

Land management problems and its effects on the post-conflict peace-building of Afghanistan

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Abstract

Afghanistan can improve its economy from property, especially land is considered very influential in the development of a country. But that is only possible when a county has up-to-dated legal and policy regime for property security. A good legal framework helps Afghanistan to bring more foreign investment, privatize public land and revenues from taxation regarding land are core blueprints for the economic, social development and peace building processes. These moves are only possible if Afghanistan reform its property regulations.

Keywords: land management, its effects, post conflict peace building, Afghanistan

Introduction

In this paper, we have placed legally secured property on priority for economic purposes and their strong links between economy and peace building. Poverty is the main cause of conflicts; the effective management of land can lead to the economic development and finally remove all barriers for peace-building in post-conflict countries. Based on the studies conducted in some African countries and Cambodia about land reforms, it sounds that state top-down approach of land reforming has failed. Because legal reforms about property issues without consideration to local needs and context will never meet the objectives. Afghanistan is now in the stage of reforming its property related legal regime, but it has failed because of unfamiliarity with local context. In rural areas people, have rejected state's property reform proposal. On the other hand, informal land tenure is also not trustworthy and well-functioning at all. Because of its mismanagement in registration, outdated mapping system, the dispute resolution system. Property rights and land management is directly linked to peace building. As studies show that; land issues are always ignored when it comes to peace building. There are many land's cases in Afghanistan, which contribute in the development of conflicts. Therefore, all these mentioned challenges in land administration hamper peace building in Afghanistan.

A Look to the Current Issues

Land grabs in DehSabz, the new mega city of Kabul that was under Japanese foreign investment and currently Japanese government has withdrawn, is crystal clear example of how land's problems hamper peace building and state building in Afghanistan (Foschini, 2013) ^[10]. The building of this city was protested by one of Warlords by closing roads and making hurdles for Japan International Cooperation Agency (hereinafter JICA). Finally, JICA withdrew in 2013 by stopping its official's vehicle through the Warlord's supporters. Government intervened, and resulted into the killing of almost seven people. In addition, a suicide bomber who killed Kandahar Mayor Ghulam Haider Hamidi was one of those, whose home was demolished by the Mayor among other homes illegally constructed on public space, which

was distributed among people based on informal land administration. Afghans believe that their property is their honor. It is another major challenge for the Afghan government, next to fight against terrorism (Peter, 2011) ^[8]. In addition, Land conflicts are hidden wars in Afghanistan (Schütte, 2015, p.3) ^[7]. The importance of land in economic and social empowerment of Afghanistan is growing faster. But there is no effective mechanism for land management issues. As Afghanistan is in the processes of peace building and state building, a well-functioning land managing system can foster peace-building process and it can re-establish people trust on state. Land access, use, and ownership are central concerns for post-conflict peace building nations. It played major role in intrastate conflicts, "Sudan is very clear example where unclear laws and institution to manage land's access, use and ownership helped conflicts" (De Wit, 2008, p.5) ^[5]. As, land in Sudan is regulated by custom. According to Johnson land was one of the central issues contributing to the recent civil wars in the Sudan, which is underestimated and overlooked factor determining the success or failure of peace agreements (Johnson, 2009, p. 176) ^[6]. Because, the local land managing system was not well defined and government of Sudan was not able to exercise its land administrative regulations at all. Without due consideration to local norms, it might be impossible to regulate state's land administration system, but it is possible to merge local land management system into state administrative system. Therefore, it is needed to establish local level rules that link villages and communities to government for the purpose of establishing trust on local government, consolidating peace and economic development.

Land titling issues are very complicated in Afghanistan. Very few people possess official documents to prove their rights to the lands they live on, land registration was not successful in pre-war era though, but there was a system developed for land registration in early twenties. Most of the documents destroyed during the wars. Afghans who had fled during the Soviet war, civil war, and the Taliban regime began to come back into the country, they find their homes and lands occupied by squatters or people connected to high-level government officials or warlords. To make matters

