly resisting a return of the Taliban; the parts of the country that they dominate, including sections of central and northern Afghanistan, are relatively peaceful."<sup>26</sup>

The DFAT advice dated 3 February 2009 provides information on the situation of Hazaras in Ghazni, Uruzgan and Dai Kundi provinces in Afghanistan. The advice indicates that in relation to Malistan district in Ghazni province, "the absolute majority of its population are of Hazara origins", which "contributes to the peaceful situation in the district. The only problem that has been reported is linked to the insecurity on the highways to this district, as the insurgent elements are trying to connect different districts of Ghazni to each other... The insurgents and various criminal groups continue to target civilians and steal cars and other valuable goods." The advice refers to the area of the main road from Ghazni city through to Jaghori having "a 'shadow' Taliban government", and indicates that "[i]n Ghazni the area insurgents are particularly active against Hazara people, specifically in the districts in which the main road passes through Jaghori and Malistan Districts. In both Jaghori and Malistan there is factional conflict between HIG Hizbe Gulbuddin Hekmatiyar and Hizbe Wahdat factions." The DFAT advice also refers to conflict between nomadic Pashtuns, known as Kuchis, and Hazaras in 2008:

Traditionally, Kuchi Afghans are given the right of use to pastoral land in the areas of Behsud 1, II districts of Maidan/Wardak province, Yakawlang, Waras and Panjaw districts of Bamiyan province, Lal wa Sar Jangal district of Ghor province and Nawor district of Ghazni province. The recent conflict between Kuchis and Hazaras have affected people living in the villages of Behsud 1, II, Waras, Kajaw, and Nawor, that share borders with the neighbouring districts of provinces inhabited by Pashtun Afghans.<sup>27</sup>

## **5 Please provide general information about the incidence of private land disputes between neighbours in Afghanistan and what approach the authorities take in maintaining law and order in land disputes?**

According to an International Crisis Group report dated 31 August 2009:

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<sup>24</sup> Doucet, L. 2009, 'Putting Bamiyan back on the map', *BBC*, 17 August – Attachment 22.

<sup>25</sup> Roggio, B. 2009, 'Afghan police detain Taliban shadow governor of Bamiyan', *The Long War Journal*, 30 September – Attachment 23.

<sup>26</sup> McGirk, T. 2009, 'Behind the Taliban's Resurgence in Afghanistan', *Time Magazine*, 16 September – Attachment 24.

<sup>27</sup> DIAC Country Information Service 2009, *Country Information Report No. 09/14 – CIS Request No. AFG 9509; Situation for Hazaras in Ghazni, Uruzgan and Dai Kundi Provinces*, (sourced from DFAT advice of 3 February 2009), 5 February – Attachment 11.

After years of turmoil, it is extremely difficult to determine who owns what in Afghanistan. Successive governments and warlords have used land to reward their followers; religious and customary law have their own forms of land documentation; title deeds have gone missing or have been forged; and often the same land has been sold repeatedly. Multiple claims to land should therefore come as no surprise as people return. Disputes are in general dealt with at the village level but returning families often have limited access to justice. In 2003, the government established a special land court to examine the property rights of returnees. This body has only had limited success partly because, in the absence of the rule of law, many of its judgments could not be enforced. District primary courts now hear land dispute cases, but local powerbrokers often influence the proceedings.

In 2003, the Norwegian Refugee Council started offering legal advice and representation in Pakistan and Afghanistan to returning refugees and IDPs who claimed their property had been confiscated during their absence. The NRC has, however, relied almost exclusively on communities' traditional and informal systems of justice such as *jirgas* (councils of elders) and *shuras* (councils). Although such traditional and informal community-based mechanisms may resolve some disputes, they do not necessarily uphold individual or even human rights and are also patently discriminatory against women. At best, they should be regarded as only as a transitional system which should be replaced by a formal, non-politicised and impartial justice system.

