

Land conflicts and humanitarian action: a conflict sensitivity perspective

OVERVIEW

A wide range of challenges confront Afghan families. Among these challenges are land-based disputes, which constitute about 70% of all disputes in Afghanistan (Hasht e Subh 12/07/2019). These land disputes are not confined to a particular location but occur in various settings, including urban, peri-urban, and rural, and involve private, public, and state-owned properties. Disputes can arise between members of the same families or communities over private and communal land, between nomadic and sedentary people, between returnees and those who have remained, or between citizens and the Government (Hasht e Subh 12/07/2019; USIP 06/2015; AREU 04/2009).

Note on terminology: *kuchi* is an Afghan Persian word meaning “those who go on migrations” and is the generic term used for nomads in Afghanistan. It is used to identify and serves as a term for self-identification for three different categories of people: “(1) migratory, livestock dependent, (2) recently settled, formerly migratory, livestock dependent, and (3) settled people, that still hold on to the cultural identity and refer to themselves as *kuchi*” (Nomadic Peoples 06/2007). Over the last decades, the use of the term *kuchi* has become more restrictive, being used to denote migratory Pashtun nomads and recently settled nomads who self-identify as *Kuchis* (Tapper 05/02/2008; AAN 28/11/2013). Under the Republic, several seats in parliament were reserved for *Kuchis*. Estimates on the number of actively migrating nomads are around 1.5 million or 4.4% of the country’s total population (FAO 24/11/2020; Nomadic Peoples 06/2007). This report focuses on the first two categories, with an emphasis on the first.

Among the various types of resource disputes, armed and unarmed contestations over pastureland and watering points between Pashtuns of nomadic background (*Kuchis*) and sedentary people of different ethnic belongings are of special significance in Afghanistan at present (AAN 14/03/2023).

Land disputes are likely to grow in number and intensity given increasing competition over resources. Climate change-related extreme weather events (such as heatwaves, droughts and floods) and population growth typically drive this increase in competition. In 2023, damaging plant pests are also expected to compound the issue by affecting available rangeland

and water points (FAO 10/05/2023 ; MPI 29/06/2022). At the same time, some land disputes in Afghanistan that can be traced back decades re-erupt with every regime change; incoming authorities usually seek to consolidate their authority by redistributing access rights to their supporters. Private individuals can also seek to resolve lingering land disputes under new authorities. Since the political transition of August 2021, some previously ‘dormant’ resource conflicts have been reopened as conflict parties challenge the status quo and hope to get a better outcome (NYT 03/12/2021; Kramer 2014; AAN 22/12/2022).

These conflict dynamics have the potential to amplify individual and communal vulnerability to the country’s existing economic and humanitarian crises (NUPI/SIPRI 02/2023). Approximately two-thirds of the Afghan population faces challenges in meeting their basic needs (WB 22/11/2022). Resource conflicts can have further negative effects on livelihoods and food security, and expose parts of the population to internal displacement, the destruction of property and loss of life. Land disputes also constitute an obstacle for humanitarian responders by catalysing instability and limiting access to aid (ICRC 07/03/2008). From a conflict sensitivity perspective, it is crucial to understand these conflict dynamics and how they interact with humanitarian programming to ensure that the transfer of resources as part of humanitarian responses does unintentionally exclude certain population groups or exacerbate existing an/ or trigger new disputes and thus does harm (Oxfam 8/3/2021).

TABLE OF CONTENTS

About this report	2
Key findings.....	3
Background on disputes between <i>Kuchis</i> and sedentary people	3
Competition over resources linked to climate change and demographic pressure	4
Resource-based disputes set in an altered political balance of power.....	5
Disputes between <i>Kuchis</i> and sedentary people since August 2021	7
Dispute location and dispute issues	7
ITA approach to addressing resource-based disputes.....	10
Implications for humanitarian responders from a conflict sensitivity perspective	11

ABOUT THIS REPORT

This report aims to raise awareness about the significance of disputes over access to pastureland and watering points between Pashtun nomads (Kuchis) and settled people from different ethnic groups. It seeks to strengthen contextual understanding as part of a conflict-sensitive approach to humanitarian action. A recent study based on qualitative key information interviews with local and international organisations in Afghanistan show that the understanding of conflict sensitivity varies greatly among responders, some conflating it with questions of access and cultural concerns about the activities of armed groups (Oxfam 08/03/2021). While literature and reports on disputes between Kuchis and the Hazara ethnic group are available, the accounts do not systematically discuss their impacts from a conflict sensitivity perspective and its implications for humanitarian needs and response.

Methodology

This qualitative research combines secondary data review and five key information interviews (KIIs). The research team conducted these interviews with two humanitarian organisations, one government official, and two Kuchi elders. The sampling approach was purposive aimed at filling information gaps, triangulating information, or gaining different perspectives. The inclusion of the Kuchi elders was deliberate since their voices are often absent from news reporting.

Disputes over pastureland and water points can be distinguished according to different dynamics or issues at stake (AREU/EU 21/01/2018):

- the trespassing of boundaries, including disputes over the boundaries between public pastures, private pastures of Kuchis, and the pastures owned by members of settlements, often including damage to crops of farmers
- denied access to pastures and dispute between different Kuchi communities
- land-grabbing and illegal land occupation, including Kuchis building on pastures and farmers taking over pastures for cultivation or building.

This report focuses on the first type of dispute, which involves Kuchis and farmers and the trespassing of boundaries between public pastures and pastures of villages. Disputes between different nomad communities over access to pastures, land-grabbing, and the illegal occupation of land by nomads and farmers for agricultural cultivation or buildings, as well as the situation of tenure insecurity related to the Kuchis adopting sedentary lifestyles, are not covered here but could be included in future studies.

