



Recommended Strategy
for Conflict Resolution
of Competing High Pasture Claims
of Settled and Nomadic Communities
in Afghanistan

Executive Summary

United Nations Environment Programme





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Cover image: © UNEP - Kuchis in Ghazni

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Introduction

This document lays out a possible road map for resolving the conflict between Pashtun nomads (Kuchi) and Hazara as to access to pastureland in the central highlands.

The central highlands include the foothills in western Maidan Wardak and western Ghazni Provinces, as well as the higher pastures of Bamyan Province, eastern Ghor Province and Day Kundi Provinces. Figure 1 outlines the areas referred to, broadly known as modern-day Hazarajat.

This strategy has been largely developed for the benefit of two sets of actors who have major decision-making roles when it comes to determining how the conflict between Kuchi and Hazara will be settled. These are (i) the Ministry of Agriculture, Irrigation and Livestock (MAIL) and (ii) the Presidential Commission for Resolving the Hazara Kuchi Pasture Conflict. The former has technical oversight for all matters relating to rural

land ownership and natural resource use. The latter has the duty to advise the President and supporting actors on this matter.

However the founding thrust of recommendations herein is not that these actors resolve the conflict themselves. Rather it asks that they clear the way to make possible conduct of a community-based and pasture by pasture process of resolution. Giving where tension has spilled into open violence in recent years, this needs to be promptly begun in the contested foothill areas of western Ghazni and Maidan Wardak Provinces.

What is UNEP's interest in this? The United Nations Environment Programme is strictly a technical agency committed to supporting sound natural resource management and utilization and therefore to practical peace-making processes where these resources are threatened. If so requested, UNEP is willing to lead in securing and coordinating technical and financial resources required to see resolution of this issue through.



Highland pastures (*aylaks*) in Koh-i-Baba, Bamyan Province

I Background

1 The conflict

The pasture conflict between Hazara and Kuchi now manifests as violent incidents in Nawur, Jaghuri and especially Behsud I, Behsud II and Day Mirdad Districts.

This occurs as three groups of Kuchi tribes attempt to move their animals into these areas for spring grazing. Violence with significant loss of life and property has occurred with increasing intensity since 2004. The worst violence has been since 2007 when Kuchi took over administrative offices, hoisted Taliban flags and closed girls' schools. Those Kuchi most involved are Ahmadzai tribes arriving via eastern Provinces (Paktya, Khost and Logar) or from Districts in Paktia Province. Generally Durrani Kuchis arriving from the south (Zabul, Kandahar and Uruzghan) into Nawur have met less resistance by local Hazara.

In 2009 both Hazara and arriving Kuchi are armed. There is evidence of Hazara front-lines being established within Behsud II to prevent movement further north, and potential transit into Inner Hazarajat. Up until the present few Kuchi from the east and south have succeeded in moving beyond the foothills into the inner Hazarajat mountainous summer pastures.

The dispute is around competing rights to use the pastures and watering sites. It has origins in an edict issued by Amir Abd' al Rahman over a hundred years ago: in 1894 this law gifted lands throughout Hazarajat to those Kuchi clans which had assisted him to defeat the rebellious Hazara. In 1927 those land grants were cancelled by King Amanullah who ordered their reissue as use rights confined to high altitude pastures. Hazara were to have secure control of settlement-adjacent grazing lands. The Pashtun custom was entrenched that a community pasture extends only as far as a man's shout extends when he is standing at the last house in the village. This remains the land today as most recently amended (July 2008).

What local Hazara living throughout these areas contest is that their customary rights to the high pastures are not acknowledged, and that their

rights of access are restricted to relatively small pastures next to the valley settlements. Their quarrel is therefore both with (i) the claims of Kuchi that they own most of the pasture land; and (ii) the law to the extent that it continues to deny Hazara customary land rights to these same areas.

Hazara have gained strength in defending this position through the civil conflict years. Following the revolution in 1978 much of Hazarajat was off-bounds to migrating Kuchi, initially because of insecurity. Few Kuchi ventured into inner Hazarajat (the higher altitude Bamyan Province, Lal Saranjal or northern Day Kundi) during the 1980s and 1990s. Under the Taliban (1996-2001) Kuchi were actively supported in regaining access in some areas, particularly in the foothill areas of Ghazni and Maidan Wardak Provinces which are the centres of conflict today. Alleged 'atrocities' occurred there and in Panjab District. These hardened Hazara resolve to resist Kuchi recapture of pasturelands.

