



Legalise informal settlements to give poor families the right to demand basic services

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Overview

Conflicts and drought have seen the mushrooming of informal settlements in many Afghan cities over the years. The fall of the Taliban in 2001 only increased the pace of urbanisation, fuelled by refugee return and search for employment. In the years following the political restructuring of Afghanistan, municipalities and line ministries have struggled to deliver much needed basic services to poor urban neighbourhoods.

To understand the coping mechanisms and diverse livelihood strategies of poor urban households, the **Afghanistan Research and Evaluation Unit (AREU)** conducted a longitudinal study in 2005-2006 across several Afghan cities.¹ One of the key findings is that land and tenure insecurity traps urban families in cycles of poverty and excludes them from most basic services. Legal tenure is often a pre-requisite of service delivery, as well as a key asset contributing to urban livelihood security and poverty reduction. The unhealthy living conditions in informal settlements and poor access to health care and education are major barriers to security. They must be addressed through a more people-centred and holistic planning approach, supported by incentives, resources and capacity development to enable responsible agencies to deliver.

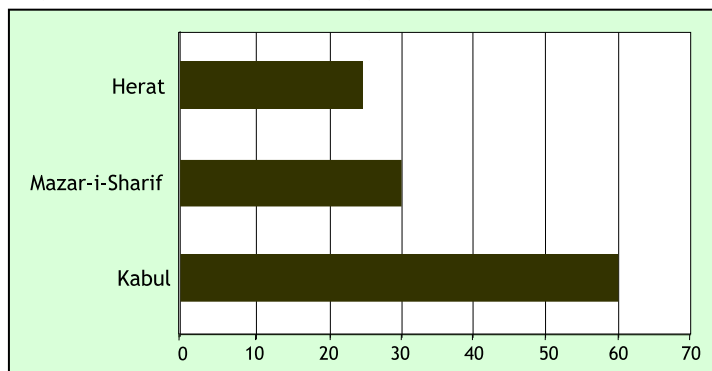
This Policy Note focuses on access to land and services and offers specific recommendations (see page 4) on how to adapt current urban land policy and service delivery approaches to the changing context of Afghan cities to help lift vulnerable citizens out of poverty.

Legal tenure facilitates service delivery, asset building and livelihood security – key steps toward reducing urban poverty

The majority of Afghanistan's urban poor reside in settlements that are informal and lack legal status. Repatriation of refugees and internally displaced persons (IDPs), an influx of people from drought-affected rural areas, and the perceived benefits of

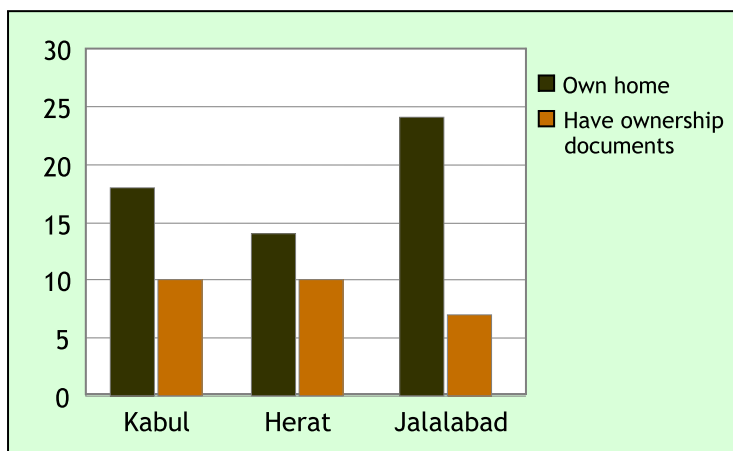
city living all contribute to the rising number of residents in these areas. The local term used for informal settlements – *zor abad*, literally meaning "a place taken by force" – refers to areas where people have enclosed public lands and built with-

Figure 1. Share of families living in informal unserviced areas



¹ Long-term research followed 40 households each in the cities of Herat, Kabul and Jalalabad, which was complemented by short-term reconnaissance studies in Mazar-i-Sharif and Pul-i-Khumri. For more information on the methodology and objective of this research, see Beall, J. and Schütte, S., 2006, *Urban Livelihoods in Afghanistan*, Kabul: AREU.

Figure 2. Number of households with own home or with ownership documents



out seeking official permission, and where they have no access to legal rights for improving their security. Statistics released earlier by the Government of Afghanistan estimated that 60 percent of Kabul residents live in informal settlements, compared to 30 percent living in Mazar-i-Sharif and 25 percent in Herat (Figure 1).² However, as shown in Figure 2, AREU research estimates these figures to be much higher. When residents of three cities were asked whether they owned their homes and possessed legal titles to their property (generally associated with formalised settlements), only a minority could produce documentation.