Land disputes were identified through a systematic search of local and international media news sources, including variant search strings that involve keywords such as 'Kuchis', 'nomads', 'conflict', and 'disputes'. This identified disputes in different parts of Afghanistan, including Bamyán, Daykundi, Faryab, Ghazni, Ghor, Jowjzan, Panjsher, Parwan, Sar-e-Pul, Takhar, and Maidan Wardak. The wide geographic reach demonstrates that disputes between Kuchis and settled communities are not limited to those between Kuchi and the Hazara ethnic group, which to date have received more attention than those involving other ethnic groups.

Limitations

The main limitation in analysing disputes over pasturelands/water points is the lack of up-to-date and in-depth secondary data. Where accounts of disputes are publicly available (mostly in the news), they are highly descriptive and incomplete, usually lacking an in-depth reporting on conflict dynamics. Many reports about disputes over pastureland have better access to sedentary communities, with the voice of Kuchis weaker in many news reports. A particular gap within these accounts is how the Interim Taliban Authority (ITA) manages these land disputes between nomads and settled populations. While literature and reports on disputes between Kuchis and the Hazara ethnic group are available, the accounts do not systematically discuss the short- and long-term impacts and implications for humanitarian needs and response.

A second limitation is that only those disputes covered in media are included in this report, and thus likely missed some disputes that have not received media attention. Furthermore, KIIs were only used to support a secondary data review and ITA proved difficult to secure, with only one interview.

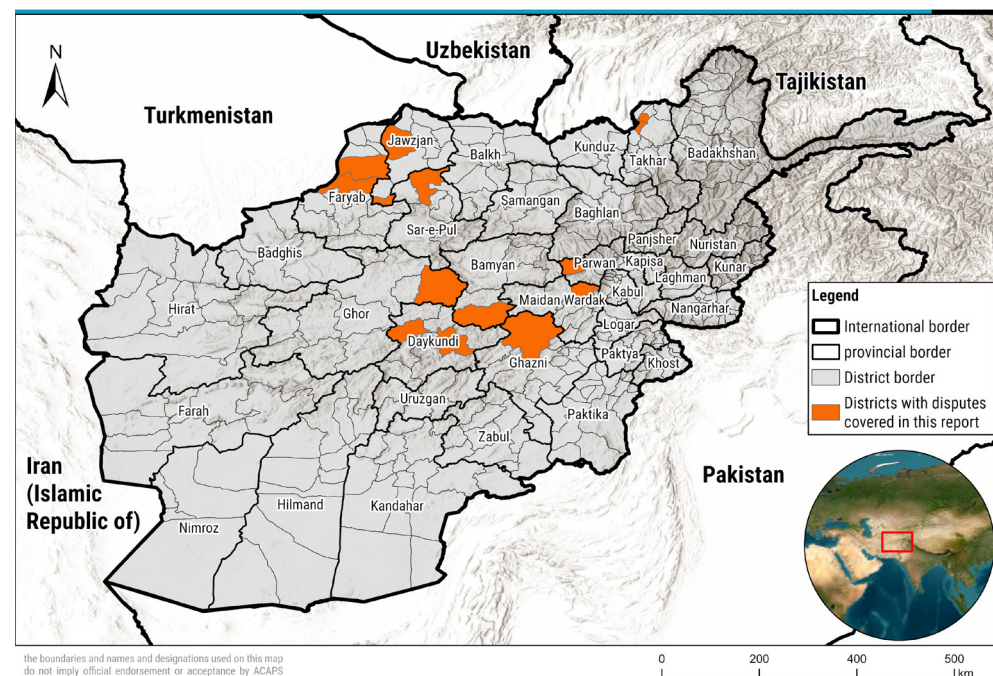
KEY FINDINGS

- Since the political transition of August 2021, some Kuchi communities have sought to take advantage of the change in government to extend their access to pastureland and water. Conflicts over pastureland and water points re-erupted shortly after the Taliban takeover of Kabul, with incidents reported as early as 19 September 2021.
- Disputes over access to land are linked to the seasonal migration patterns of Kuchis and have since re-emerged in different areas of the country every spring/early summer (April-July).
- Competition over scarce resources (e.g. fertile land, watering points) are the main driver of disputes over pastureland and water points. This is amplified by extreme weather events, particularly drought, and population pressure. The situation is different in some cases in the north, which involves resettlement policies and where locals see the authorities as a driver of conflict.
- Access to water points is a source of disputes between Kuchis and farmers. These disputes erupt because of a lack of natural watering points (e.g. springs, rivers) on the Kuchis' passageways to pastureland and on the pastures themselves. In some cases, Kuchis have forced their access to man-made water supply networks, such as where farmers operate water pumps with solar power.
- Disputes over pastureland and water points between Kuchis and farmers affect different parts of the country and different population groups. They are not limited to the central highlands, even though these disputes may receive disproportionate (media) attention. Thus, even though land conflicts have been politicised for ethnic mobilisations in the past, they are ultimately about resources.
- The ITA uses district and provincial courts as well as special commissions to address these disputes; special commission sometimes function as fact-finding missions whose reports may be used by courts. The choice of approach appears to depend on the scale of the dispute and the legal documents available.
- The perception that Kuchis are overlooked in humanitarian programmes persists despite their mention in the Humanitarian Response Planning 2023.
- Localisation, better timing of needs assessments, and stronger advocacy by Kuchis, could improve the information available to humanitarian decision makers and a more systematic inclusion of Kuchis in humanitarian programming.