Kuchi did not actively seek re-entry to Hazarajat during 2002 to 2003, largely because of their stock losses from the 1998/99-2001/02 drought.

This began to change in 2004, with the first deaths among fighting Kuchi and Hazara reported. It has been aided since by the return of leading Kuchi agitators to the area, encouraging Kuchi en masse to demand access to those pastures they used before the conflict period, and for which they hold documentation.

2 Factors to consider

Five general points need to be taken into account -

2.1 Armed conflict: as predicted in 2002, the Kuchi Hazara dispute over pasture rights has the potential to evolve into inter-ethnic conflict, and which can engage Taliban and – some allege – possibly support from a neighbouring country, on the side of the Hazara. A worst case scenario suggests a new front to the war could be opening, and one which has a new degree of emotive power as it concerns contested land rights. At the very least, this demands a change in strategy, or at least the nesting of strategy in the security approach.

Figure 1: Hazarajat Districts Today



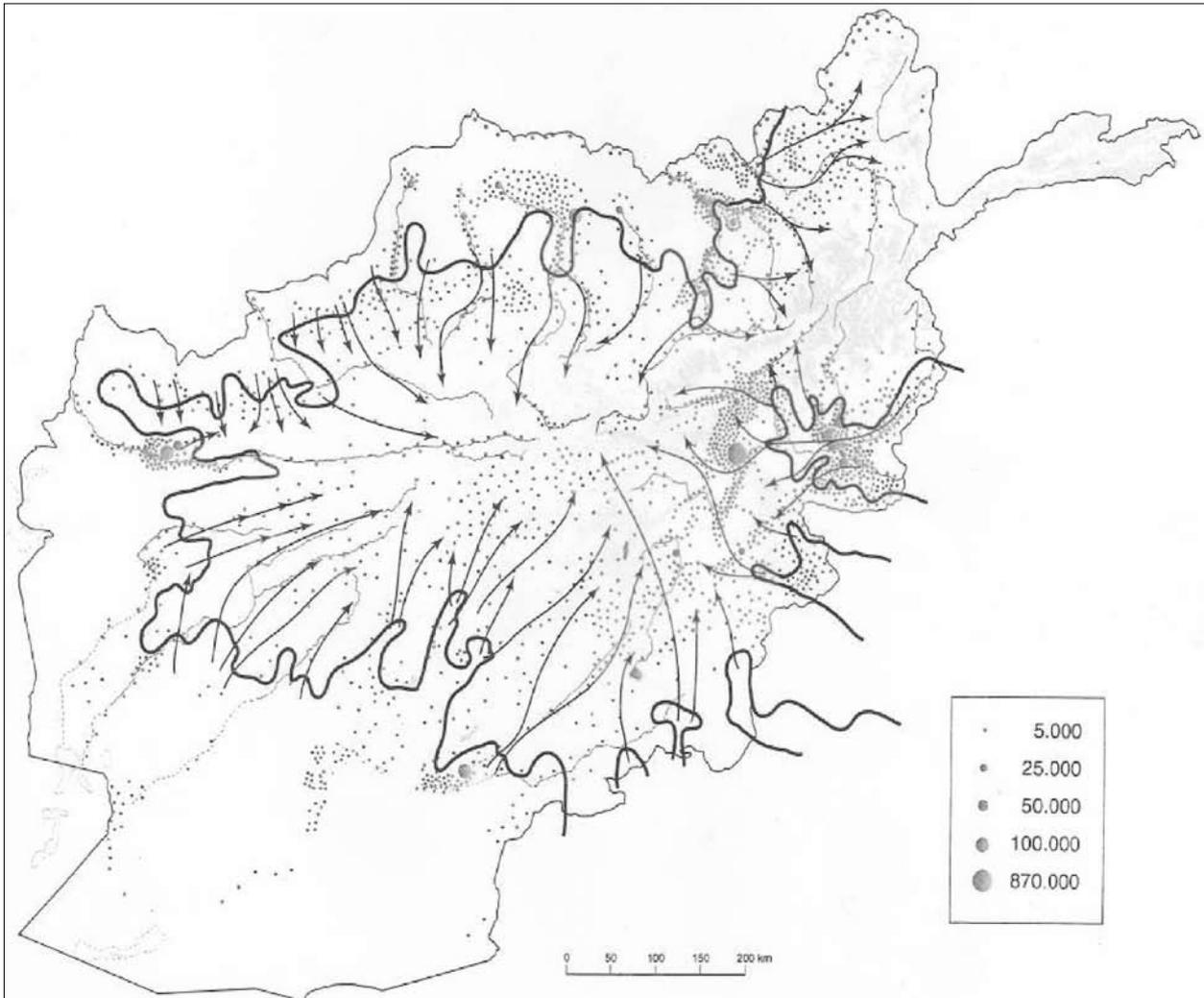
2.2 Unpacking the farmland issue: a distinction needs to be drawn between farmland and pastureland disputes in Hazarajat. Since the 1950s better-off Kuchi have steadily acquired farms in various parts of Hazarajat. Most are accordingly absentee landlords. While there are cases of bitterness around the means used in the past by Kuchi to acquire these lands, the majority position of Hazara is that this is a separate issue; they do not deny Kuchi farm ownership and are more concerned about who rightfully owns and/or who has priority access rights to the local pastures. They suggest that Kuchi who own farms should come and live in the area year round.¹ At the same time they are afraid that without rights to the pastures being sorted out, that Kuchi landlords will use their return as grounds for taking over the local pastures, or enabling their relatives to do so by bringing thousands of stock. On the Kuchi side, it is reported that their intention is only to collect long-overdue rents. It has also been suggested by one authority that these wealthier Kuchi are using the pasture access issue for this purpose, encouraging mobile Kuchi to force their way into the area.