even more complicated, some power brokers and warlords who had seized land paid bribes to put the properties they have seized into their names, making it impossible for the original owner to reclaim them. According to Coburn, Taliban as emerging local power competes with both state and custom to resolve land disputes, as their contribution with Land Titling Department of Helmand province to resolve land cases was surfaced recently, which proves the inability of state administration (Coburn, 2013, p.31) ^[9]. Their familiarity with local political structure making their mechanism effective than formal state system. In Afghanistan court-prepared deeds document for rural properties are less than 10 percent and for urban properties it is less than 30 percent. But secure rights to land depend on two elements. The rights being claimed, first, must be legitimate by the local population; and second, they must be endorsed valid by the state (Stanfield, Murtazashvili, Safar, & Salam, 2013) ^[2]. This means majority of land issues are dealt with informal institutions created by people due to the weak government administration. Both formal and informal for land conflict resolution and enforcement are weak. Traditional mechanisms mediated land disputes, but decades of conflicts, insurgency and displacement have destabilized traditional mechanism (Gaston & Dang, 2015) ^[11]. Government officials refer land cases to informal justice because of their inability to deliver justice and the non-existence of valid documents. Unless you have Warlords' support, your land may be claimed, even if you have documents and living on since years. These problems halt post-conflict peace building process, especially obstacles to investment, rule of law and the displaced population. Afghan government is trying to implement state-governed land tenure, but not welcomed by villagers. There is no governmental structure, which extends beyond the districts compounds. So the community-based land administration should be supported by clear national policies and laws. At this point, such a comprehensive framework does not exist in Afghanistan to govern (Unruh & Williams, 2013, p. 284) ^[2]. Population displacement, changes in political and economic ideologies, and natural disasters, all resulted in complex land ownership and management system. According to Waldman local disputes are often related to resources, particularly land and water, in many cases local disputes lead to violence, as family and tribal affiliations in Afghanistan can be a source of stability, they can also lead to the rapid escalation of disputes (Waldman, 2008, p.3) ^[14]. The law is silent on the role that excessive presidential prerogative over land allocation plays in facilitating land grabbing. Until now the changes to the laws make no gains for women, returnees, IDPs, tenants and those living in informal settlements. Law is inaccessible and not understandable to most of the people (Wily, 2012, p.24) ^[4]. According to Batson, land tenure in Afghanistan is complex, uncertain, and incomplete. Land relation in Afghanistan has been governed by a number of legal frameworks, inequalities (Batson, 2013, pp247-248) ^[1]. United State Institute for Peace (USIP) lunched pilot projects to increase formal land registration, but the legal framework was obstacle (Gaston & Dang, 2015) ^[11]. Historically, state had a slight role in land management, because the state was weak. 1920s King Amanullah started formal documentation of land for taxation. In 1960s started tracking landholdings and made registration of land compulsory in 1978. During this period, United States Agency for International

Development (USID) and other international donors supported Afghan government initiative of land documentation and registration (Gaston & Dang, 2015) ^[11]. In 1980s the wars started and it led to 2001. According to researched carried out in land disputes sectors people complain the weak role state play in this regard. People say that if state enters with strong strategy in land registration and documentation sector, it can help reduce conflicts. In this regard government designed reforms to centralize land management. And created Afghanistan Land Authority (Arazi) in 2010, with its separate provincial and district offices (Peikar, 2014, p. 3) ^[12]. But it failed because of limited capacity and resources. The legal pluralism is another issue, which has brought complexities, laws in Afghanistan do not recognize communal ownership of land, people claim forest, mountain, and desert land their own. These claims are baseless under Afghan legal system, here is state and people get in conflict. There are many conflicts where people claim common land as their own; this is a huge challenge for government future plans of land formalization, registration, and taxation. Even in some public places government is faced to many problems to build roads and other public welfare institutions. How land's problems help in creating the situation worse for peace building. Kunduz province is a very good example for where land issues help conflicts according to Miah, land conflicts across Kunduz have been shaped by land-allocation schemes and resettlement projects undertaken since 1920s, where different ethnicities are in conflict over land, it has contributed ethnic polarization and new waves of conflict (Miah, 2014, p.5) ^[13]. Around 1920s people transferred with families from the South to North and from the North to South. This was Afghan government plan to strengthen national unity. Kunduz is one of those cities where different ethnicities interact, mainly all four big ethnic groups Pushtuns, Tajiks, Uzbeks and Turkmens. During civil wars these ethnicities turned enemies of each other. Some fled to other parts, they abounded lands for years. Now as they resettled, new conflict emerged, these land disputes account for more than 50% of all local conflicts according to the studies. In addition, people whose rights to own their lands are denied by the Warlords or ethnic elders, turned to align themselves with Taliban. Mainly, Pushtun tribe, which is minor in Kunduz province, originally from the South and East of Afghanistan are aliening themselves with Terrorist groups because of not enjoying their right to own property, their property has been seized by Warlords who are currently high profile employees of the government. In Afghanistan, majority of Taliban are from Pushtun ethnic group, but other ethnicities are also have their part. In some parts Warlords who enjoy land monopoly have created such terrorist groups to turn the situation into their own benefits, because they always try to create problems for government in accessing those places in conflict. Moreover, Afghanistan produces 90% of the world's heroin. There are connections between opium production and the land tenure system (Giampaoli & Aggarwal, 2010) ^[15]. Landlord in the South of Afghanistan are the main smugglers of heroin. Even it is said that they pay high bribes to government officials for not taking any step to register land and they have created private militia which fight government under the name of Taliban. Finally, land tenure regularization, developing land policy, upgrading of land related administrated system and legal reforms as Afghanistan lacks a comprehensive set of land

laws. Establishment of commission to work with local land management system, reform in the court system as we see the formal courts, which deal with land issues, are lacking resources such material, personnel and modern technology. So these reforms can stabilize the rule of law and improve land security. As a result these all reforms can contribute to the peace building processes of Afghanistan.

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