BACKGROUND ON DISPUTES BETWEEN KUCHIS AND SEDENTARY PEOPLE

Disputes over pastureland and water points re-erupted shortly after the Taliban takeover of Kabul, with incidents reported as early as 19 September 2021. These disputes are highly seasonal and follow Kuchi migratory patterns, and thus have since re-emerged in different areas of the country every spring/early summer. As noted in the methodology disputes identified in ACAPS research were spread across different parts of Afghanistan including in the centre (Panjsher, Parwan, Maidan Wardak), northeast (Takhar), northwest (Faryab, Jawzjan, Sar-e-Pul), southeast (Ghazni, Khost), southwest (Daykundi), and west (Bamyan). Furthermore, disputes between farmers and Kuchis affected farmers from a variety of ethnic groups, including Hazara, Pashtuns, Tajiks, Turkmen, and Uzbeks. Thus, even though land disputes have been politicised for ethnic mobilisations in the past, they are ultimately about resources and should not be analysed only through the lens of ethnicity.

Districts with disputes covered in this report



The boundaries and names and designations used on this map do not imply official endorsement or acceptance by ACAPS.

Source: ACAPS

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Two main sets of factors explain the re-emergence of these conflicts and why they will remain important in the next few years.

First, competition over scarce resources (such as fertile land and water points) is increasing because of extreme weather events, particularly drought and floods, amplified by climate change and population pressure, which decrease the availability of pastureland and water (NUPI/SIPRI 02/2023; MPI 29/06/2022; TOLONews 06/11/2018). The exception are some disputes in the north of Afghanistan, which involve resettlement policies and where locals see the authorities as a driver of disputes.

Second, since the Taliban returned to power in August 2021, resource disputes have been set in an altered political balance of power. Prior to the collapse of the Republic Government, armed militias with the support of local and national strongmen (and at times also by neighbouring countries) blocked the Kuchis' access to pastures and water points in some areas of the country (AAN 22/12/2022; Esmaty 07/09/2013). Most of these militias have since surrendered to the Taliban or fled prior to or since the political transition, subsequently emboldening some nomadic groups to seek a change in the status quo in accessing resources. From a conflict sensitivity perspective, climate change, demographic trends, and the political history of disputes, among other factors, must be considered when assessing the impact of resource conflict on humanitarian responders and planning. The subsections below first discuss climate change and demographic issues before touching on the legal and political complexity of resource disputes.

Competition over resources linked to climate change and demographic pressure

Afghanistan ranks among the countries with the highest climate risk index score, implying very high levels of exposure to hazards and very limited coping capacities (German Watch 25/01/2021). The country is particularly vulnerable to variations in access to arable land and water. Agriculture and animal husbandry are important to the country's economy, contributing at least 25% of the GDP. Nearly 80% of Afghans' livelihoods come directly or indirectly from agriculture, and 58% of the Afghan population is employed in the industry (FAO 16/10/2022). Competition over access to pastures could further increase because of damaging plant pests (FAO 10/05/2023).

Decades of conflict have resulted in significant environmental degradation, leading to adverse effects on livelihoods and reducing the population's ability to cope with and adapt to challenges. The country has experienced soil erosion, desertification, and other forms of environmental damage resulting from overgrazing, deforestation, and inadequate natural resource management. These issues have further increased the vulnerability of the population to climate-related stressors (NUPI/SIPRI 02/2023; Přívara and Přívarová 11/10/2019).

Funding for environmental policies has decreased since the political transition of August 2021, and it is unclear how the ITA will mitigate the impact of climate change. Before the transition, environmental policies ranked low on the Government's priority list, as expenditures financed through international grants focused on other issues. Given reduced funding, the ITA's room to manoeuvre has become particularly constrained. The international community's shift to humanitarian aid halted funds for 32 environmental protection projects worth USD 805 million (Undark 06/03/2023; Tolonews 10/11/2022). The ITA has also limited technical expertise available in their government, and the National Water Affairs Regulation Authority has been abolished (MPI 29/06/2022). At the same time, according to UNAMA's recent Secretary General Report, the ITA is demonstrating the intention to address vulnerabilities related to climate change, for example through countrywide tree planting campaigns, which continues an Afghan spring tradition and by raising awareness in schools (UNSG 20/6/2023).

Water management is becoming an increasing challenge across Afghanistan given a combination of recurrent droughts, poor water management, and land degradation. The steep population growth puts additional pressure on water resources (EUAA 01/2023). The country lived through three years of drought until April 2023, and the percentage of households facing water shortages increased from 48% in 2021 to 60% in 2022 (BNN 14/5/2023; OCHA 23/01/2023). For the second half of 2023, El Niño-related weather phenomena are expected to produce above-average temperatures and precipitation, which could cause floods in early 2024 (Caparas 08/05/2023). Studies also show that Afghanistan's rivers are carrying less water because of the decline in the total ice mass held within the glacier systems. The loss of glaciers is likely to significantly reduce water run-off over the coming decades, which, together with the increase in evapotranspiration, will likely aggravate water scarcity (WB 2021).

The total and per capita areas of pastureland in Afghanistan are declining because of drought, poor rangeland management (particularly overuse), and population pressure. Afghanistan's total pastureland area is estimated at 45% or 70% of the country's land area, fluctuating depending on annual precipitation (Wily 2013; Gillin 2014). Grazing land is crucial for Kuchis, whose main source of income depends on livestock, as well as for farmers partly involved in animal husbandry. According to estimates, the Afghan population has more than doubled between 2001 and 2023 (Worldometer 16/6/2023), which has added pressure on existing resources, such as land and water, through an expansion of the built environment (expanding settlements or the expansion of agricultural land into pastures), reducing potential pastureland. Altered water flows are an additional concern, likely causing landslides and avalanches (Wily 2013).

The destruction of pastures implies the sharp decline of the economic sector. Livestock and livestock-derived products such as wool, leather, and carpets together constituted around 24–26% of Afghanistan's GDP before 1979, according to a World Bank study (de Weijer 2007). The decline in livestock and derived products has had a significant impact on the Kuchi community's economic stability and way of life and led many to become sedentary (RFE/RL 08/04/2021).