2.3 Power players: it is necessary to take into account the role of 'big men' in ratcheting up the dispute. There are several aspects to this.

First, there are signs of ongoing battles for leadership within both the Kuchi and Hazara sides of the dispute. This encourages the leaders into hard-line positions to show their supporters they are fighting for the rights of their people.

Second, within both communities longstanding class differentiation is at play. That is, there are a handful of influential and comparatively wealthy Hazara and Kuchi who look to commercialise livestock keeping and therefore seek access to large pastures for their own economic benefit, irrespective of whether or not they have any past historical or legal association with that pasture. This includes Kuchi who aim to truck in animals to remote pastures, fatten and then sell them. It also includes Hazara notables who wish to do the same. Poorer Hazara and Kuchi who genuinely depend upon pasture access to survive through the year are both at risk of decisions being made by these power-holders and in ways which do not have majority interests at heart.

Figure 2: Summer Migration Routes (Source: Ferdinand 2006 based on 1950s data collection)



Third, generically it is difficult for ethnic leaders and politicians to resolve the conflict because of the difficulties of over-generalising one solution to diverse situations and because they cannot risk compromises which could lose them their constituencies. This encourages a black and white winner-loser result which cannot be lasting: wholesale denial of Kuchi re-entry can no better work than wholesale guarantee of free movement of nomads into the central highlands.

In contrast, local communities have amply shown that, given the chance, they can adopt a more considered response. There are pastures where they believe no outsider use (whether by Kuchi or others) is viable and in this they tend to be backed up by the realities of pasture size and degradation. In other cases communities do find some possible scope for

some outsider use. There are even cases where communities have indicated that they would prefer Kuchi to return than emerging new dominance by wealthy Hazara notables who want access to their local areas for large-scale livestock keeping. The consistent underlying position at the local level appears to be that so long as outsiders, including Kuchi, respect that they are visitors to these lands, arrangements for sharing the resource can be made in some key areas.

2.4 Pasture availability and condition: the reality today is that useable pasture land is decreasing in area and quality. This is not new but it has become worse in recent decades in Hazarajat. One reason is predictable; population growth and expansion of rainfed farming into areas previously regulated by Government or Kuchi as only for grazing.

Another reason is more specific to this issue; as Hazara regained control of pastures from which they had been previously excluded, their stock numbers rose (and are now at levels which equal the in-migrating herds brought by Kuchi before 1979). More people and more stock has also meant more harvesting of the high pastures to lay down the fodder and fuel requirements for getting through the six month long winter in the valleys. Continued sale of pasture shrubs to towns for their winter fuel needs has added to the problem.

The upshot is that there are many pastures within Hazarajat which need to see sharply reduced grazing, harvesting and summer occupation (camps), not increased use or animals. There are also traditional water sources which are losing capacity and cannot sustain increased stock watering demands.² Whatever decisions are made about Kuchi/Hazara pasture rights, these have to take natural resource capability into account.