Housing quality in informal settlements, in many cases, can leave already destitute families in more dire conditions. Depending on their planned length of residence and perceived chances of eviction, housing can be very makeshift and often fails to provide adequate and durable physical shelter. AREU research also found strong evidence of high occupancy rates and overcrowded living situations: on average, four to five persons shared one room among the study population. Still, for many poor families, enclosing public lands and establishing informal settlements could be their only opportunity to build their own homes.

As a direct consequence of having no means to own land legally, many urban dwellers are deprived of basic services: water, electricity, health and sanitation. Access to such basic needs and to social infrastructure – in addition to legal tenure – are prerequisites for human asset building and the wellbeing of individuals and households. Yet, across urban Afghanistan, there is a huge backlog in service delivery and it is particularly acute in poor urban neighbourhoods (see Figure 3). The minimal to non-existent provision of services in many settlements forces families to develop burdensome and health-threatening strategies in order to survive. Households end

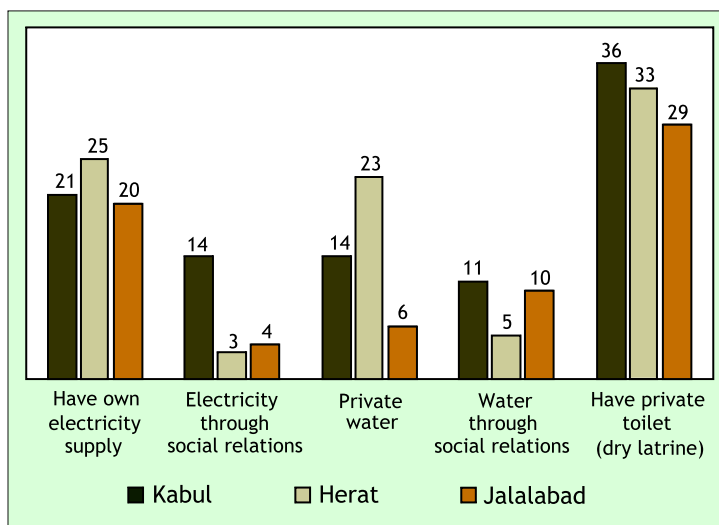
up relying heavily on social networks (friends, relatives and neighbours) to obtain services. This is a primary way of managing their livelihoods in the city, in the absence of pro-poor, state-led service provision strategies.

Municipalities need capacity, resources and vision to support inclusive urban planning

Traditionally, municipalities are responsible for urban land allocation, access to services and local economic development. In Afghanistan, municipalities are ill-prepared for the rapid pace of urbanisation in the country, hampered by decades-old master plans. The result is a malfunctioning urban planning system, with staff who lack the capacity to adapt to the swiftly changing needs of urban residents. Unclear mandates, overlapping roles with line ministries and, at times, an unwillingness to release much-needed land for legal occupation confound the problem.

These constraints mean that there are things city governments simply cannot accomplish, for lack of capacity, authority or resources. For example, if the national government in Kabul requires provincial capitals to pay fiscal dues but transfers back to them resources just enough to cover the salary of municipal workers, while denying them the authority to raise their own resources, then investment in urban infrastructure will not be forthcoming. On the other hand, if poor people construct informal settlements in inaccessible areas, such as the hill settlements in and around Kabul, then the municipality cannot be expected to deliver full services to those hard-to-reach areas. Further fuelling these problems are both a lack of municipal resources and what appears to be a low commitment among civil servants to promote equitable development, as exemplified by this comment from a municipal official in one of the study sites: “First we have to look after ourselves, then we can think about the

Figure 3. Access to basic services among study households (40 households in each city)



² Government of Afghanistan, 2004, *Securing Afghanistan’s Future: Urban Technical Annex*. GoA: Kabul.

poor in our city.” The result is that municipalities and other government institutions tend to ignore informal settlements that lack legal status, although they house a significant share of the population in Afghanistan’s major cities. The unwillingness to develop a pro-poor land policy acknowledging informal settlements and the absence of a coherent vision including these settlements in urban planning lead to the social exclusion of residents, which in turn traps them in cycles of poverty.

Current urban policies lack pro-poor direction, giving way to land grabbing and informal enclosures

Poor levels of urban governance have also given rise to incidences of land grabbing. The most prominent example is the settlement of Sherpur in central Kabul. After living there for decades, residents were summarily evicted and their modest dwellings destroyed. In their place, luxurious houses were built for senior government officials, who were awarded legal rights to the land. This is not an isolated incident but a widespread problem reported across Afghanistan, in both urban and rural areas.