Climate change, combined with population growth, has emerged as a key driver of land- and water-related conflicts in Afghanistan. These factors affect all communities reliant on agriculture, as well as Kuchi pastoralists. Pastures located in the northwest, north, and centre of the country, where many conflicts between Kuchis and sedentary people take place (see below), are particularly sensitive to variations in precipitation produced by heatwaves and drought (NUPI/SIPRI 02/2023). Although there are programmes specific for Kuchis, they often face unintentional exclusion from international assistance and social safety nets owing to their nomadic lifestyle, causing them to live on the margins of Afghan society, both physically and socially. In 2020, approximately 89% of Kuchis lived in poverty, compared to the national average of 51.7%; low nutrition and education indicators, as well as poor health outcomes, compound their susceptibility to climate shocks, worsening their poverty levels (FAO 24/11/2020).

As discussed earlier, although contestations over resources is one of the main drivers of disputes between Kuchis and sedentary people, the political environment is also a contributing factor. Dispute dynamics are rooted in legal ambiguities as different Afghan Governments since the 19th century introduced legislations to regulate pastures. They are also the product of historically evolving political relations between dispute parties and the central government, as well as external entities, and of government decentralisation and settlement policies. Furthermore, context matters and drivers need to be considered within their specific geographic, socio-economic, and historical context. The section below provides a short summary of the main issues.

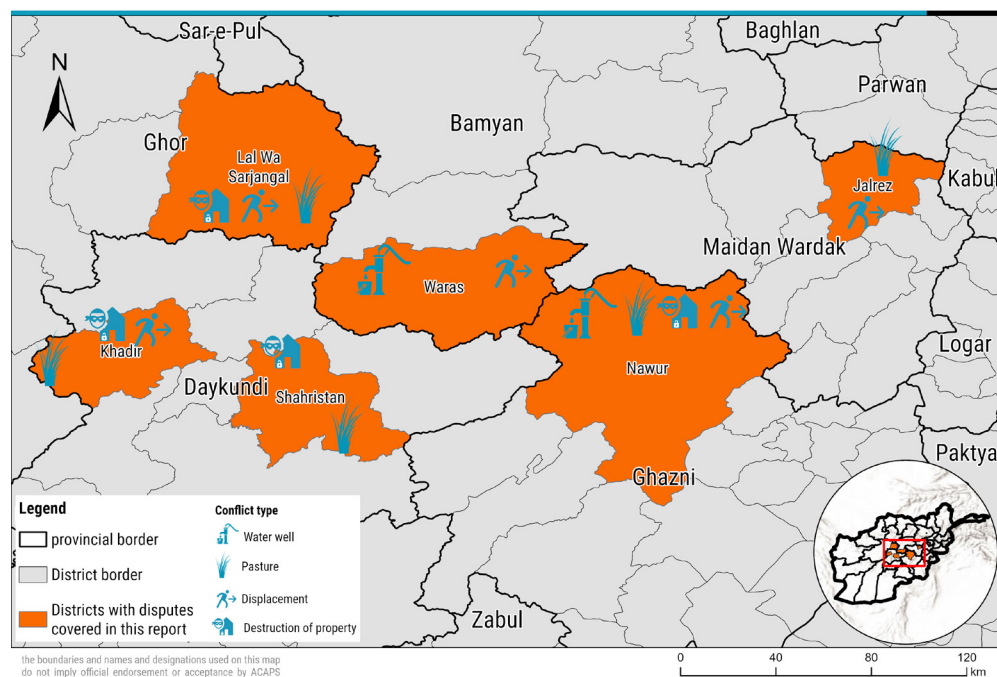
Resource-based disputes set in an altered political balance of power

The late 19th century was a major turning point in relations between Kuchis and sedentary people in different areas of the country; this continues to have ramifications until present (Gillin 2014). A basic distinction should be made between the central highlands and northern Afghanistan since current conflict dynamics in the respective areas are rooted in different government policies.

Until the late 19th century, nomads' access to public pastures in the central highlands was limited to the districts of Behsud (Wardak), Jaghori, and Nawor (Ghazni), which are situated on the central highlands' eastern slopes (Canfield 13/02/2008). This changed when the then king Amir Abdur Rahman rewarded Pashtun nomads with an extension of their property rights for their substantive role in crushing rebellions inside Afghanistan. In 1894, the Amir issued a decree extending Kuchi access rights and defining pastures used by sedentary Hazara farmers as state property (Wily 2013). This decree then enabled the Amir to delegate exclusive use rights to Pashtun nomads. However, the decree was nullified under the reign of Abdur Rahman's son Habibullah (1901-1919) and again by King Amanullah Khan (1919-1929) who issuing a new decree in 1923 limiting Kuchi access to the high alpine pastures and reaffirming Hazara land rights in the lower-level pastures (Wily 2013).

Afghanistan's first land law issued in 1935 under King Zaher Shah, the pastureland law of 1970, the constitutions of 1987 and 1990, the Pasture and Public Land Law (2000) from the first Islamic Emirate, and the 2017 Land Management Law of the Republic Government acknowledged and attempted to clarify the boundaries between public pastures accessible to Kuchis and the 'special pastures' of settlements, but ultimately did not succeed (AREU/EU 13/11/2019; Wily 2013). The ambiguities in drawing distinct boundaries between public pastures accessible to Kuchis and the pastures owned by villagers, compounded by the problem that pastureland can also be used for rain-fed agriculture, were never resolved, and competing land right claims remained. Finally, the 2017 draft pastureland laws under the Republic were not passed because of widely diverging opinions among parliament members (AREU/EU 13/11/2019).