Rangelands in Bamiyan province

2.5 Modern policy and legal development:

many actors recognise that a big part of the solution to the problem is to reconsider how pasturelands are owned. In principle the Government of Afghanistan has embarked upon this path. This is along a compromise route which does not go so far as to acknowledge customary ownership of most pastureland but does make full provision for community based custodianship of pastures. Custodianship embodies both priority use rights and the long-term right and duty to regulate the pasture towards rehabilitation and sustainable use. Therefore the new National Land Policy 2007 declares that Community Land will be added to the two classes of Private Land and Public Land. These collectively held (if not fully owned properties) will be registrable, assuring the community sufficient security and incentive to protect and manage the pasture. The earlier Rangeland Strategy issued by the Ministry of Agriculture supports this position, setting itself the objective of bringing as much pasture as possible under community based regulation and management (2005).

A new pasture law ('Rangeland Law') is under draft and lays out clear legal paths for this to occur. The draft proposes to entrench the term Custodian to reflect the authority and responsibility each rural community will hold. Government's role will be as technical adviser, ultimate regulator, and watchdog, able to step in when a community fails to abide by its own devised plan for rehabilitation and sustainable use.

The law also proposes a clear ordering of rights to use a specific pasture. The immediately local community which has historical customary rights to the area has priority, and it is this community which becomes the designated Custodian. Kuchi who have longstanding historical access to the pasture are accorded high priority, over and above local persons from the same province but who have no past history of use of that pasture. In cases where the pasture is unable to sustain any more than minimal subsistence local use, each District is bound to identify at least one significant pasture which could be available to priority groups of persons other than those using and managing Community Pastures. Obviously this prominently includes Kuchi. Mechanisms are set up in the law



Camels herd grazing in Dasht-i-Nawur district, Ghazni Province

to help them negotiate directly with communities or with District Authorities as required.

The law is not yet enacted and is unlikely to be enacted for a year or so, as more conservative officials get to grips with the need and utility of reform in old but deeply embedded ideas. Even when the new law comes into force, it requires guided case by case implementation. In the meantime, several projects under Ministry of Agriculture continue to test the approach and demonstrate considerable success. More than 50 different villages in Bamyan Province successfully operate the approach. In the process, most have concluded that any increase in pasture use such as by Kuchi is not possible. However some communities have identified areas where public pastures could be defined for Kuchi use. Other communities have felt sufficiently secure in Government support for their customary interests to permit large numbers of Kuchi to use the largest pasture in 2008. The occurred by local negotiation and agreement.

II Strategy

The strategy recommended below draws upon (i) a range of in-country initiatives relating to pasture rights and conflict; (ii) international best practice around similar conflicts, and (iii) responses to the original draft (March 2009) and discussions in Kabul in June 2009.

3 Working principles

It is suggested that the following principles guide action –

- i. **The matter needs more priority attention than it has been given.** The dispute is escalating, is now a matter of open conflict, and is suspected of taking on dangerous dimensions of outside drivers including self-confessed Taliban back-up and allegedly, interests of neighbouring countries.
- ii. **A single sector approach is no longer possible.** Whereas even in 2004 it should have been possible to resolve the matter by civil local level negotiation, today political and military elements need also to be considered.
- iii. **Resolution should follow the principles needed for longer-term resolution.** Short-term actions can make the situation worse; for example paying Kuchi not to migrate from the east with their animals may increase the number of Kuchi demanding access next year.



Participant discussion in a Kuchi-Hazara peacebuilding workshop organised by the PEACE project (Texas A&M University) and Sanayee Development Organization

- iv. **Lasting resolution can only be engineered and agreed by disputants themselves.** Valiant efforts have been made to find a national-level political solution. These confront the reality that publicly, neither side wants to be seen to compromise. Nor are compromises practically possible at an ethnic-wide level. Even should agreement have been reached between high level representatives of Kuchi and Hazara, execution of the terms on the ground would have faced problems, as no one solution can viably apply across all areas. It is now time to 'go under the wire' and help ordinary local actors come to agreement in respect of the pasture area of immediate concern to them. A grassroots approach also enables the majority poor to be better heard, and provocateurs using the dispute for personal political or economic interests to be more easily excluded.
- v. **A localised approach is essential.** Reasons are as above. In addition, workable solutions vary by area, depending upon the actors, the size and condition of the pasture and different levels of pressure. A linked foothills and high pasture approach is needed.
- vi. **Seemingly irresolvable competition for resources can be turned into shared interests.** Both parties need high cool pastures with spring/summer growth for their traditional pastoral or agro-pastoral (and transhumant) economies. Both parties have rights to these pastures. Kuchi have a legal right through issue of documents. Hazara have a historical right; before 1894 each high pasture was part of the local community domain as extending from valley floors to the top of the mountains. Both groups face the realities of declining area and quality of the resource. While these constraints can be posed as impossible competition for resources, they can also be understood as realities which suggest only one viable way forward: shared compromise on both sides.
- vii. **Compromise is possible.** There is no lasting future in decisions which make one party a winner and one a loser. Nor is this necessary. However, arriving at compromises is only possible if resolution is enabled at the grassroots, on a community by community basis.