As it is, urban communities in informal settlements are already deprived of basic services and social infrastructure. The contradiction represented by such exclusion occurring simultaneously with “legalised” land grabbing puts in question the government’s commitment to promoting equitable development and urban poverty reduction.

With the majority of urban poor households having no official land title and the least access to home ownership, finding a sustainable solution to the problem of informality must be high on the government’s priority list. Previous studies, including AREU’s, have recommended formalising the settlements.³ Evidence shows that in some cases, residents in informal settlements put their resources toward improving the physical structure of their homes. This allows them to leverage their rights to secure tenure and to press the municipality to guarantee that the community can remain on the enclosed land. A neighbourhood in Jalalabad is a good example of the power of collective action. After residents fought off eviction by bulldozers, they petitioned the municipality and Ministry of Urban Development to formalise their settlement. A land titling scheme was put forth, albeit at significant expense to residents, who were forced to invest in rebuilding their homes in reallocated plots. All households in the neighbourhood procured the funds to be able to stay in the newly formalised settlement. In doing so, they earned the right to



One of many informal houses in a camp in Jalalabad

demand regular delivery of basic services. It should be noted, however, that this settlement was only formalised when it was determined to be outside the boundaries of allocated land under the existing master plan for the city. As such, it was open for negotiation with officials.

Although this is a positive example of collective action resulting from a community’s persistence, it also demonstrates the lack of proactive measures on the part of the government. As a result, many urban families hold the (often justifiable) perception that government officials are unreceptive to the needs of the poor, or are corrupt, taking bribes where they could. Some households in Kabul reported that their pooled money for land allocation went into the pockets of city officials.

The problem of urban tenure in Afghanistan needs to be addressed quickly and efficiently. The government could consider a general amnesty covering informal enclosures, before thinking about more complicated, costly and less enforceable titling procedures. This would provide immediate security for informal dwellers and stimulate private investments in solid and improved housing. A prior assessment of the feasibility for such an approach would be in order, taking into account vested interests in urban land that might hamper such an initiative. This is a necessary step, considering well-documented incidences of land grabbing that have taken place. They illustrate poor levels of urban governance and the lack of pro-poor policy direction in the current political agenda in Afghanistan. Moreover, such incidences give rise to a “culture of impunity” among those in power, pushing already struggling urban families deeper into poverty.

³ See, for example, Beall, J. and Esser D, March 2005, *Shaping Urban Futures: Challenges to Governing and Managing Afghan Cities*, AREU: Kabul and Durand-Lasserve, A. and V. Clerc. *Regularization and Integration of Irregular Settlements: Lessons from Experience*. Urban Management Programme Working Paper Series No. 6. Nairobi: UNDP/UNHCS/World Bank-UMP. 1996.

RECOMMENDATIONS

1. Negotiate a path between the reality of burgeoning informality and the rigidity of formal master planning.

- Develop a broad planning framework that anticipates the continuing increase in urban populations resulting from influxes of returnees from neighbouring countries, as well as from pull factors drawing rural residents to urban areas.
- Build capacity among municipal leaders and staff. Help them move away from the solely technical planning approach associated with a master plan, to accepting the importance of including citizens in the planning process. Enable them to develop more flexible tools adaptable to the on-the-ground realities of urban residents, particularly the poor.
- Improve coordination and cooperation between line ministries and municipalities. Incentives must be developed to ensure this. Much of the backlog in service provision and barriers to pro-poor urban development derive from the inability and unwillingness of government agencies to work together. Study successful coordination structures from other countries to facilitate the development of more workable urban governance institutions in Afghanistan.

2. Recognise and legalise informal settlements.

- Develop a national urban land policy in formed by the aim of equitable development that provides guidance to municipalities on which types of circumstances would merit recognising and legalising existing informal settlements. The policy must also consider how to accommodate the minority of residents living on untenable land.

- Rectify past land grabs to ensure perpetrators are stripped of “ownership” while protecting current residents from immediate eviction.

- Provide security of tenure to residents in recognised informal settlements. Consider approaches to titling and other land allocation schemes, particularly those based on an analysis of best practices in other similar post-conflict and Islamic contexts.

3. Ensure universal coverage with basic services (water, electricity, drainage and sanitation, access roads).

- Improve communication between government institutions involved in service delivery, including a detailing of roles and responsibilities, and establish a means of coordination.
- Improve communication and coordination between government and non-government agencies involved in service provision, to share learning and distribute responsibilities.
- Include community consultation, involving both women and men, as a means to devise appropriate service standards and allocate operation and maintenance responsibilities.
- Encourage technical creativity in devising ways to deliver services to some harder-to-reach areas, and ensure that the work of disparate agencies links up at the city level.
- Recognise the employment creation potential of service delivery and involvement of poor urban residents (women and men) as small scale entrepreneurs.