Conflicts between Hazara and Kuchis



Source: ACAPS

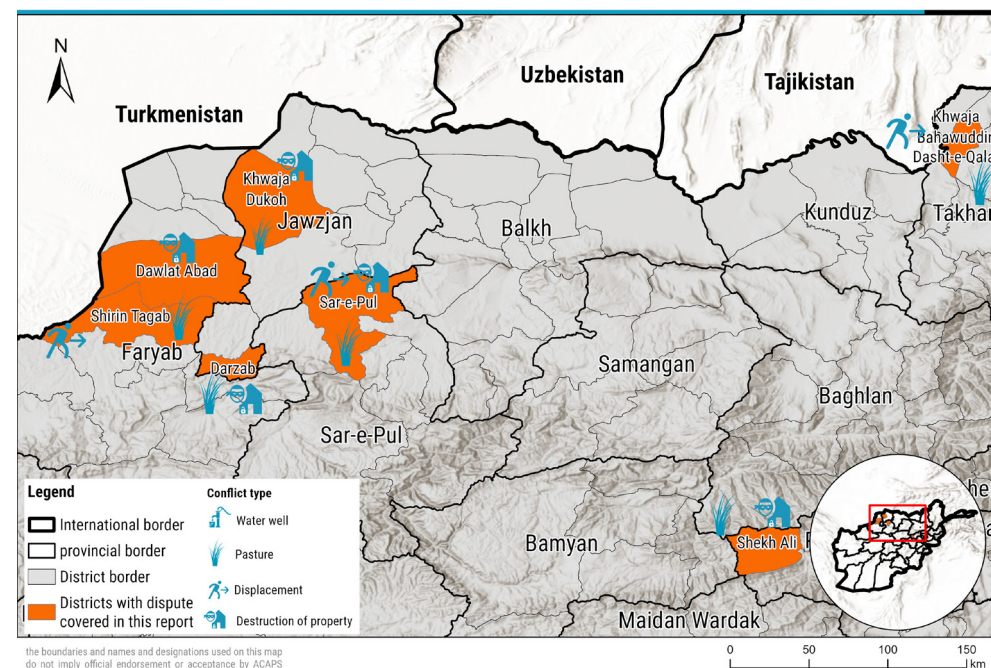
Disclaimer: the boundaries and names and designations used on this map do not imply official endorsement or acceptance by ACAPS.

Despite the existence of other decrees and laws passed since the Amir's 1894 decree, many of the current disputes over pastures in the central highlands still revolve around arguments over the validity of the Amir's 1894 decree. Kuchis refer to Amir Abdur Rahman's original decree to justify their claims and consider it the document with the most legal weight (Afghanistan International Youtube 18/04/2023). Hazaras (and other groups) in contrast dispute the validity of this argument and point to subsequent rulers nullifying the original decree in favour of Hazara rights to pasture lands.

In northern Afghanistan, the situation is slightly different, as government settlement policies have been driving land conflicts since the late 19th century. These policies have led to the intersection of ethnic heterogeneity with asymmetric power relations. Whereas most Kuchis migrated seasonally in the central highlands, the Pashtun population that settled in the north took up permanent residence, and only a part of the community is from a nomadic background.

Prior to the 1880s, Pashtuns living in the north tended to be former members of the military or government officials who settled there during their service. After the 1880s, the dynamic changed as Amir Abdur Rahman (1880–1901) started to incentivise (for example, through credit and land grants) Kuchis and sedentary Pashtuns from southern Afghanistan to settle in scarcely populated areas of northwestern Afghanistan inhabited predominantly by Turkmen and Uzbeks (eg, Badghis, Faryab). The Amir also granted agricultural land and pastures in the north to Kuchis in what could be considered the first settlement policy of the Afghan Government (Rashidi and Göksel 30/04/2019).

Conflicts between Kuchis and other ethnic groups



Source: ACAPS

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Later rulers adopted similar policies of settling Pashtuns (Kuchis and sedentary Pashtun populations) in the north under large-scale development projects (Bleuer 25/10/2011). After King Amanullah Khan (1919–1929) endorsed the Code of Naqelin in 1923, a large number of Kuchis and settled Pashtuns from the east and south moved to the areas that eventually became Baghlan, Kunduz, and Takhar provinces (Etilatroz 15/11/2022; BBC 11/09/2010).

Despite the multitude of different legal rulings over pastureland and government settlement policies issues since the late 19th century in different areas of the country, disputes over land between Kuchis and farmers were not considered a major problem for much of the 20th century because the central government enforced political stability. The situation in the entire country, including access to pastureland, changed fundamentally in the aftermath of the Soviet invasion (1979–1989), and the years of civil war (1989–1996), which destabilised the existing political order and power structure between Kuchis and sedentary people in the north and the central highlands. As parts of the Hazara, Turkmen, and Uzbek communities in the north and the central highlands formed insurgent groups to fight the Soviets and the Afghan communist government, Kuchis were blocked from their pastureland (Wily 2013).

The Kuchis were able to reverse the situation after 1994 with the emergence of the Taliban movement. The Kuchis provided many soldiers to the Taliban army and were instrumental in their advances in the centre and the north between 1994–2001. In return, they regained possession of their pastures and access to grazing lands they had lost during the Soviet invasion (1979–1989), and the years of civil war (1989–1996).

In 2001, when the Taliban government collapsed, the dispute between the Kuchis and sedentary people flared again in different areas of the country. The perceived alliance between Kuchis and the Taliban led to some resentment and the displacement of many Pashtuns, including but not limited to Kuchis, from northern Afghanistan to the south or to Pakistan (Brookings/TLO 05/2010), as well as the reblocking of Kuchis' access to pastures. In central Hazarajat, Kuchis have made several unsuccessful attempts to regain access to grazing land. These attempts typically end in violence and the loss of lives and property on both sides (Esmaty 07/09/2013). In some areas, armed militias with the support of the central government or international military forces to oppose the Taliban are being locally used to control or protect resources, including pastureland, and block Kuchis' access to pastures and water points (AAN 22/12/2022).