- viii. **Reversion to what is legal cannot set aside consideration of what is just.** Entitlements which Kuchi hold to high pastures cannot be simply dismissed. But neither should these alone decide the conflict, for this would continue to fail to account for the injustices of failing for one century to acknowledge local rights to these same pastures. Where documents are most important is in indicating which Kuchi have longstanding rights to which pastures, and enabling these persons to be those directly negotiating and communicating with local Hazara counterparts. Where resolution as to future access cannot be agreed, then cancellation of the right with full compensation, should be considered as a fall-back strategy.
- ix. **Settling Kuchi down is not the answer.** Sedentisation continues apace and poor Kuchi wishing to be settled should be directly assisted. Nonetheless there will always remain a substantial number of Kuchi who want to continue to migrate and this too needs assistance. Currently there are over one million Kuchi wishing to continue a nomadic life – the same number of Kuchi in 1978, but now only half the total Kuchi population.
- x. **Helping Kuchi secure winter pastures is critical.** Some of the pressure on Sedentisation continues apace and poor Kuchi wishing to be settled should be directly assisted. Nonetheless there will always remain a substantial number of Kuchi who want to continue to migrate and this too needs assistance. Currently there are over one million Kuchi wishing to continue a nomadic life – the same number of Kuchi in 1978, but now only half the total Kuchi population. summer pastures derives from stress being placed on winter pastures, forcing Kuchi to leave winter areas earlier and earlier. Helping Kuchi to establish their traditional grazing areas in the south and east as their Community Pastures under their custodianship is just as important as helping Hazara do the same in the highlands. Both are faced with the same need to then also consider non-customary access interests which have emerged over the last 10-30 years.
- xi. **Conflict over rights cannot be dealt with satisfactorily without tackling the degradation issues.** Nesting resolution with agreed community based pasture rehabilitation and management regimes is logical and necessary.

4 Programme requirements

A practical plan of action falls into two phases, the first focusing upon the immediate problems surrounding the foothill pastures of eastern Hazarajat, and a medium to longer term action plan nesting these and expanding interventions into a sustained reform on how pastures are classified, regulated and managed.

Institutional Home: Ministry of Agriculture [MAIL] in coordination with Presidential Commission

Action planning: MAIL with support of UNEP

Funding: If needed, UNEP to convene/coordinate

A. Immediate action plan: 2009

1 Take necessary action to provide a secure environment in the focal disputed area:

- 1) Ideally, full disarmament in the four districts of Behsud I, Behsud II, Day Mirdad and Nawur, and if not achievable in reality, then at least political support from the representatives of both sides that they require their supporters to avoid using arms to resolve this issue;
- 2) Reconsideration of Wardak as a pilot site for the APPF community policing programme in order to limit availability of small arms;
- 3) Deportation of known provocateurs from within the Kuchi and Hazara community from the area; and
- 4) Deployment of Afghan National Security forces who are mandated to disarm and fine any person found bearing arms.

2 Change strategy:

- 1) Avoid engaging politicians, ethnic leaders and self-appointed interlocutors as the source of resolution; seek from them (a) agreement that localised and pasture by pasture-based solution with directly affected Hazara and Kuchi should take place and (b) requirement that they instruct their supporters to cooperate;



Typical Kuchi settlement found around the rangelands in Dasht-i-Nawur, district, Ghazni Province