The government-mandated National Solidarity Program (NSP) maintains that the Community Development Councils (CDCs) it has established in rural communities have proved efficient in settling land disputes. However, their scope is limited to local level resolution of individual claims, while many of the conflicts over land originate from past grievances among competing ethnic groups and tribes.<sup>28</sup>

A UNHCR document dated July 2009 indicates that:

Land disputes, particularly when ethnic differences are involved or claims are made against persons in positions of authority, may be resolved violently or with some measure of threatened force. A recent case in point involves 77 Pashtun families returning to their villages of origin in Takhar province, where a thousand people from the local Tajik and Uzbek communities started demonstrating violently against their return the day after their arrival. In January 2008, a local community in Sar-e Pol province complained that several families had become internally displaced because of land confiscations and armed violence by local commanders, and that local authorities were unable to address the problem. In many of these cases, land occupiers may be local commanders with relationships to political parties in Parliament. In case restitution is being pursued, the rightful owners may be at risk if they do not have political, tribal or family protection, and the authorities are unable or unwilling to protect their rights – including the enforcement of a court decision. The rightful owners risk ill-treatment, arrest and detention by local militia leaders or security officials.<sup>29</sup>

An issues paper dated April 2009 on land conflict in Afghanistan indicates “that the majority of land disputes in Afghanistan fall into one or more of five principle categories.” These are:

1. Conflicts involving the illegal occupation of land by powerful people
2. Conflicts involving inheritance rights to private property
3. Conflicts involving the return of people to land they previously owned
4. Conflicts over private property between established villagers (not returnees, refugees or internally displaced people)

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<sup>28</sup> International Crisis Group 2009, *Afghanistan: What Now for Refugees?*, Asia Report No. 175, 31 August, p. 8 – Attachment 25.

<sup>29</sup> UNHCR 2009, *UNHCR eligibility guidelines for assessing the international protection needs of asylum-seekers from Afghanistan*, July, p. 19 – Attachment 26.

5. Conflicts involving common property resources managed through common property regimes, for instance certain pastures, forests and water for irrigation.

The issues paper also notes that:

The Afghan government's lack of capacity to manage land tenure, a situation most visibly demonstrated by the prevalence and intensity of conflict over land, hinders its ability to effectively plan for rural development. A dearth of land titles—necessary for many land transactions and dispute resolution mechanisms administered by the government—leads most rural landholders to utilise community-based resolution mechanisms. These community-based mechanisms, known as CBMs, are in many instances unable or not permitted to provide parties with documentation acceptable to the government. This perpetuates a reliance on CBMs at the expense of an expansion of government-administered mechanisms.

... In Afghanistan, several decades of conflict have resulted in a formal legal system that is severely challenged by a pervasive lack of resources, qualified staff and, in many cases, legitimacy in the eyes of the people. CBMs pre-date the formal system and are used in an estimated 90 percent of property cases today. As Afghan courts continue to improve in their capacity and legitimacy as a result of the attention of the Afghan government and the international community, it is anticipated that the caseload of the formal system will continue to increase over time. Today, property claimants' options range from the most casual of CBMs all the way to judicial review at the Supreme Court level. Choices of dispute resolution methodology are highly dependent on the circumstances of each case, such as the identity of the parties and their ability and willingness to access the GCS [general court system] (financially, physically and socially).

The informal system is generally perceived to be more efficient, less expensive and at less risk of corruption than the GCS. In some communities, decisions made through a CBM, such as a *jirga* or *shura*, are considered to be more legitimate as they are based on community mores. At times, they may therefore be more enforceable than GCS decisions. CBM processes are also well suited to illiterate claimants or those with no legal documentation, which is exceedingly common in rural areas. At the same time, the GCS continues to improve in some areas, making it an increasingly attractive option for disputants, particularly those returning from extended periods of displacement or with strong documentation and financial resources. The GCS is increasingly popular in the periurban and urban areas where the writ of the Afghan government, including the GCS, is most enforceable. In Afghanistan, the GCS and entities of CBMs may coordinate efforts, with *jirgas* and *shuras* resolving certain cases and registering their decisions in the official court records to give them legal status, while in other instances referring cases to the GCS. When an attempt is made to resolve a case through a CBM such as a *shura* or *jirga* and the case then goes to the GCS, findings from the CBM are often used as anecdotal evidence. There are many cases in which either CBM or GCS attempts at resolution fail and the alternative system is then employed to try and bring resolution. In particularly complicated or entrenched cases ad hoc political avenues may be employed, although this is normally reserved for cases where both CBMs and the GCS have failed.<sup>30</sup>