Since the political transition of August 2021, most of the anti-Taliban militias that had also blocked nomads' access to pastures have surrendered to the ITA or fled. This radically altered balance of power at the local level has subsequently emboldened Kuchis to attempt to change the status quo in accessing resources (AAN 22/12/2022). Kuchis and sedentary Pashtuns displaced from the north in late 2001 have also begun returning to the northern provinces to reclaim property and access to resources, in some cases with the support of the ITA.

DISPUTES BETWEEN KUCHIS AND SEDENTARY PEOPLE SINCE AUGUST 2021

The following sections, organised around two tables, provide an overview of land conflicts between Kuchi and settled people in Afghanistan. As mentioned earlier, disputes covered in this report were identified through a systematic media scan and are not an exhaustive list of all disputes or tensions. As maps 1 and 2 as well as table 1 demonstrate, the majority of all Kuchi-farmer disputes have been reported in the central and northern provinces (AAN 22/12/2022). The section discusses each in turn, with the first considering disputes in the central highlands between Kuchi and Hazara communities, which has received wider attention in the media. The second focuses on disputes between Kuchi and sedentary communities of other ethnic groups, including Pashtuns, which news reports less frequently cover.

Dispute location and dispute issues

Table 1 lists disputes between Kuchis and sedentary people of different ethnic belongings over the trespassing of boundaries between public pastures and the pastures that sedentary farmers living in nearby settlements own. Maps 1 and 2 locate the disputes in the various areas of the country, including the centre (Panjsher, Parwan, Maidan Wardak), northeast (Takhar), northwest (Faryab, Jawzjan, Sar-e-Pul, southeast (Ghazni), southwest (Daykundi), and west (Ghor, Bamyan) of Afghanistan.

TABLE 1. REPORTED DISPUTES INVOLVING KUCHIS AND SEDENTARY PEOPLE OF DIFFERENT ETHNIC GROUPS

CASE	DATE	AREA (VILLAGE)	DISTRICT/PROVINCE	DISPUTE ISSUE	IMPACT	REPORTED INTERVENTION	SOURCE
1	19/9/2021	Balagardan, Chirag Sang	Nawur/Ghazni	Pasture	Theft of livestock (two sheep); theft of farm animal (one donkey); crop destruction (grazing animals); verbal threats; concerns about food shortage in winter (crop damage, reduction from 14,132kg to 3,533kg)	<ul style="list-style-type: none"> Locals were forced to pay compensation for two stolen sheep. The other issues (theft of farm animal, destruction of crops, etc) were not resolved at the time. 	Etilaatroz
2	20/9/2021	Qorban-Mordah, Surma area	Nawur/Ghazni	Water, pasture	Villagers denied access to water points; use of village well by Kuchis' livestock; alleged forced eviction of 4 Hazara families by Kuchis	The ITA denied the allegations.	Hasht-e-Sobh
3	29/4/2022	Unknown	Shahrestan/Daykundi	Pasture	Crop destruction (Kuchis' livestock); potential food shortage and reduction in income because of destroyed crops	Unknown	Etilaatroz
4	12/5/2022	Kaash Emran and Bokhara villages	Nawur/Ghazni	Pasture	Crop destruction (Kuchis' livestock); armed violence; injuries; forced displacement; potential food shortage and reduction in income because of destroyed crops and displacement	Unknown	Hasht-e-Sobh
5	26/5/2022	Dara, Jangalak, and Jurf Valleys (Ghorband)	Shekh Ali/Parwan	Pasture	Destruction of crops; harassment of villagers; 20 injured in physical violence, potential food shortage and reduction in income because of destroyed crops	Local Taliban mediated to end the clash	Hasht-e-Sobh
6	28/5/2022	Dasht Laili, Qoban, and Zumard areas	Darزاب and Khwaja Dukoh/Jawzjan	Pasture	Destruction of crops; usurpation of land; displacement; potential food shortage and reduction in income because of destroyed crops	Landowners have taken the case to the ITA without any reported results Residents claim ITA partiality to Kuchis.	Etilaatroz
7	22/7/2022	Unknown	Shirin Tagab/Faryab	Pasture	Physical violence; potential destabilisation through larger mobilisations	Residents allege ITA partiality towards Kuchis.	Aamaj News
8	17/5/2022	Gham Qol	Khadir/Daykundi	Pasture	Destruction of crops; potential food insecurity and loss of income; threat of forced migration to 200 families	The ITA acknowledged the problems and set up a committee comprising the district governor, the police chief, and the district director of agriculture to solve the problem between the parties, prevent the destruction of people's farms, and secure nomad rights. Security forces implemented existing measures preventing people from carrying weapons illegally.	Etilaatroz