- 2) Adopt a community by community conflict resolution process which is nested in a *community based pasture management process*; this integrates
 - a. *conflict resolution* (among local settled villages, as well as with outsider interests, including those of Kuchi)
 - b. identification and agreement of the boundaries of *Community Pastures and Public Pastures* to be formalised through a simple process of *local mapping and registration*
 - c. establishment of working *community based pasture management* in the institution of a Community Pasture Council and which includes Kuchi representation in these cases
 - d. establishment of agreed Pasture Use Rules to which all acknowledged users must adhere, with punishments and procedures also agreed;
- 3) In line with new national land policy (2007), national rangeland strategy (2005) and draft new legal paradigms (Draft Rangeland Law, 2008) recognise that the key routes to resolution are as follows:
 - a. Community Pastures should be conceived as customarily and practically larger than the past introduced legal convention that these comprise only paddocks within hailing distance of the settlement; *this has been at the root of contention between Hazara and Kuchi*;
 - b. There are strong grounds for distinguishing between local custodianship of pastures (customary ownership) and those who hold seasonal access rights; dividing interests up in this manner enables local communities to feel their ultimate rights are not being challenged whilst being obliged to do their best to enable longstanding seasonal users (specifically Kuchi) to exercise those rights;
 - c. Limitations facing the pasture resource must become a major determinant of the extent and type of pasture use, affecting both settled and migrating users. This may result in some pastures being unable to sustain any more than immediately local subsistence use and in limitations on stock numbers and off-take of bushes for fodder and fuel being imposed;
 - d. A much more flexible approach is needed towards avenues of resolution; including (i) redirecting longstanding and accepted Kuchi users to pastures other than those which they traditionally used in spring and summer; and (ii) compensating those Kuchi for whom access can no longer be sustained but who hold validated entitlements, with in accordance with their preferences: cash, farmland plots or housing, training and employment, and/or opportunities to settle with secure tenure in their winter grazing areas.



Participants in a Kuchi-Hazara peacebuilding workshop organised by the PEACE project (Texas A&M University) and Sanayee Development Organization

3 Immediately Form an Expert Mediation Team:

This Team should –

- 1) Be directed to the most urgent Behsud/Nawur/Day Mirdad area;
- 2) Comprise an expert peace building and conflict resolution expert, a rangeland expert, and organization facilitator;
- 3) Be established by and operate under the supervision of the Ministry of Agriculture, in consultation with the Presidential Commission for Resolving the Conflict between Hazara and Kuchi over Pasture Access;
- 4) Exclude Hazara or Kuchi members;
- 5) Be backed up by a local NGO experienced in mediation as well as peace building;
- 6) Be technically supported by international experts whose responsibility will be to
 - guide the Team in adoption of a workable community based approach;
 - help the Team plan the best routes of negotiation;
- help identify least complex cases to start with in order to set good precedents;
- train the Team in peace-building and mediation techniques;
- prepare radio and leaflet information to be disseminated to every village and relevant Kuchi clan, outlining the process and options being considered;
- 7) As necessary, be provided with sufficient security support to ease access and work;
- 8) Be able to incrementally involve other persons who will be trained on the job in order to undertake parallel mediation in other areas; and
- 9) Report directly to a Coordinating Committee comprising a representative of the Ministry of Agriculture, the Presidential Commission, UNAMA, ISAF and other actors as determined necessary, and whose responsibility will be to carefully evaluate progress and make suggestions for changes to the Team as necessary.

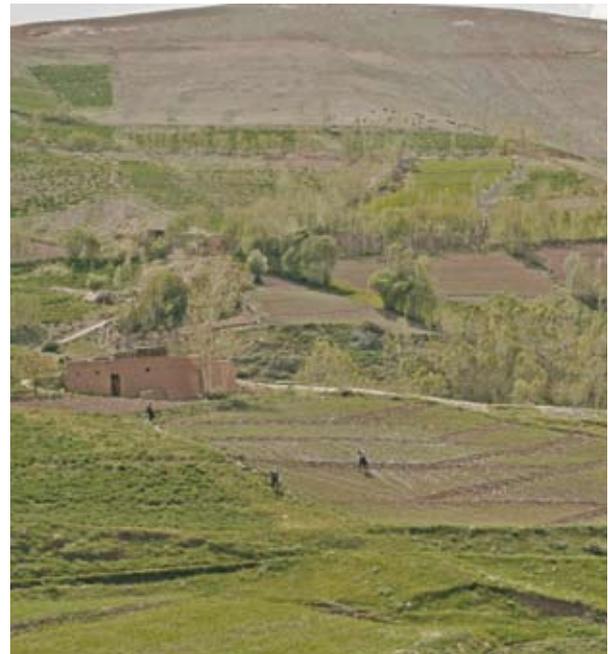
4 Identify Kuchi Interests in the Central Highlands:

Carry out a rapid review with those Kuchi who claim historical seasonal use or entitlements to Hazarajat pastures; assessing -

- 1) the history of each case
- 2) the location of each summer and transit pasture
- 3) documentation presented, along with any agreements made with local communities
- 4) numbers of households and stock involved in the past and today
- 5) current aspirations as relating to access and/or alternatives, including payment of compensation, assistance with permanent settlement, etc
- 6) the compromises and conditions which the clan or tribe is prepared to make in order to secure sustainable access to highland pastures; and to



Grazing practices by Kuchi in the high valleys of Bamiyan Province



Typical agriculture setting in low Jawakar Valley, Bamiyan Province

- 7) identify the individual who most members of the group genuinely wish to represent their interests in negotiations.

5 Rapid Reconnaissance of Pasture Conditions in Central Highlands:

Carry out an immediate district by district assessment of pastures throughout Hazarajat/central highlands to assess –

- 1) According to local Hazara, exactly where Kuchi pastured their animals on a longstanding basis before the onset of conflict in 1979; the numbers, origins, clan names etc., of these persons and identification of with whom among this group they are prepared to discuss the issues surrounding access;
- 2) The current condition and usage of local pastures and their capacity to absorb additional stock and camps;
- 3) The opinions of local communities as to the restarting of in-migration by Kuchi in spring and summer, and if agreeable, the conditions upon which this would be workable and acceptable; and
- 4) Identification of potential public pasture areas in each district where renewed nomadic pastoralist use might be viable.

B Medium and longer term action plan: 2010 – 2015

This comprises four primary actions:

1. Launching Community Based Pasture Management (CBPM) as a National Programme:

Priority should be given to the central highlands. Donors need to be encouraged to fund projects on a province by province basis, in order to (i) provide a crucial peace-making initiative and (ii) to place pasture governance on a devolved and workable footing.

The CBPM approach is important as the framework through which –

- a) Contested pasture access rights may be systematically identified, negotiated and reordered in workable and fair ways
- b) Localised regulation of use can be developed in a practical and sustainable manner
- c) Essential distinctions between Private, Community and Public Pastures may be drawn through direct consultation with those affected, and in ways which increase the likelihood of these distinctions being upheld over time.

2. Systematic planning and implementation of actions to help Kuchi secure the future of their winter pastures

Priority should be given to pastures which –

- a. Are the home areas of those Kuchi clans which traditionally migrate to the central highlands
- b. Are threatened by expanding settlement, farming or appropriation by wealthy individuals
- c. Are those pastures where Kuchi have expressed interest in settling permanently, and
- d. Which are areas where Kuchi are keen to bring under active community regulation as Community Pastures in the same manner as Hazara will do in respect of summer pastures.

3. Pursuit of supporting law:

New national land tenure and rangeland policy are in place. A new Rangeland Law is in draft. Its content is directly consistent with this recommended Strategy.

It is necessary to continue to develop the law its enactment. For this to be publicly owned and therefore upheld by ordinary pasture users (whether Kuchi, Hazara or others), demonstrated piloting of its principles needs to continue. This particularly applies to the complex area of resolving conflicting Kuchi and Hazara rights. The current draft lays out procedures which should continue to be tested in the immediate future.

4. Implementation of Kuchi Settlement and Assistance Schemes:

This is relevant to those Kuchi who have shown a consistent and lasting interest to be assisted to settle. Provision of farmland, housing, training and employment opportunities to poorer Kuchi will be necessary, along with interventions which assist these settlers to adapt livestock keeping to a more sedentary lifestyle.



Shrub and bush collection in Afghanistan's rangeland for household energy needs

Endnotes

- 1 When reference is made to positions, this is based upon several sources of such information as fully covered in the full report. All are necessarily framed as 'information as far as has been obtained'.
- 2 Several programmes under the Ministry of Agriculture are focusing on these issues and assisting communities to rationalise their use of pastures; in each case this usually results in one part of the pasture being entirely closed for 3-7 years for any cutting or grazing. There are other areas where the condition of the pasture is less affected. A pasture by pasture approach is required.

Further information

Further technical information may be obtained from the UNEP Post-Conflict and Disaster Management Branch website: <http://www.unep.org/conflictsanddisasters/>