An *Integrated Regional Information Network (IRIN)* article dated 13 May 2009 refers to the UN Assistance Mission in Afghanistan (UNAMA) "supporting an initiative to try to resolve a long-running dispute over access to grazing land between Pashtun nomadic herders, known as Kuchis, and ethnic Hazaras living in central Afghanistan":

UNAMA spokesman Dan MacNorton said: "UNAMA is supporting the presidential commission and the governor of Wardak Province in their initiative to find a solution and we

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<sup>30</sup> Deschamps, C. & Roe, A. 2009, 'Land Conflict in Afghanistan: Building Capacity to Address Vulnerability', Afghanistan Research and Evaluation Unit website, April, pp. xi-xii & 1-2  
[http://www.areu.org.af/index.php?option=com\\_content&task=view&id=42&Itemid=76](http://www.areu.org.af/index.php?option=com_content&task=view&id=42&Itemid=76) – Accessed 12 February 2010 – Attachment 27.



are engaged with both communities, and have held several meetings with a wide range of interlocutors in Kabul and in Wardak.”

...The onset of spring traditionally marks the influx of Kuchi (Pashtun nomad) herders into central and northern parts of the country. But over the past three years ethnic Hazaras from the central highlands have opposed the practice. Hazaras are mainly Shia and some estimates say they comprise about 9 percent of the population.

Some Kuchis say Hazaras have seized their land in Maidan Wardak and Bamiyan provinces in central Afghanistan. Both groups say clashes could break out unless the government steps in to resolve the dispute.

Several people reportedly died and some families were displaced in clashes between Hazaras and Kuchis in May-June 2007, before a temporary ceasefire was brokered by UN officials.

...In 2007 the president set up a commission to find a viable solution to the problem of access to grazing lands and land ownership disputes to prevent future clashes.

Government assurances that a legal solution would be found helped prevent Kuchis from entering Hazara areas in 2008, but there has been no official ruling to permanently resolve the disputes.<sup>31</sup>

A subsequent report on National Afghanistan TV on 13 November 2009 refers to a gathering being held in Maydan Wardag province, chaired by a representative of a commission for addressing the dispute between Hazaras and nomads. The commission representative “said, while hinting at wishes and demands of President Karzai and the Second Vice-President Mohammad Karim Khalili, that the dispute between the Hazara ethnic group and nomads in 10 various districts of Maydan Wardag Province should be addressed on a legal basis in order to uphold justice.”<sup>32</sup>

The US Department of State’s 2008 report on human rights practices in Afghanistan, which notes that “[l]and disputes remained the most common civil dispute and were most often resolved by informal local courts,” indicates that in June 2008, “a violent clash between Hazaras and Kuchis in the Behsud District of Wardak province continued for several weeks... According to the AIHRC [Afghan Independent Human Rights Commission], the ANA response to the conflict was ineffective and failed to prevent an escalation of violence. The AIHRC reported ANP [Afghan National Police] units were successful in preventing some violence and allowing some villagers to return to agricultural activities.”<sup>33</sup>

## List of Sources Consulted

Internet Sources:

### Government Information & Reports

Immigration & Refugee Board of Canada <http://www.irb-cisr.gc.ca/>

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

### United Nations (UN)

UN High Commissioner for Refugees (UNHCR) Refworld

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<sup>31</sup> ‘UNAMA supporting efforts to end dispute over grazing land’ 2009, *Integrated Regional Information Network (IRIN)*, 13 May – Attachment 28.

<sup>32</sup> ‘TV reports says gathering held on dispute between Hazaras, nomads in Afghan east’ 2009, *BBC Monitoring Service*, source: National Afghanistan TV, Kabul, 13 November – Attachment 29.

<sup>33</sup> US Department of State 2009, *Country Reports on Human Rights Practices for 2008 – Afghanistan*, February, Sections 1(e) & 5 – Attachment 30.

<http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain>

### **Non-Government Organisations**

Human Rights Watch <http://www.hrw.org/>

Amnesty International <http://www.amnesty.org>

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BACIS (DIAC Country Information database)

REFINFO (IRBDC (Canada) Country Information database)

ISYS (RRT Research & Information database, including Amnesty International, Human Rights Watch, US Department of State Reports)

MRT-RRT Library Catalogue

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