9	5/9/2022	Lala Guzar, Katkajar Baharistan, Moghul Qashlaq, Tajik Qashlaq Arabkakul	Khwaja Bahawuddin and Dasht-e-Qala/ Takhar	Pasture, houses	Displacement; dispossession of villagers	The local ITA intervened in favour of the Kuchis. On 6 October 2022, the provincial police chief and deputy governor told the 400 already settled families in the area that they would have to vacate their houses and land within three days to make room for the returning refugees.	Hasht-e-Sobh
10	20/12/2022	Adrang, Balghali, Laghman, Qala Sukhta, other	Sar-e-Pul	Pasture	Destruction of farmlands; dispossession; forced eviction	Residents allege ITA support to Kuchis.	Kabul Now
11	16/4/2023	unknown	Dawlat Abad/ Faryab	Pasture, revenge	Destruction of farmlands; violence and injuries to eight people	Residents allege ITA support to Kuchis.	Etilaatroz
12	21/4/2023	Gham Qol area	Khadir/Daykundi	Pasture	Destruction of crops; threats of killing and displacement; potential food shortage and reduction in income because of destroyed crops and displacement; fear resulting from threats and displacement	Unknown	Etilaatroz
13	30/4/2023	district centre	Waras/Bamyan	Water	Scarcity of water and displacements	<ul style="list-style-type: none"> Residents allege ITA support to Kuchis. The ITA sets up a provincial-level committee. 	Etilaatroz
14	11/5/2023	Sarchashma	Jalrez/ Maidan Wardak	Theft	Theft of livestock	15 elders from the sedentary community are arrested.	Etilaatroz
15	25/5/2023	Gulnaicha	Lal Wa Sarjangal/ Ghor	Pasture	Looting of crops; forced displacement of villagers	Unknown	Afghan Women News
16	7/6/2023	Unknown	Unknown/ Panjsher	Pasture	Destruction of crops and gardens	Unknown	Ariana News

As Table 1 indicates, the trespassing of boundaries between public pastures and pastures possessed by villagers is the core issue in fourteen of sixteen disputes (87.5%). However, some cases also revolved around other issues of dispute.

One dispute (6.25%) involving pastureland and water also emerged in relation to government-supported resettlement of 700 Kuchi families, who lived as refugees in Pakistan for 30 years, to Takhar (case 9).

Two disputes (cases 2 and 13) (13%) explicitly mention tensions over access to water points between Kuchis who need water for themselves and for their livestock and farmers who need water for themselves, for farming, and for their livestock. In one of these cases, farmers accused Kuchis of grazing their animals on farmland, blocking villagers' access to nearby water points or reservoirs, and even running their flocks through the village to the wells of villagers (case 2).

Five disputes (31.25%) are over pastures and include the (temporary) appropriation of land and houses by Kuchis.

In eight cases (50%), people have also been forced to move temporarily to avoid armed violence (cases 2, 4, 6, 8, 9, 10, 12, and 15).

In five cases (31.25%), physical violence was reported (cases 4, 5, 7, 11 and 12).

Two cases (13%) were accompanied by allegations of theft, including crops, livestock, and farm animals, and extortion (cases no 1 and 14).

Conflicts over resources can also be entangled with dynamics of revenge but are not necessarily driven by ethnic relations as such. In one instance (case 7), in Faryab, violence was directed at family members of a former Uzbek militia commander who had fought against the Taliban prior to August 2021.

Spotlight on water

The lack of water is prevalent across Afghanistan as the number of households suffering from water shortages has risen from 48% in 2021 to 60% in 2022, with 30 out of 34 provinces reporting extremely low water quality (Pajhwok 14/05/2023). Such disputes erupt because of the lack of natural water points along the Kuchi passageways to pastureland and on the pastures themselves (KII 20/05/2023). Kuchis may then force their access to man-made water supply networks, where farmers operate water pumps with solar power. For example, in a dispute in Waras district of Bamyan province that emerged in April 2023, Kuchis claimed ownership over land upon which sedentary people living nearby had constructed a water supply network, threatening to cut the flow of water to farmers in the area (Etilaatroz 30/04/2023). In other cases that emerged in Nawor district of Ghazni, sedentary people highlighted the importance of water as they spoke about the effects of drought, which has increased the scarcity of both drinking water and water for agriculture and livestock. These water shortages affect sedentary people and Kuchis when they spend time in the central highlands during summer. Drought conditions have decreased water availability, triggering disputes (Hasht e Subh 20/09/2021).

ITA approach to addressing resource-based disputes

The ITA's approach to dealing with resource-based disputes involving Kuchis and sedentary people is not consistent. Some conflicts are referred to district and provincial sharia courts for resolution, others are assessed by ad hoc special commissions. An example of the latter is the dispute over water in Waras (case 13) reported on 30 April 2023, where the provincial administration assigned a special committee to visit the area and assess the situation. Other cases were referred to the local courts.

Special commissions and sharia courts serve different purposes for addressing resource disputes. Sharia courts are permanent elements of the ITA's new judicial structure and adjudicate legal disputes. Commissions, in contrast, are not an element of the judicial structure but are temporarily established with a specific mandate, which usually fall into two categories.

The first type of commissions is set-up to collect information about special cases (political cases with broader impact), akin to a fact-finding mission, which can become a source of information for courts deciding on the case at a later stage.

The second type of commissions involves a broader mandate for resolving a conflict and always involve at least one judge from the supreme court.

At the same time, the ITA is continuing to work on transforming the legal framework of the former Republic, has made judicial reshuffles, and is re-examining cases adjudicated before August 2021 (UNSG 20/6/2023).

The research could not identify clear guidelines that influenced whether disputes are referred to courts or commissions nor were we able to identify a widely circulated document or guideline specifying official government policy on this matter. However, based on the analysis of existing disputes mapped, the referrals appear to depend on the magnitude of the dispute (number of people involved) and the nature of the involved parties.

The courts deal with disputes relatively well defined in terms of the number of people involved, the complexity of the issue, and the documentation available (titles, fact-finding reports, etc.). It should be highlighted that both Kuchis and sedentary people take their cases to local government courts, but some individuals perceive the local government/courts as favouring the Kuchis, leading some sedentary people to feel disenfranchised (KII 20/05/2023).

Commissions deal with cases involving many people or where courts cannot resolve the issue because of a lack of information or the politically sensitive nature of a case. This can be the case in conflicts over access to public pastures, for example, in the Hazarajat, where the government appears to aim at preventing ethnicity-based mobilisation. It can also be the case in disputes, also prevalent in the Hazarajat, where both conflict parties claim to have valid legal documents to the same property issued by different governments. In one case in northern Afghanistan, the creation of a commission appears to have served the purpose of managing the fallout of the government's own return/resettlement policy, presumably with the objective of containing tensions (TOLOnews 18/09/2022).

IMPLICATIONS FOR HUMANITARIAN RESPONDERS FROM A CONFLICT SENSITIVITY PERSPECTIVE

The cases mapped above show that the effects of land disputes are diverse, including damage to crops, the disruption of agricultural and fodder production, a potential increase in food insecurity, temporary displacement, injuries, and killings. Resource-based disputes between Kuchis and sedentary populations thus increase the need for humanitarian assistance in specific areas (KII 20/05/2023; KII 24/05/2023; KII 28/05/2023; KII 29/05/2023; KII 30/05/2023).

Beyond that, understanding the dynamics of disputes involving Kuchis and sedentary people of all ethnic groups is an important element of a robust context understanding in order for humanitarian actors to not be seen as unintentionally taking sides in a dispute by assisting only one of the two dispute parties, which is a key part of a conflict-sensitive approach to humanitarian work (GPC 24/03/2022; Oxfam 08/03/2021).

Conflict sensitivity can be defined as the capacity of an organisation to understand its operating context and to use that understanding to inform its interventions, avoiding negative impacts and maximising positive effects (GPC 24/03/2022). Practicing conflict sensitivity involves recognising that humanitarian programming makes resource transfers into resource-scarce environments and affects social relations, including perceptions of justice, and power dynamics (Swisspeace accessed 19/07/2023; Oxfam 08/03/2021). It also entails humanitarian programming that recognises how the transfer of resources as part of humanitarian response can aggravate existing tensions or trigger new disputes (Oxfam 08/03/2021).

Kuchis and sedentary people are in competition over limited resources, such as water, grazing lands, employment opportunities, and access to humanitarian assistance and are sometimes seen as outsiders or intruders by people living the settled areas, which can intensify conflicts and create a more challenging environment for both Kuchis and sedentary communities (KII 24/05/2023, KII 20/05/2023). If humanitarian interventions are unaware of these growing tensions, aid inputs may unintentionally amplify conflict rather than working to reduce it – for example, by strengthening cooperation between the two groups.

Humanitarian responses interact with the dynamics of disputes insofar as resources (e.g. material, financial, personnel, human capital, etc.) are transferred to people living in areas affected by tensions, potentially affecting perceptions of justice, as well as social and political relationships (Swisspeace accessed 19/7/2023; Oxfam 08/03/2021).

In the current conflict dynamics, farmers appear to be facing the most negative impacts. At the same time, there appears to be a lack of advocacy capacity by Kuchis, which may reflect the social distance between Kuchi and humanitarian responders (KII 24/05/2023, KII 20/05/2023). There appears to be a general lack of information about nomads available to humanitarian decision makers (KII 24/05/2023, KII 20/05/2023). This issue may also be linked to inadequate localisation (delegation of decision-making to local responders). National NGOs are typically not in the position to decide where and how humanitarian funds should be allocated but often take on the role of implementing projects decided by donors or INGOs.

Key fields of observation arising in this context for humanitarians from a conflict sensitivity perspective concern the implementing organisations, beneficiaries, and planning processes. There is widespread agreement that both sedentary people involved in agriculture and Kuchis involved in animal husbandry feel the effects of climate change- and population pressure-induced increases in resource scarcity. Both social groups are potential beneficiaries of humanitarian programmes that seek to support people in need.

As part of the international assistance provided to Afghanistan under the previous government, different programmes addressing the specific needs of Kuchis existed (AgriLife 10/02/2009; FAO 24/11/2020; DCA accessed 23/07/2023; WB 04/2021). Furthermore, the 2023 Humanitarian Response Plan explicitly mentions inclusion of Kuchis in support programmes to address food insecurity (OCHA 9/3/2023). Assessing the extent or success of these past and current efforts are beyond the scope of this report, but rightly or wrongly, the information produced through non-representative key informant interviews conducted as part of this project suggests that there is perception that Kuchi needs tend to be inadequately recognised in current humanitarian planning. Only one respondent knew of mobile health teams in Zabul province specifically addressing the lifestyle of Kuchis (KII 29/05/2023). Other respondents were unaware of specific projects for nomads, indicating that only settled nomads would be considered as beneficiaries as any other settled person.

The problem appears to lie partly with the planning processes for humanitarian response and more specifically the timing of needs assessments. Interviewees noted that some needs assessments were conducted in winter, when Kuchis were not present in specific areas and consequently, Kuchi members would not be included in beneficiary lists for those areas (KII 24/05/2023, KII 20/05/2023). The migratory lifestyle of Kuchis poses a challenge for humanitarian aid planning and creates an obstacle for their inclusion in aid distribution, potentially aggravating their marginalised status. Given their temporary absence from settled areas, and the fact that they are often in conflict with farmers, there are few incentives for settled populations to advocate the inclusion of Kuchis in future aid distributions (KII 24/05/2023, KII 20/05/2023).

In conclusion, there appears to be a discrepancy between local context knowledge and how this knowledge is integrated into humanitarian programme cycles. This is related to the nature of a migratory lifestyle and its mismatch with planning processes, the social distance between Kuchis and humanitarian organisations, and inadequate localisation. It could be worth further exploring how systematic the 'mismatch' between needs assessments and Kuchi migration patterns is and whether this can be addressed to increase the inclusion of Kuchis in existing programming and counter the perceived marginalisation of Kuchi needs. These issues could partly be offset by integrating context assessment and conflict sensitivity approaches into programme management.